

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\_\_\_\_\_  
CONSERVATION LAW FOUNDATION, )

et al., )

Plaintiffs, )

v. )

DONALD EVANS, et al., )

Defendants. )  
\_\_\_\_\_

Civil Action No. 00-1134 (GK)

**FILED**

APR 26 2002

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

APPENDIX A

RECEIVED

00-1134

MAR 7 2002

CHAMBERS OF  
JUDGE KESSLER

March 2, 2002

Judge Gladys Kessler,

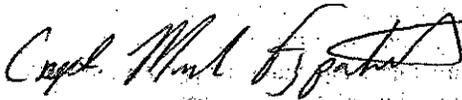
Hello, my name is Capt. Mark Fitzpatrick. I operate a small charter boat that fishes the Gulf of Maine from May to October. There has been quite stir this fall over what new regulations may come into play regarding the recreational angler. Yesterday new proposed regulations were released to the court by NMFS. Through the years recreational anglers have had regulations tightened, regulations set by a primarily commercial council. The last two years we have seen a great increase in the amount and quality of the fish we catch. This is due to the restrictions on the commercial industry. I will also add that once the rolling closure areas are opened we must travel to the WGOM closed area to find good fishing. We find it there because the commercial sector cannot go there. The new proposed regulations would restrict the recreational angler from fishing the WGOM closed area. I can tell you without a doubt that will put all the charter boats fishing Jeffreys ledge out of business. The five fish limit will prohibit any angler with his own boat from considering the expensive trip to catch cod. All this will surely put more pressure on inshore species such as Bass and Bluefish. It is bad enough that we have to travel 23-35 miles just to find fish that are within our size limit. Now they are asking us to raise our size limit and fish where these fish do not exist.

In my opinion there is no way a recreational rod and reel fishery is hurting our cod stocks. A recreational fisherman is restricted by sea conditions, distance he can travel in a day trip, his ability as an angler (not a professional commercial fisherman), and lastly his economic ability (money he spends to catch his fish). Again because of excessive by-catch by the commercial sector we, the recreational fisherman, has to swallow their medicine right along with them. If you could prove to me that a rod and reel recreational fisherman is hurting the cod fishery then I'll go along with these regulations. Most recreational anglers tire quickly, this affects the amount of fish they catch. The fact is the recreational angler has never hurt any ocean fishery. Yet time and time again we are asked to help rebuild the stocks. The recreational angler of today, while greater in number, is much more conservation minded than years ago. They add an enormous amount to the economy while their impact on any fishery is minimal. We are told that last year we caught more fish than previous years. That makes sense to me. If the fishery were improving wouldn't we catch more fish? Does NMFS expect us to just catch what we were able to when the fishery was depleted? NMFS is playing with #'s like "36% of the cod were caught by recreational anglers". Of course it was. The commercial sector was only allowed 400lbs per trip. The problem wasn't how many fish were caught last year it is how many fish were thrown back dead! The commercial sector is allowed to take more by-catch than the entire recreational sector. Nearly all fish returned to the sea by recreational anglers survive, not so with the commercials.

The answer to bringing back the cod stocks doesn't lie with more regulations on the recreational sector. If the commercial by-catch were eliminated then we would have no problem with our bio-mass. The industry needs to look at these advanced fishing methods (dragners and gillnets) that not only catch fish indiscriminately, but ruin the bottom of the ocean. If the entire commercial sector were rod and reel we would have no problem with our cod stocks. Obviously that will never happen.

I just hope you can see to it to protect the rights of the recreational angler that had nothing to do with creating the problem and has been more than willing to take a hit through the years as required. The stocks are rebounding slowly and to punish the recreational angler because the commercial sector is prohibiting its rapid recover just doesn't make sense.

Thanks for any help you can lend,



Capt. Mark Fitzpatrick  
6 Independence Ave  
Kingston, NH 03848  
603-642-5448

A-50

AL GAURON DEEP SEA FISHING AND WHALEWATCHING  
ONE OCEAN BOULEVARD  
STATE PIER  
HAMPTON BEACH, NH 03842  
(800) 905-7820

E-MAIL [captrockgrm@netscape.net](mailto:captrockgrm@netscape.net)

Judge Gladys Kessler  
United States District Court  
333 Constitution Avenue - NW  
Washington, D. C. 2001

March 5, 2002

RE: Gulf of Maine Groundfish Proposals

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MAR 12 2002

CHAMBERS OF  
JUDGE KESSLER

Dear Judge Kessler:

I hope you get a chance to read this letter. My name is Rocky Gauron and myself and our family have operated a charter/party boat business from Hampton Beach, NH for over 60 years. I am writing you at this time to try and get you to see our dangerous situation for survival if the current proposals before you are implemented.

The recreational cod fishing season for our business starts in late March and ends at the end of October. I have enclosed a pamphlet that shows all the types of fishing our fleet offers but, cod and haddock fishing is what our public wants and over sixty percent of our trips target cod and haddock.

We have had our share of poor fishing during the early 1990s' and over the last few years we have noticed a great increase in our catches, so that on any given day our customers' will feel they have had a great day on the ocean. This has been mainly because we have been allowed access to the areas closed to commercial fishing on Jeffries ledge.

I hope you find that recreational charter/party fishing boats should not be included in user groups denied access to the areas in question. Hook and line fishermen are not a threat to the fish stocks. When commercial fishing was done with hook and line a century ago the fish stocks were very stable. Check in the history books and you will find that the Gulf of Maine was the supplier of cod fish to the world. Please answer this one question, if hook and line fishing is so efficient, why do commercial fisherman use nets? We will try to work with the size increase proposed for charter/party (22 inches) and we will keep our boats off the ocean from November till March, but please let us

fish as we have in past years in areas closed to commercial fishing. If you want have the fish reports from our boat Northern Star (permit # 320698) I will send you last seasons reports or you can get them from NMFS in Gloucester. The Northern Star is our biggest catch producer and if you compare it to what a commercial boat does in a year you will see our catches pale to the commercial sector.

I feel that we should not be denied access to closed areas because we are not a threat to the fish stocks that are in these areas. The stocks are increasing in numbers even with us fishing there.

I know we have never had a right to face the evidence or to question the validity of it. Is there any we could send a representative of our industry (charter/party) to offer testimony before you? We need to offer more evidence from our side that our proposed restrictions do not treat our user group fairly. I am sure it would be different if our season was longer, and as you will see in the pamphlet enclosed, our targeting of Gulf of Maine cod and haddock is a big part of our business. We fish for bluefish and mackerel during the Summer months and we also do a lot of Whale watching, but we need to feature cod and haddock fishing if we are to survive.

Another way to look at our industry is we provide the public transportation and access to the ocean to participate in this fishing. Our boats could have to travel up to 40 miles out to sea and most private boats are not big and seaworthy enough to make it out to these fishing areas safely. But, most of our customers do not own boats and it is important to them that they can come down to the coast and pay a fare to go fishing for cod and haddock. These people could be retired, veterans, parents taking their kids fishing or a company outing. I work all year promoting and getting the word out about deep sea fishing off of the New Hampshire coast. On any given day I could get an e-mail from anywhere in this country asking about fishing with us and I need to promise them we will give them the best chance of and enjoyable and successful fishing experience.

I know you make tough calls all the time and this one is tough because it could destroy a way of life and put us into bankruptcy. Please don't put us out of the closed area.

Sincerely,

*Rocky Gunn*

Suite 306  
Marine Trade Center  
2 Portland Fish Pier  
Portland, Maine  
04101

March 6, 2002  
The Honorable Judge Gladys Kessler  
Clerks Office  
United States District Court  
For the District of Columbia  
333 Constitution Avenue  
Washington, D.C.  
20001

**RECEIVED**

**MAR 12 2002**

**CHAMBERS OF  
JUDGE KESSLER**

Dear Judge Kessler,

I am gravely concerned by the National Marine Fisheries Services suggestion for remedy to the Framework 33 Lawsuit from the prospective of the fisheries and the fish.

- The Days at sea restrictions limiting usage to the equivalent of 3.67 days per month from May through October in the Gulf of Maine, with a two for one charge against allocation, will result in a huge relocation of boats. Very few boats can afford to fish this way and will relocate from Maine to Massachusetts and Rhode Island. This will end fishing in Maine and eliminate shore-side infrastructure associated with it..
- Limiting boats fishing on Georges Bank to 7.34 days per month from May through July, with a two for one charge against allocation, will severely restrict landings during these months. Many boats will choose not to fish at all and the processing base will find this situation untenable.
- The resultant effort shift from the Gulf of Maine to Georges Bank will create a serious problem for Georges Bank Cod. In my opinion, this stock is on the brink of a problem. While Gulf of Maine Cod has shown strong recruitment in 1998, Georges Bank Cod did not. Except for the month of May, Georges Bank cod do not enjoy protection with seasonal closures during spawning season. Aggregations of spawning cod will continue to be caught or disturbed and effectively prevented from spawning. Since no days-at-sea penalties or seasonal closures exist in March and April, two critical months, and since boats will be encouraged to fish these months by default, I predict a serious Georges Bank codfish problem in two years thanks to this well meaning but ill conceived recommendation.

With so many stocks growing so rapidly under the status quo management regime, the severity of the NMFS proposal astounds me.

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I participated in the discussions on Framework 33 as a Ground-fish Advisory Panel member. We consciously chose to ignore some of the requirements set forth by Amendment 9 because they precluded a "sustainable fishery." For instance, according to the law, we should have set fishing mortality on Georges Bank haddock "as close to zero as possible." All the best scientific advice said the stock would be fully recovered this year using only the existing measures. (it did fully recover or is very close to that)

The major problem is not currently with fisheries management, it's with the law. The objective of the SFA is not just to protect the fish. The objective is to create a sustainable fishery. As currently written, Amendment 9 makes a sustainable fishery impossible.

Many of our stocks were depleted, but those same stocks have by and large, recovered, or shown growth toward recovery under the present fisheries management system. These stocks currently enjoy the protection of 20,000 square kilometers of year-round closures, approximately 36,000 square kilometers of seasonal closures, the biggest mesh used for ground fishing in the world, 50% days-at sea reductions, and a fleet that is drastically reduced in size and horsepower from it's 1990 levels.

If I believed the multi-species complex were in serious trouble, I would encourage you to take whatever action necessary to fix the problem. The truth is, the stocks are not in trouble and our fishery is a model for the world to follow for how to manage a wild-harvest fishery. Some improvements need to be made, but these improvements do not justify the decimation of an entire industry. The Framework 33 case was not filed because it was the right thing to do. It was filed because it was winnable.

Please don't let this injustice continue.

William P. Gerencer  
Fish Buyer  
M.F.Foley Co. Inc.  
Portland, Maine

# Northeast Captains Association, Inc.



RECEIVED

Association of USCG Licensed Captains

March 6, 2002

MAR 18 2002

RE: Groundfish Intervention Representation for New Hampshire  
Charter/party Fleet proposal

CHAMBERS OF  
JUDGE KESSLER

Mr. John Nelson  
State Fisheries Director  
225 Main Street  
Durham, NH 03824

Dear Mr. Nelson,

We, the undersigned, would like to present to the National Marine Fisheries Service and the New England Management Council the following policy proposals. These policies represent our willingness to contribute and become a working partner with The National Marine Fisheries in an effort to aid in the recovery of the ground fish in the Gulf of Maine, (GOM).

The charter/party boat industry derives its passengers from constituents that represent all individuals who do not currently possess a boat or have the ability to access or operate safely within the ocean waters. Thus the charter/party boats are the only access the non-boating public has to this fishery. Please note that the charter/party fleet along with the recreational sector represents a very small amount of the total landings for cod and even less for the haddock fisheries. And it is a well-known fact that the discard mortality of this hook and line fishery is also very low. We believe that the professional captains from the charter/party boat fleet could be part of a valuable partnership by assisting with daily documentation of the fish types, catch, and estimated numbers. This can be done while preserving the fishery and a longtime tradition for the seacoast towns and businesses.

Considering a complete shut down of the charter/party fleet and the recreational sector would only yield a very small reduction in mortality as compared to the 67% being sought by the lawsuit. We, therefore, find any sanctions against these 2 sectors not yielding any noticeable results. Both the charter and the recreational sectors rely on weather and customer vacation time, in order to go fishing. We do not fish 365 days a year. Currently we have a 21-inch size limit on cod and haddock, use only two hooks per line, and catch an average of 3.5 fish per angler (Reference Binder Groundfish Framework 36, data from yr. 2000 NMFS, page 415). Our mortality rate is as close to zero as one can get. Catch and release is done so in a careful and proper manner, resulting in a high probability of survival.

We would like to respond to and offer some suggestions to the proposed interim remedy and proposed secretarial amendment for the FW 33 lawsuit.

The following are the Northeast Captains Association ideas for consideration:

- 1) Limited entry for ground fish in the GOM.
  - a. Limited entry permitting will have the most significant impact on the preservation of the industry. Limiting may be done by either captain's license (date/number) or by vessel permitting. Similar to other aspects of the industry such as lobstering.
- 2) Sale of fish prohibited year round by any charter/party boat.
  - a. The inability to sell fish throughout the year is a distinctive separating factor between the commercial fisherman and those who utilize their professional captains license to provide the public with access to the waterways.
- 3) Increase Cod minimum length to 22 inches.
  - a. The increase from 21 inches to 22 inches helps to preserve the younger fish.
- 4) An exemption letter needed to fish in closed areas and rolling closures.
  - a. The use of this letter from NMF effectively stops commercial sale of fish during the life of the letter and is evidence of a further separation between the charter/party boats and the commercial fishing industry. The professional captains who wish

William W. Wagner, President  
145 Griffin Road, Deerfield, NH 03037  
E-mail [captbillschrtr@cs.com](mailto:captbillschrtr@cs.com)  
603-463-9028

Debbie Jordan, Executive Director  
22 Hayes Road, Madbury, NH 03820  
E-mail [djordan@necaptains.com](mailto:djordan@necaptains.com)  
603-743-4114

A-47

- b. To be part of this type of program could actually assist in the efforts to preserve the industry and document the effectiveness of any preservation measures implemented. In an effort to become part of the solution to the problem, the professional captains could provide specific research data through a tagging and tracking program.

The following are Northeast Captains Association's responses to other proposals that have been presented for consideration:

- No charter/party fishing in the GOM November through March  
We believe that there are so few charter/party boats running during the winter months due to the severe weather conditions and other factors that instituting this limitation will have "zero" impact on preserving the industry.
- A bag limit per angler.  
A bag limit for the charter/party boats has no actual impact because statistics show that the average catch is 3.5 fish per angler. However, the institution of a bag limit tends to discourage access to the waterways and will be perceived as intentionally limiting public access. Additionally, the charter/party businesses thrive upon the perception (and this is a perception since it is documented that each angler catches only 3.5 fish per person) of the possibility of catches of big fish and lots of them.

The economic impact that the charter/party fleet has on the economy is extensive. Based on the NH Department of Tourism, a visitor to the State spends an average of \$160 per day. The charter/party fleet here in the Northeast, estimates the number of passengers to be at 90,942 (data from yr. 2000 NMFS). That equates to \$14,550,720 of tourism dollars brought to the New England Region. This does not include fuel, repairs, fishing equipment, salaries, and other expenses that the fleet expends during the season.

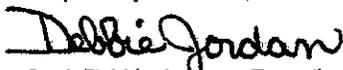
The current proposals by the Federal Court and The National Marine Fisheries Service will close down the charter/party fleet. The charter/party fleet will be unable to reach open fishing grounds in the course of an 8 hour operating day. Most vessels are not equipped to travel such a distance and may not currently be certified to travel beyond 20 nautical miles from shore.

There are buy out proposals for the commercial sector, and the same considerations should be extended to the charter/party fleet as a viable option, if these new rules are applied.

Please consider our suggestions and comments as set forth above. It is well documented that the catch the charter/party fleet represents, has little to no effect on the rebuilding of the ground fish stocks in the GOM. Yet, our economic impact, estimated at \$14.6 million for the 2000 season is a large part of the New England economy. The social and community impacts will be devastating to the general public and for the charter/party fleets.

We encourage all involved in this decision making process to consider our rich New England heritage of fishing and the trickle down effect some of these options will place on our economy. We are confident that by working together we can continue this tradition and preserve the Groundfish in the Gulf of Maine.

Respectfully submitted,



Capt. Debbie Jordan – Executive Director  
On Behalf of The Northeast Captains Association, Inc  
Board of Directors and members  
Capt. Bill Wagner – President  
Capt. Barry Bush – Vice President  
Capt. Bryan Bush  
Capt. Bill Lussier  
Capt. Doug Anderson  
Capt. Arnold Thomas  
Capt. Tom Cots  
Capt. Bob Cloutier

CC: Mr. Paul Diodati, NE Fishery Management Council  
Mr. George Lapointe, NE Fishery Management Council  
Mr. Tom Hill, NE Fishery Management Council  
Ms. Patricia Kurkul, NE Fishery Management Council  
Mr. Tom Nies, Analyst, NE Fishery Management Council  
Samuel Bodman, Deputy Secretary of US Dept. of Commerce  
Governor Jean Shaheen  
Senator Bob Smith  
Senator Judd Gregg  
Congressmen Sununu  
Federal Judge Gladys Kessler

To: Via Facsimile (202) 354-3442

RECEIVED

March 8, 2002

MAR 8 2002

The Honorable Gladys Kessler  
U.S. District Court  
For District of Columbia  
333 Constitution Avenue  
NW Washington, D.C. 20001

CHAMBERS OF  
JUDGE KESSLER

Dear Judge Kessler:

At the State House in Boston Wednesday, fishermen and their families were urged to speak from their hearts. I am writing you because the decision you make will have a tremendous impact on my life, my husbands' and my four children.

Currently we are struggling with another regulation only this one will have a significant impact on life, as we know it. My husband has been fishing for 30 years and has told me repeatedly, "I have never seen so many fish." The regulations have worked, the fish stocks have rebounded, faster than anyone could have imagined. In drastic contrast to a decade ago when fish stocks were declining. Recent scientific data indicates, "that biomass levels for 12 commercially and recreationally important ground fish stocks, collectively, are now estimated to have increased almost 2 ½ times since 1994." said Paul Howard, Executive Director of the New England Fishery Management Council on Wednesday at the State House.

It was so nice to hear that the stocks are obtaining sustainable levels. So my question is why, why can't things be left as they are? Fish are a natural resource and require time to rebuild. My husband and our family have made great sacrifices in this business to allow the fish stocks to return, and now that we are seeing the results of our efforts, the environmentalists want to change that.

This is illogical and not fair. Since the 1990's we have had a painful transition running the operations of our fishing business. Fishermen are the real conservationists of the ocean, using gear restrictions that allow small fish to swim through nets. They provide for the world and their families from the sea. We do care about sustaining fish levels because it is how we survive.

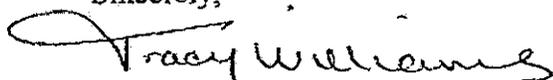
I feel that any measure to restrict us any further would be unfair. Mr. Howard from the NMFS, said at this meeting that there were one hundred and fifty thousand days at sea available to fish, and we currently use fifty thousand. My husband and I thought with all the sacrifices that we have made, that maybe we would be given more this year, not less. The new regulations call for 90,000 metric tons of codfish in the Gulf of Maine, or 2 billion pounds. Has there ever been 2 billion pounds of cod in the Gulf of Maine? Setting these goals are not necessary and I can not help but think what are the motivations behind such drastic measures. We have reduced the fleet; days at sea, gear, buy out programs, and men, but there is another issue of importance that seems to get forgotten in the frenzy of all of this. It is a safety issue. In the Magnuson Act there is mention that nothing should impede the safety of the fishermen. I already know that if these regulations go into effect, my husband will work longer days, and fish further out because of closed areas. Also men will be fishing in unfamiliar territory and at a time of year when the weather is bad, if May, June, and July are taken into the consideration for closures this will put men at risk at sea.

My intent of this letter was to send a message that fishermen and their families have survived the tough regulations in the last decade, but we hoped that there would be more, not less. The country has been under such tremendous stress and I watch every morning on the news, that the economy is coming back, things have finally turned around for everyone, but us.

This has hit the fishing community hard, it is as though someone is holding a gun to our heads and waiting to pull the trigger. Everyone is under such stress, and we still do not know what the reason is. We have done everything that has been asked, and now to suggest that our 88 days at sea, be cut in half is not fair and equitable, as stated in the Magnuson Act.

I want to thank you in advance for taking the time to read my letter. But I do wish to leave you with one last thought. What was the point of all these years of restrictions and regulations to bring back the fish stocks, if there are no fishermen left to fish?

Sincerely,

  
Tracy Williams

RECEIVED

March 8, 2002

MAR 14 2002

Judge Gladys Kessler  
Clerk's Office U.S. District Court for the District of Columbia  
333 Constitution Avenue NW  
Washington, DC 20001

CHAMBERS OF  
JUDGE KESSLER

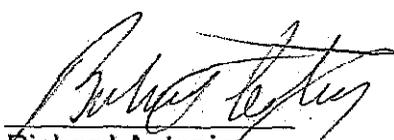
Dear Judge Kessler,

I am writing to you to ask you **NOT TO FURTHER RESTRICT RECREATIONAL FISHING FOR COD**. I am 31 years old and own a 17' boat, which I use, to fish on weekends for cod. The hook-and-line recreational fishery for cod has never been a detriment to the overall fishery, especially with a "10 fish per person" limit. Last year, for the first time in my life, I was able to head out from the coast and actually target cod with decent success. If I am going to spend a whole day fishing, spending \$50+ on gas, \$20 on bait, \$5 on parking and another \$50-\$75 on all of the other related boating expenses, I would like to have access to fish that can put some food in the freezer.

If the recreational fishery is faced with further restrictions, I feel as if the government will have once again caved into the vocal minority of big business and the commercial fishery. We, as taxpayers, have subsidized their profession for too long, while our stocks of fish have been diminished severely. There seems to be an effort by the commercial fisherman to "catch the last fish in the sea."

I, as a Massachusetts taxpayer, am **IN FAVOR** of buying out commercial fishing permits and transitioning these people into other careers. I truly believe that our taxpayer's money would be well spent by providing these fishermen with payments to ease them into other careers. In a business such as this, much of their income is "in cash". I encourage our government to **AUDIT** commercial fishing interests to reveal the obvious: **OUR TAXPAYER MONEY IS SUBSIDIZING THEIR ILLEGAL EFFORTS (LAUNDERING MONEY BY NOT CLAIMING ALL INCOME)**. No one has ever said that these fishermen are not hard working people. Any company would be happy to hire someone of that caliber. Those companies would provide a more stable income, safer working conditions, benefits, and I'm sure you will find through an audit, higher income. Combine this with a healthier fishery and the benefits to society **AT LARGE** would be enormous.

Sincerely,



Richard Antonino  
191 Page Street  
Avon, MA 02322

A-45

**PROVINCETOWN FISHERMEN'S  
ASSOCIATION**

POST OFFICE BOX 602  
Provincetown, MA 02657  
(508) 487-0259  
Luis Ribas, President  
Phil Michaud, Vice President

**RECEIVED**

**MAR 14 2002**

**CHAMBERS OF  
JUDGE KESSLER**

March 8, 2002

**Judge Gladys Kessler**

Nancy Mayer-Whittington  
United States Courthouse  
3<sup>rd</sup> and Constitution Ave. NW  
Room 1834  
Washington, DC. 20001

Dear Honorable Judge Kessler,

Provincetown Fishermen's Association (PROFISH) is an organization comprised of over 50 fishermen whose financial and familial existence is dependent upon the ability to fish the waters around Cape Cod. Fishermen and their families have worked these waters to help drive the Outer Cape economy for nearly 200 years. If implemented, the recent National Marine Fisheries Service's (NMFS) list of proposed restrictions could serve as the proverbial "nails in the coffin" for our industry and culture. These proposed restrictions included:

1. Count Days at Sea (DAS) as a minimum of 24 hours
2. Prohibit "front-loading" of the DAS clock
3. Count DAS at a rate of 2:1 in the entire Gulf of Maine (GOM)
4. GOM vessels may not fish for more than 25% of allocated DAS during the first two quarters of the fishing year (May-July and August-October)

*D-44*

5. Outside GOM count DAS 2:1 May, June, and July
6. Outside GOM vessels may not fish more than 25% of allocated DAS during May, June, and July
7. Year-round closures of blocks 128, 129, and 130
8. Closures of Blocks 124 and 125 Jan through June, October and November
9. Additional closures of Blocks 132 and 133 in June
10. GOM 6.5-inch diamond or 7 inch square codend for trawl vessels. 7 inch gillnet
11. Everywhere the dayboat gillnet vessels reduced to 50 groundfish or 100 flatfish nets
12. Close Western GOM to recreational fishing
13. Close entire GOM to recreational fishing November to March

Our fleet will no longer exist if these proposals are accepted into law. Our groundfish fleet is comprised of dayboat vessels already constricted by 88 allowable DAS. Eighty-eight 24 hour days per vessel to provide an annual income for an average of three men per vessel and their families to survive in this region. These dayboats utilize an average of around 14 hours per day for each daytrip thus allowing a high quality product to be available daily for the consumer. We are currently allowed to harvest only 400 pounds of cod per day. We are currently allowed to harvest from our primary fishing area Block 124 from May 1 through September 30 and December 1 through December 31. Any further DAS measures or closures to this area would ensure the total demise of this region's fishing industry and its culture.

In the past our fleet has been called upon to develop gear and strategies that are selective and conservative. Most recently, one member and his vessel was selected to develop gear that reduces the bycatch of cod while retaining flatfish. Captain Luis Ribas aboard his vessel Blue Skies along Massachusetts scientists have developed gear and are acquiring real-time data that proves such a trawl is effective. PROFISH strongly supports the "Ribas" or topless trawl to be fished in

these waters to conserve and protect our fish stocks while minimizing unwanted bycatches.

The recent decision by New England Fisheries Management Council's (NEFMC) to approach the development of management measures by creating more specific area boundaries and objectives is one measure that will allow both inshore and offshore fleets to make valuable recommendations that accommodate their respective fleets. These areas would be defined as follows:

- Inshore Gulf Of Maine
- Offshore Gulf of Maine
- Eastern Georges Bank
- Western Georges Bank
- Southern New England and Mid-Atlantic
- Recreational/ Party and Charter

In allowing area specific regulations to accommodate Total Allowable Catches (TAC) and minimize high discard rates of stocks that are rebuilding is a monumental step forward in achieving success in rebuilding stocks without destroying industry.

PROFISH would like all regulatory and management entities to entertain our suggestion of a year round night closure of the Inshore GOM area (69° 55' longitude) west to the coastline as an immediate measure to reduce fishing in this area by at least 50%. In addition to this allow scallop permitted vessels to harvest in this area with a maximum of 10.5 foot dredge length. These two precise proposals are seen as a common sense approach to stock rebuilding and overfishing by PROFISH.

PROFISH has the resolve to weather the storm of regulations on the fishing industry; however, the existence of our industry and its cultural heritage is directly dependent on the immediate involvement of our local, state, and federal politicians, advocates, regulators and managers in securing our future as a vital industry in our region.

Sincerely,



Christopher W. King  
Chairman, Board of Directors  
Provincetown Fishermen's Association

Cc: President George W. Bush  
Secretary Of Commerce Donald L. Evans  
Senator Edward Kennedy  
Senator John Kerry  
Senator Judd Gregg  
Senator Bob Smith  
Senator Susan Collins  
Senator Olympia Snowe  
Congressman Bill Delahunt  
Congressman Barney Frank  
MA. Governor Jane Swift  
MA. State Senator Bruce E. Tarr  
MA. State Senator Mark C. Montigny  
MA. State Representative Shirley Gomes  
NMFS Director Bill Hogarth  
MDMF Director Paul J. Diotari

# ENVIRONMENT

## New net seen as possible answer to fish catch

By Doreen Leggett  
dleggett@cnc.com

As a high-profile lawsuit and more stringent fishing restrictions swirl in the background, Provincetown fishermen Luis Ribas is working quietly on his answer to one of the problems that beleaguer his way of life.

Last week, Ribas was in St. John's, Newfoundland, with a group of fishermen and scientists of the state Department of Marine Fisheries.

Both Ribas and the state have designed slightly different nets that aim to reduce, or eliminate, the catch of cod. They have been working on the nets for more than a year, testing them in the ocean, taking underwater films, and cataloging results.

Ribas sees the net as an essential part of his port's future. The Provincetown fleet is locked out of the fishing grounds for close to half a year because of dwindling Gulf of Maine cod populations. The yellowtail flounder populations are quite healthy, but are off limits because cod come up in the nets with them.

A successful lawsuit by conservation groups against the National Marine Fisheries Service may focus more eyes on the net. The lawsuit, which was successful in federal court, charges that NMFS and the New England Fisheries Management Council failed to implement the Sustainable Fisheries Act, thereby leaving fish stocks at risk.

The conservation organizations have asked that hard quotas or TACs (total allowable catches) be established. Once that number is reached, fishing would be shut down on that species, which likely means that fish-

ing all together would be stopped because different species of fish swim together.

Exclusion nets, similar to the one Ribas is working on, could change the dynamics of that argument.

"That's the point," said Ribas. In the past, Ribas has tried for council support of the net, but didn't get very far.

There have been no decisions made yet, but the conservation organizations, and NMFS are scheduled to sit down Friday and discuss options. The conservation groups are asking that the council not be involved in the rule-making process because, they charge, the council is controlled by fishing interests. If that happens, it would be an enormous departure from the way fisheries have been managed for more than two decades.

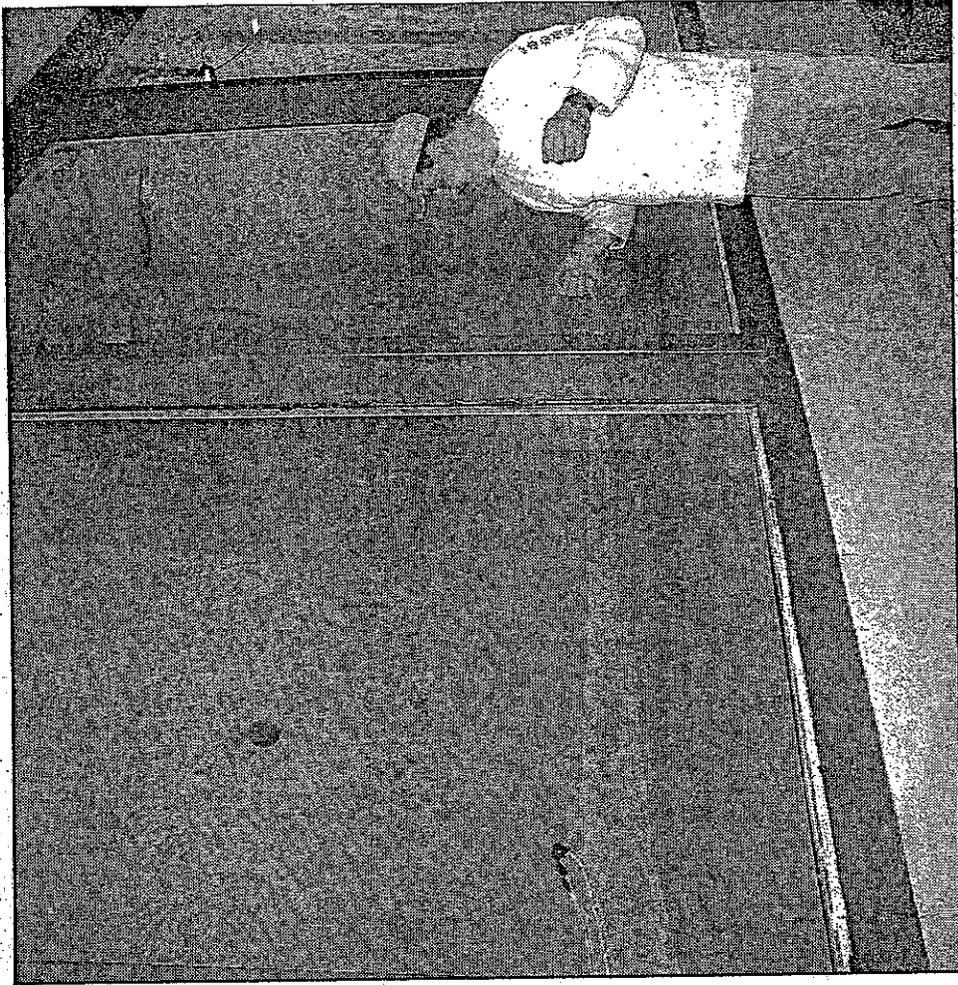
Representatives from NMFS have said that the Sustainable Fisheries Act was being implemented, just at a slower pace. They have also said that a number of stocks are improving.

While these discussions take place, Ribas and the state DMF are quietly making adjustments on the nets. Arnold Carr of DMF said that using the flume tank in Canada gave them some ideas. The tank allows researchers and fishermen to see how their net operates in the ocean, and in different currents.

"It is a neat, unique tool," Carr said.

With the state's net, 96 percent of the cod escaped, but they lost 40 percent of the yellowtail. With the Ribas net, more yellowtail were caught, but only 76 percent of the cod escaped.

The information gleaned from the trip to Canada will help adjust both those ratios.



Luis Ribas looks at his experimental net in a testing tank in Newfoundland. In the left-hand corner, the hole at the top of the net allows the cod to swim out, while the flounder, which swim closer to the bottom, are caught.

Photo courtesy of the state Division of Marine Fisheries

**Capt. Luis M. Ribas**  
F/V Blue Skies  
Barrosa Fishing Co.  
7 Sandy Hill Lane  
Provincetown, MA 02657  
Tel: (598) 487-4462  
Email: lrfish@gis.net

March 9, 2002

Judge Gladys Kessler

Nancy Mayer-Whittington  
United States Courthouse  
3<sup>rd</sup> and Constitution Ave. N.W.  
Room 1834  
Washington, DC 20001

Dear Honorable Judge Kessler,

As the owner and Captain of the fishing vessel Blue Skies in Provincetown, Massachusetts, I would like to address the drastic limits that were proposed by the National Marine Fisheries Service (NMFS). I believe you have a case before you about which I have some additional information that may be helpful. The latest regulations proposed by the NMFS will undoubtedly devastate a traditional way of life that has existed for centuries. I, myself, have been a fisherman since I was nineteen years old, and this is how I have made my living and supported my family. Our fishing community here in Provincetown has already been severely endangered by the closures of Block 124 in January, February, March, April, October and November. Our fishing days have already been limited to 88 days out of the year. We do not ask others in this country to work only 88 days out of the year. We have the additional limitation of the winter weather, which prevents us from being able to fish, and so the spring and the summer are our only working times. Now these too are being jeopardized by the new regulations. Our community feels that it is under attack because of public sentiment that is expressed by statements like this in this media: "...the National Marine Fisheries Service did not move aggressively enough to reverse over-fishing..." (Press Herald Online: issue: March 2, 2002). The new proposals were announced by Bill Hogarth, director of NMFS in Rockport, Maine, on March 1, 2002. By enforcing these new closures and cutting our fishing days in half, the northeast fishing community will suffer a major economic blow. Thousands of fishermen will lose their jobs and those who depend on the fishing industry will also be greatly affected, such as fishing gear shops, fuel companies, restaurants, and most significantly, fish markets and consumers. Many more than fisherman will lose not just jobs and income, but also the dreams that this country once represented. Truly, a whole way of life is threatened. It is true that there has been a problem with over-fishing and with the fish population decreasing, but that is where I feel that I may be of service. I

feel that I have been working on a project that may offer a viable alternative to more regulations and closures.

### *Nets of the Future:*

In this project, the government had asked for collaboration between scientists and fisherman, and so I wanted to become involved in something that I felt could help our future. I brought 24 years of knowledge and experience in the fishing industry to this project. About two years ago, I devised, along with senior biologists Arne Carr and Mike Pol of the Massachusetts Division of Marine Fisheries, (MDMF), two nets that would help to reduce by-catch and overall reduce discarding of fish. The resulting product of this work is called **Groundfish Trawl nets Designed to Reduce the Bycatch of Cod**. Their original purpose was to reduce the bycatch of Codfish, but also they will work on dogfish and juvenile fish, (their total work will be on bycatch, dogfish and juvenile fish: which all together are called mortality), and they may be modifiable to work on other species. This would help to increase the fish population by reducing discarding of unwanted fish. When fish are caught they are often hurt or killed in the process, but under the regulatory plan, they still must be thrown back. This does not make any sense. By using the nets, younger, smaller fish are allowed to escape unharmed. In doing this, these young fish will be able to repopulate by maturing, spawning and reproducing. The larger, already mature fish will be caught, and being full-grown, they will not be discarded due to the price a fully matured fish will bring. Also, the mesh holes on these nets will allow fish that are not supposed to be caught to remain in the water. This would further help them to repopulate and reduce discarding.

In the past year or so, my nets have created a stir (enclosed I have sent copies of newspaper articles that have been written about my nets and their results). I have been testing them and so far the results have been outstanding. Unfortunately, due to the closures we have suffered, my crew and I have not been able to fully test them. If we were allowed to continue testing, before any proposed closures were enforced, we might be able to prove that the new closures are not necessary, and that a change in nets would accomplish the same thing or better.

*Conservation.* This concept is something that our small fishing community has taken pride in. The catalyst for these proposed closures and cutbacks has been the recent lawsuits against the National Marine Fisheries Service. Now, if I may, I would like to pose a question. Why are the various conservation organizations only taking affirmative action now? Why did they take so long and why must the fishermen pay? The fisherman have become very involve in the issues that concern them. I, myself, have taken large quantities of my time to go to meetings and try to discuss my ideas and views on the issues. Why have the members of such organizations as the New England Fisheries Management Council and the National Marine Fisheries Service and many of the other various conservation groups not yielded to any of our (fisherman's) opinions? We, the fisherman, are the ones with the experience on the sea, and we are the people who know

what happens out there while we are fishing. We are also the people who are impacted by the regulations, and we are frustrated that our experience and knowledge is routinely disregarded in trying to find solutions to these problems which affect us.

Your Honor, I would like to thank you very much for taking the time to read my letter. I hope that you will take into consideration all that I have written and proposed. Please, as a fisherman, and a family man, I am pleading that you do not enforce any more regulations. Please give the fishing community the time it needs to try and come up with solutions that will really work. Time is needed so that I can further test my nets, which may help put a stop to this form of control, or reduce to need for this type of regulation, and replace it with something that makes more sense for everyone concerned. I have already tested them, but if given more time, I can obtain more accurate data. Testing has been set for the end of the month of March 2002, and throughout April 2002. If I can be of further assistance, please do not hesitate to contact me at the above address. Thank you very much once again.

Sincerely,



Luis M. Ribas

Ps: As you may see, your Honor, from the enclosed articles, my interest is sincere. I have been involved in promoting the conservation of the fisheries for some years.

cc: President George W. Bush  
Secretary of Commerce Donald L. Evans  
Senator Edward Kennedy  
Senator John Kerry  
Senator Judd Gregg  
Senator Bob Smith  
Senator Susan Collins  
Senator Olympia Snowe  
Congressman Bill Delahunt  
Congressman Barney Frank  
MA. Governor Jane Swift  
MA. State Senator Bruce E. Tarr  
MA. State Senator Mark C. Montigny  
MA. State Representative Shirley Gomes  
NMFS Director Bill Hogarth  
MDMF Director Paul J. Diodati

**Maine Industrial  
Plastics & Rubber Corp.**

PO Box 381, 21 Teague Street  
Newcastle, Maine 04553  
(207) 563-5532 \* (800) 540-1846  
**FAX (207) 563-8457**

**RECEIVED**

MAR 12 2002

CHAMBERS OF  
JUDGE KESSLER

March 12, 2002

The Honorable Gladys Kessler  
U.S. District Court – District of Columbia  
333 Constitution Avenue, NW  
Washington, DC 20001

FAX 202-354-3442

Dear Honorable Judge Kessler,

Fish are now plentiful. There has been a 60% reduction in the fleet and days at sea. Further cut backs are a death knell to the industry and its suppliers. How could anyone survive working only one month per year?

Farmers till the land, cornucopia; it is even subsidized. Ground fishing does not even begin to till the bottom and we have delicious seafood. Please let it be. Your interpretation is critical to the survival of an industry that is already a skeleton of its former self.

Sincerely,



Henry G. Lee  
Owner/CEO

Supplier of recycled protective rubber fishing rollers  
made from used conveyor belting and tires

00-1134

March 13, 2002

Honorable Gladys Kessler  
U.S. District Court for the  
District of Columbia  
332 Constitution Ave.N.W.  
Washington DC 20001

Via FAX

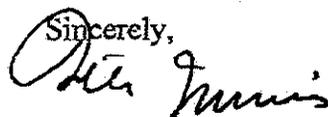
Dear Judge Kessler:

I am faxing you two months of closures to show you an example of current regulations in the Gulf of Maine.

I, along with many others own a small commercial vessel. We are continually being pushed further from shore to provide for our families. Safety is becoming a huge issue for us.

We have worked with NMFS through the regulation process but due to the radical interpretation of "overfishing" and constant lawsuits, we find ourselves with nothing left to give.

Thank you for your attention,

Sincerely,  


Peter Inniss, Owner/Operator  
F/V Barbara & Lyn  
15 Texas Street  
Portland, Maine 04103

# Figure 9B Sink Gillnet Fleet

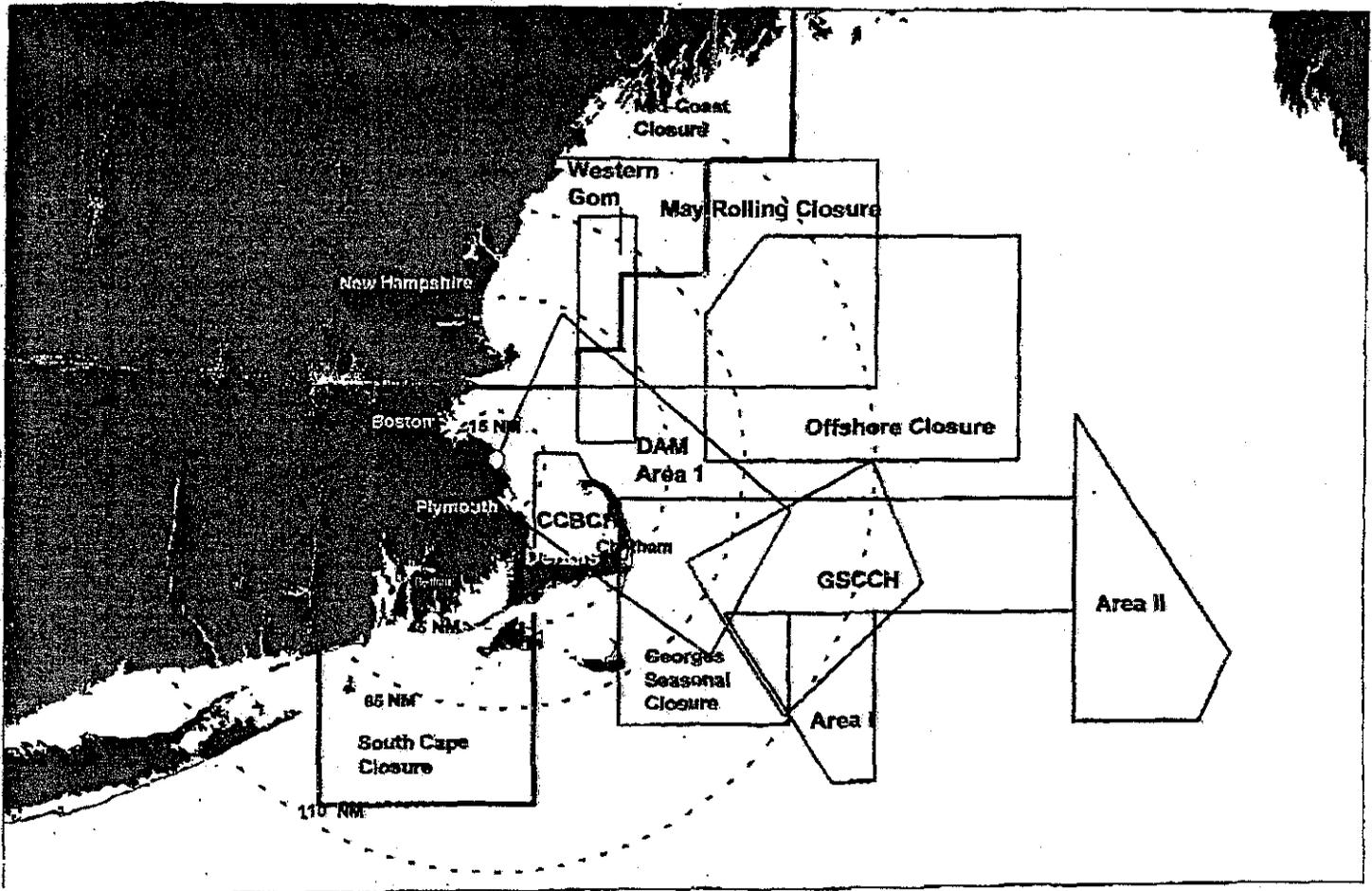
## DAM Area 1: May 2000

### Plymouth to Boston MA Home Port Map with

### 15 - 110 NM radii,

### Multispecies Groundfish Closures and

### Right Whale and Harbor Porpoise Closures



# Figure 10A

## Sink Gillnet Fleet

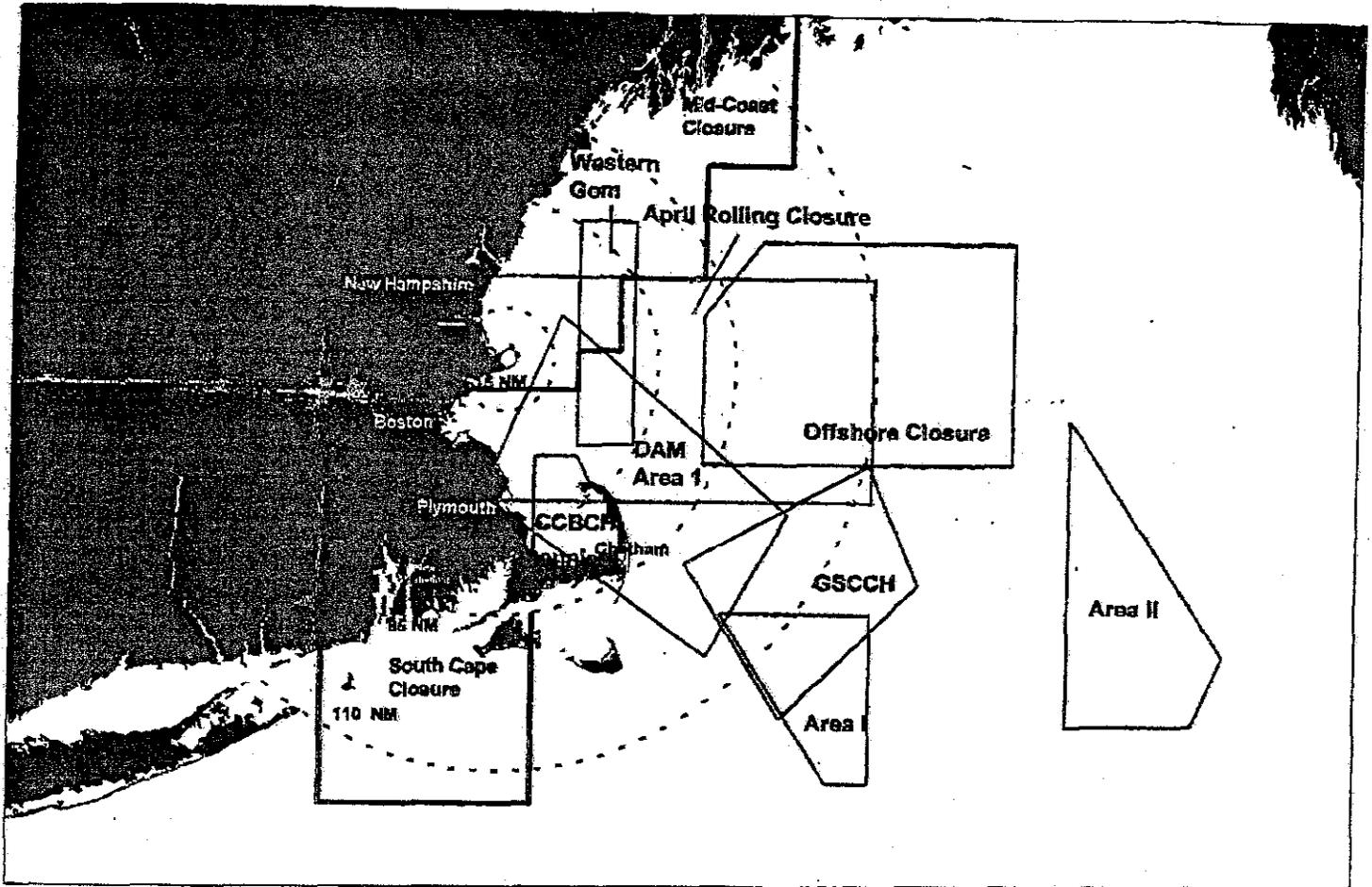
DAM Area 1: April 2000

Gloucester MA Home Port Map with

15 - 110 NM radii,

Multispecies Groundfish Closures and

Right Whale and Harbor Porpoise Closures



**RECEIVED**

**MAR 13 2002**

**CHAMBERS OF  
JUDGE KESSLER**

Mar 13, 2002

The Honorable Gladys Kessler  
U.S. District Court  
District of Columbia  
333 Constitution Ave  
Washington, D.C., N.W.  
20001

Dear Judge Kessler

I earnestly pray you read the attached editorial from the Portland, Me. Herald of 3 March, 2002. Perhaps it will shed some light on why the Conservation law Foundation is seeking to undermine a groundfish plan which is working to the benefit of all parties concerned. It may reveal why the latest surveys indicating the stocks are rebounding beyond expectations were not presented by the CLF.

Thank You,

Mark B. Godfried  
2 Flume Rd.  
Gloucester, Ma. 01930  
markg@gis.net

**Mark Godfried**

**From:** "richard burgess" <burgess@gis.net>  
**To:** <markg@gis.net>  
**Sent:** Wednesday, March 06, 2002 7:37 PM  
**Subject:** [Fwd: Fwd: via Andy Applegate]

----- Original Message -----

**Subject:**Fwd: via Andy Applegate

**Date:**Wed, 06 Mar 2002 17:36:37 -0500

**From:**Gregg Morris <gmorris@manomet.org>

**To:**"ACarrAUSS@aol.com" <ACarrAUSS@aol.com>, Chris Glass <glasscw@manomet.org>, [mike.pol@state.ma.us](mailto:mike.pol@state.ma.us), [PScola6728@aol.com](mailto:PScola6728@aol.com), [tfeehan@manomet.org](mailto:tfeehan@manomet.org), [lolorich1@aol.com](mailto:lolorich1@aol.com), [amy.van.atten@noaa.gov](mailto:amy.van.atten@noaa.gov), Ann-Margaret Ferrante <ferrante@gis.net>, [ladyirene@xpres.net](mailto:ladyirene@xpres.net), [mcgovern@uriacc.uri.edu](mailto:mcgovern@uriacc.uri.edu), [lanefish@mediaone.net](mailto:lanefish@mediaone.net), "Capt. Craig A. Pendleton" <craig@namanet.org>, [carla@namanet.org](mailto:carla@namanet.org), [fishermenscall@hotmail.com](mailto:fishermenscall@hotmail.com), [greenfluke@worldnet.att.net](mailto:greenfluke@worldnet.att.net), [egoethel@nh.ultranet.com](mailto:egoethel@nh.ultranet.com), [fvphoenix@earthlink.net](mailto:fvphoenix@earthlink.net), [Kaminc@ma.ultranet.com](mailto:Kaminc@ma.ultranet.com), [Fishgovrep@aol.com](mailto:Fishgovrep@aol.com), [comfish@netsense.net](mailto:comfish@netsense.net), [NBSC@attbi.com](mailto:NBSC@attbi.com), [omalley@ECFF.ORG](mailto:omalley@ECFF.ORG), [scarpa2@hotmail.com](mailto:scarpa2@hotmail.com), [lenaalex@nqi.net](mailto:lenaalex@nqi.net), [tinlizzie15@cox.net](mailto:tinlizzie15@cox.net), [proctor@clinic.net](mailto:proctor@clinic.net), [ralph@seafoodweb.net](mailto:ralph@seafoodweb.net), [collaborations@namanet.org](mailto:collaborations@namanet.org), [Burgess@gis.net](mailto:Burgess@gis.net), Robin Alden <alden@hypernet.com>, [navila@detma.org](mailto:navila@detma.org), [Jlinc1000@aol.com](mailto:Jlinc1000@aol.com), [vbalzano@maine.rr.com](mailto:vbalzano@maine.rr.com), [dmartins7@yahoo.com](mailto:dmartins7@yahoo.com), [shield@intercom.net](mailto:shield@intercom.net), [rap@vims.edu](mailto:rap@vims.edu)

>Subject: via Andy Applegate

>Date: Wed, 6 Mar 2002 17:10:52 -0500

>

>

>

>

>Mar. 3 Editorial from the Portland (Maine) Press Herald

>

> To anyone reading a newspaper or browsing the Web, it would  
 >appear that lawsuits and studies funded by the Pew Charitable Trusts (and  
 >other organizations to a lesser extent) are saviors of our bountiful  
 >ocean - protecting our marine resources from the incompetence of  
 >government

>and the greed of the fishing industry. But does this notion hold up  
 >under scrutiny?

>

> I don't think so. In fact, it seems to me that many of the  
 >lawsuits are designed more to frustrate the industry than to improve fish  
 >stocks. There are examples.

>

> The most recent lawsuit by the Conservation Law Foundation, or  
 >CLF, holds that the New England Fishery Management Council (one of eight  
 >regional councils) had not implemented the fishing control rules it had  
 >adopted earlier to satisfy conditions of a new law. This was true. But  
 >the council believes there are problems with the rules and the methods  
 >prescribed for implementing them. And, most importantly, the council  
 >believes that the total number of fish in the stocks is improving as  
 >well, or even better, under the current rules as it would with the  
 >changes.

>

3/13/2002

> Furthermore, Peter Shelley, a CLF attorney, claims a reason for  
> the lawsuits is to get all of us thinking in 'ecosystem' terms. The  
> Multispecies Plan favored by the council is the most ecosystem-based  
> because, to the extent it can, it treats the 19 stocks in the plan as a  
> whole.

>  
> The plaintiffs - CLF among them - propose single-species  
> targets, the opposite of their stated goal.

>  
> Another recent lawsuit forced the National Marine Fisheries  
> Service, or NMFS, and the management council to go through a formal  
> process of receiving comments  
> (scoping) and rewriting massive environmental documents because a  
> plaintiff wanted more ways proposed for essential fish habitat - where  
> fish spawn, where they grow up, where they eat, where they are eaten.  
> But the court found the council's original method satisfactory and said  
> it could return to it after going through this process.

>  
> The scoping process for monkfish received no written or oral  
> comments and no suggestions from CLF or any other interested parties.  
> Thus the lawsuit forced NMFS and the management council to unnecessarily  
> expend limited personnel and resources, while the suing entities did not  
> care enough to participate in the exhausting process of coming up with  
> solutions.

>  
> Both the control rules and defining of essential fish habitats  
> were new requirements. Had the council given this daunting task a  
> good-faith effort? Yes. Had it live up to the intent of the legislation?  
> Yes, in both cases. What was the result? It was sued in both cases. What  
> is the result of these lawsuits? In both cases the council and NMFS must  
> expend scarce resources defending themselves in court. More than 100  
> suits have been filed against NMFS. This means other things do not get  
> done.

>  
> As Susan Hanna, a professor in the department of Agricultural and  
> Resource Economics at Oregon State University, has stated: 'Some of the  
> new costs created by litigation are obvious opportunity costs of losing  
> personnel resources, for example the entrainment of scientists in  
> preparation of material for court cases. . . . Chaos can be created in  
> the fishery management council system when everything else comes to a  
> halt.'

>  
> If suing over such issues does not help the fish, why is it so  
> popular?

>  
> For one thing, as Shelley, the CLF attorney, said at an American  
> Fisheries Society symposium in Phoenix in October: 'You bring a lawsuit,  
> on the other hand, and you are guaranteed headlines - front page.'

>  
> The environmental organizations have developed the perfect  
> strategy. Get funding from a trust or foundation to sue. Sue and get  
> headlines. Win on technicalities - not too hard since the NMF and the  
> regional councils are underfunded, understaffed, and the law presumes a  
> knowledge base that is not there. Get the government to pay costs. Force

> fishing industry members to pay out of their pockets to participate in  
> possible solutions

>  
> The fishing rules case has 13 intervenors, all of whom have to pay their

>own costs. Tie up the resources of NMFS and the councils, making it less  
>likely that they will manage to dot every "I" and cross every "t" and  
>come up with creative solutions to real fishery management problems.

>  
>This opens the door to more lawsuits and even better headlines because  
>eventually the overburdened council will be too busy to address some  
>real issue.

>  
> But why is the Pew Charitable Trusts funding these lawsuits?  
>There are two general theories.

>  
> The first is that Pew wishes to do good; that either it believes  
>in the cause or hopes to deflect the negative environment publicity from  
>the oil industry, from which Pew's money flows. This argument assumes  
>that the trusts' decision-makers do not realize the consequences of  
>their actions. This is possible even though Pew is known for the  
>specific results it wants out of the projects it funds.

>  
> But, if Pew cared about real fishery management issues, it could  
>do real good. We need a good observer program. We need better surveys.  
>We need a whole suite of basic scientific information. We need to  
>understand deep-water issues better. Pew could fund a capacity buyback  
>program that would help the fishermen and the fish. The list goes on.  
>There is much good the dollars Pew spends could do.

>  
> The other theory is more cynical: that the intention of the  
>lawsuits is to tie up NMFS and the fishing industry to benefit the  
>Marine Protected Area, or MPA, agenda.

>  
> The fishing industry has been a thorn in the side of big oil by  
>opposing drilling in the Georges Banks and other sensitive fish areas.  
>Most MPA proposals limit fishing but not oil exploration.

>  
> The fishery councils and NMFS need to go back to doing their  
>jobs. We need to look at things broadly. Are the fish stocks responding  
>as we wish? Are there red flags and what can we do about them? In what  
>direction should we evolve? These are the things management used to do.  
>Granted, imperfectly. No one is capable of the task as it is now  
>defined. There must be recognition of the limitations of our knowledge  
>and our abilities as well as a willingness to work on solutions that  
>meet all of our needs. This takes dedication and hard work.

>  
> Changes to the Magnuson-Stevens Fishery Conservation and  
>Management Act may also be required. The most recent amendments appear  
>to provide fertile ground for these suits. Perhaps the Magnuson Act is  
>adequate, and this process should be excluded from NEPA. Perhaps the  
>councils need to be given more flexibility in reaching goals. Neither  
>NMFS, the councils, nor the fishing industry (which all share the goals  
>of healthy fisheries and a bountiful ocean) can endure the current  
>situation.

> 2002 Blethen Maine Newspapers Inc.

>\*\*\*\*\*

>Dr. Harlyn Halvorson

>Director PCTMB  
>(508)-540-5441 (FAX)  
>(508)-540-1030

Gregg Morris  
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USA  
phone (508)224-6521 ext 236  
fax (508)224-9220  
[www.manomet.org](http://www.manomet.org)

1-202-354-3442

03/14/02 09:45

D TO THE HONORABLE GLADYS KESSLER  
U.S. DISTRICT COURT FOR  
THE DISTRICT OF COLUMBIA

RECEIVED  
MAR 14 2002  
CHAMBERS OF  
JUDGE KESSLER

REF D

THE FISHERIES RULING BEFORE  
YOU CONCERNING THE N.E. FISHERIES  
& CONSERVATION LAW FOUNDATION + ASS. GROUPS

FROM

KEVIN M MCCARTHY  
OWNER / OPERATOR F/U. BRIDGET + MARY  
665083 PERMIT # 240809

I AM A MAINE BASED + RESIDENT  
COMMERCIAL FISHERMAN THAT IS VERY  
CONCERNED ABOUT THE RULING THAT  
IS PRESENTLY IN YOUR HANDS.

I RELY THAT YOU WILL  
MAKE A RULING THAT TAKES IN  
ALL ASPECTS OF THIS FISHERY.

SMALL FISHING BUSINESS BOAT OWNERS  
FISH RELATED BUS. ALL WILL SHARE THIS  
DECISION YOU MAKE, I HOPE EQUALLY.  
THE N.E. FISHING FLEET IS ON THE  
VERGE OF BANKRUPTCY + COLLAPSE. PLEASE  
ON BEHALF OF THE FISHING COMMUNITY

②

THE W.M.F.S. HAS IMPOSED DIFFERENT RULES + REG. OVER THE YEARS WITHOUT DUE TIME + PROCESS FOR THEM TO WORK. NEVGE - 6 MONTHS OR A YEAR - W.M.F.S. ENACT ANOTHER REGULATION. NO CHANGE IN FISH STOCK - TRY ANOTHER REG. MEANWHILE - YEARS PASS WITH NUMEROUS REG. WITH NO TIME FOR FISHERIES MASS TO RE-ADJ. FINALLY W.M.F.S. SAYS, TO THE COMMERCIAL FISHING FLEET, WE CAN'T REGULATE IT RIGHT - WE DO - NOT HAVE THE CORRECT DATA!

THE W.M.F.S. AFTER YEARS OF MANAGEMENT HAVE COME TO CONCLUSION. THEY DO NOT <sup>HAVE</sup> SCIENCE TO MAKE DECISIONS -

NEVGE, TAKE INFORMATION FROM PEOPLE WHO ARE INVOLVED - COMMERCIAL FISHING FLEET!

DATA IS NEXT COMPILED FROM US.

- LOG BOOKS
- DAYS AT SEA
- CLOSED AREAS
- DISCARDS
- TIME CLOCKS
- ETC.

ALL THESE AS THE THE N.E. FISHING

③

FLEET IS SLOWLY BLEEDING TO DEATH  
& DYING BECAUSE OF PREVIOUS RULES  
& REGULATIONS.

N.M.F.S. SAYS LEAVE "DEPLETED"  
STOCKS ALONE - GO TO OTHER FISHERIES.  
THE W.E. FISHERMAN DOES THAT,  
AFTER HEAVY RE-INVESTMENTS FISHERMAN  
DO THAT. N.M.F.S. STEPS IN LATER  
AND SAYS BY THE WAY THAT  
FISHERIES WAS ON VERGE OF COLLAPSE?  
CLOSE TO (MONKFISH OFFISH STATE)

NOW DOES THE W.E. FISHING FLEET  
& SMALL BOAT OWNER, TRY TO MANAGE  
A FISHERY FROM THIS?

THE W.E. FISHING FLEET WILL NOT  
SURVIVE ANY MORE, PURE & SIMPLE.

HERE WE ARE TODAY WRITING TO  
YOU FOR "INSIGHT" IN THE FATE OF  
THE W.E. FISHERMAN. WITH YOUR  
RULING PLEASE CONSIDER ALL THE  
FOLLOWING.

- ① THE SOCIAL & ECONOMIC IMPACT OF  
IT.
- ② THE SCIENCE USED BY OTHER COUNTRIES  
TO SOLVE THE SAME PROBLEM.
- ③ THE BEST SCIENCE AVAILABLE WORLD  
NOT YESTERDAY'S DATA.

(4)

SUBJECT TERM FIX-ITS.  
 (5) TAKE DATA FROM PEOPLE IN INDUSTRY  
 + WEIGH IT EVENLY WITH ALL ASPECTS.

RECENTLY 3/10/02, I MET WITH  
 PRISCILLA BROOKS-WIGBLEWORTH-CONSERVATION  
 LAW FOUNDATION. AS A FISHERMAN FOR  
 ALL MY LIFE I STATED WHAT I  
 HAD SEEN & WITNESSED TO HER.  
 THE N.E. FISHERIES ARE REBOUNDING  
 SLOWLY IN RECENT YEARS.

PLEASE MAKE YOUR DECISIONS  
 ON SOUND SCIENCE DATA + TODAY'S  
 FACTS - NOT OUTDATED FACTS.

LEAVE THE FISHERIES ALONE FOR  
 THE TIME BEING, THEN REVIEW EVERY  
 6 MONTHS OR YEAR. TRY TO TAKE  
 THE MOST RECENT DATA TO MAKE  
 SOUND DECISIONS.

IS THERE ANY WAY TO TALK  
 TO YOU OR YOUR COUNCIL IN PERSON?  
 I WILL GO ANYWHERE OR SPEND  
 ANYTIME TO SAVE THE "SMALL  
 NEW ENGLAND FISHING HERITAGE" WHICH  
 I THINK IS A BIG PART OF THE  
 AMERICAN ECONOMY. PLEASE CONTACT ME.  
 PRISCILLA BROOKS OF C.L.F. CAN VERIFY  
 my name & I can be reached at 207-363-5413

5

PLEASE DO NOT DEGRADE THE N.E. MULTISPECIES ONLY MORE THAN IT IS NOW. WHEN MAKING YOUR DECISION MAKE IT ON THE MOST UP TO DATE DATA + INFORMATION AVAILABLE.

THANKYOU FOR YOUR PATIENCE + TIME.

KEVIN M. MCCARTHY

BOX 347

YORK MAINE 03909

OWNER/OPERATOR F/O

"BRIDGET + MARY" 665083

PERMIT # 240809

TEL 207 363 4908

CELL 207 - 337 - 4056

SIGNED :

Kevin M. McCarthy

A very concerned Maine fisherman trying to save a heritage + livelihood also.

P.S. - PLEASE EXCUSE MY WRITING ABILITY. I HAVE MANY JOBS AS IS ASSOCIATED WITH BEING A SELF EMPLOYED FISHERMAN!

CHF  
00-1134

Erik Anderson  
38 Georges Terrace  
Portsmouth, NH 03801  
Tel. 603-431-1779  
Fax 603-436-6741

March 14, 2002

The Honorable Gladys Kessler  
US District Court  
For District of Columbia  
332 Constitution Ave NW  
Washington, DC 20001

Dear Judge Kessler,

I want to thank you for the opportunity of having a moment of your time to express thoughts and concerns regarding the court case involving the future of New England fishermen. I am a active commercial fisherman of 30+ years in Portsmouth, New Hampshire and along with many other fishermen of the state and New England would hope to at least express our concerns being that we will not have that opportunity to do so in front of you in court. I have been engaged in the management process of New England fisheries for the last 15 years and during that time I can honesty say that I have never seen an issue such as the one in front of you now create as much anxiety, fear, and frustration. I'm not sure where to exactly start in detailing the issues that surround the ultimate decision that will result from this event because its complexity and depth goes so far from the surface of the issue.

An appropriate place to begin would at least state that we are not at the inception of management. Since 1994 the fishing community of New England has gone through I believe no less than 17 major events of regulatory change involving groundfish and other species. To say that nothing has occurred would be inappropriate and to say that results are not happening would be unjust. Irrefutable scientific evidence exists from NMFS itself to show that stocks are rebuilding and that some component or combination of current measures are producing the intended results. While it appears that a component of this lawsuit is comprised of the impatience of the environmental industry that management measures have not met a time line I only wish that we all understand that there is no rigid formula in managing a living resource. Our knowledge of the marine environment is constantly evolving. I state this not only from on-hands experience but also from a variety of experiences of other fishermen and academic scholars who are equally engaged in furthering knowledge. We are engaged in an ongoing experiment with a variety of ingredients and interests and to date we are making progress with more results expected in the future. Your position in this experiment is to rule from the ingredient of law. Our society has dictated that we need this structure for a variety of reasons and your perception of this requirement is far beyond my expertise to comment. I only feel that the precision or exactness of what Congress established in the Magnuson/Stevens Act and its reauthorization left flexibility in understanding

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its intent and meaning in a balanced manner that results in productive use of our marine resources.

If my understanding is correct, you have currently received two remedies from NMFS and the environmental industry. I state this knowing that NMFS formulated its remedy in isolation and unfortunately with disregard to social and economic consequences that will prevail if selected. I believe they have asked you for relief of this requirement which I feel is unjust. So that you are aware, when their remedy is translated to compliance by the industry it will do the following:

- 1) Limit fishing activity to 11 days per  $\frac{1}{4}$  (May-July and Aug-Oct)

Comment: The front face value of this measure will economically jeopardize but more likely destroy the viability of the majority of New England's fishing fleet just by the sheer inability to leave the dock but still having fixed financial obligations (i.e. mortgages, insurances, berthing, etc). It will be virtually impossible to employ crew and other necessary shoreside persons. Shoreside infrastructure (i.e. unloading facilities, fuel dealers, gear suppliers, processors, and a variety of other components) will be economically jeopardized due to lack of fishing activity. The effect on the vessels and its rippling consequences with only 11 days per  $\frac{1}{4}$  to fish is far more reaching than what was just expressed.

- 2) "Counting multispecies DAS as a minimum of 24 hours."

Comment: Vessels that would normally fish for increments shorter than 24 hours and come home will now be forced to maximize their effort in a 24 hour period. This results in more discarding when regulatory trip limits are met and increased mortality on other species in trying to maximize limited opportunity (i.e. 11 days per  $\frac{1}{4}$ ). Safety at sea concerns are magnified as fishermen try to extend their physical and vessel limitations.

- 3) "Close offshore portion of GOM (i.e. statistical blocks 128,129,130)

Comment: While the industry is not adverse to closures it finds this portion of NMFS remedy much too excessive. Vessels that normally fish in these areas will now relocate their effort to other areas which results to a variety of negative impacts to the resource.

- 4) Mesh changes and net reductions

Comment: While NMFS has explained that other opportunities will exist for the fishing community, increasing mesh sizes and gear limitations will eliminate most prospects of that occurring when combined with the previous requirements.

- 5) Inequity between recreational sectors

Comment: It is very perplexing to understand why NMFS has differentiated between recreational fishermen in allowing a private vessel angler only 5 fish and a recreational angler on a party/charter vessel to have the vessel or angler harvest unlimited amounts.

- 6) GOM cod trip limit of 400 lb per day / 4000 lb per trip.

Comment: Under any scenario of further regulations NMFS has the opportunity to reduce regulatory discards by a moderate increase in the daily trip limit. What they have recommended is a status quo position which does not reduce the probability of discards.

There are a variety of other impacts (resource, economic, social) that result from the NMFS remedy but the previous mentioned items represent the greatest concern. The reasons and rationale that NMFS used in formulating its remedy is still quite perplexing to a variety of interested parties.

The conservation industry has also presented a remedy for your review which also was done in isolation. It is perplexing to understand how their remedy would accomplish the goals of their request established in the litigation.

1) The environmental industry has requested a "Hard Total Allowable Catch (TAC)"

Comment: Under this condition in a multispecies fishery it is difficult to know what the environmental industry wants. If for example the TAC for Gulf of Maine cod is reached do all other fisheries capable of catching cod close? If this is so then it is inappropriate when other stocks exist that may be harvested or have not reached their TAC. If just the landing of cod is prohibited then this automatically increases regulatory discards which is contrary to their request to reduce discards.

2) They have requested that Vessel Tracking System (VTS) be a requirement for all vessels.

Comment: While VTS is and can be a valuable component to fishery management it has current limitations. Many small vessels do not have the means to operate this device because the vessels do not have sophisticated generators required to run a VTS. Initial costs of purchase and messaging transaction costs are prohibitively expensive for most vessels. It is not ultimately clear what would be accomplished in the terms of mortality reduction or resource benefit with mandatory requirement of VTS.

In raising questions to the reasons and rationale of remedies presented to you at this time I only hope to inform you of their working translation to those that will be obligated to comply with the decision. It must be expressed that the fishing community is not adverse to additional regulations but it is so important that the solution makes working and practical sense. We will accept additional closed areas, mesh changes and other terms that will benefit the resource. It's our obligation to do so and if the real issue that has been presented to you was about the "lack of fish" we could not nor would contest the admission that drastic measures must be taken. To the point we are at now both remedies have been submitted with no consultation to the fishing community. The remedies translate to more adverse resource, economic, and social effects when ultimately viewed through the eyes of the users. When the dust settles from the decisions that will come from this issue there will be a variety of affected parties including the resource. It will not be NMFS or the environmental industry. They will continue their business with other issues.

Please excuse me for taking so much of your time. I will close in repeating that this case has produced the greatest amount of anxiety, fear, and frustration within the fishing community I have seen in years. At a recent meeting that I attended a participant stood up and asked why wasn't or hasn't the truth been presented for the judge to see. We could not answer the question amongst ourselves

but must place the trust in you to look at this issue from a complete perspective that can be acted on with justice and fairness.

I want to thank you for your time and concern with hearing these comments. If there is anything I can do that might assist you in this complex issue please let me know.

Sincerely,



Erik Anderson

Page 1

JORDAN LYNN INC.

Phone 207-729-1850  
Fax 207-725-7009  
F/V Jocka  
March 14, 2002

67 Grover Lane  
Harpwell, ME 04079

RECEIVED

MAR 15 2002

CHAMBERS OF  
JUDGE KESSLER

The Honorable Gladys Kessler  
U.S. District Court for District of Columbia  
332 Constitution Avenue  
Washington, DC 20001

Dear Judge Kessler

I am writing this letter as a comment on the law suit between The Conservation Law Foundation and the National Marine Fisheries Service.

My input comes from the fishing side of the business. You see my wife and I own a Trawler. I worked my way up from a deckhand to a captain to finally a boat owner. We finally purchased the boat that I had been captain of for 5 years in 1991. I was then 29 years old.

I have been fishing since the late 70s. I've seen good times and bad times in the fishing business. With an all time low in 1994 as far as the groundfish stocks go. We worked hard and still made a living for me and my family, my two deckhands and their families. We did different types of fisheries and still made a living. The fish started to come back in 1995 { check the NMFS biomass numbers } by 1998 we were doing better even though we were fishing less time, there was even talk of easing off on us a little. My boat was then 40 years old. I don't know if you know anything about boats or not but that is a really old trawler. So I decided to see if I could get a bank to go along with me building a new boat. Nobody had done it here, built a full time trawler that was since the late 80s. Even the banks didn't know how to handle it. Well to make a long story short, \$600,000.00 later here I am with a \$580,000.00 mortgage and everything I ever worked for is in danger of going away with the swipe of a pen.

The area that NMFS wants to close in the Gulf of Maine takes up 2,700 square miles. That's a lot of fishing area. Considering that is where my boat works 90% of the time we are groundfishing. That is prime fishing area all winter long for my boat, my boat is 67 feet long. No where near big enough to head South of the 42'20 line that NMFS is proposing in the winter to fish so that my DAS will be counted 1 for 1. I don't see where The CLF thinks we have a problem. Considering we now are catching more fish than we have caught since the 200 mile limit came into effect in the late 70s. I don't know if your aware or not but the biomass of fish in New England now is greater than it was in 1983, when the NMFS financed 385 boats to go out and catch the fish that they said were neverending. I'll admit that landings are down, but a lot of those landings you can see in the 70s and early 80s were very small fish. No legal size on flounders, now they have to be 12" for some and 14" for others. We used to sell flounders no bigger than the palm of your hand. Haddock as small as 10" we used to sell now the size is 21". Same with Cod and Pollock, just about every species of fish. We used to tow with 3" holes in our net, now it is 6", and

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*Page 2*

If this NMFS proposal goes through it will be 6.5". We also used to be able to sell our groundfish we caught with our shrimp nets, now we have a device in the net that stops us from catching any groundfish with our shrimp nets, those numbers were in the landings. The CLF position was when we started this to preserve the infrastructure of the fishing business, that means all the little towns and stuff along the Maine Coast that depend on fishing will be able to survive. We are now but we can't afford to take another hit. Most of the boats in the business are getting old, we cant afford to replace them. They are being maintained at a lesser rate with every cut they make on us. That brings HUMAN LIFE into the process. I hope that there is some consideration to that. Please take the time to read Senator Olympia Snowes letter to Bill Hogarth {which I will enclose with my fax to you} and see where we in the Groundfish business are held to a higher standard than any other fishery in the U.S., her words not mine. Please explain to me what she means by saying the definition of over fishing in Amendment 9 {which spawned this lawsuit} is a technical error. If any more hardships are placed on our fleet and I mean fleet because everyone Involved in the groundfish business is one fleet, I'm not so sure that you will have a fleet to catch the fish and feed America the seafood it loves.{Tankfully} We cannot afford to count our DAS at 2 to 1 like NMFS proposed that is just ridiculous. Nobody can afford to work 11 days every 3 months and feed their families and pay the mortgage.

I have been picking apart NMFS proposal because it's the one that I have seen. I have heard the CLF say it wasn't enough but I haven't seen what they proposed. I am however sure that I would beg to differ with them. I realize that you have supposed fishing groups that have signed on with the CLF plan. Please do us a favor and ask the groups how many active groundfishermen they have in their group. If you have any questions about my comments please feel free to contact me.

Thank you for taking the time to read my comments and to take them into consideration.

Email: [Jlinc1000@aol.com](mailto:Jlinc1000@aol.com)

Name: Terry Alexander

Address: 67 Grover Lane

Harpswell, ME 04079

207-729-1850,207-443-4458,207-443-2566

Thank You



Terry Alexander

OLYMPIA J. SNOWE  
MAINE

COUNSEL TO THE ASSISTANT  
MAJORITY LEADER

154 RUSSELL SENATE OFFICE BUILDING  
PORTLAND, ME 04103

E-Mail: [Olympia@snowe.senate.gov](mailto:Olympia@snowe.senate.gov)  
Web Site: [www.senate.gov/snowe](http://www.senate.gov/snowe)

**United States Senate**

WASHINGTON, DC 20510-1903

March 5, 2002

COMMITTEES:  
BUDGET  
COMMERCE, SCIENCE, AND  
TRANSPORTATION  
CHAIR  
OCEANS AND FISHERIES  
SUBCOMMITTEE  
FINANCE  
CHAIR  
HEALTH CARE SUBCOMMITTEE  
SMALL BUSINESS

Dr. Bill Hogarth  
Assistant Administrator for Fisheries  
NOAA/NMFS  
1315 East-West Highway  
Silver Spring, MD 20910

Dear Bill:

I am writing to express my profound concerns about the recent developments in fisheries management and the lawsuit brought by a consortium of environmental groups against the Secretary of Commerce and the National Marine Fisheries Service (NMFS) over the Northeast Multispecies Fishery Management Plan. I am troubled by the progress and direction of the remedy phase of the case. In my opinion, these problems in the remedy phase are symptoms of larger problems in the implementation of the Magnuson-Stevens Act. There are several issues of particular concern that I would like to bring to your attention and ask that you work quickly to resolve.

The Sustainable Fisheries Act (SFA) was passed by Congress in 1996. At the time of the passage of the SFA, I was encouraged by the prospects of a law that was aimed at rebuilding the fish stocks of the United States. At its core, the SFA aimed for healthy fisheries and robust fishing communities. I believe that one of the great strengths of the SFA was that it provided NMFS and the Regional Councils flexibility to develop locally appropriate creative rebuilding plans for the fisheries that were overfished at the time.

Unfortunately, somewhere between the passage and implementation of the law, that flexibility has disappeared and we are left with a law that is being implemented in an unnecessarily rigid fashion. To make certain that NMFS was aware of the intended flexibility in the SFA, in 1998, I and several other Senators, sent a letter to Terry Garcia, then Assistant Secretary of Commerce for Oceans and Atmospheres. The letter (which I have enclosed) outlined the specific areas of the SFA that provided for much needed flexibility in fisheries regulation including the multispecies fishery exemption and numerous other provisions.

Consistently, at the six hearings I chaired across the country on the reauthorization Magnuson-Stevens Act, I have heard repeated testimony about the lack of flexibility that exists in fisheries management. New England groundfish is one more example that points to the need for reform. I encourage you to review this letter and examine NMFS' regulations in order to inject the needed flexibility that was originally intended to be in the SFA and that is drastically needed in the New England groundfish fishery at this time.

AUBURN  
TWO GREAT FALLS PLAZA  
SUITE 7B  
AUBURN, ME 04210  
(207) 786-2461

AUGUSTA  
40 WESTERN AVENUE, SUITE 413  
AUGUSTA, ME 04330  
(207) 622-8292

BANGOR  
ONE CUMBERLAND PLACE, SUITE 305  
BANGOR, ME 04401  
(207) 945-0432

BIDDEFORD  
231 MAIN STREET, SUITE 2  
BIDDEFORD, ME 04805  
(207) 282-8188

PORTLAND  
3 CANAL PLAZA, SUITE 601  
P.O. BOX 188  
PORTLAND, ME 04112  
(207) 874-0883  
MAINE RELAY SERVICE  
TDD 1-855-3323

PISCOSUE ISLE  
163 ACADEMY STREET, SUITE 3  
PISCOSUE ISLE, ME 04769  
(207) 754-5124

MA 452 9244

Dr. Bill Hogarth  
March 5, 2002  
Page 2

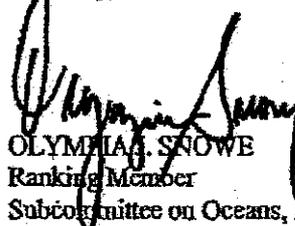
I realize the NMFS' proposed remedy includes measures that were discussed during the Framework 36 proceedings. This is understandable since NMFS had already conducted an analysis of these proposals. However, I am disappointed that NMFS did not address some fundamental measures that could have tempered the far-reaching negative impact the proposed remedy will certainly have.

In particular, the lack of a proposal to account for or temporarily "freeze" latent effort was, in my mind, a glaring omission. Temporarily "freezing" latent effort could allow the current active fishermen in the groundfish fishery to obtain more days-at-sea (DAS) than currently proposed without the fear of increased effort from latent permits. Furthermore, it would ensure that the enormous sacrifices being made by fishermen are not undermined by increased effort by those who have not recently participated in the fishery. Once the fishery is rebuilt, it would be appropriate to lift such a "freeze" according to a plan developed by the New England Fishery Management Council.

My final concern, is the definition of overfishing within Amendment 9 to the Northeast Multispecies Fishery Management plan. As it is currently written, overfishing is defined as any fishing effort that reduces the fish stock below Bmsy. This is a higher level than required by law and no other fishery is held to this inflated standard. In other fishery management plans, the overfishing definition sets a rebuilding standard of one-half or one-quarter of Bmsy. I understand that the definition of overfishing in Amendment 9 is a technical error, however, this technical error is playing a major role in the current groundfish lawsuit. Accordingly, I strongly encourage NMFS to clarify this inconsistency and correct that error promptly.

Thank you for your attention to my comments on the implementation of the Magnuson-Stevens Act in the New England Groundfish fishery.

Sincerely,



OLYMPIA A. SNOWE  
Ranking Member  
Subcommittee on Oceans, Atmosphere, and Fisheries

Lee & Avis Leavitt  
2 Cranberry Pines Road  
Scarborough, ME 04074

The Honorable Judge Gladys Kessler  
U.S. District Court for District of Columbia  
332 Constitution Avenue  
Washington, DC 20001  
Fax (202)-354-3442

March 15, 2002

Dear Judge Kessler,

We would like to address your impending decision in the matter of CLF verses Dalcy.

We are former boat owners who gave up fishing four years ago. We have been involved with the fishing industry over 30 years. Lee started lobstering and clamming at the age of 14, to fishing offshore from the Grand Banks to Florida. Most of those years were in the Gulf of Maine. I have represented several boats on the Portland Fish Exchange for 15 years.

Our industry can not possibly survive with any more regulations. We have endured closed areas, (some permanent & some temporary), increased mesh size, and a loss of  $\frac{1}{4}$  of our current fishing days. We can take no more. You can not guarantee fish will come back any sooner with stricter regulations but I can guarantee you that more lives will be lost with fishing boats fishing areas too far away and weather too harsh. This has already happened and will happen more when they are forced to fish further away or risk loss of days. Who can afford to lose  $\frac{1}{2}$  of there livelihood and pay bills and fix their boats up? That's what is happening now. What do you think will happen if more is taken away?

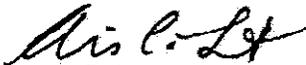
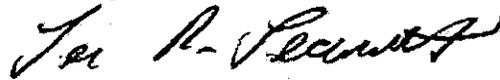
Most of the boats now fishing have a mortgage with their home attached to it. You are not just asking for them to lose their boat and their livelihood but their home. That makes a person take more risk.

The few boats that have sided with CLF are mostly lobster fishermen who only fish 30 to 40 days a year. Losing  $\frac{1}{2}$  of the 88 days they were given in the first place is no big deal to them.

The fish are coming back. I have sent a graph showing how our sacrifices are paying off. Please do not add any more to our burden, we have done enough.

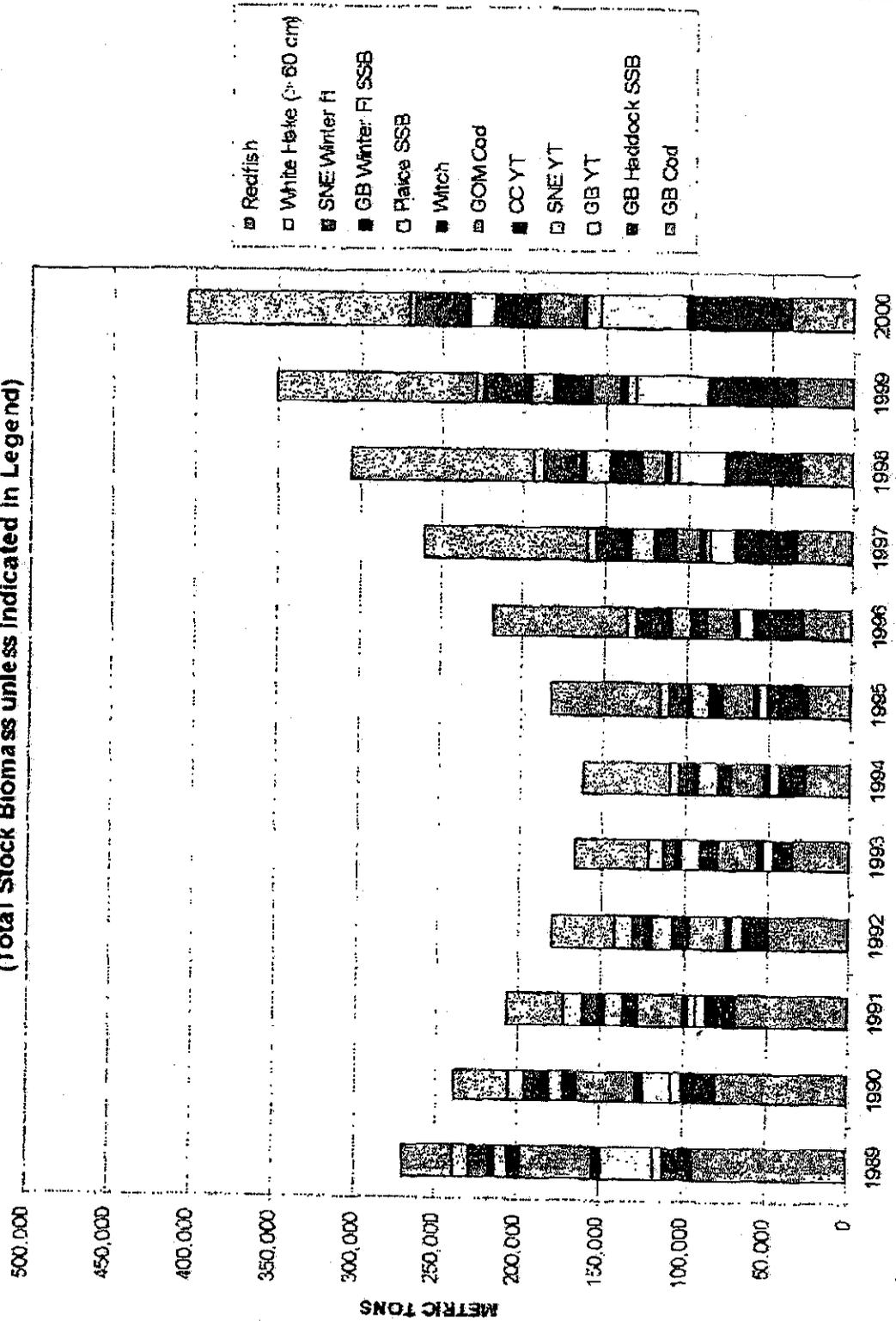
Thank you for your time and attention to this very important matter.

Sincerely,



Lee R. Leavitt  
Avis C. Leavitt

### Biomass of 12 Multispecies stocks 1989 - 2000 (Total Stock Biomass unless Indicated in Legend)



Source: Various assessment reports, compiled by NEFM Staff

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MAR 19 2002

CHAMBERS OF  
JUDGE KESSLER

40 Great Brook Rd.  
Milford, NH 03055

March 15, 2002

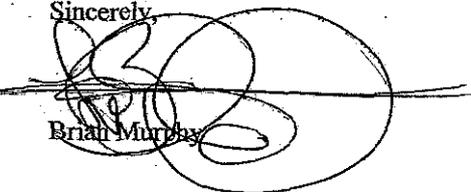
Judge Gladys Kessler  
United States District Court  
333 Constitution Avenue-NW  
Washington, DC 20001

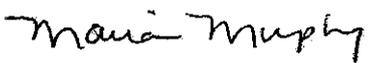
Dear Judge Kessler,

We are writing to express our concern regarding the upcoming decision to be made regarding cod and haddock stock replenishment in New England waters. We respectfully request that you decide against any plan to shut recreational anglers and party boats/charters out of the closed areas on Jeffreys Ledge.

Recreational fishermen on private and party boats have successfully worked with the rules set forth by the National Marine Fisheries, yet efforts continue to increase the regulations on recreational fishermen when it is the commercial fishing operations that caused the fish stock damage. Recreational anglers did not deplete the resource in the first place and further regulations on them will not improve the situation. While either an increased size limit or a 10-fish bag limit would be acceptable, being restricted to waters which are cleaned out by draggers and gill-netters will be the end of recreational saltwater fishing. This would be devastating to local sportsmen, to citizens who fish to put food on their tables, and to the New Hampshire seacoast economy.

Sincerely,

  
Brian Murphy

  
Marian Murphy

A-35

**PROVINCETOWN FISHERMEN'S  
ASSOCIATION**

Macmillan Pier  
P.O.Box 602  
Provincetown, MA 02657  
(508) 487-0259  
Luis Ribas, President  
Phil Michaud, Vice President

March 15, 2002

**The following letter was sent to Judge Gladys Kessler as well as President Bush, Governor Swift, Senators Kennedy, Kerry, and Delahunt as well as Rep. Gomes and several other federal, state, and local agencies and politicians.**

Provincetown Fishermen's Association (PROFISH) is an organization comprised of over 50 fishermen whose financial and familial existence is dependent upon the ability to fish the waters around Cape Cod. Fishermen and their families have worked these waters to help drive the Outer Cape economy for nearly 200 years. If implemented, the recent National Marine Fisheries Service's (NMFS) list of proposed restrictions could serve as the proverbial "nails in the coffin" for our industry and culture. These proposed restrictions included:

1. Count Days at Sea (DAS) as a minimum of 24 hours
2. Prohibit "front-loading" of the DAS clock
3. Count DAS at a rate of 2:1 in the entire Gulf of Maine (GOM)
4. GOM vessels may not fish for more than 25% of allocated DAS during the first two quarters of the fishing year (May-July and August-October)
5. Outside GOM count DAS 2:1 May, June, and July
6. Outside GOM vessels may not fish more than 25% of allocated DAS during May, June, and July
7. Year-round closures of blocks 128, 129, and 130
8. Closures of Blocks 124 and 125 Jan through June, October and November
9. Additional closures of Blocks 132 and 133 in June
10. GOM 6.5-inch diamond or 7 inch square codend for trawl vessels. 7 inch gillnet
11. Everywhere the dayboat gillnet vessels reduced to 50 groundfish or 100 flatfish nets
12. Close Western GOM to recreational fishing
13. Close entire GOM to recreational fishing November to March

Our fleet will no longer exist if these proposals are accepted into law. Our groundfish fleet is comprised of dayboat vessels already constricted by 88 allowable DAS. Eighty-eight 24 hour days per vessel to provide an annual income for an average of three men per vessel and their families to survive in this region. These dayboats utilize an average of around 14 hours per day for each daytrip thus allowing a high quality product to be available daily for the consumer. We are currently allowed to harvest only 400 pounds of cod per day. We are currently allowed to harvest from our primary fishing area Block 124 from May 1 through September 30 and December 1 through December 31. Any further DAS measures or

closures to this area would ensure the total demise of this region's fishing industry and its culture.

In the past our fleet has been called upon to develop gear and strategies that are selective and conservative. Most recently, one member and his vessel was selected to develop gear that reduces the bycatch of cod while retaining flatfish. Captain Luis Ribas aboard his vessel Blue Skies along Massachusetts scientists have developed gear and are acquiring real-time data that proves such a trawl is effective. PROFISH strongly supports the "Ribas" or topless trawl to be fished in these waters to conserve and protect our fish stocks while minimizing unwanted bycatches.

The recent decision by New England Fisheries Management Council's (NEFMC) to approach the development of management measures by creating more specific area boundaries and objectives is one measure that will allow both inshore and offshore fleets to make valuable recommendations that accommodate their respective fleets. These areas would be defined as follows:

- Inshore Gulf Of Maine
- Offshore Gulf of Maine
- Eastern Georges Bank
- Western Georges Bank
- Southern New England and Mid-Atlantic
- Recreational/ Party and Charter

In allowing area specific regulations to accommodate Total Allowable Catches (TAC) and minimize high discard rates of stocks that are rebuilding is a monumental step forward in achieving success in rebuilding stocks without destroying industry.

PROFISH would like all regulatory and management entities to entertain our suggestion of a year round night closure of the Inshore GOM area (69° 55' longitude) west to the coastline as an immediate measure to reduce fishing in this area by at least 50%. In addition to this allow scallop permitted vessels to harvest in this area with a maximum of 10.5 foot dredge length. These two precise proposals are seen as a common sense approach to stock rebuilding and overfishing by PROFISH.

PROFISH has the resolve to weather the storm of regulations on the fishing industry; however, the existence of our industry and its cultural heritage is directly dependent on the immediate involvement of our local, state, and federal politicians, advocates, regulators and managers in securing our future as a vital industry in our region.

Sincerely,

Christopher W. King  
Chairman, Board of Directors  
Provincetown Fishermen's Association

*Atlantic Coast Seafoods, Inc.*  
42-44 Boston Fish Pier, Boston, MA 02210  
(617) 482-0040 Fax: (617) 482-5643

March 15, 2002

The Honorable Gladys Kessler  
U.S District Court for District of Columbia  
332 Constitution Avenue  
Washington, DC 20001

RECEIVED  
MAR 15 2002  
CHAMBERS OF  
JUDGE KESSLER

Dear Judge Kessler:

My name is Tory Bramante and I am the owner of Atlantic Coast Seafoods. My company is utilizing, producing, growing, and succeeding within the fishing industry (as it currently exists). I have been part of this commerce my entire life, as has my ancestors, and because of my extensive experience I can honestly say, "the suggested transformation will cause permanent damage to this industry".

Why would we try to change an already proven system of "stock recovery" for an industry that won't be around to utilize it, if the suggested additional astringent cut backs by the conservation groups are allowed? Permitting these changes to take form would detrimentally harm the industry as a whole. Businesses, fisherman, local infrastructure, and the consumer would suffer irreversible damages, and the prosperity that we have accomplished, and continue to work with each day from past plans, would be in vain.

The conservation groups are providing much misleading information, and the truest information can only be sought from the fisherman themselves who are out at sea and live within these surroundings, and of whom have repeatedly discussed with the shore-side industry people of the replenished stocks, and how the current amendments have done the industry well.

I would hope that the information given to you by the industry people would be seriously considered and accepted as factual information, rather than human computed figures.

Thank you for accepting these letters and providing us the opportunity to inform you from our perspective.

Sincerely,



Tory Bramante  
Owner

March 15, 2002

From: Bernard Bramante

To: The Honorable Gladys Kessler  
 U.S. District Court for District of Columbia  
 332 Constitution Avenue  
 Washington, D.C. 20001

Dear Judge Kessler,

My name is Bernard Bramante, owner of B+D Seafood Brokers. My business is auctioning fish at the Boston Fish Pier Exchange in Boston, Massachusetts. I am writing to inform you that my business has been hurt by regulations imposed in recent years. I am, however, in agreement that something had to be done re conservation in order to insure a future healthy fishing industry! I am in position to see many of the protected specie rebounding to levels of past years!

Judge Kessler, the regulations imposed in recent years have been necessary and liveable to the single permit multiple specie groundfish industry, but any new regulations further restricting the single permit multi specie fishing vessels would be devastating to this segment of the industry! Judge Kessler, the question to be answered is "Do we want a fishing industry?" The single permit multi specie is already struggling to meet expenses due to regulations limiting catches, days allowed at sea, fishing areas, net mesh size minimums, certain specie landings per day or per trip, and mountains of legal paperwork as well as the added expenses of electronic tracking

devices which sometime cause more problems than they solve!

Judge Kessler, my business is off fifty to seventy percent since 1995. I am sixty two years old this month and I'm hard pressed to make a living for my family! This industry and myself desperately need your help in understanding the needs of the industry in order to survive. This can only be done by separating the misinformation from fact!

Maybe this is an insurmountable task! I wish you good luck in your work ahead and beg that you allow us an open-minded decision as I am sure you will!

Thank You Respectfully.

Bernard Brancato

Owner B+D Seafood Brokers

F/V Tripolina, Inc.  
42-44 Boston Fish Pier, Pier 6  
Boston, MA 02210  
Telephone: 781-438-8822 - FAX: 617-482-5643

00-1134  
CLF

March 15, 2002

The Honorable Gladys Kessler  
U.S. District Court for District of Columbia  
332 Constitution Avenue  
Washington, D.C. 20001

Dear Honorable Kessler:

I am writing regarding the devastation it would be to the single permit, multi-specie fishing vessel owners to have any further cut back of days at sea.

We have no other types of fishing permits and due to prior regulations, are unable to obtain other permits. Unlike the combination permits, i.e. scalloping, squid, mackerel, the single permit owners have no alternative. For us to cut back on the days at Sea would mean economic disaster. Essentially our livelihoods and business would have to close forever.

The cost of maintaining a long-term idle fishing vessel is causing the deterioration and financial failure of the business. A fishing vessel without proper amounts of fishing days has no value, and, such a vessel tied up at dockside for long periods of time causes deterioration of the vessel itself.

Each new period that begins our days at sea, excessive amounts of unpaid time and money have to be expended in order to bring the vessel up to safe fishing standards for that particular fishing period. This has been the procedure for many years since the implementation of the restrictions. It is getting increasingly difficult to continue in this way.

We cannot cut back any further. The cost of business, and the deterioration of the vessel due to lack of sufficient use over long periods of time, is excessive. The single type permit is directly affected by the cut of fishing days.

I would suggest government and conservation groups buy some of these vessels and permits in that this may help resolve some of the so called over fishing problems. Also, a subsidization program by the government needs to be considered for this industry and especially for the single permit fishing vessel owners.

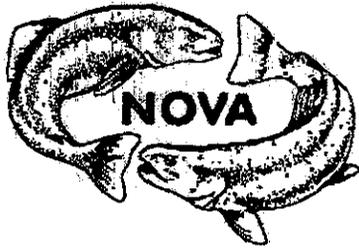
Thank you Honorable Kessler for your time and attention, and please do not hesitate to contact if additional information is needed.

Sincerely,

Salvatore Bramante, President  
F/V Tripolina, Inc.

A-31

00-1134

**NOVA SEAFOOD, LTD.**

P.O. Box 350  
Portland, Maine 04112  
Tel. 207-774-6324  
FAX 207-774-6385

**RECEIVED****MAR 18 2002**CHAMBERS OF  
JUDGE KESSLER

Hon. Gladys Kessler  
U.S. District Court  
District of Columbia  
332 Constitution Ave.  
Washington, D.C. 20001

March 18, 2001

Dear Judge Kessler:

My name is Angelo Ciocca and I hail from Portland, Maine. I am the president of Nova Seafood, a wholesale processor/distributor in Portland, as well as a groundfish boat owner.

You undoubtedly are being inundated with letters and faxes regarding the fishing debacle here in the northeast, and I am going to add my thoughts, since this is the singular most important issue in the fishing industry. The decisions made today will affect generations of people whose lives and livelihoods revolve around the fishing industry.

It is very difficult for me to comprehend the situation in which we presently find ourselves. Today, all of the New England fish stocks are increasing, some rapidly, others more slowly. The industry, both shore-side and on the harvesting end, have suffered greatly to achieve these results. Now that there are positive signs in the effort to rebuild stocks, we are facing the prospect of even more restrictions. Why do the conservationists and the government want to punish us? We did the job they asked us to do, and under great duress.

If adopted as presented by the National Marine Fisheries Service (NMFS), the consequences will be grave for shore-side plants: a significant percentage of the fishing infrastructure will fail, as will a large portion of the harvesting sector. Is that really the goal of the NMFS and the government?

A-30

I realize that you carry the mantle of Solomon here and will be besieged by all sides. I ask that you inject some common sense into this complex issue. Please keep in mind that the fish stocks are recovering. Does it really matter if they are "fully recovered" in two years, as opposed to five years? Can we not leave things in a "status quo" situation, with perhaps some minor fine tuning? We as a country will be better off : the fish will recover, and the seafood industry will stay healthy. I hope that everyone involved in this issue shares that objective.

As an aside, the definition of overfishing in Amendment 9 to the Northeast Multi-Species Fisheries Management Plan, is an impossible demand, and one of the major reasons this lawsuit was able to get this far.

I thank you for your time and consideration.

Sincerely,

  
Angelo Ciocca



Captain William H. Amaru  
PO Box 1019  
South Orleans, MA 02662  
March 19, 2002

The Honorable Gladys Kessler  
U.S. District Court for District of Columbia  
332 Constitution Avenue  
Washington, DC 20001

By fax to: 1-202-354-3442

Dear Judge Kessler:

First I'd like to thank you for the opportunity to speak directly to you through the written word concerning the result of the lawsuit brought against the National Marine Fisheries Service and Secretary of Commerce Donald Evans by the several conservation organizations known collectively as "Oceana". I know you have an enormous amount to read on this case. My thoughts are not typical and I hope you will read them.

I am a commercial fisherman, not a lawyer, activist or scientists. What I have learned came to me through years of observation, experimentation and hard work. I have fished New England waters since 1968 with traps, hooks, nets and dredges. From 1995 until late in 2001, I was a member of the New England Fishery Management Council. I held several chairmanships of committees and worked internationally to foster responsible fishing practices and an ethic of stewardship toward the resource. I dedicated myself during those years to stopping the over-fishing that was rapidly taking away my heritage, the Country's marine fish populations and my ability to earn a living. I am proud to have worked with my fellow Councilors, the dedicated people from the National Marine Fisheries Service, the conservationists who I believed then to be the conscience of our industry and the fishermen themselves. We all had a lot to learn, more to accomplish, and a great burden of responsibility not to lose the great gift the sea provides us: a renewable resource of protein that provides recreation, profit, education and fun to Americans.

You have been provided by now with many differing opinions from litigants, interested parties, States and people like me in regards to answering the concerns raised by the plaintiff. I will not offer anything new to the issue of meeting the standards of the law, which lies at the heart of this lawsuit. Selecting the right mix of fishing constraints, gathering the right amount of observer data, closing the right areas for the right times and fishing the right number of days in a year are but a few of the things as a Council member I struggled to do correctly. I stand by my efforts in that regard and now enjoy (along with thousands of others) a burgeoning fishery as a result. Given the enormity of the over-fishing problem of those times, we accomplished a great deal in a very short time, although, as it now appears, not enough, nor fast enough. Now it is you and those whom you have found in favor of who will attempt to discover the enigma wrapped in a riddle

2

that remains. You will see the very nature of this enigma is to have virtual success in restoring fish stocks and saving the jobs of fishermen and yet fail at fulfilling the law. That is truly an irony of monumental proportions yet exactly what has happened to us.

I will offer the following as my contribution to "a work in progress" (I know Congress did not mean for this concept to be considered, but even Congress and well meaning environmentalists must give some weight to a more omnipotent power, Nature).

1) We recognize the first industry of New England and our Nation is alive, thriving, and improving every day. While not all fish stocks have responded equally to the conservation we as people have fostered upon them, there is more than enough evidence to prove we are moving in the right direction and doing so with resolve. 2) Where there are problems with science, by-catch, habitat, we who have recognized the problems be given a fair chance, a fighting chance to correct them. 3) That the difficult decisions be made in the present and future by those most able to understand the fish and the community of people who live by them, not by lawyers and activists with an agenda derived by balance sheets and membership lists. This Congress did mandate and correctly so.

Judge Kessler, the fishing industries of New England have given up a great deal but not one ounce more than they needed to. Most of us are prospering because of our sacrifices as the testimony you have received has proven. Where we have failed the law of man, we have juxtaposed that failure within the laws of Nature. We have not finished and this lawsuit will remind those on the Councils and who work in management why we are here and to whom we are responsible. I believe you now know all too well the complexity that makes the solution to the problems remaining so elusive and difficult. We often said at Council meetings that it was easier to herd cats than to cure the ills of the fishing industries. You are now given the task of chief cat herd.

I believe you will see the merit in letting the Council process return to its mission and resolve the remaining outstanding issues. Barring that, I hope and pray you select the correct mix of constraints that will allow us to fish and stay profitable yet meet the law as you have understood that law. Your burden is great. If you decide incorrectly, this ancient industry could disappear and some of my fellow fishermen will die attempting to save it.

In closing, please give my industry the time it needs to continue to change itself. We, an industry virtually unchanged for three hundred years, have come so far in the past several decades. Our progress has been difficult yet worthwhile. We remain impossibly independent, stubborn, hostile, beautiful and generous to a fault. We are an American cultural artifact for whom the dream has not faded and who wait patiently for the gale to abate. The skin has been rubbed away from our palms as we held to the line from which we rebuilt our fish stocks. We have so many more successes than failures. Give us the chance to continue our work. We have come too far to give up now.

Thank you.

Captain William H. Amaru, F/V Joanne-A III

*Capt. William H. Amaru*

*The Honorable Gladys Kessler*

RECEIVED  
MAR 19 2002  
CHAMBERS OF  
JUDGE KESSLER

My name is Kenneth Young Jr. of York Maine. I am sending you a copy of a letter that I wrote, and am sending it to the National Marine Fisheries in hope that we can get your support in this mess with the conservation groups, NMFS and the fisheries consul.

Somehow Congress has got to do something to repeal or make a new bill. but somehow Congress has got to get rid of the Sustainable Fisheries Act. It may sound like a good idea, but it will not work. The SFA wouldn't work 200 years ago, and it won't work now. Nature just won't let it work. It doesn't work with the oceans, land or people. Nothing in nature is going to be constant. Even Farmers have to rotate their crops. The same is also done with fish, As one species gets more plentiful than another, we shift to catching that. All the SFA has done is draw a line in the sand so to speak, and give these conservation groups a basis for their lawsuits, saping the financial budget of the NMFS, when the money could be much better spent.. SFA must go !

Kenneth Young Jr.  
125 Clay Hill Rd  
Cape Neddick Me. 03902  
(207) 361-1969

A-28

I realize that NMFS as well as us fisherman are in a delemma over the recent lawsuits brought on by the conservation groups.

As a fisherman of over 40 years, I am wrighting down my thoughts on the matter, and hope it will deserve your attention.

We all know that this overfishing or a good part of it was brought on by government policy through over capitalization and the loan guarantee program. Ever since NMFS has been trying to turn the over fishing around by over-regulating the fisheries, and over complication.

NMFS have made regulation after regulation for the past 20 years or so, and all you have accomplished is over regulate and complicate the fishing industry more and more with useless bureaucracy. For the life of me, I don't see what you have against simplicity.

When you come down to it, escapement is the only thing that makes sense. The lobster industry has more of it right now than any other fish industry., mainly because they have kept NMFS out of it. Also the shrimp industry has done a lot of the same with the use of the Nord more grate. If you want to shut codfishing down completely, that can be done and we could still fish the same areas using a grate modified for catching only flatfish.

I don't see why NMFS always seems to be trying to re-invent the wheel, when all you come up with is a square block.

In the fishing industry, if you want to conserve the resources and have a growing resource, escapement is everything.

At the present time we have a vast amount of codfish coming off spawning size, along with a tremendous amount of small fish at this time. You missed the chance to curb the over-fishing in the late 70's and 80's because you didn't make the mesh size big enough. I don't want to say what it should be, but 7" is probably in the ballpark at the present time; groundfish and perhaps 13" or 14" for monkfish. When you put quotas on codfish that shifted pressure from groundfish to the flatfish stocks. This should have devastated the flounders, but things have turned around, and they seem to be rebounding. We have seen more small dabs and greysole recently, then we have seen in a long time.

NMFS needs to use input data science, but at the present time you seem to be at least 2 years behind. Besides not knowing where to look for fish, you lack the ability to make gear that will catch them. Your researches are not willing to listen to any suggestions. You all should pay more attention to what the fisherman tell you, we are very conservation minded, and we are able to find and catch fish better than your scientists. An example is the joint industry monkfish survey done last year.

If there is any improvement in gear and selectivity improvements made, the fisherman would be at the leading edge. There are a lot of inovations out there, but NMFS isn't very good at attracting them. A lot of the best conservation measures have been used over seas, it has been prefected and seem to be working.

I fish in S.W. Maine, in an area known as Wells Bay. This area is known as one of the best spawning areas on the coast. If you want to protect, it you must look into the coastal towns sewerage systems. It just isn't possible to dump all this clorine treated

sewerage into the ocean without killing the spawn and the microscopic feed it needs to survive.

When NMFS put in the days at sea program, you didn't need it all it did was complicate things. You really don't need the call in service or the log books either. You already get weigh-out slips from the auctions and buyers.

If this proposed plan goes through, it will devastate the small inshore boat fisherman. It will cripple the infrastructure as well.

We can't survive on 22 days for the summer. Most of us have boat and house mortgages, as well as boat and health insurances. There is absolutely no reason for us to be engineered out of business. There are plenty of fish, all you need is mesh regulations to meet your objectives. It seems simple, but it should work.

Following is a few suggestions;

1. groundfish and flatfish 7" mesh ( if you go to 7'', first make it mandatory in the cod end and extension, then set a date for compliance in the net body, say a year)
2. Monkfish 14" mesh
3. Do away with collecting duplicate statistics
4. Leave days at sea as is
5. Get rid of call in service
6. Send out several 2 man teams to check nets and mesh size
- ~~7. Keep rolling closures, but do not overlap them. Do not~~
8. keep the G.O.M. closure, but do not close Cashes ledge year around.
9. Make the recreational fisherman accountable also, make them

go to bigger size hooks, plus a bag limit.

10. These things should give the fish the ability to escape, that is the only reasonable answer. Escapement is everything.

Thank you and Good luck

Kenneth Young Jr.

F/V Judy Marie

Erik Anderson  
38 Georges Terrace  
Portsmouth, New Hampshire 03801  
(603) 431-1779  
Fax - (603) 436-6741

The Honorable Judge Gladys Kessler  
U.S. District Court  
For District of Columbia  
332 Constitution Ave N.W.  
Washington, D.C. 20001

April 19, 2002

Dear Judge Kessler,

This letter is intended to hopefully inform you on a variety of issues that exist in the *CLF vs. Donald Evans* case that you preside over. While the fishing industry of New England waits for the outcome of this case the anxiety is immeasurable.

First, we applaud and commend you in your decision to instruct the litigants and interveners to go through a mediated process that would explore if there was a common remedy that could be presented to you. As you are well aware, this process did not find common ground amongst the variety of parties that existed and that was unfortunate. I believe it really exposed in detail the difficulty of producing a fair and equitable solution.

Out of this effort came a remedy presented by NMFS, the N.E. states, and some industry groups. We have had the opportunity to see that remedy and translate the specific recommendations to reality in its effect upon the recipients.

- 1) The recommended closures that have been submitted (areas 124 & 125 in May and 132 & 133 in June) will unquestionably and inequitably effect communities that have born the brunt of already existing closures (60+ days) and now add an additional 30 day period on top of that. The fishing communities of northern MA, all NH, and southern ME will have little if no opportunity to leave the dock. Please be aware that the industry groups that supported this recommendation do not fish in these areas and are unaffected by their closure. The viability of the vessels and their infrastructure components will be threatened in a manner that will probably be beyond their

ability to endure. It appears unfair in this remedy that a certain geographic area has consistently been called on to bear the brunt of the regulatory consequences.

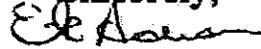
- 2) Please do not assume that all individuals will take a 20 % reduction from their opportunity to fish (aka Days at Sea). Many vessels will bear 30% – 70 % and greater reductions because the baseline years of 1996 – 2001 represent a period of time that is incorrect to measure fishing history. Fishermen who followed the directions of management and redirected their fishing practices away from depleted groundfish species are the ones that are penalized for acting responsibly. These are fishermen who did not use all their DAS because other fisheries did not require it and now must select their best year between 1996-2001 and take an additional 20% off of that. This measure is unquestionably not fair. The other fisheries that they entered are now closed or under regulatory restraints leaving them no where to go except into the abyss of regulatory chaos. These fishermen will not only loose their boats but also their homes where the mortgage is tied to the vessel.
- 3) While many fishermen are not resistant to the mesh changes that have been recommended there is no reality in expecting that they can convert to the increased sizes as of May 1, 2002. Most if not all fishing nets comes from overseas and there are virtually no net manufacturers in the domestic US. Time, preparation, and coordination in acquiring the increased nets take at minimum 3-6 months. Once received and depending on the fishery type conversions could take an additional 2-3 months because of the labor intensive process. Please do not think that any of this can be accomplished before May 1, 2002 and once again know that we are not completely resistant to this conservation measure but need realistic time frames for accomplishing it.
- 4) I have talked with many of my fishing colleagues on the remedy submitted and feel there is a responsibility to let you know the true meaning. All that anyone would expect out of this difficult process is that there be equitable and fair measures. We are very weary and discouraged that this has been the outcome of a gracious opportunity presented by you but manipulated by the convening parties.

**I have taken the opportunity to write to you on a previous occasion and have heard that you have also taken the time to read the multitude of correspondence that has been written to you. I applaud you and thank you for what you have done.**

**Finally I want to convey the sentiment of myself and other fishermen who have engaged in this issue and had the ability to survey it from their experiences and knowledge. The issue at hand is not about fish. It has been presented, explained, and argued under the disguise of fish. What is at hand is about law. Human created law that was constructed with good intentions that is now producing the intended results but not within the human constructed timelines and now tested because of the impatience of the environmental perspective. There is no rigid formula that can be used in managing a wild resource because we do not know the ways and means of mother nature. We can only do our best and unfortunately that will be imperfect. As long as we know we are making progress, and we are, there has to be flexibility in understanding and crafting equitable solutions.**

**I want to thank you for your time and understanding on this difficult issue and hope that you can see in your heart a fair solution.**

**Sincerely,**



**Erik Anderson**

**New Hampshire fisherman**



# PORTLAND FISH EXCHANGE, INC.

*All-display fresh fish auction.*

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Portland, Maine 04101  
ph (207) 773-0017  
fax (207) 871-8013  
www.portlandfishexchange.com

**Norman L. MacIntyre**  
General Manager  
gm@portlandfishexchange.com

March 19, 2002

The Honorable Gladys Kessler  
U.S. District Court for the District of Columbia  
332 Constitution Avenue  
Washington, DC 20001

Re: Civil Action No. 00-1134 (GK)

Dear Judge Kessler,

Thank you for the opportunity to express my concern about the potential economic and social impact of the fisheries management case referenced above.

We are a publicly owned fish auction in Portland, Maine, serving particularly the multispecies groundfishing industry operating in the Gulf of Maine. We landed 24.6 million pounds of fish at our facility in 2001, of which 11% was cod. Our auction serves approximately 250 individual fishing boats (trawlers and gillnetters, mostly) and 27 buyers, including local and regional processors and distributors.

The Maine fishing community has been in the forefront of conservation efforts to protect the groundfish biomass. We understand that conservation and fisheries management are necessary for the long term health of the species and our economic welfare. With this in mind we strongly support the rapid development and implementation of Amendment 13. Most observers and industry participants feel that Amendment 9 is fatally flawed, particularly with respect to the confusing and imprecise way that overfishing is defined. Maine's Senator Olympia Snowe, who was one of the drafters of the original legislation, has expressed this concern to William Hogarth at NMFS, seeking a more reasonable remedy than that currently proposed by NMFS.

The actions being proposed by NMFS would have a devastating impact on the Portland Fish Exchange, because they would effectively close the groundfishery in the Gulf of Maine for at least six months. Since Amendment 13 is being worked on vigorously by the New England Fisheries Management Council (NEFMC), I respectfully suggest that maintaining the status quo for several months is in order to allow the NEFMC to finish their work and allow our fishermen to pursue their livelihood in the meantime. Since the biomass is known to be recovering well at this point and under the current level of effort, it is hard to imagine that irreparable harm would be done by such a decision.

Respectfully,

RECEIVED

MAR 25 2002

CHAMBERS OF  
JUDGE KESSLER

A-26

CLF  
00-1134

**DENNIS P. ROBILLARD JR.**

38 River Rd  
Elliot, Maine 05903  
Home: 207-439-7494  
Fax: 207-439-1004  
Cell: 207-252-8388

Adrieter@aol.com

RECEIVED  
MAR 20 2002  
CHAMBERS OF  
JUDGE KESSLER

March 20, 2002

Dear Honorable Judge Gladys Kessler,

My name is Dennis P. Robillard Jr. I live in Elliot, Maine and commercially fish out of Portsmouth, NH. I have a wife and two children ages 6 and 3. My wife and I own two fishing boats, which I captain. The reason for two boats is it is hard to make a living on just 88 days. So we extended ourselves financially to buy the second boat so that I could still make a living doing what I love to do most. It is been a struggle but we seem to keep our head out of water (sort a speak). I have fished for 14 years, 19 when I started, and I have seen a lot of things in that time. For example, there where no regulations in place, most boats were fishing 5-7 day trips with 120-140 nets and catching 10-15 thousand pounds per trip. Now boats are fishing 4-5 day trips with 100-120 nets, with bigger mesh, and catching double the amount. My point being that the current regulations we have in place work, they really are working. I am extremely excited about the future of fishing but we as a fishing industry cannot get people to believe what we know is true, we spend our lives on the water. Who better to ask then a fisherman how the fish stocks are doing? Science is supposed to be a proven and I cannot see where any of the science in this case has been.

I do not agree with the regulations that are put forth by the State's of ME, NH, RI, and CT (with the exception of MA, I have not read their proposal). They are not backed by any fishermen that I know or any businesses that have dealings with fish or the fishing industry. I also do not agree with the other proposal by the Conservation Law Foundation. Anything other than what we have in place now is going to be devastating not only to my family and me but to other families and other businesses that depend on us to provide them with seafood. I wish you had more time to come and see first hand what I am talking about.

I also realize that in order to have a robust fishing ground we must harvest them responsibly and I am confident that is what is being done now with the current regulations. I want my son or daughter to be able to be a fisherman or fisherwoman if they so choose to be.

National Marine Fisheries service has plenty of data, but they make one big mistake, fish have tails and are going to swim to where the food is. So when they make the same sample tow in the same spot year after year it is not accurate because fish will travel to where there is food. We might have a great fishing trip for two years in a row where we fish the same place during the same time of year but the third year there might not be anything there, for that ever reason god only knows? There are a lot of factors to what make fish go to certain spots one year and not the next. I cannot figure it out and I spend my life on the water. I cannot see how spending very little time on the water with the wrong fishing gear can justify that we really have for a resource, to me that is wrong! We need more interactions with the fishermen. See what kind of gear we are using, go to the same spots we fish basically do what we do.

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I am sorry to be so long winded and I am sure boring, but the fact is we do not need any more restrictions! The fish are on the rebound and if you talk to more fishermen they will say the same. Fishing is my way of life something I love to do, more restrictions could put others and me out of business completely.

In closing, I would like to thank you for your time on this matter. This judgment will affect tens of thousands of families, please have mercy. If you would like to talk with me please feel free to call; I will do my best to answer any questions you might have.

Sincerely,



Dennis P. Robillard Jr.

**MULTI GEAR, INC.**  
**Capt. William Doughty, President**  
**P.O. Box 4**  
**Orrs Island, Maine 04066**

March 20, 2002

Honorable Judge Gladys Kessler  
U. S. District Court  
District of Columbia  
332 Constitution Avenue  
Washington, D.C. 20001

Subject: Federal Regulation of Groundfishing

Dear Honorable Judge:

I am a commercial fisherman from Maine. At the present time I have a three boat fishing operation. This operation employs three other captains, eleven full time employees ranging from shore engineer to bookkeeper to deck hands and other part time deck hands. The knowledge of this crew includes 125 years of groundfishing skill and experience.

I am including the following information to point out timeframes within the fishery and laws disobeyed or skirted by National Marine Fisheries Service (NMFS) and environmental groups, when convenient to their cause, namely the Conservation Law Foundation (CLF).

The boats involved in my operation include a 45 foot fiberglass boat. This boat is presently used as a gill netter, but was designed and constructed as a long liner. This construction started in 1990 and was finally completed in 1994 due to the lack of available funding at that time which was a direct result of fishery restrictions. The 45 foot boat is unique in that it is one of the measures touted by CLF as a means of answering the overfishing problems. CLF, using NMFS science and statistics, showed that 13% of fish were caught by vessels 45 feet or less. Also at that time, boats 45 feet and less, as well as long liners, were to be exempt from all existing and future fishing regulations, other than size limits of fish. This exemption was taken away in 1995 and since that time the fishing days of these little boats have been counted in with the fishing effort; the same as a 1,500 horse power, 130 foot stern trawler. (Figures don't lie but liars can figure).

The other boats in my operation include a 76 foot steel stern trawler, built in 1981 and a 78 foot steel stern trawler built in 1982. These 2 steel boats were built under the Tax Investment Credit Laws with the blessing of NMFS and its eager southern New England lending institutions (since 1977 direct loans by the National Marine Fisheries could not be made to the ground fishery). Direct and guaranteed loans were made with sound

science that backed up their decisions. NMFS told bankers that a new fishing fleet would be as good as printing money. An investment group was formed (1981-1983) to take advantage of this opportunity. The group consisted of two lawyers, one insurance broker; one furniture store owner; three shipbuilders; and two fishermen. There were 3 steel scallop/fish dragging combination boats built for this investment group. I did not join this group until late 1984 at which time I still had a 60' wooden boat that I operated. From 1964 -1986 I owned 3 wooden vessels ranging from 50 foot – 65 foot in length which were all fish draggers.

NMFS' science was sound in design of building the big fleet of American boats as a management tool after the expulsion of the huge foreign fleet due to the 200 mile limit. By the construction of this huge fleet in the early 80's, and the subsequent loss of all of Brown's Bank, the most productive part of Georges Bank, and thousands of square miles of the Gulf of Maine by the World Court Decision which gave all of this to Canada, overfishing did occur from the time of the Haag Line which was a World Court Decision. This forced the big fleet into a much smaller area, which was the cause of the overfishing. I would like to add that the first closing of the Georges Banks, was illegally kept closed after two 90-day emergency measures had expired and allowed by Magnuson. *CLF did not complain about that.* At present there are still tens of thousands of square miles of permanent or spawning area closures.

The other unique feature of my present day operation of 2 steel boats is that 3 boats were constructed of which one became part of the Government Boat Buyback Program, the proclaimed end all to further restrictive regulation. At the insistence of the partners, I placed all three of the partnership owned boats in this Program. The largest boat, *F/V Prowler*, fishing 161 days at sea, was chosen. This Program bought back 79 boats with their multi-species permits. The total days at sea which were removed totaled 9,500+, along with 483 other permits. These boats had to be scraped or sold to nonprofit organizations. Through the 2002 Reduction Act, 245 permits and 21,500 multi-species days at sea were bought back. These figures were reported to me on 3/18/02 by Dan Morris of the NMFS. Currently, the funding of another \$10 million Buy Back of permits only has passed the Senate and is presently in the House. With this Buy Back another 15,000 – 25,000 days at sea could be retired forever.

I have witnessed the *Sky Is Falling* mentality of just and *unjust* fishing regulations. One only has to look back at the history of Magnuson in 1972. It is here that Senator Ted Kennedy of Massachusetts stated that the haddock stocks had been diminished to an unretrievable level. And here, like the haddock stock, which are rebuilt, the commercial fishermen have kept going much like the Energizer Bunny. Additionally, every time there were mesh increases there were naturally huge down turns in numbers of fish landed, but *because of the down turns, they asked for more reduction.*

This survival has not been without untold hardship. For every fisherman that has survived, two have gone out of business. Due to severe restrictions, twelve men in the past two years have drown in our Portland area because of lack of boat maintenance. These restrictions include three mesh increases, fish days cut in half; reduction of fish size limits and total pounds of fish per trip as well as a major restriction and closing of

huge fishing areas. Two of these twelve men lost at sea, Carl Minot and Jeffrey Martin, were displaced from my operation by the Government Buy Out of *FIV Prowler*. The *Prowler*, was a safe seaworthy vessel, yet both of these fisherman were lost on rundown small boats.

My skippers and I can only claim doctorates in the fishing industry by the lines in our faces. We can unequivocally, with more firsthand knowledge of actual science, report that the fish stocks, including Gulf of Maine cod, *have recovered and are building at a rate that you could not build boats fast enough to keep up with*. I would like to add that our neighbor, Canada, respects fisherman's skill and expertise as professional scientific data.

The NMFS has not had the will or the ability to defend the fisheries due to 60+ lawsuits in the Northeast Region alone. Without that voice, a *Sky Is Falling* crowd has developed and is spurred on by environmental groups with information that has been wrong and IS wrong. Although NMFS knows the stocks are fine, they have not taking a more measured biological and financial approach to the fishing industry since the first CLF lawsuit.

All the restriction measures mentioned previously in this letter are more than enough to keep the stocks growing. The arbitrary number that is before your court, and the draconian measures as remedy by both CLF and NMFS, will put the surviving fisherman and boats right back into the economic conditions of the early 1990's, where trade debt will build, preventive maintenance will be non-existing, and in another 4 or 5 years another bunch of boats and fisherman will be lost.

### SUMMARY

1. With the current regulation, including latent permits still in existence after the Buy Out, as well as days at sea counting equally, ***THERE WILL BE NO OVERFISHING WHATSOEVER.***
2. The current fleet is already one third the size of the fleet of the 80's.
3. The fishing stocks are improving under the current regulation.
4. Overfishing occurred with NO days at sea restriction on the fleet; NO fish size limit; and with a 4 1/2 inch mesh size.
5. The average retention rate of the 19 inch multi-species fish with a 4 1/2 mesh would be between 84% - 94%. With 6 inch mesh, the retention rate would drop to 9% - 12% of the same fish. (Currently using 6 inch mesh)
6. Many boats were sold to insurance companies (sunk of purpose) before the restriction, but never included in the count. (at least 100)
7. Costs associated with litigation are crippling resources for scientific data collection and reporting by NMFS. We CANNOT allow trust and foundation funding to provide strategies for designed outcomes.

In closing, I am asking that you leave the fishery at status quo, until more hard science can be gleaned from the Government Buy Outs and proven scientific analysis is available.

Thank you for taking the time to consider my testimony. I look forward to the opportunity to discuss this further with you in detail. You can contact me at 207-833-5183 or cell 729-2038 (fax 207-833-6708).

Sincerely,

A handwritten signature in cursive script that reads "Bill Doughty". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

William Doughty  
President  
MULTI GEAR INC

WD:lm

cc: President George W. Bush  
Maine Delegation

00-1134

CLF

**The Gulf Of Maine Fishermen's Alliance Inc** RECEIVED

**P.O. Box 1477**

**Manchester-by-the-Sea, MA. 01944**

March 20, 2002

MAR 20 2002

CHAMBERS OF  
JUDGE KESSLER

Honorable Gladys Kessler  
U.S. District Court  
4 District of Columbia  
333 Constitution Ave.  
N.W. Washington DC 20001

Dear Judge Kessler,

The Gulf of Maine Fishermen's Alliance (GMFA) deeply appreciates your thoughtful deliberations on the issues placed before you. We are certain that you have been inundated with graphs, formulae, figures, and projections. It is comforting to know that you probably find all of this as bewildering as we do. Consequently we have no intention of presenting you with any numbers or pictures.

It has become increasingly apparent to both fishermen and managers that we are on the right track. Regulations and their associated sacrifices are paying off. In many cases, positive results have been achieved in a surprisingly short time. The Multi-species Complex Bio-mass is dramatically and consistently increasing. Projections indicate continued growth leading to long-term sustainability. In most species, rebuilding will be completed well within the time frames required by The Sustainable Fisheries Act (SFA). Clearly, the Plaintiff's assertions of collapse and extinction are not supported by the facts.

A-23

We are fully aware that we are not out of the woods yet. Continued vigilance is essential to keep us from slipping backwards. Inherent to this surveillance is frequent adjustment, which is the domain of The New England Fisheries Management Council (The Council).

At its December meeting The Council invoked SFA in its purest form, striking a balance between the needs of the resource and those of the community. Fully realizing the potential for the calamity in which we now find ourselves, The Council voted its conscience, and legally so. Had Congress not intended to allow regulators the ability to make qualitative decisions, it would have deleted The National Standards from the management process. This may lead one to conclude that The Plaintiff's case, built solely on quantitative interpretations of SFA guidelines, is no more valid than if fishermen were suing for no regulations at all, based solely on socio-economic considerations.

There is still a tremendous workload ahead of us. The potential for additional cutbacks is always present, but at this time unjustified. We must focus on restoring a level of fairness and equity to regulations already in place, as required by law. Amendment 9 overfishing definitions must be re-assessed, given the widely acknowledged uncertainty as to their validity. The arbitrary increase in the target for Gulf Of Maine Cod, which was recently tripled, must be thoroughly investigated. Amendment 13 is the vehicle for all of these adjustments. It is to that end that our energies must be invested.

The involvement and support of the fishing community is the essential element for success. Their concerns and knowledge must never be ignored if sustainability is to be achieved. The remedial proposals of the Plaintiffs and The Fisheries service are unacceptable and unnecessary. They will lead to the elimination of thousands of jobs. These proposed "solutions", to a problem that doesn't exist, will destroy families, careers, communities, and, most importantly, lives. We ask "why?". Would one ever consider driving through a school zone at 100 miles an hour simply to get to work on time?

Well, Your Honor, I'm sure you've still got reams of material to read so I'll wrap it up. I apologize for slipping in a few numbers but there weren't any pictures. Our Future is in your hands. May God grant you the wisdom to make the right decisions. There is one thing I'm certain of. I'm sure He's glad He's not in your shoes.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul J. Cohan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Paul J. Cohan, Pres. GMFA



One Portland Fish Pier • Portland, ME 04101-4601  
Tel. (207) 772-5718  
FAX (207) 772-2512  
vservic2@maine.rr.com

RECEIVED

APR 10 2002

CHAMBERS OF  
JUDGE KESSLER

March 20, 2002

The Honorable Gladys Kessler  
U.S. District Court for District of Columbia  
332 Constitution Avenue  
Washington, DC 20001

Judge Kessler,

I am part owner and President of a small ice, fuel and fishing gear company, located on the Portland Fish Pier. We supply all of the ice, most of the fuel, and a significant amount of fishing gear in the Greater Portland Area. We also have fishing gear customers from East Port (Canadian Border) to Portsmouth, NH. As one might guess, when the fishing industry catches a cold, we catch pneumonia.

One can not manage all groundfish species at Maximum sustainable yield. Nature does not work that way. The entire biomass has been increasing sharply since 1994. Maine fishermen in the Gulf of Maine do not target or catch a significant amount of cod fish, approximately 5% of their total catch is made up of cod. There are good reasons for this, all the bottom that cod congregate in are now closed to fishing, cashes ledge, rolling closures, western Gulf of Maine closed area and the entire coast of Maine, voluntarily closed by the State of Maine, to the 3 mile line. (See attachment) The Maine coastal closure alone represents hundreds of square miles of closed spawning and juvenile areas of all species. No other state in the Northeast has made that commitment.

These draconian fisheries regulations (6 ½" diamond and 7" square in mesh size, and limiting fishermen to 22 days fishing from May to October!!) will only incrementally increase the rate of recovery of cod fish stocks. It will however decimate the fishing fleet in Maine. Theses small fishing vessels that traditional fish most of their days during these mild weather months will be forced to fish during harsh winter weather months (Nov-Apr). Let's be perfectly blunt, we will see dead fishermen as a direct result of these proposed changes in the fisheries regulations. Additional my vendors of twine tell me it would take 3-6 months to react to the increase in mesh size.

Vessel Services has 13 employees, I can predict loss of at least 6 jobs and possible 7. One will see fishing infrastructure along the Maine Coast disappear. In Maine, we have seen the result of over regulations, in the loss of prime fishing related waterfront property, convert to non-fishing uses. One only has to visit the traditional Maine fishing communities along our coast, what was once a thriving fishing community is now a community of Marinas, condominiums, and expensive coastal homes.

The stated goal of government is to preserve the commercial fisheries (see attached graph) and they are doing a good job. The ground fish stocks are doing quite well; however the fishing industry we need to harvest this resource is about to be dealt a death blow.

One should always be concern about this wonderful resource we have but we must not loose sight of the HUMAN factor.

The Environmentalist are crying WOLF again, someone has to step in and say "Whoa".

As long as the ground fish stocks are increasing every year, is it important to complete this recovery, to a laudable goal, in ten years; why not 20 years or 25 years, as long as the trend is up?

Justice is all the industry asks, put fishermen on the same level of sustainability as the fish!!

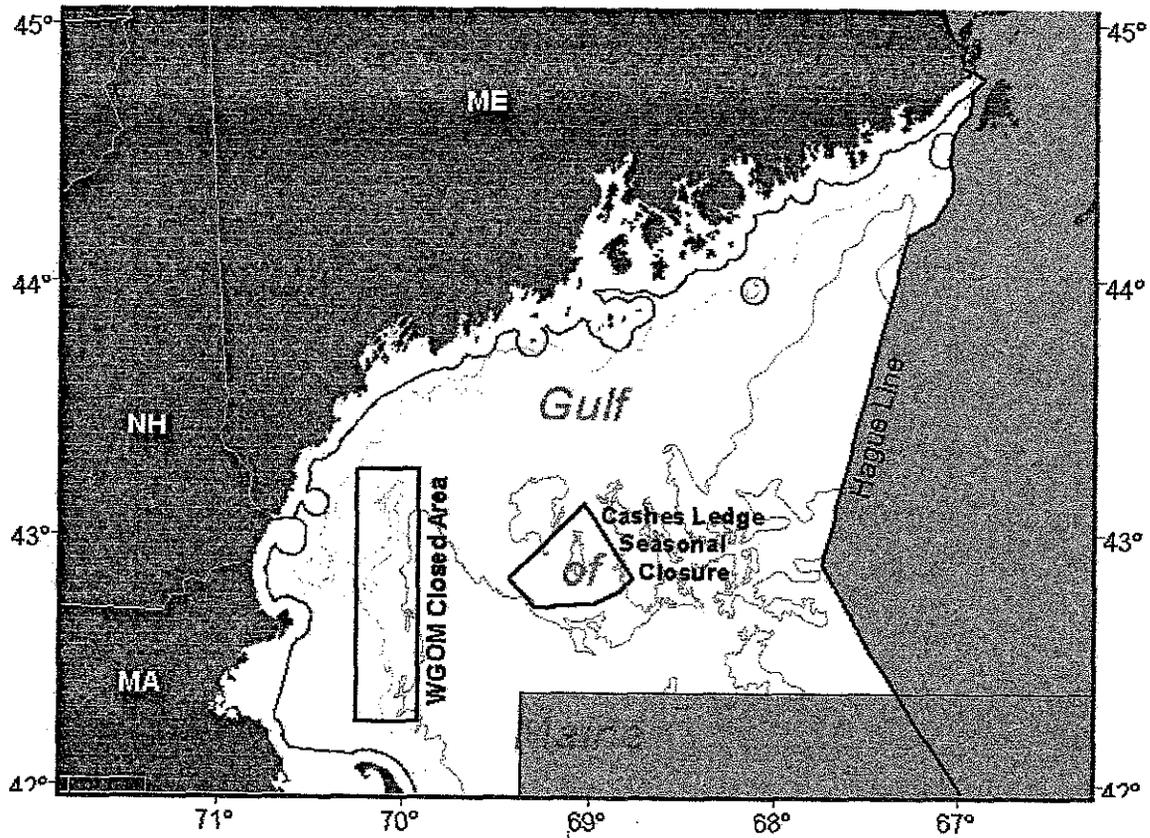
Sincerely,



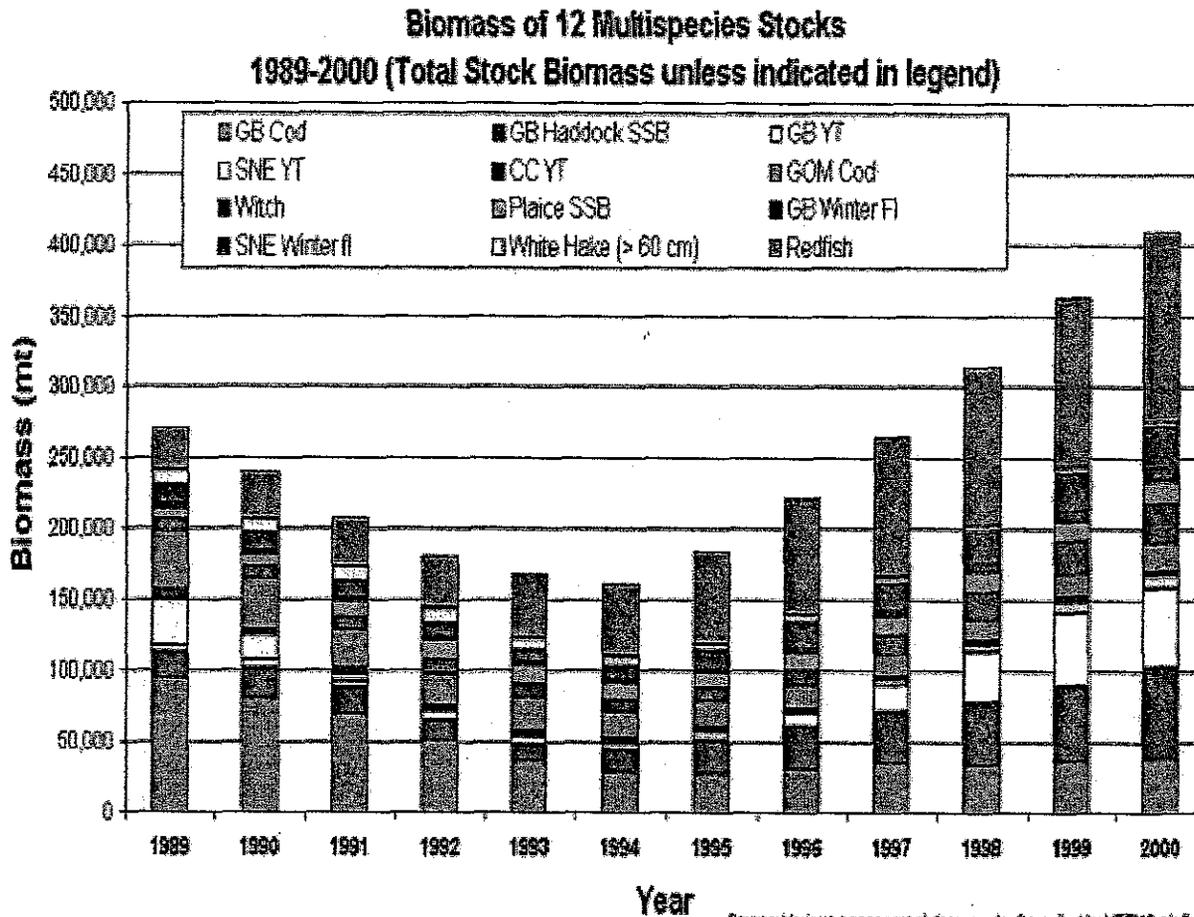
David E. Leeman  
President

Attachments: Bargraph of Multispecies Stocks  
Map of Maine

**Gulf of Maine Cod Stock Area showing Western Gulf of Maine Closed Area and  
Cashes Closed Area as well as Maine State Waters**



Note that Maine State Waters are closed to Groundfishing with the exception of part of the Northern Shrimp season – in the winter. The Cashes Ledge area is currently closed 6 months to trawling and 7 months to gillnetting when the Seasonal Closure, rolling closures and the gillnet closure are combined. The WGOM Closure is year round, seriously impacting southern Maine fishermen.



CLF  
RECEIVED

Barry Bush  
7 Island Avenue  
Kittery, Maine 03904

MAR 22 2002

CHAMBERS OF  
JUDGE KESSLER

RECEIVED  
MAR 22 2002

CHAMBERS OF CHIEF JUDGE  
THOMAS F. HOGAN

March 21, 2002

Judge Gladys Kessler

FAX#: 202-354-3422

Dear Judge Kessler;

It is our understanding that comments and proposals regarding the Gulf of Maine Fishing Regulations are due in your office by March 22, 2002. We hope you and your staff will accept this fax and consider our thoughts on this most complex issue. I write you only to discuss a segment of the industry that I feel will be lost in the shuffle so to speak.

The problem I would discuss is access to the Gulf of Maine closed and open areas, as they may evolve for the charter/party boats and the recreational fishers. I realize the problems associated with the present commercial fishing regulations and the implications of an agreeable plan. However, the root cause of the problem and its ultimate solution is not the charter party fleet nor is it the recreational fishers.

The actual overall take of these groups is minuscule compared to that of the commercial fleet. Further, the public's so called 'right to access the ocean and it's bounty' from catching to eating is only done by these groups. The Charter/Party group allows citizens who come from afar or who do not have boats to access the resource and the recreational segment are typically those who have boats and have direct access to these resources.

It is my belief that the present regulations of size limits, letters of authorization to fish in closed areas and recreational bag limits as now imposed are sufficient to meet the reduction. The mortality of undersized fish and by catch is of concern. Our anglers are instructed to bring fish slowly up and to handle them with care. Our hook fishing allows for better than 90% of the fish that are released in this manner to swim away healthy.

Statistics show that most only keep 3 - 4 fish. However the perception to catch and keep more is what brings people to the charter party boat fleet as well as the fact that those who do not have direct access (own a boat), buy a ticket or charter a boat to catch and utilize the resource, but can only afford time to fish on vacation or once in awhile. We as responsible captains and boat owners, insure that only what is to be consumed at home is taken and our guests practice catch and release for the majority of the trip.

Since some controls have been in place, we have seen haddock come back (some said 6-8 years ago that they were commercially extinct in that there weren't enough to commercially target.). In fact, we saw very few caught; now we see more than ever. Cod are also on the rebound from our own anecdotal observations.

A-21

# HARBOR FISH MKT. INC.



*Highest Quality Seafood Producers*

9 Custom House Wharf Portland, Maine 04101 207-775-0251

RECEIVED

MAR 26 2002

CHAMBERS OF  
JUDGE KESSLER

The Honorable Gladys Kessler  
U.S. District Court for District of Columbia  
332 Constitution Ave.  
Washington, D.C. 20001

March 21, 2002

Your honor,

It is not often I sit at a computer and compose a letter, especially about the law. My family has owned and operated our Fish Market for over 30 years, and there has been a fish market in our building for over 130 years. We employ over 30 people of which over half have families. In my memory we have had years of tremendous growth, years of recession and in the past 10 or 12 years we have lived with many regulations which have forced us to downsize twice ( layoffs and changing facilities to smaller buildings ). We depend on the fish that our local fishermen harvest to process for our local customers and for suppliers across the country. During these past "conservation years" we have taken the long view, supporting most of the measures taken, including thinning the fleet, increasing mesh sizes, closing spawning grounds, and limiting fishing days. After talking with many fisherman during this period we feel confident the stocks are returning. We hear so many stories from them about the large stocks of immature fish out there, that we now feel that there is a bright future again for our way of life. For the last 10 years we have adjusted and readjusted knowing it was for the good for the future. The fish stocks have rebounded wonderfully, as anticipated, even though it may not be to the letter of the law. We may need to tweak the plan and make some minor adjustments as we go allowing the industry to operate just as any other industry, however we don't need to close the door. To swing the regulation pendulum so far out as to be destructive to the industry is not good common sense.

I must admit I do not know all the nuances of the law and all the particulars of all the issues. I do know that the conservation extremists that are not part of the fishing community are exactly that ... extremists, and that the fishing community that want to self regulate want one thing only; a way of life now and that same way for the next generation. These fishermen want a future and they know best how to guarantee it. It seems to me whenever anything goes to extremes it is harmful and some of the proposals I have seen over the last two weeks are beyond harmful, they could be devastating.

I urge you to listen to the fisherman, tempered with your own good judgment.

Thank for your time and commitment,

A handwritten signature in black ink, appearing to read "Nick Alfiero".

Nick Alfiero, owner.

A-20

**March 22, 2002**

**Dear Judge Kessler,**

**My husband and I own (trying to make payments on) a 45 foot fishing dragger, homeport Port Clyde, Me.**

**I am writing to you in hopes what you have received all the correct information on our situation with the fishing industry here in New England. There are fish in the sea and plenty of them. We hope that your data shows you what we already know.**

**If I could give you a bit of advice, this would be it. Please make sure the information before you is correct and updated. Sometimes people only let you see what "they" want you to see.**

**We have worked hard for many years in this business and this is all we know. Our village is small and if we and other fishermen are put out of business, many others will fall too. For instance, fuel co. marine stores, small grocery stores, banks(lose\$), insurance co. ice co., etc. This will be a domino effect.**

**Welfare will be a huge issue. If our business is taken away from us, we will be standing in line with many others. My husband has always been the main money maker in the family, we chose for me to stay home with our kids and work part-time, but now I have two jobs and looking for a third. My two children 12 and 16 have part-time jobs and it breaks my heart to even think about college in the future for them, scholarships won't cover all the expenses.**

**I am very scared at this point. This is a matter of making a living; it is also a matter of survival. We are not fancy people that go on vacations and have fancy things. We just want to feed our family and make our payments. Regardless of all the regulations, we are still here, but not for long. If anymore is taken away from us "we will not survive"! We need your help, not your sympathy. Please do what is right by letting us fish. Please...no more regulations! As I said before, the fish are here and coming more and more, please let us do what we do best.**

A-19

**Writing to you as a mom, I am scared for my children's future. They are great kids, never in trouble and we cannot keep this a secret from them any longer. They are scared too. If our way of life is taken away, what will I say to my kids?**

**What if this was your son or daughter's livelihood?**

**Thank you for listening.**

**Sincerely yours**

*Melony Cushman*

**Melony Cushman**

**Melony Cushman  
P.O. Box 356  
Port Clyde, Me. 04855**

**Home phone #(207)372-8081  
Fax #(207)372-8035**

March 22,2002

RECEIVED

MAR 25 2002

CHAMBERS OF  
JUDGE KESSLER

Dear Honorable Gladys Kessler,

My name is Randy Cushman, my wife and I own a 45 foot groundfishing vessel. We live in Port Clyde, a small fishing village along the Maine coast. I am the fourth generation of fishermen in my family and with what is being proposed for May 1<sup>st</sup>, probably the last. Port Clyde is the second largest port in Maine for groundfishing vessels. Our vessels are only designed and built for groundfishing so we have no other options. We have lost our flexibility to go into other fisheries due to limited licensing and permits. For the last seven years, since the new regulations started, we have barely been able to make a living. With the lawsuit and what is being proposed for May 1<sup>st</sup> we will definitely go out of business. Port Clyde will no longer be a fishing village.

What I don't understand is why this is happening. In the last two to three years we have seen an increase in the fish stocks. Although we have seen an increase in our fish catches we are making less money due to poor markets or loss of markets due to regulations. In the last seven years there has been more than 50% reduction in fishing efforts due to days at sea, buy back programs, increase in mesh size, closed areas, notred grate for shrimp nets and fishermen going out of business due to the new regulations. How can we call this over fishing? There are very few of us left.

I believe that if left at status quo, in five years we will meet our goals. Do we really need to put fishermen and communities out of business to reach these goals? Where is the humanity?

I hope it is not really the will of Congress to put us out of business. I thought we still lived in America where we have the right to make a living. Now I am not so sure. Fishing is a way of life and I am hoping that that will not change. Please do the right thing.

Sincerely Yours,

Randy Cushman/Owner-Operator of F/V Ella-Christine

207 372 8081

P.O. Box 356 PORT CLYDE, ME 04855

A-18

RECEIVED

MAR 25 2002

CHAMBERS OF JUDGE KESSLER

March 23, 2002

Dear Honorable Gladys Kenner,

My name is Patricia Cushman. My husband and I live in Port Clyde, Maine. It is a small village built from generations upon generations of fishermen. My husband Michael is a lobsterman and a draggerman, and our immediate family are all fishermen.

We are writing to you today, pleading for your help. Our way of life is coming to an end, and it seems that we have no way of stopping it. We are desperate for help. We seem to be fighting an uphill battle to save our livelihood and our lives. Not only OUR lives, but the lives of our families.

With the new regulations that are being proposed, it seems that we are doomed. The proposal that is coming up on May 1<sup>st</sup> is our worst nightmare come true. To limit our ground-fishermen to only be able to fish 22 days during the May to October season is suicidal! We will never survive the impact of this proposal if it passes. There ARE other alternatives out there. Take for instance the permanently closed areas to ground fishing. There are now 4 of these areas. If we added maybe 2 more, say in the midcoast and downeast areas and leave all of the other regulations intact, within 5 years you would see a noticeable difference in the fishing stock numbers! There are so many alternative plans to work with (other than the shorter season) that COULD work if given a chance. Other alternatives less drastic than the one proposed for May 1<sup>st</sup>.

Please help us find an answer that we can ALL live with. Not one that will ultimately wipe out our way of life. We have nothing to fall back on! We have no one to turn to! Help us come up with an answer that will not mean the end of our heritage, our way of life, our survival. We are pleading with you to PLEASE consider what this may mean to us as human beings!

Thank you for taking the time to read our letters. We hope that this gives some insight to our desperation in this matter.

Very Sincerely,

Michael + Patricia Cushman

Michael & Patricia Cushman

P.O. Box 313 PORT CLYDE ME 04855  
TEL 207 372 0591

A-17

RECEIVED

MAR 29 2002

CHAMBERS OF  
JUDGE KESSLER

Dear Honorable Judge Kessler,

I am writing this to comment on the recent lawsuit against National Marine Fisheries Service.

I believe that National Marine Fisheries Service has not been collecting enough data on the Gulf of Maine fish. As an active fisherman and lobsterman in the Gulf of Maine I have seen a steady increase in cod, in the past seven years, both in my nets and in my lobster traps. I have been in close contact with many of the members of the New England Council and have suggested that they insist on hiring observers to go on different vessels to count and measure the different species of fish. I was told that it just was not possible because there wasn't any money to spend on New England's depleted fish stocks. I find it frustrating that there is a 50,000-pound haddock trip limit and the Gulf of Maine haddock are 'supposedly' 80% restored but I am lucky to catch 100 pounds per trip. On the other hand, I can only land 400 pounds of cod when I could easily catch 10,000 pounds of them. I think NMFS is guilty of using minimal data in counting the number of cod that there are in the Gulf of Maine.

I think the proposed regulation favors large vessels because small boats, 45' and under, can only fish in good weather, which is from May-September. If each day-at-sea is counted as two from May through October than it forces me to fish in the winter months. This is when the fish are not close to shore making it almost impossible to get out. The Magnuson Stevens act outlined that laws passed should not favor large vessels over small ones. With the rolling closures and permanent closures I already have trouble fishing outside the closure areas in the fair-weather months.

I am in favor of a mesh-size increase, but I need time to change my gear over. I spent close to \$10,000.00 last fall replacing my nets so they are brand new, I can't afford to throw these out without using them and buy new. I think it would be reasonable to allow me to use these and when they get holes to rehang them with a larger mesh. This would only take one season.

My observations from working on the water year-round is that NMFS should look at all the species when they make the laws. There is a balance in the ocean and when all the laws are written to protect a single species (codfish) then other species have more pressure put on them. For example, pollock and hake are fished on hard in the summer because fishermen aren't allowed to land the codfish they catch. Dabs, yellowtails, blackbacks, monktail and grey sole are targeted and fished hard year-round as a source of income for the dragger fishermen. If fishermen were allowed to land a small amount of codfish (700-1,000 pounds per day) the overall catch rate would drop for other species.

The rolling closures, the permanent closures and the Days at Sea program has been very effective in allowing the fish stocks to rebuild. If NMFS would hire observers to prove this, then we would atleast be able to land the fish that we catch.

Sincerely, Knoep Nieuwkerk license #147517

F/V Hannah Jo

 3/23/02

A-16

RECEIVED

MAR 25 2002

CHAMBERS OF  
JUDGE KESSLER

Dear *HONORABLE Gladys Kessler*

My name is Marshall Hupper. I am the capt. of the Michele Jean II I have been fishing all my life, I live in Port Clyde Me.

I am very concerned with the new regulations going into effect were allready at our limit with being over regulated already. I am close to losing my house and the boat now, with more regulations its going to devisate the fishing industry in new england .a lot of jobs are on the line. This is our way of life,this is all we know. I come from 5 generations of a fishing family. 2 or 3 years would prove that the fish are coming back thats not much to ask for losing our livelihood. Please do all you can for us. The fishing industry is counting on you to protect a maine way of life.I thought all people were created equal and have the right to work and support our familys. Right know my kids are wondering where the next meal is coming from.

Sincerely,

*Marshall Hupper*

Marshall Hupper proud fisherman.

*Port Clyde, Me 04855*

*1-207-372-6481*

MAIL: *HC 35 BOX 771B*

*TENANTS HARBOR, ME  
04860*

*A-15*

April 24, 2002

The Honorable Gladys Kessler  
U. S. District Court  
For District of Columbia  
333 Constitution Avenue  
NW Washington, D.C. 20001

RECEIVED

APR 24 2002

CHAMBERS OF  
JUDGE KESSLER

Dear Judge Kessler,

This is a plea for an ease of the fishing regulations.

I operate a seafood restaurant near Gloucester, MA. This is a family business operating since 1958, and I'm third generation. We employ approximately 80 people, and I specialize in local fish and seafood, and have appeared in national and international cooking magazines.

Along with seafood suppliers I speak with local fisherman often, as they dine on fresh fish in my restaurant and lounge.

They tell me, sometimes nearing tears, of throwing tens of thousands of pounds of fresh fish over the sides of their boats, dead, to float away due to fishing quotas. They say that they haven't seen this much fish in 30 years.

The fish are back. We need sensible regulations. Decreasing days and small quotas are not the answer.

Catches are down, because the fisherman shovel fish overboard by the tens of thousands of pounds per trip, due to quotas. These regulations are criminal.

The fishing industry is me and my employees. It's the seafood purveyors, truckers, markets, bakeries and coffee shops that depend on the industry.

Don't let it all fall to feel good regulations from groups that want to stop the fishing without regard to the real situation. Please help us.

Sincerely,



Kevin Ricci  
Village Restaurant  
55 Main Street  
Essex, MA 01929  
978-768-8400  
www.village-esssex.com

A-14

March 24, 2002

The Honorable Gladys Kessler  
U.S. District Court for the District of Columbia  
332 Constitution Avenue  
Washington, DC 2001

Dear Honorable Kessler,

I am writing to express my concerns regarding the upcoming decision on Groundfish Management.

My wife and I own two Groundfishing boats homeported in Port Clyde, Maine. Port Clyde has the Second largest Groundfish fleet in Maine next to Portland.

I can't express my frustrations enough regarding the new proposed regulations concerning Groundfishing. Any more cutbacks will result in the end to the Groundfish fleet. With the regulations as they stand, it is already difficult to maintain and operate a fishing vessel. As an example, our 50' vessel was removed from Service almost two years ago due to the change in monkfish regulations. This vessel had over forty years Groundfishing before the last owner semi-retired and only fished for shrimp in Maine waters. After we bought the boat and returned it to groundfishing, a monkfish management plan was implemented. This Used the years previous to my ownership when the boat only caught shrimp for the qualifying years for the Limited access permit. There was no discussion of this until a year after I purchased the boat. Unable to Qualify for the correct permit made it uneconomically feasible to operate the boat.

Losing the groundfish fleet will impact not only the owners and crews of these vessels but the infrastructure Associated with fishing of which transportation, the fish auction facilities, fuel and ice suppliers, local Grocery and marine supply stores and availability of fresh fish to the New England restaurants and stores are Just a few.

The management laws are too broad-based. Species dominant in one area are not necessarily dominant in Another. For the boats that sell to the Portland Fish Auction, cod accounts for a small percentage of the catch.

We are catching three to four times the fish caught in 1998 showing the stocks are rebuilding strong. Due to the increased volume of fish landed, the prices have gone down and increased days-at-sea per boat were Expected.

Cutting us below 88 days-at-sea when the stocks are rebuilding so quickly is beyond my belief. The regulations calling for 66 days-at-sea with 2 days counted for every day fished from May to October are Ludicrous. The total of 44 allowed days would mean out of 153 days, only 22 actual fishing days would

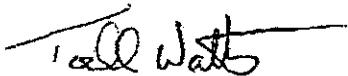
A-13

Be allocated being only 14% of the total. This would leave 16 actual days fishing out of the remaining 212 Days. 16 days of the harshest weather of which my boat and many others are not large enough to fish. So, This would be a total of 38 days-at-sea per year to support our families and maintain the vessels and equipment. This doesn't even take into effect another provision making an hour of one day count as a whole Day so if the weather on the trip home slowed a boat down, for just a few hours into one day, it may take 2 days away. This just doesn't make sense. There is no humanity in any of this. Therefore, using common Sense logic to the days-at-sea provision, there would be fewer than 38 for the year most likely about 30. Who Cold survive on that?? Rip up a net or lose one completely and it's the end.

I just do not understand the thought behind the groups trying to manage resources like fishing without any Regard to those who respect and understand it the most. I am a firm believer of the Bible and in Genesis 2:28-30 it tells man has the dominion over the creatures and plants of this earth, to rule over them and to use Them for food.

I know that I am one of many fishing vessel owners and fisherman who share these same concerns and hope that you will consider them when you make your ruling in the lawsuit against the NMFS.

Sincerely Yours,



Todd Watts  
Owner/Operator of the F/V Megaltay

134 Harts Neck Road  
Tenants Harbor, Maine  
04860

RECEIVED

March 24, 2002

MAR 25 2002

CHAMBERS OF  
JUDGE KESSLER

Dear Honorable Judge Kessler,

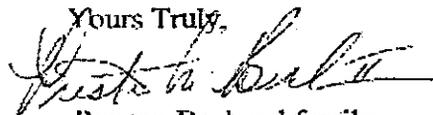
My name is Preston Beal II, and I have been in the fishing industry for 19 years, and the last 11 of which I have been a captain.

I have seen a lot of changes in the industry over the years, especially with the restrictions and the cutbacks. Everything up till now we have been able to deal with, but with the latest proposals it will surely mean going out of business. Is this the "American Freedom" we are so proud of, to be put out of business and on a welfare line?

I have watched these so called 'over-fished stocks' rebounding. These fish stocks have been rebounding from an all time low, even with the current restrictions. Keeping the restrictions we have now will only improve the fish stocks even more. It took over 50 years to deplete the fish stocks and it will take time to rebuild them. Putting people out of business so the fish stocks can be rebuilt overnight does not seem like the right answer.

Please help save the endangered species "The Fisherman".

Yours Truly,



Preston Beal and family  
P.O. Box 323  
Tenants Harbor, ME  
04860

A-12

RECEIVED

MAR 25 2002

CHAMBERS OF  
JUDGE KESSLER

Sunday, March 24, 2002

Dear Judge Kessler:

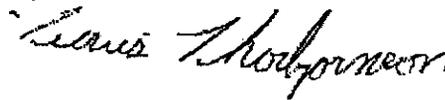
I am a thirty five year old commercial fisherman, out of Port Clyde, Me. I am a married father of three children, and the captain of my fathers fishing vessel the Lauren Dorothy II. I am writing this letter from my home in which I could loose based on the decision you make.

Along with myself, and my two brothers our family has been in this fishing industry for generations. We have a million dollar a year business that could be gone with a hasty judgment. How do you expect us to supplement this and survive? How can you even be asked to make a decision on closing down a multi million dollar industry is beyond my comprehension?

The data that is being used is six years old. How can you make a fair judgment on this? When amendment five was set in place a fifty percent reduction was made, and now the conservationist are asking for another sixty percent reduction on top of that.

This will in my mind be the end of commercial fishing off the coast of Maine. It is very disturbing that politics could bring an end to my way of life.

Captain Travis Thorbjornson



A-11



*The Commonwealth of Massachusetts*  
*House of Representatives*  
*State House, Boston 02133-1054*

RECEIVED

MAR 29 2002

CHAMBERS OF  
JUDGE KESSLER

**SHIRLEY A. GOMES**  
4TH BARNSTABLE DISTRICT  
ROOM 548, STATE HOUSE  
TEL. (617) 722-2803  
FAX (617) 722-2590  
rep.shirleygomes@hou.state.ma.us  
Web Page: www.shirleygomes.org

PATRICIA JOHNSON  
LEGISLATIVE ASSISTANT

Committees on  
Counties  
Health Care  
Housing and Urban Development  
Human Services and  
Elderly Affairs

DISTRICT OFFICE  
TEL. (508) 240-2731  
(800) 715-8480  
FAX (508) 430-5071

March 24, 2002

The Honorable Gladys Kessler, Justice  
United States Court House  
3<sup>rd</sup> and Constitution Avenue N W  
Room 1834  
Washington, DC 20001

Dear Judge Kessler:

I have the privilege of representing the 4<sup>th</sup> Barnstable District in the Massachusetts House of Representatives. This district is comprised of eight small towns on Outer Cape Cod. I am enclosing copies of the letters from just two of the many fishermen on the Outer Cape who are extremely concerned about the regulations proposed by the National Marine Fisheries Service. I simply want to emphasize the importance of their message.

The proposed regulations will have a devastating effect on an already struggling population. The Massachusetts Division of Marine Fisheries has considered the serious concerns expressed by local fishermen from all of the coastal areas of the Commonwealth and has offered a counter plan. I believe that the suggestions that have been put forward have merit. They take both the impact on the fishing industry and on the ecology into consideration. I hope that they will also be a part of your consideration as you make your decision.

Sincerely,

Shirley Gomes  
State Representative  
Barnstable 4<sup>th</sup> District

A-10

**Capt. Luis M. Ribas**  
F/V Blue Skies  
Barrosa Fishing Co.  
7 Sandy Hill Lane  
Provincetown, MA 02657  
Tel: (598) 487-4462  
Email: lrfish@gis.net

March 9, 2002

Judge Gladys Kessler

Nancy Mayer-Whittington  
United States Courthouse  
3<sup>rd</sup> and Constitution Ave. N.W.  
Room 1834  
Washington, DC 20001

Dear Honorable Judge Kessler,

As the owner and Captain of the fishing vessel Blue Skies in Provincetown, Massachusetts, I would like to address the drastic limits that were proposed by the National Marine Fisheries Service (NMFS). I believe you have a case before you about which I have some additional information that may be helpful. The latest regulations proposed by the NMFS will undoubtedly devastate a traditional way of life that has existed for centuries. I, myself, have been a fisherman since I was nineteen years old, and this is how I have made my living and supported my family. Our fishing community here in Provincetown has already been severely endangered by the closures of Block 124 in January, February, March, April, October and November. Our fishing days have already been limited to 88 days out of the year. We do not ask others in this country to work only 88 days out of the year. We have the additional limitation of the winter weather, which prevents us from being able to fish, and so the spring and the summer are our only working times. Now these too are being jeopardized by the new regulations. Our community feels that it is under attack because of public sentiment that is expressed by statements like this in this media: "... the National Marine Fisheries Service did not move aggressively enough to reverse over-fishing..." (Press Herald Online: issue: March 2, 2002). The new proposals were announced by Bill Hogarth, director of NMFS in Rockport, Maine, on March 1, 2002. By enforcing these new closures and cutting our fishing days **in half**, the northeast fishing community will suffer a major economic blow. Thousands of fishermen will lose their jobs and those who depend on the fishing industry will also be greatly affected, such as fishing gear shops, fuel companies, restaurants, and most significantly, fish markets and consumers. Many more than fisherman will lose not just jobs and income, but also the dreams that this country once represented. Truly, a whole way of life is threatened. It is true that there has been a problem with over-fishing and with the fish population decreasing, but that is where I feel that I may be of service. I

feel that I have been working on a project that may offer a viable alternative to more regulations and closures.

### *Nets of the Future:*

In this project, the government had asked for collaboration between scientists and fisherman, and so I wanted to become involved in something that I felt could help our future. I brought 24 years of knowledge and experience in the fishing industry to this project. About two years ago, I devised, along with senior biologists Arne Carr and Mike Pol of the Massachusetts Division of Marine Fisheries, (MDMF), two nets that would help to reduce by-catch and overall reduce discarding of fish. The resulting product of this work is called **Groundfish Trawl nets Designed to Reduce the Bycatch of Cod**. Their original purpose was to reduce the bycatch of Codfish, but also they will work on dogfish and juvenile fish, (their total work will be on bycatch, dogfish and juvenile fish: which all together are called mortality), and they may be modifiable to work on other species. This would help to increase the fish population by reducing discarding of unwanted fish. When fish are caught they are often hurt or killed in the process, but under the regulatory plan, they still must be thrown back. This does not make any sense. By using the nets, younger, smaller fish are allowed to escape unharmed. In doing this, these young fish will be able to repopulate by maturing, spawning and reproducing. The larger, already mature fish will be caught, and being full-grown, they will not be discarded due to the price a fully matured fish will bring. Also, the mesh holes on these nets will allow fish that are not supposed to be caught to remain in the water. This would further help them to repopulate and reduce discarding.

In the past year or so, my nets have created a stir (enclosed I have sent copies of newspaper articles that have been written about my nets and their results). I have been testing them and so far the results have been outstanding. Unfortunately, due to the closures we have suffered, my crew and I have not been able to fully test them. If we were allowed to continue testing, before any proposed closures were enforced, we might be able to prove that the new closures are not necessary, and that a change in nets would accomplish the same thing or better.

*Conservation.* This concept is something that our small fishing community has taken pride in. The catalyst for these proposed closures and cutbacks has been the recent lawsuits against the National Marine Fisheries Service. Now, if I may, I would like to pose a question. Why are the various conservation organizations only taking affirmative action now? Why did they take so long and why must the fishermen pay? The fisherman have become very involve in the issues that concern them. I, myself, have taken large quantities of my time to go to meetings and try to discuss my ideas and views on the issues. Why have the members of such organizations as the New England Fisheries Management Council and the National Marine Fisheries Service and many of the other various conservation groups not yielded to any of our (fisherman's) opinions? We, the fisherman, are the ones with the experience on the sea, and we are the people who know

what happens out there while we are fishing. We are also the people who are impacted by the regulations, and we are frustrated that our experience and knowledge is routinely disregarded in trying to find solutions to these problems which affect us.

Your Honor, I would like to thank you very much for taking the time to read my letter. I hope that you will take into consideration all that I have written and proposed. Please, as a fisherman, and a family man, I am pleading that you do not enforce any more regulations. Please give the fishing community the time it needs to try and come up with solutions that will really work. Time is needed so that I can further test my nets, which may help put a stop to this form of control, or reduce to need for this type of regulation, and replace it with something that makes more sense for everyone concerned. I have already tested them, but if given more time, I can obtain more accurate data. Testing has been set for the end of the month of March 2002, and throughout April 2002. If I can be of further assistance, please do not hesitate to contact me at the above address. Thank you very much once again.

Sincerely,



Luis M. Ribas

Ps: As you may see, your Honor, from the enclosed articles, my interest is sincere. I have been involved in promoting the conservation of the fisheries for some years.

cc: President George W. Bush  
Secretary of Commerce Donald L. Evans  
Senator Edward Kennedy  
Senator John Kerry  
Senator Judd Gregg  
Senator Bob Smith  
Senator Susan Collins  
Senator Olympia Snowe  
Congressman Bill Delahunt  
Congressman Barney Frank  
MA. Governor Jane Swift  
MA. State Senator Bruce E. Tarr  
MA. State Senator Mark C. Montigny  
MA. State Representative Shirley Gomes  
NMFS Director Bill Hogarth  
MDMF Director Paul J. Diodati

RECEIVED

March 25, 2002

MAR 25 2002

The Honorable Gladys Kessler  
U.S. District Court of District of Columbia  
332 Constitution Avenue  
Washington, DC 20001

CHAMBERS OF  
JUDGE KESSLER

Dear Honorable Kessler:

My name is Chris Yattaw and I have been a full time commercial fisherman for the last 16 years. I live in Port Clyde, Maine where there are 14 other fishing boats. In the last year I was able to purchase my own boat. The loan was through Farm Credit, who is a Government funded institution. I made two phone calls to them and before I knew it they were coming to my house processing the loan so I could purchase my boat.

Now 8 or 9 months later, the Government along with environmentalists are telling us we can no longer go fishing, that we are raping the ocean and killing too many fish. There has never been as many fish since I have been going fishing. We catch more in two days now than we did in 5 days, three or four years ago. That is not counting all the codfish and monkfish that we have to throw back because of the daily limits.

All that you would have to do is look at the landings now compared to three years back. The prices are less than half what they were and the fish are more plentiful.

Any of these restrictions would put me out of business. I would lose my boat, house and everything I have worked so hard to get. What should I tell my daughter? We have to work these boats year-round. Eighty-eight days is not nearly enough and TAC's would be disastrous.

If anything is to be done, it must be the latent permits. Most of them have never even been used. Let alone, they are being included into the "over fishing" formula.

Please do not punish the fishermen that have been doing this since Day One.

Thank you for any assistance you can give to this matter.

Sincerely,



Christopher G. Yattaw  
Owner/Operator  
E/V Taylor Emily

Address:  
P. O. Box 342  
Port Clyde, ME 04855

A-9

RECEIVED

MAR 25 2002

Monday, March 25, 2002

CHAMBERS OF  
JUDGE KESSLER

Your Honor:

**FISH STOCKS REBOUND IN THE GULF OF MAINE**

**(This is the headline that should cover the front page of your newspaper.)**

I have been in the fishing business all my life. I started in the late 70's and I am still fishing today. Over the years I have seen a lot of changes occur in the industry as well as the species themselves.

In the late 70's and early 80's fish stocks were in fairly good shape. In the early 80's the government encouraged the build up of the fishing fleet through low interest loans. By doing this the inevitable occurred. Fish stocks that were in fine shape were depleted.

In the early 90's, amendment five was introduced. The goal of amendment five was to reduce fish mortality by 50%. The following actions were taken.

1. **REDUCE NUMBER OF DAYS EACH VESSEL COULD FISH BY 60% (SOME CASES 70%)**
2. **INCREASE MESH SIZE**
3. **CLOSE CERTAIN AREAS TO FISHING YEAR ROUND**
4. **SEASONAL OR ROLLING CLOSURES**
5. **VESSEL BY BACK PROGRAM**

Once these regulations were enacted, the original fish mortality rate was cut by 70-80%. Well above the targeted 50%.

The figures the conservationist came up with were unfortunately different. More regulations were in acted and in the form of "Quota's" on Monkfish and Cod.

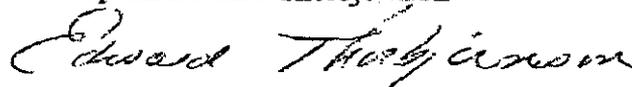
Some fisherman became tired of the regulations and several boats with active permits withdrew from the fishery altogether. With over 1500 permits issued less than half of them were active. Another percentage the conservationist forgot to include in their findings, facts, and figures.

I have been fishing for 24 years and out of that I have been a captain for 21 years. I have witnessed several phases of the fishery.

In the last 6 years I have seen fish stocks rebound at an accelerated rate. Each year my catch has been more productive than the previous year. I have kept all of my fishing logs for the past 20 years, and would be more than happy to send them to you so you could review the figures for yourself. My conclusion from this is that the fish are coming back.

The regulations in effect now are sufficient enough. **If the existing regulations are not enough than add an increase to mesh size, and protection during spawning season, and you will have a complete rebuilding program that should satisfy all involved.**

Captain Edward Thorbjornson



RECEIVED

MAR 28 2002

March 25, 2002

CHAMBERS OF  
JUDGE KESSLER

To The Honorable Gladys Kessler  
U.S. District Court Judge

I am contacting you relative to two articles in the Sunday, March 24, 2002 edition of the Maine Sunday Telegram.

One was titled "A Sinking Feeling" by Dennis Hoey/Staff writer and dealt with the largest groundfishing fleet north of Portland, Maine which is located in Port Clyde, Maine. This was a very "down to earth" article and was "right on the mark." I hope you have an opportunity to read it.

The other article was "Judge in Fisheries Case Known as Quick Study" by Bart Jansen/Staff writer. It begins with these words: "U. S. District Court Judge Gladys Kessler is poised to overhaul groundfish regulations in a move that could have profound effects on the New England fishing industry, and perhaps force some fishermen out of business". This is a very disturbing statement.

The fishing industry is crucial for the Maine economy. Destroying this industry would ruin many other businesses, not only in Maine, but in all of New England.

Why does this matter to me? I am the bookkeeper for the small Lash Boatyard here in Friendship, Maine. This boatyard is dependent on the fishing industry. They are currently building a dragger for a fisherman who lives in Orrs Island, Maine. Close to one hundred percent of the boats built in this yard are built with borrowed money and many area banks would be hurt if the fishing industry were destroyed.

The fishermen today say groundfish stocks have never been more plentiful. This assertion is borne out at the Portland Fish Exchange where many Port Clyders truck their catch. They say, and can prove, that "There's a lot of fish out there" and "The fish have already come back in a big way." Do we really need more regulation?

When you regulate the number of days they can fish you should take into consideration the weather. If they can only go out "so many days" make sure the days are "so many good weather days." When they have to go out in stormy weather, we all know what can happen. What happened to the "Andrea Gail?"

Have you read "The Perfect Storm" by Sebastian Junger, a true story about the Andrea

A-7

Gail? Also, "They Hungry Ocean" by Linda Greenlaw, the skipper of the Hannah Boden, the sister vessel of the doomed Andrea Gail?

Please listen to the fishermen and the National Marine Fisheries Service and heed their advice. Fishermen put their lives on the line every time they go out on the ocean so that the rest of us can have fish to eat. They deserve all the help they can get from one of your stature.

The environmental groups who are complaining to you do not care anything about the welfare of the New England working class. They care only about their own selfish interests.

Sincerely,

*Kay Havener*

Kay Havener  
135 Martin Point Road  
Friendship, ME 04547

# Edmund S. Muskie School of Public Service

## Institute for Child and Family Policy

22 Blackberry Hill Road  
Tenants Harbor, ME 04860  
March 26, 2002

RECEIVED

MAR 26 2002

CHAMBERS OF  
JUDGE KESSLER

Dear Judge Kessler:

I am writing to you in regard to the groundfish regulations. I believe that the groups who brought this case to your attention do not have accurate data. Most of the leading scientists who study fishing stock rely on computer models to make their decisions about the viability and future of ocean denizens. However, as reported in this month's *Atlantic*, in an article by Trevor Corson regarding lobster fishing, computer modeling does not always produce accurate data. Robert Steneck, a professor of marine sciences at the University of Maine, has used a novel approach to find out the true situation regarding lobster stock: he goes out and looks. His data have shown that, in a nutshell, the projections have been wrong regarding the viability of lobster stock and the need for lobster fishermen to cut back their hauls.

As is the case with lobstermen, the ground fishermen know the score. The local fisherman report that they have seen an increase in ground fish. As a researcher at the Muskie School of Public Service in Portland, Maine, I know the vagaries of research. Without solid, sampling based data, it is almost impossible to reach verifiable conclusions.

I therefore respectfully request that, rather than imposing new regulations on the fishermen, which would put most of them out of business, that you require a new, data based study of the situation.

The fishermen in Port Clyde are good stewards of the ocean. In the interest of preserving the fish, they have agreed with regulations that have lowered their income. But new regulations will cause them to leave the fishing business. I am also concerned about what will happen when the fishing goes. Port Clyde will become like so many little "yuppie" towns along the Eastern seaboard, full of cute little shops supported by tourists. Your decision will affect not only the livelihood fishermen, but a way of life and an atmosphere rapidly disappearing from Maine.

Please think about getting more accurate data before new regulations are imposed. Thank you for your time.

Sincerely,



Kathleen A. Earle, Ph.D.  
Assistant Professor

RECEIVED

Tuesday, March 26, 2002

MAR 27 2002

CHAMBERS OF JUDGE KESSLER

Dear Judge Kessler,

I am writing this letter to you in regards to my fiancé, his three brothers, and their father's family business. I am fully aware of all the actions that are taking place, but for the past 2 months I have picked up on the fact that the regulations (TAC) that you are being asked to make a judgments on are ones that could take his life, and strip my daughter of her father.

By allowing these TACs to go into effect the fisherman are going to "speed fish". Meaning that they will be racing in and out to try to fill the quotas as fast as they can to make the amount of money they need to support their families.

This means that YOU are sending tired men out in hazards conditions, with boats that may not get the proper maintenance they need, because of the short period of time at the dock. The only mortality rate that I see it effecting will be the mortality rate of the fisherman.

I am not some woman who sits home all day and cleans the house, and takes care of the kids. I have a college education, and I am furthering it to become a vet. I pictured us having a nice house with a yard for the kids and the dog to play in, and it is hard enough to do this with the conditions that go along with his employment now. Some nights I just sit and pray that he makes it home safely, these extra pressures are not something anyone needs. It does not take a rocket scientist to figure out this is conservationist with nothing but time on their hands.

It is also my understanding, and my experience that in the past five years that these fisherman have endured some changes, and a lot of them at that. Know one likes changes, but they have made them and done the best that they could with them.

My fiancé is a very smart and knowledgeable man he has been the captain of a boat for 21 years. He has watched many changes take place good and bad. He is concerned for the future of the fish, his family, his brother's (who also are captains of fishing vessels). What I want to know is WHO besides me is concerned for HIM?

I must say I would not want to be in your shoes waying over the situation, and I wouldn't want to be the one with everyone's future in my hands. But the big thing I think is being overlooked is the fact that you also may be responsible for a lot of unnecessary accidents, and lives lost if TAC goes into effect. Because you will be the one who has to live with the decision, and when you start reading about the accidents in the papers I really would not want to be you.

You know maybe these conservationist should get out from behind their desk, and go ground fishing a few times with a few of these boats then come up with their facts, and their figures. Or maybe their wives would like to change places with me and then they would know what it would be like to live in a world of concern. Instead of concerning themselves with something they know nothing about. How does that saying go WALK ONE DAY IN MY SHOES!!

Sincerely Stephanie Stone

A-5

RECEIVED

Tuesday, March 26, 2002

MAR 26 2002  
CHAMBERS OF  
JUDGE KESSLER

Dear Judge Kessler,

I am writing in reference to the decision in which you have been asked to make on March 22, 2002. You should not even be asked to make a decision in this matter, meaning that this situation should not have even come to this point.

The conservationists have already asked for a 50% reduction in fish mortality over a five year period, and they ended up receiving an 80% reduction. Low and behold this did not satisfy them! Now they want a 60% reduction of what is LEFT. If they get what they want the conservationist still will not be happy.

They will be back in your court room in the near future asking for further reductions, and regulations until there is nothing left to regulate or reduce. It is beginning to appear as though the conservationist are the ones who are running our country, and not just in this situation either. Every time you watch the news these days they are in the court rooms all across the United States demanding something. Maybe it is high time that someone start investigating the conservationist groups, and start putting some reductions and regulations on them.

Sincerely Roger Libby

Glen Libby

Gary Libby

A-4

To: Via Facsimile (202) 354-3442

RECEIVED

April 1, 2002

APR 1 2002

CHAMBERS OF  
JUDGE KESSLER

The Honorable Gladys Kessler  
U.S. District Court  
For District of Columbia  
333 Constitution Avenue  
NW Washington, D.C. 20001

Dear Judge Kessler,

Attached is an article from the Commercial Fisheries News March 2002, issue.

Fishermen feel that under Amendment 7 less than 50% maximum biomass, was a good over-fishing definition. As a 1976 graduate from the University of Rhode Island fisheries program; we were taught by William F. Royce, author of Introduction To Fisheries Sciences, 1972, that an exploited stock is considered to be over-fished when the maximum bio-mass falls less than 50%. This scientific formula has been accepted throughout the world and used in fisheries science. I am wondering how and why this definition was changed to less than 100% biomass in Amendment 9. This definition is clearly wrong and unacceptable. To attain Amendment 9 biomass for all species, I feel even with no commercial fishing this goal is impossible. Through natural cycles nature will not allow stocks to reach 100% biomass, all at the same time.

Amendment 9 is designed to stop commercial fishing. May we not forget prior to 1994 these stocks have for the most part been fished without regulations for over 300 years and never have we seen a fish stock become extinct.

We are headed in the right direction; stocks are rebuilding under the current regulations.

"We don't believe the environmentalists' approach of using hard TACs is appropriate or that it properly implements the intent of the SFA," he added. "It would put a lot of credence behind National Standard 1 (which

Charwin explained the plaintiffs' position this way, "We support mediation as long as the terms of mediation are clearly defined," he said. "We don't want to sit in the room

had previously agreed to mediate, but they could never come to terms with the plaintiffs' mediation requirements.

ignores the other National Standards.

"To talk about closing down the whole fishery when you hit a hard TAC is just unrealistic," Parker said.

### Plaintiffs unyielding

The plaintiffs, however, intend to fight any revision of the Amendment 9 standard.

"It's not going to be acceptable to us to discuss how we can change Amendment 9," said Chatwin.

"This lawsuit has been all about implementation of Amendment 9. I like the fact that stocks that are not at Bmsy require a rebuilding plan."

"I think Amendment 9 is how fisheries should be managed," Chatwin said.

"It allows us to hold fishery managers accountable for their actions and it allows

We are willing to go into mediation if we're talking about Amendment 9.

I don't see acceptance from any of the plaintiffs for talking about Amendment 7 (even for the short term)."

According to some who attended the Feb. 15 status conference, Judge Kessler didn't rule out mediation, though she was clearly aware of "the disputes between the parties over mediation."

"She essentially said, 'If anyone wants to mediate, the (court's) office of mediation will be available to them,'" said Ouellette.

All of the groups that gained intervenor status, including the cities and states,

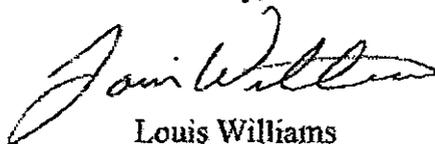
mediate," said Frulla. "we'll follow the briefing schedule set by the court, but I hope there's another try at mediation."

Frulla readily acknowledged that it wouldn't be easy.

"There are issues about how extensive the short-term remedies have to be," he said. "Are they requiring immediate fulfillment of Amendment 9 by May 17?"

From the industry's perspective, that's untenable and totally unrealistic. From the plaintiffs' perspective, that's the goal — to the greatest extent possible.

Sincerely,



Louis Williams

U.S. District Court  
For District of Columbia  
332 Constitution Ave. NW  
Washington, DC. 20001

Re: Fishing regulation no. 3 as submitted by Atlantic States.

Dear Judge Kessler:

My name is Andrew E. Lang. I am a commercial fisherman. My wife and I have four children. Our daughter will be entering college next fall. I want to take this opportunity to express my position on regulations drafted by the Atlantic states. If number 3 is adopted it will cause irreparable financial hardship to my family and me.

From May 1, 2001 to Dec. 1, 2001, I used my 88 days for the first time in years. I believe in conservation and reduced my efforts on multispecies days at sea over the previous six years.

Our government requested us to diversify into other fisheries and issued permits to do so. I was shocked and angered to see regulation number 3. I feel this proposal violates my civil rights. I realize that regulations are necessary to rebuild fish stocks. This misguided proposal will achieve permit and effort reduction at a tremendous cost. It will reward those who have not made an honest effort to reduce their days at sea and penalizes those of us who have supported ground fish rebuilding program.

Our current policies which acknowledge rolling and spawning closures, twenty day conservation blocks, six, seven and eight inch mesh sizes, permanently closed areas, modification in gear types and numbers, pingers, and break away buoy lines are some of the most restrictive gear and conservation measures ever taken in an effort to rebuild our fish stocks. This current conservation and effort reduction program is working. Government studies released last week verify this.

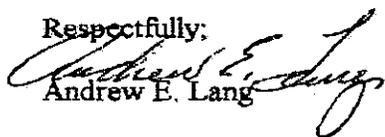
I believe that the cod hot line should be reinstated in order to reduce the cod by-catch problem. I also feel that for one month a year all federally permitted multispecies fishing vessels should be tied up

My family has fished in New England for over four hundred years. Like my father before me, who served his country in WWII as a naval fighter pilot, my son and I continue to fish today. We have witnessed in the last twenty-five years what over fishing and capitalization of an industry has done to our fish stocks. I feel that all these new proposals submitted by the National Marine Fisheries Service and the Atlantic States are in need of review by Congress. The current laws should be amended to reflect the ongoing recovery.

There have been over 4 hundred tax law changes in the last several years. This is done to meet the needs of our nations economy. This same approach must be taken with our fishing industry.

I ask you to please protect my civil rights and preserve our fishing industry.

Respectfully:

  
Andrew E. Lang

**THE FOLLOWING REGULATIONS HAVE BEEN CONSTRUCTED BY THE STATES OF NEW HAMPSHIRE, MAINE, CONN. & R.I. MASSACHUSSETTS HAS SUBMITTED SIMILAR RECOMMENDATIONS BUT HAS CHANGED HOW THE D.A.S. COUNTING WILL BE DONE**

**WHEN FISHING IN ALL AREAS UNDER A MULTISPECIES DAYS AT SEA (DAS)**

- 1) There will be an inshore / offshore area. There was no chart submitted for review at this time.
- 2) Vessels will have to designate which areas they will be fishing in. Regardless of where vessels are fishing they must abide by the more restrictive area.
- \* 3) D.A.S will be frozen using the period of May 1, 1996 - April 30, 2001 at the maximum DAS used by a permit in any single year, not to exceed the current permits allocation.
- 4) Immediate 5% observer coverage for all gear sectors and direct NMFS to perform an analysis of what level is necessary to provide statistically reliable data by September 2002.
- 5) Open access multispecies hand gear permits would be limited to 200#s / day.
- 6) Prohibit front loading of the DAS clock for all areas ( require that all vessels leave port within 1 hour after calling onto the DAS program.
- 7) Western Gulf of Maine year round closure continued.
- 8) Eliminate large mesh vessel permit category.
- 9) No use of crucifiers (de-hookers)
- 10) All other status quo measures will continue to apply (i.e. rolling closures).

**GEORGES BANK SPECIFIC MEASURES**

- 1) Trawls must use 6.5" diamond or 7" square mesh cod end with an 8" escape panel (dimensions of panel and cod end to be specified).
- 2) 7" mesh gillnets with a limit of 50 nets - stand up or tie down
- 3) Cod trip limit 1500 # / day with a maximum trip limit of 15,000 #s / trip. A trip is as currently defined.
- 4) Close thirty minute squares 80, 81, 110, and 111 during May.

00-1134



# MAINE INDUSTRIAL PLASTICS & RUBBER CORPORATION

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MEMO - DATE:

REPLY - DATE:

TO:

Judge Kessler office

FROM:

04/18/02

Send rubber  
 sample of fishing  
 gear for your  
 case but it was  
 returned because  
 we do not have  
 your suite #  
 nor do we have  
 your phone #  
 So I must fax this.  
 Our last fax was  
 not answered so  
 please ...  
 Henry B. Lee  
 pres.

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