Bill as Introduced

SCR 2 – AS INTRODUCED

2003 SESSION

03-1087
10/09

SENATE CONCURRENT RESOLUTION ***2***

A RESOLUTION urging the United States Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.

SPONSORS: Sen. Cohen, Dist 24; Rep. Gillick, Rock 85; Rep. Norelli, Rock 86; Rep. Kelley, Rock 85; Rep. Pantelakos, Rock 86

COMMITTEE: Wildlife and Recreation

ANALYSIS

This senate concurrent resolution urges the United States Senate and House of Representatives to review the science and restrictions governing the Northeast multispecies fishing industry and urges increased federal funding for quality research.

SCR 2 – AS INTRODUCED

03-1087
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

A RESOLUTION urging the United States Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.

Whereas, the New England fishing industry, including New Hampshire fishermen, have worked tirelessly over the last decade to rebuild the fishing stocks off New England and have increased their community effort to work towards better conservation practices and sustainability; and

Whereas, the new federal fishing restrictions imposed by the National Marine Fisheries Service have severely curtailed fishing opportunities open to New Hampshire fishermen and may well put these small commercial fishermen out of work; and

Whereas, the methodology for estimating fish populations, which became the basis for these new federal fishing restrictions, might be based on faulty science due to the fact that the federal government's research vessel used mismatched tow wires for more than 2 years, possibly painting a more dire picture of fish stocks than might exist; and

Whereas, a recent federal court ruling required the Secretary of Commerce to publish an interim rule to be in compliance with the overfishing, rebuilding, and bycatch provisions of the Sustainable Fisheries Act; and

Whereas, the proposed interim rule proposed additional restrictions to include a freeze on days at sea at the highest annual level used from fishing years 1996 to 2000 and a 20 percent cut from that level; and

Whereas, the head of stock assessment for the National Marine Fisheries Service has stated faulty gear on a trawler used to collect data about groundfish stocks may have led to inaccurate findings and New Hampshire fishermen have suspected the federal fisheries stock assessments were seriously flawed; and

Whereas, New England fishermen, including New Hampshire fishermen, have readily complied with voluntary conservation measures only to be penalized by this "good faith" compliance; and

Whereas, the goals to allow the regeneration of groundfish stocks in the waters off the New England coast while protecting those individuals who make their living harvesting this resource are not mutually exclusive; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the United States Senate and House of Representatives seek legislation requiring the Secretary of Commerce not to implement any new federal restrictions on the New England multispecies fishery until the following conditions have been met, and not before May 1, 2006:

I. All regulations now and in the future must be adjusted based on fairness and equity, and social and economic needs of communities in accordance with the national standards;

II. All collection and analysis of scientific information must be sound and apply the best methods and technology available;

III. All National Oceanic and Atmospheric Administration trawl survey vessels should be independently reviewed for stock status reference points, definitions for all stocks should be implemented, the incorporation of video and acoustic survey devices should be made on these research vessels, and a independent review made of trawl survey protocol; and

That the Secretary of Commerce be allowed to relax federal regulations on an emergency basis for the 2003 fishing year to address issues of fairness and equity within the Interim Final Rule; and

That greater federal funding be made for cooperative research within the fishing industry and the scientific community; and

That copies of this resolution be forwarded by the senate clerk to the governor, the executive director of the fish and game department, the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of Commerce, the administrator of the National Oceanic and Atmospheric Administration, and the members of the New Hampshire congressional delegation.

Committee Minutes

Wildlife & Recreation Committee

Hearing Report

To:	Members of the Senate
From:	Liz Ignacio *Legislative Aide*
Re:	**SCR 2** – *A RESOLUTION urging the United states Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.*
Hearing date:	February 18, 2003
Members present:	Sen. Gallus, Sen. Cohen, Sen. Gatsas
Members absent:	Sen. Sapareto, Sen. Roberge

Sponsor(s): Sen. Cohen, Dist 24; Rep. Gillick, Rock 85; Rep. Norelli, Rock 86; Rep. Kelley, Rock 85; Rep. Pantelakos, Rock 86

What the bill does: In this senate concurrent resolution, the general court urges the United States Senate and House of Representatives to review the science and restrictions governing the Northeast multispecies fishing industry and urges increased federal funding for quality research.

Who supports the bill: Ellen Goethel: Marine Biologist and member of Northeast Seafood Coalition, Andrew Lang: NH fisherman, Bob Nudd: NH Fisherman, Rep. Norelli, Rep. Billeck, Rep. Kelly

Who opposes the bill: No one spoke in opposition.

Summary of testimony received: All of the testimony received reiterated the need for relaxed federal regulations on NH's commercial fishing industry. NH's fishing industry is one the oldest, most culturally significant, and profitable industries in the state's history. Our 97 federally-permitted commercial fishing vessels are estimated to bring in over $100 million dollars in revenue.

In recent years, the NH fishing industry has been subject to a growing number of restrictions as fish stocks have become stressed. The most recent restriction is a 3-month continuous closure during the months of April, May, and June. If this becomes effective in August of 2003, it has the ability to cut current fishing opportunities by more than 50%. Historically these months have provided half of the fleets' annual income. Closing the fishing season by three months, will force fishermen to make up for these lost days by staying out at sea longer or going out on days with less than ideal fishing conditions.

The fishing industry believes that current restrictions are simply unfair. The estimates used to calculate the fish populations were based on scientific data taken by the federal trawler, the Albatross. The Albatross' equipment was found to be improperly calibrated and possibly unable to give accurate fish stock counts. The industry believes NH is more severely impacted as we are the only area that has a 3 month closure period. They don't think that stricter regulations are needed to increase the fish populations because they can continue to grow with present regulations. Fishermen don't want to over fish our present stock, rather they endorse a common sense, biologically sound approach to maintain the fish stock for future generations.

While the Congressional delegation has worked with the fishing industry to come up with viable alternatives, fishermen believe more needs to be done. It's in the state and nation's best interest that this industry remains a viable source of revenue for the economy. If restrictions are not eased, NH's fishing industry is at risk of going bankrupt and small family owned vessels will be permanently docked.

Funding: No fiscal impact.

Action: Committee exec'd on the bill: OTP 3-0. Senator Cohen will take it to the floor.

ei
[file: SCR 2 report]
Date: 2/21/03

Date: February 18, 2003
Time: 1:15 p.m.
Room: Room 104 LOB

The Senate Committee on Wildlife and Recreation held a hearing on the following:

SCR2	urging the United States Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.

Members of Committee present:	Senator John Gallus, Chair Senator Theodore Gatsas Senator Burton Cohen

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The Chair, Senator John Gallus, opened the hearing.

Senator John Gallus, D. 1: I would like to open the hearing for SCR2 and the Chair calls on the prime sponsor, Senator Cohen.

Senator Burton J. Cohen, D. 24: Thank you. I was looking for, I had some stuff from Representative Norelli that I may have left up there with you, in support of the Bill, we have the written testimony. The committee has the written testimony. I would lose my head if it wasn't attached. **(See attached written testimony of Representative Terie Norelli attached hereto and referenced as Attachment #1).** This is from Representative Norelli who serves Portsmouth and Newington. I will just read a little bit of it. She says, "let me say first that I believe . . . . .". She is on the House Science, Technology committee. She realizes the importance of good science and data collection as an appropriate tool for making policy decisions. I certainly agree. Unfortunately, it seems likely that the current stricter federal regulations may have been based on faulty data collection methods. This is unacceptable. Good science must be the basis for policy decisions that require balancing needs of our environment and our economy. She goes on to say we must protect the fish and the fishing community. She urges us to support SCR2.

I am also pleased to represent the Seacoast of New Hampshire where fishing takes place. It is a value part of this State and our heritage and very very difficult job and something that all of us as consumers benefit from. It is

one of NH's oldest industries and it would be tragic for us to allow the elimination of commercial fishing. Much of NH's heritage has been lost in the last 50 years. Small farms and manufacturing companies have been forced to shut down and the federal restrictions are not relaxed on commercial fisherman. This industry is headed to a similar fate. Some restrictions had been relaxed after the discovery that a federal research vessel was towing flawed gear, thereby creating faulty scientific data upon which the new restrictions are based for more than two years. Due to the uncertainty caused by the new regulations which extreme environmental groups have driven. Planning and operating a fishing business has been nearly impossible as I am sure you will hear from people from that industry. New regulations have brought upon the industry with little warning and no grace period. The impact to New Hampshire small fishing fleet has been severe. The fisherman have been impacted more severely than any other State due to the nature of our small boat fleet. NH is the only area that has had a three month continuance closure, April, May and June and the ground fish are near our shore and the fleet cannot fish around this closure. Vessels are tied to the dock for three months during the time when most boats have historically made 50% of their annual income. Our fishing industry is really at a crossroads. Our small industry fleet is in a difficult point regarding the future of the commercial industry. Fish stocks are rebuilding to levels not seen in a number of years and if sensible regulations are put in place this recovery will continue without destroying the commercial fishing industry. The fishing community has offered numerous alternative solutions for the management of ground fish that would maintain the viability of fish stocks. It is in their interest to maintain fish stocks, and still allow the family fleet to survive. Other States with large vessel fleets have consistently blocked our efforts leading to the current situation. More stringent restrictions are not necessary to increase current fish populations that will continue to grow with the present regulations. Some of the rebuilding schedules for New England ground fish can only be met by virtually eliminating the commercial and recreational fisheries. We certainly do not want to do that. We have seen too much damage caused already. Conserving the resource and maintaining the viability of the fishing industry are not mutually exclusive. Over fishing has gone on for 100's of years. We don't need to be 100% rebuilt in just a ten year period. That is not realistic. If the federal government is serious about having well managed oceans, the taxpayer must get serious about paying for it. Our agriculture system receives billions of dollars and feeds much of the world. Our oceans receive millions, which allows little more than an ocean policy of triage. Many of our solutions to management problems cannot be implemented because of inadequate funding. This, as I say is something that has been a NH heritage for a very long time and we need people who are most directly impacted by this to be able to participate in the creation of decisions which are based on good science and that is what this resolution

calls for, making decisions on good quality science and unfortunately it has not been done so yet so I strongly urge the committee to vote ought to pass on SCR2. I would be happy to take any questions but on a more technical nature I should defer.

Senator John Gallus, D. 1: Any questions from the committee? There being no questions, thank you very much for your testimony.

Senator Burton J. Cohen, D. 24: Thank you.

Senator John Gallus, D. 1: Ellen Goethel.

Ellen Goethel: That is me. Good afternoon. Before I start I spoke with Representative Tom Gillick of Hampton, District 85 over the weekend and Jane Kelley, same District. They are both in support of this. They had signed up to be co-sponsors. Neither of them could make it today and they asked me to read a little bit into the record. Tom Gillick, on another capacity, sits on the Management Committee from the Estuary's projects so he understands fully the impact clean estuaries have on the health of the entire ocean eco-system. The difficulties that the fisherman in our State have been facing over the past few years and he is entirely in support of this resolution. As I spoke to Jane Kelley this morning, she wanted me to convey to you that the reason she signed on a co-sponsor for this Bill is her support for the fisherman and her wish that this would remain a bipartisan issue.

Start reading written testimony of Ellen Goethel attached hereto and referenced as Attachment #2.

Senator John Gallus, D. 1: Any questions from the committee? Thank you very much for your time.

Ellen Goethel: Thanks.

Senator John Gallus, D. 1: The Chair calls on Andrew Lang.

Andrew Lang: Yes. Thank you. I would like to thank you very much for this opportunity to speak before you today. You have my testimony in writing in your folder so I won't stray from the subject matter. I would like to thank Senator Cohen for his effort in bringing this to your attention today along with the other Representatives. My name is Andrew Lang. **(See attached written testimony of Andrew Lang attached hereto and referenced as Attachment #3).**

SB

I want to thank you very much for your time. If you have any questions from the committee?

Senator John Gallus, D. 1: Any questions from the committee? There being no questions, thank you for your testimony.

Andrew Lang: Thank you sir.

Senator John Gallus, D. 1: Bob Nudd.

Bob Nudd, Hampton: Mr. Chairman, members of the committee. My name is Bob Nudd. I am from Hampton. My family settled in Hampton in 1643. **(See attached written testimony of Bob Nudd attached hereto and referenced as Attachment #4).**

Thank you very much.

Senator John Gallus, D. 1: Any questions from the committee. Thank you very much for your testimony. Also for the record signed up in favor but not asking to speak are Representative Tom Gillick, of District 85, Representative Jane Kelley of District 85, Representative Terie Norelli of District 86. Is there anyone who hasn't spoke who wishes to speak at this time. Anyone who wishes to speak a second time? If not, I close the hearing on SCR2.

Respectfully submitted,

Susan Bridge
Senate Secretary
February 20, 2003

ATTACHMENT #1

SCR 2
Testimony of Rep. Terie Norelli
Senate Wildlife and Recreation Committee
February 18, 2002

Good afternoon Mr. Chairman and members of the committee. For the record, I am Rep. Terie Norelli, District 86, serving Portsmouth and Newington, and I appear before you today as a co-sponsor of SCR 2.

Let me say first that I believe that it is important to protect our environment, including fish stocks, not just for our own benefit, but also for our children. During my three-term tenure as a member of the House Science, Technology and Energy Committee I came to realize the importance of good sound science and data collection as an appropriate tool for making policy decisions. Unfortunately, it seems likely that the current stricter federal regulations may have been based on faulty data collection methods. This is unacceptable. Good science must be the basis for policy decisions that require balancing the needs of our environment and our economy.

The ST&E Committee was also required to make policy decisions that involve the economy of low-grade wood. Like the low-grade wood market in the North Country, the fishing industry on the Seacoast is a localized economy that is also part of the local culture. It is important for us, as legislators, to consider this when formulating our policies. We must protect the fish AND the fishing community.

For these reasons, I ask your support for the passage of SCR 2.

ATTACHMENT #2

Ellen D. Goethel
23 Ridgeview Terrace
Hampton, New Hampshire 03842
926-2165

February 18, 2003

Senate Concurrent Resolution **2**

Hello my name is Ellen Goethel. I am a marine biologist from Hampton, NH. My husband is also a fisheries biologist and has been fishing in the State of New Hampshire since he was 13 years old, over 35 years. He is the Owner- Captain of the Fishing Vessel Ellen Diane, a 44-foot stern trawler, fishing out of Hampton Harbor. I'd like to begin with a little information about the fishing industry on our seacoast. There are 97 federally permitted commercial fishing vessels in New Hampshire. This does not include the hundreds of vessels that fish for lobster within state waters. There are 2 fishermen's coops where fish are unloaded and sold. The Portsmouth Fishermen's Co-op and the Yankee Co-op in Seabrook. Between these 2 co-ops there were over 5million lbs of groundfish landed in 2001 worth about $4million. This is less than ½ of the number of groundfish landed in New Hampshire during the early 1990's, before the restrictions began. So although the stocks are much higher than they were in the 90's we are allowed to land much less even though the stocks are rebuilding at an incredible rate. This does not meet the commonsense measure even to a biologist. The combined value of landings from commercial fishing vessels in NH in 2001(this includes not only the groundfish stated above but also the lobster, herring, whiting, spiny dogfish, shrimp, monkfish, etc.) was 25 million dollars. Along with the services required by these vessels and their shore side support, the fishing industry is worth well over a $100 million dollars to the New Hampshire economy. (New Hampshire Fish and Game study from the late 1990's)

Before I give you my testimony I would like to add that our Congressional delegation especially Sen. Gregg and Sen. Sununu have consistently worked with the fishing industry to come up with viable alternatives to our predicament. And we do appreciate their support.

I am here today because of the inequities which have been forced on the small family owned fishing fleet and hope that the Senate will bring greater attention to these issues. By nature the small boat fisherman is a conservationist. It is in their vested interest to maintain healthy fish stocks for their children. With that goal in mind the fishermen of this state have

participated in projects to protect and preserve the fish and the environment. Pingers, raised footrope trawls, etc. I have a list of these to be submitted with my written testimony. I put to you that preserving the fish stocks and the fishermen are not mutually exclusive.

The restrictions that are in place are working. The cod stocks in the Gulf of Maine have nearly tripled in biomass in the last 3 years. This in spite of the fact that the principal measuring tool for these cod stocks, the National Marine Fisheries Service research vessel Albatross IV, has used improperly calibrated gear in two of the past three years, leading to an underestimation of all stocks of fish off of the coast of the Northeastern United States. More stringent restrictions are not necessary to increase the fish populations; they will continue to grow with the present regulations. The only logical reason to increase restrictions would be to destroy the infrastructure and the day boat family owned fishing fleet.

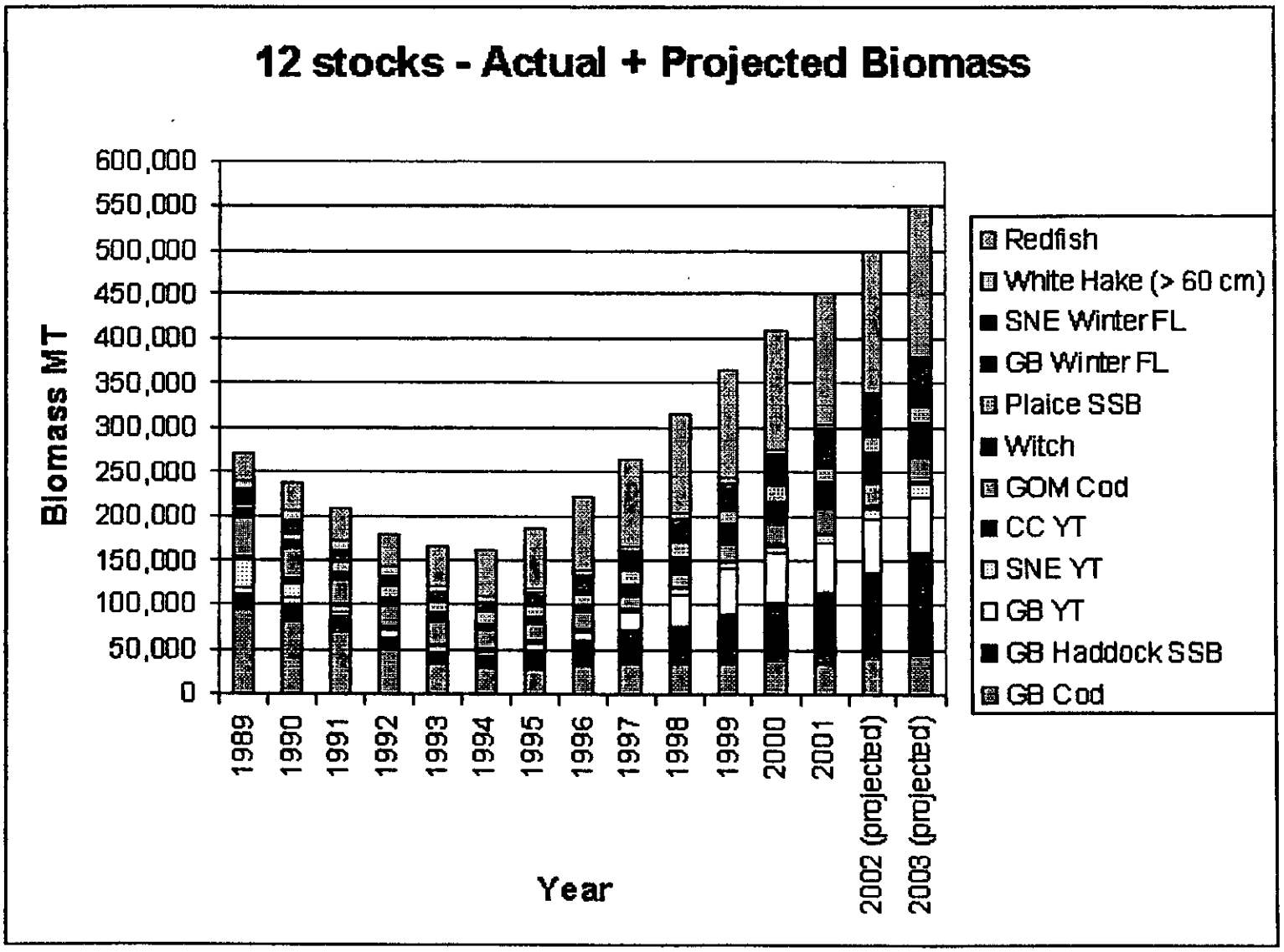
New Hampshire has been impacted more severely than any other state due to the nature of our small boat fleet. We are the only area that has a 3-month continuous closure (April, May and June) when the groundfish are near our shore and the fleet cannot fish around this closure. We are tied to the dock for 3 months. This is the time frame when most of the boats historically have made 50% of their annual income.

The stocks are rebuilding at a faster rate than anyone had previously dreamed, but if the environmental industry in Washington have their way in a few years when the seas are teaming with fish, there will be no fishing boats to harvest them. The National Marine Fisheries Service, who control the regulations implemented on the fleet, have in recent years been ruled by lawsuits filed by the environmental industry. Although the state of New Hampshire signed on to the latest agreement with the litigants of the lawsuit, they did so with a proverbial gun held to their head. Not once has one of these groups sat down with the fishing industry and listened to their proposals to protect the environment and the fish. The environmental industry's underlying goal has not been a responsible interest in the environment but the destruction of the fishing industry. We have offered numerous alternative solutions for the management of groundfish that would maintain the viability of the fish stocks and still allow the family fleet to survive but other states with large vessel fleets and the environmental industry have consistently blocked our efforts leading to the current situation. As a biologist I have been frustrated by the lack of understanding of basic ecological principles by the environmental industry. These groups loudly complain about bycatch and destruction of habitat but endorse regulations that leave thousands of dead fish in their wake and cause more

deleterious effects on habitat. Yet despite this, stocks are still rebuilding. Let me be perfectly clear, we do not endorse a return to the era of over fishing, but endorse a common sense, biologically sound approach to maintaining the fish and the fishermen. This will only be achieved when biologists, fishermen and environmentalists work together.

Due to these restrictions we are forced to use what few groundfish days we have been allotted either in the summer, when vast schools of spiny dogfish inhabit our coastal waters, or in the winter when groundfish move away from the coastal waters causing us to fish in areas that are unsafe for these small boats and in weather that they would have historically stayed in port. As an example, many of the New Hampshire boats fished this past Saturday and Sunday in below zero temperatures in 25 to 30 miles per hour winds because this is the only time of year that they are allowed to fish.

I implore you to pass this resolution. It shows an understanding of the problems our industry is facing and compassion for the families affected.



This chart was put together by the staff of the New England Fisheries Management Council using data from the National Marine Fisheries Service Data collected with the faulty trawl gear in 2000 through 2002. Even with the faulty gear the increases in biomass are staggering.

Submitted by :
Ellen Goethel
Marine Biologist
Member Northeast Seafood Coalition
23 Ridgeview Terr
Hampton, NH 03842
(603) 926-2165

David Goethel
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(603) 926-2165

Summary of Current Fishing Restrictions

Items put into place since the Magnussun/Stevens Act implemented Amendment I in 1978:

1. Increased minimum fish size to allow fish to spawn at least twice before the possibility of capture. Most spawn 2 or 3 times before reaching a size retained by 6½ inch mesh.
2. Increased mesh size from 4½ inch mesh to 6 ½ inch mesh. No one in the world uses mesh this large. The North Sea uses 3 inch mesh and Canadians use 5 ½ inch mesh to fish for the same groundfish.
3. Limits have been set on "Days at Sea". These are the number of days a vessel is allowed to actually fish. Most vessels in the Gulf of Maine have less than 67Days at Sea as oppose to an unlimited number prior to 1995.
4. Most of the most productive grounds for catching ground fish have been closed in three of the major ecosystems. Four permanently closed areas probably protect 30% of the fish year round. In addition the "rolling closures" close areas of highest concentrations of fish when they occur.
5. Very restrictive landing limits have been set for cod and haddock far below what any given boat could catch on any given day even when fishing was very poor.
6. Installation of bycatch reduction devices such as the Nordmore Grate in the Northern Shrimp trawl fishery and the raised foot rope trawl in the Gulf of Maine silver hake fishery which eliminate catch of groundfish as bycatch.
7. The elimination of habitat destructive sweeps from trawl nets such as the "street sweeper" to protect juvenile fish habitat and invertebrates.
8. Installation of "pingers" on gillnets to stop the capture of harbor porpoise.
9. A 12" limit on rock hopper sweeps which were up to 30 inches in size, in the Western Gulf of Maine to reduce capture of cod, haddock and pollack.

ATTACHMENT #3
1

Andrew E. Lang
F/V Lady Dee
25 Shaw Circle
New Castle, NH 03854
February 18, 2003

RE: Testimony in support of SCR 2

Thank you for the opportunity to address this committee. My name is Andrew E. Lang. I reside at 25 Shaw Circle, New Castle New Hampshire. I have been married for 27 years and have raised four (4) children. I hold a BS in Ornamental Horticulture from Colorado State University.

My family has fished and farmed for centuries. I have fished for the last 17 years in various fisheries including urchin, lobster, shrimp and multi-species. We have invested over $200,000 into our fishing business in the last two years with the purchase of a new boat and gear. This investment was made before new restrictions further reducing DAS were made.

The decision to modernize our family fishing business was made so that we could fish outside the closed areas, which exist three months of the year from April to June along the New Hampshire coast. The rolling closure program, the 200 mile limit, 88 days at sea, along with mandatory and voluntary gear changes has led to the most successful rebuilding program in the history of New England Ground fisheries.

Many NH fishermen have been involved in the development of cutting edge trawl technology that has helped this recovery along. Understanding fish behavior, new net designs, rolling sweeps, extended foot rope, (which allows small flounder and fish to escape), trawl door design (which uses water pressure as its primary source of spreading power instead of excessive weight) have made a tremendous difference in preserving the marine habitat.

I recently attended a trawl workshop at the Marine Institute of Memorial University of Newfoundland. This opportunity was made available from grants through the North East Consortium and the University of New Hampshire. Along with other fisherman, scientists and researchers representing MIT, NMFS, MA, NH and ME, I had the opportunity to view the scaled down model of the net the NOAA research vessel, Albatross. This net has been the center of controversy because of its improper calibration. Needless to say this scaled down model displayed problems maintaining bottom in the flume tank. Currently, new surveys are underway with recalibrated equipment, which will take time to complete.

Unfortunately the research information obtained from these original trawls surveys has painted a grossly unfair picture of our fish stocks. This information was used in a resent court decision further reducing our DAS. We have been in a conservation mode for over

ten years. We have gone from a possible 365 days a year down to 88 days. However, an 88-day fishing vessel uses 30% of its days in traveling to and from fishing grounds and tending fishing equipment, which leaves approximately 61 days fishing. With an additional 20% conservation reduction, actual fishing days are reduced to 41. My vessels base line for 2003 is 67 days less 20% for conservation leaving me 53.4 possible days at sea. I will lose in excess of $100,000 in gross revenue this year alone. The $40,000 compensation I received this year from the state has keep us solvent. I would rather have my 88 days, as you can understand. My cost of operation last year exceeded $130,000. Over $ 75,000 was returned to our local economy through mortgages, insurance, labor, parts and fuel

This recent court decision has devalued my property and has left my family and me in a less than credible financial position for borrowing money.
I need to have the fishing year 2001 added to the base line qualification to maintain any chance to survive another year. This would increase our vessels' base line from 53.4 days to 70.2.days and would allow us to continue fishing until new stock assessments are completed and management policies better reflect the true status of the industry.

Thank you for your consideration and support of this resolution. We hope the quality of life and the pursuit of truth is more important than enforcing legislation, which was founded on years of flawed trawl science.

Respectfully;

Andrew E. Lang

ATTACHMENT #4

My family settled in Hampton in 1643. Like most of the families who settled in New Hampshire back then they were fishermen and farmers. Since then my family has had at least one person in every generation who has been directly involved with fishing or with coastal trade.

As for myself I have spent the majority of my life on the ocean engaged the commercial fisheries. I remember when the fish were plentiful and the regulations were few. I remember when you could count the number of draggers in this state on one hand and the entire ground fish fleet in this state on two. I remember bailing codfish into a skiff , so many that the rails would be close to going under, and rowing them ashore because there were no commercial docks to use. I remember the boat loads of 18 cent haddock in the spring and 10 cent pollack in the fall. Certainly I knew the fishing industry in some of its best times. And certainly also, I have known that same industry in some of is worst times.

In the late 70's the concern started and in the 80's the stocks started to decline and the regulations began. The first step was licensing and reporting. Then came larger mesh nets, landing quotas, closed areas, and seasonal closures. In the middle of all this came the infamous Days at Sea allocation. The majority of fishermen opted for the category of Fleet Days at Sea. All of those permits were equal and all had 88

days.

In addition to the regulations came the cry from NMFS to do something else. Fish for something else! Help the ground fish stocks by focusing on other species! In the early 90's, faced with the harsh choice of mortgage payment or food on the table, I chose to focus all my efforts in the lobster fishery until ground fish stocks became healthy again. When I put the dragging and gillnet gear in the back yard, the idea of not going ground fishing ever again never crossed my mind.
But at that time the last thing that the resource needed was one more fisherman chasing the last codfish in the ocean. I had the boat and the knowledge. I could do well in another fishery.

If it wasn't for fisherman like me, fisherman who chose to do what was asked of them, there would be no ground fishery today. We are Fisherman, we are good at what we do, we would have caught that last codfish in the ocean. That would have been wrong. Just as wrong as denying us access now to a fishery because we did the right thing.

Days at Sea Allocation is a very emotional and political topic. It is the essence of fisheries access and it affects not just individuals and families but communities and future generations as well. It is not just about today's income. It is about future income. It's about present and future value of assets. It's about infrastructure and related jobs. And it's about the financial stability of whole communities.

Scientists and managers tell us that, based on the best available data, the groundfish resource can only support a certain number of fishing days. But they don't tell us at what level of exploitation. They tell us that latent days must be removed. But they don't tell us what portion of that effort, that is currently allocated as used days at sea, were not used at all. They don't tell us that, except for a few exceptions, fisherman are having difficulty using the days they are currently allocated.

What are some of the things that we do know? We know that the trawl data used to evaluate the health of the resource has been flawed for years. We know that the agreement that resulted in Judge Kesselers decision involving the base line Days at Sea Allocation was the result of a back room agreement, without due process, by a handful of people now sworn to secrecy. We know that the management measures currently in place are working even without days at sea reduction. We know that there is size structure diversification within the resource.

We know that fishermen themselves are fishing more conservatively. We know that there is more work to be done. And finally we know that you do not need to devastate fishing families by reducing their Days at Sea to a point where they cannot survive.

There are some that have said I had the opportunity sell my permit and didn't. So I have no complaint. A permit has many values. We are all Fishermen. It's not just about today's dollar value, it's about the income that permit will generate in the future.. It's about not being able to split permits. If I sell may multispecies permit I must sell all my permits including my lobster permit. I will no longer be able to fish for anything. It's about the value of boats with eight days at sea as opposed to 88. It's about not needing 88 days or 72 days but needing enough to survive and 8 is not enough, And most of all its about sons and daughters and grand children and family.

Over the years there has been one fundamental flaw in fisheries management.. Those who take the most from the resource have been rewarded and those who conserve the most have been punished. Believe me when I say that I do not condemn or begrudge any fisherman for trying to survive. Given the condition of the resource every fisherman has had to look long and hard into his or her

conscience and individual situation. Decisions were made and no fisherman should be punished for their choices.

There are many more issues and there are many more arguments. For me, as someone who has made a living from the sea for the majority of his life, A Fisherman is a Fisherman and Fleet Days at Sea Permits are all equal. And yet, with the drop of a judges gavel and the vote of a council, my right to fish, that was the some as everyone else's, is no longer equal. And the punishment for doing what was asked of me, the punishment for doing what was right is the end of a 360 year heritage.

Bob Nudd

531 Exeter Road

Hampton, New Hampshire 03842-1014

Speakers

SENATE WILDLIFE & RECREATION COMMITTEE

Date February 18, 2003 Time 1:15 p.m. Public Hearing on **Bill # SCR2**

urging the United States Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.

(Please print) ***Please check box(es) at left that apply.***

SPEAKING?	FAVOR	OPPOSED	NAME	REPRESENTING
☒	☒	☐	Ellen Goethel	Myself
☒	☒	☐	Andrew E. Lang	MYSELF
☒	☒	☐	Bob Nudd	Myself
☐	☒	☐	David Goethel	myself
☐	☒	☐	Rep. Tom Gilmick Jr	District #85
☐	☒	☐	Rep Jane Kelley	District #85
☐	☒	☐	Rep. Terie Norelli	District #86
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Testimony

SCR 2
Testimony of Rep. Terie Norelli
Senate Wildlife and Recreation Committee
February 18, 2002

Good afternoon Mr. Chairman and members of the committee. For the record, I am Rep. Terie Norelli, District 86, serving Portsmouth and Newington, and I appear before you today as a co-sponsor of SCR 2.

Let me say first that I believe that it is important to protect our environment, including fish stocks, not just for our own benefit, but also for our children. During my three-term tenure as a member of the House Science, Technology and Energy Committee I came to realize the importance of good sound science and data collection as an appropriate tool for making policy decisions. Unfortunately, it seems likely that the current stricter federal regulations may have been based on faulty data collection methods. This is unacceptable. Good science must be the basis for policy decisions that require balancing the needs of our environment and our economy.

The ST&E Committee was also required to make policy decisions that involve the economy of low-grade wood. Like the low-grade wood market in the North Country, the fishing industry on the Seacoast is a localized economy that is also part of the local culture. It is important for us, as legislators, to consider this when formulating our policies. We must protect the fish AND the fishing community.

For these reasons, I ask your support for the passage of SCR 2.

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PORTSMOUTH HERALD

Long road yet before local fishing industry is secure

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We have been consistent advocates for reaching a compromise that will allow the regeneration of groundfish stocks in the waters off the New England coast while protecting those who make their living harvesting this resource. It now appears that may have been accomplished.

Federal regulators have evidently seen the light and allowed five more years for the regeneration of cod, haddock and other groundfish stocks in the area to specific levels, by moving the replenishment date from 2009 to 2014. The assumption is that this decision will either remove completely or diminish the impact of additional restrictions previously planned for New England fishing fleets.

However, no one should rest easy just yet.

The environmental groups whose lawsuit against the National Marine Fisheries Service initially prompted the proposal for additional restrictions are not at all happy with this most recent decision by regulators. It is quite possible - listening to the rhetoric of the lawyers for these groups - that additional court action could soon be initiated to overturn this latest decision.

Also, local marine biologist and fishermen's advocate Ellen Goethel has warned that the devil will be in the details of this decision. She noted that if Gulf of Maine cod - one of the most threatened of the groundfish species the government is trying to protect - is not included in the extension, the consequences for local Maine and New Hampshire fishing fleets could still be disastrous.

What all this means is that advocates for maintaining a viable fishing industry, particularly here in New Hampshire and southern Maine, need to remain vigilant. There is still a long way to go before this industry is secure and its

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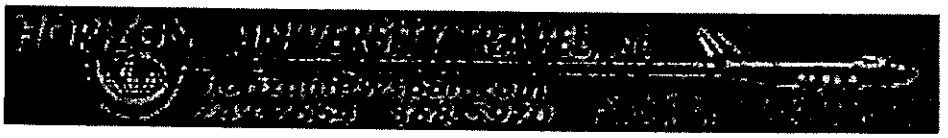
It still must be determined how the mistake research scientists made in setting their collections nets in their attempt to assess current groundfish populations will affect the results of their initial study. Local fishermen and even many scientists have contended that substantial progress has been made in rebuilding those fish stocks, but there is still no solid evidence available to either refute or confirm those statements.

Once again, it is our position that groundfish stocks must be allowed to replenish themselves in order to have a resource that is renewable for generations to come. However, the fishing industry, which has been a mainstay of the local economy as well as part of the local culture since well before the Revolutionary War, must be protected in the process.

It is our belief that these two goals are not mutually exclusive and that reasonable people can come up with reasonable ways to save both the fish and the fishermen.

- Portsmouth Herald

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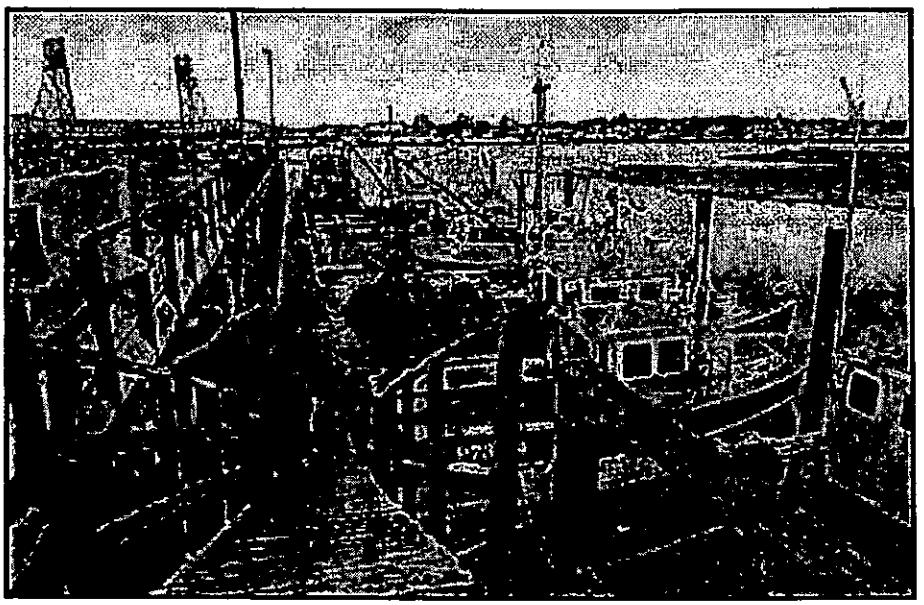
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PORTSMOUTH HERALD



Fishing boats at the Fisherman's Co-op sit at the docks Wednesday.

Staff photo by Deb Cram

Commercial fleet afloat

By Michelle Firmbach
mfirmbach@seacoastonline.com

PORTSMOUTH - New England fishermen were granted a reprieve this week from tough new restrictions on their livelihood when federal regulators agreed to allow up to five additional years for some decimated fish populations to replenish.

The National Marine Fisheries Service announced Tuesday it would reset the clock for rebuilding stocks of cod and other groundfish species to 2014, rather than the 2009 deadline established earlier - in effect allowing more time for the fish stocks to rebuild.

That means that the New England Fishery Management Council, as it develops the latest set of regulations for stocks under its purview, could allow extra time for rebuilding certain species. That would likely translate into more leeway for

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fishermen, but it's too early to say exactly how.

Local fishermen praised the delay, but environmental groups who have pushed for stricter catch limits accused the National Marine Fisheries Service of bending to political pressure from fishermen.

"This is a major problem. They're flying in the face of the law and breaking their own promises," said Eric Bilsky, a senior attorney with the conservation group Oceana.

Bilsky said the substance of the government action relayed to him by the press is plainly illegal.

"It is completely outrageous," Bilsky said. "It is in complete defiance of the law and the 10-year deadline."

Hampton resident Ellen Goethel, a marine biologist whose husband is a fisherman, said her family's initial reaction to the news is positive. However, she added, it still isn't known which stocks are going to be extended.

"If the Gulf of Maine cod are not included in this extended rebuilding period, then this latest extension will have absolutely no effect on the New Hampshire fleet," said Goethel, whose husband, David Goethel, is the captain of the F/V Ellen Diane. "If they include the Gulf of Maine cod, it will have a very positive impact on the ability of the inshore fleet to continue fishing."

Goethel said the move is reasonable considering that the National Marine Fisheries Service tripled the original target goal for Gulf of Maine cod last year, but did not allow for any more time to rebuild the stocks.

The Boston-based Conservation Law Foundation led a coalition of environmental groups in suing the federal government in 2000, charging that it allowed stocks of cod and other commercially valuable species to be overfished. Two years ago, a federal judge ruled in favor of the environmental groups, ordering the tough new restrictions.

Those rules have since been relaxed twice, most recently in December when U.S. District Judge Gladys Kessler delayed the deadline for the new groundfish regulations - called Amendment 13 - from Aug. 22, 2003, to May 1, 2004.

Following a Monday briefing on Capitol Hill, Bill Hogarth, an assistant administrator with the federal fisheries service, issued a statement that he would support using 2004 as the "start of the rebuilding clock for appropriate species." Previously, 2009 had been a target date for rebuilding stocks. Timelines that begin in 2004 would mean that federal regulations could allow rebuilding up to 2014.

"Look at the stocks; we're making progress," Hogarth told The Boston Globe. "We changed the goal posts, however. This is the responsible way to go." Scientists will use the extra time to further assess the impact of a highly publicized mistake in collecting samples used in fish counts and to review their projections about the health of fish stocks and the social consequences of the new rules.

Once finalized and instituted, the Amendment 13 regulations could give up to 10 years or longer for the various groundfish species, such as cod, haddock, flounders, to regenerate.

Bilsky said the 10-year limit provided under the law is a means to prevent overfishing that may cause a population to crash, a situation already transpiring in Europe and Canada. Furthermore, he said, there hasn't been any proposal to consult the New England Fishery Management Council - the group charged with creating the rules. The council writes fishing regulations subject to review by NMFS, which is part of the U.S. Commerce Department.

"For the federal government to come in and step all over the council process and say in advance it is going to select an alternative that is not even before the council, it is just a breathtaking statement. Words fail."

Bilsky, who at various stages of the litigation has represented all of the plaintiffs, said the announcement was made to members to the New England congressional delegation and the press, but the plaintiffs in the lawsuit were not even notified of the decision.

"What a remarkable adversarial action," Bilsky said. "The point of rebuilding those fishing populations is so in the future we can catch three times more fish year in and year out.

"I am trying to contact the government, who again did not have the courtesy to speak to me and find out what exactly they are doing," Bilsky said.

Bilsky said he will then consult with his clients and his colleagues to figure out their next course of action.

"It's wonderful news," Angelo Sanfilippo, of the Gloucester Fishermen's Wives Association, said of the extension. "This is a fairer way to rebuild the stocks."

Sen. Edward Kennedy, D-Mass., also praised the National Marine Fisheries Service for demonstrating flexibility.

"The fishermen have sacrificed greatly during the rebuilding restrictions that have been put on them, and this will help to ensure that we will still have a groundfishing fleet in years to come," Kennedy said in a statement Tuesday.

Material from The Associated Press is included in this report.

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Wednesday, January 15, 2003 E-mail This Article

Fisheries official says rebuilding alternatives possible

BOSTON (AP) — The National Marine Fisheries Service would support "alternative" timelines for rebuilding overfished groundfish stocks that begin in 2004, according to a service official.

Bill Hogarth, an assistant administrator with the fisheries service, wrote in a statement summarizing a Monday briefing on Capitol Hill that he would support using 2004 as the "start of the rebuilding clock for appropriate species."

In December, U.S. District Judge Gladys Kessler delayed the deadline for the new groundfish regulations — called Amendment 13 — from August 22, 2003 to May 1, 2004.

Scientists will use the time to further assess the impact of a highly publicized mistake collecting samples used in fish counts and review its projections about stock health and social impacts of the new rules.

Once finalized and instituted, the Amendment 13 regulations could give up to 10 years or longer for the various groundfish species, such as cod, haddock, flounders, to regenerate.

Previously, 2009 had been a target date for rebuilding stocks. Timelines that begin in 2004 would mean that federal regulations could allow rebuilding up to 2014.

"(National Oceanic and Atmospheric Administration) Fisheries will continue to work with the New England Fishery Management) Council as it develops alternatives under Amendment 13 and determines which species are appropriate candidates for the various alternatives for the new rebuilding schedule," Hogarth wrote in the letter.

Hogarth did not specify which species those could include, or what the alternative timelines would be.

Sen. Edward Kennedy, D-Mass., welcomed the National Marine Fisheries Service for demonstrating flexibility.

"The fishermen have sacrificed greatly during the rebuilding restrictions that have been put on them, and this will help to insure that we will still have a ground fishing fleet in years to come," Kennedy said in a statement Tuesday.

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Kennedy, Snowe to seek delay on new fishing regulations

Plan follows questions on scientific data

By Beth Daley
GLOBE STAFF

Two powerful New England senators will file a bill calling for a possible two-year delay in harsh new fishing restrictions scheduled for this summer, saying federal regulators may be using faulty science to put hundreds of fishermen out of work.

Senators Edward M. Kennedy of Massachusetts and Olympia Snowe of Maine also want the US Inspector General's office to examine the National Marine Fisheries Service methodology for estimating fish populations. Last month, scientists acknowledged that researchers on their boat Albatross IV used mismatched cable net lines for more than two years, possibly painting a more dire picture of fish stocks than exists.

"We owe it to the hundreds of fishing families in New England to freeze any further implementation of [the strict new regulations] until previous errors are corrected and future stock assessments are accurate," said Kennedy who plans to file legislation with Snowe after the election.

Their announcement joins a growing chorus by legislators to delay the court-ordered restrictions on fishing because of questions about the science. Senator Susan Collins of Maine called for a delay in the regulations, and US Representative William D. Delahunt of Quincy, among other legislators, has also called for a "time-out" in plans to reduce the allowable catch of cod and other New England fish.

But conservation groups said yesterday that the restrictions should go ahead as planned. They say the need for them is based on a long-term trend of overfishing and stock rebuilding, not the two years involved in the trawl data problems.

"We believe that our nation's legislators are moving very prematurely here," said Priscilla Brooks of the Conservation Law Foundation. "The jury is still out, [the National Marine Fisheries Service] has not completed their analysis of the trawl survey problem and until they do, there is nothing concrete and compelling to suggest we should put a freeze on [the fishing plan]."

The fishery agency is set to release a report today in part assessing how much the cable lines affected fish catches. That report, a fishery source said, is expected to show that the trawl problems had a negligible impact on fish counts.

Anticipating the report, six fishermen resigned from their job aiding National Marine Fisheries Service in fixing the fish-counting problems.

"We cannot at this time continue to participate in what is an effort to paper over the systemic problems, and white-wash results," the group wrote to the Undersecretary of Commerce for Oceans and Atmosphere, the head of National Marine Fisheries Service, and the regional fishery administrator. "Until we see a better plan, a better protocol, and frankly a better attitude, we have regretfully determined that we cannot continue to help you grope for the easiest possible out."

One of the fishermen, Matt Stommel, discovered the equipment problem on the Albatross more than two years ago, but said he was ignored by the fishery agency after pointing it out.

National Marine Fisheries Service officials said they regretted the fishermen's decision, but were committed to working with the fishing industry.

"We are working really hard with everyone who is willing to work with us," said Teri Frady, a spokeswoman for National Marine Fisheries Service. "It's new territory for a lot of people and we are having the usual tortuous path when you try to understand each other's language. But we are committed to it and hope others are, too."

> **'We believe that our nation's legislators are moving very prematurely.'**
>
> PRISCILLA BROOKS, *Conservation Law Foundation*

New England fishermen have faced a growing web of restrictions in the last decade as fish stocks collapsed. But the ones set to take effect next August are by far the most severe, slicing the amount of commercial fishing by more than 50 percent.

A federal judge ordered the reduction after the Conservation Law Foundation and other environmental groups filed a lawsuit in 2000 saying fish stocks were not recovering fast enough under a 1996 law. Fish stocks, after years of devastating decline, are inching up again. Fishermen doubt there is a need for tighter restrictions now.

Beth Daley can be reached by email at bdaley@globe.com

Ellen D. Goethel
23 Ridgeview Terrace
Hampton, New Hampshire 03842
926-2165

February 18, 2003

Senate Concurrent Resolution **2**

Hello my name is Ellen Goethel. I am a marine biologist from Hampton, NH. My husband is also a fisheries biologist and has been fishing in the State of New Hampshire since he was 13 years old, over 35 years. He is the Owner- Captain of the Fishing Vessel Ellen Diane, a 44-foot stern trawler, fishing out of Hampton Harbor. I'd like to begin with a little information about the fishing industry on our seacoast. There are 97 federally permitted commercial fishing vessels in New Hampshire. This does not include the hundreds of vessels that fish for lobster within state waters. There are 2 fishermen's coops where fish are unloaded and sold. The Portsmouth Fishermen's Co-op and the Yankee Co-op in Seabrook. Between these 2 co-ops there were over 5million lbs of groundfish landed in 2001 worth about $4million. This is less than ½ of the number of groundfish landed in New Hampshire during the early 1990's, before the restrictions began. So although the stocks are much higher than they were in the 90's we are allowed to land much less even though the stocks are rebuilding at an incredible rate. This does not meet the commonsense measure even to a biologist. The combined value of landings from commercial fishing vessels in NH in 2001(this includes not only the groundfish stated above but also the lobster, herring, whiting, spiny dogfish, shrimp, monkfish, etc.) was 25 million dollars. Along with the services required by these vessels and their shore side support, the fishing industry is worth well over a $100 million dollars to the New Hampshire economy. (New Hampshire Fish and Game study from the late 1990's)

Before I give you my testimony I would like to add that our Congressional delegation especially Sen. Gregg and Sen. Sununu have consistently worked with the fishing industry to come up with viable alternatives to our predicament. And we do appreciate their support.

I am here today because of the inequities which have been forced on the small family owned fishing fleet and hope that the Senate will bring greater attention to these issues. By nature the small boat fisherman is a conservationist. It is in their vested interest to maintain healthy fish stocks for their children. With that goal in mind the fishermen of this state have

participated in projects to protect and preserve the fish and the environment. Pingers, raised footrope trawls, etc. I have a list of these to be submitted with my written testimony. I put to you that preserving the fish stocks and the fishermen are not mutually exclusive.

The restrictions that are in place are working. The cod stocks in the Gulf of Maine have nearly tripled in biomass in the last 3 years. This in spite of the fact that the principal measuring tool for these cod stocks, the National Marine Fisheries Service research vessel Albatross IV, has used improperly calibrated gear in two of the past three years, leading to an underestimation of all stocks of fish off of the coast of the Northeastern United States. More stringent restrictions are not necessary to increase the fish populations; they will continue to grow with the present regulations. The only logical reason to increase restrictions would be to destroy the infrastructure and the day boat family owned fishing fleet.

New Hampshire has been impacted more severely than any other state due to the nature of our small boat fleet. We are the only area that has a 3-month continuous closure (April, May and June) when the groundfish are near our shore and the fleet cannot fish around this closure. We are tied to the dock for 3 months. This is the time frame when most of the boats historically have made 50% of their annual income.

The stocks are rebuilding at a faster rate than anyone had previously dreamed, but if the environmental industry in Washington have their way in a few years when the seas are teaming with fish, there will be no fishing boats to harvest them. The National Marine Fisheries Service, who control the regulations implemented on the fleet, have in recent years been ruled by lawsuits filed by the environmental industry. Although the state of New Hampshire signed on to the latest agreement with the litigants of the lawsuit, they did so with a proverbial gun held to their head. Not once has one of these groups sat down with the fishing industry and listened to their proposals to protect the environment and the fish. The environmental industry's underlying goal has not been a responsible interest in the environment but the destruction of the fishing industry. We have offered numerous alternative solutions for the management of groundfish that would maintain the viability of the fish stocks and still allow the family fleet to survive but other states with large vessel fleets and the environmental industry have consistently blocked our efforts leading to the current situation. As a biologist I have been frustrated by the lack of understanding of basic ecological principles by the environmental industry. These groups loudly complain about bycatch and destruction of habitat but endorse regulations that leave thousands of dead fish in their wake and cause more

deleterious effects on habitat. Yet despite this, stocks are still rebuilding. Let me be perfectly clear, we do not endorse a return to the era of over fishing, but endorse a common sense, biologically sound approach to maintaining the fish and the fishermen. This will only be achieved when biologists, fishermen and environmentalists work together.

Due to these restrictions we are forced to use what few groundfish days we have been allotted either in the summer, when vast schools of spiny dogfish inhabit our coastal waters, or in the winter when groundfish move away from the coastal waters causing us to fish in areas that are unsafe for these small boats and in weather that they would have historically stayed in port. As an example, many of the New Hampshire boats fished this past Saturday and Sunday in below zero temperatures in 25 to 30 miles per hour winds because this is the only time of year that they are allowed to fish.

I implore you to pass this resolution. It shows an understanding of the problems our industry is facing and compassion for the families affected.

Andrew E. Lang
F/V Lady Dee
25 Shaw Circle
New Castle, NH 03854
February 18, 2003

RE: Testimony in support of SCR 2

Thank you for the opportunity to address this committee. My name is Andrew E. Lang. I reside at 25 Shaw Circle, New Castle New Hampshire. I have been married for 27 years and have raised four (4) children. I hold a BS in Ornamental Horticulture from Colorado State University.

My family has fished and farmed for centuries. I have fished for the last 17 years in various fisheries including urchin, lobster, shrimp and multi-species. We have invested over $200,000 into our fishing business in the last two years with the purchase of a new boat and gear. This investment was made before new restrictions further reducing DAS were made.

The decision to modernize our family fishing business was made so that we could fish outside the closed areas, which exist three months of the year from April to June along the New Hampshire coast. The rolling closure program, the 200 mile limit, 88 days at sea, along with mandatory and voluntary gear changes has led to the most successful rebuilding program in the history of New England Ground fisheries.

Many NH fishermen have been involved in the development of cutting edge trawl technology that has helped this recovery along. Understanding fish behavior, new net designs, rolling sweeps, extended foot rope, (which allows small flounder and fish to escape), trawl door design (which uses water pressure as its primary source of spreading power instead of excessive weight) have made a tremendous difference in preserving the marine habitat.

I recently attended a trawl workshop at the Marine Institute of Memorial University of Newfoundland. This opportunity was made available from grants through the North East Consortium and the University of New Hampshire. Along with other fisherman, scientists and researchers representing MIT, NMFS, MA, NH and ME, I had the opportunity to view the scaled down model of the net the NOAA research vessel, Albatross. This net has been the center of controversy because of its improper calibration. Needless to say this scaled down model displayed problems maintaining bottom in the flume tank. Currently, new surveys are underway with recalibrated equipment, which will take time to complete.

Unfortunately the research information obtained from these original trawls surveys has painted a grossly unfair picture of our fish stocks. This information was used in a resent court decision further reducing our DAS. We have been in a conservation mode for over

ten years. We have gone from a possible 365 days a year down to 88 days. However, an 88-day fishing vessel uses 30% of its days in traveling to and from fishing grounds and tending fishing equipment, which leaves approximately 61 days fishing. With an additional 20% conservation reduction, actual fishing days are reduced to 41. My vessels base line for 2003 is 67 days less 20% for conservation leaving me 53.4 possible days at sea. I will lose in excess of $100,000 in gross revenue this year alone. The $40,000 compensation I received this year from the state has keep us solvent. I would rather have my 88 days, as you can understand. My cost of operation last year exceeded $130,000. Over $ 75,000 was returned to our local economy through mortgages, insurance, labor, parts and fuel

This recent court decision has devalued my property and has left my family and me in a less than credible financial position for borrowing money.
I need to have the fishing year 2001 added to the base line qualification to maintain any chance to survive another year. This would increase our vessels' base line from 53.4 days to 70.2.days and would allow us to continue fishing until new stock assessments are completed and management policies better reflect the true status of the industry.

Thank you for your consideration and support of this resolution. We hope the quality of life and the pursuit of truth is more important than enforcing legislation, which was founded on years of flawed trawl science.

Respectfully;

Andrew E. Lang

My family settled in Hampton in 1643. Like most of the families who settled in New Hampshire back then they were fishermen and farmers. Since then my family has had at least one person in every generation who has been directly involved with fishing or with coastal trade.

As for myself I have spent the majority of my life on the ocean engaged the commercial fisheries. I remember when the fish were plentiful and the regulations were few. I remember when you could count the number of draggers in this state on one hand and the entire ground fish fleet in this state on two. I remember bailing codfish into a skiff , so many that the rails would be close to going under, and rowing them ashore because there were no commercial docks to use. I remember the boat loads of 18 cent haddock in the spring and 10 cent pollack in the fall. Certainly I knew the fishing industry in some of its best times. And certainly also, I have known that same industry in some of is worst times.

In the late 70's the concern started and in the 80's the stocks started to decline and the regulations began. The first step was licensing and reporting. Then came larger mesh nets, landing quotas, closed areas, and seasonal closures. In the middle of all this came the infamous Days at Sea allocation. The majority of fishermen opted for the category of Fleet Days at Sea. All of those permits were equal and all had 88

days.

In addition to the regulations came the cry from NMFS to do something else. Fish for something else! Help the ground fish stocks by focusing on other species! In the early 90's, faced with the harsh choice of mortgage payment or food on the table, I chose to focus all my efforts in the lobster fishery until ground fish stocks became healthy again. When I put the dragging and gillnet gear in the back yard, the idea of not going ground fishing ever again never crossed my mind.
But at that time the last thing that the resource needed was one more fisherman chasing the last codfish in the ocean. I had the boat and the knowledge. I could do well in another fishery.

If it wasn't for fisherman like me, fisherman who chose to do what was asked of them, there would be no ground fishery today. We are Fisherman, we are good at what we do, we would have caught that last codfish in the ocean. That would have been wrong. Just as wrong as denying us access now to a fishery because we did the right thing.

Days at Sea Allocation is a very emotional and political topic. It is the essence of fisheries access and it affects not just individuals and families but communities and future generations as well. It is not just about today's income. It is about future income. It's about present and future value of assets. It's about infrastructure and related jobs. And it's about the financial stability of whole communities.

Scientists and managers tell us that, based on the best available data, the groundfish resource can only support a certain number of fishing days. But they don't tell us at what level of exploitation. They tell us that latent days must be removed. But they don't tell us what portion of that effort, that is currently allocated as used days at sea, were not used at all. They don't tell us that, except for a few exceptions, fisherman are having difficulty using the days they are currently allocated.

What are some of the things that we do know? We know that the trawl data used to evaluate the health of the resource has been flawed for years. We know that the agreement that resulted in Judge Kesselers decision involving the base line Days at Sea Allocation was the result of a back room agreement, without due process, by a handful of people now sworn to secrecy. We know that the management measures currently in place are working even without days at sea reduction. We know that there is size structure diversification within the resource.

We know that fishermen themselves are fishing more conservatively. We know that there is more work to be done. And finally we know that you do not need to devastate fishing families by reducing their Days at Sea to a point where they cannot survive.

There are some that have said I had the opportunity sell my permit and didn't. So I have no complaint. A permit has many values. We are all Fishermen. It's not just about today's dollar value, it's about the income that permit will generate in the future. It's about not being able to split permits. If I sell may multispecies permit I must sell all my permits including my lobster permit. I will no longer be able to fish for anything. It's about the value of boats with eight days at sea as opposed to 88. It's about not needing 88 days or 72 days but needing enough to survive and 8 is not enough, And most of all its about sons and daughters and grand children and family.

Over the years there has been one fundamental flaw in fisheries management. Those who take the most from the resource have been rewarded and those who conserve the most have been punished. Believe me when I say that I do not condemn or begrudge any fisherman for trying to survive. Given the condition of the resource every fisherman has had to look long and hard into his or her

conscience and individual situation. Decisions were made and no fisherman should be punished for their choices.

There are many more issues and there are many more arguments. For me, as someone who has made a living from the sea for the majority of his life, A Fisherman is a Fisherman and Fleet Days at Sea Permits are all equal. And yet, with the drop of a judges gavel and the vote of a council, my right to fish, that was the some as everyone else's, is no longer equal. And the punishment for doing what was asked of me, the punishment for doing what was right is the end of a 360 year heritage.

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SCR 2

A RESOLUTION URGING THE UNITED STATES CONGRESS TO ACT TO RECTIFY THE SCIENCE, RESEARCH FUNDING, AND RESTRICTIONS GOVERNING THE NORTHEAST MULTISPECIES FISHING INDUSTRY AND ITS IMPACT ON NEW HAMPSHIRE FISHERMEN

POINTS OF CONSIDERATION

FISHING INDUSTRY IS ONE OF NEW HAMPSHIRE'S OLDEST INDUSTRIES

* As one of New Hampshire's oldest industries, it would be unfortunate for New Hampshire to allow the elimination of commercial fishing. Much of the heritage of New Hampshire has been lost in the last 50 years as small farms and manufacturing companies have been forced to shut down. If federal restrictions are not relaxed on commercial fishermen, New Hampshire's fishing industry is headed to a similar fate.

* There are 97 Federally-permitted commercial fishing vessels, most of them small family-owned vessels, in New Hampshire. This does not include the hundreds of vessels that fish for lobster within State waters.

* New Hampshire has two commercial fishing cooperatives – one in Seabrook (Yankee Coop) and one in Portsmouth (Portsmouth Fishing Coop) and processed over 5 million pounds of groundfish at a value over $4 million dollars.

* The economic benefit from New Hampshire's commercial fishing industry has been estimated over $100 million dollars according to the State's Fish & Game Department.

THE PROBLEM: OVERFISHING STRESSING OUT FISH STOCKS

* New Hampshire's fishing industry have been facing a growing number of restrictions, some court-ordered restrictions, as fish stocks have become stressed over the past decade. New restrictions set to become effective by August, 2003, may cut current fishing opportunities by more than 50%.

* It is important to note that fishermen have a vested interest in maintaining healthy fish stocks and have worked in voluntary compliance with some restrictions in order to protect and preserve fishing stocks and their business operations.

* New Hampshire commercial fishing fleet are faced with a 3-month continuous closure during the months of April, May and June. This comes at a bad time considering groundfish are near our shore and the fleet is unable to fish. Historically, most boats make 50% of their annual income during this timeframe.

* Fish populations will continue to increase without further federal restrictions. In fact, the cod stocks in the Gulf of Main have nearly tripled in biomass in the last 3 years.

FAULTY SCIENTIFIC DATA LEADS TO UNREASONABLE PUBLIC POLICY SET BY COURTS

* The methodology for estimating fish populations was based on scientific data provided by the federal trawler, the Albatross. It was discovered that the Albatross used mismatched cable net lines for more than two years, possibly tainting a clear picture of fish stocks that exist.

* Due to the uncertainty caused by new federal and court-ordered regulations, which extreme environmental groups have driven, planning and operating a fishing business in New Hampshire is near impossible. New regulations are brought upon the industry with little warning and with no grace period.

IMPACT TO NEW HAMPSHIRE'S SMALL FISHING FLEET SEVERE

* New Hampshire fishermen have been impacted more severely than any other state due to the nature of our small boat fleet.

* New Hampshire is the only area that has a three month continuous closure (April, May, June) when the groundfish are near our shore and the fleet cannot fish around this closure. Vessels are tied to the dock for three months during a time when most boats historically have made 50% of their annual income.

NEW HAMPSHIRE'S FISHING INDUSTRY AT CROSSROADS

* New Hampshire's small fishing industry fleet is at a crossroads regarding the future of the commercial fishing industry. Fish stocks are rebuilding to levels not seen in a number of years. If sensible regulations are put in place, this recovery will continue without destroying the commercial fishing industry.

* New Hampshire fishing community have offered numerous alternative solutions for the management of groundfish that would maintain the viability of the fish stocks and still allow the family fleet to survive but other states with large vessel fleets have consistently blocked our efforts leading to the current situation.

* More stringent restrictions are not necessary to increase certain fish populations, they will continue to grow with the present regulations. Some of the rebuilding schedules for New England groundfish can only be met by virtually eliminating the commercial and recreational fisheries. Conserving the resource and maintaining the viability of the fishing industry are not mutually exclusive. Over fishing has gone on for hundreds of years – we don't need to be 100% rebuilt in 10 years.

SCR 2

A RESOLUTION URGING THE UNITED STATES CONGRESS TO ACT TO RECTIFY THE SCIENCE, RESEARCH FUNDING, AND RESTRICTIONS GOVERNING THE NORTHEAST MULTISPECIES FISHING INDUSTRY AND ITS IMPACT ON NEW HAMPSHIRE FISHERMEN

CHRONOLOGICAL BACKGROUND

1976 The Magnuson-Stevens Fishery Conservation and Management Act was passed by the U.S. Congress in 1976. It created a 200-mile limit of U.S. control over waters once heavily fished by foreign fleets. It also set up a federal management system for fishing between three and 200 nautical miles. States continue to manage gfishing out to about three miles but now must coordinate what they do with federal management. It has been amended, most recently in 1996 when it also changed from "Magnuson" to "Magnuson-Stevens."

5/19/2000 Lawsuit brought by the Conservation Law Foundation (CLF), Center for Marine Conservation, National Audubon Society and Natural Resources Defense Council against NOAA Fisheries (Conservation Law Foundation, et al., v. Evans, Case No. 00CVO1134, (D.D.C., December 28, 2001)). The lawsuit alleged that Framework Adjustment 33 to the Fishery Management Plan (FMP) violated the overfishing, rebuilding and bycatch provisions of the Magnuson-Stevens Act (16 U.S.C. 1801, et seq.), as amended by the Sustainable Fisheries Act (SFA).

12/28/2001 Court granted Plaintiffs' Motion for Summary Judgment on all counts ruling that the National Marine Fisheries Service (NMFS), the National Oceanic and Atmospheric Administration, and the secretary of commerce violated the Sustainable Fisheries Act (SFA) by approving Framework Adjustment 33 to the groundfish plan, which used Amendment 7 as the rebuilding standard instead of the more stringent and SFA-compliant targets in Amendment 9. However, the Court did not impose a remedy but instead asked the parties to the lawsuit to propose remedies consistent with the Court's findings. Shortly thereafter, several additional parties were allowed to intervene in the lawsuit for purposes of proposing the appropriate remedy. These parties (``Intervenors") included the States of Maine, New Hampshire, Massachusetts, and Rhode Island, and three industry groups.

1/22-4/22/02 Case enters "remedy" phase. Judge Kessler holds status conferences, establishes briefing schedules, and issues orders.

4/5-4/9/02 Plaintiffs, Defendants and Intervenors engaged in Court-sponsored mediation to try to agree upon mutually acceptable short-term and long-term solutions to present to the Court as an appropriate remedy. Although these discussions ended with no agreement, several of the parties continued mediation and filed a Settlement Agreement with the Court on April 16, 2002.

4/16/2002 Settlement Agreement filed with Court. Parties signing the agreement include NOAA, NMFS, State of Maine, Commonwealth of MA, State of NH, State of RI, Associated Fisheries of Maine, Inc., City of Portland, ME, City of New Bedford, MA, Trawlers Survival Fund, Northwest Atlantic Marine Alliance, Inc., Stonington Fisheries Alliance, Saco Bay Alliance, Cape Cod Commercial Hook Fishermen's Association, Inc. Objections to the joint proposal were filed by Plaintiffs National Audubon Society, Natural Resources Defense Council, The Ocean Conservancy and Intervenor Northeast Seafood Coalition.

4/25/2002 In order to ensure the implementation of protective management measures by May 1, 2002, NOAA Fisheries, notwithstanding that the Court had not yet issued its Remedial Order, filed an interim final rule for publication on April 29, 2002 implementing measures identical to the short-term measures contained in the Settlement Agreement filed with the Court.

4/26/2002 Court issued a Remedial Order that ordered the promulgation of two specific sets of management measures--one to be effective from May 1, 2002, to July 31, 2002, and the other from August 1, 2002, until promulgation of Amendment 13 to the FMP. The Court-ordered measures for the first set of measures were, in the majority, identical with those contained in the Settlement Agreement and the measures contained in NOAA Fisheries' April 29, 2002, interim final rule. However, the Court-ordered measures included additional provisions and an accelerated schedule of effectiveness for all measures, which were not contained in either the Settlement Agreement or the April 29, 2002, interim final rule. According to the Court, these additional provisions were included to strengthen the Settlement Agreement provisions ``in terms of reducing overfishing and minimizing bycatch without risking the lives of fishers or endangering the future of their communities and their way of life." Remedial Order, p.13. Further, the Court ordered that NOAA Fisheries publish in the Federal Register, as quickly as possible, an ``amended interim rule and an amended second interim rule" that would ``include the departures from the Settlement Agreement incorporated in the Remedial Order."

4/26-5/22/02 All parties to the settlement agreement, including the plaintiff Conservation Law Foundation and NMFS, ask Kessler to reconsider. Plaintiffs National Audubon Society, Natural Resources Defense Council, and The Ocean Conservancy file a brief opposing reconsideration.

5/6/2002 To comply with the Court Order, NOAA Fisheries published a second interim final rule (``amended interim rule") to modify the measures implemented through the April 29, 2002, interim final rule and to accelerate the effectiveness of the gear restrictions, as required by the Remedial Order.

5/23/2002 Judge Kessler grants the motions for reconsideration on the basis that ``the important changes made by the Court in the complex and carefully crafted Settlement Agreement Among Certain Parties would produce unintended consequences." She vacated her April 26 order, and replaced it with the measures and terms outlined in the original April 16 settlement agreement and ordered the Secretary of Commerce (Secretary) to:

> publish an interim rule, effective no later than June 1, 2002, to reduce overfishing in the first quarter of the 2002-2003 fishing year; publish another interim rule to be effective no later than August 1, 2002, to reduce overfishing beginning with the second quarter of the 2002-2003 fishing year, and continuing until implementation of Amendment 13 to the FMP, which complies with the overfishing, rebuilding, and bycatch provisions of the SFA; and no later than August 22, 2003, promulgate such an amendment to the FMP.

The opinion states that "the present action is temporarily stayed pending such further proceedings as may be required with respect to each of three administrative actions" and "the Court retains jurisdiction until promulgation of Amendment 13."

6/5/2002 NOAA Fisheries published an interim final rule (67 FR 38608) to amend the regulations governing the Northeast multispecies fishery to bring them into compliance with the Court Order. The rule implemented regulations for the June 1 through July 31, 2002, period, consistent with the Settlement Agreement.

7/1/2002 Proposed interim rule published (67 FR 44139) for this action, requesting public comment through July 16, 2002. This rule proposes additional restrictions specified in the Settlement Agreement to include a freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996-2000 (beginning May 1, 1996 through April 30, 2001) and a 20-percent cut from that level.

8/1/2002 Interim final rule published (67 FR 50292)

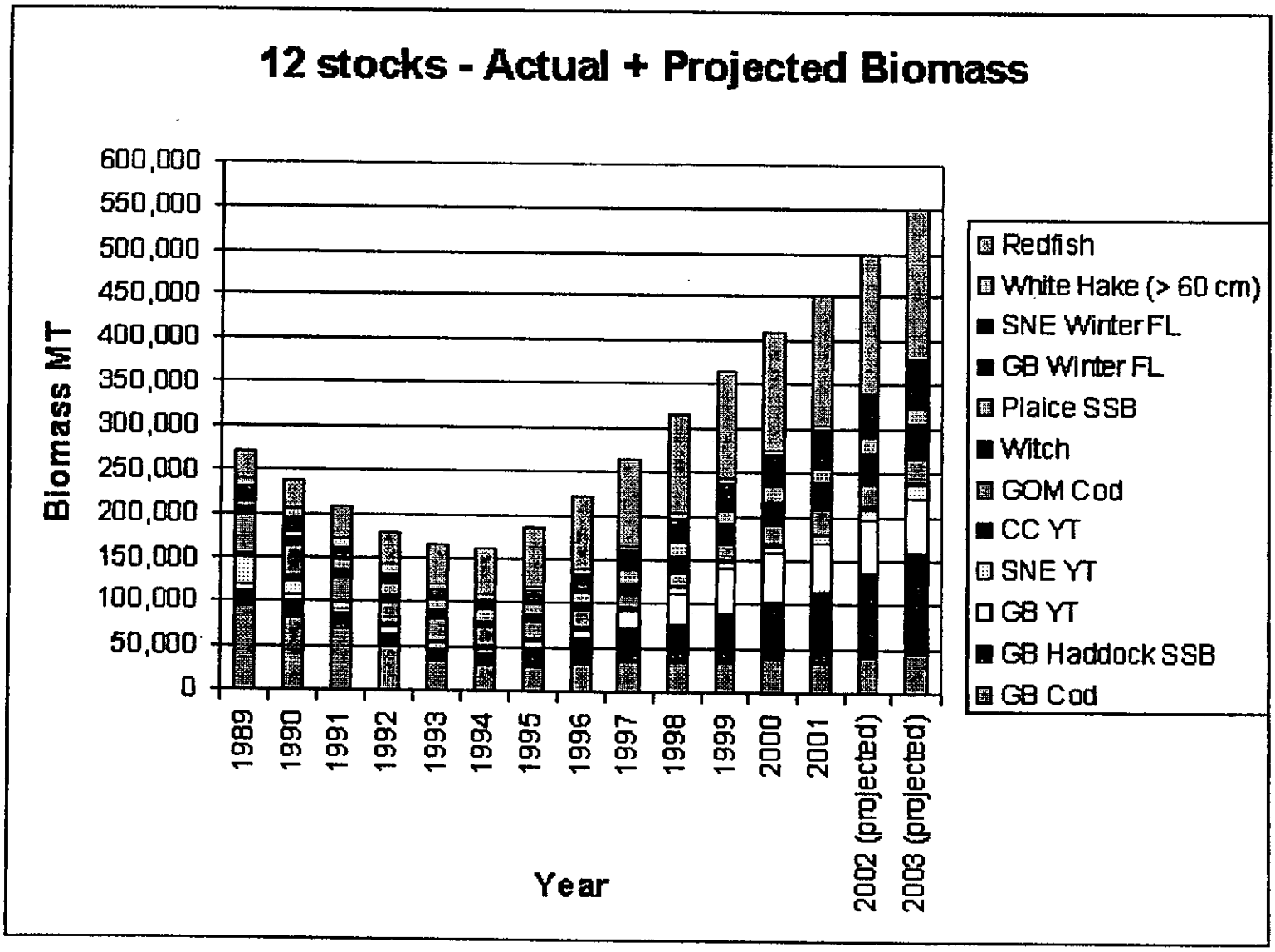
Authority: Section 305(c) of the Magnuson-Stevens Act.

Purpose: Bring the regulations governing the NE multispecies fishery into compliance with the Settlement Agreement Among Certain Parties which was ordered to be implemented by the U.S. District Court for the District of Columbia in May 23, 2002 Remedial Order issued on May 23, 2002 and reduce overfishing on species managed under the Northeast Multispecies Fishery Management Plan (FMP).

Restriction Implemented: A freeze on days-at-sea (DAS) at the highest annual level used from fishing years 1996-2000 and a 20-percent cut from that level.

9/15/2002 Head of stock assessment for NMFS said faulty gear on a trawler used to collect information about groundfish stocks may have led to inaccurate results. Problem discussed at a two-day meeting of NEFMC this past week. Since more stringent fishing guidelines were imposed this spring, fishermen have suspected the federal fisheries stock assessments were flawed. Federal officials at meeting agreed to share new information with U.S. District Court Judge Gladys Kessler.

1/15/03 Dr. Bill Hogarth, Assistant Administrator for Fisheries at NOAA, releases public statement in support of the New England Fishery Management Council consideration of alternatives that use 2004 as the start of the rebuilding clock for appropriate species. The rebuilding clock refers to the period within which over-fished stocks must be rebuilt under the Magnuson-Stevens Fishery Conservation and Management Act. Hogarth indicates that NOAA will continue to work with the Council as it develops alternatives under Amendment 13 and determine which species are appropriate candidates for the various alternatives for the new rebuilding schedule.



This chart was put together by the staff of the New England Fisheries Management Council using data from the National Marine Fisheries Service Data collected with the faulty trawl gear in 2000 through 2002. Even with the faulty gear the increases in biomass are staggering.

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Summary of Current Fishing Restrictions

Items put into place since the Magnussun/Stevens Act implemented Amendment I in 1978:

1. Increased minimum fish size to allow fish to spawn at least twice before the possibility of capture. Most spawn 2 or 3 times before reaching a size retained by 6½ inch mesh.
2. Increased mesh size from 4½ inch mesh to 6 ½ inch mesh. No one in the world uses mesh this large. The North Sea uses 3 inch mesh and Canadians use 5 ½ inch mesh to fish for the same groundfish.
3. Limits have been set on "Days at Sea". These are the number of days a vessel is allowed to actually fish. Most vessels in the Gulf of Maine have less than 67Days at Sea as oppose to an unlimited number prior to 1995.
4. Most of the most productive grounds for catching ground fish have been closed in three of the major ecosystems. Four permanently closed areas probably protect 30% of the fish year round. In addition the "rolling closures" close areas of highest concentrations of fish when they occur.
5. Very restrictive landing limits have been set for cod and haddock far below what any given boat could catch on any given day even when fishing was very poor.
6. Installation of bycatch reduction devices such as the Nordmore Grate in the Northern Shrimp trawl fishery and the raised foot rope trawl in the Gulf of Maine silver hake fishery which eliminate catch of groundfish as bycatch.
7. The elimination of habitat destructive sweeps from trawl nets such as the "street sweeper" to protect juvenile fish habitat and invertebrates.
8. Installation of "pingers" on gillnets to stop the capture of harbor porpoise.
9. A 12" limit on rock hopper sweeps which were up to 30 inches in size, in the Western Gulf of Maine to reduce capture of cod, haddock and pollack.

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Wildlife and Recreation

to which was referred Senate Concurrent Resolution 2

AN ACT urging the United States Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.

VOTE: 3-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Burt Cohen
For the Committee

SCR2 Docket

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Bill Title: urging the United States Congress to act to rectify the science, research funding, and restrictions governing the Northeast multispecies fishing industry and its impact on New Hampshire fishermen.

Date	Body	Description
1/30/2003	**S**	Intoduced and Ref. to Wildlife & Recreation
2/7/2003	**S**	Hearing; February 18, 2003, Room 104, LOB, 1:15 p.m.; SC9
2/28/2003	**S**	Committee Report; Ought to Pass [03/06/03]; SC12
3/6/2003	**S**	Ought to Pass, MA, VV; OT3rdg; SJ 7, Pg.73
3/6/2003	**S**	Passed by 3rd Reading Resolution; SJ 7, Pg.73-74
3/13/2003	**H**	Introduced and ref to St-Fed Rel & Vets Affs; HJ24, p629
3/25/2003	**H**	Hearing Apr 8 10:00 RM306,LOB
4/15/2003	**H**	Maj Report OTP/AM for May 8 (Vote 11-0;CC)
4/15/2003	**H**	Prop Comm Am{1285}; HC 38, p1223-1224
5/8/2003	**H**	Passed with Am; HJ 40, p1281-1282 + 1290
5/22/2003	**S**	Sen.. Gallus Concur With House Amendment{1285}, MA, VV; SJ 17, Pg.396

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Docket Abbreviations