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July 29, 2013

Joseph P. Gill, Secretary
Maryland Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

Re: DNR Catch and By-Catch Regulations on Atlantic Menhaden
Proposed COMAR .08.02.05.07 and .08.02.12.03A(18)
(Published: June 28, 2013 Maryland Register, Vol. 40, Issue 13 at 1079-1080)

Dear Secretary Gill:

On behalf of the Harvesters Land and Sea Coalition – a coalition of watermen and farmers (the “Coalition”) – enclosed please find comments concerning the Department of Natural Resources’ (the “DNR’s”) catch and by-catch regulations on Atlantic menhaden. The Coalition opposes the proposed regulations and is requesting DNR to withdraw the regulations, as well as the emergency regulations that currently are in effect relative to the Atlantic menhaden.

The Atlantic menhaden has never been listed as a threatened or endangered species. There is no peer-reviewed scientific study which establishes that the Atlantic menhaden in the Chesapeake Bay (the “Bay”), let alone in the Maryland portion of the Bay, are overfished and in need of conservation. The subject regulations will put Maryland pound netters and other commercial fishermen in the Bay, out of business. The regulations will threaten to put Maryland companies that have recently expanded their capacities to support the menhaden fishery in Maryland out of business or will require those companies to purchase baitfish from Virginia waterman instead of Maryland watermen. The subject regulations will drive up the price of the menhaden used by crabbers as bait, thereby driving up the price of Maryland blue crabs and reducing their affordability. This will adversely impact many small businesses and families engaged in the harvesting, transportation, distribution and sale of blue crabs; not to mention the impact on consumers. Best available science was not utilized in developing the regulations and no consideration was given to the social and economic impacts of the regulations on Maryland watermen, related businesses and fishing communities.

To the extent that DNR contends that it must promulgate the regulations because the Atlantic States Marine Fisheries Commission (“ASMFC”) will shut down fishing in the Bay and

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is requiring DNR to adopt the regulations, DNR is disingenuous. ASMFC has no jurisdiction over the Maryland portion of the Bay. Moreover, ASMFC has not made its menhaden fishery management plan in accordance with the applicable federal statutory requirements and, therefore, has no ability to enforce the plan against Maryland. Finally, DNR's regulations are more restrictive than those suggested by the ASMFC menhaden fishery management plan.

For the reasons explained in the enclosed regulatory comment letter, the Coalition respectfully requests that the emergency menhaden regulations and the proposed permanent menhaden regulations be withdrawn. If there are any questions whatsoever about the issues and concerns submitted by the Coalition, we welcome the opportunity to participate in a full hearing before the Joint Committee on Administrative, Executive and Legislative Review regarding the subject regulations and/or to meet with you or your designee to explain why the regulations are ineffective and harmful.

Your attention and consideration of the views and concerns of the individuals, businesses and communities most directly impacted by the subject regulations is appreciated.

Sincerely,



Charles D. MacLeod 

Enclosure

cc: Harvesters Land and Sea Coalition

