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December 5, 2012

Chris Moore, Ph.D.  
Executive Director  
Mid-Atlantic Fishery Management Council (MAFMC)  
800 North State Street, Suite 201  
Dover, DE 19901  
By email: [nmfs.ner.msbam15@noaa.gov](mailto:nmfs.ner.msbam15@noaa.gov)

RE: Scoping Comments on MSB 15

Dear Dr. Moore:

On behalf of the 150 employees of our family-owned company, Lund's Fisheries, Inc., and the independent fishermen who supply fish to our processing facility in Cape May, NJ, thank you for the opportunity to provide comments concerning the proposed Amendment 15 to the Atlantic mackerel, squid and butterfish fishery management plan (A15).

***We are strongly opposed to the MAFMC amending the MSB plan to include river herring species (RHS) as a 'stock in the fishery'. As our comments will attempt to make clear, our company and our industry is fully committed to the management measures already proposed in MSB A14 and Herring A5, which already deal comprehensively with the limited mortality effects on RHS that can be contributed to the incidental catch of RHS in the Atlantic mackerel and Atlantic herring fisheries. We continue to believe that there is insufficient information to include either the Illex or Loligo squid fisheries as part of these Council management actions, as they address RHS mortality.***

Our comments will follow the order of the "Questions to Consider", which the Council has asked the public to respond to:

***Is the fishery already adequately managed by states, by state/Federal programs, by Federal regulations pursuant to FMPs or international commissions, or by industry self-regulation, consistent with the policies and standards of the MSA?***

Absolutely. RHS conservation and management is clearly, already being managed by all of these entities combined, without the need for an additional, burdensome and complex MSB FMP amendment, which only focuses on one element of the many challenges facing RHS throughout their range;

- The coastal states, through the Atlantic States Marine Fisheries Commission (ASMFC) process, where primary management jurisdiction should be placed since the majority of the RHS' life history stages takes place in state waters. Only the states are in a position to manage the majority of factors affecting river herring health, including lack of access to riverine habitat, which is essential for spawning success, coastal water quality and predation from predators that aggregate around riverine systems where RHS migrate each year to spawn and reproduce. The list of factors affecting RHS health is long. The ASMFC shad and river herring FMP identifies them, in part, as; *“spawning and nursery habitat degradation or blocked access to habitat...human activity (e.g. human population increase); sewage and storm water run off; industrialization; dam construction; increased erosion, sedimentation and nutrient enrichment associated with agricultural practices; and losses of riparian forest and wetland buffers associated with resource extraction and land development.”*
- The New England and Mid-Atlantic Councils, where A5 and A14 fully address the need to minimize the incidental catch of RHS in offshore fisheries, as required by MSA National Standard 9, and with the cooperation of the industry;
- International Commissions, like the International St. Croix River Watershed Board, which needs to continue to expand its work to open up needed habitat vital to RHS success in the Gulf of Maine Region. In August 2010, I joined other members of the Sustainable Fisheries Commission (SFC), in writing to the Watershed Board to comment on the International Joint Commission's (ICJ) Adaptive Management Plan for Managing Alewife in the St. Croix Watershed, Maine and New Brunswick, stating that; *“We are opposed to the plan's limited scope and encourage the IJC to act immediately to reopen all of the St. Croix's boundary dam fishways to alewife passage, as envisioned by the 1909 Boundary Waters Treaty.”* (Copy Attached) and;
- Fishing industry initiative to minimize incidental catch, an effort we were directly involved in initiating as members of the SFC, to receive funding from the National Fish and Wildlife Foundation, and later the Nature Conservancy, to create a river herring bycatch avoidance project, like that successfully used in the scallop fishery (which we also participate in) to minimize the incidental catch of yellow tail flounder. This approach has already been embraced as the most effective technique to reduce the incidental catch of RHS in the mackerel and herring fisheries in both A14 and A5.

***Are current Council efforts and planned measures (from A14 and A5) sufficient or insufficient to address the incidental catch of RHS in Federal fisheries?***

Absolutely. Our industry has cooperated with both Councils to continue to develop and employ the bycatch avoidance project mentioned above, have agreed to work with the FMAT and PDT to develop and work with a cap on the incidental take of RHS in the herring and mackerel fisheries, which would be relevant to the level of RHS mortality that can be reasonably attributed to incidental catches in Federal fisheries, and have agreed to take additional observers on our vessels, in order to comprehensively estimate the scope and effect of this incidental mortality on RHS.

***Could an FMP resolve competing interests and conflicts among user groups?***

Absolutely not. A ‘stocks in the fishery’ amendment to the MSB plan will further exacerbate and provide an opportunity to continue to enflame the disagreement between the rhetorical claims of some, who insist that the incidental catch of RHS in the mackerel fishery should be managed with an ACL, and AMs, and what we know about these interactions; which is that they can be mitigated under MSA criteria already embodied in both A5 and A14. The development of these amendments has already taken years. Taking time to further develop A15 will impede the progress that has been made in these amendments by taking time and resources away from comprehensively implementing them as quickly is possible.

***Can RH/S be effectively managed as a unit throughout its range in Federal waters or not, given that the scale of information is on a river-by-river basis?***

Absolutely. The incidental mortality of river herring, during the period when they are found at sea, can and should be managed as a stock complex. We continue to believe that NMFS survey data can and should guide us in understanding the mortality effects that incidental catches in the mackerel and herring fisheries represent. It is an existing requirement of the law (MSA NS9) that we minimize these incidental catches, which is something that we are already doing through the bycatch avoidance project mentioned above. These survey trends should also help to inform the development of an incidental catch cap that is related to the stock complex’s strength and the mortality effects of the directed fisheries for mackerel and herring. It is our understanding that these survey trends are largely positive. It does not seem possible to manage coastwide incidental catches on a river-by-river basis. The management of river herring runs on a state-by-state basis continues to be the responsibility of the coastal states organized as the ASMFC.

***How would the current data limitations for RH/S impact management?***

The January 16, 2009 NS1 guidelines state “Stocks in the fishery” need “(s)tatus determination criteria, other reference points, ACL mechanisms and AMs.”

The ASMFC’s Terms of Reference & Advisory Report of the River Herring Stock Assessment Peer Review, Stock Assessment Report No. 12-02, March 2012 lead us to the conclusion that there is insufficient biological information to qualify RH/S as a stock in the SMB fishery, since these reference points are unlikely to be able to be determined, except in some ad hoc way, which would amount to a guess and likely have the effect of significantly impacting the directed fisheries for mackerel and herring, which we believe is the intent of those promoting A15.

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

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

Also, at page 24, relative to abundance trends, the document states: **“The SASC also noted that a northward shift in distribution in both species might be occurring, perhaps in relation to warming water. The SASC noted that for alewife only, stable or increasing trends in juvenile and adult abundance were observed in the northern areas, while stable or decreasing trends were observed in the southern areas. The NMFS trawl survey seemed to support this notion for both species, showing increases in the north and decreases in the south.”**

Finally, at page 29 “Advisory Report”, the document states: **“The coastwide meta-complex of river herring is depleted to near historic lows...Determining the relative contribution of various factors to this mortality is difficult given the limited data, but it is likely that a number of factors will need to be addressed, including fishing (both in-river and ocean bycatch), water passageways, water quality, predation, and climate change, to allow for the recovery of river herring.”**

*Given this scientifically-derived, highly uncertain information, it seems highly unlikely to us that the mortality effects on the status of RHS from incidental catches in the mackerel and herring fisheries can be sufficiently segregated to expect the SSC to establish a reasonably-related ACL for the RHS. For this reason, we encourage the Council to abandon this amendment and focus on the implementation of A14 and A5, with the cooperation of the NEFMC.*

Thank you for the opportunity to provide you with our comments and concerns. Please do not hesitate to contact me if I can provide you with additional information.

With best regards,

*Jeff Reichle*

Jeffrey B. Reichle  
President

Attachment



## **SUSTAINABLE FISHERIES COALITION**

**[www.fisheriescoalition.org](http://www.fisheriescoalition.org)**

**PO Box 440 Winterport, Maine 04496-0440**

*The Sustainable Fisheries Coalition is an organization of the Atlantic herring and Atlantic mackerel mid-water trawl and purse seine industry, operating from Maine through New Jersey. The Coalition was established in 2007 to improve public outreach and education and increase awareness of the economic importance and environmental sustainability of the Atlantic herring and Atlantic mackerel fisheries.*

August 16, 2010

Philip T. Feir  
Colonel, U.S. Army  
U.S. Co-Chair  
International St. Croix River Board  
696 Virginia Road  
Concord, MA 01742-2751

Bill Appleby  
Director, MSC Operations-Atlantic  
Canadian Co-Chair  
International St. Croix River Board  
45 Alderney Drive  
Dartmouth, NS B2Y 2N6

Dear Colonel Feir and Director Appleby

On behalf of the fishermen and plant employees of the Atlantic herring and mackerel companies organized as the Sustainable Fisheries Coalition; Cape Seafoods, Inc. of Gloucester, Massachusetts; Irish Venture, Inc. of New Bedford, Massachusetts; Lund's Fisheries, Inc. of Cape May, New Jersey; and NORPEL (Northern Pelagic Group) of New Bedford, Massachusetts, I am writing to provide you with our comments concerning the International Joint Commission's (IJC's) proposed *Adaptive Management Plan for Managing Alewife in the St. Croix River Watershed, Maine and New Brunswick*.

We are opposed to the plan's limited scope and encourage the IJC to act immediately to re-open all of the St. Croix's boundary dam fishways to alewife passage, as envisioned by the 1909 Boundary Waters Treaty. We do not believe there is a scientific basis to suspect that important recreational bass fisheries taking place in the watershed would be negatively affected by the introduction of alewife above either Spednic Lake or West Grand Lake. At the same time, we understand that more than 22,000,000 alewife could be sustained by maximizing the St. Croix watershed's available habitat.

Our companies directly employ about 350 people and have collectively invested approximately \$80 million in plants and vessels, in addition to providing markets for many independent vessels, and are nearly 100 % dependent upon the Atlantic mackerel and Atlantic herring fisheries. Historically, alewife and blueback herring have been taken as an incidental catch (often referred to as 'bycatch') in these fisheries, depending upon the place and time of year. Those that may be caught are usually used as lobster bait.

In recent years, the Atlantic States Marine Fisheries Commission (ASMFC), and the New England and Mid-Atlantic Fishery Management Councils, have been considering the condition of blueback herring and alewife stocks, from Cape Hatteras to the Canadian Border, and investigating sources of mortality including the incidental harvest of some portion of these resources through 'directed' fisheries that utilize small mesh nets for pelagic fishing. An assessment of these populations will not be available before 2012.

The plan mentions the National Marine Fisheries Service's 2006 designation of alewife and blueback herring as species of concern and highlights the agency's intention to foster voluntary efforts and conserve the species before listing becomes warranted. Recognizing this goal as an opportunity, we are engaged in modifying our fishing practices to avoid these fish, as required by federal fisheries law.

ASMFC's shad and river herring fishery management plan (FMP) is intended to address the health of alewife and river herring stocks throughout their range, which should include Atlantic Canada, in our view. As the FMP states, "much of this reduction has been related to spawning and nursery habitat degradation or blocked access to habitat, resulting from human activity (e.g. human population increase); sewage and storm water run off; industrialization; dam construction; increased erosion, sedimentation and nutrient enrichment associated with agricultural practices; and losses of riparian forest and wetland buffers associated with resource extraction and land development". In addition, the FMP describes current threats to these populations as "barriers to migration; water withdrawals; toxic and thermal wastewater discharge, channelization, dredging and instream construction; inappropriate land uses; atmospheric deposition; climate change; competition and predation by invasive and managed species; fisheries activities; and instream flow regulation." In other words, as a river herring scientist opined in a meeting one day, "Habitat is where it's at."

We agree with the ASMFC's statement, in a recent letter to the ICJ commenting on this Plan that "a rebuilt alewife population on the St. Croix will provide numerous benefits beyond (those who are employed by and benefit from) directed commercial and recreational fisheries

We also agree with the ASMFC that the proposed Adaptive Management Plan is unlikely to result in significant ecological or economic benefits in the near future. We believe the Plan represents 'business as usual', given the local politics on this issue, and represents a lost opportunity. We encourage the St. Croix Watershed Board, and the ICJ, to aggressively pursue the expansion of alewife productivity by providing access to the remainder of St. Croix spawning habitat and amend the Plan accordingly.

Thank you for your attention to, and consideration of our comments. Please do not hesitate to contact us if we can provide you with additional information.

With best regards,

*Jeff Kaelin*  
SFC Clerk; Lund's Fisheries Inc.

*Peter Mullen*  
Irish Venture, Inc.

*Peter Moore*  
NORPEL

*Jerry O'Neill*  
Western Sea Fishing Co., Inc.

*Dave Ellenton*  
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*Brady Schofield*  
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