



July 9, 2010

SENT VIA ELECTRONIC MAIL

Daniel T. Furlong
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

RE: Scoping Comments on MSB Amendment 14

Dear Mr. Furlong,

Please accept the following as Riverkeeper, Inc.'s ("Riverkeeper") comments on the Mid-Atlantic Fishery Management Council's (MAFMC) request for public comments on the Scoping Document for Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP) as published in the June 9, 2010 Federal Register. These comments supplement and reiterate the comments submitted by Riverkeeper and 42 other signatories on July 9, 2010.

Riverkeeper was founded in 1966 as the Hudson River Fishermen's Association, by a group of concerned commercial and recreational fishermen who came together and fought to reclaim the Hudson from the polluters who threatened the fish, the fishing, and the river itself. It was these very fishermen who spawned the environmental movement in the Hudson Valley. More than forty years later, Riverkeeper continues to advocate for protection of the Hudson River's fish populations and has been working to protect both American shad and river herring in the Hudson and along the east coast.

American shad and river herring populations are at historic lows throughout much of the east coast and have shown little sign of recovery despite considerable efforts by states to improve river habitat and protect remaining populations. In New York the historic commercial shad fishery which had operated continuously since colonial times was recently closed (in addition to the recreational fishery). The status of river herring in the Hudson is also one of long term decline which will likely result in severe restrictions or a closure of the fishery.

In regulatory comments submitted to the Atlantic States Marine Fisheries Commission (ASMFC) on Amendments to the Interstate Management Plan for Shad and River Herring and to the New York State Department of Environmental Conservation (DEC) on changes to fisheries regulations for shad and river herring Riverkeeper has repeatedly pointed to offshore bycatch as likely being a substantial contributing factor in the decline of these species in the Hudson and coast-wide. Lack of data and consistent observer coverage for ocean fisheries where shad and herring are likely taken as bycatch has made it difficult if not impossible for this source of population mortality to be understood and eliminated.

Riverkeeper believes that the incidental capture of American shad and river herring in federal waters is impeding population rebuilding efforts for these species and urge the MAFMC to adopt measures to monitor and reduce incidental catch of these species in the small-mesh fisheries under its purview.

The Council should take the necessary steps to support the protection and recovery of shad and river herring by undertaking the following management actions in Amendment 14:

Improved Monitoring and Data collection:

- The current levels of bycatch monitoring and data collection within the Mid-Atlantic's small-mesh fisheries are inadequate. To ensure accurate and statistically reliable accounting of bycatch **increased observer coverage** is necessary. At a minimum 1 NMFS certified observer (i.e, 100% observer coverage) should be required for mid-water trawl vessels (including one observer assigned to each vessel in a pair trawl operation). Observers must be trained, certified, and capable of identifying river herring and shad to species. Additionally, the Council should require that 100% of catch in federal waters be systematically sampled by NMFS certified observers. No catch can be allowed to be discarded to the sea (i.e., slipped) or transferred to a receiving vessel without sampling, otherwise the total catch (incidental or target) cannot be estimated properly.
- Amendment 14 should include an alternative for an industry funded observer program, to ensure that an adequate observer program is implemented in the event of federal budgetary constraints.

Reduce Incidental Catch of River Herring and Shad:

- Establish a cap on the amount of incidental catch for river herring and shad that can be taken each year. Initially, caps should be based on recent catch from VTR reports, and then replaced with caps based on the population biology of the alosine species as soon as possible;
- Develop near real-time river herring and/or shad bycatch reports similar to those provided by NMFS for the current groundfish quota tracking in Special Access Programs and U.S. Canada Resource Sharing Areas and make these reports readily accessible to the public;
- For areas identified as having a high probability of incidental catch of river herring or shad, establish temporal and spatial gear exclusions based upon the best available scientific data;
- Coordinate with the NEFMC to create a unified approach for bycatch reduction amongst the Atlantic Herring fishing fleet and those under the Mid-Atlantic council's jurisdiction. Because many of the highest capacity vessels involved in these fisheries are the same, any bycatch reduction strategies by either Council cannot succeed unless there are unified measures.

Address the Role of Forage Fish:

- The Mackerel, Squid, Butterfish FMP needs to better account for River Herring and Shad's role as a forage fish. National Standard 1 (NS1), and the implementing guidelines, offer clear guidance on forage species and the special considerations warranted in managing these species.
- River herring and shad are clearly landed in the Atlantic mackerel fishery and should be classified as non-target stocks in the fishery according to the National Standard One guidelines¹. As non-target stocks in the fishery, the MAFMC should develop status determination criteria and

¹ 50 CFR § 600.310(d)(3-4)

reference points, and develop necessary Annual Catch Limits (ACLs) with suitable Accountability Measures (AMs).

Coordinated Management Measures:

- In order to be successful in the long-term, management efforts will need to be coordinated among the multiple management bodies (ASMFC, NEFMC, MAFMC) with overlapping jurisdictions over river herring and shad. We urge that the MAFMC lead the efforts to bridge these management gaps by developing, in consultation with the NEFMC, an integrated federal management plan, to work in cooperation with the ASMFC Interstate Fishery Management Plan (IFMP), to manage river herring and shad throughout their range.
- The MAFMC should begin efforts to consolidate management of the Atlantic Herring and the Atlantic Mackerel fisheries under a single FMP. Due to the overlap between these two fisheries, we believe that it will be necessary to create a single management plan for management measures for both stocks to succeed, and ultimately, for the best stewarding of the resources.

Thank you for this opportunity to comment on the he Scoping Document for Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP). If I may provide any clarification regarding the above comments, or additional information, please contact me at 914-478-4501 x247 jverleun@riverkeeper.org

Best regards,

/Joshua Verleun/

Joshua Verleun, Esq
Staff Attorney & Chief Investigator