



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

**Public Hearing Summary**  
**Amendment 8 to the Atlantic Herring Fishery Management Plan**

**University of Rhode Island, Coastal Institute**  
**Narragansett, RI**  
**May 22, 2018, 6pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke, Herring Plan Coordinator

**Attendance:** see attached (approximately 50 people)

Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation members of the audience gave oral testimony identifying preferred alternatives and asking several questions. Several NEFMC members were in attendance.

Overall, the meeting was about one hour. The staff presentation was about 30 minutes followed by thirteen individual public comments. Most speakers supported Alternative 2 for the ABC control rule and Alternative 1 relative to setting quota at the same level for three years. Most speakers supported a 25-nautical mile restriction on mid-water trawl vessels (Alternative 5), including Area 2, to address potential negative impacts on predator fisheries, with some supporting a 50-nautical mile buffer (Alternative 6).

***Individual Public Comments***

**Steven Medeiros, Rhode Island Saltwater Angler Association (RISWAA)**

Concerning the ABC control rule, the RISAA Board has voted to support Alternative 2 with the 50% limit on fishing mortality and Alternative 1 that would set the catch at the same level for three years. And for localized depletion, we support Alternative 5, a 25-mile buffer to exclude mid-water trawling in Areas 1B, 2 and 3; we want to make sure that the state of Rhode Island is included to protect our shoreline and Block Island as well.

**Rich Hittinger, RISAA**

I am from Rhode Island and have been fishing in Rhode Island and Southern New England for over 40 years and herring is one of the most important forage fish for many of the species we fish including cod, striped bass, tuna, and other fish. I am also a member of RISAA and agree with all the same recommendations that Steve just mentioned. For the control rule, Alternative 2, and I would have no problem with Alternative 1 that would set catch for a three-year period. I support Alternative 5 for the

localized depletion issue, including Area 2. We do see a particular user conflict occurring in Area 2 up to an including 25 miles including Cox's Ledge. A lot members of our group fish in both the summer and winter so it is important that the restriction is year round.

**Dave Monti, Fishing Guide and Captain, RI Party Charter Association and RISAA**

I am delighted for all the work the Council has done on this, it is a huge amount of work and I want to thank all the work RI Council members have done as well. As a party charter Captain I am a firm believer that herring has a great value as a forage fish and this amendment recognizes that. I am a supporter of Alternative 2 because I believe there is a balance here for herring catch limits to account for forage fish and address some industry needs. In terms of conflicts I am a believer of the 25 mile buffer to include both Cox's Ledge and Block Island, which is another important area for charter fishing in Rhode Island. I think the buffer needs to extend to these areas and if it was closer to shore we would be missing these prime fishing areas. I am also supportive of setting the ABC at the same value for three years, Alternative 1.

**Greg Vespe, Board member of RISAA, President of Aquidneck Island Striper Team**

We would also like to support Alternative 2 for the control rule with Alternative 1 for setting catch for three years, and the 25 mile buffer alternative (Alternative 5). The short of it is, when we feel herring are present we catch fish and when they are not in the area it makes it whole lot tougher to catch game fish. Cox's Ledge would not be included unless the boundary goes out 25 miles, and in that area when herring are there so are game fish, and when they are not it makes it a whole lot tougher.

**Woodrow Albia, resident of Rhode Island, recreational fisherman for striped bass**

Also in favor of Alternative 2 for ABC control rule with catch set constant for three years, but for buffer I would support the 50 mile alternative.

**Bill Lucey, Long Island Sound Keeper**

We are in favor of Alternative 2 for the control rule and potentially Alternatives 4e and 4f due to their low probability of overfishing. We agree with a three year review understanding how hard that is to manage on the fly every year. We are very concerned about river herring bycatch, the eastern end of Long Island is a choke point, it has been documented as a high bycatch area for alewife and some blueback herring and we have spent a great deal of money trying to restore the habitat. There is a lot of consensus among my constituents that intercept fishing by the commercial herring fishery at that location is part of the problem. The 12-mile alternative did not quite grab everything we wanted to, so we would support a 25-mile buffer. I would also support a 50-mile buffer if that is the case, but I understand the competing needs of fishermen and the need for bait. Having been a commercial fisherman in the past, bait is a big cost to your operation, but the situation with river herring is in crisis mode and I am very pleased to see these as options.

**Richard Falcone, Member of RISAA and Aquidneck Island Striper Team**

Basically I support the same goals as the other organizations. Just from my experience fishing over the decades I have seen the changes that have come about to require this type of control. During his comments Mr. Falcone asked a question about how long staff has been working on this document and if the tools used in this analysis have been used before and were peer reviewed. Staff responded that this is the first time New England has used Management Strategy Evaluation and it was a very open stakeholder driven process in this case. It was explained that the models were peer reviewed and approved for use in management. Mr. Falcone added that a peer review process is essential to be sure new tools meet government standards, and peers help validate the work that is done.

**Harry Livingston, member of RISAA and Aquidneck Island Striper Team**

I support the same alternatives as others, Alternative 2 for control rule and the 25-mile buffer. We see that fishing is much harder when those boats come through, this would help a lot for the predator fisheries.

**Dennis Latchum, citizen of Connecticut**

The decline of alewife and blueback herring in Connecticut Rivers is well documented despite millions of dollars spent on dam removals and restoration efforts. River herring stage outside of Long Island as the documents show, and the bycatch is responsible for a lot of the decline. Therefore, I support the 25 mile buffer in Area 2.

**Barbara Sullivan Watts, Oceanographer at Graduate School at the University of Rhode Island and private citizen**

I studied plankton for my entire career and became very aware of the impacts of climate change on the ecosystems here. I am not involved in fisheries, but I was very glad to hear that this document considered the food that herring eat as part of the analysis. *Calanus finmarchicus* and other copepods in this area are very susceptible to climate change and models predict these species to decrease as climate warms. This would not only impact herring but the entire ecosystem. I was also contacted by the National Audubon Society because I have worked with them in the Gulf of Maine on seabird restoration projects. I wanted to let you know that they support Alternative 2 for the control rule and the 50 mile limit, because I assume that is the most conservative.

**Edward Porter, RISAA and Rhode Island Fish and Game Protective Association**

I agree with others that we need Alternative 2 and the 25-mile buffer zone. I am recreational fisherman so I think anything that is going to protect herring is going to protect all fishermen especially as we see reductions in fish that are available, so it is better to be conservative than close to the top, so this is a good balance.

**Tom Hood, RISAA and Aquidneck Island Striper Team**

I am going to go with Alternative 2 with a set limit for three years, and I am in favor of the 25 nautical mile prohibition on mid-water trawlers.

**Katie Almedia, Town Dock**

I understand that recruitment has recently been shown to be poor and we are due for a drastic drop in quota in coming years. Ms. Almedia asked if the Council will stop working on Amendment 8 until after the assessment is complete. Staff explained the assessment process and shared that preliminary information does indicate that quota reductions are likely, primarily driven by below average recruitment. Staff also responded that the Council does not plan to change the Amendment 8 timeline based on the assessment process, with final action still planned for September 2018. Staff further explained that the draft document will be updated at some point and information from the new assessment will be presented to the Council in September when they take final action. It was added that ideally the Council would adopt a control rule that is robust to different herring biomass conditions.

**Megan Lapp, Seafreeze**

I just wanted to let you know that I will be submitting written comments but I wanted to thank you for coming down to Rhode Island to have a public hearing.

New England Fishery Management Council  
50 Water Street - Mill #2 - Newburyport, Massachusetts 01950

ATTENDANCE SHEET  
Travel Authorization # 18-77

ATTENDANCE AT: Herring Amendment 8 Public Hearing

DATE: May 22, 2018

LOCATION: URI, Narragansett, RI

CERTIFIED BY:

DMB

**IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.**

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PLEASE SIGN, INCLUDE ADDRESS & PHONE

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### **Public Hearing Summary Amendment 8 to the Atlantic Herring Fishery Management Plan**

**Samoset  
Rockport, ME  
May 24, 2018, 6pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke

**Attendance:** see attached (approximately 25 people)

Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation members of the audience gave oral testimony identifying preferred alternatives and providing general comments about the herring resource and fishery.

Overall, the meeting was about one hour. The staff presentation was about 25 minutes followed by six individual public comments. Only two speakers commented on the control rule alternatives, both supporting No Action. One was also in favor of leaving quotas at the same value for three years at a time (Alternative 1), and the other recommended the Council not select either alternative, leaving flexibility to set quotas at the same level or varying amounts per year in future specification actions. All six speakers commented on the localized depletion measures, some supporting No Action, others supporting Alternative 3 (ban midwater trawl (MWT) in Area 1A year round), and one also supporting Alternative 5 (25 mile buffer ban on MWT gear).

#### ***Individual Public Comments***

##### **Jeff McLean, F/V Western Sea (Engineer, Retired)**

I am for Alternative 3 for the measures to address potential localized depletion (ban midwater trawl gear in Area 1A year-round). The only thing we could do better, if I am allowed to make a short statement in general, is a complete ban on midwater trawling everywhere. I started in this business in the 80s trucking these fish, and in the early 90s the first MWT vessel came to this area. I asked folks what it was because I had never seen one, and the reply I got was, “Jeff that is the beginning of the end.” When we had to search for fish we would go to Jeffries Ledge, and within six years of those vessels showing up Jeffries became a desert. I was on a boat for 25 years, and the problem is simple, we would not all be sitting here if MWT was not allowed along

the coast of the US. Many other countries do not allow it, and while the gear is called midwater, they are towing on the bottom in the eggs. In a nutshell, that tells you what happened to these fish and why they are not out there in the amounts that they used to. I heard these boats talking when I was trucking fish in the 80s, “we are going to single boat these fish, and then we will pair up to finish them off.” It was mentioned as a joke, but this is not a joke anymore. That is about all I have to say.

Mr. McLean did not voice an opinion on the ABC control rule alternatives. He added that if these vessels can be kept out of Area 1A the fishing will sustain. He explained that when he used to seine, they would target small fish when the larger fish were spawning; we knew better than to target spawning fish.

### **Dana Rice, DB Rice Fisheries**

I compliment the presentation and appreciate all the hard work that has gone into this. I have some comments but admit I have not followed this as closely as I should have. Looking at the tables in the presentation I see a lot of neutral impacts, and for the localized depletion issue I do not see a lot of problems with the inshore areas, at least in Area 1A. But I do have a serious concern about Georges, and we have been concerned for 15-20 years. Something needs to be done in the offshore areas. We have not had a spawning closure on Georges and we have been screaming about it for years.

This is not going to be very popular and I am going to follow-up at future meetings, but at this time I think No Action is what we should do. I think it is very dangerous to make a decision before we hear the results of the upcoming assessment. If there are big changes needed based on those results that news will have a dramatic impact on this fishery. Therefore, I support Alternative 1, no change to the control rule, and I do not say that lightly because I know that is not a popular thing to do at the Council table, especially after all this work has been done. But looking at this briefly I can't see that there would be a huge difference for the resource. We all know herring are doing different things at different times than they used to; they are not where they used to be at the same times.

Mr. Rice returned to the microphone later in the meeting to provide additional comments. He would support setting specifications for three years at a time with the same catch value (Alternative 1). He added that the real 800 pound gorilla in the room is the lobster industry. The impact of whatever is done with Amendment 8 and the new herring assessment results have the potential to cripple the economy of the state of Maine and New England in a very large way. I appreciate all of the work that has been done but the lobster industry is consuming 99% of the herring catch and no one realizes how important the lobster industry is in terms of an economic point of view for the state of Maine. What really worries me is what the numbers are for 2019, we need to figure that out before we focus on Amendment 8; we could have a huge disaster on our hands in 2019.

### **Glen Lawrence, herring carrier Double Eagle**

The Double Eagle has been carrying herring in Maine for 89 years now and I am not going to comment on much now except the localized depletion issue, but will send in additional comments by email when I get more facts about the rest of the action. I was also around in the

70s when the foreign trawlers did Georges Bank in and the Magnuson Stevens Act came in, and after a long period of time the stocks came back and got healthy. Then the trawlers showed up again and I heard the same thing as Jeff when I asked the boats from Ireland what they were doing here, they said, “they had killed the fishery in the North Sea, it was dead.” They said they would clean all these fish out too. Then more boats showed up and an offshore fleet was developed. To be brief, because there is not an alternative to ban MWT in all areas, we should ban them in Area 1A at least. It worked when we did it in the summer, we saw the fish come back and there were more and more fish around. Then comes October and fishing wraps up quickly when the MWT vessels are allowed back in.

I am worried about Georges, I think what we did out there is the same thing the foreign boats did before the Magnuson Act got rid of them. I am not sure because I do not go out there, but it sure appears that the big boats are not finding fish out there anymore and they have never had a spawning closure out there. I saw what happened to the redfish fishery, I used to go shrimping as well. We did not protect those spawning areas either, so I am not surprised if that is what has happened to the offshore herring fishery without spawning protections. Maine has had their own when it wasn't even required by the federal government, but it has worked ok. We also targeted sardines to protect the larger spawning fish. Over the years we have struggled to protect Area 1A, and it is getting better all the time, so we should ban MWT gear in that area all year. I will get back to the other topic in my email comments.

**Ben Banow, F/V Double Eagle**

I have been involved in this fishery for over 25 years and I would like to mirror the opinions of the two previous speakers. MWT works great, it works too good. It has been banned in other countries for a reason. I wanted to go and see what MWT fishing was about so I took a few trips out of NJ and my job was to stand in the fish box chucking sharks out the entire time, it was unreal what they could pump out on that boat. You know the other thing, locally, as far as Area 1A, it is so clear what MWT has done to fishing in our area. Twenty years ago we used to fish for herring right in the bay, but then MWT vessels came and now there are no fish inshore anymore. When I went to NJ it really opened my eyes, we were waiting to fish until guys could land from overseas; they were specialists that knew how to target large amounts of fish. There was no work in their countries anymore because there were no fish left, so I would strongly support Alternative 3 because there is no alternative to ban MWT for all areas. And I need more time to digest the other part of the document before I can comment on that.

**MaryBeth Tooley, O'Hara Corporation**

Thanks for coming to Rockport. O'Hara is based here in Rockland, we operate two herring vessels, F/V Starlight and F/V Sunlight. They are year-round herring vessels that have a long history of operating with purse seines, and in more recent years they use both purse seine and MWT gear. Both vessels have a long history in this fishery going back 40+ years. We also have a bait facility here in Rockland that is the largest in the state, and we employ 10-14 fishermen year-round and 3 shore side employees as well. So herring is very important to our company, we started in the 40s and have been in the bait business ever since. The vessels and the company have been significantly impacted by many measures over the years, reductions in quota, bycatch caps, observer requirements, just to name a few, and added together they have increased costs for our customers. When the FMP was implemented in 2001 the total catch for Area 1A was 60,000

mt, some folks did not like herring operations, and especially MWT vessels, so convinced the Council to reduce catch limits to 45,000 and now 30,000mt in Area 1A. As those measures came along the company had to change their operations shore side. In the past all herring was pumped into trucks and delivered fresh to bait houses up and down the coast, and we do not do that any longer. We built a bait house and now salt herring in barrels or totes and we also built a freezer. All these things have helped us continue to provide bait, but they have added costs.

It was already pointed out that in the public hearing document there are lots of neutral impacts in the table for control rule alternatives. I think page 21 is a useful summary for people that are not familiar with the documents, it highlights the impacts on predator species as neutral, the concern that drove this process. So if the whole point is to leave more fish in the water, the Council did not do a good job of findings alternatives that get you there if the impacts are only neutral. And I could own a bit of responsibility about the alternatives since I was on the Committee when they were developed.

To the point about the assessment, we will not likely see an acceptable biological catch (ABC) from the Science and Statistical Committee (SSC) until September, and the Council is being asked to make a decision about this before they know the impacts of the new assessment - I think that is very problematic. For example, if the assessment moves forward with the preliminary numbers discussed, and Alternative 2 was selected as the control rule, the fishery would be closed in 2019, there would be no fishery, zero quota. I know people have a lot of opinions about MWT, but I encourage people to review the control rule part of the document, because that part of the action is what will impact their operations, their income, and their families.

I would be supportive of No Action at this time for the control rule. We have seen over the years when you theoretically develop things they put you in a box and take flexibility away, which can cause a crisis. I would never have imagined that the crisis would come as early as next year, but it seems it has. So with all of those concerns I could not support anything other than No Action if the Council is going to make this decision in June. My input on the alternatives for setting the quotas over three years would be not to pick just one, the Council should have flexibility to either have the same catch over three years or varying catch levels.

Moving to pages 24-25, the localized depletion alternatives are compared, and what stands out is the long list of negative impacts on the herring and lobster fisheries for all of the alternatives. The Council has heard from people that they feel herring fishing disrupts other people's fisheries, but when it comes to those predator fisheries there does not seem to be any quantitative benefits. So in light of that, and anticipating that in 2019 there will be 50% industry funded observer requirements, the added costs are too much. There are too many things coming together at once and it is untenable. So on this particular action, even though there has been a ton of work on it, the only thing I could support is No Action.

Finally to wrap up, commenting on the Management Strategy Evaluation (MSE) we should thank the Council for that endeavor. A lot of time and effort went into that process and it could have a lot of value if we could figure out how to use it. The first time around is difficult and we should learn from what went well and what could have gone much better. So much work was done, and it took time to get the Committee to a place to even make recommendations. My concern is that when the analysis for the initial alternatives came back there was no iterative process to fine tune those results. When and if these move forward I hope there would be a more iterative process, especially around Alternatives 4a-4f because I think there is a solution there, we just have not

found it yet. More time is needed for the Committee to go back and forth with the technical analysis to further refine those ideas.

Ms. Tooley did come back to the microphone later in the meeting to explain that MWT is the most common gear type used for pelagic species around the world. It is also used for the largest fishery in the world, the US Pollock fishery in the Bearing Sea, which she noted is a Marine Stewardship Council (MSC) certified fishery, meaning the fishery has been found to be sustainable with low bycatch. She added that while this gear is not liked in this region and was not traditionally used to target herring in the Gulf of Maine, there are MSC certified MWT fisheries all over the world.

**Barry Matthews, F/V Ocean Venture**

We have been fishing Area 1A for about 25 years. We supply bait to a pretty big part of this state, anywhere from Portland to Machias, ME. Hundreds of lobstermen use our bait every year. We saw the MWT arrive about 15 years ago, and it is the beginning of the end. I hate to be that way, I am not trying to push people out of a job, I am just saying there is a way to fish and there is a way not to fish. There is a reason we do not use MWT gear in the groundfishery, there is a reason there have been collapses of herring on Georges in the past and we keep doing it over and over again. People can rig for seining, it is a much better way to catch herring. We are seeing results, look at the landings; we are catching our quota in Area 1A and we are limited on the number of days we can even fish. If we fished seven days a week the quota would be caught very early in the season. To be honest I have seen some declines in this area, but I do not see a problem with catching the quota in Area 1A, not like on Georges and these other areas, they are in real bad shape. Look at this year, the fisheries in Area 1B and 3 are close to 0%, if that is not a red flag I do not know what is.

Why is 1A the only area with fish available? If MWT were fishing in this area it would be over with too and we have spawning closures. We have always had them, we have tried to get them to do it on Georges too. We were told the biomass is so large out there it is not necessary, but we know what we are talking about, we have been doing this for 40 years. Government people just shrug their shoulders, must be nice to just shrug your shoulders and put people out of business. I know you all feel you can't believe us because you think we are just fighting each other over the market, but it is not a market issue anymore, the MWT vessels can't catch any fish. You need to look at the resource, it is being damaged by this this kind of fishing, there will not be any fish left.

So I would like to go with Alternative 3, banning MWT in Area 1A, as a minimum. I would like the Council to ban MWT everywhere but I know they would never do that. I would also like to see these boats farther offshore, especially off Cape Cod and Nantucket Shoals, that area is what rebuilt this fishery back in the 1970s, the Nantucket area. I would also support at least Alternative 5, which is a ban on MWT fishing in a 25 mile buffer. That is my heartfelt input on where things are, take it for what it is. He ended with a comment that pair trawling is what makes this fishery more damaging than other MWT fisheries that are using a single trawl net.

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50 Water Street - Mill #2 - Newburyport, Massachusetts 01950

ATTENDANCE SHEET  
Travel Authorization # 18-78

ATTENDANCE AT: Herring Amendment 8 Public Hearing

DATE: May 24, 2018

LOCATION: Samoset, Rockport, ME

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**Beauport Hotel  
Gloucester, MA  
May 30, 2018, 6pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke

**Attendance:** see attached (approximately 40 people)

Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation members of the audience gave oral testimony identifying preferred alternatives and asking questions.

Overall, the meeting was about one hour. The staff presentation was about 25 minutes followed by eight individual public comments. Unfortunately there was an issue with the audio file for this meeting and the recording stopped about half way through the hearing, a wire likely got pulled out during the meeting. Therefore, the oral comments are not as complete for the last few speakers. In general, input at this meeting was relatively divided, some supporting No Action for both the ABC control rule and localized depletion measures (with some support for Alternative 9), and other supporting Alternative 2 for the ABC control rule as well as Alternatives 3 and 6 for localized depletion.

***Individual Public Comments***

**Gerry O'Neill, Cape Seafoods and F/V Endeavor and F/V Challenger**

We catch and process frozen herring and the vast majority of all the herring we process ends up in the bait market. I wanted to speak briefly to my preferred alternative, which the Council does not often pick once they go down this road, but I support No Action for the ABC CR. One of my main reasons for that is that I believe if we put a prescriptive rule in place we will be stuck with that no matter what. I may not always like what the Council decides, but at least the way it is I at least have a voice, and if we pick a set formula it gives us no choice and no voice. There are so many things that go into determining the quota; we need flexibility. I support setting quota the same for three years. Given the stock assessment and what we are looking at for quotas moving

forward we need some stability, we need to make business decisions so knowing catches for three years helps us do that.

Mr. O'Neill returned to the microphone later during the meeting to comment on the localized depletion measures. He explained that no one is targeting spawning fish, the bait market is the target, and no one wants fish that are spawning. This localized depletion discussion has been going on a long time. I do not see any evidence in the documents that there are negative impacts. This term was defined by the Council, there is no biological issue. I believe the user conflicts got worse when Area IB closure put it place January-April, it put us right in that area in May when other vessels are there. If you want to protect river herring we have caps in place that do that; let the caps control RH mortality. All the other alternatives in the document will have large economic impacts and close many companies down. Without MWT vessels we cannot supply the bait need for our lobster fisheries; we need both gear types to supply the market. If the purse seine vessels cannot get to the fish when they go deeper there will not be enough fish for the bait market. As we keep losing areas to fish, the bait supply drops, and price increases. Every price increase has come when restrictions have been put in place on one segment of the fishery. Converting to seining is not an option for most of these vessels. There are all kinds of measures that have be taken that are making it very difficult and once the infrastructure is gone it is gone.

**Carmen Lee – resident of Boston**

I have been coming to the North shore for many years to enjoy the natural resources here from whale watching to bird watching; these activities mean a lot to me. I am not exaggerating when I say these activities really enhance my quality of life. That is what I want the ocean to be healthy, and the herring population to be healthy, so I can continue to enjoy my whale and bird watching. That is why I come to say I strongly support Alt 2 for CR and for LD I strongly support Alt 6 – 50 mile buffer. I also support that to be year-round and in all areas. Please, please, please consider the great benefits a healthy herring population brings to ordinary people like myself when making your final decisions.

**Erica Fuller – Conservation Law Foundation**

First I'd like to thank the Council for initiating Amendment 8 and for hosting the Management Strategy Evaluation (MSE). Of the nine under consideration CLF supports alt 9. Status quo management has proven insufficient, particularly in light of long-standing concerns about the stock assessment. The status quo actually is a formulaic, it fishes at 50% probability of overfishing one-third of the time and it's proven too risky. An appropriate control rule has three components: 1) it has a target that aims to leave higher biomass in water; 2) a maximum fishing rate of 0.5; and 3) a cutoff threshold that temporarily suspends fishing if the population falls below that biomass threshold. The MSE demonstrated that Alt 2 does all three of these things with the least probability that the stock will be subject to overfishing, the least probability it will become overfished and have to enter a rebuilding plan, and maintains the highest spawning stock biomass over the long term, and has the fewest number of years that biomass falls below sustainable levels. It also performs the best at maintaining bluefin tuna weight and tern productivity. By contract, status quo and its progeny had the most probability of overfished and overfishing, maintains the lowest spawning stock biomass, and has the most number of years that biomass is below sustainable levels.

So in addition to the alternatives in Amendment 8 for the control rules, CLF strongly urges the Council to task the Scientific and Statistical Committee (SSC) with providing some guidance on its choice of a control rule, to task the PDT with reviewing the status of Atlantic herring on an annual basis so that catch can be adjusted if the circumstances change. I just want to note that is different than setting annual or stable 3-year catches. We'd support the 3-year specs, we just want the PDT to take a look at the stock every year. And also the third recommendation is to revise the Council risk policy to explicitly address the risk of overfishing your forage base.

For localized depletion CLF supports Alternative 3 and Alternative 6, with seasonal sub-option A and spatial sub-option A. This combination prohibits MWT fishing within 50 nautical miles year-round in all herring management areas including herring management Area 1A. The intent of these alternatives is to conserve inshore ecosystems by reducing concentrated removals of herring. Expanded protections in Area 1A will help sustain the inshore herring stock and benefit the predator populations in the Gulf of Maine such as depleted cod, Bluefin tuna, whales, and seabirds, as well as the businesses that depend on them. A year-round buffer south of Area 1A will do all those things as well as provide some protections for offshore herring spawning areas on Georges Bank and Nantucket Shoals, and nearshore protections for vulnerable river herring populations in the spring. And in addition we would support ending Alternative 6 at the MA/NE jurisdictional boundary line established in the NEFMC Coral Amendment and the MAFMC Unmanaged Forage Fish Amendment.

**Peter Murphy – Vice President of Stellwagen Bank Charter boat Association –**

The Charter boat association will be submitting an in-depth written comment letter later, these oral comments are my own; the group has not yet made final decisions, so these will just my comments. I have a question first about June herring assessment peer review; will that be processed and evaluated before final decisions on Amendment 8. While the Chair was explaining that the timing is very problematic the audio cut out for the remainder of the hearing. Therefore, the rest of this summary is based on staff notes only.

The Chair explained that the assessment draft report is expected to come out during the June Council meeting, but the final report will not be ready until later in the summer. Staff added that Amendment 8 will be updated with some info from the recent assessment for the final EIS.

Mr. Murphy continued that he supports Alternative 3 for localized depletion; the main reason is that a lot of spawned fish are landed in the fall when MWT vessels are allowed back in that area. I have observed that the herring move after the MWT vessels come in the area, with no forage there is no tuna. I think this alternative would help with recruitment issues we are hearing about from the recent assessment. Herring react a specific way to fishing and spawning fish do not react to fishing like non-spawning fish do. When herring are spawning they stay put, sometimes closer to the bottom and do not flee after fishing, this behavior allows the MWT vessels to target spawning fish. I would support allowing these vessels to stay in the fishery but with purse seine gear. In closing, timing is critical for protecting spawning fish and when these vessels enter it overlaps with spawning activity.

**Arthur Sawyer – Massachusetts Lobstermen’s Association**

The lobster fishery is the elephant in the room. Our preferred bait is herring and we are the largest fishery in the region. We get our bait supply from MWT vessels, and since they have not been fishing much in Area 1A, and we do not have any seiners in Massachusetts, we get less bait if the MWT vessels from Massachusetts are pushed around. When they have to fish in other places we need to pay more to transport bait to Massachusetts, so our costs increase. I prefer a stable supply of bait for business planning purposes, three years at a time. For the localized depletion section of the document, Alternative 9 is the best option to spread effort out in Area 1B. I attended some of the MSE meetings and I was disappointed that the MSE did not include more information about the economic importance of herring as lobster bait. The federal managers do not deal with lobster so it does not seem to gain the attention it should have at the federal management table.

**Dave Spence – F/V Challenger, crew**

We want fish to be healthy too. We want to make a living. People are implying we are catching too much but the stock is not overfished and we are managed very tightly. The numbers go up and down based on many things. We are in no danger of overfishing; we are below MSY and this is a well-managed fishery; we do not have biological issues. We are up against all the weekend warriors that come out fishing, but we never go over quotas. We want to just work staying under our quotas. The Council is getting biased advice on localized depletion; Alternatives 1 and 9 are the only ones I could support.

**Daniel Ryan – Channel Fish Company, East Boston, MA**

Channel Fish is the single place herring is landed in Boston. We are part of an already dwindling business in Boston. Herring landings are a very important part of our overall business; we employ about 100 people directly and indirectly. We freeze herring for human consumption and pet food. Since I has been involved every well intentioned management plan has had unintended consequences for this fishery– more measures makes it very hard to land fish – with negative impacts on pricing and availability for businesses that depend on the fishery. I support No Action unless the stock assessment says we need to do something. Therefore, I do not suggest any of the ABC control rule alternatives; setting ABC for three years makes sense for stability.

I have any issue with the terminology of localized depletion – it is a concept to kill the fishery. I prefer the term user conflict; that is what this really is. All this is is fishing, we need much more data and science before I would be convinced that depletion is happening. The human nature of fishing is lost in the big picture analysis. I support Alternative 1 and Alternative 9 for user conflicts and I plan to submit a letter.

**David Mussima – Mystic Watershed Association.**

Bald eagles, heron, striped bass, all feed on river herring. There is localized depletion of river herring south of Cape Cod and he will include reference in their comment letter. Mr. Mussima asked why river herring was not included in the goals of Amendment 8 and it was explained that it was not part of the Council rationale for developing Amendment 8 alternatives, but the impacts of the measures on river herring have been evaluated and considered.

New England Fishery Management Council  
50 Water Street - Mill #2 - Newburyport, Massachusetts 01950

ATTENDANCE SHEET  
Travel Authorization # 18-79

ATTENDANCE AT: Herring Amendment 8 Public Hearing

DATE: May 30, 2018

LOCATION: Beauport, Gloucester, MA

CERTIFIED BY:

DVB

**IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.**

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**Public Hearing Summary  
Amendment 8 to the Atlantic Herring Fishery Management Plan**

**Double Tree by Hilton  
Philadelphia, PA  
June 5, 2018, 4pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke

**Attendance:** see attached (approximately 15 Mid-Atlantic Council members and 20 audience)

Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation members of the audience gave oral testimony identifying preferred alternatives and asking questions.

Overall, the meeting was about one hour. The staff presentation was about 20 minutes followed by ten individual public comments and half a dozen questions from Mid-Atlantic Council members about the alternatives and analyses prepared in Amendment 8. In general, public input at this meeting was primarily supportive of Alternative 2 for the ABC control rule and Alternative 6 for the localized depletion issue. Many commenters at this hearing focused on the importance of herring for seabirds.

***Individual Public Comments***

**Rob O'Reilly – Council member from Virginia**

I am not up to speed on all of this, but I am somewhat familiar with the term localized depletion and I would hope that the process is one that the biological considerations outweigh any others. Often with localized depletion you end up with the tradeoffs with one fishery over another, social interactions that preempt the biological considerations, I would think the herring population and species that depend on herring should be looked at in terms of localized depletion for those species as the foremost issue.

**John McMurray – Prior MAFMC member and NEFMC Herring Committee member, owner/operator of recreational charter vessel**

Without a doubt presence of herring drives bites of Bluefin tuna and striped bass, the two bread and butter species for my operation. Those bites happen in particular in early spring and late fall and early winter. There is growing evidence that herring are not in great shape and the current method for setting catch levels is too risky and does not sufficiently account for predator interactions. As decisions are made on Amendment 8 I believe caution is warranted. The NEFMC should adopt a forage based control rule; I support Alternative 2 because it maintains a higher biomass target in order to account for herring's role in the ecosystem and temporarily cuts off all fishing when a low biomass threshold is reached.

On the issue of localized depletion, I can tell you firsthand it is real. I know the science is thin on this but it is a matter of common sense, you remove millions of fish from a particular geographic area there are millions of less fish for predators to feed on in that area. And absolutely that kind of effort in those specific areas scatters the bait and scatters the predators and shuts off bites, this I know firsthand. Not only does the entire marine food chain get disrupted, but it cripples the small boat fisherman that depend on those aggregations for access to other targeted fisheries. Furthermore, letting such high volume fisheries into the nearshore area to take that biomass out of the ecosystem at that magnitude when there are so many species that are in rebuilding stages is unwise to say the least. Myself, and perhaps the entirety of the angling community support a year-round prohibition on MWT vessels at least 25 nautical miles from the shore; Alternative 5 and Alternative 7 would accomplish that. It is our hope that the Council doesn't veer off course on this extraordinary opportunity to understand and sufficiently account for herring's role as a critically important prey species. We hope the Council understands that a healthy population of herring is very important to local economies and that herring aggregations are vital to commercial and recreational fishing opportunities as well as ecotourism businesses. Again, thank you for the opportunity to comment.

**Zack Greenberg – Pew Charitable Trust**

Thank you to both Councils and staff for hosting a public hearing here in the Mid-Atlantic and for the opportunity to make comments. Pew is going to submit formal written comments before the deadline. Through my role at Pew I am in a unique position to hear from resource stakeholders both on and off the water, whether it is at fishing festivals in North Carolina, angler meetings in Maryland, from baykeepers in New York, or river keepers in New Jersey and Pennsylvania, and one thing I consistently hear from the public is that the resources that our coastal communities depend on are ever-changing and everything we do on, in and below the water is connected.

So Amendment 8 really provides a rare opportunity for fishery managers to address the health of the resource, and with it herring's many predators we are familiar with. As forage fish herring are critical for our ocean ecosystems, and the economies of many New England and Mid-Atlantic states. These small but important fish support thousands of commercial and recreational fishing jobs, tourism businesses that generate hundreds of millions of dollars each year up and down the coast. Here in the Mid-Atlantic, often our interaction with Atlantic herring is related to the bycatch of river herring and shad in Southern New England (SNE). Just this year over 300,000 pounds of river herring and shad were caught by MWT vessels in SNE. Despite this we

also have to take into account that many of the commercial and recreational species that we discuss at our meetings throughout the year like Bluefin tuna, black sea bass, spiny dogfish, cod, bluefish and striped bass and others eat Atlantic herring and depend on its abundance. That said, to better account for Atlantic herring's role in the ecosystem, not just in New England but coast wide, I would recommend that the Council should select Alternative 2 to establish a long-term acceptable biological catch control rule. Also to address localized depletion and user conflicts the Council should select a year round buffer zone that extends 50 miles offshore to include areas 1B, 2 and 3 (Alternative 6 with sub option A for area and sub option A for season). These would allow for a more stable resource over the long-term, benefit the ecosystem and herring's many predators, and that would include us as well.

### **Jamie Pollack - Shark Angels**

Thank you for the opportunity to comment on Amendment 8 to the Atlantic Herring FMP. On behalf of Shark Angels I support Alternative 2 to establish a long-term acceptable biological catch control rule and a year-round buffer zone that extends 50 miles offshore, including Areas 1 B, 2 and 3. My name is Jamie Pollack and I am the Executive Director for Shark Angels a 501 c3 non-profit founded nine years ago to help protect sharks. We are a passionate, global community created to raise awareness and effect change through the power of education, media and grassroots campaigns. Part of our mission is to introduce people to experience sharks in the wild. Not only does fishing bring in tourist dollars but scuba diving does too. New York where I live, as well as New England are surrounded by waters with lots of opportunities to go diving and as an avid diver myself I know this firsthand.

Every year I take a group of divers to scuba and snorkel with Blue and Mako sharks about 30 miles offshore of Narragansett, RI. There we get to see these magnificent animals up close. Blue sharks are like puppy dogs, they come in close and are very curious about everything, and Mako sharks are fast and furious and you always need to keep a lookout. Nothing comes close to showing people what sharks are really like up close and personal. Having healthy populations of forage fish are important to predators like sharks that depend on them for food. The diet of blue sharks is predominantly pelagic fishes such as herring, cod, haddock, mackerel, tuna and swordfish. Shortfin makos, another species we swim with feed mainly on mackerel, tuna, bonitas and swordfish. When large MWT vessels sweep through they can quickly remove millions of herring from a relatively small area leaving local predators like tunas, striped bass, whales, sharks and seabirds without an important food source. Without forage we would not see sharks, without sharks we would not be helping the economy of Rhode Island through our tourist dollars, not to mention the other important benefits of healthy shark populations in the ecosystem.

Amendment 8 provides an important opportunity for managers to address the health of the herring resource and the impact of large scale industrial fishing. With public concern at an all-time high the preferred alternatives listed above benefit not just the ecosystem but also the commercial and recreational fishing businesses. Ecotourism companies and many coastal communities depend on herring. New England and Mid-Atlantic fishery managers please account for the predators that eat herring when setting catch limits. Having sharks in the ecosystem are important and having adequate forage is essential for their survival. Please don't delay any further. Act now to protect this important public resource.

**Emily Ferrin – Field Organizer for the Delaware River Watershed, representing Audubon Pennsylvania**

Together with other advocates for bird life here today I am here to represent the ideas of the wider Audubon Society as a whole. First I want to thank the Council for the long term efforts it has committed to properly research and review the options before it, for your dedication to good science and sound judgement we do applaud you. Next, in relation to the health of the Delaware River watershed, Audubon Pennsylvania encourages the Council to adopt Alternative 2 on the issue of the ABC. Reducing the amount of Atlantic herring caught at sea will also reduce the amount of river herring and shad (RH/S) caught as bycatch. These fish are important for seabirds along the Delaware River. RH/S spend most of their life at sea schooling with Atlantic herring and travel to the Delaware River to spawn. There are various seabirds such as ospreys, Bald eagles, terns, night herons, and the Great Egret (Audubon's emblem) that rely on this resource. Some research also suggests that osprey and Bald eagles may have evolved their nesting strategies in response to shad availability. So we want to really encourage you to think about the importance of these additional forage fish species.

Additionally, Audubon encourages the Council to adopt Alternative 6 with regards to localized depletion to create a new year-round buffer zone that would prohibit MWT vessels. Research already published by the Council with Audubon's years of scientific observation lead us to believe that a buffer zone extending 50 miles offshore year-round including areas 1B, 2 and 3 is the best option to avoid localized depletion of herring which would impact seabird health, productivity and reproduction. Finally, we would like to thank you all for listening to the calls of bird life when considering who will be impacted by your decisions in the end. We wish you the best in your final deliberations and thank you for your time.

**Meredith Mentalto – Pew Charitable Trust, consultant**

Thank you for the opportunity to speak, I would also like to encourage the Council to adopt Alternative 2 which would result in the best outcomes for the ecosystem and the herring resource. I work with a number of groups here in Pennsylvania including the Delaware River Fisherman's Association and Delaware River Shad Association, which are keenly concerned about populations and sustainability of forage fish, and we believe Alternative 2 would also reduce the bycatch of RH/S, the preservation of their ecosystems is a key objective of many of these angler groups. We urge the Council to set herring catch limits in a way that accounts for the important role this fish plays in the diets of predators. The latest research is suggesting that we should be very careful when deciding how many fish to remove from the ecosystem. There is growing evidence that the herring population is not at a healthy level and caution is needed to avoid completely collapsing the herring population. Choosing a forage based control rule will benefit the fishery by allowing for a more stable population of herring in the long-term and benefit the ecosystem and the many predators of herring.

**Dr. Leigh Althonna - Board of Directors for Atlantic Flyway North, National Audubon Society and several other seabird organizations in the Mid-Atlantic and New England including Friends of Hog Island in Maine**

I want to thank the Council for having public hearings and giving the public an opportunity to comment on this important issue. Hog Island has introduced generations of campers to the ecology of Muscongus Bay, Maine. Local chapters here in Pennsylvania have sponsored students

and educators to Hog Island. A highlight of the program is to observe the seabird restoration efforts of Dr. Stephen Kress. The program features visits to reestablished colonies in the area and exposure to techniques for reestablishment that have been used around the world. Atlantic puffin are now found regularly in certain areas with colonies of common and roseate terns. A critical factor in the return of the Atlantic puffin is Atlantic herring. Herring is the predominant fish species it needs to survive and feed its young, puffin forage up to depths of 50 feet and capture 3-4 herring at a time to bring back to their young. The herring are the perfect shape and size to feed their young. Anyone that has witnessed the repatronization of Atlantic puffin along the Maine coast understands the importance of herring in the ecosystem for seabirds. We whole heartedly endorse the ecosystem approach of Alternative 2 in Amendment 8 and the importance of herring to seabirds like the Atlantic puffin, common and roseate terns, and other seabirds. Alternative 2 will protect seabirds and other predators that forage on herring.

We also endorse the establishment of a new year-round buffer zone in which MWT gear would be prohibited. We urge inclusion of Alternative 6, with seasonal sub-options A and area sub-option A to address predator needs for herring throughout the year. In closing Amendment 8 has significant implications for birds that frequent Audubon Chapters throughout the Mid-Atlantic; our members enjoy studying and observing birds throughout our region along the New Jersey coast. One only needs to see northern gannets making their spectacular dives to feed on fish below to understand the importance of alternatives in Amendment 8 to protect and sustain herring and the broader fisheries that these and other species depend on for survival. Thank you for the opportunity to provide comments and I will pass around a picture of an Atlantic puffin eating herring off the coast of Maine that is happening right now.

**Maria Markovich – Audubon Ambassador**

HELP – H is for help, help the herring to help the birds to help us all. We can probably all agree that when we listen to the science and research we make decisions that are best for everyone. And when I say everyone that includes all the citizens and residents of the United States which includes the climate endangered Bald eagle and osprey, arctic terns, Atlantic puffins, common terns, the manx shearwater, northern gannets and the roseate terns. We are all part of the ecosystem, both ecosystem and economic value are bipartisan values. We request the NEFMC select Alternative 2 which sets limits that account for the role this important forage fish plays in the diets of seabirds, marine mammals and larger fish. Alternative 2 will protect the seabirds and other predators that rely on herring. Alternative 2 takes into consideration the ecosystem value of the herring and not just the economic value of the herring.

Forage fish are critical to seabird health. Scientists have found that when forage fish decline across the globe so do seabird populations. We need to be more protective of forage fish like herring to ensure the survival of seabirds. Herring is one of the most important forage in the diets of nesting northeastern seabirds. There are many species in the North Atlantic that rely on herring including arctic tern, Atlantic puffins, common terns, manx shearwater, northern gannets and roseate terns. Declines in herring in the Gulf of Maine have been correlated with declines in adult and chick Atlantic puffins, razorbills, and tern survival. Herring have declined in recent years in the diets of razorbills and puffins. Common terns feed on herring so frequently that their population levels can be used to project if the herring stock is healthy or not. Additionally, off the coast of Maine, Atlantic herring is one of the most common food sources fed to common tern

chicks. In concluding, H is for help, please help the birds by selecting Alternative 2 for catch limits.

**Tykee James – Environmental educator with Audubon Pennsylvania**

I am glad that we are getting a lot of support for Alternative 2 and 6 to protect birds. I would hate to see New England do some attack on the Eagles after what happened in February (pun about the Philadelphia Eagles beating the New England Patriots in the 2018 Super Bowl). Alternative 2 and 6 will help protect birds and foster environmental education. I see environmental education as a cornerstone of conservation and stewardship and as an environmental advocate and educator I would not have been here without it. I will submit more remarks in writing, thank you.

**Mignon Adams – resident of Philadelphia**

I did not come to this meeting today because I am an advocate for an organization or because I know a great deal about Atlantic herring; I am here because my grandson told me about it. And as one of the oldest people in the room I know what has happened to the world around us since I was born. And I think sometimes we need to take measures not everyone is supportive of, “you mean I can’t catch my herring when and where I want to.” I know we must take steps to keep parts of our environmental circle that are still there so that not only my grandson, but my grandsons children will find themselves in a world where there is still an environmental circle that continues to exist.

After the public comments ended, the Chair came back to Council members for questions about the alternatives and analyses in Amendment 8.

1. What percent of herring revenues come from within the 25 and 50 miles offshore?  
*Staff responded that there are detailed tables in the Amendment for all the options, but overall on average about 25% and 40% respectively.*
2. What percent goes to bait?  
*Staff responded that almost all herring is sold as bait.*
3. Does herring fishing overlap with where the stock is, or does fishing take place in more near shore areas out of convenience? Do we know the percentage of the stock that is available outside these buffers?  
*Staff responded that it changes every year but it is somewhat uncertain what portion of the overall stock is within the buffers.*
4. Was there a peer review of the localized depletion analysis?  
*Staff responded that the Herring PDT did the work and it was not peer reviewed. Analysis prepared in NEFMC EIS documents is not usually peer reviewed, beyond the stock assessment information. In this case the Council did have the MSE models used in the ABC control rule portion of Amendment 8 peer reviewed.*
5. Comment about setting ABC annually based on updated assessments may not be feasible.  
*Staff responded that the annual ABC alternative would not incorporate updated assessments.*
6. Does the document discuss the impacts on the lobster fishery in terms of alternative bait sources and the impacts these alternatives could have on the price of lobster bait.  
*Staff responded that Amendment 8 lists other possible bait sources. The MSE economic model did cover some price issues, but not in a very sophisticated, quantitative way.*

New England Fishery Management Council  
50 Water Street – Mill #2 - Newburyport, Massachusetts 01950

ATTENDANCE SHEET  
Travel Authorization # 18-80

ATTENDANCE AT: Herring Amendment 8 Public Hearing

DATE: June 5, 2018

LOCATION: DoubleTree, Philadelphia, PA

CERTIFIED BY:

DWB

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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**Public Hearing Summary  
Amendment 8 to the Atlantic Herring Fishery Management Plan**

**Holiday Inn  
Portland, ME  
June 12, 2018, 5pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke

**Attendance:** see attached (approximately a dozen New England Council members and about 40 audience members)

This public hearing was held in conjunction with a New England Council meeting. Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation members of the audience gave oral testimony identifying preferred alternatives and asking questions.

Overall, the meeting was about one hour. The staff presentation was about 25 minutes followed by twelve individual public comments. The input was relatively diverse at this meeting with some supporting No Action for the ABC control rule and some others supporting Alternative 2. Input on the measures to address potential localized depletion and user conflicts was also diverse, some supporting No Action or Alternative 9, and others supporting Alternative 3 and Alternative 6.

***Individual Public Comments***

**Mary Beth Tooley – O’Hara Corporation**

We are home ported in Rockland, Maine. We operate two herring vessels that utilize both midwater trawls and purse seines. I did get to go to the hearing in in Rockland, so today I thought I'd speak to something different. And I also will be submitting written comments. So I took a look at the analysis of the ABC control rule alternatives and a few things jumped out. One was that the viability of some of the metrics that are used and in particular the biased assessment results. Early in the process there was a question about whether to include this metric or not and and at the urging of some it was it was included, but the analysis assumes that you would have a biased assessment and then you take no action. And therefore you can see the results that are of

concern in the document. However the reality is that the most common bias that we see in assessments is a retrospective pattern and we do not take no action while we have a retrospective pattern. In fact the last benchmark assessment for herring took a very significant adjustment for that pattern. So I excluded looking at the models that included a biased assessment for that reason because we don't take no action.

The other was that the models looking at unfished biomass, unfished biomass is not a reference point that's commonly used on the East Coast. It is commonly used on the West Coast. And the reason for that is because in West Coast fisheries it's not that difficult to look back to when the biomass actually was not fished. But in this case in the East Coast, particularly for this stock which has been fished for centuries, our ability to actually estimate virgin biomass with no fishing activity is not very high and it's extremely uncertain, so I didn't find those metrics at all helpful either.

So looking at those models that were unbiased results and then going down through the different alternatives in the document the probability of overfished for all of the alternatives was extremely low, probability of exceeding  $F_{msy}$  - essentially all the control rules have little or are well below 50 percent probability of causing overfishing, surplus production Alternative 1 and 3 were equal to or better at producing surplus production than other alternatives. For absolute yields, how well does the alternative project yields that are higher for the fishery, the best alternatives are 1 and 3. Yields relative to  $MSY$ , Alternative 1 and 3 perform best under the unbiased models and they're equal to or better than other alternatives. The interannual variation, I'm not sure if I believed all the output on the interannual variation, and I had difficulty trying to figure out which is better. I mean one was like, well if you have a good result one year and you have a bad result the following year that seems to be a good thing. I don't know, I think I was confused. Maybe I should go back and look at it again. The net revenue results, again I'm not sure what kind of confidence I have in our ability to model that, you know revenue for the fishery over the short term or the long term. For example, you know one alternative did particularly well and had higher revenue for an alternative that actually cut the fishery by 20%, so it's a little difficult for me to figure out how that results in a better revenue output for the fishery.

So when you think about all those things and you put it together you have to wonder why anyone would choose, you know what would be the supporting data to choose some alternatives that can be typically harsh and difficult for the fishery. And I think when you look at the goals and objectives for this fishery, to account for the role of herring within the ecosystem including its role as forage, so there are also predator models that are examined in the document. And yet for these metrics, looking at terns, dogfish and tuna it the alternatives don't seem to have any large impact and any direction for any of those. For dogfish it shows absolutely no impact at all, for terns there were just very small variation from alternative to alternative. And you know for tuna some perform better than others but even the lowest ranked alternative still performed well. So I'm not sure that we have the information the document that supports that goal that would lead you is a direction of choosing one alternative over the other. So you know my concern in general on the controls rules, I would support status quo. I think that we need flexibility in the fishery and which is what we have now, particularly with the expected results from the current benchmark, stability would be extremely important.

The other part of the document the goal is to address localized depletion in inshore waters and yet there is no scientific underpinnings in the document that supports localized depletion at all. What is clear is that the buffer zones are extremely punitive to the fishery. You know even the 12 mile buffer represents 20% of the fish that has been caught by midwater trawlers in recent years and given the current reductions in quota that we're expecting I really don't think that any of the alternatives are at all appropriate. I think that mostly covers what I wanted to say this evening.

One other thing however is that status quo under the control rules, and I believe you know I did mention this before in the past, is not really well described in the document. And when I think of what status quo means it means that the Council and the SSC have the opportunity to look at the output from a benchmark assessment and look at what Fmsy is consider all of the information and the uncertainty and make decisions. And I think that that's appropriate. This idea of a three year spec process or not. Again I think status quo is better in that what we have been doing is setting specifications for three years. It matches up with the assessment cycle. However, in the FMP it allows the Council to do it on an annual basis if they choose to. And you know given where we're at today I think that that's probably the best result. And again it allows for flexibility.

### **Chris Weiner – CHOIR**

I'm going to read a letter on behalf of CHOIR. I'm sure we'll have more personal comments coming later. But I wanted to read this for the chairman. I'll do my best to read, I'm not good at reading off of these but we'll see if we can make it work. I'm speaking today on behalf of CHOIR. CHOIR is an industry coalition made up of commercial, charter and recreational fishing organizations, fishing and shoreside businesses, researchers and ecotourism companies that all rely on herring as a key forage stock. CHOIR was formed in 2002 as a result of the general and localized depletion of herring caused by midwater trawlers. To this day our diverse and large membership sees this type of trawling as the biggest threat to the health of our fisheries, businesses and marine resources. The council has an opportunity in Amendment 8 to take another strong step towards limiting the damage created by this gear to the overall fishing industry, the Gulf of Maine and Georges Bank ecosystems, and the health of New England's coastal economies. Healthy forage stocks are the engines for many of the fisheries and other businesses we depend on to drive our coastal economy. Simply put there is nothing more important than the health of these foundational resources.

To be clear, CHOIR supports a vibrant and sustainable commercial fishery for herring. We believe that historical purse seine and small mesh bottom trawl fleets as well as the coastal fixed gear industry can fish compatibly with other users and the ecosystem. And we also believe that they can do this while supplying sufficient bait for the lobster industry. But the fishing power capability and efficiency of the single and/or paired midwater trawl fleet jeopardizes the success of ground fishermen, tuna fishermen, whale watch businesses, lobstermen, striped bass fishermen and many others. There has never been a gear type type that so drastically threatens both fishermen and our marine resources. The public has been loud and vocal on the threat posed by this gear and it is time for the Council to take strong action. Adding to the urgency for the Council to act as the impending benchmark hearing assessment which indicates that the herring resource in real trouble, something we've been saying for a long time. A lowering of the TAC is both likely and necessary, but a change in the way the herring fisheries prosecuted will have a much more beneficial impact on the resource while also protecting the aforementioned historical

herring fisheries for the future. And to be clear final decisions on Amendment 8 are set to happen at the right time. We are adamantly opposed to any delay in this action and are confident the Council has all the tools it needs to finish this amendment on time with the recommendations we put below.

As such CHOIR supports the following localized and user conflict alternatives, Alternatives 3. And I'll say that we have updated our beliefs since we've always known there is an issue, but we've changed our opinion over time based on the science this is very strongly supported by our membership - Alternative 3, the prohibition of midwater trawl gear in Area 1A from June 1 through September should be extended to year-round. The pulse fishing that occurs after September 30th each year on spawning fishes should not continue in its unacceptable. Alternative 6 with area sub-option A and seasonal sub-option A. Waters within 50 nautical miles south of herring management 1A should be closed to midwater trawl gear all year round. Midwater trawl gear needs to be removed from our inshore waters period. This includes all waters out to 50 miles, the capability and speed of today's boats allow fishermen and other businesses daily access to these areas leading to a very large user conflict that needs to be addressed in this amendment. Moreover the extension of the buffer to 50 miles also protect some of the most important herring spawning areas.

The new herring assessment will emphasize the poor lack of recruitment as touched on earlier. As such increased protection of the Nantucket Shoals and Georges Banks spawning areas will be essential to rebuilding the herring resource. A 50 mile buffer will be a first and strong step in this direction. And to be clear we believe the buffers under both alternatives should be in place year-round.

Moving onto the control rule, CHOIR supports the following points in regard to the ABC control rule. First, the Council is required to take action as we have been told that No Action is not an acceptable alternative given the changes in the science. The interim control rule should not be used again for this reason. This rule has put the herring resource in a precarious position as we have all seen. A new control rule needs to be adopted and then used for the next round of specs. Second, the Council should adopt a control rule that more adequately accounts for forage and ecosystem needs. Past methods of specification setting have clearly been inadequate. Third, the Council should adopt a control rule that is better able to account for forage needs at times of high abundance but that also allows ample flexibility to protect the existence of the traditional purse seine, small mesh and fixed gear fisheries during times of lower abundance. These gears can survive with a lower overall TAC so long as it is distributed throughout the times and areas that these gears operate. The Council must ensure that the new control rule affords protection to these historical fisheries. Fourth, herring is important to the lobster industry for bait, this industry can tolerate a reduction in supply. It is more important that the lobster industry has a steady supply rather than no supply. Fifth, and finally CHOIR does not want a control rule that overreacts in times of low abundance. We do not want to control rule that cuts the ABC to zero every time there is low herring abundance. The control rule should be designed to protect both the resource and the industry.

To sum up, the time is now to push Amendment 8 through and to finally minimize the damage done and being done by midwater trawl gear. By creating a 50 mile buffer and closing Area 1A

to midwater trawl gear 12 months of the year you will not only reduce user conflict and protect the ecosystem, but you will also return the inshore fishery to the model that allowed it to remain profitable and sustainable for so long. These problems began when midwater trawl gear arrived and the time to correct these mistakes has come. And lastly we believe that strong decisions in this amendment to protect vital areas will allow the Council to ensure the survival of traditional gear's and fleets when it sets up quotas and specifications. Sincerely Steve Weiner, Chairman.

**Jeff Kaelin – Lunds Fisheries, Cape May, New Jersey.**

We have two midwater trawl vessels that have been operating in the herring fishery for a number of years. I've been involved in herring management since the mid-80s when I worked for the sardine packers. I've been an advisor for a number of years, a council member on the committee and we are members of the Sustainable Fisheries Coalition which we organized several years ago primarily to kick off the bycatch avoidance network that the Council knows about, you had presentations in the past. So we have developed a position for the Sustainable Fisheries Coalition of which our company is a member and also Garden State Seafood Association who helped us in developing these positions. I am not going to read the entire four pages they'll serve as a foundation for our comments as a company and also I'm sure Shawn Gehan will be writing comments for us.

So as far as the first purpose goes on the long term acceptable biological ABC control rule we're supporting no action. In other words no permanent long term control rule would be specified. Rather the Council's SSC will continue to establish an ABC control role as part of the triennial specs process based on the best available science as we've been doing for a number of years. I guess this equates to what the document calls the hybrid approach with constant catch for three years at a level producing less than or equal to 50 percent probability of exceeding Fmsy in year 3. It's worked very, very well. The current projections from the new assessment don't have anything to do with fishing effort, it has to do with lack of recruitment and verification that there is no relationship between fishing mortality and recruit, no stock recruitment relationship which is common in pelagic stocks around the world. So the assessment and the MSE process already broadly considers the needs of herring predators to the extent that the scientific information exists to make the projections. The forage demands of herring predators have been accounted for before fishery quotas are set in at least the last three assessments and throughout this time the level of predation has been estimated to have been greater than the fishery which is a widely held ecosystem fishery management principle.

I think that the current status is that natural mortality is a constant value point 0.35 and fishing mortality is considerably less than that. And as Marybeth said, flexibility is going to be particularly important over at least the next specification cycle with the new stock assessment reducing quotas over the next three years. Even so three year specifications continue to be a priority for us in terms of being able to plan our business and the allocation of effort on our vessels. I won't go into any more detail there.

As far as the second purpose goes, proposing measures to address potential localized depletion of Atlantic herring to minimize possible detrimental biological impacts on predators of herring and associated social or economic impacts on other user groups. The only alternative we support is Alternative 9. Alternative 9 would lift the seasonal restriction on fishing in Area 1B. We think

returning to a winter fishery there and thereby increasing opportunities for the mackerel fishery and herring fishery in the winter will reduce congestion on the water in the spring. In retrospect changing the access to that area too May as was done some time ago was a mistake. Not only did it reduce our access to mackerel, but it put us on the ground at the same time that everybody else is out in the water and that probably wasn't a very strategically sound decision. So we want to go in there in the winter time and we think that that in and of itself will reduce a lot of this concern about the too many people on the water at the same time.

The addition of any of these buffer zones would have serious adverse economic impacts in the directed herring fishery even if we weren't looking at a quota reduction of in the neighborhood of 50 or 60 percent. We think they are punitive in nature. We don't think that there's any scientific evidence to indicate that there's been a problem with midwater trawl activity anywhere since they came into the fishery again in the mid-90s. We did use midwater trawls in the 70s to make up for a lack of quota that was available in Europe. So these fishing methods are used worldwide. Most of the European pelagic midwater trawl fisheries have been certified by the Marine Stewardship Council as sustainable, both from a fisheries perspective and an environmental perspective, it's one of the most environmentally benign gear types use worldwide they keep pelagic fish. Some of us were in Denmark last week. I think many of the people who don't like midwater trawls in the herring fishery don't understand the scale of the pelagic fisheries in Europe where this gear type is used – it's efficient, it's fuel efficient. So you know this is all about market, this anti midwater trawler issue was spawned back in the mid-90s when we started to use midwater trawls in the sardine factories because they would produce fish day or night and the seiners were getting beat because they have to fish only during certain hours of the day. So if you go back in history this is really about market. I don't see any biological reason to impose any of these buffer zones in the fishery. The economic costs far outstrip any biological benefit which are only speculative in nature. So new restrictions on fishing in the near shore areas will significantly increase operating costs which the industry simply will not be able to afford particularly given the low quotas coming over the next three years.

So we say finally there's simply no evidence that localized depletion is an issue of biological concern. There's no scientific evidence that's been identified to suggest that herring fishing particularly at recent conservative levels of operation, I'm going back the last 10 plus years, cause any adverse biological impacts relative to other human uses or the needs of marine predators. This issue was studied exclusively in the Chesapeake Bay area relative to menhaden where I don't know how many tens of thousands of dollars were spent to try to identify any evidence that localized depletion of Atlantic menhaden fishing is occurring in the Chesapeake Bay or elsewhere. And we think that's absolutely the case with herring and mackerel fisheries in this region. So we're status quo all the way and we appreciate the opportunity to speak tonight we'll be providing written comments.

**Ben Martens – Maine Coast Fishermen's Association and one of the founding members of CHOIR**

I'll be brief because we're going to be submitting written comments, but we also in light of a lot of the discussion that took place today around the status of the herring stock we are probably going to have to amend some of the stances that our membership had previously taken on this. We has supported a 12 mile buffer off of Cape Cod but looking at what's happening to the stock

and the declines dramatic declines that we're seeing in the stock assessment that may not be enough, we need to do what we can to make sure that there's a robust herring population to help rebuild our groundfish stocks that have been struggling and to make sure there's enough bait in the ocean for the lobster fleet and everybody else that needs it. So when we're looking at the control rules and what previously we've been using, the control that we had been using was based upon a growing biomass and we no longer have a growing biomass, that's become pretty clear and so we need to put a control rule in place that will help us rebuild a population that has declined significantly. And that may not be due to overfishing. It doesn't seem to be the case based upon the stock assessment but we've been taking a lot of herring out of the ocean for a long time and that is going to have an impact on recruitment. So we will be submitting written comments that outline our specific options that we are going to be preferring, but I think it's important for everybody to realize that herring is not just a bait, it's a forage stock, it's something that we care deeply about in terms of rebuilding a lot of our other fisheries and we need to make sure there's a lot of it in the ocean. The control rules need to be put in place so that we can be rebuilding this for our bait fishery for our biomass of other fisheries as well and have it be an important forage stock in the Gulf of Maine.

The other piece of this I think is important is I know that is not supposed to be a relationship between the stock assessment and what we are talking about today. But understanding those pieces and how they relate would be really valuable for many of the fishermen in that room as they are looking at numbers when they're thinking about what they can catch next year, what they won't be allowed to catch, and what they'll be able to use as bait. So I don't know how we can make that little bit more real in the forthcoming discussions at the Council, but I think for both Council members and those of us that are participating in the process understanding the relationship between those things would be really helpful for everybody.

#### **Glenn Robbins - herring fisherman for 56 years**

I'll be submitting a letter later but I just want to make a few general comments. Over the last 20 years we've had trawler's here out on Georges. I didn't think they'd depleted it this quick, but this is the second time I've seen Georges wiped down. Europeans got it the first time and there were a lot more fish then. I thought it had rebuilt to a level they could withstand, but it hasn't. I've talked to trawlers guys, I can't give you any names, but they know it's just over out there, and that is localized depletion. When haddock are eating haddock and not herring we are having a serious problem and the last time herring got wiped down the inshore fishery didn't suffer too much but I'm afraid that it may now because we have been protecting the inshore fishery with spawning closures. I think if we'd had one out on Georges we'd still be able to fish out there now. But now it's getting wiped down so much. The only time they really catch many fish on Georges now is in September when the spawning happens and they are together close to the bottom. They slow to spawn and that is when they catch them. That's the only time.

We've got some problems out there. We don't know what the intermixing is anymore from the Gulf of Maine to Georges. We used to have tagging and they used to say it was 20 percent one way or the other. I'm afraid if we don't do something that the inshore will also suffer. So I'm saying that we definitely need control. No action is just going to take us down the tubes further and further and further. We've got to do something, I have been talking to the Council for years and telling them about what I've learned about trawling. I've been over to Europe, talked to the

people over there, China has banned it, New Zealand won't let them get within 50 meters of the bottom. If they touch down they'll take the boat. Don't tell me people like trawling around the world. And this is not an issue about market. We got plenty of market, we don't have enough fish to cover the market.

And localized depletion, I've seen it on Jeffrey's Ledge just off here 25 miles. When I was a kid growing up hit back in the 60s or 50s, that place was always covered with herring and the tuna boats would be out there all summer. But you don't see that happen anymore. I have not made a set near them in the last 20 years, they're gone, never return. Why didn't they return? I don't know but they never return and I hope this doesn't happen to Georges, but if you don't stop people from taking those spawn herring that are never recruit, never rebuilt. In the Gulf of Maine, we should never have trawls anymore because once that fish do lay their eggs, then they trawl right over them, and roll those eggs around in the mud, and they don't mature. So it's not just catching the herring, it's dragging through the trawl the bottom in Ipswich Bay, that area is a big producer of spawned herring down there. Trawlers destroy that every year. It hasn't the last year 'cause the timing was off. We've missed them time and aren't spawning closures. We've lost some herring that way. Canada doesn't allow trawling, they're smarter than we are. But they're hurting. Tony is a big buyer up there in Canada's, a friend of mine 30 years and he says the've wronged us, we're hurting now. They have spawning areas up there on the shore and they spawn different than ours do. But their major stock comes up from the south up to the north and it doesn't come up anymore. It's not there. So I would say 50 mile buffer, no trawling in the Gulf of Maine and we need spawning closures. I can go on and on but I've just write a letter and let you know.

### **Don Sproul – tuna vessel owner and representative of Northeast Tuna Club**

I am from Bath, Maine and I'm here to let the Council know what our feelings are. One is F/V The Old Mud, that's my tuna boat and one I represent is the Northeast Tuna Club. And after just a little bit of discussion it didn't take too long we vote Areas 1A, 1B and 3, 50 miles for 365 days a year. There's a lot of reasons we came that way. There's too many people, small boats, one of my boats actually, going out of business because we don't get our bait the way we used to. All of our little day trawlers in mid-Maine are almost gone, almost completely gone. Can't go out fishing. It's a terrible thing. Anyway what it comes down to is there's a place for the pair trawlers. There's a place for them. But guys with little mosquito fleet things, they are 24 foot boats and 30 foot boats and things, fishing next to these 200 foot boats. That doesn't make it. The thing that really doesn't make it is if you're sitting on hook and you're watching this bycatch float by you for an hour and it happens every trawl. Them cant slip anymore so you can't do anything about that, but it's just you can't take everything out of the ocean and expect to get anything back. It's just not going to happen never will. Never has. But my whole life, been saying the same thing. There's a place for everybody but it isn't all bunched up together along the beach. It's not the place; it's not the place because you can't get. If you run pair trawlers within sight of the beach, you get people taking pictures of them not because they look pretty because they know what they're doing. And it's not a clean fishery, no dragging. I used to be a dragger, myself. There is no dragging that is clean-- nothing clean. It is the dirtiest fishing there is. That's just fact. That's not, not to run off anyway. That's our vote.

**Ryan Raber - OceanSpray**

I will write a letter. I urge you to listen to the comments based on science, facts, the document, and not anecdotal comments that continue to plague this whole process about bycatch floating. We have observers. It's highly documented, it's understandable that you know it just on and on and on about bashing trawlers. Alaskan pollock, biggest fishery in the world, MSC-Certified for bycatch, sustainability. These are all facts. Get them off the website- you can read about it. It's not all this constant bashing and constant, constant rumor-villes and untruths, we're tired of hearing over and over and over again.

**Meghan Lapp – SeaFreeze Limited**

As far as the ABC control rule is concerned, we support no action. We believe it's going to be important to continue to allow the Council flexibility to set catch for three years with the option for annual adjustments especially considering the potential outcomes of the herring assessment that's going to be needed for the sustained participation of herring fishing community in the fishery, which is actually one of the first recommendations from the Council program review was to consider the importance of fisheries to fishing communities and provide that sustained participation. As far as localized depletion and user conflicts I do not support any of the buffer zones, particularly in Area2 where the herring stock is transient. It's not it's not resident. It moves through there in the winter time and then and then it's gone.

My rationale for that is that during the development of Herring Amendment 8, there was a committee meeting in Plymouth, Massachusetts and I asked the Committee what science had been used to create the buffer zone alternatives and the answer was none. The Magnuson Act requires that any management be based on science and even user conflict decisions. And I'll read a couple of excerpts from a couple of court cases. One was Parano vs, Babbit where it says that even compromise decisions must be explained and based on the best scientific evidence available not simply a matter of political compromise. And that while decisions made in another case (Midwater trawlers Clark vs. Department Commerce) that decisions may be eminently fair, the act requires that it be founded on science and law and not pure diplomacy. And so since none of the herring buffer zone alternatives were developed using any science, I can't support it.

**Shawn Tibbett – tuna fisherman, charter captain out of southern Maine**

I support Alternative 3: extend Area 1A provision and prohibition of midwater trawl gear year round and Alternative 6: 50 nautical mile prohibition of midwater trawl gear year round off the Cape and Islands to the Connecticut border in all 4 management areas. My business depends on these fish. We see it Jeffrey's is a dead zone. Occasionally we go to Georges, Georges as the dead zone. If there's no bait there's no big fish. We see it right up front Saco Bay, we'll have herring there, the big boats will come in, and then nothing, nothing localized depletion needs to be addressed.

**Katherine Deuel - Pew Charitable Trusts**

We'll follow up with some detailed written comments as well. I just want to say that we've been following the progress in Amendment 8 since the Council passed the initial motion in November 2014 to initiate the amendment. We participated in scoping which generated a lot of interest from a lot of the stakeholders you are hearing from today as well as the MSE workshops which had similar interest from a lot of stakeholders. So I want to thank the Council for continuing forward

with the amendment engaging the public again. We support Alternative 2 for the control rule because it follows the latest scientific guidance on managing forage fish species and Pew also supports Alternative 6 the 50 mile buffer zone with areas sub-option A and seasonal sub-option A in order to protect inshore populations of Atlantic herring from localized depletion. We also recommend that the southern boundary of that buffer zone be set at the New England Mid-Atlantic jurisdictional line.

### **Shaun Gehan - Sustainable Fisheries Coalition**

As with many others we'll supply some detailed comments in writing. Just a couple of points I wanted to make today. The first being that that the issues addressed in Amendment 8 are discretionary. It's not like overfishing has been declared and the Council must react. And I think that's important because ultimately the Council could decide to do nothing and be fully compliant with the law. But I think it's not just the stock assessment which people are really just starting to come to grips with has sort of overtaken a number of the issues that Amendment 8 was going to address. A lot of the ABC control rule alternatives are very determinative. They would take away the flexibility that the SSC and the Council have to react to situations like they are now, many of which would probably shut down the fishery next year were they to be adopted. So I think that the Sustainable Fisheries Coalition is ultimately going to all agree that you know just go with the no action on the ABC control rule.

In terms of policy I think that's a well warranted approach just because there is very little difference between the alternatives. It was a point that Deirdre made it a little hard to see in the slides, but just in terms of the various metrics that were applied that you know ultimately there aren't significant differences in terms of those outcomes except in terms of what it means for the fishery itself, and those can be quite dramatic. And Mary Beth had raised a number of issues with some of this metrics and there is one I wanted to point out because I did participate in the management strategy evaluation process and one of the questions was "do you think tuna, which is obviously important to a lot of people here, tuna condition is important?" And that raised the question in my mind well how do we measure that metric. If I say yes that's important. Does that mean I want more herring fishing or less herring fishing? And the reason that's a question is because most of the most recent science suggests that the most important thing to tuna are fat herring. And one of the issues that's come up again in this stock assessment is that weight at age for herring continues to decline which is often an indication of density dependent growth. That is a lot of older herring out there competing for resources so they are skinner at age. You know if that's the case is that metric really talking about tuna condition or not? And that's why I think you know, although I do support the concept of MSE process, I do think we really need to maintain the flexibility to take evolving science into account.

In terms of the localized depletion alternatives, I just want to renew an objection we had because when this went out when this came up again and went out scoping, Doug Grout explicitly said at the meeting with that was voted on, that this was not going to address user conflicts. This is about localized depletion as a biological matter. And we noted that, in the scoping notice there was nothing about user conflicts and so the herring industry, the mid-water trawl industry and the other members of this organization with using other gear types explicitly said were not going to address user conflicts and I think that's a shame. I think it was an opportunity lost to have a discussion about spatial conflict and maybe trying to figure out some common ground. But all

the alternatives in here, except maybe Alternative 9 which is a potential win-win, you know let the midwater trawlers into Area 1B before a lot of the other user groups are in that area, are simply going to raise cost at a time when we're talking about ABCs being cut by as much as 70 percent or more. I think that, just to return to my theme of the new assessment overtaking events is going to alleviate a lot of conflict. But certainly any type of buffer zone is just going to increase the cost. It's, you know, we're going to be catching less fish and spending more to do it.

So you know, I think where this group is going to come out is basically for status quo ore no action on the control rule and Alternative 9 for the localized depletion alternatives. Just two final points. One issue has been raised that you need to keep in mind herring are out there and they are important forage. Yes they are but they're not the only forage and we have a very abundant menhaden stock right now which when I'm sitting south of the Mason-Dixon line is the most important fish in the sea and here apparently it's maybe second. But there are a lot out there. There's a lot of forage sand lance. You know fish eat a lot of different fish and most of the predators in this area are generalists. And the other point that I just want to raise just in terms of the overall analysis, you really need to consider the cumulative impacts of all these measures. I mean one of the reasons that the fishery fell so far short of meeting its overall ABC last year are simply the preponderance of rules. The 100 percent observer coverage in the groundfish closed areas which themselves are changing; the move long provisions of the shad and river herring caps, all these things add up and now we're talking about adding even more, so even a reduced quota is going to be difficult to achieve if the Council continues to put these little measures in and then never really does the analysis the law envisions will be required in terms of the cumulative impacts, the socio economic impacts.

### **Gerry O'Neill – F/V Endeavor and Challenger, two midwater trawlers out of Gloucester and Cape Seafoods**

I spoke in Gloucester, and I'm here, so I figure I may as well speak again. I wanted to touch on something that I don't think anybody's mentioned that much and that's the more restrictions you put on where the boats can go when the boats can fish the more bycatch problems we're going to have. We won't be able to just move on somewhere else to try and catch fish. We lost that flexibility when we lost access in 1A. And we lost that flexibility with the seasonal closure in 1B. We lost that flexibility when the spawning closures changed and we were forced to go down east where we didn't particularly want to go because of gear conflicts and everything else. So we've lost a lot of flexibility in the fishery and the ability to move around. You know if you're interacting with bycatch that ability to move somewhere else to even search for some fish is very important. And we've lost all that flexibility and these buffer zones are just going to create even more of that. So I want to speak to that a little bit because I don't think anybody really talk very much about it but I support no action on the ABC. I said that in Gloucester, so Deirdre probably doesn't need to write it down again. It's not going to change much.

And the only alternative that I would be open to is Alternative 9 because especially with the way the quota is looking like it's going to go, if 1B was opened back up again at least we will be able to prosecute a mackerel fishery, some part of the mackerel fishery somewhere closer to home, during the winter months which right now we can't. And again we're forced into other areas to fish for mackerel where maybe we could catch them cleaner or maybe we could have less interaction of bycatch elsewhere, but we can't, our hands are tied.

New England Fishery Management Council  
50 Water Street - Mill #2 - Newburyport, Massachusetts 01950

ATTENDANCE SHEET  
Travel Authorization # 18-81

ATTENDANCE AT: Herring Amendment 8 Public Hearing

DATE: June 12, 2018

LOCATION: Holiday Inn by the Bay, Portland, ME

CERTIFIED BY:

DVB

**IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.**

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PLEASE SIGN, INCLUDE ADDRESS & PHONE

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New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

**Public Hearing Summary  
Amendment 8 to the Atlantic Herring Fishery Management Plan**

**Chatham Community Center  
Chatham, MA  
June 19, 2018, 6pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke, Herring Plan Coordinator

**Attendance:** see attached (approximately 100 people)

Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation members of the audience gave oral testimony identifying preferred alternatives. Several NEFMC Council members were in attendance.

Overall, the meeting was about two hours. The staff presentation was about 25 minutes followed by 26 individual public comments. The Chair started with a handful of elected officials that were in attendance, followed by speakers that had to catch a ferry to Nantucket, followed by several other speakers. Most individuals that commented voiced support for Alternative 2 for the ABC control rule. Most speakers supported a 50 nautical mile restriction on mid-water trawl vessels (Alternative 6), with some supporting a year-round restriction in Area 1A as well (Alternative 3). Many voiced support for Alternative 2 related to the control rule, with some also supporting Alternatives 4e and 4f.

***Individual Public Comments***

**Jill Goldsmith, Chatham Town Manager, representing the Board of Selectman, written comment prepared by Selectman Davis**

Thank you for the opportunity to comment on the draft Environmental Impact Statement for Amendment 8 to the Atlantic herring fishery. The Chatham Board of Selectmen would like to submit a brief comment on alternatives to the amendment. For years we have continued to express our concern over the impact that mid water trawl vessels are having on populations of forage fish, they disrupt the natural function of the ecosystem and lessen the inshore vitality of numerous species that rely on a healthy forage base. Our community depends on a healthy nearshore fishery to continue both commercial and recreational fishing interests, provide healthy local seafood, as well as provide food sources to predators such as seabirds that reside on our beaches, rivers, parks and conservation lands. As bycatch, the river herring that spawn in our town's ponds are directly impacted from these vessels which counteracts many years of town and state restoration efforts. A loss of the forage base represents

a significant lost opportunity for each of these components. Our Chatham fishing fleet is made up of day boat fishermen that are and have been a vital part of the town's economy for many centuries. There are close to 200 fishing permits in the town and the seafood catch of fishermen across the Cape was worth close to 74 million dollars off the boat, and that number is greatly magnified if wholesale retail and restaurant sales are included as an economic indicator. Chatham has a lion's share of that revenue. Chatham taxpayers have committed \$11 million dollars in waterfront infrastructure improvements investing over \$7 million dollars of those dollars to two Chatham commercial fishing offloading facilities that not only meet the needs of our commercial industry, but also the 3000 visitors who visit the Chatham fish pier on a summer's day to watch our fleet come in and unload their catch. Our communities return on commercial fishing would likely be considerably higher if the groundfish fishes like cod would return to the inshore waters the fleet frequents. Lately we have been dependent on dogfish and skate which have a more varied diet than other fish species.

Close to 20 years ago when the midwater trawl boats were permitted it was seen as akin to a pilot program because few studies had been done measuring their effect. We've now seen decades of decline and fishermen after fishermen tell stories of how after the midwater trawlers go through there are no enormous schools of bait. Sounding machines are completely blank after the pair trawlers go through, the lack of forage fish has meant species such as cod are staying further offshore, often too far to travel safely for this small day boat fleet. In the years since the trawlers have been operating the weight of the species like striped bass and tuna have also dropped considerably cutting into the profit of many fishermen and their ability to provide healthy local seafood. If the midwater trawl fleet was pushed beyond 50 miles or at a minimum of 12 nautical miles the benefit to our fleet would be tremendous and would go a long way to furthering the success of the industry our town depends on.

We support alternatives that would mitigate the impacts of these vessels on the forage base year round. We believe that a year round buffer from the shore would accomplish this as would a combination of this alternative with 30 minute blocks. In addition to the buffer zone portion of the Amendment 8 we support the selection of a new control rule. In managing any species especially complex ones such as forage fish, it is important to choose a strong formula that will most accurately depict how many fish can be removed by the human population while providing sufficient forage base for predator species. We believe that this balance can be best achieved in Alternatives 2, 4e or 4f for the Herring ABC control rule; this rule will provide additional stability and benefits predator species and the herring fishery in the long run.

**Alan McClennan, Chairman of the Board of Selectman for the Town of Orleans**

Thank you for the opportunity to comment on Amendment 8 to the Atlantic herring fishery management plan. The town of Orleans and nearby communities have relied upon the abundance of herring and other forage fish to support commercial and recreation facilities for hundreds of years and are deeply concerned that the depletion of forage species has impacted the previously abundant resources in our region. The communities on Cape Cod depend on a healthy ecosystem and a vibrant economy and herring is at the heart of each. Now midwater trawlers are breaking our local food web by removing millions of pounds of herring and in turn harming everything from cod fishermen to whale boat operators. Year after year volunteers observe and report low numbers of returning river herring at the Pilgrim Lake run, and it has become increasingly apparent to us that the issue goes beyond our own spawning runs into the nearshore areas around the entire Cape.

To protect the peninsula we fully support the New England Fishery Management Council's efforts to establish a localized depletion alternative that creates a no fishing zone and protects the inshore waters

near Cape Cod from the impacts of midwater trawling by acknowledging the role of Atlantic and river herring in the ecosystem. Herring and all forage fish are the basis of a healthy robust ecosystem and are necessary for profitable fisheries both in our towns and in the waters where many of our residents fish both commercially and recreationally. Unfortunately the significant decline in numbers of river herring which are caught as bycatch by the midwater trawl fleet have resulted in a statewide moratorium of harvest of our fresh waters. To put it simply the residents of Cape Cod feel the effects of sea and river herring being taken from nearshore waters are penalized for harvesting possessing or selling it, yet the industrialized fleets are not. Cape Cod midwater trawlers are authorized to land more than 32 metric tons of river herring and shad and our residents are prohibited from the fishery, a bycatch amount that nearly doubled last year.

Finally, in addition to the benefits that would be deprived to species we manage in Orleans and other towns we recognize that the work done to develop a buffer zone in the near shore regions around Cape Cod represents an important step in the regional transition from an ecosystem based fisheries management (EBFM) approach. The council has advocated for the switch to EBFM over the last decade and Amendment 8 will provide the council with the opportunity to identify the path that will get us there. We urge the Council to consider the big picture throughout this process and to consider input from the public to achieve the best possible outcome starting with establishing a buffer zone around Cape Cod. And I would just conclude by noting that this is an issue that we have faced in Massachusetts for 380 years and one of the first conservation laws relating to fishing was in 1639. We still have the problem and we have to deal with it to preserve our ecology.

**Andrew Gottlieb, Mashpee Board of Selectmen and Executive Director of the Association Preserve Cape Cod**

For Mashpee, I tend to be somewhat of a more environmentally sensitive member of my board and I'm used to losing a lot of votes 4:1; but on this one there was unanimous support of the strict 50 mile ban around the region. It was intuitively clear to my board about the importance of the fishery, the herring in particular, to life on Cape Cod. We are a little different than the two towns that spoke before me because we don't have the significant commercial fleets that they do. We are located a little bit further to the west, but the herring fishery and what it represents is deeply interwoven into our community and our consciousness as a community. And I think everybody in the town understands the importance of protecting the building blocks of the food web. While we applaud you for broadening your look and taking into consideration a lot of compounding and complex factors we urge you to focus on the main point, which is that where there is uncertainty that uncertainty should not be used as a reason to not take strong protective action. Because if you find you overprotect and I am still waiting for somebody to give me an example of an overprotection of a forage species because you hear it a lot but you don't really see that happening. You always have the option of lessening those standards once you've seen those stocks come back. But if you allow too much to be removed, especially in the forage species, the effects on those species and others that rely on it can oftentimes not be reversed.

So I think the obligation and the obligation we feel as a community to convey to the council is to take the most conservative action necessary. We think the conditions of the stock clearly warrant that level of action. We don't view it as being potentially over conservative because we think the information about the stock depletion is compelling and warrants strong action. So the town of Mashpee strongly supports Alternative 6, the 50 mile restriction.

If I might, the Association Preserve Cape Cod has also has provided written testimony to you already that we're going to amend a little bit because at the time we wrote we took a somewhat more moderate

stance supporting the 12 mile position, but based on our further investigation we feel that again the 50 mile limit is the most appropriate measure to be taken. As an organization we manage and run the volunteer herring fish counts of river herring across Cape Cod and have a very strong feel for the significant depletion of those stocks over the years. And we do recognize there are a number of confounding factors that do affect the river herring populations, but having significant portions of those species wiped out as bycatch clearly dwarfs a lot of the measures to protect that have happened and each one of the 15 towns on Cape Cod. And as Alan my colleague from Orleans mentioned having strict limits on basically your inability to touch a river herring in the river and having the ability for large fleets to wipe them out or certain populations if they happen to go by that day at a location where they happen to be congregating just makes no sense. So as an organization we would also encourage you to take strong action and applaud your efforts to take public comment on this issue.

**Ron Bergstrom – Chatham elected delegate to the County Assembly**

I make it a point to never attend a meeting where I don't say anything so here goes. I have lived in town 43 years and I would just like to say that 30 years ago the issue was offshore factory ships sucking up the herring and a lot of the bait fishing that resulted in a decline in the species that Chatham fishermen target. And at that point as some of you might remember probably not everybody, Congressman Gary Studds and Senator Ted Kennedy went to Congress and they implemented the 200 mile limit. And that resulted in the fish and the fisheries rebounding for a number of decades. They've since declined for other reasons. I would just say that we don't need an act of Congress anymore because we have the Council.

Your decision on this amendment will create a buffer zone and like the previous speaker you know that the banning the foreign boats to 200 miles was sort of at the time seemed like an extreme solution but it worked. So I would recommend that the Council take as aggressive action as possible in limiting the catch of these midwater trawlers and pushing them offshore, preferably at 50 miles. I'm not conversant with the science but I think that anyone who's gone to a herring run or experienced that in their life can testify to the fact that the river herring have declined. And with the decline in the bait fish there's a commensurate decline in the cod and haddock and the other species that we target. So I would recommend you're taking more aggressive action than less aggressive action and following some of the recommendations you've heard from some of the previous speakers.

**John Our, fisherman from Chatham**

I have been here for 57 years this year. When I was a small boy I was here when the Russians and the Poles were here and saw what they did. There's not a lot of guys left in any part of the groundfish industry, even the herring fishery are all parts on the groundfish fishery. We all know what's going on and the people that are left in it today are the survivors, they are the damn best at their jobs. There's not many guys left and like I said any it. I've dealt with these guys (herring MWT vessels) for at least 25 years; they are not midwater trawlers, they are the farthest things from it, they are bottom trawlers. I've lost hook gear while hooking for Haddock SAPs because they were towing the bottom, they didn't mean to do it, but they did it. They're very good at catching fish, they're not always the best at what they target. If they make a mistake it's a big one because those nets can catch a lot of fish in one tow. And I've seen it. I saw it on Georges when I was catching haddock, I went back 48 hours after I had a 10,000 pound trip of haddock and there was nothing left for me to catch with the hooks. When I got there there was some haddock floating around, not a lot but enough, and they had showed up the day I left.

I'm not trying to put anybody out of business but it gets to the point that they are putting us out of business off the Cape. The Cape, within 30 miles, goes from 0 to 100 fathoms. I really don't want to see them get kicked out but I'm in support of Alternative 6 because they don't give a damn about my fishery which is groundfish. I'm a gillnetter primarily but I used to tub trawl and numerous times I pulled up beside them when they're pumping out and there's pollock and cod floating on the surface. I've had scientists with me that observed it, we were doing a monkfish tagging study there was pollock floating everywhere. When they make a mistake it affects me and it affects this community.

In the fall when they show up everything's moving east of the Cape, your bass, your blues, herring, mackerel, everything. They were within five and six miles of the beach last fall. Even the whiting fishermen were pissed off they were there because they had bags of whiting while they were looking for herring. I understand they're trying to make a living but they're affecting this town, and you see in this room tonight by the amount of people that have showed up, it effects small boat fishermen primarily within 30 miles of the beach. I want my groundfish to come back but when they show up in the fall we've had guys in this room that were jigging on spots and after they went through they couldn't catch anything. You know, like I said I really hate to see guys put out of business, but when they affect my business and everybody else in the fleet and we cant catch cod and we are stuck with dogs and skates, and we mackerel in the fall now, it's a cute little fishery that's helping people out. But when they go through there's nothing.

I've been in this business for over 40 years and it's a blue screen when they go through, you know, and with the stock assessment coming out, with what's going on I don't know what's going to happen to them anyway - I think they've written their own death certificate in the near future. But I'm in support of Alternative 6.

**Pete Kaiser, sit on the Squid/Mackerel/Butterfish Advisory Panel for the MAFMC and Fishery Representative for the County Commissioners in Nantucket**

I've been out there like John said 40 years and a lot what he is the truth, it is the absolute truth. We will be submitting a letter for comment which will be more detailed. I was told to keep it short so I will. I just want to say that Nantucket firsthandly witnessed localized depletion and the negative impacts of the midwater trawl fishing inshore. Traditionally and historically the herring travel just east inside of Nantucket down to the corner of Nantucket and the shoals. In 2005 after a lot of the pressure from the midwater trawlers vessels, you cannot believe, it was like hitting the switch. Historically for years down there all the spawning herring would come all the mammals would come, all the codfish would come, back when there was codfish; everything was there for about a month and a half. But we watched it and they started fishing on the backside of the Cape and they literally cut that whole traditional migration off. So we do have a dog in the fight and we know it would be a great thing as Johnny said to see this just come back.

Now our task we feel is to protect the spawning area. There are spawning areas in Maine down to New Hampshire and after Provincetown magically for some reason there's been no spawning closures from there south. We've argued for it and they just said there's no funds, there's no history. But that should be done, that is one of the things that we are very strict about, we're proposing to protect that spawning area and the essential fish habitat of Nantucket Shoals which also is part of the spawning area. So with that being said we definitely support Alternative 2 and a control rule that would somehow eliminate any gear that does not have selectivity to it, which I believe the midwater trawlers have a lot of bycatch. I think what we promote would be the purse seine, they do have selectivity. They can circle up a bunch of stuff and if it's too small they could turn it loose alive and they'll survive, unlike what

happens as we all know with the midwater trawls. So therefore we support Alternative 2 and definitely Alternative 6. I mean they're spawning where we used to tuna fish off shore with Johnny and all these guys, the spawning grounds are prolific out there and nothing has been done. And let's face it, it is all about protecting the juveniles, the spawning classes and also essential fish habitat. It's a phenomenal place and we'd also like to see this come back. So you'll be getting the written comments.

**Bob DeCosta – Albacore Charters, Nantucket and past member of Board of Selectman**

My family's been in the charter business in Nantucket for 50 years, commercial and charter fishing. Twenty years ago if you went east to Great Point any time from August 15th on you just basically drove the boat around the corner of the point stop and looked with your binoculars and you'd see the massive gannets and herring and that's where you drive to. That all is gone. Our fall bass fishery which was considered some of the best in the world is completely history. There are no more stripers that come down the east side of Nantucket anymore. There's no forage for them anymore. The herring that used to come from the bay from Area 1 which is protected all summer, and would migrate down through the fall along the outer Cape and then across the backside of Nantucket are all being sucked up by the midwater trawlers. That's a social economic impact to Nantucket that has had a large amount of lost revenue to charter boats, lodging, restaurants, and tourism - it's almost immeasurable to count up.

I am also a commercial tuna fishermen and we used to go down to the Channel in September and October from the shore to the BB and you'd sit there at night and you'd see 100 feet of herring come out of the bottle. Now you sit there at night as we've heard already, all you see is a blue screen. Now I tried to go through these reports and tables and ABC formulas to try to figure out, I don't know how you can figure out a mathematical equation to a fishery that you sample one catch here and one catch there and try to come up with the biomass. What I can say is that the midwater trawl boats are big boats and if they want to catch herring let them do it outside of 50 miles; leave the inshore waters for the inshore fishermen, for the small communities along the coast all the way down to New Jersey. It shouldn't just be the Gulf of Maine that gets to have herring all summer. We should have herring all the way down. I wholeheartedly support the 50 mile closure all the way down not just one area. I think the whole thing should be one area you don't need Area 1A, 1B, etc.; there should be one area that has a 50 mile buffer zone from midwater trawling – period. And as far as the other alternatives go, Alternative 2, when they get to the 50 percent biomass than the other formulas kick in, that should definitely be in place as well. But keep them outside of 50 miles please. You're talking about small communities you're talking about individuals that rely on their one boat they have maybe one employee or they fish by themselves but it trickles down through the entire community. You've heard it from all the way from Mashpee to Chatham, this is this is not just a small localized problem. This is a problem for the entire state of Massachusetts along the coast. Yet the boats that do this kind of damage they are a small percentage of everyone else that is affected by this.

**Mike Abdow – commercial and charter fisherman**

Thank you for allowing me to speak, maybe after I am done you may not. Like John Orr I've been fishing for a hell of a long time. I started in Provincetown in the 50s when I was little, in the 60s I worked on a seiner and we netted herring, but in the old days there was no technology it wasn't hard. And as I grew up got married got out of the service did what I was supposed to do I came to Chatham in 87 when I used to go out codfishing into my little pipsqueak boat we saw school after school after school of herring. I was amazed to see how much herring was here. Now you don't see that anymore. This government asked us to quit fishing, slow down and increase the size. We said OK. I love to do science. I was one of the original guys at the start of the Association for fishing. I tagged all the cod we

can tag, I tagged bass. I worked with the government with this gentleman here, this guy here and the guy before him. I've been doing this for a long time. I should be retired but this is my love.

When I see all these people here and all the meetings that I've been to all the years I went with this gentleman to Washington D.C. and with that gentlemen, and all the other people and said, "why are we having this issue. Why is this not remedied easily?" Greed is the biggest factor in the thing. These easy fishing five miles from shore, big boats, I've gotten in fights, arguments. I sat on top of their net and videoed it on the bottom. I sent it to Massachusetts Division of Marine Fisheries, who sent it to Gloucester, but nothing became of it. They were catching haddock, little ones. I was raised and learned to fish by the Portuguese up in Provincetown. They know the difference between a herring and a haddock. Oh this silverfish, really. You ask us to preserve we preserve, they take the food if you want us to raise the fish up as farmers of the sea you gotta allow the food supply to be there. Striped bass tuna, pollock, everything that swims in the ocean, cod, haddock, they all eat herring. When there's lots of bait there's lots of babies, there's food to grow up on. But when a certain set of guys comes in and I got nothing wrong against guys who commercial fish, even though I run a charter boat now I still fight for commercial fishing because it's my job. When the government says nobody observes we fight these guys for this. It's like talking to that blue screen, nobody is listening. If they are they're not paying attention. Maybe we don't have the lobbying power and the money that these big boats have and the attorneys that these guys have to keep them fishing. But when a guy calls me on the radio he calls me a little white boat and I'm looking at him saying, who he talking to I'm the only guy here. He's a 150 foot herring boat and I have to look up at him and he's yelling down at me to get out of the way, I think there's a problem. That boat is 150 feet long. Go out on George where you belong, go out in the middle of the ocean where you belong. We get nothing against other boats, there were joint venture boats fishing here before. But if you're going to put a fence up it should be for American fishermen only.

But we still need to have a buffer area where they don't come in and work on a supply of forage fish to raise the fish that we go for. Most of these guys in this room only fish out 20-30 miles. Granted some of us are nuts and we go to Georges in these little pipsqueak boats, but we're dependent on the inshore stuff, all the way from New Jersey all the way to Maine. It has nothing to do with just Cape Cod. It's all of us. When they kicked the guys out of Canada fishing was great. Then they came back. We need Alternative 6, a 50 mile line where they cannot come inside of any time, not summer not spring or fall. They need to stay away from here because as this gentleman here sits, and your people up Gloucester asked us, we need to raise the fish up. But we need to be able to feed them. And if you take out the feed you don't raise the fish.

### **Don St. Pierre, herring warden for Chatham**

I've been the herring warden for the town of Chatham for 50 years so I've seen the huge influx of what we used to have. You used to be able to put a dip net in the water and come up with a full net 24 hours a day in the early 60s. But now we started a program of counting herring and what we do is observers will go down to the run and we'll count the number of herring that go over into the pond, not the ones that are schooling up before the pond. You count for ten minutes and then you leave. Last year we had seiners right off in front of the fish pier just before the herring were supposed to be coming into Chatham. I saw a total count myself and the other counters of 78 herring for the entire year. That is the worst I've seen in the 50 years that I've been the herring warden. This year we ended up with 2,708 herring going up into the pond. You've got to realize that this is only a few of us that are counting and we are only counting for ten minutes, but below the pond we saw hundreds and hundreds like it used to be. I think the 50 mile limit would be the best thing for the fisheries in Chatham as well as the rest of Cape Cod.

**Nick Muto – commercial fisherman and Chair of Cape Cod Fisherman’s Alliance**

I'm here to speak not only on behalf of the Alliance but for myself as an independent fishermen. The Alliance works with hundreds of small boat commercial fishing businesses on Cape Cod to ensure the future for fish and the fishermen who rely on them. Across all fisheries Cape Cod fishermen landed over 73 million dollars’ worth of seafood last year. So a healthy ocean ecosystem is vitally important to Barnstable County's economy. It is our belief that Amendment 8 will play a significant role in the success or failure of our community’s fisheries for decades to come. The presence or absence of Atlantic herring plays a vital role in our collective future. Will there be a robust population of herring in the future? Will that herring be allowed to enter our near shore waters as it has for generations? And that is what is what is at stake in Amendment 8. The Alliance has extensive written comments that will be submitted, but I wanted to briefly highlight a few key points tonight.

We need a risk averse control rule. The past approach of an approximately 50 percent chance of overfishing has led us to where we are today. We recognize that the draft stock assessment has not yet been finalized but both it and reports from fishermen on the water show a disturbing decline in the herring population. Our organization strongly supports control rule options 4E and 4F for two reasons. First, both 4E and 4F should result in positive impacts on predator species. The Cape fishing community has experienced firsthand the negative impacts on predators when there is not enough herring in the ecosystem. Second 4E and 4F have positive impacts predicted across several ecosystem components supporting short and long term herring biomass, predator fisheries, ecotourism and the herring fishery. The status quo does not.

To address the longstanding gear conflict issue the alliance strongly supports Alternative 6, a year round buffer zone where midwater trawl gear is prohibited within 50 miles of shore. Herring are a critical forage fish and the predators need abundant inshore herring populations. Additionally the failure to provide spawning predictions on Georges Bank and Nantucket Shoals must end. The Fishermen's Alliance has raised this issue for many years out of concern that one day we may end up collapsing the herring fishery like the foreign fleets of the 60s and 70s did, and it took 20 years for the herring resource to return. And one must ask, should we allow this to happen again. This buffer is also necessary to restore and protect opportunities for dayboat inshore fisheries. A 35 foot day boat should not be displaced 100 miles offshore so a 100 foot midwater trawler can fish closer to shore. These types of gear conflicts are unnecessary and within your power to solve. Thank you for taking the time to listen to the Cape and our community and our inshore fleet. Please support the alternatives that are best for our ecosystem and the greater fishing community.

**William Henchey, attorney from Orleans**

I’ve got some experience I think is pertinent to this issue. I served as a member of the Board of Selectmen in Brewster for two terms when my hair was brown, I chaired the Conservation Commission, was a board member of the Association for the Preservation of Cape Cod, a board member for the Massachusetts Audubon Society, and I have a fair amount of fisheries management expertise in that I have litigated a number of cases and I served as a member of the ICCAT Advisory Committee many years ago. I want to thank the Council and the Division for coming to Chatham tonight. I have a couple of comments and I'll submit written comments by email as well.

I don't think I need to repeat a lot of what the commercial fishermen in the room are telling you but I have been privileged to spend a lot of time on the ocean in the Bluefin tuna fishery for decades now and I want to suggest that this notion of potential localized depletion which is contained in the documents is a misnomer. There is no *potential* localized depletion localized, depletion is a fact. It

happens here off the Cape, it has happened up in Maine. It has happened virtually everywhere where these midwater boats come into an area begin to fish on their bait fish, use their small mesh nets from top to bottom as has been described, and it is a truth that after they leave the waters are virtually a desert - the forage base is gone, the predators are gone, the birds are gone, the bluefin tuna are gone. It's difficult to find anything there. The whales take off. It's a very unfortunate fact. I've watched this fishery with a high degree of skepticism for 20 years now, in my view it is poorly monitored. I don't think anybody really knows the degree of bycatch that's happening on these vessels. It is poorly managed. There are a quota overages both in terms of the target species and the bycatch species regularly. In my view it is not a sustainable fishery.

So for that reason I support in terms of a catch control limit, Alternative 2, I think the Council should adopt a conservative and a precautionary catch limit control rule. I strongly support Alternative 6 on the so-called localized depletion gear conflict alternative. I think it's important to remember it will be underscored here that we're talking about an industrial sized fishery on the bottom of the food chain, and in my view that is a profoundly unwise fishery in the first place. But if you're going to have it, and people have a right to participate in it, but it should be managed in a precautionary manner and it should be managed in a manner that does not force small boats to go to Georges Bank where herring remain plentiful to catch tuna fish. It should not be managed in a way that destroys the fall striper fishery off of Nantucket, or the fall bluefin fishery in the Great South Channel. It should not be managed in a way that causes tremendous numbers of haddock bycatch here east of the Cape, and should not be managed in a way that causes the Council to have to come all the way down here to Chatham to talk to a full room of people who are frustrated by the things that they see on a daily basis on the water. So I would support Alternative 2 on the control rule and Alternative 6 on the localized depletion gear conflict issue.

### **Charlie Dodge, lifelong fisherman**

Not always a resident of Chatham I've been here 23 years. I grew up on Block Island. My family's been fisherman since back from the old country. Every generation, generation after generation, we watched it in Point Judith when I lived on Block Island, the small mesh fishery that destroyed everything in the ocean. They caught everything there was to catch siphon it out killed everything they didn't want threw it overboard. We've watched it with the midwater trawls here for years. We've tried to do something about it. I have what they consider mid-sized and small boats, day fishermen out of Chatham. I have three boats only because of the way the rules went years ago so we could keep fishing yearround. Currently only one or two of them are fishing most of the time.

The midwater boats have destroyed the closed area concept. When we were fishing before down there tuna and haddock fishing the groundfish stocks were rebuilding and becoming robust again and then the midwater boat showed up and started towing in there with this small mesh leaving a river of dead fish floating on the surface. I witnessed it many times, striped bass, haddock, codfish, Pollock, hake you name it, all floating on the surface. This has been going on for a long time. We are observed by the federal government at a rate of 16 percent on my small boats but yet the midwater boats are still at 3 percent observer coverage; we have been fighting for years to get coverage on these boats to see what's really going on. And there was this thing called the observer syndrome where every time they went out with an observer something happened mechanical, a breakdown and they'd have to go in so they couldn't see what they were really getting. This has got to come to an end. You can't kill all the bait fish in the ocean that everything depends on and wipe out everybody else for the sake of a few industrialized huge boats that are mostly run by people from Ireland. Why is it you can't find out who owns the boats, you go online you can see who owns my boats, but you can't find out who they are

because they're all hidden through shell corporations. Somebody connected is involved in this. There's been no observer coverage on these boats. They haven't been held to the same standards we are. I fish with the smallest mesh I can use, it's 6.5 inches, for years. We've switched to alternative species which we get pennies on the dollar for just to stay in business and keep people employed. It's ridiculous that one group of people can wipe out so many industries, the charter boat fishermen, the people that recreational fish, and the commercial fishermen in the small communities around here, and it's not just here, it's Maine all the way down. I've watched it for years before I moved here and it's continuing now and we've been fighting over this for almost 15 years. I think it was in 2004 or 2005 it became a big issue with the Alliance and we all put money in to try to do something about this to get lobbyist to actually try to do something and we're still fighting this fight. When is common sense going to rule.

### **Andy Baler – Nantucket Fish Company**

I've been in this fishing industry for maybe 32 years. I own Nantucket Fish Company I own the Chatham pier Fish Market. I ran the Chatham pier for 15 years. I've been a tuna buyer for about 30 years and as advisor for ICCAT for 8 years. I went to a lot of good meetings did a lot of good work ran into a lot of problems trying to get more quota because bluefin was always being pushed to its limits and it seemed that it was always not enough food for the fish. So my problem with the way you talk about conflict on the ocean - how do you resolve these things to supply bait for lobster fisheries? How do you have conflict when 2000 vessels no longer fish on the water? Our fleet has downsized so incredibly. How do you resolve the problem with all these stocks we try to rebuild when herring is at the forefront of the problem but nobody wants to say it's the problem. We know it's the problem. We've said this for 20 years - a bunch of boats get an experimental fishery permit to fish on the herring as midwater trawlers. Since then we've seen continued decline in every stock we've done everything possible to rebuild the stocks. Quotas are still so extremely low people cannot afford to fish. Why do we keep going around in circles until we hit what is really the problem. It's the food for the fish and if it's not available the stock won't rebuild. We can fix everything we can, but if we do don't finalize what we're trying to do we're never going to have a groundfishery back.

So I've been a fish buyer for 27 years. I closed my fish plant down December 31 after 27 years because there's no way to make money. There's no groundfish anymore, I can't live on dogfish and skates. The problem is years back I would handle \$20 million dollars' worth of groundfish a year, and you're telling me this entire fleet makes \$20 million dollars. That makes no sense. We're sacrificing a \$4-500 million dollar industry for \$20 million dollars. We'll never gonna get there unless you be highly aggressive, do as much as possible which is a 50 mile buffer, Alternative 6. That is what you have to do because we've already hit the bottom, we're rock bottom. People aren't gonna be left in this industry they're aren't going to be children to go in it, there are going to be a bunch of permits and rusted old boats and a bunch of big midwater trawlers barely making any money.

So it doesn't make sense to say how we can say this and then if you want to say we need to bring food. I mean bait for the lobster industry. The lobster industry needs to be very proactive and think of better alternatives because if we're trying to save a lobster industry which doesn't seem to need saving right now at the cost of every other fishery just for bait we really have to get our priorities straight. So realistically I mean I have a biology background I can see it I've seen it from day one, you guys have been doing a great job, Dr. Pierce, Council members, I do appreciate you coming to Chatham. This is a really good day for us, to have you in front of us. We've been wanting you here for years. The thing is we need more proactive aggressive movement now because we are on our last legs. I mean I'm out of business. Who's next? Everybody just keeps going. I mean I've got guys come up to my old plant saying where do we sell fish. There's nobody around there's nobody around because no one can make

any money. So we have to do the 50 mile buffer for sure, in all areas- it has to be all the way down the coast in order to let that population settle in and have its own population to continue to grow.

We also when you look at the other alternatives on your on your control rules it's very hard for me to say yes I like Alternative 2 because it's a 50 percent. Problem is how do you get to the 50 percent? This bar where you say herring should be how do you know it's supposed to be. How do you know that the ocean says this is where the stock should be, and 50% is here, maybe it has to be here, or maybe up here? We do not know where we are supposed to be - we're never going to get anywhere. So it's very hard. I do like the way you're coming along with these new alternatives, 4E and 4F. A few of those are ok but it concerns me is where's your starting point. And obviously over years your statistics and your information is getting better. We know that, but too far too late. Now's the time so you've got to do a 50 mile buffer across the board to help save this fleet.

### **Barbara Brenacel, biologist**

I've studied the history and ecology of river herring in the Northeast and written a book about it called *The Alewives Tale*. I've also written a children's book about river herring. I currently serve on the Board of Friends of Herring River in Wellfleet and volunteer to count river herring in Wellfleet's herring river. I also participate in the Massachusetts Organization River Herring Network. For many years the organizations to which I belong have been promoting efforts to protect our river herring runs which have never rebounded after the Massachusetts moratorium on harvest in 2006. As herring counters we eagerly awaited signs of recovery after the moratorium was imposed. Over ten years after the moratorium still we have seen no rebound in many of our runs. In fact last year 2017 Wellfleet count showed the lowest statistical estimate of immigrating fish around 8,000 in ten years. So many of the organizations that participate in volunteer counts have also initiated massive efforts to restore herring runs. We've removed dams and impediments, we've improved habitat, we've installed fish ladders and otherwise improved river herring passage yet we see no progress in terms of a rebound of our runs so our runs are in declining and some cases maybe stable at historically very low levels. So I would respectfully suggest that the 50 nautical mile buffer zone be adopted. We can't help but think this would be beneficial to our local herring runs as well as the entire Atlantic herring fishery and ecosystem which the herring resource supports.

### **Autumn Escher – student, resident of Harwich, MA**

I live in Harwich. When I was little I counted river herring with my brother and my mom in Orleans. It was fun but there wasn't a lot of river herring. I think there'd be more if the midwater trawlers did not catch so many of them. I want the midwater trawlers to fish farther offshore, like 50 miles. If that happened whales, cod, tuna, and birds would have more ocean herring to eat too.

### **Ted Ligenza - fisherman from Chatham**

I'm a commercial fisherman in Chatham. I've been involved in the codfish fishery I think for 46 years. I got to see the Russian trawlers too I have been around that long and I saw the results of not having any herring around. The first herring boat showed up around 20 years ago and I happened to be there I think when the first boat showed up in Great Hill and I was out jigging with my friend John Small and we were catching cod and pollock and there was a lot of them and they were up in the water column up above the wreck we were fishing on. And there were dogfish from bottom to top and there were herring from bottom to top, and even some small tuna fish jumping around. This was in December this is when a large schools of fish migrate. So this is a typical scene that time of year almost any place you fished off of Chatham, there were loads and loads of fish around and I saw these two herring boats and I was like how the hell are they going to go tow through this mess and only catch herring. And there

was talk about it that they were coming and they said they know how to just catch herring and not to worry about it and everything was going to be OK but I couldn't see how it was going to work in that particular situation. Now Decembers are no longer like this. I can still catch a few codfish I can catch a few mackerel some time there's a lot of mackerel around but you just don't get the scene of the whole ocean alive with fish anymore. It doesn't happen anymore. Then it finally dawned on me that it just happened that I was there that day and I wrote a letter that day and I realized that the fishery had really started to diminish when the herring trawlers showed up.

Now I just want to go over a couple of things I have seen. There is another area out there was called the Peaks and every January back in the day often the small pollock about 10 inch fish would show up in the deep water and they would be all the way up and down in the water column and you wouldn't see this every year you'd see it every four or five years. And when you saw it happen you knew that next year you're going to catch a lot of the little pollock and then next year you're going to catch lots of big pollock and a year after that you're going to catch a lot of big pollock and then in another four or five years we get another big spawning class like that. So I was out there one day and we were jigging, look all the pollock are here and the seiners showed up and towed right through it. I imagine there were schools of herring there but there were also schools of Pollock. They didn't stop fishing. Well I still go fishing on the Peaks at that time of year often and there's no more schools of pollock there or anywhere.

So I'll talk about another ground inside of this closer to shore, Crab Ledge. That used to be a really good place to jig for codfish especially in December and sometimes all summer there would be a lot of fish there. So one time we saw a herring boat show up there and they would show up there big time. And that's when it really started to dawn on me that there was something wrong because you wouldn't catch anything. There were no codfish there anymore and so I was talking to an old lobster guy. I asked him, how did your gear survive that with all those boats towing around here because they still have lots of gear around. He said they got it all back but every single trap was flat. That's when I realized that these guys are towing on the bottom. They're towing on the bottom and they flattened all this stuff.

Another time I was near Nauset and we were catching a lot of codfish. In late January there were seiners off in the deeper water and then those codfish completely disappeared. Every last one of them and the fishing has been very good up at Nauset. After that they were towing above the bottom. You could see the herring would be up in the midwater column when I first started fishing out there then as the water gets colder the herring go to the bottom, and then they tow on the bottom. The call themselves midwater trawlers but they're not, they catch everything. The fact of the matter is with my personal anecdotal observations is that pair trawling is not compatible with groundfishing in our area. It just doesn't work. So of course I'm all for Alternative 5. But the other thing you guys got to realize is that when you put these boats out there the same thing is going to happen out there. So in actuality it's an experiment that was made right off Chatham and it failed. And not only did it fail with the groundfish it failed with the herring because there is hardly any herring anymore. There's just some mackerel and skates and dogfish for the guys to catch.

I got one more thing to say. I really appreciate that you guys are having this meeting. But the fact of the matter is you know you're thinking of all the alternative stuff, you're trying. You're trying to fit a square peg in a round hole. It just doesn't work. It's not compatible with groundfishing. If you could find a place where there's no groundfishing and no other fisheries they can go catch their herring there,

that's possible. But you know you're talking about putting them out in Georges Bank. Well it's going to mess up the fishing in Georges Bank too just like it has here.

You know I take a lot of observers. It happens I have a degree in biology. I went to college so I get these kids on a boat and I think, this could have been me. So I'm really nice to the observers and I get talking to them I go hey you've ever been on the herring trawler. Oh yeah they say. Well what happens. They say, they cull the fish and they don't let me see what's going on. They tell me I've got to go over there and mind my own business and whatever comes by me I'm supposed to keep record of. If you think about it you get a bunch of grown men in a 150 foot bow and you put one girl or one young guy out of college and there's a lot of them that are women that are 21 years old and tell them to count the fish. You know there's nothing they can do with a group of people like that. The fact is we really don't know what's going on with these boats. But from my observations and the other fishermen out here is pretty obvious what's going on.

### **Heinz Proft, Natural Resources for the town of Harwich**

Although I am not elected I certainly serve a role in an official capacity for the town. I've been there for the last 21 years. I have a background in marine fisheries. There are plenty of anecdotal stories with herring counts, charter commercial fishing out of Harwich over the years. I'm not sure if another story is really going to do the trick. Our counts with herring back in the late 90s were doing quite well. It was in 2004 that the town of Harwich instituted its own moratorium on the taking and possession of herring. Two years later when the state of Massachusetts called us and made us aware of their regulation and asked if that we'd be on board because we were already two years ahead of that law. I've also been aboard a trawler not in these waters but it's unbelievable the efficiency and the robotic methods at which they can clear out similar to these stories you're told today. I'm not sure if it's the number of people that come up or how loud it has to be said but your solution in a sense starts with this 50 mile buffer and then from there you need to then see how that affects your fishery and I'm hoping that you still have time to do so. Those are my quick comments I'm sure plenty of people that need to speak.

### **Darren Saletta – fisherman from Chatham**

Thank you so much for coming down here today, I have been to a lot of hearings off Cape. When I got here today it was standing room only. I got a seat because there were a bunch of guys that came all the way from Nantucket to be here and they left. When I saw Pete as he left the room I was like, wow, I have not seen you in person, except for driving around in your boat, since we were working on this same issue together probably 13-14 years ago. Look at the cast of legends you've heard from tonight. Some of these guys are fishing heroes. I'm 43 and I've been fishing here since I was 16. The voices you've heard, the evidence, as Johnny said earlier, this is the best of the best that are left especially a generation older than I am. What more do you need to hear? Where's the end. Should I have brought my 4 year old boy to start training for these hearings so he can fish or maybe not fish. You know I don't remember some of these stories I wasn't there, I was at the fish pier on a skateboard 10 years old watching them unload codfish. I got my first job on a gillnetter when I was 17. There were no codfish left dogfish. Come on guys it's time, 50 miles, sure that would be great. I say all the way back to Europe.

### **Bruce Peters – run a charter boat and tuna fish out of Chatham**

You know I think it was about 22 years ago, with the Cape Cod Commercial Hook Fisherman's Association, we got this big idea to put a bunch of people on a bus to go to Washington DC and talk to a bunch of politicians and fancy people about buffer zones and observer coverage. And it is 22-23

years later and we're still here nothing's done. It's the same stuff. It's disheartening, it really is disheartening. You know I've been going to the herring committee meetings and I went to the last herring committee meetings and they laid out several or so alternatives and what I took a note of is at bottom of the list it said, without objection it was clarified that seasonal components could be considered for all the alternatives above. So in other words they got a fallback position for every one of these things that they propose. The alternative is a year around closure, and then they go and open them up again on September 1 or October 1 when we're tuna fishing or codfishing, or fall fishing in the area. I don't know. You know like I say I'm disheartened it's time to turn this disaster around, 50 mile your ground closures - they have to be year round. We can't have them slide back in there when nobody's looking when the tourists are gone. So they can do what they've been doing.

You refer to a lot of guys say that the bass don't show up because the herring don't come down from Area 1A. And the time blocks, there is an alternative that shows five or six time blocks, but that does not protect the Great South Channel. We need additional time blocks to the east and to the extreme south of that, two more minimal time blocks are needed. You have done some fantastic work of showing the tuna landings over a five year time periods from like 1999 to 2000 and it shows a decline in tuna landings when the midwater boat showed up at the Great South Channel. I think it was Johnny that said everything moves through that area, that's like a funnel. It's a feeding ground funnel to Cape Cod and we let those guys in there mopping up everything.

I really appreciate your work on that Deirdre because it really opened my eyes because at one of those hearings we went to one of the midwater guys came up to the microphone and said, "why should I have to go all the way out to Georges Bank in my 130-foot boat to catch herring. And I got up behind him and said why should I have to go all the way out there in my 34-foot boat to catch tuna. I have to because they've caught everything up in shore. I appreciate you giving us the chance to speak.

**Pete Murphy - vice president of the Stellwagen Bank Charter Boat Association**

I have been a volunteer and paid biologist working for, and contract directly for NOAA as far as doing biology studies, otoliths, genetic research, East and West tuna mixing and so forth. I am a conservationist, I'm also a commercial fisherman of sorts, and also a charter recreational fishermen. What I would like to do is, and I'm speaking on my own behalf and not representing the Charter Boat Association this time, I would like you to consider Alternative 3 which would be the 12-month closure of 1A and I would like you to consider please Alternative 6, which would be the 50-mile buffer zone and it also needs to include the Great South Channel which is critical for spawning and the whole ecosystem. I think the other thing that needs to be looked at please would be the frequency of what we assess the biomass at. I have documents in here, newspaper articles where comments were made as recently as 2016 that the herring stock was in good shape. There's a nasty word floating around right now, collapse. So in two years or less the stock is in trouble. I don't think it's reasonable to go out 3 years before we sit down again and say where is the stock, where's the biomass. It just doesn't make sense.

The midwater trawlers as everyone has heard repeatedly today they're not midwater trawlers, they have rollers on the bottom and they crush lobster traps. I have a picture here which I have submitted to a Stellwagen Bank Sanctuary meeting and I will submit to you if you will receive it, or as evidence with my written comments. It shows two midwater trawlers here and it shows a boat of a friend of mine right here with his sounder in 82 feet of water, and there is the water column, that is all forage fish, that could be a tuna fish, and that could be a mammal in the area with midwater trawler boats in eighty two feet of water. Stellwagen Bank National Sanctuary - how were they allowed to get up there? That is a

question. Since 1991 these boats have been allowed in here to fish, it's wrong. The mackerel stock in the Mid-Atlantic is in trouble. I understand 90 something percent has been caught already, mackerel fishermen like this gentleman here don't know if they're going to fish this year, they're in trouble. Midwater boats they are not midwater boats. They are the most efficient fishing mechanism in the world today and they don't belong fishing; they have an alternative, they could become seiners. Buffalo hunters went out of business, whalers went out of business – you can't kill them. These boats need to stop.

We need to take the gloves off and tell it like it is. It's a brutal dirty fishery and I can't believe that we haven't heard here. It is almost 15 minutes before closure of the meeting and nobody from any of the NGOs or whale watch facilities have gotten up to speak. These are multimillion dollar entities and everyone needs to get up and speak here. A 3% observer rate on these boats when they're out there 24/7 is unacceptable. It's criminal and it needs to stop.

### **Glen Leggett -career fisherman for 30 years from Chatham**

I own a small 42-ft boat, I traverse the entire Gulf of Maine to the continental shelf to the Hague line. There are no biomass of herring inside of 50 miles until you get up to Maine where it's been shut off for two years now. I'll go all the way to Rockland Maine from Harwich, MA on an overnight trip just to be profitable. That's what I've been reduced to because of the lack of bait I have visibly seen disappear in the last 15-20 years.

I'm very much in favor of Alternative 6 and if that doesn't come through you won't need to come back in ten years because all the fishermen you've seen in this room will not be here. We're only a small fraction of what used to be on Cape Cod. The fishermen you've seen in this room are the best of the best, we can make a dollar if there's 10 cents to be rubbed together. That's why we're still here. I appreciate your time and your consideration but I have to go to work right now. I'm leaving the dock at 9pm.

### **Laura Slochum - from a fishing family**

I have a five year old son and we first started bringing him on the fishing boat when he was 2-months old. Last year when he was four we started pulling him out of bed at 5:00 in the morning and putting him on the boat with us and he would sleep for the first two hours and then he'd get up and he'd come onboard and he'd work with us on the boat. And we want to make sure that he has the opportunity to be like some of the best fishermen that have been in here and who've spoken already about how much fish they have caught and seen and what they're not seeing anymore. I support Alternative 2, 4e or 4f we need an alternative for positive results on biomass growth. The population has already shown to be in decline and the Council will not be doing their job. If they didn't chose an alternative that didn't assist with positive biomass growth. As well the Council really should be assessing biomass yearly and setting limits yearly. I also support the 50 nautical mile buffer that is year round up and down the coast.

We are fortunate to spend long days and nights on Nauset Beach which is right here on the Atlantic Ocean if you don't know where it is. And one of the most disappointing and sad experiences is when we see whales one day and then we see midwater trawlers the next. Having the 50 nautical mile buffer would protect mammals and predator fish in this region. My son and I also explore outside as much as possible and we go visit the local herring runs. And it's really disappointing when we got there and we don't see any herring. Knowing that midwater trawlers catch river herring it is important to protect them, and I've seen photos from his grandparents showing dried river herring hanging and hopefully

one day we will have that opportunity but most likely if the midwater trawlers keep fishing as they are fishing we won't. I was really disappointed that we didn't see an alternative in here for a full ban on midwater trawling. Having spent time and time watching and videoing midwater trawlers actually going out on boats and following them around the ocean I don't know how they avoid some whales and tuna and large predatory fish.

**Peter Baker – Pew Charitable Trust**

Thanks for coming to Chatham, it is good to see all of you. I moved to Chatham in 2002 to work for the Cape Cod Commercial Hook Fisherman's Association. I have talked to many of the people in this room many about what the most pressing issues facing the fleet here was then 16 years ago, we talked about days at sea, we talked about dogfish, we talked about the decline of the tuna fishery, we talked about a lot of things, but the main thing that every guy that I talked to talked about was industrial midwater trawlers moving in to the inshore wiping out our bait bycatching our fisheries, towing up our lobster gear. We went to the coast guard, we went to Congress, we went to the Council, we went to DMF and DMR in Maine. And out of that came Amendment 1, which made the fixed gear only area in Area 1A during the summer and it's been a huge success. The tuna fishery is back, their inshore fisheries have survived if not thrived. What we haven't seen is that come down south.

So when I left the Hook Association in 2007 I went to work for the Pew Charitable Trusts, where I still work now. One of the first things I did was start the Herring Alliance, it started with ten conservation groups and now we've grown to a 110 groups - river herring groups, watershed groups from North Carolina to Maine. All these groups come together in a coalition because they believe the industrial scale fishing inshore is incompatible with healthy river herring populations, healthy sea herring populations, healthy groundfish populations, healthy tuna populations, healthy whale populations, healthy bird populations and all the industries that depend on them. The Birdwatch industry, the whale watch industry, the commercial fishing industry, the recreational fishing industry. And now we have a chance to move these big industrial ships that were built to fish offshore, offshore where they belong. And with what's going on with the recent stock assessment would be criminal if you didn't take this opportunity to move them offshore.

So first of all you need a 50 mile buffer zone and secondly you need a modern control rule so that instead of this big political fight we're going to see this summer and winter over the new stock assessment, where everybody pulls out their lobbyists and their lawyers and their congressmen and they have a big fight over what the quota should be, instead you have a control rule. You've decided beforehand the rules of the game, everybody's agreed to them, even if some people begrudgingly agreed to them. And once the stock goes into decline if it does, you know what you're going to do, you don't have to have a political fight. You don't have to listen to the lobbyists, you don't have to listen to lawyers and politicians – you make decisions beforehand. You can do that with Alternative 2. So I would really encourage you, especially with what we're seeing with the stock assessment now. It's easy enough to blame haddock, oh the haddock ate all the herring, but everybody knows that's not true. The problem with the herring stock isn't that there's too many haddock. The problem with the herring stock is there's too many industrial ships killing them inshore.

**Patrick Paquette – Government Affairs Officer of the Massachusetts Striped Bass Association, and currently president of the Massachusetts Beach Buggy Association.**

Thank you again for coming to Cape Cod. Why would a beach buggy association care about the Amendment 8, well because if you sat and spent your tourist inshore fishing time on a place called Race Point and you sat there in the middle of the summertime you'd sit there and watch these big boats

not move all day long. And the minute it got dark these boats start moving. And the one thing you know if you've done that for 25 or 30 years up there at Race point is that before the early 2000s before these boats started that behavior, there was a lot of fish at Race Point. We would have things like herring chased up on a beach, like mackerel chased up on a beach. It doesn't happen anymore. You know we get chased up on the beach now, we get silversides. It happens a little bit in the spring instead of all summer long. One of the world's most premier fishing destinations, the Cape Cod National Seashore, changes because of the localized depletion caused by the massive extraction of Atlantic sea herring and Atlantic mackerel from the inshore waters that abut the Cape Cod National Seashore. Shore fishermen pay a price just like everybody else. We need to make sure that that message is loud and clear. Then again we have been right because I wrote an article for *On the Water* magazine about 12 years ago. I coined a phrase that came up with a whole bunch of people in this room and somebody said it first, it was - strange bedfellows. The different fleets that showed up at this hearing today and that have been showing up at all these hearing don't get along. There's a lot of people coming to these hearings who don't normally get along except for this one issue. Everybody knows and Peter just used the exact word, that this gear is incompatible with our communities, it's incompatible with our ecosystem.

We can watch anybody whether you're a highline recreational angler, whether you are a professional charter captain, whether you are an inshore small boat hook fishermen, whether you're a small dragger or what I'll call a traditional New England fishermen. You base your fishing based on the way your ecosystem moves. You know the bluefish are going to come in from their offshore migration north because they're going to catch up with the squid, they follow things. Our migrations around here are interrupted, they're interrupted at different times of the year. The guys in Rhode Island sing the same story except at a different exact time of year. Because where these boats go the migration and the ecosystem gets interrupted, 50 miles is a gift. One thing one comment I want to make on the draft EIS that is not necessarily an alternative. I don't think the problem statement is strong enough. Look at the evidence of localized depletion. Considering that we are, I believe it was four days ago the Northeast Fisheries Science Center posted the first the first two portions of the stock assessment. I think it's fair to say that before this DEIS is submitted that we'll probably have an overfished state for Atlantic herring. The fact that we're looking at a likely overfished state and we have language that I think is soft when it comes to what localized the pollution is, I think we have stockwide depletion myself, but I think that the language in the DEIS needs to be strengthened to show that the stock in a lot more places is a lot smaller.

I think there's plenty of evidence from the data workshops that supports that. We support the 50-mile buffer. We believe that the status quo control rule is illegal; it did not prevent overfishing. We are about to find ourselves in a state of overfishing and the status quo control rule didn't prevent it. So it's no good; the Council's got to at least come up with a control rule that's going to prevent overfishing. Right. We have to at least have a protection that's going to stop overfishing. I personally and our organization of Mass Striped Bass Association, we are joining with a group of recreational organizations, I believe we have 27 other on the letter now that we will be submitting before the deadline. We will support Alternative 2 for the control rule. We want it as strict as possible. We want bait back. We've seen a response very quickly to the rebuilding of menhaden stocks in our waters. And it would be a shame if we're just going to get some menhaden and shift over that way and watch herring like deplete away because of these industrial ships and that's exactly what they are. They have no business being here. They need to leave.

### **John Bain - Chatham resident**

First a quick herring story. I used to go down to his Herring Run get my quota, drive down to Strong Island the town landing, and go out in the water. I had a rubber tube to keep the herring alive and then I would open the bale and let the herring swim, a striped bass took it, I would count to ten and set the hook and it was a lot of fun. We don't have that fun anymore because we don't have any herring. My wife and I love to eat fresh fish. We've gotten involved with the Fishermen's Alliance and you've heard a lot of stories from fishermen tonight. I'm a consumer; I like fresh fish. I share with you that these fishermen besides fishing they have reached out to the town of Chatham to come up with different programs, Pier to Plate – where they're trying to get people to try some of the fishes that we don't normally eat. They have somebody down at the pier when all the tourists are in town to explain to them about what fishermen do and what they don't do. And it's very interesting. The problem besides fishing is that Mother Nature did a job on us winter and it's hard to get out to go fishing. So having the problem of getting out there and then not earning a day's wages is a real problem. So I'm just saying please support the fishermen on behalf of the consumer.

### **Sandy McLardy – Harwich resident**

I live with my family in Harwich and I support the Alternative 6, the 50 nautical mile limit. And for me it's a local issue versus I don't know a macro issue. I'm a self-employed electrician I've been in business for a while. I feel that with many things not just fisheries, whether you're looking at farming whether you're looking at services, even communities themselves. I strongly believe in local networks, local communities and I know that the fishing industry as a community has been disrupted. I have friends in the fishing industry. And I think the model, the industrial models the McDonald's – these models of scale to make profits for a few people at the top tend to always disrupt local communities. So from that perspective I really support a more organic and local system that I believe is more sustainable.

### **Suzanne Phillips - resident of Orleans**

I've been a Cape Codder year-round since 1970. I'm not a member of a fishing family or anything like that, but like a lot of Cape Codders I care a lot about the small boat fisheries here. I actually had prepared some remarks that I'm not going to give because so many other people said them. I plan to send a few written comments. However in the last few years I basically changed career, I was doing something else and I am now working for a municipal shellfish department. I'm speaking as an individual, but I grow the babies in the upweller and I do some deputy work and I've been trying to learn more and more about fisheries and shellfish and those kinds of things. I count herring in Orleans and I'm on the shellfish waterways committee where people there were all riled up about this issue. But one thing that I haven't heard is being considered, and I know that there's some research being done on it. But we're having changes in the ecosystem that have nothing to do with the people out there fishing. It's more climate disruption. The water is getting warmer. We're having ocean acidification. Gulf of Maine is one of the hotspots in the world.

I saw and haven't fully read but a report that came out in May of this year and it was paid for by the Mid-Atlantic Fisheries, NOAA, Pew Charitable Trust and they studied 686 species of fish that are moving north into colder water in the continental shelf area. Anecdotally in our upwell here in Chatham and Stage Harbor in 2012 it was 87 degrees. We had our first Rust tide, harmful algal bloom, which apparently they have down on Long Island all the time. We also had some spawn of some kind of it looked like pink deformed oysters that turned out to be a bivalve from the Chesapeake. People know about what's happening with the lobsters down in Long Island, it's a number of stressors. You know they have the shell disease but it's also the warming water, acidification, the pollution, blah blah

blah. They're all moving north up in Maine. There's millions of baby lobsters. We've got an issue with the black sea bass. About 30 years ago I dated a guy in a lobster boat and was out on the boat a couple of times and filled the bait bag and as an aside we didn't use herring but they also did some live trap in black sea bass and sold it to the Asian markets. There weren't that many up here. There's more and more up here, and people are even talking about maybe New England states should have some of the quota that the Aid-Atlantic states have now.

Division of Marine Fisheries did a study in 1966 published in 67 of all the species in abundance in Pleasant Bay. Now I know that's not open ocean but right now that study's being repeated by the Center for Coastal Studies using the same methods in the same places they tested. And guess what they're finding, they're finding things like grouper which we used to call a southern fish. I think I'm making the point but I think that in looking at buffer zones in catch and things like that and I understand that the Agency and the Commission are starting to do this and I applaud this. As a hippie environmentalists from the first Earth Day in 1970, I think it should have been done a long time ago. But I think some of that needs to be taken into account because the species are going to be moving because of the changes in the water. And if we are only doing short term assessments and look down the road a couple of years we're going to get caught short handed if we're not looking at the bigger picture. And I understand it's hard to do that kind of study and scientific studies.

There was another one I looked at recently that was talking and this was in a lab, it wasn't in the ocean. How could you do this in the ocean? They were talking about how a higher acidic level is affecting the neurological systems and fish. This stuff is scary and I absolutely agree with the people that say get the trawlers out of there. I don't think we should have them at all. That's my personal opinion, but I don't think it's a matter of overfishing or too many people here or there where there are there's other things going on that you folks need to look at and help us so that we can have sustainable fisheries and so that our communities can keep going. Like so many people said here tonight.

New England Fishery Management Council  
 50 Water Street - Mill #2 - Newburyport, Massachusetts 01950

ATTENDANCE SHEET  
 Travel Authorization # 18-82

ATTENDANCE AT: Herring Amendment 8 Public Hearing

DATE: June 19, 2018 LOCATION: Chatham Community Center, Chatham, MA

CERTIFIED BY:

DVB

IMPORTANT... Any information provided on this form is subject to Freedom of Information Act (FOIA) disclosure and may be made available to anyone requesting such.

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**Public Hearing Summary  
Amendment 8 to the Atlantic Herring Fishery Management Plan**

**Webinar  
June 20, 2018, 6pm**

**Hearing Officer:** Peter Kendall, Herring Committee Chair

**Council Staff:** Deirdre Boelke, Herring Plan Coordinator

**Attendance:** see attached (approximately 30 people)

Mr. Kendall provided some opening comments about the Amendment 8 process and Ms. Boelke gave a presentation summarizing the Amendment 8 public hearing document and range of alternatives under consideration. After the presentation several attendees gave oral testimony identifying preferred alternatives and asking several questions.

Overall, the meeting was about 45 minutes. The staff presentation was about 25 minutes followed by four individual public comments. The speakers that identified preferred alternatives recommended Alternative 2 for the ABC control rule and a 50-nautical mile buffer (Alternative 6) for the measure to address potential localized depletion and user conflicts.

***Individual Public Comments***

**David Dow, resident of Cape Cod, MA and grassroots environmental activist, retired marine scientist with NOAA Fisheries, Northeast Fisheries Science Center (NEFSC)**

I have submitted two written comments. I learned from an article in the Cape Cod Times that there is a herring stock assessment going on at the NEFSC and I am going to request that the ABC comment period be extended to incorporate the results of that assessment. What I gather from the paper is that the stock is going to be declared overfished and action needs to be taken. The second aspect I would like to discuss that I included in my first written letter is that when I was at the Science Center Lab I was the Recreational Fisheries Coordinator for a number of years and a member of the Habitat PDT and helped develop Omnibus Habitat Amendment 2. I have a concern that natural mortality of herring could be impacted seriously by the shifting baseline in the ocean in New England waters. And due to competing human activities where herring occur due to wind farms, oil and gas exploration, increase commercial vessels, more salt water angling, etc.

Also there are various changes in the environment that would affect the pelagic essential fish habitat (EFH) for herring, and there does not seem to be any statement about what the herring EFH is, or how it would be affected by other uses or shifting baselines in the marine environment. I feel that if there is

a way to provide some flexibility it would be advisable to have a supplement to Amendment 8 that would emphasize adaptive ecosystem fisheries management approaches that could analyze some of these changes and potential impacts to the natural mortality and EFH to allow you to address changes in both the ABC allocation and depletion and user conflicts. As you go along it could help so that if there are serious changes like what happen to GOM cod, which required an entire rethinking of a way forward. Thank you for all your work and allowing me to comment.

**Alison Zyla**

It looks like Alternative 2 is the best outcome for catch limits and also I wanted to say not to allow MWT vessels too close to shore, preferably 50 miles offshore. And the reason why I am interested is because I am a whale and bird watcher and we are all connected through the ecosystem. That is why I want the catch limits lower.

**Pam Lyons-Groman, Executive Director of Wild Oceans**

Thank you very much. We are a conservation group founded by anglers 45 years ago and we are going to submit detailed written comments but I really just wanted to take a minute now to tell the Council how much I appreciated the extraordinary outreach effort with the Management Strategy Evaluation (MSE) workshops. I was able to attend both workshops and clearly from the participants: anglers, charter boat captains, tuna, lobster, and herring fishermen, NGOs, and whale watching groups, you could see how important this herring resource is for so many diverse stakeholders. I am really encouraged that the NEFMC has recognized that and is now moving to an approach where we recognize that this resource is a shared resource, and there are many users impacted by it.

So that being said I will just comment on the two major alternatives that we support, that we think will have the most far reaching benefits to the greatest number of users including the predators of herring. We support for the control rule Alternative 2, and for localized depletion we support Alternative 6, the 50 nautical mile buffer with area sub-option A and seasonal sub-option A, year round in all the management areas. And again I just want to congratulate the Council for this effort; it has been long years and lots of hard work, but I am really encouraged for the direction it is headed and I look forward to your final actions in September.

**John Duane, resident of Massachusetts**

Sorry I missed the public hearing in Chatham but I heard it was well attended and I hear most folks there were speaking as I am about the 50 mile limit - that is what we all support here. I am a fisherman and I think it makes the most sense when you can allow the herring stock, which I understand is a little bit stressed right now, to rebuild itself so it can help all the fish and birds for ecotourism and the fishing around here to flourish, it is going to be a better thing. So I certainly want to see the 50-mile buffer zone implemented and I hope that is the way this ends up going. And regarding the ABC control rule, I support Alternative 2 - that just seems to make the most sense to me as an ecosystem based approach to managing the species. I think it is a good thing that you are doing, taking public comments, and we feel that the fishing industry and ecotourism are a big driver for our local economy here out on Cape Cod and I think it is in everyone's interest that there is enough bait to feed all the fish and birds that depend on herring to make sure that they can flourish, please take my comments and thank you.

**Ruth Tanner**

Had issues with audio so was not able to make oral comments but she has submitted a written comment with her input.

**New England Fishery Management Council  
50 Water Street – Mill #2 - Newburyport, Massachusetts 01950**

**ATTENDANCE SHEET**

ATTENDANCE AT: Herring Amendment 8 Webinar

DATE: June 20, 2018      LOCATION: WEBINAR

CERTIFIED BY: Deirdre Boelke

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