

# CORRESPONDENCE



Mr. Eric Reid  
Vice Chairman  
New England Fishery Management Council  
50 Water St., Mill 2  
Newburyport, MA 01950

December 14, 2020

Dear Vice Chairman Reid;

We have known and worked with each other for a number of years, and I write this as someone who shares your commitment to the long-term health of the scallop fishery and the men and women who rely on it for their economic well-being. I wanted to directly address some comments you made during the Council's October 27, 2020 meeting on priorities for 2021, especially when describing the Scallopers Campaign's work to advance public conversations on a voluntary leasing option.

During the debate of the Sissenwine motion to add listening sessions on a possible leasing program to the Council's 2021 priorities, you stated, "Mr. Hughes brought up the issue of excess fishing effort going into other fisheries and he is right, which is why all industry will be involved." You went on to suggest that listening sessions couldn't possibly be conducted during the summer window of opportunity because "the entire industry, including non-scallop permit holders" will need to be involved, and it will require more than a couple of listening sessions.

As a matter of record, the Scallopers Campaign shares your concerns about impacts on other fisheries, which is why this was one of the first issues we addressed earlier this year. As you will recall, the Scallopers Campaign's July 30 letter to the Council included a set of principles developed to inform the Council, industry, and other stakeholders about our approach. One of the most important principles was that any leasing program developed by the Council should "*Include a commitment and measures (e.g. sideboards) to protect other fisheries from negative impacts of any approved program.*" We intentionally posted these principles on the Scallopers Campaign website to further inform Council members, the industry and the public.

Scallopers are sensitive to these issues and have been discussing potential options. For example, some in the Campaign suggested that only limited access permits put into Confirmation of Permit History (CPH) would be eligible to lease, similar to the scallop IFQ program. As you know, if an LA scallop permit were placed into CPH, and leasing DAS and AA trips from that permit were allowed, then all of the other permits associated with the LA scallop permit would be inactive because of the prohibition against splitting permits. Another suggestion was that if DAS or AA trips are leased from a LA scallop permit, then all the other permits associated with that LA scallop permit become inactive or un-useable. Others have suggested the development of sideboards (restrictions on amount of catch) to ensure leasing vessels do not exceed their historical participation in other fisheries. These are just a couple of the suggestions that have come forward, but they clearly demonstrate the commitment of the Scallopers Campaign to prevent negative impacts on

other fisheries. In fact, the Scallopers Campaign went even further to ensure fairness among fellow scallopers by including a principle that a leasing program should *“Include a commitment and measures to ensure ‘No Harm’ to non-participating scallop vessels.”* The purpose here was to provide protections for those LA scallop vessels that choose not to lease. We believe that listening sessions as the Scallop Committee recommended would provide the platform for more ideas to be brought forward.

Finally, you have previously asked, “where does the steel go” from scallopers that lease out all of their allocations? Because the Council has chosen not to allow public conversations in 2021, we cannot say with any certainty. However, we can provide you with views from the Scallopers Campaign. First, for vessels that lease out all of their scallop allocation because the vessel will be scrapped or sold, those vessels will have no permits assigned to them due to the rule against permit splitting. Those vessels would need to secure existing permits in order to fish in any other LA fisheries. From the Campaign’s industry survey that we shared with you earlier this year, we know that the oldest boats in the fleet will be the first to leave as industry moves to more efficiently harvest the resource and reduce fleet size. As for LA scallop vessels that only lease out a portion of their allocation and remain in the scallop fishery, we have already discussed a few ways to ensure against negative impacts on other fisheries like the squid fishery.

We hope this information is helpful to you. The Scallopers Campaign shares your concerns and has worked hard to address them. We have also been transparent about our efforts every step of the way. We were disappointed that you inaccurately described the Scallopers Campaign proposal. We continue to hold that the Council has adequate time to conduct listening sessions this summer, as acknowledged by Council staff. Again, the purpose of the listening sessions is to discuss the issues you raise. They will provide a wealth of information for the Council, so that when this issue is reconsidered as a priority, Council members will have a much clearer idea of how best to proceed. In light of all this information, we ask that you introduce and support a motion to conduct the proposed listening sessions next year.

Regards,

A handwritten signature in black ink, appearing to read "Jeffrey Pike". The signature is stylized and cursive.

Jeffrey Pike

CAPE COD COMMERCIAL  
**FISHERMEN'S  
ALLIANCE**

**Small Boats. Big Ideas.**

7 December 2020

Tom Nies  
Executive Director  
New England Fishery Management Council  
50 Water Street  
Newburyport, MA 01950

Re: Access to Closed Area I for LAGC IFQ Fleet

Dear Mr. Nies,

The Cape Cod Commercial Fishermen's Alliance is a member-based nonprofit organization representing commercial fishermen. Cape Cod's general category fleet is comprised of approximately 20 boats employing approximately 100 local captains and crewmembers. The fleet lands nearly 500,000 pounds of scallops annually, valued at more than five million dollars. The Cape Cod fleet also is in regular communication with scallopers from other parts of New England and the Northeast.

We strongly support the Scallop Committee's unanimous motion tasking the PDT "to consider a range of options to capture the impacts of retaining Closed Area I for LAGC IFQ access area fishing only." Our hope and expectation is that when all options are considered, it will become clear that allowing general category access to this area is a prudent management decision that both protects a limited resource, and allows appropriate commercial effort to continue in a safe and reasonable way.

With this area only having a couple million pounds of exploitable biomass, we understand that it cannot support full trips for the Limited Access fleet. However, the biology and location of Closed Area I present a very viable option for the LAGC IFQ fleet. Our smaller boats and much smaller trips would not rapidly deplete stocks. In addition, our LAGC IFQ boats rarely if ever go farther offshore to Closed Area II due to both the economics of small trip limits and the safety risks involved. Closed Area II remains an attractive alternative and location for the Limited Access fleet. Nearshore accessibility in Closed Area I for LAGC IFQ boats would eliminate pressure for our fleet to go to other areas requiring far longer steaming times, creating much safer fishing conditions with no negative effects on the resource.

We also note that there is precedent for this kind of careful management that acknowledges the lesser intensity of effort and impact of the LAGC fleet in closed areas. A similar strategy was implemented in an area of the Nantucket Lightship in 2016 (FW27), along with a careful study of the activity of the fleet and related issues like bycatch and habitat impact. By all accounts the strategy worked, allowing the LAGC fleet to continue to work while also protecting the area for future recruitment and harvest.

We therefore hope that after a full deliberation, the Council will retain Closed Area I for LAGC IFQ access fishing only.

Thank you for your consideration.

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Sincerely,

Jesse Rose  
F/V Midnight Our

Zachary Bennett  
F/V Helltown

Cameron Smith  
F/V Three Sons

Jason Amaru  
F/V Joanne A III

Jared Bennett  
F/V White Cap

William Ligenza  
F/V Getaway

Matt Linnell  
F/V Fleet King

Sean Leach  
F/V Sea Holly

Wes Brighton  
F/V Menemsha Rose  
F/V Martha Rose

Scott Rorro  
F/V Sea Hunter  
F/V Ernest & Michael

Glen Legeyt  
F/V Tricia Lynn

Paul Vafides  
F/V Donna Jean II

Bob Dutra  
F/V Rolex

Aidan's Pride Inc.  
F/V Isabel and Lilee

A.P. Fisheries Inc.  
F/V Aidan's Pride

Mark Smith  
F/V Godzilla

Pat Fehily  
F/V Major Expense

Stephanie Sykes  
Cape Cod Commercial Fishermen's Alliance

Shelley Edmundson  
Martha's Vineyard Fishermen's Preservation Trust





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

November 3, 2020

Dear Mr. Nies,

In light of the deeply disappointing results of the Council's meeting on October 27, 2020, we write to request the Council reconsider its 2021 scallop work priorities at the earliest opportunity. By declining to include scoping/listening sessions for a potential LA scallop leasing program in its 2021 priorities, the Council subordinated the recommendations and expertise of the Scallop Advisory Panel, the Scallop Committee, the Regional Administrator, and its own staff.

The Council's enabling statute creates a public process that is designed to promote the public interest in the management of U.S. fisheries, and includes important provisions for public input. We are not aware of any fishery that has come before the Council with 70 percent of the fleet in support of discussing a request within the Council process, only to be denied an opportunity for a fair hearing. The Council's actions on October 27 subverted the public interest within the sea scallop fishery, and we urge the Council to take action at its December 2020 meeting to remedy the situation.

How we got to this point matters. More than three years ago, the East Coast Scallop Harvesters Association (ECSHA) asked the Council to address the need for flexibility and versatility within the LA scallop fishery as a 2019 work priority. On October 23, 2018, the Scallop Advisory Panel (AP) made a priority recommendation to pursue this issue, and a day later the Scallop Committee agreed and recommended to the Council that it "address problems and challenges in the scallop fishery as discussed by the AP." ***The Executive Committee (Ex Comm) did not recommend this work item to the Council, nor did it propose any other option to the scallop fishery to address its concerns.***

Last year the ECSHA, frustrated by the lack of responsiveness from the Council, brought us in to assist the owners in requesting the Council include in its 2020 priorities a leasing project for the LA scallop fleet. Our position was clear: leasing DAS and AA trips would provide vessel owners with the flexibility they needed. This was also an approach with Council precedent, as the Council had previously authorized leasing in both the groundfish fishery and the LA general category scallop fishery.

At that time, over 50% of LA scallop vessels supported the Council taking up this issue. The Scallop AP again recognized the need for flexibility a leasing program would provide and voted in October *and* November 2019 to recommend bringing the leasing discussion into the Council process as a priority. Ultimately, the

Scallop Committee and Council did not recommend the project as a 2020 priority, due in large part to the fact that Amendment 21 and specifications were expected to fill the Council's scallop work schedule.

**Again, the Ex Comm offered no other options to the scallop fishery to address its concerns.** Several Council members remarked on the significant industry support for the Council taking up leasing at the December 5, 2019 Council meeting. The Campaign and its supporters were advised to continue to build support and wait for the completion of Amendment 21 before adding leasing to the queue.

During this past year, the Scallopers Campaign did exactly what the Council suggested. We added supporters to a level where fully 70% of the LA fleet supported the Council taking up the issue and starting the conversation. We created a website and regularly emailed newsletters to better communicate with industry, the Council, and the public. We conducted an LA vessel owners' survey to gather operational information not previously available to the Council. Based on those survey results, we refined our recommendations for commonsense principles to inform the Council discussion. Through all these actions, we maintained open and transparent lines of communication with Scallop Committee and Council members, inviting questions, concerns, or suggestions at every stage. When the AP considered the issue of 2021 priorities, scoping for a possible plan amendment on leasing was recommended to the Committee. The Scallop Committee unanimously recommended including scoping on a LA leasing program in the Council's 2021 priorities.

At the September 2021 Council meeting, the Council amended the Committee's recommendation to reflect "scoping and/or listening sessions" to ensure clear understanding that the Council would not be obligated to initiate an action; that decision would come after hearing from the public through the listening sessions. The purpose of the scoping/listening sessions was to better inform the Council on the level of support and potential concerns or issues related to leasing.

When the Executive Committee met to review proposed 2021 priorities and make recommendations to the Council, Council staff recommended including scoping/listening sessions in the 2021 priorities, and indicated they had the capacity to conduct such sessions in their work plan. Some members of the Executive Committee moved to scuttle the informed recommendations of the Advisory Panel, the Scallop Committee, the Regional Administrator, and the Council staff, resulting in a lack of consensus on the scoping/listening session priority. **Once again, the Ex Comm offered no other option to the scallop fishery.** Furthermore, listening sessions/scoping was the only Scallop Committee priority left off the Ex Comm's recommended agenda. The importance of the Ex Comm failing to recommend listening sessions cannot be overstated; to get back on the priority list for 2021 required an amendment at the Council level.

The Council finalized 2021 priorities at its October 27 meeting, and the issue of listening sessions/scoping was again discussed. A motion to amend was made to add the action back into the 2021 priorities. That motion was supported by the majority of industry members who participated in the webinar. A substitute motion was then made to supersede the motion to amend by replacing scoping/listening sessions with a proposal to "evaluate rotational management program," a project not recommended by the AP, the Scallop Committee, the Regional Administrator, the Council Staff, or the scallop industry.

This was clearly offered as a "red herring," intended to stonewall the industry's repeated request for listening sessions. Staff time to undertake the rotational management agenda item was estimated to be

twice as much as the listening/scoping sessions. The rationale given for the substitute motion was that (1) “the Executive Director had a problem with math,” speculating that the listening sessions would take much more time than estimated, (2) there was a “substantial” number of permit holders against leasing, even though 246 out of 350 LA permits support the Council initiating leasing discussions, and (3) rotational management was important to the Ex Comm, even though it did not recommend it to the Council. Notably, it was also not an item recommended by the Scallop Committee. On a vote of 11-6-0 the substitute passed; evaluation of the rotational management program became a 2021 priority, and the Council will not devote any resources to conducting listening/scoping sessions on a LA leasing program in 2021.

The Council bypassed and dismissed the informed, expert advice of the very groups it had formed and tasked with advising it on the management of one of the keystone fisheries of our nation, and it also turned a deaf ear to the scallop fleet’s public input in the process, as well as a supporting letter from the Mid-Atlantic Fishery Management Council.

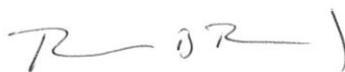
***We request the Council reconsider the results of its scallop priorities from the October 27, 2020 webinar at the upcoming December Council meeting and add LA scallop leasing listening sessions to its 2021 schedule to provide the industry with a fair hearing.***

As quotas decrease and costs—including insurance—sharply increase, the need for flexibility is greater than ever. The Scallopers Campaign has always been a supporter of the Council process, and has done everything the Council and staff have asked. In fairness to the industry, we believe a reconsideration of the 2021 scallop priorities to add listening sessions is in order. If the Council continues to deny this reasonable request as endorsed by the industry, the Scallop AP, the Scallop Committee, Council Staff, and the Regional Administrator, it would challenge our firm belief that the Council process is the proper avenue to serve the needs of the scallop fishery.

Sincerely,



Jeff Pike



Rick Robins

CC:

Secretary of Commerce Wilbur Ross

White House Director Office of Trade and Manufacturing Peter Navarro

NOAA Assistant Administrator for Fisheries Chris Oliver

NMFS Regional Administrator Michael Pentony

Congressman Jared Huffman, Chairman, Water, Oceans, Wildlife Subcommittee