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September 21, 2020

BY EMAIL

Dr. John Quinn, Chairman
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950

Re: **Fisheries Survival Fund's Comments on Amendment 21 and
Recommendations for 2021 Priorities**

Dear Chairman Quinn:

On behalf of the Fisheries Survival Fund ("FSF"), we submit this letter to the Council regarding upcoming issues to be considered at the Scallop Committee meeting on September 25 as well as the Council meeting from September 29 through October 1. As you know, FSF represents the significant majority of Limited Access scallop permit holders home-ported along the Atlantic Coast from Massachusetts through North Carolina. Our specific concerns for these upcoming meetings relate to (i) consideration of several alternatives under Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan ("Scallop FMP"), and (ii) priorities for the Council, the Scallop Committee, and the Habitat Committee for the 2021 fishing season.

Amendment 21 Alternatives:

Amendment 21 to the Scallop FMP mainly focuses on issues related to the Northern Gulf of Maine ("NGOM") scallop fishery. We have several recommendations for the Scallop Committee and the Council regarding the proposed actions, particularly those concerning the

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proposed set-aside for NGOM vessels and the percentage split of scallops in the NGOM above the set-aside.¹

First, we would like to state our support for an allocation of no more than 500,000 pounds of scallops as a set-aside (Alternative 2, Option 3 for the NGOM allocations). Even that is high: vessels in the NGOM currently fish under a 200 pound trip limit and are allocated approximately 200,000 pounds of scallops as a “set-aside” before the Full-Time Limited Access fleet is allowed access to the scallop resource in the NGOM. This 200,000 pound set-aside is already a record high for the NGOM, as in recent years the NGOM set-aside was less than 70,000 pounds.

The Limited Access scallop fleet has a long history of fishing in the NGOM, and there is a significant interest in maintaining access to these waters going forward. FSF had consistently advocated for a NGOM set aside of 200,000 pounds based on current and historical numbers. However, in June, the Scallop Advisory Panel (“Scallop AP”) unanimously voted to support a set-aside of 500,000 pounds as a compromise with NGOM vessels seeking 1,000,000 pounds as a set-aside. In short, 1,000,000 pounds is far too high, as the total historical landings in the NGOM have rarely exceeded this poundage. The Scallop AP’s recommendation of 500,000 pounds is more reasonable than 1,000,000 pounds, but still beyond historic recorded catches by NGOM vessels.

While the Council selected 600,000 pounds as a preferred set-aside for the NGOM, being exactly the mid-point between 200,000 pounds and 1,000,000 pounds, it is important to recognize that 600,000 pounds is three times greater than the current NGOM allocation and nearly ten times greater than the traditional set-aside of 70,000 pounds. Indeed, the current 200,000 pound set-aside has already accommodated growth of the NGOM fishery, which was created—via Amendment 11—to be a part-time dayboat fishery for vessels that predominately fish for other species.

Our second concern with the NGOM issues being considered under Amendment 21 is the determination on a percentage split of scallops above the set-aside. FSF strongly supports a percentage split of 95% to the Limited Access scallop fleet and the remaining 5% to the NGOM fleet. Not only would this be consistent with the traditional split of the scallop resource between Limited Access and General Category fleets, but the alternate proposal supported by NGOM

¹ Additionally, FSF supports the Council’s preferred alternative of no action for consideration of maximum dredge width in the NGOM (Alternative 1). Simply put, there is no viable conservation basis for altering the current dredge width allowed in the NGOM.

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vessels of 75%/25% (Limited Access/NGOM) threatens the Limited Access fleet's ability to prosecute any scallop fishery in NGOM going forward.

The preferred alternative cuts directly against the intent of Amendment 11 and reimagines Amendment 21's goals. More specifically, the Public Hearing Document ("PHD") for Amendment 21 indicates that under the Council's preferred alternative, revenues for the Limited Access fleet would not equalize with the NGOM vessels until roughly 2,000,000 pounds of scallops are harvested from the NGOM.² Conversely, under the 95%/5% split and a 500,000 pound NGOM set-aside, revenues would equalize between the two fleets at roughly 1,000,000 pounds. To-date, the NGOM has not yielded 2,000,000 pounds of scallops. While Amendment 21 wanted to allow the NGOM fishery to grow, in no place did it state its intention to create an access scheme that would not allow meaningful access to the Limited Access fleet under any NGOM regional biomass conditions that have ever been observed. Achievable access to the NGOM is very important to the Limited Access fleet, especially in the face of climate change and potential shifts in species abundance and distribution.

For its part, Amendment 11 states "a separate management program ... in the NGOM is unlikely to have any impact on these [Limited Access] vessels." However, as explained above, the proposed 600,000 pound threshold, with a 75/25 split, will effectively shut out Limited Access vessels in most years because the probability of having an area TAC that would allow meaningful access to the Limited Access fleet is very low. The NGOM represents historic Limited Access fishing grounds. The NGOM is likewise part of the Atlantic sea scallop stock's range that must be managed as a unit under National Standard Three.

Council Priorities for Fishing Season 2021-2022

As the Council considers its priorities for the 2021 fishing season, FSF has two requests for consideration. One of FSF's requests applies to the Scallop Committee, while the other would apply to the Habitat Committee.

For the Scallop Committee, FSF's request concerns a potential "rollover" of unused scallop allocation within the Nantucket Lightship-West ("NLS-W") to be utilized in the NLS-South next season. Over the past year, the NLS-W scallop resource experienced an extraordinary and inexplicable die-off, which left vessels with unused access area trips and unfilled quota for the 2020 fishing season. FSF therefore requests that the Scallop Committee direct the Scallop PDT

² See PHD at p. 22, Table 13.

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to examine whether there would be any detriment to the resource from rolling over the unused NLS-W quota to the NLS-S access area next year and, if not, to proceed with development of such specifications.

Second, FSF respectfully requests that the Habitat Committee prioritize taking action to facilitate access to the Northern Edge via development of an access area. The Northern Edge has been closed to the scallop fishery since 1994, despite containing over 30 million pounds of harvestable scallops. The Council agreed to revisit access to the scallop resource in the Northern Edge following NMFS's disapproval of the issue during development of Omnibus Habitat Amendment 2 ("OHA2"). Since that time, studies performed by the Woods Hole Oceanographic Institute ("WHOI") have demonstrated that scallop fishing in this area would not have significant negative impacts on the area and its resources.³ The WHOI's HabCam studies in this area also continue to show extensive, mature scallop populations.

OHA2 established a research program to inform whether controlled access could be granted to habitat management areas created under that amendment. While the Northern Edge does not constitute a new habitat management area under OHA2, the WHOI work does serve the same function of providing the scientific information needed to revise habitat management on Georges Bank created nearly two decades ago in OHA1. Therefore, FSF respectfully submits it is appropriate and timely for the Habitat Committee to begin examining potential opportunities for developing access areas within the Northern Edge to utilize this valuable resource. While the Habitat Committee staff is doing critical work relating to offshore wind development, the Committee and staff should also reasonably be able to work on finalizing OHA2.

In fact, working on Northern Edge access is fully consistent with the President's Executive Order on Promoting American Seafood Competitiveness and Economic Growth ("EO"). Section 4(a) of the EO seeks to "reduce burdens on the domestic fishery and to increase production within sustainable fisheries." The Northern Edge closure has been a burden to the scallop fishery for over two decades, the fishery is sustainable, and the WHOI work confirms that access for the scallop fishery can be achieved in a sustainable way through a combination of sequential Habitat Committee and Scallop Committee actions.

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³ See <https://habcam.who.edu/projects/rsa-research-set-aside-program/> (last accessed on Sept. 17, 2020).

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Thank you for your consideration of these requests. Please do not hesitate to contact us at any time if you have any questions or require additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'D. Frulla', with a long horizontal line extending to the right.

David E. Frulla
Andrew E. Minkiewicz
Bret A. Sparks
Counsel for Fisheries Survival Fund

Fisheries Survival Fund

2 Middle Street
Fairhaven, MA 02719

September 18, 2020

Dr. John Quinn, Chair
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Re: New England Council 2021 Priorities

Dear Chairman Quinn:

I write to you in my capacity as Executive Director of the Fisheries Survival Fund (“FSF”) and respectfully submit, on FSF’s behalf, the following statement regarding the Council priority setting for 2021.

On September 18, 2020, the FSF Board of Directors resolved, as follows:

That FSF remain unengaged on the proposed leasing initiative at the priorities stage, and let the merits of the proposal dictate its standing on the priority list. FSF will work with membership to participate in the amendment process if this initiative moves forward to the NEFMC final priority list.

Thank you very much for your consideration.

Sincerely,



Marjorie J. Orman

Mr. Thomas Nies,
Executive Director,
New England Fishery Management Council,
50 Water Street, Mill 2,
Newburyport, MA 01950

September 19, 2020

Dear Mr. Nies:

My name is Vinny Damm. I am a lobster and monkfish fishermen from Montauk NY, and I have been a fisherman for close to 40 years. I have a crew of two plus myself that work on my boat, the FV Lady K. My son Brendan Damm, one of my crewmen, has been fishing full-time with me since graduation from SUNY-Plattsburgh three years ago. He originally contacted some people from National Marine Fisheries Service, and after a brief discussion they suggested I send a letter to the NEFMC.

I am writing to you today because of gear conflicts that are occurring with my traps with the scallop fleet in Lobster Management Area Four (LMA-4) in Southern New England, south of Montauk.

For the last twenty years my gear has been set in an area within LMA-4, one that is also an Open Access Area for the scallop fleet. We fish 30 pot trawls. I mark my gear correctly with metal highflyers that can easily be seen on radar. We begin setting gear the end of July and fish through December. When I set my gear, I try to turn it over on seven nights.

Occasional interactions began five years ago, but for the last three years, I have been continually losing more and more lobster traps to the scallop fleet. Last September, it began to worsen as almost two dozen scallop boats from New Bedford to Virginia showed up where I have set my traps for 20 years, fishing their open access days. After two weeks, I lost 300 traps.

This year, every week I go out, I lose more gear. A total of 75 traps completely gone so far, plus of those I've been able to grapple, another 25 that have been destroyed. This is happening not only where I've traditionally set my gear, but in other places where there has never been a conflict before. I've attached a rough map of the area that I fish, for your information.

My son and I have spoken to NEFSC staff and they suggested that I bring this issue to the Scallop Advisory Panel for further discussion. I would appreciate the advisory panel's time to discuss this matter at your meeting on Wednesday.

Sincerely,

A handwritten signature in cursive script that reads "Vinny Damm". The signature is written in black ink and includes a horizontal line at the end.

Vinny Damm
FV Lady K, Montauk NY
vinnydamm@optonline.net

