



## CITY OF NEW BEDFORD

SCOTT W. LANG, MAYOR

January 18, 2011

Paul J. Howard  
*Executive Director*  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, Massachusetts 01950

Dear Mr. Howard,

As the Mayor of the nation's number one fishing port, I write to you today to express my continued concern with the management of New England fisheries. We are seeing tremendous job loss in our pillar fishing industries without demonstration of tangible benefits to fish stocks. The management of the skate resource is another clear example of New Bedford and the New England region losing hundreds of jobs, without scientific merit. The Council needs to move beyond the bureaucratic constraints and provide our fishing industry with a regulatory regime that will allow the attainment of optimum yield.

Our specific request is for the Council to recommend an Emergency Action to raise the 2011 skate-wing catch limits to 20,000 pounds. Under this level of effort the targeted skate populations rebuilt, thus we feel that this level of effort does not compromise our conservation goals. An emergency action would resolve the problem in the short term however, it is clear that skate fishery management plan needs to be amended to give the Council the flexibility to adjust limits based on scientific merit. We are asking that the Council initiate the development of Amendment 4 to the Skate FMP so that we can begin to build a plan that is consistent with both our conservation and economic goals.

This urgent request is grounded on the fundamental fact that the skate resource is abundant, but fishing limits are unsustainable. Below I highlight a number of key issues that drive this request and merit thoughtful consideration.

Your December 14<sup>th</sup> e-mail to Council members is troubling, as it does not give a clear view of the status of the skate stocks and it does not provide support for Council decisions. In fact, some Council members may be misled as a result of your e-mail. As the Executive Director of the Council it is critical that you furnish accurate data. In the second paragraph of your email, you

indicate that Council staff working on this issue has insufficient time to estimate and predict the discard rate. So you are advising Council members that the Council staff's failure to determine this rate in a timely manner means they should make decisions that will cost 300 Massachusetts citizens their jobs.

*Surely you do not consider the loss of 300 jobs an acceptable trade off.*

I am reminded of the situation that occurred nearly a year ago, when last February, new data on Pollock, Dogfish and Skate became available. This data showed a higher population of skates than previously believed. Fishermen, elected officials, and industry advocates asked the Council to move quickly and arrange for the Plan Development Team (PDT) to review the data so that higher limits could be established. The council staff, specifically Mr. Andy Applegate, did not initially respond favorably to this request. Those who inquired were told that the PDT members were not able to convene in time to meet a particular deadline, and that Mr. Applegate had international travel scheduled that would preclude his ability to address the matter in a timely manner. When PDT members were contacted independently it was found that they were able to meet within the timeframes, and pressure from industry apparently made the difficulties posed by Mr. Applegate's planned travel less of an issue. Subsequently the PDT was able to meet and the issue was resolved. However the initial response of your staff caused many to wonder if staff had their priorities correctly ordered.

*Clearly the retention of jobs and the economies of our coastal communities should be higher priorities than bureaucratic obstacles and staff travel schedules.*

A 2009 Federal court ruling by Judge Harrington stated;

*"Notwithstanding this limitation, the court also believes that prudent agency administration dictates that Commerce at least seriously consider and analyze the Mixed-Stock Exception, which Commerce admits that it did not do. Its reasons are time constraints and the unlikelihood that the exception would apply even after serious consideration and analysis. Such reasons are without merit. At the least, administrative agencies are to be expected to approach their work carefully and thoroughly. This means taking their time before making decisions affecting society, especially those of great consequence, such as Framework 42"* (Harrington 2009; 06-12110-EFH).

I trust you accept Judge Harrington's determination that using time constraints as a reason not to seriously consider matters is without merit, and that agencies are expected to approach their work carefully, and thoroughly, taking the necessary time before making decisions of great consequence that affect society.

In your email you noted that "the National Marine Fisheries Service" ... reported in November that the Council's Emergency Action request to raise the skate possession limit (via a motion made at the September meeting) so that the industry could harvest optimum yield would not be prudent".



Why would it not be prudent to raise possession limits to achieve optimal yield? The current regulations do not constrain catch – raising the possession limits would simply allow fishermen to convert what are currently discards to landings. The overall catch of skate is largely affected by the effort in the monkfish, multispecies, and scallop fisheries. The majority of that catch is discarded. A relatively small segment of the fishery targets large skates (specifically, winter skate). The current skate regulations are not likely modifying the level of skate catch, but rather merely what portion of the catch will be landed. Since groundfish effort has likely decreased significantly since 2009, the overall catch, including discards of skates should decrease correspondingly.

Another concern in your email was that the assertion that there are no conversion factors between the Albatross and Bigelow survey indices. Conversion factors for winter and little skate, among other species, were presented in a peer-reviewed report prepared by the Science Center in 2009. Although the Albatross/Bigelow conversion may be the most extensive change in survey gear, previous changes (doors, nets, vessels) have been addressed using the aggregate coefficients, similar to those in the 2009 report, despite differences in apparent size selectivity.

While it is likely that even better conversion coefficients could be developed by allowing more time for analysis of the calibration experiment data and for subsequent peer review of the results, there is a demonstrated need for immediate action, and the conversion coefficients in the 2009 report are the best available scientific information.

In the final paragraph of your email you observe that the “on-going species identification issues in the catch” have constrained the ability to develop species-specific management measures. Since the implementation of the Skate Fishery Management Plan, it has been required that skate catch be recorded by species. However, in practice the majority of skate catch remains unclassified. The collection of species specific data is both necessary to the improvement of the stock assessment and required by law. This requirement has seemingly been ignored and the Council, along with NMFS has failed to take action in addressing this issue. Moving forward, we can all agree that improved identification of these species is required. Programs such as SMAST’s study fleet have demonstrated that successful identification of skate catch, by species, is possible in the field. But until sufficient data is available for the management of individual species, several sub-group classification strategies have been proposed, based on species distribution and contribution to the fishery (Keiley, 2010).

It is also important to note that the status determinations are made for skates as individual species, not as an aggregate. The status of skate species is based entirely on the NEFSC survey indices. Species identification issues in respect to catch composition do not affect the determination of status for the skate species.

A key characteristic to successful fisheries management is the ability to respond to, and incorporate new information in a timely manner. Waiting until FY2011, 2012 or 2013 to reevaluate the skate plan and associated catch limits is not responsible management. Hundreds of people rely on the skate resource. In particular the directed skate vessels and the processors have been unable to operate under the current trip limit of 500 pounds.

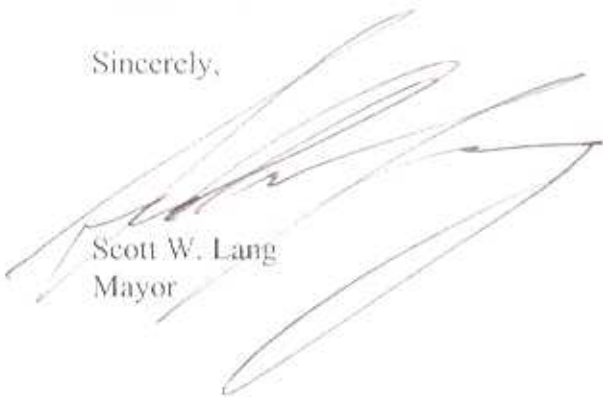
*There is no biological justification to have reduced the trip limits for skates.*

Each day that passes the bureaucratic, non-science based delays increase the propensity for job loss. It is critical that the Council be responsive, innovative and set a pathway forward that balances socio-economics with conservation. Optimal yield is not being achieved in the skate wing fishery, while hundreds of thousands of pounds of skate are wasted – thrown overboard. The goal of effective management should be to reduce waste, and increase the productivity and sustainability of our fishing fleets.

*In the case of skates, current management efforts are – literally -- throwing jobs overboard.*

I urge you to act and set a pathway forward for both raising skate limits and developing Amendment 4, as to allow science to drive the management of our fisheries. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott W. Lang', is written over the printed name and title. The signature is stylized with long, sweeping strokes.

Scott W. Lang  
Mayor