

Summary of Comments
Chapter 11.10(H)(1) Atlantic Sea Scallop Limitations, Closed Areas,
Emergency regulations

Augusta, February 12, 2009, Hearing attendees:

John K. Sheehy, 151 Old Chadbourne Rd, Lewiston, ME 04240
Tom Pottle, 263 Shore Rd, Perry, ME 04667
Howard Robbins, 93 Crows Neck Rd., Lubec ME 04652
Farrell Beal, PO Box 56, Beals, ME 04611
William Sutter, Wiscasset, scallop
Jim Wotton, Friendship, scallop
Ed Fagonde, Jonesport
Owen Moody, Roque Bluffs, scallop
David Baxter, Kittery, scallop
Ryan Haskell, North Haven, lobster – scallop
Ronald P. Lapointe, Harpswell, lobster – scallop
Mike Brown, Brunswick, lobster – scallop
Tom Butler, Harpswell, lobster – scallop
Seth Walker, Harpswell, lobster – scallop
Daniel Todd, Chebeague Island, lobster/scallop/shrimp/groundfish
Scott Ryan (sp?)
Terence Kenney, Harpswell, lobster – scallop
Rick Curtis, 2093 North Union Road, Union, ME 04862
Kendall Smith, 713 Beach Rd, Lincolnville, ME 04849
Brian Preney, 142 Middle Rd, Falmouth, ME 04105
Richard A. Holt, 21 Willoud St., S. Portland, ME 04106
Jim Wadsworth, Warren
Mark Ausplund, Tenants Harbor
Craig S. Sproul, Southport. ME 04576
Rob Eaton, District 34 State Representative
Eric Hall
Jonathan McKane, District 51 State Representative
Todd Curtis, 391 Watermans Beach Road, So. Thomaston, ME 04858
Heath Curtis, 383 Watermans Beach Road, So. Thomaston, ME 04858
Chuck Kruger, 37 Green St, Thomaston, ME 04861, District 48 State Representative
DMR personnel: Col. Fessenden, T. Brawn, K. Kelly, L. Churchill

Augusta, February 12, 2009, summarized comments:

Farrell Beal, Beals Island

Probably a lot of people have heard me say this before. But I thank God that I was able to fish the time that I have been able to where I could get a license to do whatever I wanted to do; and didn't have to put up with all this that we're going through in these economic hard times. I guess to start things off is I'm opposed to the closures. I don't really feel it is good conservation. I've seen these things try to work before with the clam industry. Usually you leave these places closed for a length of time and then when they are open they get hit so hard that they just don't last any time at all. I think you're best conservation is when everything is open then you're not going to go to Mount Desert and drag all day for 50 lbs of scallops if you can go to Jonesport Beals and get 150 lbs. I think that is you're conservation.

It's just a hard time to put so much pressure on this industry. I know that this closure, there's a lot of people that were figuring on the scallop season for their living this winter. They're having a hard time. Just on Beals, I spoke to a young fella [who] lives about a mile down the road from me. [He's] got a nice fiberglass boat and he went through a terrible lobster season like most of us did. Where we caught a few lobsters but as everyone knows we didn't get any process for them. Then he rigged his boat for scalloping hoping for the 70 day scallop season and the next thing you he knows that's closed. He told me the other day that his boat traps, dragging gear, everything is for sale. He said he just can't make it. Bank is going to take the boat. So he's going to try to sell it, which he probably, hopefully he can but with the way things are going in the fishing business I've got my doubts. No one wants a boat now. I should have written down all I wanted to say because I get up here and start losing my train of thought...

Another thing, on the scallop season, I feel it should be a straight season. This 35 days and then 2-3 weeks off, the guys that don't have an urchin license, I'm fortunate enough I had an urchin license, and I was able to do some urchin dragging. But the guys that didn't have it, they [are] just sitting around waiting for this second scallop season. I feel it should be 70 days, straight season, take us through the hard times through the winter; and I think we'd be a lot better off with that myself.

Craig Sproul, Southport

I've been fishing over 40 years. Commercial fishing, primarily lobstering, but did some scalloping, shrimping and fished on Cashes in the summer lobstering, and whatever it took to make a living. I've always made a living at it. Right now I'm getting nice rocking chair check; because I paid in for it. First of all I'd like to say that it has been brought to my attention that the closure was illegal to begin with. The only reason that you can close a fishery is if it is absolutely a catastrophic, undeniably environmentally horrendous thing going on. And that's not the case. There have been a lot of other reasons for the scallop decline. Probably the most important one is they've gone from 2000 licenses to 500 or 550 I believe is the exact number. During the time that that the numbers have been stated that we've gone down hill on the scallop catch we've gone through quite a few changes. No. 1 the scallop ring size. No. 2 the fact that years ago back in the 80's the draggers were taking fish nets and shrimp nets and clobbering the industry. At one time during the late 70's there was a scallop fishery going on in the mud. There was a huge set of sea scallops between Monhegan and Boothbay. There were going down there really working them over with groundfish nets. So there [are] other reasons including short seasons that have dropped the amount of scallops being caught. I'm going to take the advice of a good friend of mine and keep this very short and to the point. I think first of all I want to congratulate Commissioner George Lapointe. He's accomplished what fishermen have not been able to do in the last 150 years. Under his leadership every fishery in the state of Maine bee destroyed. His abuse of rule and regulation powers, his lack of concern for the financial welfare of harvesters, processors, and communities, his inability to contain DMR spending are well documented. In fact I've documented one expenditure and given the photographs to my representative and he has them on hand, 8x10 photos of a \$100, 000 outboard boat to do research work with. Even the reason for this hearing was brought up. as I said, by an exaggerated use of the Commissioner's rule of power to close a fishery. The scallop season should be opened immediately for the duration of the established season, the whole length of the coast. Furthermore I'm asking you to pass on, since we don't have any committee members here, which I thought perhaps there would be some members of the Joint Standing Committee on Marine Resources here [responses in the affirmative from the audience]. Then I would like to ask you to do in the Committee a thorough investigation of the Dept. of Marine Resources (DMR). It is out of control...I'll take questions... [LC: Please hold your questions with the audience after the hearing is completed.] OK...

Brian Preney, Falmouth

I'm a scallop diver. This is written testimony in opposition to emergency rulemaking Chapter 11.10(H)(1) Atlantic Sea Scallop Limitations, Closed Areas.

Written comment: My name is Brian Preney and I have been a scallop diver in the State of Maine for almost 29 years and an urchin diver for 22 years. I've always been a strong proponent of careful stewardship of our fisheries. While serving two terms on the Maine Sea Urchin Zone Council, I was the most vocal advocate of conservation measures and regulation enforcement. My testimony today in opposition to the proposed emergency rule making does not indicate a change of position from conservation stewardship, but rather a hesitancy to support a vague, underfunded, barely enforceable plan of area management which has been offered by the Maine Department of Marine Resources (DMR). I maintain that measures recently put in place, such as: reporting requirements, shortened season, catch limitations and drag ring increases need a chance to work before moving on to closures, which will not only concentrate effort in open areas, but also create hardships for fishermen who either cannot or will not steam out of their closed areas.

I believe the above paragraph adequately states the reasons for my opposition. I would also like to put some background information in bullet format to support my position.

-Maine DMR claims survey provides support for closures. The fact is, only a few surveys have been done, mostly in the Downeast region. The most vocal cry for closures seems to come from the Cobscook Bay area, where they already have special management provisions in place. Data to support closures in the rest of the is spotty to non-existent and amounts to anecdotal evidence from fishermen who seem to remain nameless.

- Inshore scalloping has been spotty for some time. The word from Casco Bay, which would be closed under the DMR plan, is that not much is different from previous years. Reports indicate that where scallops are abundant, there are large quantities of smalls. This is apparently true in Cobscook Bay as well. There is no threat of imminent depletion.

-Maine DMR has controlled the information flow from the Scallop Advisory Council (SAC). My understanding is that many of the SAC members are no longer actively participating in the SAC process due to unwillingness by DMR to consider other management alternatives to closings. The proponents of closure areas seem to be scientists interested in performing enhancement experiments or people from Cobscook Bay. It has been hard for me to locate others interested in large closures, and I have been looking.

-Maine DMR has exhibited a strong desire to close the areas first, then determine what the shape of the management shall be. At two recent "fishermen only" meetings, staff from both the Darling Center and organizations already part of the area management movement showed up with maps to talk about chunking up the state. Neither of these meetings were successful at determining lines because ensuing questions and discussions from rightfully concerned fishermen dominated the rest of the meetings. The push to close areas before answering key "management" questions does not build a strong level of confidence with the DMR's intentions.

-Maine DMR has neither the manpower nor funding to carry out the vast monitoring or enforcement of so many areas. They have already tasked themselves with compiling the data from the new reporting requirements. From my experience in the urchin industry, data compilation and reporting from DMR is already dreadfully slow and often incomplete. Law enforcement is already short staffed, and while working thoughtfully and diligently, short of increasing manpower, have no chance of adequately enforcing closure boundaries. I do not believe that DMR Commissioner George Lapointe has room in his new budget to staff up. I do not believe that the scallop industry will be receptive to increased surcharges either.

-A recent letter sent out by a University of Maine graduate student indicates that offshore populations of scallops, especially in federal closure areas are robust. My experience leads me to believe that future seed for inshore waters comes from "outside" rather than growing from within. I have often seen clouds of juvenile scallops moving "in" presumably from offshore. With such large populations of scallops offshore providing brood stock to reseed the ocean, I cannot see how Maine DMR can claim "imminent depletion" or "irreparable damage" to the scallop fishery. It is as always for me in scalloping, if you do not find scallops today, look again tomorrow.

I urge the Commissioner to withdraw his plan to implement closures in the remaining half of the 2008-9 scallop season. If, after more information has been provided relative to area management and statewide scallop stocks, closures may be acceptable. Otherwise, I urge Governor Baldacci and the state Legislature to safeguard the livelihoods of Maine scallop fishermen in these troubled times and overturn the Commissioner's plan for the 2008-9 season. [End of written comment.]

I also have a message from **Brian Soper** [Harpswell] who is probably the largest diver in our Casco Bay area. He is strongly opposed to the closures as well. He cannot be here today. He is out of state and he asked me to request you to verify that his written testimony was received and shall be [included in the record]. [LC: I have email from his as well that is in the record; see separate documents.]

William Sutter, Wiscasset

I am opposed to the rule. Written comment read and Contains request for previous hearings comments, [click on link here.](#)]

Written comment: My name is William Sutter. I live in Wiscasset. I speak in opposition to this proposed rule.

With the exception of the addition of the Cobscook Bay area closure, this is the exact same rule rejected by the DMR Advisory Council this past November. Because this hearing is convened on the shortest notice possible, and is being held at one venue, Augusta, and the previous effort with this proposal included hearings at several locations, and this hearing is being held in the middle of the day and the middle of the week, therefore I submit for the record of this hearing all comments received at the several local hearings held on the previously rejected rule making proposal. This submission is made by reference to the record of comments received at hearings associated with the above referenced rejected rule.

I reference the requirements, and exceptions to those requirements, as outlined in MRSA Title 5 and Title 12, for approval by the DMR Advisory council of any rules promulgated by the Department of Marine Resources. I specifically note the provisions for "emergency" rules, and that this proposed rule does not affect

the public health or public well being. I further note the requirement, under MRSA Title 5, for a basis statement for an "emergency" rule, and the exception to requirement for Advisory council approval for an "emergency" rule, and the provision that the basis statement is subject to judicial review.

I wish to address the specifics of the justifications given in the basis statement in support of the "emergency" preamble to this proposed rule. Much of the data supplied is specific to Cobscook Bay, including the referenced 2002 and 2006 drag surveys. Both referenced drag surveys only cover East Penobscot Bay to the St. Croix River, with the majority of that work within Cobscook Bay. No data is presented for the remaining portion of the state, except possibly the graph showing landings back to 1960 or before. The landings data shown on that graph is known and admitted by DMR staff to be subject to doubt as to validity and accuracy of actual landing numbers and source (inside or outside state waters). The graph and the landings shown are also subject to critical analysis of likely causes of landing fluctuations which is not accounted for in the basis statement. With consideration of the flaws noted in the validity of the justification shown in the basis statement, to proceed with adoption of this proposed rule with an "emergency" preamble would be arbitrary and capricious.

Therefore, as the 2006 drag survey shows improving scallop abundance toward the Westerly portions of the survey, and whereas the "science" provided in the basis statement for area closures, other than Cobscook Bay proper, is seriously flawed, and thereby and whereas the "emergency" preamble to this proposed rule is flawed, therefore I request this rule not go forward as an "emergency" and the previous (rejected by the Advisory Council) disposition of this area closure scheme prevail. [End of written comment.]

Tom Pottle, Perry

I'm opposed to these closures. Many people in our area were depending on the second season as originally set in the October hearings. They set up their winter's work based upon that finding by the DMR. Question I have is what does the DMR want the end result for the scallop fishery to look like? This question needs to be asked and answered before more hardship is brought upon the fishermen. Thank-you.

Owen Moody, Roque Bluffs

I'm opposed to the closures. I fish a smaller boat and I usually go to Cobscook Bay in the winter time and when we open up in the end of February or March we all know it is the windiest time of the year. So you're going to put me in danger by fishing outside. I'd like to know where you're survey's come from because if you come on my boat we'll take an urchin drag and I can show you all kinds of premature scallops and scallops over 4 inches down there. So I don't know why you say it is depleted. I'd invite any of you to come out there and we'll do a survey. Appreciate it.

Richard Holt, South Portland

I'm going to echo some of what this last gentleman said. I too am not, [I'm] in a smaller boat, and I'm sure there's probably a greater amount of people that are in smaller boats, small drags. For us to leave our areas, first of all I'll use myself as an example, Portland Harbor, I fish in the southern part of Casco Bay, and I have for years. For me to steam an hour and a half out around the corner to Saco Bay or to probably more like 2.5 hours to go the other way that is more fuel that is doubled each way. I got to learn the area, that is lost time, and we've only got little over a month left until next year. So that puts us at a disadvantage. Plus the other scallopers in those areas they don't want us there anyway. Like you've heard here saying, you're going to have these areas and when they are open everybody is going to come and fish these areas. I don't know how you're going to address that not happening. There is not enough time to discuss the possibilities. A couple of things I've talked with a few of the people in Casco Bay is maybe we ought to do a zone thing for licenses down the road. You can give the fishermen an option. License could be based on drag size, horse power; there are all kinds of possibilities to help conserve it. I'm going to stay small, I'm getting older, I've got a 45 year old boat and I really don't want to push it in the weather. You're asking for trouble there. We're using common sense so I guess we're saying to you, let's you, the state use its common sense in saying let's not put people in jeopardy. As far as you've heard other people say here, the landings that were, I've still got a question whether in the late 70's, early 80's those huge, that big spike there, I was on one of those boats that was catching the scallops with the nets there. That was phenomenal when that happened. If that's part of the data being figured in for the inshore, I don't know how you can put the two together. I really don't understand how that can be used against the inshore health of the stock. To me it is two different, separate fisheries. If you really want to get to it I believe that scallops were landed, if I remember right, late summer, early fall, I can't remember, so that is not even, the inshore scallop season wasn't even open. So that is something I don't

know if it has been taken into consideration. Again, I think like some of the other people have said here the times we're in for the state to deny us just to go out and attempt to make a living at it is just seems right out of the blue, just not, just isn't right for a state government to tell people they can't go to work and especially in these times.

Terrence Kenney, Harpswell, Scallop Advisory Council member

Fisherman in Casco Bay. Written comment read:

Having closed areas for the second part of the scalloping season is not appropriate. DMR set the open dates at the beginning of the season for 35 days, then a closed time, and then another 35 days. Many boats rigged out their gear based on this information. Investing money into readying their boat and gear for a shorter season was already becoming a hardship for many, if not all. To change the parameters during the middle of a season is unfair and unheard of.

Currently I sit on the Scallop Advisory Council (SAC), and I oppose these closures at this late date for the second half of the 2008/2009 scallop season, I am willing to work with others on the SAC and DMR for a better solution for the future of the scalloping industry in Maine. [End written comment.]

Ron Lapointe, Harpswell, Casco Bay

I don't have a prepared statement today but I certainly have a lot questions and issues with this closure. I'm going to repeat a lot of sentiments that have been said already. But I need to stand up and at least be heard. I have questions on how the closures were even brought about. How the zones were even brought about. Let alone if this is actually good conservation; because as been already said this is going to create a derby still fishing when our areas open back up I'm sure the gentleman from Wiscasset and from Southport are going to love seeing me come around the corner to go to their zone. Aren't we going to deplete their zone twice as fast? They're going to come back to our zone when it opens and do the same thing? Isn't this just a vicious cycle we're going through; with no end in sight? Everybody hear has stood up and said we need some conservation. Some type but this is not the way to do it. Not to say we're closed then we're open then we're closed, then to give zones. I don't think the DMR even knows what they want to do. The date that I see in hand here is based on a handful of boats in a small area, does not represent the State of Maine. But we are forced with the State of Maine with closures of areas that has no data to back it up I don't see where the data is. For the first year we've been asked to report this data without it even being taken effect, them not using the data that we've been asked to give them. So I'm confused on how they could even come up with imminent danger to this industry.

I look at the report you guys gave for the scallop landings, I have to ask where those scallop landings come from. Are those just dealer landings? Obviously it is not the fishermen because there was not required before that...[LC: Togue can go into more detail afterwards, the short answer I can give you is that the landings program has had dealer reporting for 1-2 years so far and yes, you are correct the harvester reporting we just put into effect this last year.] My market has changed. The dealer reporting I don't think is accurate because my market has changed with the influx of the offshore scallop industry and how well they've done has affected my market. My market now is not to the dealers as it used to be. So they are not reporting my catch. It is going to the private sale because I can't compete with the offshore, the big boats, that are landing thousands of pounds. I can't compete with that. So my market has changed. This is not accurate data. I don't believe the reporting requirement from the dealers are actual; does not represent the actual landings in the state. Before they do these types of closures they at least have some factual data to base it on.

Ed Fagonde, Jonesport

The Commissioner led us to believe that we were going to have the split season of 70 days. The fishermen spent an average of \$1000 - \$1500 redoing their drags. Thinking we were going to have a 70 day season. I feel the information used to shut down the remainder of the scallop season is based on opinions of a low percentage of the fishermen. It would be easy to say shut down the remainder of the season when you have another source of income. I feel that with over a 50% reduction in effort is sufficient. If given the chance, the 70 days season, the 4-inch rings, and 200 lb limit will work. I don't believe the zones and the closed areas is the way to manage the state's fishery. It works well in federal waters where you have 100's of miles of area to work with. It is a terrible thing the way George is playing on the financial hardship of fishermen to get the zones. He knows that we are desperate to get back to work. The only emergency action that needs to be taken is the replacement of the Commissioner.

Kendall Smith, Lincolnville

I fish the zone 5 area, out of Lincolnville right now. I think that this closure should never have been to begin with. When we started out going to these meetings I thought it was what was going to be. Now you've an industry that's closed down now 8 months out of the year. Now it is going to be closed down for 10 months out of the year. I mean what more do you want? Should be put back to December through April 15 as far as I'm concerned... To shut it down like that. As far as I'm concerned here, it was a set up as far as I can see. You start out, you wanted this to begin with and the state did not get it. So in other words they shut it down for two months, January and February. No one rigged in December up my way because by the time you got your traps gear up there was no sense to go scalloping. So that took the catch away from your reports. So then you closed, so the report is off, so it is an emergency shut down. Then you come back out with what you wanted to begin with, which I think is wrong. I think what the state has done over the last 20 years has hurt every industry in the state of Maine. The Commissioner himself should be brought to task on it. The State has done nothing but destroy everyone's living, the small boat fishery is gone. You can not get a license for anything now. Any fishery that these people's sons or daughters want to get into is gone. I'm just saying that what I think is done is wrong. I think it was a run around the end to get what you wanted to in the first place and I think it is wrong to do it that way.

Howard Robbins, Lubec

I oppose this too. The biggest thing as far as conservation and these closed areas is the outside shore will take care of itself anyway due to the weather that we have to work with; especially this time of year on. As far as each area, I think the area management based type thing in the future will be the best thing for each area. Let them decide on what they want for their own areas to have closed. That would be the positive thing to work towards in the future.

As far as scallop surveys and stuff, we had trouble up the east this year with scallop survey's towing in our gear. They're not getting an accurate survey because they were out there towing 3 hours flood in a place where there wasn't even scallops. So what kind of a survey are they getting out of this? They ought to have a fisherman from every area that knows the area go out and do scallop survey. You guys are going to get more data from it or whoever... You got to have a positive outlook on; an honest fisherman is going to tell you you're going to have a lot of seed around, which there is this year. We've taken a drastic cut with the rings [size] and everything. There's a lot of seed around; but you've got to give things time to work and go with a meat count down the road like we have up in Cobscook; or stricter rules so the enforcement of the Marine Patrol will do the job. Come up with a zero tolerance or something, the smaller ones are going to stay on the bottom, the scallops are going to grow and be great every year. Pat 2-3 years we had a lot of scallops. They're gone now. They are shucked. Whose fault is that? You were up there; what was the meat count like in Pembroke, a lot of them wouldn't let you look at them would they? Got to Eastport and look at them, they are nice meat counts. There is your answer right there. You [aren't] got to be a rocket scientist to figure it out. Thank-you.

John Sheehy, Lewiston

Neutral comment. I'm just a recreational diver from the great port of Lewiston. Obviously I don't make a living at this but the last couple of years down around West Harpswell I have noticed places where we used to easily get our limit, which was a gallon at the time, on one or two tanks, have become lifeless. I'm not saying this is everywhere; and I don't know what the answer is. But I am against a closure because that is going to force us as recreational divers into the path of the draggers. We try to stay out of their way and I have to admit, [in] a vast amount of circumstances, the draggers have always respected our dive flag. I'd like to thank you all for that. I don't think the closures are right. If you have to limit us as recreational divers rather than limit us to half a gallon a day, which it basically is now, I'd rather see a shorter season for us and go back to a gallon limit, which is almost impossible for us to get at this point anyway.

Ed Fagonde cont.

On the season closure for Cutler to Quoddy Head, it puts the people that fish out of Lubec or Eastport in a very hard position because in order to drop your drag you have sail up the shore probably 10 miles. You don't come out around Quoddy head at will. That's a tough place. So either you have to come up here and leave your boat in Cutler or you're going to have to steam 2 hours instead. I just think this is an awful disadvantage to the people in that area.

Farrell Beal cont.

I've been fishing since I was about 7 years old, started with my dad. I've seen the scalloping in the Beals and Jonesport area where everyone would be rigged and everyone would be doing good and the next thing you know things would peter out and there'd be drags and winches and masts and booms along the shore and they'd say that was it. They'd do something else because we always had that option. You could do whatever was good in the fishery. You could go to work at. The young feller especially today doesn't have that opportunity. But the next thing you'd know the scallops would be back and they'd say boy everyone is doing good scalloping. Everyone would rig back up again and they'd do good for years. Scalloping would be good. I feel they run in cycles. Right now all of my friends that are dragging tell me they've found the same thing I have. There's a lot of seed out there. You don't see a lot with the 4 inch rings. You get around places where is plugs the drags up with sea cucumbers and rock weed and everything else. Then you're starting to see that seed. All of the urchin drags you see it. A lot of the fishermen out of Dyers Bay and Milbridge area told me they saw a lot of short scallops in their traps this year. They were hauling them up they'd see a lot of them in the traps. I hadn't heard tell of that before but they said you'd haul the trap up and you'd see a lot of small scallops in there. I really feel that the scallop industry, the fishery is coming back itself. As one gentle said here I think a lot of that is your offshore, a lot of that seed comes in from offshore. I feel that it does because I've seen the outer shore outside of Beals Island, Jonesport; I've seen good scalloping there over the years. I think there are a lot of small scallops working into those areas. I think the conservation we've got with the 4-inch ring and cutting back from a 135 day season back to 70 days is all we need to go with in these economic hard times. Because I don't know how much the fishermen, especially the younger fishermen, that are trying to live can stand, because they can't get licenses to do other things. You can't get a license to go urchin dragging. You can't get a license to go urchin diving. You can't get a sea cucumber license to drag seas cucumbers. You can't get a scallop license anymore. If you want to go lobstering you got to go through the apprenticeship, which two of my nephews did. The father ran a drag, I didn't have any boys just one daughter and I helped them get into the industry. One of them fished with me four years before he was able to go out on his own. Luckily he was old enough that I told him, Oscar buy your scallop license and keep it because there might be a day when you can't get one just like the lobster license and that is the way it has turned out. The younger one probably will never have one. Just what I'm afraid is going to happen in the near future the way of the fishing life along the coast I don't see how it is going to stand it because they just can't stand all of the cut backs and closing the seasons and the days and you're pretty much limited in the Jonesport area. When you go out through either end of that reach you're going right into the guts of the ocean. There are a few islands you might hide behind. Usually you're scallop season in the winter times was if you had much northwest wind yes you could get out side and work in places if there wasn't much sea out there. Your weather in the winter is going to take care of a lot of days. Especially with a 70 day season; you're not going to get a lot of them out of that area. Thank-you.

Bill Sutter cont.

Somebody has got to wake up and smell the roses.

There were depending on which report you believe, between 550,000 and 700,000 jobs lost in this country in the month of January alone. Those people who depend on the creative economy for their livelihood in Maine I think this coming year are going to be severely disappointed because the economy is on a downward spiral that some experts tell us we haven't seen the tip of the iceberg of yet. What we have here is some sections of our population that depend on certain things of their livelihood to be able to catch them; I'm talking about the scallops. They also have to sell the things and I think the ability to sell some things is going to be limited and I think the lobster fishery has already experienced a little bit of that. We cannot go on with business as usual in what we have seen in our fisheries management in the last ten years for the next 3-4 years. We should suspend all things that would in anyway stifle, in anyway, the ability to garner income from the fisheries. Whatever it may be and let things go because it is going to get an awful lot worse before it gets any better. Thank-you.

Brian Preney cont.

I will try to do this as gentle as possible because I'd be apt to get emotional over it and I don't think there's any cause for that today. Any of you who have emails out there have probably been receiving my tirade of hate mail that I've been sending out across cyberspace; mostly directed at the DMR and the Darling Center, et al. My question is where is the clamor for the closures? Where are these people today while we all take time off from our work, nobody here is getting paid to be here as far as I know. We're all sacrificing days pay. I sacrificed another day yesterday, I went to Augusta to try to fight against poaching fines they want to put

in on a public hearing, which they say was publicized but nobody really knew about it until, I found out about it 9 o'clock yesterday morning. Anyway, we're coming out here to fight for our livings and our way of life and where are the people clamoring for the closures? I'm going to tell you where they are. They are sitting behind a desk right now, behind a computer, sitting in classrooms, in universities, in Washington D.C. law offices, New York City law offices. They are getting paid, they have full benefits, medical, dental, retirement, and they have heat, a coffee machine near their desk. They are not here to stand up in public and fight for these closures as you guys have all come out to fight against these closures as you guys have all come out to fight against these closures.

Dana Morse, the Darling Center, seems to be working for closures, member of the Scallop Advisory Council (SAC), where is he today? Andrew Mays, he is a diver, harvester, on SAC, he's for closures, where's Andrew Mays? Where are the students? Well he might have some written comment, possibly, according to Linda. What I'm trying to say is there is a movement afoot for area management that is bigger than any of us can really put our fingers on. It is not from the State of Maine, it is not from the people of the State of Maine and it is huge. The funding no matter how you slice it whether you say it is from Sea Grant, Northeast Consortium, Pew Commission; it all revolves back to tax payer money; whether it is through bond issues, whether it is through University grants, you name it. The people who are for these closures are getting paid with your money to shut you down. If you want to verify any of these facts I've got stacks of information I've been researching this for quite some time. I'm sure you can find it is all true. So my question is to the DMR, so where is the mandate for closures let's hear it.

Farrell Beal cont.

I went over to the coffee shop this morning and everyone said where are you going? A lot of the young fishermen was there and I told them where I was going. Their comment was what's the sense of it? We had one meeting and half filled the Jonesport Beals auditorium down there and told them how we felt and we go ahead and we're still going to have a closure anyway it looks like. So what is the sense of it? What is the sense of us taking the time to go Augusta and fighting against something that we're not going to win anyway? It is just going to go through. Their comment was they're going to do what they want to and that is why you don't see this place filled and 2-3 of the other rooms right here. That's why most of the people feel that they are just fighting a losing battle.

Richard Holt cont.

I just want to add something to what the past gentleman had said. I agree with everything he says [Brian Preney]. Now what people are going to ask is we need the data and I want to make a comment on that.]A few years back in Portland Harbor they were going to dredge the inner harbor. We had all the people did studies like the gentlemen said from out of state came in and the dredge companies had hired. Everybody in that room, everyone was being paid, and the few of us in that room and we said there's a whole bunch of little lobsters there. People came up that had never been on the waterfront and said no, no, what few you're going get isn't going to matter in the dredge material; we're just going to dredge the harbor and the whole thing, We showed them areas and it was like no, there was nothing there. So we said ok, you can go back, it is all on the record now. I can't remember the outfit [LC: do you mean MER, Brian Tarbox and Chris Heinig...]. So you know that study, and who did they work with, they went right to the fishermen. They came up we hauled the traps, I got involved in that program. The data that came out of that was the most accurate data that they had for the lobster resource in Portland Harbor. Then we did it again on part of the outer harbor. [LC: in Portsmouth this winter again...] Well, down there I guess they allowed them to use the traps down there and they weren't used with the fishermen, they were used by the University and they lost all their gear. I was in charge of 290 traps and I hauled them. I think I lost maybe 1 or 2. Everything came back to them. So my point is, if the state, if the people who are for the closures are going to say we need the data. My answer to that is ok let's put some observers on the boats for the rest of this year. Starting next year maybe even two years and get good information on the boats and the scalloping. Go on the dive boats, go on the bigger boats, the small boats, then you will get the picture. But outside sources coming in and saying yes this is what we've got [from] people who write papers, I think there was one thing Chris told me once. After all the meetings there he said we gave our data in to, I can't remember to who it was, and some doctor of marine biology sat behind, he was writing the final report, said we don't really look at your report, meaning Chris', because you being a real true marine biologist, because you go out in the field and get your hands dirty. That was comment he told me and he sat there and shock his head and said yes, that is the one, I should be writing the report, not the guy that sits behind the desk. A true comment he told me and that kind of took me back.

Owen Moody cont.

I would like to see instead the closure if you put a 35-40 meat count for the whole State of Maine. Because in the 80's we had the meat count and we had plenty of scallops. We had plenty of seed. Once that meat count was gone everything was depleted. You [had] guys coming in with the 90 count even though you've got 4-inch scallops out there, for a law. These guys have 4-5 people on the boat and they're shelling everything they get. So if you could limit the boats to 3 people, so you know they are not raping it, and then have a 35 – 40 meat count, cause some of the out shore stuff doesn't go to the 35, it goes to a 40 and impose that instead of the closures I think we'd come back a lot faster.

Eric Hall,

Opposed. I've been a diver for almost 20 years. You're just going to drive everybody into these areas that you leave open and the small stuff coming back you guys don't even give it a chance to do anything. You expect it to happen overnight I guess. I don't get it. You change the laws before the season even gets going you're trying to shut us down. You're putting a lot of people out of work. You've got these 20 mile closures, more than that; I tried 10 years ago to try to talk to you people to shut smaller areas down. We ain't got the control because you guys ain't got the money to shut them down and guard these areas. Now what makes you think you're going to close these areas down if you couldn't do little mile sections? How are you going to do the whole coast? I just don't; you guys come up with a stupid, all you're surveys, all your information is not, everybody here knows it is not correct. Not even close. You throw a buoy overboard and a 3 by 3 meter and what ever lands in it that is what there is for scallops in that area, no. You guys don't even, you're out in the middle of the mud, you guys don't even know what you guys are doing out there. You got to work with the fishermen a little more or do something a little bit better, a little different. That is all I have to say.

Alex Todd, Chebeague Island

Opposed. Pretty much everybody said, so why go back over that. But one thing to point out, like in the shrimp fishery, we had a 37 day season and I lose track of the season , '99 or so, but we were catching 2500 lb for \$1.25 and I think it is more a natural cycle thing with all the fish stocks. But now they are back and you can get 5-6000 lb but we're giving them away for \$0.37/lb. In Casco Bay I don't see that there's been a huge drop off in the scallop stocks. But assuming you bring them back are they going to be \$4 again instead of \$7.50? I say le tit do its natural course and hopefully get a decent price.

Rep. Jonathan McKane, State Rep. from District 51

I want to make sure the Marine Resources Committee receives a copy of the transcript. [LC: yes]

Written comments received between hearing notice and end of comment period February 17, 2009:**Email From: Brian Preney**

Sent: Monday, February 09, 2009 7:49 PM

Subject: Re: [Fwd: Bill to increase penalties for fishing in closed areas]

What a well oiled plan you have here Togue Brawn. It is as though closing down Scallop areas in Maine is a done deal.

Too bad the department did not tell us that before we bought our licenses from January 2, 2009 on. Obviously, you have not come to the realization that nobody wants you to close anything, (aside from out-of state interests, such as the Quebec Labrador Foundation, various MNC's, various ocean conservancies, save the whales, The Darling Center, academia, etc), and the fine increases will only pad the coffers of the State and will further infuriate those of us in-state that you purport to serve but have put out of business during these increasingly tough times. Trust in government and the department you work for is gone and the best we can hope for is that you and your boss, George Lapointe, are gone soon too. Brian Preney

Email From: Brian Soper

Sent: Tuesday, February 10, 2009 11:56 AM

Subject: Scallop Closure

This is in response to the recent "yo-yo" decisions that Commissioner Lapointe has made in regards to the scallop closures. I am a professional commercial diver for 25 years diving scallops, oysters and urchins. When I purchased my license for the 2008 scallop season it was knowing that I would have the full month of December 2008 to fish. Approximately November 17, 2008 it was decided that I would only have a total of 70 days to fish with a split season being December 2008 and Feb 25-March 31 2009 and with no expectation of getting any other days to fish for the 2009 calendar year. Meanwhile I am out of the state during this period of time and I am current on the news, first I am told "NO

FISHING IN MARCH", then I hear "FISHING IN MARCH WITH THE ORIGINAL PROPOSED CONSERVATION AREAS" . It seems to me that Commissioner Lapointe is playing Rouelette with my living, making his egotistical decisions. The conservation areas were voted down, much against the wishes of the commissioner at the marine advisory council meeting, which I attended. He was sent a message by this council and he did not heed it once again when these councils vote. He his totally disrespectful of these committees , their hard work and time. During my 25 years of scallop diving I have not been asked once to make out log books or had any interest in what I have to say about the Casco Bay area and scallop diving. I have been grouped together with fisherman in the Downeast areas, both draggers and divers- which I have great respect for. Decisions have been made on what "Downeast" numbers and fisherman are telling the DMR. For the Commissioner to tell me that I have an opening but I have to trailer my boat or steam 100 miles to go fishing while others can fish from their "backyard" is UNFAIR and NOT EQUITABLE, The commissioner himself and I quote that decisions he makes have to be "FAIR AND EQUITABLE". I believe that what the DMR is proposing is nothing short of theft. They have stolen my license money from urchining for the past years and this proposal for the theft of my scallop license money and season constitutes fraud by the state government. Please make a note that I do not favor these conservation areas at this time and that we should be allowed to fish anywhere for the second opening as proposed and voted on by the council. I would hope to be an interested party in future decisions regarding my "livelihood" .
Respectfully submitted, Brian Soper

Email From: Julia Soper

Sent: Tuesday, February 10, 2009 1:04 PM

Subject: scallop closure

I am a certified wholesale dealer and would like to have it known that I object to the state constantly changing its mind on openings/closures, conservation areas/open areas, etc. The state throughout the years has consistantly ignored the voices of industry being that of the committee votes, fishermans experienced opinions, and supportive industry's such as wholesalers/retailers/trucking companies and other vendors involved and the vast number of families that each of these entail. It appears to me that the department has ignored what is fair and equitable to all involved, per the commissioners words, and safety is also at issue. I purchase fresh "local" product to supply my retail store and restaurant in the Brunswick area. If the state continues to close everything down i then am forced to purchase product from mega-wholesalers of out of state federal waters scallops. These scallops are an inferior product sometimes 6-10 days old before reaching the shelves as compared to our fresh "off the Boat" scallops that custoimers are so use to eating. Whenever you travel you can hear people singing the praises of "Great Maine Seafood" the reason is because of the freshness and distinct flavors of our very special seafood. Please do not close or institute conservation areas for this upcoming Feb 25- March 2009. The advisory councils/fisherman/industry realizes that there are some issues at hand that need to be addressed, and I would like to be a part of the discussions for the future. The commissioner is not making sound decisions in light of this countrys economic woes, let alone the disparity of the states poverty level. I urge the public, fisherman, dealers, to stand united against this.

Email From: Zachary Soper**Sent:** Tuesday, February 10, 2009 7:50 PM**Subject:** Scallop closure

Hello my name is zachary Soper, son of Brian Soper. I am twenty years old and I have only been an active commercial scallop diver for one year. Although I am not an experienced scallop diver like my father I have grown up learning about commercial diving including scalloping, urchining and the harvesting of oysters and have become very knowledgeable about this industry. From what i have noticed over my years is that decisions are made on inaccurate data collected from graduate and pre graduate marine biologists because they do not have any physical experience with commercial scallop diving or dragging. They collect their data on facts that they have been told instead of learning on there own with experience. To become an electrician a certain amount of apprentice time must be attained and yet not one marine biologist has asked to dive with my father and learn how and where scallops live in order to collect accurate data.

As a manager of a seafood retail store that was built for the sole purpose of being able to sell my dads dive scallops which people travel far distances for because of the high quality of scallop that no other seafood stores in the area can produce. I have been forced to buy a "dragged" scallop that comes from federal boats out of Massachusetts. Because of the short season my dad has not been able to produce enough of these diver scallops that our customer's CRAVE for. We have lost an incredible amount of business because our customers will only buy these dive scallops. This might only have a small effect on the decline of Maine's economy but every little bit matters.

I am not very up to date and I don't always understand politics but I have notice that Commissioner Lapointe has been given the power that is equivalent to a king as far as the DMR stands. Why is this man been given all this power and can stay in office as long as he wants? Why has he been given the power to override any of the marine councils decisions? Why is only his opinion important and not either the publics opinion or the committees important? Why have his view points not been critically reviewed and assessed? I would be glad to listen to your answers to my questions and try to understand them.

Thank you for your time, Sincerely Zachary Soper

W. William Anderson**702 Dixie Road So. Trescott, Maine 04652****February 10, 2009**

I am responding to the Department of Marine Resources Proposal to close the scallop fishery. With what I know about the current condition of the scallop resource in Eastern Maine I support your proposal to close the scallop fishery at least East of Schoodic Point if not the whole state. According the latest available scallop survey the only significant healthy population of scallops was in Cobscook Bay. The rest of the state was found depleted. Any additional effort in these areas will only further delay recovery of this fishery.

I understand that Cobscook Bay's landings started declining early this season and this was the only healthy fishery left. Closing this area and sending the effort that has been concentrated in this area out to fish areas already considered seriously depleted would be an extremely poor choice. An even poorer choice would be to open small areas much of which has already been fished some this winter as landing in Cobscook started to decline.

I attended the public hearing on scallops last March before the Marine Resources Committee in Augusta, Maine. There was wide spread consent that the scallop resource was in trouble. While Cobscook Bay appeared healthy this was where most everyone was fishing all of last winter. Normally they fished in Cobscook for a month and then they spread out over the rest of the state. Last winter they left around the first of January to fish elsewhere but finding little they returned to Cobscook for the remainder of the season. There was an attempt to limit licenses to those sold in 2007 instead they let everyone who wanted a license have one then closed the door to further licenses. I understand we have around 1000 licenses now. An increase over the number of licenses the scallop advisory council was hoping to allow while the resource was in such poor condition.

This increase in licenses leaves few choices available to continue to fish and protect the resource. With poor or disappointing results from the normally more lucrative lobster fishery I suspect that more fishermen activated their scallop permits to try to make up for what they did not make lobstering. This is more effort on scallops when the resource is already depleted.

When are we going to start to make some good decisions based on science that will start to turn declining fisheries around and protect those that are healthy? Going to four inch rings was a good start but more needs to be done. We waited to long to make this change. You need to have some mature scallops out there for a spawning biomass to turn the fishery around. Turning things around takes time depending on the growth cycle and water temperature may play a role.

Everyone has told about what a strong fishery Cobscook Bay was. How everyone was welcome to come fish in Cobscook Bay. They just had to fish by their rules. I understand that within ten days, after opening this year, catches were declining. By the end of the early season most boats had moved elsewhere looking for better fishing with poor results. There was some talk of using the mature scallops from Cobscook for seed in depleted areas of the state. Now they are gone. Where is the long term plan for this fishery? One was supposed to be developed last summer. There was a

directive from the Marine Resources Committees in the Maine Legislature for this to be done and report back to them in January of 2009. The legislature had to increase licenses first. This leaves few choices when it comes to stock rebuilding.

Shortening the season is about the only choice left after increasing effort on a depleted resource. What scientific information about the fishery is available and talk of poor and declining landings in the first part of this season the only choice is to close the fishery, for the rest of this season. Future seasons may need to be even shorter, if any. When surveys start to see some sign of improved stocking a season could be considered or season length could be considered. With the current state of the stock and the poor landings results even considering a season next year may be questionable. It would certainly need to be short. Maybe two weeks. We will have to be careful about how much fishing is allowed until the biomass becomes more robust with significant stocking in many areas ensuring a stable spawning biomass.

Maine has a huge potential here to have a healthy fishery with significant landings as past landings indicate but getting there may be painful and will take time.

If we limit our season length now, our future could be bright.

What scallops are left now are needed for a spawning biomass. A state wide closure for the rest of this year is the best choice.

Sincerely, W. William Anderson

Email From: Brian Soper

Sent: Wednesday, February 11, 2009 12:59 AM

Subject: Fw: letter to Olympia snow

To Olympia Snow, and interested parties.

I am writing to you in the 12th hour. I am a professional commercial urchin/scallop diver for 25 years. I live and operate out of Casco Bay, Harpswell Maine. I currently serve on the sea urchin advisory council for the second time, the first was for 8 years at the induction of the committee when urchining first appeared in Maine.

I have just found out that Commissioner Lapointe, without just cause, has entirely closed scallop harvesting despite agreements and voting by the Marine Advisory and Scallop Councils. up until this point all data and information was collected from drag studies and random port sampling. Not once in my 25 years has the "DMR" collected or asked for any type of data from myself or fellow divers in Casco Bay. Not unlike sea urchining, has there been a total disregard towards the commercial diver from the DMR vantage point. Commissioner Lapointe has undermined all knowledge and expertise from various councils despite their votes and has chosen to override with his own elite decisions. There is a sense of absolute total distrust between commercial harvesters and Commissioner Lapointe and his DMR regime.

The state has a lack of data in concerns with the commercial scallop divers of Maine. It seems that the movements and decisions that the Commissioner make are unjust and perhaps illegal. We started the year of 2008 knowing we had 135 days to fish and support our families starting with a December 1 opening. In mid November the Commissioner cut that in 1/2(70 days) with a split season.

As of recent we now have nothing. NO WARNING-NO DATA-NO RESPECT-NO SEASON- with our any accountability. We implore you to help us in this crises. We feel that Commissioner Lapointe has "STOLEN" license money and our livelihood. In the current state of our country and state's economy it appears once again that Commissioner Lapointe has ignore the plight of the commercial fisherman and their families.

Respectfully Submitted, Brian Soper

Email From: Paul H. Farmer

Sent: Monday, February 16, 2009 9:26 AM

Subject: Scallop diving

Scallop Divers are already closed to fishing any waters over 120 feet in depths, why would you want to close them to more area? You have already ruined my business that was thriving before these unnecessary regulations. I need to here back from you, admit that you have made a huge mistake and tell me you are working to rebuild the integrity of the DMR.

I am disgusted when you state the resource is in danger of total depletion, you have a handful of numbers to base that off. I have seen the resource in my area first hand and feel the resource is thriving. I hope you have a lot of money, 2-3 years per bay, and some serious underwater video equipment to conduct research surveys on scallops. Otherwise you will never be able to accurately assess the scallop population. I look forward to hearing from you so my family understands better these dramatic actions taken by the DMR.

Furious in Cushing,

Paul H. Farmer

Siren Shellfish, 217 River Rd., Cushing, Maine 04563

James B. Card II and Jeremy J. Card

JIM'S Auto Repair & Used Cars

25 Foster Street, Ellsworth, Maine 04605

February 17, 2009

We, Jeremy and James Card II dive in the Blue Hill Bay area and have done so steadily for much of our licensure. If this area is closed down to scallop harvesting our livelihood will be lost. We were unaware of any meeting regarding this closure and hope we aren't too late to put in our two cents. Please feel free to contact use regarding your decisions. Sincerely, James B. Card II and Jeremy J. Card

Peter Holman

61 Primrose Lane, Brunswick, Maine 04011

I am a commercial scallop diver. I would like to see the whole state stay open for the simple fact there is no work out there! And I think by closing certain areas, it puts a lot of pressure on it. I believe if they kept the draggers in the deeper water that scalloping will rebound.

Sincerely, Peter Holman

Michael Keating, 7B Shearmans Lane, Owls Head, Maine 04854

PRESENTATION TO THE SCALLOP ADVISORY COUNCIL

[February 13, 2009]

Members of the Scallop advisory council and all others in attendance my name is Michael Keating. I live in the mid-coast area in the town of Owls Head and fish for scallops in Penobscot bay. All of my testimony presented here today is specific to this area, I am here to request that you the council members vote to repeal the closure of Penobscot bay as suggested by the department of Marine resources, I have outlined some reasons that support my request and will give you justification for doing so. I would first like to say that I would support the closure of our area if there had been scientific reasons cited, but this is not the case. As a harvester that participated in the first season I experienced a high count of harvestable scallops, as well as sub legal scallops with mediocre effort. According to Department of Marine Resources the areas being chosen for closure were randomly picked. A shot in the dark is not a form of conservation rather a show of desperation. While this is a very simple approach that undoubtedly will reduce fishing effort it is not substantiated by research. This is similar to saying we must block off every other parking space on Maine Street to reduce parking congestion problems. If the Department of Marine Resources are attempting to reduce scallop-harvesting effort they have all ready succeeded. Participation is extremely low in my area, 3 local boats and 1 or 2 transient boats, which were there very briefly. This can be partly contributed to the uncertainty that was surrounding the start of the season and the November 24th announcement that Penobscot bay would be open for fishing. I had planed, on coming to this meeting with alternative lines on a chart to the ones proposed that would evenly divide and identify the scallop beds in hopes of achieving approval so I can fish my local area. After speaking with the other two local captains that fished the first season, we added all of our days together which totaled 32 days and we all fish 4'6" drags, we decided that that merely a tiny percentage of bottom had been worked. Not one of us will repeatedly tow an area until every last scallop is gone. We work on averages. If we can't achieve a certain number of harvestable scallops we leave it alone and move on. As we are a very small fleet we keep in contact with each other and are pretty honest about the numbers we are achieving. We all had the same experience of being to work our spots for a while before having to move on. I am very reluctant to divulge that we have plenty of untouched spots waiting for us for the second half of the season in fear of drawing unwanted transient boats, but we do. Drawing lines for closures is a monumental task that is better left for after the sunset of this next 35-day season. For now I respectfully request the Scallop Advisory Council consider that the combination of reduced fishing days, increased ring size, and reduced participation do to the uncertainty of the start of the season be considered as sufficient conservation measures for Penobscot Bay for the remainder of the next 35 day season. The closure areas were not approved the first go around for many practical reasons. I challenge the council to hold fast to that previous decision and repeal the closure of Penobscot Bay. Thank you for your consideration.

SAC Meeting
Friday, February 13, 2009
Ellsworth City Hall, 1:00 pm
Draft Minutes: Section One: Emergency Closure Alternatives

Industry:

Dwight Carver	Beals
Brian Gordius	Bass Harbor
Owen Moody	Roque Bluffs
Scott T. Young	Winter Harbor
Bruce Porter	Cutler
Dennis Sargent Sr.	Steuben
Amos Kelley	Gouldsboro
Tim Doughty	Sullivan
Walter Jessiman	Cutler
Illegible	Addison
Robert Holland	Jonesboro
Kendall Smith	Lincolville
Brennan Spofford	Bass Harbor
James Ackley	Machias
Ed Fagonde	Jonesport
Farrell Beal	Beals
Milton Merchant	Jonesport
Leaonard E. Durkee	Jonesport
Sheryl Harper	Southwest Harbor
Rick Curtis	Southwest Harbor
Mathew Merchant	Jonesport
Jeff Boyce	Stonington
Kurt Crome	Stonington
Eugene Lymberner	Brooksville
Russell Bray	Deer Isle
Scott Ingraham	Brooklin
Seth Walker	Harpswell
Dennis Tozier	Bass Harbor
Jacob Beal	Columbia Falls
Nick Faulkingham	Jonesport
Donald Tozier	Hancock
Eric Hall	Searsport
Tom Pottle	Perry
Randy Newcomb	Perry
Paul Cox	Dennysville
Sheila Huckins	Trescott
Thomas Ciomei	Sedgwick
Tim Robbins	Stonington
Jim Wotton	Friendship
Travis Fogg	Spruce Head
Art Alley	Spruce Head
Mike Keating	Owls Head
Bill Audi(?)	Trescott
Maurice Alley	Beals Island

Reporters:

Bill Trotter	Bangor Daily News
Steve Rappaport	Ellsworth American
Gina LeDuc	Commercial Fisheries News
Laurie Schreiber`	Fishermen's Voice

Penobscot East Resource Center

Annie Tselikis

DMR

Togue Brawn
Deirdre Gilbert
David Etnier
Terry Stockwell
Alan Talbot
Jay Carroll
Jason Berthiaume

Scallop Advisory Council

Dana Temple, Chair
Dana Morse
Ernest Kelley
Terrence Kenney
Barry Huckins
Doug Wood
Kathy Messier
Andy Mays
George Freeman
Tim Harper
Kevin Kelly (DMR)

The meeting began with Togue Brawn (DMR) describing current events in scallops and the purpose of each of the week's meetings:

There was a public hearing on LD 82 on Wednesday – several people submitted comments. The work session will be coming up Wednesday at 10 am.

There was a public hearing for the emergency closure in Augusta yesterday. Roughly 35 people attended. That meeting was an opportunity for public comment of any kind. The comment period will extend through the end of business on Tuesday. At the public hearing, comments were basically in opposition to the emergency closures.

Please note: the purpose of today's meeting is not to provide general comments. Rather, it has two purposes: 1.) To present alternatives to the proposed closures, as well as potential improvements/changes. The SAC will listen to public input and then determine if they wish to offer an alternative to the proposed closures. 2.) Also, much interest has been expressed in area management and the development of smaller closures chosen by local fishermen. Today we are looking toward the future and we hope the SAC will give us their recommendation for how to divide the coast into different management areas.

We intend to open the fishery in December 2009, if we have conservation areas in place. These closures go away at the end of March. Looking forward to doing something constructive next year.

Dana Temple (Chair) added further commentary: We need to limit this to improvements to what we have done here already. Not a time for comment. We have a mandate by the governor to attempt to improve what we have through public input. If you bring something up, you need to suggest moving lines, separating areas. Not general comments.

Sheryl Harper offered suggestions concerning how to enhance the closed areas. Dana Temple noted enhancement is part of the long-term plan.

Owen Moody: create a statewide Meat Count.

Farrell Beal: I would prefer smaller closed areas - like the Jonesport Moosabec Reach, and seeding that in with juvenile scallops.

Maurice Alley– if you closed just Moosabec reach, it wouldn't take 2 days to clean up when you reopen it.

Togue – the majority of people are in favor of smaller closures. Right now, we are just talking about the 35 day season. In the long-term, we are working toward addressing those concerns and crafting much more focused closures based on what we hear.

Dana T – the governor told us that we needed to go back to fishermen and ask for your ideas for improvement to the emergency closures. That's what we're discussing right now. Can you make it more equitable?

Sheryl – how did you pick these areas and why? Shouldn't it be based on where scallops are?

Togue: They were originally proposed by an SAC member as potential long-term closures. They seemed like logical divisions, were chosen to be random. These were originally proposed as 3 year rotational closures. As you know, we had proposed closing the whole coast with the original emergency closure. This was an alternative to allow some access, but also provide some protection. They are random by nature, and are not designed to identify specific areas outside of Cobscook Bay.

Sheryl: Why did you add Cobscook Bay?

Togue: Much of the data that we have is for Cobscook. The port sampling data that we have showed that people were not getting their limit, dragging over small scallops, putting future fishing at risk. There was a clear case for closing

Cobscook Bay. Additionally, since Cobscook Bay has the healthiest resource in the state, the question arose: what can the rest of the state support? Our survey data shows declines in scallop population statewide. We felt further protection was necessary.

Unidentified scalloper: The eastern line is going to make those guys travel to far. From eastern head should be shortened up. Outer shore should be taken away – line moved up halfway. Quoddy head to Cutler. The entire outer shore should be open due to weather conditions this time of year.

Randy Newcomb, perry. Open Cobscook bay and close the outer shore.

Mike Keating – Owls Head. (Submitted a written proposal). With Penobscot Bay completely open we have only had effort from 3 fishermen. I'd like to keep Penobscot open. If that's not acceptable - he proceeded to show changes on the chart (Whitehead to southern island, out to Matinicus). Upper bay stays closed – lower is opened.

Dana T clarifies: If the SAC accepts these recommendations, then they would make the recommendation to the Commissioner.

Walt Jessiman, Cutler – close from Quoddy head up (Cobscook). Only 35 days left, we'd be lucky to get 20 days on the outside shore.

Amos Kelley, Gouldsboro – supports that recommendation

Travis Fogg, sprucehead – already have a closure of 50 days.

Sheryl – are they closed to other fisheries? Answer: No.

Sheryl: Should be addressed in the future.

Scott Young, winter harbor – would like to see at least of Frenchman's Bay open – at least half of it. draggers don't mind depth, but divers do.

Tim Doughty: Open Frenchman's bay, but close down 4-5 spots in it. Up in Taunton bay – have a distance to travel to Gouldsboro. Cut the bay in half for this year.

Close up to Prospect point.

Donald Tozier- I fish in Frenchman's Bay. This is the first year we've been asked to fill out log books, but you did the closures before you even got that information. Not disagreeing with some closures, but should have used the logbooks to determine what should be closed. Nobody in this room is going to fish if there's nothing for us to make.

Togue- We didn't use the harvester reporting data in this decision: we haven't even gotten it all back yet. The decision was based on port sampling data, survey data, anecdotal information and landings data.

Ed Fagonde – Just go with the 35 day season. Otherwise, you'll just concentrate effort. People are desperate and need to get to work.

Dana T– but people go where the scallops are. Closures are necessary. They worked offshore.

Brian Gordius, Bass Harbor: Shut Blue Hill Bay. From the cable up. Mitchell cove to Swan's Island.

Unidentified: Implement six foot drag and lighten up the bale size. May be an idea for the future.

Togue – this is your opportunity to present ideas to the SAC, and they're working on developing an alternative to the emergency closures. If you want to give ideas to DMR, you can do that until Tuesday. Public comment will now be taken only at the request of the SAC.

Scott Ingram, Stonington – in the future, should give us a chart. Instead of all these words.

A 5 minute break was taken. Charts distributed so people could make their own recommendations.

During the break, Mike Keating came to the chart to show SAC members where he thought lines should be adjusted. From cape rosier due south, inside channel of Pen Bay and opening from owls head east.

Annie Tselekis: what about the lines in Casco Bay? (Terence had mentioned possible changes) Terence noted he would discuss them further during the SAC debate.

Three charts were submitted during the break: Leave the coast as it is Close half of each area, diagonally, let fishermen decide which half to leave open.(1), Leave Blue Hill open (2).

End of public submission of proposals to the SAC.

Terence – Casco Bay is a big closure. Not sure in other areas how far up into the river the scallops go. I'd like to move northern boundary down, and make it bigger, but then open a section in the center bay so those boats don't have to steam all the way outside.

Terence noted desired changes..

Line extend to seguin to five islands – sheepscot river would stay open.

On Jaquish island, run a line out to 3 miles, then come over to junk a port and run a line up inside, either the north or south of hussey sound.

Basically, open the center of casco bay, extend the closure on either side? a pie shaped piece open in the center?

Barry – The Eastern Closure will put a lot of stress down to Cutler, because they will have to steam down there to fish. Agree with the option to open the shore, from the bridge down. No one drags under the bridge. It's an enforceable area. Junior agrees. Andy is inclined to entertain that as well. He received a lot of comments to that effect – far more than other ideas.

Kevin – we were instructed to start with the emergency closure, and if we open an area, come up with an equivalent closure.

David – the commissioner is open to looking at whatever the SAC comes up with, it would be nice if it's equivalent, but George is not wedded to that.

Terry - the commissioner is looking for a template for area management in the future.

Andy – I think the closure of the open shore is a valid concern. Has the CBFA agreed that they want Cobscook Bay closed? Answer from the audience: No.

Doug – It's tough to open all the areas where there are scallops. And I fish those areas really hard.

Motion by Barry, seconded by Junior to vote on opening the outer coast (Eastern Closure): 9 in favor 2 abstentions

Frenchman's bay – close half of Frenchman's bay? In exchange for closing Blue Hill Bay?

Doug – the good part would be, if you do want to do a trade, there have been scallops in Blue Hill bay in the past so there would be conservation.

Andy – scallops are all marginal around him in Bar Harbor, between 3 and 4 inches. The 5 fishermen that fish there got together and agreed to leave it alone. He thought he might go poke around in Blue hill bay. Needed to go to 5 different spots to get a pail. Winter harbor –Eddie Monet said it sucked. Does think some area in Frenchman's bay open in exchange for Blue hill bay closure is a good trade. There are scallops in Blue Hill bay.

Question of where to draw line:

Zone C lobster zone line?

Alan – there's a drag limit line in statute for Blue Hill Bay.

Bass harbor head to pond island, up to Naskeag? Similar to what Brian Gordius suggested. Line in Frenchman's bay - Hancock point to southwest point of iron bound, easterly to grindstone neck.

Andy – Motion to open the upper part of the river from Hancock point to ironbound in an easterly direction to grindstone neck, and close upper part of blue hill bay from Lopus point to pond island, up to Naskeag

Doug seconded.

Vote – 7 in favor

1 opposed

3 abstentions.

The SAC asked Mike Keating to come draw and present his ideas on the chart.

Penobscot bay – add a closed area that has already had effort, leave open an area that has had little effort.

From tip of cape rosier to crabtree point (or whatever Lt. Talbot says), due south to foster's ledge due south to 3 mile line

Tip of owl's head light due south to foster's ledge, due south.

Andy – motion to amend the boundaries as drawn – shifting the closed zone

Doug seconded

George – concerned about the size of the opening in the middle of the coast, what it would mean.

Andy: Mike came here with a plan. I'd like to consider it.

Vote in support – 11 unanimous

Casco Bay – extend areas on both ends and open a section in the center. There are buoys outside and you can draw straight lines.

Southern boundary to Richmond island instead of two lights? On the other side, from seguin to five island and straight in.

Lt. Talbot will help to provide the language and will not cheat you.

Andy motion to accept the new boundaries in Casco Bay

Seconded by Doug

In favor: 10

Opposed: 0

Abstained: 1

Dana – the changes on this map will be recommended to the commissioner for the 35 day season. When will he make a decision? Tuesday. If he agrees, DMR will draft this as a new emergency rule.

Conversation resumed at 3:05 pm, discussion ensued concerning management areas for future.