

Report of the Northeast Fisheries Summit

Sponsored by the City of New Bedford,
University of Massachusetts Dartmouth, and the
Massachusetts Marine Fisheries Institute

Monday, March 8, 2010
9:00 a.m. – 5:30 p.m.
New Bedford Whaling Museum

Emily F. Keiley
UMass Dartmouth, School for Marine Science and Technology
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This report summarizes the findings and discussions of the Northeast Fisheries Summit.

SUMMARY

The Northeast Fisheries Summit, hereafter referred to as the Summit, was held at the New Bedford Whaling Museum in New Bedford, Massachusetts on Monday, March 8, 2010. The meeting was co-sponsored by the City of New Bedford, University of Massachusetts Dartmouth, and the Massachusetts Marine Fisheries Institute. The Summit was intended to restore a foundation of trust between NOAA and the fishing community through dialogue focused on the shared objectives of sustainable fish stocks and the economic viability of fishing communities. The principles of equity, fairness, conservation, preservation of jobs and income, minimization of waste, and flexibility in management can only be realized through a collaborative approach to management. The Summit was held to begin building a more collaborative and constructive relationship between government, industry, and political interests.

The Summit was structured as follows. At 9:00 a.m. the Mayor of New Bedford, Scott Lang, opened the meeting welcoming all of the participants and thanking the co-sponsors and venue. Several elected and appointed officials also addressed the group. After introductions, three panel discussions were held. The meeting concluded at 5:30 p.m. John Bullard moderated the meeting. Dr. Brian Rothschild, Montgomery Charter Professor of Marine Science at the University of Massachusetts Dartmouth School for Marine Science and Technology, chaired the meeting.

Three issues were selected for discussion: (1) catch shares and sectors, (2) scallops and scallop bycatch, and (3) amending the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Panels of five to seven people were chosen to discuss each topic. Panels were populated with representatives from government agencies, environmental groups, academic institutions, and fishery stakeholders. Each panel member was given ten minutes to speak on the designated topic. After each panel completed, audience members were given the opportunity to speak. Panel members and audience participants were encouraged to discuss the issues, along with potential solutions.

While a wide variety of views were expressed, the Summit resulted in the following consensuses:

- (1) It appears that sectors, in general, will not be economically viable. To make the sectors feasible additional quota would need to be allocated.
- (2) One technique would be to place a moratorium, or freeze, on the implementation of sector-based management (Amendment 16 to the Northeast Multispecies Fishery Management Plan);
- (3) Increase flexibility of the MSA, specifically regarding rebuilding periods;
- (4) Clarification of the definition of / distinction between catch shares, Limited Access Privilege Programs (LAPPs), and sectors;
- (5) Increased support for cooperative research programs; and
- (6) Development of a buyback program to precede the implementation of sector-based management.

This report summarizes the findings and discussions of the Summit.

Summit Objectives

The Summit was intended to articulate the shared objectives of fishery stakeholders and managers, to create a stronger cooperative and collaborative relationship between government and industry, and to develop a plan of action to achieve the shared goal of sustainable fisheries and economic viability of fishing communities.

Panel Discussions

SECTION I - CATCH SHARES AND SECTORS

The first panel discussion was focused on the transition from days at sea (DAS) to sectors. While implementation of sectors, through Amendment 16 to the Northeast Multispecies Fishery Management Plan (Multispecies FMP), is scheduled for May 1, 2010, a concerning level of anxiety and uncertainty has been observed in those affected. The Summit posed several questions to panel members, including (1) what progress are we making toward implementing sectors, (2) has there been adequate time for planning the transition, (3) there is a building concern that many sectors will not be economically viable, is this true, (4) what are the long term consequences, (5) how do catch shares resolve the problems encountered with DAS, and (6) are there alternatives to sectors that could be used to better manage the multispecies fishery?

Sector management was brought to the table as a solution, motivated by the widespread concern regarding the performance of the current management regime (DAS). The question, however, remains: Will sectors perform better than DAS, and what metrics will be used to measure this performance? It can be argued that sectors are “the same sheep in a different wolves clothing” – a new strategy with the same problems. First, we must outline the current issues, and then address the utility of a new approach, in this case sectors, to remedying these problems.

The foremost issues associated with the current fishery management system were highlighted at the Summit: (1) a lack of responsiveness the stakeholder concerns, (2) excessive waste, (3) lack of transparency, (4) overfishing, and (5) poor communication among management entities. The transition from DAS to sectors is a major federal action; it will affect the livelihoods, economies, and welfare of our coastal communities.

The following sections describe the discussions and recommendations from the Summit.

Defining and Distinguishing Sectors, Catch Shares, and LAPPs

At the Summit industry participants expressed their concerns regarding the confusion between the definition sectors, catch shares, and LAPPs and the context in which they fit into the law. Many participants felt that the implementation of sector management should have required a referendum vote, as stipulated in the MSA. In a September 2007 letter to New England Fishery Management Council Executive Director Paul Howard, NOAA Regional Administrator Patricia Kurkul states that the Agency [NMFS] determined that an “IFQ does not, for the purposes of the referendum requirement, include a sector allocation.”

Summit participants came to the conclusion that **further education and clarification about sectors, catch shares, and LAPPs should be pursued by the Agency [NMFS]**. Specifically, participants requested further clarification as to why sectors did not require a referendum vote, as they appear to be consistent with the definition of an individual fishing quota program. For purposes of clarity, individual fishing quotas (IFQs), sectors, catch shares, and limited access privilege programs are defined here.

The MSA defines the term ‘individual fishing quota’ as “a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i)” (MSA 16 USC 1801(23)). Similarly the term ‘limited access privilege’ is defined as follows: “(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and (B) includes an individual fishing quota; but (C) does not include community development quotas as described in section 305(i)” (MSA 16 USC 1801(26)).

Sectors and catch shares are not defined within the MSA. However, they have been defined by the National Marine Fisheries Service as follows.

The National Marine Fisheries Service defines sector allocation as “an exclusive assignment of some portion of the TAC to a group of two or more individuals holding permits in a fishery that have fulfilled Council eligibility and participation criteria, and have agreed to collaborate, voluntarily and for a specified period of time, in order to achieve a common set of objectives. The group may be organized around a particular gear type, species or geographic area with its purpose being the receipt of an exclusive privilege to fish” (NMFS, 2009).

A catch share program, defined by the National Marine Fisheries Service, is “a generic term used to describe fishery management programs that allocate a specific percentage of the total allowable fishery catch or a specific fishing area to individuals, cooperatives, communities, or other entities. It includes more specific programs defined in statute, such as Limited Access Privileges (LAP) and Individual Fishing Quotas (IFQ). It also includes Territorial Use Rights Fisheries (TURFs) that grant an exclusive privilege to fish in a geographically designated fishing ground. The recipient of a catch share is directly accountable to stop fishing when its specific share allocation is reached” (NMFS, 2009).

It appears that a definitive answer as to why sectors did not require a referendum vote was not reached at the Summit. Furthermore, the Summit recommends that this be further analyzed.

Are Sectors Really Voluntary?

A common theme among the comments made at the Summit was the involuntary nature of sectors. The decision to join a sector was left to the individuals participating in the fishery. However, fishermen attending the Summit expressed having felt forced into the decision because

the alternative (joining the common pool) would have put them out of business. Too many outside the fishery, the level of participation in Sectors was an indicator of support – this however is not the case for the majority of fishermen enrolled in sectors. The decision was purely one of necessity. The situation seems to have been further aggravated by the confusion in defining sectors, and the language of the MSA specifying the requirement for a referendum vote. Specifically, the MSA states that “New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council” (16 U.S.C. 1853a MSA §303A (D)(i)).

Progress and Problems in Implementation

A major concern among Summit participants was the looming deadline of sector implementation. Scheduled to go into effect May 1, 2010, sectors require industry and Agency alike to make big changes in the way they operate. Amendment 16 left many questions to be answered regarding the implementation of sectors. Some participants felt that the open ended nature of Amendment 16 has provided much needed flexibility to managers and sector participants. However, a more widely expressed viewpoint was that too many loose ends remained for the May 1 implementation to be successful. Agency participants expressed their commitment to working through the problems experienced during the early phases of sector management, stating that they do not expect everything to go perfectly, and that everyone will have to work collaboratively to adapt and make the necessary changes.

A question posed at the meeting was, what, if any, plans are in place should sectors fail? At this time it appears that the only options available are to be enrolled in a sector or the common pool – “Sector X.” There are no plans in place should this management system be inoperable come May 1, despite the plethora of questions that remain unanswered.

In an effort to educate stakeholders and members of the public, the National Marine Fisheries Service is holding a series of informal meetings to provide an overview of the anticipated groundfish regulations. The meeting schedule has been provided, for your information, below. All meetings will be held from 5 to 7 p.m. This and additional information can be found at:

<http://www.nero.noaa.gov/nero/nr/nrdoc/10/10GroundfishMeetings.pdf>

Tuesday, March 23 – New Bedford, MA

Days Inn Conference Center,
500 Hathaway Road, New Bedford, MA

Thursday, March 25 – Gloucester, MA

National Marine Fisheries Service, Northeast Regional Office,
55 Great Republic Drive, Gloucester, MA

Monday, March 29 – Portland, ME

Gulf of Maine Research Institute,
350 Commercial Street, Portland, ME

Thursday, April 1 – Narragansett, RI

Corless Auditorium, Watkins Building, University of Rhode Island
Graduate School of Oceanography, Narragansett Bay Campus,
South Ferry Road and Tarzwell Drive, Narragansett, RI

One major concern expressed at the Summit was that of “choke species.” Each sector, based on the history of each participating member, will be allocated quota for each of the 19 species managed under the Multispecies FMP. Several of these species have been coined “choke species,” which is essentially a species/stock that the allocated quota is significantly lower than the other. These species are anticipated to cause many sectors to shutdown prematurely because they will not have enough quota to continue fishing. If these sectors are able to purchase additional quota from another sector or permit bank, they will be able to continue fishing; but many anticipate that the fleet quota is so low that no one will have enough to share. The nature of this problem is more so related to the new MSA requirements, but is further exasperated by the implementation of a new management strategy. If sectors are to be economically viable, as they are currently configured, additional quota would be required. If this cannot be achieved through increased flexibility, many boats will be forced out of the industry.

At this point in time it seems that many questions remain regarding the new management regime. If we respect the magnitude of these changes and the potential implications, we should step back and take the necessary time to do it correctly. The new system will have a significant effect on the social fabric and economic stability of coastal communities – this should not be taken lightly. Appropriate analysis of the potential changes and mitigation measures to ease tension during this transition are recommended.

A recommendation voiced by many Summit participants was to place a moratorium, or freeze, on the implementation of sectors for a period of 1 year to 18 months. Additional time, according to participants, would allow for sector managers and the Agency to better coordinate implementation or to seek alternatives.

Furthermore, many participants expect a severe reduction in the fleet, by as much as 50%. Despite this overwhelming concern, no programs have been established to facilitate a “more graceful” exit from the fishery. Buybacks are discussed in the next section.

Buyback Program

With the implementation of Amendment 16, many fishery participants are expected to be forced from the industry – Summit participants discussed the possible consolidation of over 50% of the current fleet. It is not uncommon that catch share management strategies cause consolidation.

However, in many other situations, buyback programs are initiated to offer an ‘escape’ for participants prior to implementation of the new regulations.

As a strategic policy tool, buybacks can help in the transition from an open-access fishery to a more rationalized one (Squires et al., 2006). Buybacks, by reducing vessel numbers, would not only allow for a more “humane exit” from the fishery, but may increase profitability of the remaining vessels. Buybacks, as part of the transitional strategy from DAS to catch shares, may help to counter the adverse effects of the shift. Squires et al. (2006) found that “when fisheries are mired in debt and an absence of vessel profits and resource rent, cooperation is difficult to achieve among fishers. As a transitional strategy, buybacks can help counter these adverse forces.” Summit participants touched on the features preferred in such a program. Financing of the buyback through a combination of public and industry input was generally agreed upon. Unanimously recommended was that the buyback program would have to be 100% voluntary and that the quota from those who leave the fishery be redistributed throughout the remaining permit holders. How shares would be distributed was less clear, although utilization of permit banks was suggested. Through permit banks industry members would have the ability to purchase additional quota at fair market price.

Summary of Recommended Features

- (1) Industry / Public Funding
- (2) Voluntary
- (3) To be implemented prior to the onset of new management measures as a transitional step
- (4) Shares from the buyback to be redistributed throughout remaining sector participants
- (5) A Permit Bank could serve as a related but separate feature, facilitating the in-season purchase of needed quota at a fair market price – a portion, or all, of the buyback quota may be allocated to permit banks

The Summit recommends that a buyback program be initiated prior to the implementation of sectors. The buyback program should be voluntary, funded by industry and government, and quota acquired should be redistributed through permit banks to remaining participants.

SECTION II - SCALLOPS AND SCALLOP BYCATCH

The second panel discussion was focused on scallops and scallop bycatch. Several discussion points were raised including: (1) benefits of the closures on Georges Bank, (2) bio-economic concerns regarding the interaction of scallops and yellowtail flounder, (3) innovative solutions to solving the bycatch problem, and (4) cooperative research.

Closed Areas: Assessment and Options

The effectiveness of closed areas on Georges Bank depends on the objectives you measure them against. Closed Areas I and II and the Nantucket Lightship Area cover roughly 30% of Georges

Bank. Originally implemented to protect the spawning grounds of groundfish species, such as haddock, cod, and yellowtail, these closures have had a significant impact on the scallop industry. A positive externality of the closures was significant increases in scallop biomass. The gains in biomass are primarily due to the increased size of the protected scallops, but the numbers have also increased.

Allowing scallops to mature and spawn within the closures has many benefits, both to the fishery and the sustainability of the stock. However, as scallops age the shell deteriorates, making them more susceptible to disease. If these dense aggregations of mature scallops are not harvested, millions of dollars in revenue may be lost due to mass mortalities. Summit participants discussed the utility of a rotational management system that would allow access to aggregations of mature scallops while protecting younger scallops, allowing them to mature and spawn. Rotational access to closed areas could be likened to the management of forests. Once trees have matured to the point that harvest is optimal, the area is opened and cleared. Young seedlings unable to grow previously would have the opportunity to mature under the protection of a closure while different areas were opened for harvest.

The Summit recommends that NMFS consider the utility of rotational closures, including all Closed Areas, to enable scallops to be harvested in areas of high biomass.

As previously mentioned, increased scallop biomass was an externality, and not the objective of closures. The utility of permanent closures on Georges Bank will depend on the objectives set. NMFS, specifically the Science Center, has the tools to evaluate closures.

While it may be argued that many of the benefits could be achieved with an overall reduction in mortality, some benefits are uniquely attributable to closures, such as habitat protection. To better understand the benefits and desired outcomes, clear objective statements must be developed for closures. Meeting participants felt that there would be substantial gains if access could be granted to closures.

A clear consensus among the group was that additional research should be conducted to determine the benefits of the closures and the optimal design.

The Summit recommends an analysis of the effects of closed areas. In addition, the Summit recommends that the objectives of Georges Bank closures be reevaluated and modification to current closures be enacted to meet the stipulated objectives.

Cooperative Research

A common request by Summit participants was increased support for cooperative research. Industry participants expressed a desire to be a part of the science. Fishermen have a unique understanding of the ocean and the resources we harvest from it. One of our greatest assets is the ability to work cooperatively. Many Summit participants found it disconcerting that the cooperative research budget was cut to reroute money to assist in the development of sectors. No matter what management tool is utilized, good science is necessary to achieve both conservation and socioeconomic objectives. One component of the Summit's mission was to begin building a

stronger, more cooperative relationship between industry and government. Collaborative research is one of many important tools that can be utilized to build trust. Fishermen participating in the Summit discussions expressed a willingness to participate in collaborative research efforts, citing their desire to understand the resources they utilize in the effort to achieve sustainability of fisheries and the conservation of species.

The Summit recommends that more collaborative research efforts be supported by Federal and State governments. Collaborative efforts will continue to provide valuable insight and build positive relationships between industry and government.

Bycatch, Bio-economic Implications

Interactions between scallops and other commercially important species, such as yellowtail flounder, pose considerable socioeconomic and biological challenges. Bycatch will continue to be a significant constraint on scallop landings if innovative solutions are not brought to the table.

SECTION III - AMENDING THE MAGNUSON-STEVENSON ACT

The final panel discussion pertained to the MSA. The panel was presented a variety of topics, but all were centered on the potential amendment of the Act. An important feature of the discussion was the distinction between what could be changed without an amendment (changes to the interpretation) and what changes required a new amendment.

The MSA is the principal law governing the management of U.S. fisheries. Originally the Fishery Conservation and Management Act, the MSA was established in 1976 when the United States withdrew from the International Commission of the Northwest Atlantic Fisheries (ICNAF), declaring exclusive rights to manage fisheries within 200 miles of shore.

Increased Flexibility in Rebuilding

The common perception is that the current MSA lacks flexibility; however, there are flexibilities in the MSA that have not been exercised. Among the MSA requirements discussed was rebuilding.

The MSA requires that within two years of notification that a stock or stock complex is overfished or approaching an overfished condition, the Council must prepare and implement a fishery management plan, plan amendment, or regulations to (A) end overfishing immediately in the fishery and rebuild affected stocks of fish; or (B) prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition (16 U.S.C. 1854 MSA § 304, 109-479(3)). The requirements to end overfishing, and rebuild fish stocks are supported unanimously. The seemingly arbitrary requirement to rebuild stocks within 10 years is, however, being disputed. The language in question is cited below;

“For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared ... shall (A) specify a time period for rebuilding that fishery that shall (i) be as short as possible, taking into account the status and

biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and (ii) *not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;* (B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and (C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States” (16 U.S.C. 1854 MSA § 304, 109-479(4)).

In addition, after establishment of a rebuilding plan, it must be reviewed by the Secretary at intervals of no more than two years. If the Secretary finds that the respective plan has not achieved adequate progress toward ending overfishing, the Secretary shall “(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or (B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress” (16 U.S.C. 1854 MSA § 304, 109-479(7)).

The cost of rebuilding is difficult to measure, but it is clear that the lack of flexibility has put additional pressure on coastal communities during a difficult time. Summit participants voiced an overwhelming support for added flexibility in rebuilding timelines. Summit participants felt that flexibility is required due to the dynamic nature of the environment and fish stocks. “It is arrogant to assume we can rebuild stocks on our timeline.”

Despite the presence of flexibility within the MSA, it appears an Amendment is required to ensure implementation.

The Summit recommends that additional flexibility be incorporated into rebuilding timelines, and the cost of accelerated rebuilding (to communities) be thoroughly examined.

Mixed Stock Exception

A lack of flexibility is also highlighted by the lack of a mixed stock exception. There will always be one stock that is the most “overfished.” As a result, all associated stocks are managed to this lowest denominator. An exception that alleviates the pressure of one poor stock on an entire fishery would have monumental economic implications. Recall, from Section I, the anticipated problems associated with ‘choke species/stocks’ – the mixed stock exception could begin to solve this problem and allow optimal yield to be achieved for many other healthy stocks.

The Summit recommends that the mixed stock exception be reconsidered in the context of the multispecies (groundfish) fishery.

Checks and Balances

The issue of oversight was one of great interest and concern at the Summit. NOAA / NMFS do not have the checks and balances that other federal agencies have. The Federal Aviation Agency (FAA) is one of many examples with a clear system of oversight, checks, and balances. The FAA could be considered as a possible model for the development of such a process within NOAA. Summit participants expressed concern over the fact that the science, regulations, and enforcement were all controlled by NOAA. Recent developments in the review of the enforcement division only highlighted the overarching concerns of participants.

The Summit recommends the development of a mechanism that would create the necessary checks and balances and appeal in fishery management. An arrangement analogous to the FAA and the CAB could be a model.



SOURCES

Department of Commerce (DOC) 1996. Magnuson-Stevens Fishery Conservation and Management Act, as amended through January 12, 2007. U.S. Public Law 94-265.

NMFS, National Marine Fisheries Service Office of Policy (2009). Glossary of Catch Share Terms. http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/glossary_of_cs_programs.pdf

Squires, Dale, James Joseph, and Theodore Groves. Buybacks in Fisheries. Paper given at a workshop at the Institute of the Americas, University of California San Diego organized by the Department of Economics, University of California San Diego and the Inter-American Tropical Tuna Commission, October 10-12, 2006. <http://www.iattc.org/PDFFiles2/Buybacks-in-Fisheries-Exploiting-Trans.pdf>

Northeast Fisheries Summit Attendees
Panel Members

Last Name	First Name	Affiliation	Email
Avila	Rodney	Fishing Boat Owner	rodavila@comcast.net
Canastra	Richie	Co-owner, New Bedford and Boston Seafood Display Auctions	richie@whalingcityauction.com
Didriksen	Harriet	Scallop Boat Owner, Port of New Bedford	nbss.nbship@verison.net
Fogarty	Mike	NOAA Fisheries	mfogarty@mercury.wh.who.edu
Giacalone	Vito	Policy Director, Northeast Seafood Coalition	northeast.seafoodcoalition@verizon.net
Kendall	Jim	New Bedford Seafood Consulting	nbsc@comcast.net
Kurkul	Patricia	Regional Director, Northeast Region NMFS (NERO)	pat.kurkul@noaa.gov
Lafreniere	Pamela	Maritime Attorney Specializing in Fisheries Issues, New Bedford MA	pamelalafreniere@verizon.net
Minkiewicz	Drew	Attorney for the Fisheries Survival Fund	aminkiewicz@kelleydrye.com
Mirarchi	Frank	Captain of F/V Barbara Peters, Dragger, Situate MA	kamwc@comcast.net
Odell	Jackie	Executive Director, Northeast Seafood Coalition	jackie_odell@yahoo.com

Odlin	James	Boat Owner, Maine (Trawlers)	trawlers@maine.rr.com
Ouellette	Steve	Maritime Attorney Specializing in Fisheries Issues, Gloucester, MA	Stephen.oulette@fishlaw.com
Pierce	David	Deputy Director, Massachusetts Division of Marine Fisheries	david.pierce@state.ma.us
Rafael	Carlos	Boat Owner, Port of New Bedford	carlos.seafood@worldnet.att.net
Smolowitz	Ron	Technical Consultant to the Fisheries Survival Fund	cfarm@capecod.net
Stokesbury	Kevin	Department of Fisheries Oceanography, UMass Dartmouth	kstokesbury@umassd.edu
Walsh	Bud	DWT	budwalsh@dwt.com
Wormser	Julie	New England Regional Director, Oceans Program Environmental Defense Fund	jwormser@edf.org

Meeting Attendees

Last Name	First Name	Affiliation	Email
Adams	Erin	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	erinkadams@gmail.com
Adams	Chris	Representative Bill Delahunt	chris.adams@comcast.net
Allen	Richard	RB Allen Associates	rballen@cox.net
Alvernaz	Tony	F/V Kathryn Marie	mtalvernaz@verison.net
Anerboch	Jared	Red's Best	jared@redsbest.com
Anthony	Peter	Eastern Fisheries	peter@easternfisheries.com
Antonio	Al	F/V Alyssa & Zachary	NA
Avger	Ann	CUSB	aavger@citizensunionbank.com
Axelsson	Lars	F/V Flicka & F/V Dyrsten	fvflicka@comcast.net
Baler	Andy	Nantucket Fish Co. Inc	nantucketfish@comcast.net
Ballou	Bob	Acting Chief, RI Division of Fish and Wildlife	NA
Barkley	Adam	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	u_abarkley@umassd.edu
Barret	Walter	Seatrade International	walterb@seatrade.international.com
Barrett	Ed	MFP, MA Bay Groundfish Association	fvphoenix@earthlink.net
Barrows	Frank	National Park Service	frank_barrows@nps.gov
Bartlett	J.	FPH	jbartlett@fphp.org
Bendiksen	Tor	Reidar's Mfg.	tbendiksen@comcast.net
Bergeron	Chad	Bergies SFD	NA
Bergson	Gene	Harbor Blue Seafood	gene@harborblueseafood.com
Blake	Stephen	F/V Seafox / Deckhand	NA
Boehman	Kris	NA	klboehmec@aol.com
Bolles	Karen	HabCam	kbolles03@yahoo.com
Borges	Isabel	Cura and Borges Fishing Corp	isabelborges61@yahoo.com
Borges	Susanna	Cura and Borges Fishing Corp	susieborges@yahoo.com
Borjeson	Ron	F/V Angenette	borjesonron@yahoo.com
Bowen	Sean	MA Dept. of Agricultural Resources	sean.bowen@state.ma.us
Brinson	Ayeisha	NOAA Fisheries	ayeisha.brinson@noaa.gov
Brogan	Gib	Oceana	gbrogan@oceana.org

Burke	Jay	Writer / Director Whaling City, Feature Film	jmb142@gmail.com
Buron	Mark	Future Fisheries	mark@easternfisheries.com
Cabral	Antonio	State Representative	rep.antoniacabral@hou.state.ma.us
Calinto	Manny	Boat Imigrante	NA
Calipain	Kirk	Christopher's Joy	kwcalipain@comcast.net
Calnan	Mike	F/V Kerry Anne	NA
Canessa	Stephen	State Representative	rep.stephen.canessa@hou.state.ma.us
Cantwell	James	State Representative	james.cantwell@state.ma.us
Carvalho	Jerry	RI Fishermen's Alliance	comfish@netsense.net
Cash	David	Assistant Secretary, Environmental and Energy Affairs	david.cash@state.ma.us
Cebula	Ellen	MA Seaport Advisory Council	ellen.cebula@state.ma.us
Cervelis	Brian	NMFS / co-op research	brian.gervelis@noaa.gov
Chosid	David	DMF	david.chosid@state.ma.us
Ciulla	Larry	Gloucester Seafood Display Auction	gsdauction@verison.net
Clearmont	Jason	New England Aquarium	jcclearmont@neag.com
Coleman	Maureen	Whaling Museum	mcoleman@whalingmuseum.com
Cordeiro	Jorge	Kris & Amy	NA
Costa	Jen	Ocean Explorium	jcosta@oceanexplorium.org
Coyle	Kevin	USCC	kevin.r.coyle@uscg.mil
Currier	Emily	GFWA	emilycurrier@gmail.com
Dacunita	Carlos A.	Webster Bank	cdacunha@websterbank.com
Danson	Kenneth M.	Northern Wind Inc.	kenny@northernwind.com
DeCelles	Greg	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	gdecelles@umassd.edu
Decola	Peter	Chief of Enforcement, USGS	peter.n.decola@usgs.mil
DeDeus	Kevin	F/V Kelly Marie	NA
Dempsey	Dan	CCCHFA	tdempsey@ccchfa.org
dePotiff	Mary Beth	F/V Blue Ocean / Patience	muddog@midmaine.com
dePotiff	A.J.	F/V Blue Ocean / Patience	muddog@midmaine.com
Diodati	Paul	Director, MA Division of Marine Fisheries	paul.didati@state.ma.gov
Dourdeville	Karen	NA	moorek@cape.com
Downey	Kathy	Trio Algarvio Inc	downeybeatriz@verizon.net
Duddy	Jennifer	Staff, Senator Susan Collins's Office	Jennifer_duddy@collins.senate.gov
Durfee	David	NA	ddurfee11@gmail.com
Eilertsen	Daniel	Nordic Inc	deilertsen@comcast.net
Elisa	Louis	Seaport Advisory Council	louis.elisa@state.ma.us
Elsner	Jay	F/V Miss Leslie	jaymassfab@verison.net
Etrie	Elizabeth	GMRI	eetrie@gmri.com
Faciano	Tony	F/V Shelby Ann	tfaciano@cox.net
Farrington	John	Interim Dean, School for Marine Science and Technology	jfarrington@umassd.edu
Fenton	Anne	Whale / DET	anne.fenton09@yahoo.com
Ferrante	Ann-Margaret	State Representative	rep.ann-margaretferrante@hou.state.ma.us

Flanagan	Kevin	NMFS	kevin.g.flanagan@noaa.gov
Foley Ramsden	Laura	Foley Fish	laura@foleyfish.com
Fortes	Joseph	NA	NA
Frank	Barney	Congressman	NA
Frulla	David	FSF	NA
Fuka	Rich	RI Fishermen's Alliance	captlobster@yahoo.com
Georgianna	Dan	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	dgeorgianna@umassd.edu
Gibbons	Kara	NMFS Observer Program	kgibbons@mercury.wh.who.edu
Gibbons	Warren	Ocean Explorium	wgibbons@oceanexplorium.org
Gilboy	Chuck	Staff, Congresswoman Carol Porter-Shea's Office	(603) 743-4813
Gormley	Sorja	AIS	sorjag@aisobservers.com
Grant	Mark	NMFS	mark.grant@noaa.gov
Griffin	Mary	Commissioner, Department of Fish and Game	mary.griffin@state.ma.us
Hall-Arber	Madeleine	MIT SeaGrant	arber@mit.edu
Hansen	Eric	F/V Endeavor	ehansen4b@comcast.net
Haran	Joan	NA	haranboy@comcast.net
Harrington	Ted	US Coast Guard	ted.r.harrington@usgs.mil
Harris	Brad	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	bharris@umassd.edu
Harvey	Zack	NA	zhfished@gmail.com
Hayes	Annie	Family Fishermen	hayesannie@gmail.com
He	Pingguo	Umass Dartmouth - SMAST	phe@umassd.edu
Healy	Trudy	Representative Ann-Margaret Ferrante	NA
Hickman	Cecil	Hickman Media Consultants	cecil.hickman@gmail.com
Hovanesian	Joel	F/V Excalibur	jhovanesia@cox.net
Howard	Peter	F/V Finest Kind	fishycaptain@yahoo.com
Hunt	Stephanie	NOAA	stephanie.hunt@noaa.gov
I	David	NA	NA
Isaksen	Max	Isaksen Fishing	max@fairhavenshipyard.com
Isaksen	Gail	Isaksen Fishing	NA
Jackimczyle	Louis	NOAA OLF	louisjjackimczyle@noaa.gov
Jackson	Tina	American Alliance of Fishermen	liteangel3367@yahoo.com
Jarvis	Nina	Gloucester Seafood Display Auction	gsdauction@verison.net
Jensen	Pete	Wallace & Associates	wpjensen@aol.com
Jiao	Yue	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	yjiao@umassd.edu
Juillard	Louis	Marder Trawling	louis@marderbrands.com
Keiley	Emily	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	ekeiley@umassd.edu
Kelly	Brian	DMF	brian.kelly@state.ma.us
Kirk	Carolyn	Mayor, Gloucester MA	CKirk@gloucester-ma.gov
Knight	John	Superior Trawl	superiortrawl@aol.com
Koczera	Robert	State Representative	rep.robertkoczera@hou.state.ma.us
Konkle	Peter	FSSF / Sector 10	pkonk@aol.com

Kowalske	DJ	NOAA	david.kowalske@noaa.gov
Kritzer	Jake	EDF	jkritzer@edf.org
Kvilhaug	Berit	Michigan Fishing Corp.	bkvillhaug@aol.com
L	Stephen	New Bedford	NA
Lambert	Matt	NA	NA
Lane	Paul	Fleet Fisheries	captpaulclane@yahoo.com
Lane	Mike	Fisherman	mlclambo@comcast.net
Lang	Scott	Mayor of New Bedford, MA	swlang@lxblaw.com
Lapp	Megan	AAFC	toibts70@yahoo.com
Lareau	Patricia	NB Harbor Commission	pattie1500@hotmail.com
Lau	Rodger	Senator Kerry	roger_lau@kerry.senate.gov
Leahy	Matt	Project Director, Senator Gregg's Office	m-leahy@gregg.senate.gov
Leavitt	Peter	Friends of South Shore Fisheries	leavitt.pd@gmail.com
Lee	John	NA	NA
Litsiyer	Emilie	EDF	NA
Lopes	John	New Bedford City Council	joseph.lopes@newbedford-ma.gov
Lubrejewski	Victor	PT Pleasant Fish Co	NA
Lussier	Mark	North Coast Seafoods	mlussier@northcoastseafoods.com
Manley	Timothy E.	F/V Mary-Anne	capttem@aol.com
Manley	James	F/V Mary-Anne	NA
Marcos	Maria L. Sao	F/V Sao Marcos	marσαom.com
Marder	Brian	Marder Trawling	mtrawl@aol.com
Martins	Dave	SMAST	dmartins@umassd.edu
Mattera	Fred	F/V Travis & Natalie	fm@nestco.necoxmail.com
McAllister	John	Whaling City Feature Film	johnmcallister@gmail.com
McGee	Sally	NEFMC / EDF	smgcee@edf.org
McKiernan	Dan	MA DMF	dan.mckiernan@state.ma.us
Medeiros	Chris	Quinn Fisheries	NA
Miller	Boyce Thorne	Northwest Atlantic Marine Alliance (NAMA)	boyce@namanet.org
Miller	Kate	Staff, Representatives Canessa's Office	NA
Montigny	Mark	State Senator	mark.montigny@state.ma.us
Mooney-Seus	Maggie	NOAA	marjorie.mooney-seus@noaa.gov
Moore	Peter	NORPEL	pmoorefish@gmail.com
Moriarty	Sean	American Pride	sean.moriarty@americalseafoods.com
Moris	Jack	Marder Seafood	jackm@marless.com
Motta	Lynn	Bank Five	lynn.motta@bankfive.com
Murfitt	Sam	Fisherman's Voice, New England Working Waterfront Documentary Project	NA
Murphy	G.T.	Friend	bluerockindustries@cox.net
Nasser	Edward	Mass Marine Fisheries Commission	inticfd@yahoo.com
Nersesian	Jen	National Park Service	jen_nersesian@nps.gov
Nichols	Owen	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	onichols@umassd.edu

Nicodenesian	Robert	NA	NA
Orman	Erik	Tempest Fisheries Ltd.	erik@tempestfisheries.com
Odlin	Amanda	F/V Lydia & Maya	aodlin@maine.rr.com
Ohaus	Tom	SEAGO	tomohaus@gmail.com
O'Keefe	Cate	Department of Fisheries Oceanography, UMass Dartmouth – SMAST	cokeefe@umassd.edu
Orleans	Laura	Working Waterfront Festival	lcorleans@verison.net
Paduano	Pete	Whaling City, Feature Film	pvpaduano@gmail.com
Pappalardo	John	NEFMC, Chair, SSC	johnp@ccchfa.org
Parente	Ian	SPSF	ianparente@aol.com
Patenaude	Francis	Quing II	NA
Patrick	Deval	Massachusetts Governor	NA
Patterson	Garth	Congressman Barney Frank	Garth.Patterson@mail.house.gov
Pavlees	Steve	GFWA	spavlees@gfwa.org
Pelland	Kevin	Citizen Union Savings Bank	kpelland@citizensunion.com
Pereira	Zelinda	Fisherman's Wife	mzpm04@comcast.net
Pinto da Silva	Patricia	NOAA Fisheries	patricia.pinto.da.silva@noaa.gov
Pol	Mike	Massachusetts DMF	mike.pol@state.ma.us
Pontiff	Jeff	Whaling City Expeditions	pontiffio@aol.com
Pye	Betsy	Ocean Explorium	bpye@oceanexplorium.org
Quinn	Terry	University of Alaska	terry.quinn@alaska.edu
Quinn	John	State Representative	rep.johnquinn@hou.state.ma.us
Rak	Robert S.	Bristol Community College	robert.rak@bristolcc.edu
Ramos	Judy	F/V Elizabeth & Niki	judithramos06@comcast.net
Ramsden	Peter	President / Co-owner, M.F. Foley Company, Inc.	peter@foleyfish.com
Reardon	John	IMP Fishing Gear	john4impnb@aol.com
Reardon	Jim	Sector X. Manager	jimreardon@earthlink.net
Richard	Jack	Senator Brown	jack_richard@scottbrown.senate.gov
Rlatz	Ted	Ocean Harvest Inc.	NA
Roberts	Len	NA	len.roberts@state.ma.us
Roche	Leonard	DVR Inc	d+ljroche@aol.com
Rochford	Eoin	Norpel	eoin@norpel.com
Ruhle	Kathy	F/V Daranar	fvdaranar@aol.com
Ruhle	James	F/V Daranar	fvdaranar@aol.com
Saunda	Dane	F/V Kianna	NA
Saunders	John	New Bedford City Council	johnsaunders133@gmail.com
Scater	Stephen	Atlantic Frost Seafoods	stephen.scater@atlanticfrostseafoods.com
Schwaab	Eric	Assistant Administrator, NMFS	eric.schwaab@noaa.gov
Seara	Tarsila	URI	tarseara@gmail.com
Shrader	Ron	NA	NA
Shrader	Deb	NA	debondock@aol.com
Skaar	Ellen	F/V Thor	NA
Skaar	Gabriel	F/V Thor	NA

Smilo	Charles	New Bedford	smilochuck@aol.com
Sousa	John	Bank Five	john.sousa@bankfive.com
Stolpe	Nils	NA	nilsstope@cfl.rr.com
Straus	William	State Representative	rep.williamstraus@hou.state.ma.us
Sutton	Todd	Sutton Enterprises Inc / F/V Sweet Misery	fvsweetmisery@yahoo.com
Sylvia	Stephen	Diamond Dog Fisheries	NA
Tarr	Bruce	Senator, MA Senate	bruce.tarr@state.ma.us
Thompson	Nancy	Science Director, Northeast Fisheries Science Center, NOAA	nancy.thomson@noaa.gov
Tian	Rucheng	SMAST, UMass Dartmouth	rtian@umassd.edu
Vanasse	Bob	Saving Seafood	bob@savingseafood.com
Verseckes	Mike	State Representative James Cantwell's Office	michael.verseckes@state.ma.us
Vinagre	Manuel	F/V Sea Siren	NA
Walsh	Mike	Integrity Fishing	NA
Weekesser	Paul	F/V Miss Leslie	NA
White	Bill	MA Energy and Environmental Affairs	bill.white@state.ma.us
White	G. Gregory	Ocean Cliff Corp.	oceanclf@rcn.com
White	Bill	Asst. Secretary of Federal Affairs, Env. & Energy Affairs	bill.white@state.ma.us
Wilkinson	Arlene	SMAST, UMass Dartmouth	awilkinson@umassd.edu
Williams	Aaron	F/V Tradition	aaronfisheries@hotmail.com
Williams	Tom	F/V Heritage	twilliams194@cox.net
Winer	Andrew	Director, External Relations, NOAA	andrew.winer@noaa.gov
Yentes	Kate	URI	kate.yentes@gmail.com
York	Charles	NA	cfyork@verison.net
Zaccaria	Mark	RI CD #2	mark@markz4ri.org
Zhang	Yuying	SMAST	yzhang@umassd.edu

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Mayor Scott Lang
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Panelists
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