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New England Fishery Management Council

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C. M. "Rip" Cunningham, Jr., *Chairman* | Thomas A. Nies, *Executive Director*

August 1, 2013

Mr. John Bullard
Regional Administrator, Northeast Region
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Dear John:

Since our conversation about NERO's response to the submission of Amendment 5 to the Herring Plan, I have been thinking not only about NERO's response, but about the process that lead up to this decision. It feels like I have received more calls about this partial disapproval decision than anything else during my tenure as Chair. I know that Council members and Council staff are very discouraged about the time and effort put into this amendment and the ultimate outcome. It is hard to see approximately 6 years of work essentially disapproved.

My intent is not to focus on the individual issues, but to look at the process that got us to where we are and hopefully try to make it function better. Taking a step back, the request by my predecessor was to have an outside examination of how the Council, NERO and NEFSC interact with the desired outcome to make those interactions more efficient and effective. The Touchstone/Pate report went beyond that, but at the heart of that request was the original intent. Yes, there have been some positive outcomes to the report, but things like the operating agreement do not get at, what seems to many, to still be an issue and that is a sense that the Council and NERO are aiming at two different targets.

During any Amendment process, the NERO participants have many opportunities to be constructive members of the PDT's and Committees. I do not believe it is productive to always simply point out what will not work, but to help craft measures that will move toward the desired result. NERO employees tend to be better versed in the technical and legal aspects of fishery management and should take a more active role in finding solutions to management problems. I sometimes feel that the agency is playing a twenty questions game with the Council, waiting for us to guess the approvable solution rather than working as an equal partner.

It is obvious to me that Council members, in general, are not nuts and bolts people. Their job is to craft the concepts of how measures should work with the support of Council staff. NERO participants are the ones who have to screw the nuts and bolts together. Somewhere in that process things are breaking down. It may be a question of "ownership" of the document at each stage of the process, but must we have failure to prove who was right or wrong? The industry has the perception that NMFS in general, and NERO in particular, wants to push the blame onto the Council. I have and continue to assume that both entities are trying to get to the same place. If I am not completely naive, then how is it that rational people cannot interact in rational ways?

When I ran a business, I managed by walking away, after I made sure that folks had the tools to succeed, knew what success looked like and knew that I expected them to succeed. I did not micro-manage. I did not care if they spent 20 hours a week at the job or 60 hours a week at the job. I wanted the job done and would support that effort however I could. When I left, the business carried 67% of the market share in a very competitive market. People generally want to get the job done, so there has to be a way to do it even in a very arcane government process.

If the goal is to keep the Council process stifled, this letter can be circular filed. If the goal is to energize the Council process and move management to a more functional level, then something needs to be done. I believe that we all want to "get'r done," but the old ways are dysfunctional. My sense is that NERO's top management needs to encourage and empower staff to create and suggest workable solutions.

I know that the Tiger Team is working on some aspects of this, but I also think that there needs to be a shared sense of accomplishment rather than a delineation of responsibility.

To steal a phrase from P.J. O'Rourke, where we are now is "like giving car keys and whiskey to teenagers." There's gonna be a crash.

Sincerely,

A handwritten signature in black ink, appearing to read "Cunningham". The signature is stylized with a large, looped "C" and a trailing flourish.

C.M. "Rip" Cunningham
Chairman

cc: Samuel D. Rauch, NOAA Deputy Administrator for Regulatory Programs
NEFMC Council members
Regional Fishery Council Chairs