

## Summary of Comments

### Chapter 11 Atlantic Sea Scallop Season Regulations & 2015-16 Harvest Season

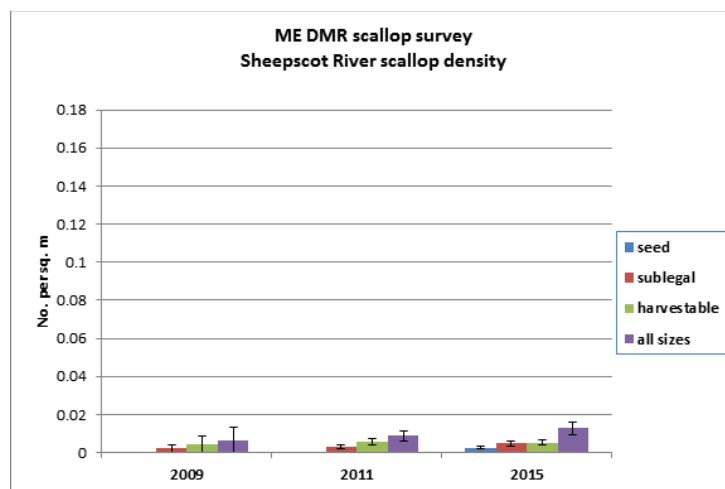
Public hearings were held in Augusta on September 15, 2015, Ellsworth on September 16, 2015 and in Machias on September 17, 2015. Notice of this proposed rulemaking was given on August 27, 2015 on the following: the DMR website, the DMR rulemaking interested parties e-mail list, the DMR Advisory Council via e-mail, the Secretary of State's proposed rulemaking website, five daily newspapers, and via postcard to all Maine licensed scallop harvesters. The summarized comments received either at the public hearings, via e-mail or by letter are sorted by topics with Department responses at the end of each section.

#### **TARGETED CLOSURES**

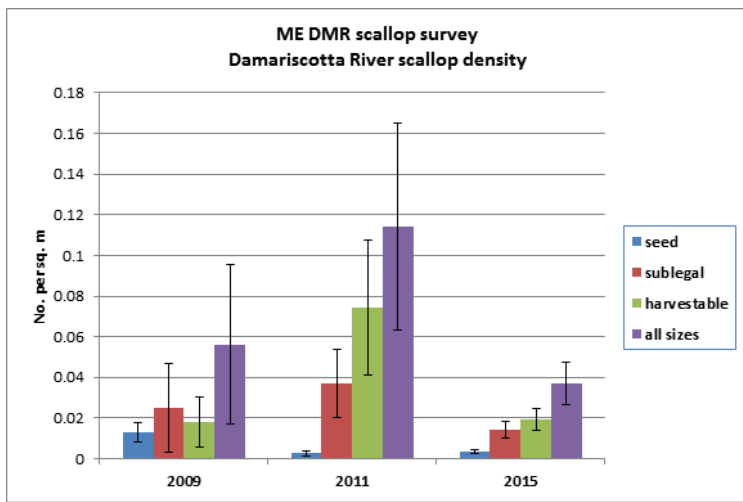
##### *Opposed*

**Brian Preney, Zone 1 diver, West Bath; comment submitted at Augusta public hearing:** I have been a scallop diver for 30 years. I have dove primarily in the Sheepscot and Damariscotta area. I am holding up a map showing the closures in the Sheepscot/Damariscotta Area. The red obviously are the closed areas where we can't dive anymore, the green are areas that I can dive in. I will state that the green areas are almost entirely mud bottom and there is literally no scallops on it what so ever. There is a couple of postage stamps in there where there is a couple of scallops. Based on these closures, this entire area is out of the scallop business because I personally could harvest this area in 4-5 days, leaving no days for any other harvesters. The Damariscotta River has been closed for a little bit. It used to be there was a closure half way down the river which allowed half of the river to regroup and the other half to be harvested. Now we have the entire river harvested. Last year they [DMR] closed down the Sheepscot River due to depletion. Now, I am here to tell you that the closures were not done due to diving for scallops, the closures were done due to dragging of scallops. When the management plan came into action, it was supposedly going to save our scallop industry. What really happened, in conjunction with the closure of the shrimp industry is effort in our scallop industry tripled or quadrupled. Fleets of draggers came into these areas and literally dragged it clean. They have dragged the bottom so you can't even recognize it. It is not even dive bottom anymore because it has been plowed over. There are only a handful of divers in this area anyways, but we are being penalized by the actions of the draggers not even from our area. They have come in and completely depleted the scallop industry. I am against this because it unfairly penalizes the divers. I could probably snatch out a living, but there is no way that any young divers could come in and possibly make a living in this area. So, I am opposed to the closures for that reason. It needs to be re-examined and find a way that the divers can make their share. We don't damage the bottom. Or else change the Damariscotta River so we have some harvesting opportunities in the Damariscotta River.

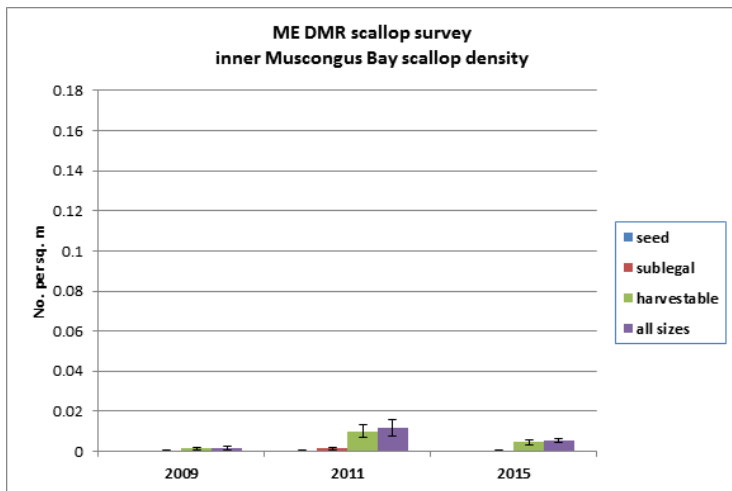
**DMR Response:** Spring 2013 survey data from Zone 2 indicate that the resource has been heavily fished since it was last surveyed in 2011 and that additional conservation measures are needed as the Zone is not meeting its rebuilding targets. Zone 1 has experienced a large number (270 in the past 5 years) of recently activated licenses due to the high price of scallops, rebuilt areas and vessels being displaced from the closure of the shrimp fishery. At a local meeting hosted by the DMR in Augusta in May for Zone 1 harvesters, the results from the spring survey were shared and options discussed for the upcoming season. Across the Zone the survey observed relatively low levels of biomass of all sizes of scallops, particularly in the Damariscotta, Sheepscot and Muscongus Bay areas and that the Zone overall was not meeting its rebuilding targets when compared to Zone 2 & 3.



For the **Sheepscot River**, while there was a very small but not significant increase in scallop density between 2011 and 2015, most of this slight increase was in the sublegal category. Harvestable scallops were in low abundance and unchanged from 2011.



For the **Damariscotta River**, a significant decline occurred in overall scallop abundance between the 2011 and 2015 surveys. A large decline was observed in the harvestable ( $\geq 4$  inch shell height) size range. Recruitment (seed and sublegal) abundance was also low in 2015.



For **Muscongus Bay**, scallop abundance declined between 2011 and 2015. Almost no seed or sublegal scallops were seen in 2015. Harvestable abundance was approximately 50% lower in 2015.

Therefore, after lengthy discussion with industry participants on alternative forms of management and conservation measures, participants came to consensus on a 10 day reduction of the whole season for all participants, regardless of gear type, as well as a series of targeted closures, including those in the Sheepscot and Damariscotta Rivers and Muscongus Bay. Both Mr. Preney and Mr. Soper along with Mr. Todd and Mr. Swenton were in attendance and provided input in this final, consensus decision. The Scallop Advisory Council (SAC) reviewed the meeting results and included them in their season recommendation at their season setting meeting on June 4 in Ellsworth. While divers do have less impact on the bottom and no impact on sublegal scallops as they hand harvest scallops, it is the combination of removals by both the dive and the drag fleet that has caused the resource to be depleted in these areas and is the impetus for the targeted conservation closures across the Zone.

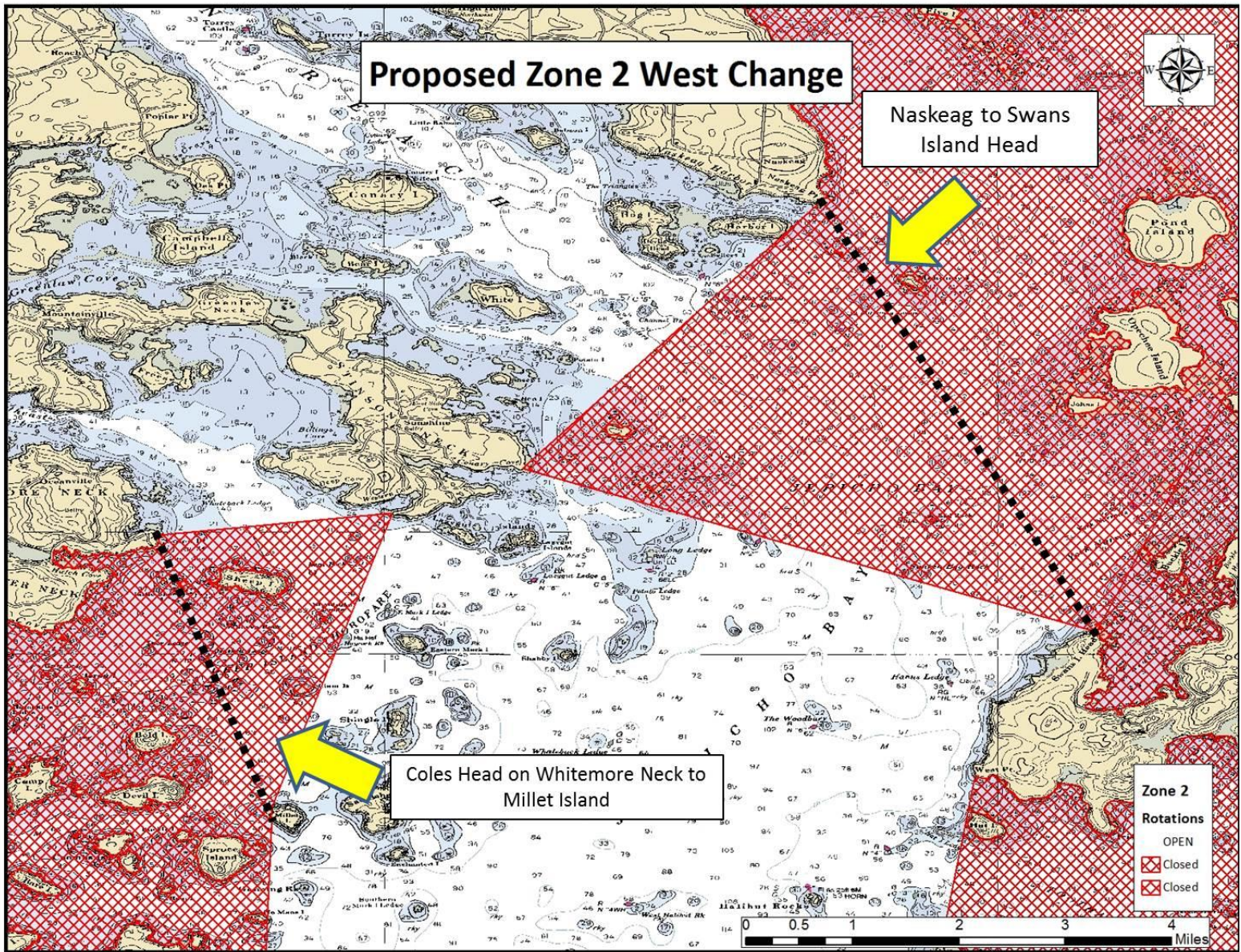
### Neither for Nor Against

**Frank Jones, Zone 2 dragger, Stonington; comment received at Ellsworth public hearing:** I would like to see Southeast harbor closed off for the purpose of seeding. Just the small area that it was before [The Deep Hole Targeted Closure]. [Also supported by Derek Jones and Matt Eaton].

**Justin Boyce, Zone 2 dragger, Stonington; comment received at Ellsworth public hearing:** I support what Frank said [close the Deep Hole].

**Ben Heanssler, Zone 2 dragger, Stonington; comment submitted at the Ellsworth public hearing:** I agree with shutting the Deep Hole off. Also, I was hoping there was a bigger area you could square off from Naskeag to Seal Cove and you could trade it off for [Deep Hole Closure]. It just makes sense.

**Justin Boyce, Zone 2 dragger, Stonington; comment received at Ellsworth public hearing:** I agree with Ben [Heanssler]. I think it would make a lot more sense. [Map below to detail change that Ben & Justin propose]

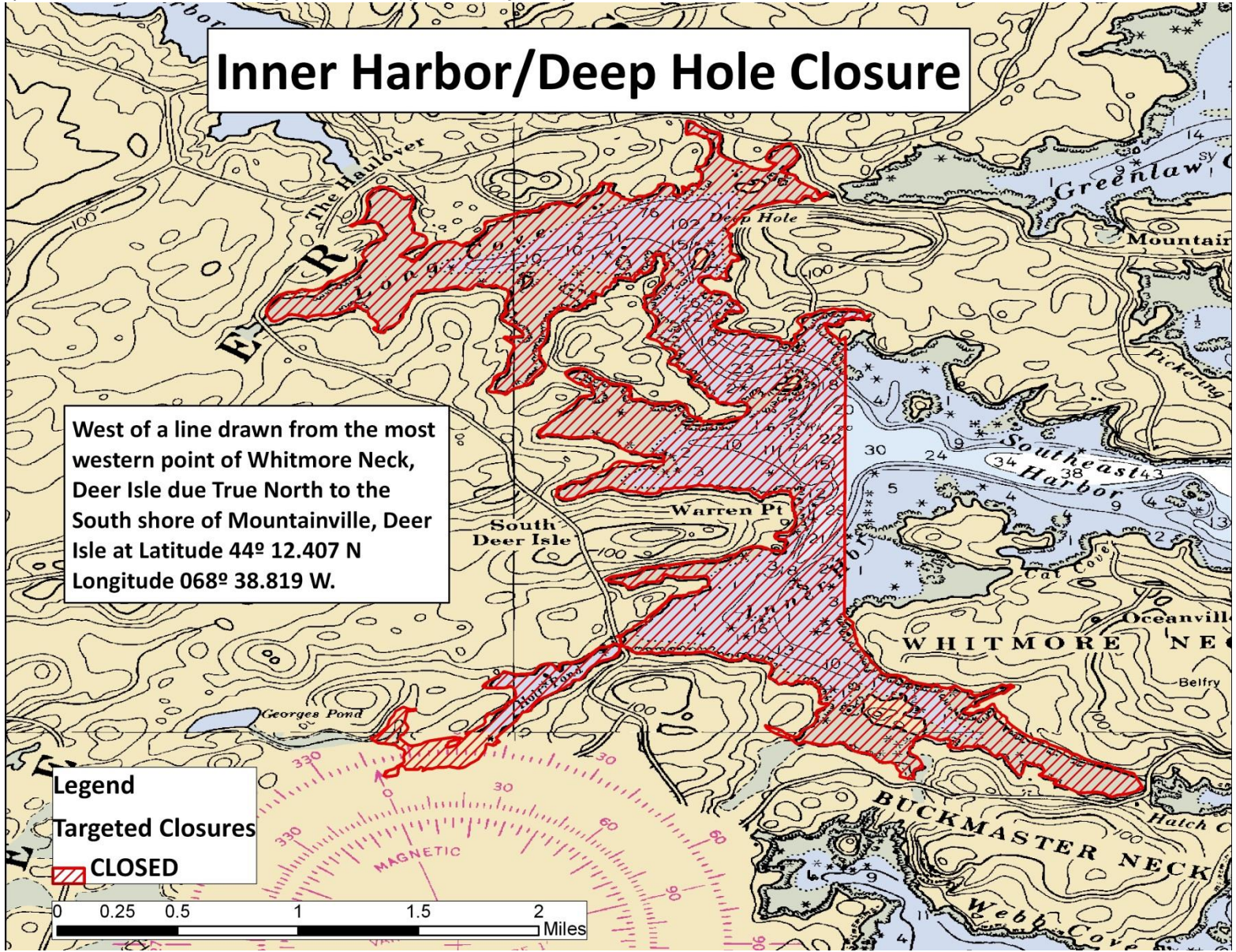


**Togue Brawn, scallop buyer, Maine Downeast Dayboat; comment received via email:** I am writing to support the proposed changes to Chapter 11. My mission at Downeast Dayboat is to increase the sustainability and profitability of Maine’s scallop fishery. For that to occur, it is absolutely vital that the Department of Marine Resources remain firm in its commitment to rebuilding this fishery by closely monitoring effort and ensuring areas are closed before overharvest can occur. To that end, **I suggest a change to the language proposed in section 11.22: Targeted closures are imposed as conservation measures to assist in rebuilding specific areas of the state based on survey information.** Targeted closures may be implemented based on depletion, seed, the presence of spat-producing scallops and other conservation factors as determined by the Commissioner. I believe it would be imprudent to limit the selection of targeted closures exclusively to survey data. At times you may wish to select targeted closures based on anecdotal information from fishermen or Marine Patrol, based on the input of dealers purchasing from certain areas, or any number of other factors. If you must explicitly list the information you may use to generate targeted closures, I suggest you include “ in season sampling data and/or information provided by fishermen and/or information provided by Marine Patrol”.

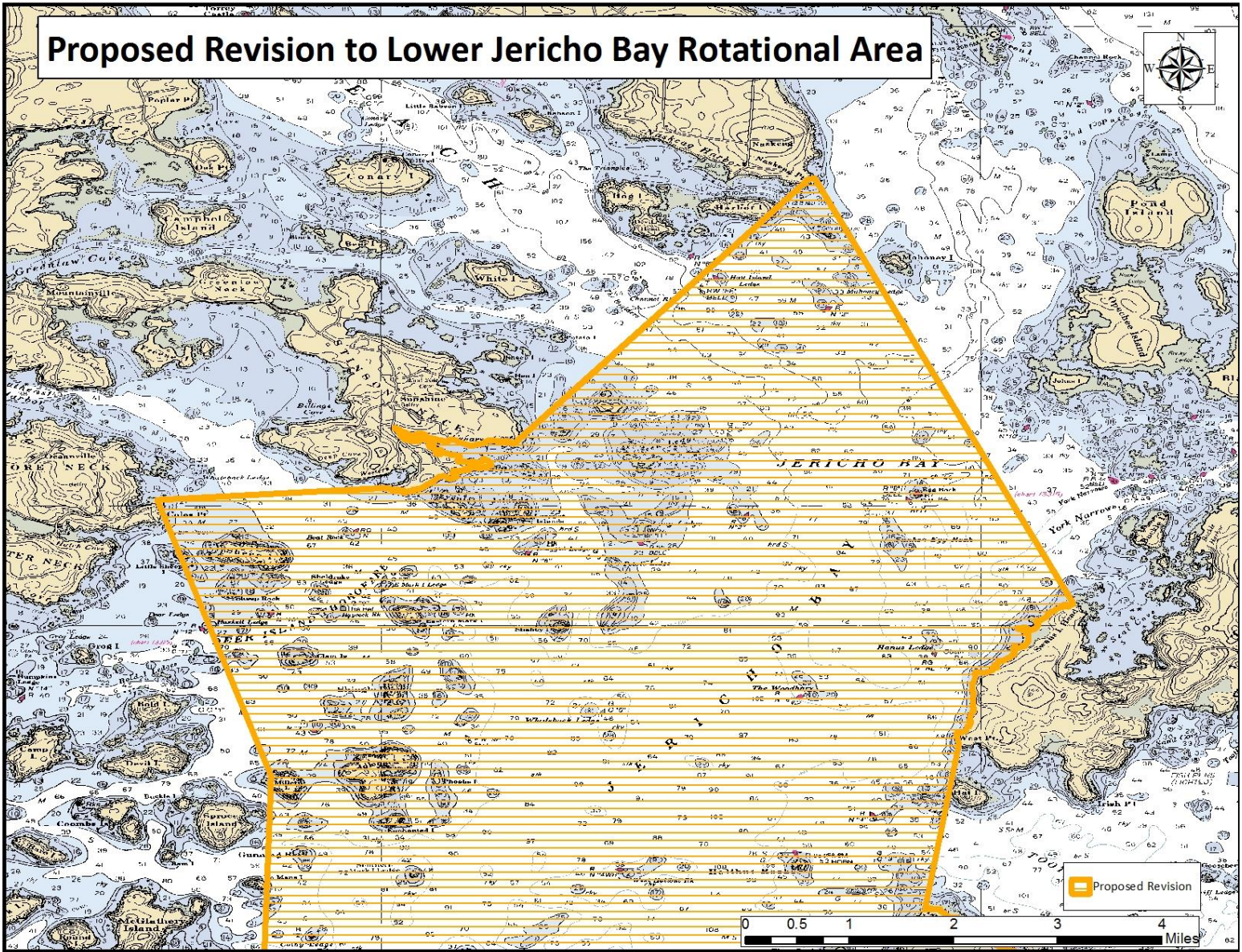
**I also suggest the following addition to 11.22:** Targeted closures are not seasonal closures and are implemented in order to improve and enhance the conservation and rebuilding of the resource in these specific areas or areas that may be dependent on these areas for the production of spat. At this time it’s unlikely you would close an area specifically to prevent the loss of spat to another, but since it’s something you may wish to consider in future you may as well allow yourself the option.

**DMR Response:** The Department is supportive of the industry members from Stonington willingness to implement a targeted closure in the “Deep Hole” area of inner Southeast Harbor in the Deer Isle area. Their stewardship of the resource in this area will

ensure that spat producing scallops remain undisturbed by fishing activity and will hopefully ensure that there is a viable source for spat that will seed out the adjacent areas open to the fishery.



The Department has reviewed the proposed change to the Lower Jericho Bay Rotational Area in exchange for the Inner Harbor/Deep Hole Targeted Closure. The Department believes that this minor change would allow industry to have better access to tows that run from the Southeast Harbor area down to Jericho Bay, alleviate the need for vessels to stow gear when transiting across the area that is currently closed as well as aid in enforcement as it would allow for a corridor for vessels to move between the Southeast Harbor and Eggemoggin Reach Rotational Areas. The minor change would result in a revision to the northern and western boundaries of the Lower Jericho Bay Rotational Area, as well as the western boundary to the Lower Blue Hill Bay/Jericho Bay Rotational Area and the eastern boundary of the East Isle Au Haut Bay Rotational Area. The Department is supportive of this change as it allows industry to more easily operate in the area and aids with enforceability at the same time as keeping within the current rotational plan, as it is only a minor boundary change. Overall this change does not compromise the rebuilding goals and actually would provide for a net benefit to the resource and fishery as the Inner Harbor/ Deep Hole Targeted Closure will keep an area that has been closed for the past seven fishing season protected.



The Department agrees with the commenter regarding the language referencing survey information only for being utilized to implement targeted closures. While survey information is taken into consideration when making a determination for an emergency closure, other information such as port and sea sampling observations, in-season survey data, marine patrol observations and industry reports are also used. Therefore, the Department removed this explicit language so as to allow itself the scope and flexibility to utilize all available data sources in making a determination for an emergency closure.

Finally, while the commenter makes a good suggestion, providing the Department with language to consider in regards to protecting an area as a means to benefit others due to the production of spat, the Department believes that the proposed language would adequately allow for this.

## **CALENDAR**

### **Opposed**

**Brian Preney, Zone 1 diver, West Bath; comment submitted at Augusta public hearing:** I am against the Saturday diving that has been put on the schedule. We have the Limited Access Areas, which are precious to us because when we started this management program there were certain areas that were targeted as our “hot spots”. They were shut down for three years. And we opened them up and they were lucrative. Due to dragging activity they are no longer lucrative, they are hardly discernable from the open areas – about the same. Most of us like to work a five day work week – Monday through Friday. Most of us have something to do on the weekend, whether it be snowmobiling or skiing or we want to be with our families. We don’t want to be out diving on the weekends. Due to the efforts of few recreational divers and one person who happens to sit on the Scallop

Advisory Council who has a full time job in Portland and only dives on the weekends, all of a sudden we have weekend diving. I think that is absolutely wrong and the Saturdays inclusion should be absolutely removed from the schedule.

**Justin Boyce, Zone 2 dragger, Stonington; comment submitted at the Ellsworth public hearing:** I only oppose the 60 drag season in Zone 1 because of the impact it will have on the West side of Vinalhaven because of the boats will come from Zone 1 that can't fish. So basically they are double dipping. They will make their gravy in Zone 2 and then in Zone 1. That's the only reason I have a problem with it; if they started on the same date I wouldn't have a problem with it.

**Stephen DeWitt (Pembroke), Charles Curtis (Perry), Will Hopkins (Eastport), Elizabeth Drinker Hopkins (Eastport), Pail Cox (Dennysville), Jason Leighton (Edmunds), Chris Leighton (Edmunds), Jeremy Brown (Pembroke), Jesse McPhail (Perry), Charles Sinclair (Edmunds), Jenny Ganong (Pembroke), Gordon Ganong (Pembroke), Frank Gardiner (Edmunds), Tanika Matthews (Edmunds), Deanna Francis (Pembroke), Tim Sheehan (Pembroke), Taylor Cushing (Pembroke), Kristen Morano (Pembroke), Amy Barnes (Pembroke), Violet Willis (Dennysville), Andrea Kendall (Perry), Amanda Rodgers (Pembroke), Melissa Cushing (Pembroke), Thomas Carter (Edmunds), Daniel Brown (Pembroke), David Sweenie (Pembroke), Miranda Mahar (Pembroke), Jason Jamieson (Pembroke), Justin Wentworth (Pembroke), Tom Wentworth (Pembroke), Sandra Nystrom (Pembroke), Judy Murray (Pembroke), Randy Morgan (Cathance), Bruce Bailey (Pembroke), Jeremy Griffin (Edmunds), Brenda Francis (Pembroke), Jaclyn Sockbeson (Perry), Chris Sockbason (Perry), Wynter McPhail (Calais), Tom Pottle (Perry), Scott Emery (Eastport), Ricky Cox (Eastport), Dale Maddocks (Eastport), Robert A Lewis (Eastport), Dana Bowen (Eastport), Roger Muir (Eastport), John Sullivan (Eastport), Rochard McPhail (Pembroke), James P. Lowe, Victor J. Voisine, Salam Wahib (Lubec), Sean Blanch (Lubec), David Lord (Lubec), Alana Boutin (Lubec), Brittany Presten (Lubec), Kevin Preston (Lubec), Jonathan Marzoll (Lubec), McGinley Jones (Lubec), Angel Kelley (Lubec), Jennifer Wallace (Lubec), Janet Blake (Lubec), Ashley Bragg (Lubec), Shelley Jones (Lubec), Michelle Robbins (Lubec), Ben Lyons (Lubec), Ashley Ferris (Lubec), Evan Matthews (Lubec), Jessica Jones (Lubec), Van Denbow (Lubec), Wanda Corey (Trescott), Frank Talotta (Lubec), Charlotta Farmer (Lubec), Dana Maker (Lubec), Shelley Stolfi (Lubec), Heather Wright (Lubec), Michael Grathers (; Lubec), Suzanne Wilcox (Lubec), Janet Trent (Lubec), Derek J. Green (Lubec), William Feltner (Lubec), Jeremy Lyons (Lubec), Christopher Grant (Lubec), Shawn Ross (Lubec), Barry Cox (Lubec), Colby Sawtelle (Lubec), Derek Lyons (Lubec), Deanna Newman (Lubec), Wayne Moores (Lubec), Michelle Farmer (Lubec), Travis Carter (Lubec), Debra Holmes (Lubec), Douglas Sevrate (Lubec), Jonathan Wallace (Lubec), Michael Wentworth (Lubec), Philip Avery (Lubec), Rickey Wright (Lubec), George Swaller (Lubec), James Robbins (Lubec), Randy Wright (Lubec), Shawn Tinker (Lubec), Gregory McConnell II (Lubec), Tracey Sawtelle (Lubec), Susie Bassett (Lubec), Rhonda Eaton (Lubec), Danny Farrell (Lubec), Shelby Searles (Lubec), Jay Dexter (Lubec), Carleston Pike (Lubec), Chris McCaslin (Lubec), Kathy Murray (Lubec), Sunshine Green (Lubec), Angie Reed (Lubec), Bruce Davis (Lubec), Robert Barnet (Lubec), Susan Reilly (Lubec), Nick Jones (Lubec), Jean Mills (Lubec), Adam Boutin (Lubec), Kris Matthews (Lubec), Vin Gartmayer (Lubec), Jessica Matthews (Lubec), Angel Kelley (Lubec), Tony Cannone (South Lubec), Pete Haycock (Lubec), Craig L Chute (Lubec), Loring Munson (Lubec), Sherry Munson (Lubec), Wayne Moores (Lubec), John C. Burnes (Lubec), Richard Hoyt (Lubec), Pricilla Hill (Lubec), Toby Wilcox (Lubec), Leon Clark (Lubec), Linda Farrell (Lubec), Donald Farrell (Lubec), Suzette Francis (Lubec), Jane Parker (Lubec), Kathleen Mishkin (Lubec), Joseph Knox (Lubec), Christine Brown (Lubec), Bernard Brown (Lubec), Nancy Williams (Lubec), Howard Shaw (Lubec), Peter Case (Lubec), Barry Cox (Lubec), Amanda Brewer (Lubec), Joseph Keene (Lubec), Bob Judd (Lubec), Joe Davidson (Lubec), Bob Jean (Lubec), Lovine M Wormell (Lubec), Julie Keene (Trescott), Caled Lord (Lubec), Rob Burgess (Calais), Martin Cassidy (Lubec), John McCurdy (Lubec), Jordan Hall (Lubec), George Baker (Lubec), Joseph Fredette (Pembroke), Earnest L. Williams (Lubec), Amada Lyons (Lubec), Virginia McCaslin (Lubec), Charles C. Cousins (Lubec), Travis Clark (Lubec), Kathy Burns (Lubec), Loring Monson (Lubec), Steven Lyons (Lubec), Brandon Lyons (Lubec), Mary Greene (Lubec), Dawn Lyons (Lubec), Howard Robbins (Trescott), Mary Robbins (Trescott), H. Barstow (Trescott), Ryan L. Preist (Dennysville), Mike Baker (Charlotte), Mary Jane Summers (Eastport), Traci Calder (Perry), Ella Kowal (Eastport), Kimberly S. Mitchell (Eastport), Robert P. Scott (Eastport), Elaine Abbot (Eastport), Christine Keene (Trescott), Paulette Bryant (Trescott), Kenny Moores (Trescott), Frank Theriault (Trescott), Mel Gallant (Trescott), Misty Moores (Trescott), Aaron Lyons (Trescott), Raymond Huckins (Trescott), Chase Fitzsimmons (Lubec), Ralph Sawtelle (Lubec), Cody Jodway (Lubec), Mike McCabe (Whiting), Jon Watts (Whiting), Baird Moores, Deb Bridges (Lubec), Roy Glidden (Edmunds), Randy Huckins (Trescott), Tara Kelley (Lubec), Joe Reed (Lubec), Angel Kelley (Lubec), Steven Pressley (Whiting), Shelly Tinker (Lubec), Danny Fitzsimmons (Lubec), Sara McConnell (Lubec), Shayne McPherson (Cutler), Jessika Guptil ((Lubec), Janelle Kelley (Machias), Kriptle Jodway (Lubec), Leigh Jodway (Whiting), Danny Jodway (Lubec), Niomi Johnson (Edmunds), Sheila Huckins (Trescott), Tanya Dennison (Whiting), Shawna Preston (Calais), Anne McGuire (Cutler), Michael Kilby (Edmunds), Nicole Phinney (Trescott), Caleb McKenzie (Edmunds), Kevin Thompson (Trescott), Gary Dinsmore (Lubec), Susan Boutin (Trescott), John Seeley (Trescott), Patricia A Vinzani (Whiting), Mike McConnell (Lubec), Travis Carter (Lubec), Augustus Look (Whiting), Darlene Doherty (Lubec), Tommy Cassidy (Lubec), Wanda Matthews (Lubec), D. S. Pener (Whiting), Norma McCarthy (Lubec), Sheldon Tyler (Trescott), Barry Huckins (Trescott), Timothy Griffin (Pembroke), Helen Saccone (Lubec), Dexter Lyons (Trescott), Makayla Cobb (Edmunds), and Stephen C. Taylor (Pembroke); petition pages with signatures submitted with the comment below at Machias public hearing along with the following .**

Cobscook Bay Fisherman's Association

Meeting on September 9, 2015

Pembroke Elementary School

Thirty –one Cobscook fishermen attended a meeting called by the Cobscook Bay Fishermen's Association. Will Hopkins moderated the meeting. State Representative Will Tuell ® of East Machias offer brief remarks.

Regarding the proposed rules for the 2015-16 scallop season, the fishermen unanimously agreed that:

- ***We opposed Zone 1 opening on December 15; the scallop season opening date should be the same statewide.***

**Tracey Sawtelle, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I am opposed to the Zone 1 starting on December 15. The reason being so is they can still get their 70 days. They think they are going to miss 10 days, well they are not because they can just skip over to Zone 2 or Zone 3 and still get their 70 days and then go right back. Also, I believe it was in 1998 or 1999 I think it was passed in the Legislature that scallop season would start the same day, state wide. I was wondering if you could tell me about that?... If you fish all 50 days at 10 gallons in Zone 3 that is 500 gallons. Say you have a 70 day season in Zone 2, suppose you can get 60 of them, that is 900 gallons. And then you have Zone 1 and they have 60 days, let them open the 15<sup>th</sup>, but they are still going to get the 70 day. All you gotta do is skip over to Zone 2 or Zone 3 for them eight days. And then at the end of the season you have the last two days, they can do that.

**Julie Keene, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I am really, really upset that they want to open Zone 1 two weeks later than us. Along with what you said on TV Trish and what I said at the Cobscook Bay Fishermen's Association last week - shut the shrimp boats down, they have gone scalloping. So, there is nothing to stop them from coming here and then going back and going fishing. And I agree with Tracey [Sawtelle], I believe that it's in statute that it is, we fought for a long time to get the whole state open at the same time because Cobscook used to open first and the would wipe us out and then the next bay and the next bay and the next bay. It seems we are going backwards not forwards on this. I mean, you know, most of us are not going to travel from here to Portland to fish or down in that Zone. There might be one or two out of Cobscook that might go; the rest of us will stay home. It just seems so sad that we have worked so hard to rebuild this fishery back up and to have them use the excuse that they have lobster gear in the water, I mean we have lobster gear in the water. I see that you have got the map and that it is all closed outside, but I think this is political pressure coming from Southern Maine. And I think that the State has got to start taking care of people Downeast that don't have other jobs. We are dependent on that bay that is all I have to say. ...If they want to wait until the 15th, then we all wait until the 15th. They have no advantage over us if we do it that way. I don't know how everybody in this room feels, but that seems like a fairer playing field. This proposed rule seems ridiculous for people that live in this area. We have been through years where they have taken everything and our scallop season last three days and everybody starved. We didn't go shrimp fishing and shut this down. This is ridiculous and we need to move over again....I suggest you go to December 15th for the whole state because it certainly isn't fair to us down here to come up and fish for how every many days a week and then go back to their Zone.

**Ralph Dennison, Zone 3 dive tender, Trescott; comments received at Machias public hearing:** I agree with everything Tracey [Sawtelle] said in his first initial comments, I believe that the scallop season should start everywhere, statewide, on the same day. It seems to me that you have come up with a pretty good way to keep fishermen from talking. People should be able to comment from their seat. Most fishermen are generally modest people and I know there are a lot of people sitting around me that would love to say something. I don't want to be up here doing this, but what everybody is thinking; I wish more people would do it.

**Farrell Beal, Zone 2 dragger, Beals Island; comment received at Machias public hearing:** I agree with Tracey [Sawtelle] that the season should start the same, December 1 or whatever day is chosen that it should start state wide. Not one open area earlier than anywhere else.

**Jimmy Ackley, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** I would like to see the state all open up at the same time. Trying to split everybody up, we talked about that before when I used to be on the council. Everybody seemed to think that instead of clumping all the boats together by opening all at the same time that some of the guys would stay home, you are always going to have those that travel, you are not going to stop them. But if somebody can fish in their own back yard instead of coming down here or vice versa by going that way, it can work either way. I think that starting on the same date, if they want to cut days, take them off the end. Have everybody start the same time.

**Derek Beal, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** When you open up December 1, December 15<sup>th</sup>, whenever you open it, open it the same time. Open it all up and let's go to work. Everybody in here wants to go work. We

wouldn't be here if we didn't want to. We all got families, we all got bills to pay, gotta have some bottom to drag. And that is the way it is, whether we are in Cobscook, whether we are in Portland, or wherever we are, open it up and let's go to work.

**Stephen Brown, Zone 2 Diver; comment received via email:** Obviously considerations about visibility issues giving divers the end of the week making us search through turbid waters have once again fallen on deaf ears. I thought this year we would switch back to the beginning of the week alternating yearly making it somewhat fair. What excuse do you have to be unfair to the divers? We are being made to work on the weekends while the draggers get them off. Clearly majority rules in this fishery and there is no sense in divers voicing their opinions. You have lost any integrity as a manager of this fishery.

### *In Support*

**Brian Soper, Zone 1 diver, Harpswell; comment submitted at Augusta public hearing:** I have no problem with the schedule because this year they actually let me write it. So I like the schedule. I alone I don't like the Saturday diving, but I am not going to grumble about it because it's just part of in order to fit our 60 days in. In the schedule that they did we gotta dive some Saturdays. I am not going to get all hemmed up about it.

**Alex Todd, Zone 1 dragger, Chebeague Island and Scallop Advisory Council chairman; comment submitted at Augusta public hearing:** As far as the Casco Bay area goes, I would like to see more days of the week. But as far as the starting end of it I am happy with it. As far as the closures I am happy with it. As far as the weight per day, it is the bottom level of acceptability. But overall I am happy with it. I think everyone can survive on it.

**Adam Stanwood, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** I am opposed to any change in the season as they stand. December 1 is plenty to wait. If southern Maine can't deal with that I don't know what you can do with that. We have tried that December 15<sup>th</sup>, 17<sup>th</sup> stuff before. Our first few opening days it was such cold weather that the juveniles coming on the deck that you couldn't get the deck picked before the things would start freezing. I opposed that. Leave the season where it is.

**Stephen DeWitt (Pembroke), Charles Curtis (Perry), Will Hopkins (Eastport), Elizabeth Drinker Hopkins (Eastport), Pail Cox (Dennysville), Jason Leighton (Edmunds), Chris Leighton (Edmunds), Jeremy Brown (Pembroke), Jesse McPhail (Perry), Charles Sinclair (Edmunds), Jenny Ganong (Pembroke), Gordon Ganong (Pembroke), Frank Gardiner (Edmunds), Tanika Matthews (Edmunds), Deanna Francis (Pembroke), Tim Sheehan (Pembroke), Taylor Cushing (Pembroke), Kristen Morano (Pembroke), Amy Barnes (Pembroke), Violet Willis (Dennysville), Andrea Kendall (Perry), Amanda Rodgers (Pembroke), Melissa Cushing (Pembroke), Thomas Carter (Edmunds), Daniel Brown (Pembroke), David Sweeney (Pembroke), Miranda Mahar (Pembroke), Jason Jamieson (Pembroke), Justin Wentworth (Pembroke), Tom Wentworth (Pembroke), Sandra Nystrom (Pembroke), Judy Murray (Pembroke), Randy Morgan (Cathance), Bruce Bailey (Pembroke), Jeremy Griffin (Edmunds), Brenda Francis (Pembroke), Jaclyn Sockbeson (Perry), Chris Sockbason (Perry), Wynter McPhail (Calais), Tom Pottle (Perry), Scott Emery (Eastport), Ricky Cox (Eastport), Dale Maddocks (Eastport), Robert A Lewis (Eastport), Dana Bowen (Eastport), Roger Muir (Eastport), John Sullivan (Eastport), Rochard McPhail (Pembroke), James P. Lowe, Victor J. Voisine, Salam Wahib (Lubec), Sean Blanch (Lubec), David Lord (Lubec), Alana Boutin (Lubec), Brittany Presten (Lubec), Kevin Preston (Lubec), Jonathan Marzoll (Lubec), McGinley Jones (Lubec), Angel Kelley (Lubec), Jennifer Wallace (Lubec), Janet Blake (Lubec), Ashley Bragg (Lubec), Shelley Jones (Lubec), Michelle Robbins (Lubec), Ben Lyons (Lubec), Ashley Ferris (Lubec), Evan Matthews (Lubec), Jessica Jones (Lubec), Van Denbow (Lubec), Wanda Corey (Trescott), Frank Talotta (Lubec), Charlotta Farmer (Lubec), Dana Maker (Lubec), Shelley Stolfi (Lubec), Heather Wright (Lubec), Michael Grathers (; Lubec), Suzanne Wilcox (Lubec), Janet Trent (Lubec), Derek J. Green (Lubec), William Feltner (Lubec), Jeremy Lyons (Lubec), Christopher Grant (Lubec), Shawn Ross (Lubec), Barry Cox (Lubec), Colby Sawtelle (Lubec), Derek Lyons (Lubec), Deanna Newman (Lubec), Wayne Moores (Lubec), Michelle Farmer (Lubec), Travis Carter (Lubec), Debra Holmes (Lubec), Douglas Sevrate (Lubec), Jonathan Wallace (Lubec), Michael Wentworth (Lubec), Philip Avery (Lubec), Rickey Wright (Lubec), George Swaller (Lubec), James Robbins (Lubec), Randy Wright (Lubec), Shawn Tinker (Lubec), Gregory McConnell II (Lubec), Tracey Sawtelle (Lubec), Susie Bassett (Lubec), Rhonda Eaton (Lubec), Danny Farrell (Lubec), Shelby Searles (Lubec), Jay Dexter (Lubec), Carlestone Pike (Lubec), Chris McCaslin (Lubec), Kathy Murray (Lubec), Sunshine Green (Lubec), Angie Reed (Lubec), Bruce Davis (Lubec), Robert Barnet (Lubec), Susan Reilly (Lubec), Nick Jones (Lubec), Jean Mills (Lubec), Adam Boutin (Lubec), Kris Matthews (Lubec), Vin Gartmayer (Lubec), Jessica Matthews (Lubec), Angel Kelley (Lubec), Tony Cannone (South Lubec), Pete Haycock (Lubec), Craig L Chute (Lubec), Loring Munson (Lubec), Sherry Munson (Lubec), Wayne Moores (Lubec), John C. Burnes (Lubec), Richard Hoyt (Lubec), Pricilla Hill (Lubec), Toby Wilcox (Lubec), Leon Clark (Lubec), Linda Farrell (Lubec), Donald Farrell (Lubec), Suzette Francis (Lubec), Jane Parker (Lubec), Kathleen Mishkin (Lubec), Joseph Knox (Lubec), Christine Brown (Lubec), Bernard Brown (Lubec), Nancy Williams (Lubec), Howard Shaw (Lubec), Peter Case (Lubec), Barry Cox (Lubec), Amanda Brewer (Lubec), Joseph Keene (Lubec), Bob Judd (Lubec), Joe Davidson**



(Lubec), Bob Jean (Lubec), Lovine M Wormell (Lubec), Julie Keene (Trescott), Caled Lord (Lubec), Rob Burgess (Calais), Martin Cassidy (Lubec), John McCurdy (Lubec), Jordan Hall (Lubec), George Baker (Lubec), Joseph Fredette (Pembroke), Earnest L. Williams (Lubec), Amada Lyons (Lubec), Virginia McCaslin (Lubec), Charles C. Cousins (Lubec), Travis Clark (Lubec), Kathy Burns (Lubec), Loring Monson (Lubec), Steven Lyons (Lubec), Brandon Lyons (Lubec), Mary Greene (Lubec), Dawn Lyons (Lubec), Howard Robbins (Trescott), Mary Robbins (Trescott), H. Barstow (Trescott), Ryan L. Preist (Dennysville), Mike Baker (Charlotte), Mary Jane Summers (Eastport), Traci Calder (Perry), Ella Kowal (Eastport), Kimberly S. Mitchell (Eastport), Robert P. Scott (Eastport), Elaine Abbot (Eastport), Christine Keene (Trescott), Paulette Bryant (Trescott), Kenny Moores (Trescott), Frank Theriault (Trescott), Mel Gallant (Trescott), Misty Moores (Trescott), Aaron Lyons (Trescott), Raymond Huckins (Trescott), Chase Fitzsimmons (Lubec), Ralph Sawtelle (Lubec), Cody Jodway (Lubec), Mike McCabe (Whiting), Jon Watts (Whiting), Baird Moores, Deb Bridges (Lubec), Roy Glidden (Edmunds), Randy Huckins (Trescott), Tara Kelley (Lubec), Joe Reed (Lubec), Angel Kelley (Lubec), Steven Pressley (Whiting), Shelly Tinker (Lubec), Danny Fitzsimmons (Lubec), Sara McConnell (Lubec), Shayne McPherson (Cutler), Jessika Guptil (Lubec), Janelle Kelley (Machias), Kriptle Jodway (Lubec), Leigh Jodway (Whiting), Danny Jodway (Lubec), Niomi Johnson (Edmunds), Sheila Huckins (Trescott), Tanya Dennison (Whiting), Shawna Preston (Calais), Anne McGuire (Cutler), Michael Kilby (Edmunds), Nicole Phinney (Trescott), Caleb McKenzie (Edmunds), Kevin Thompson (Trescott), Gary Dinsmore (Lubec), Susan Boutin (Trescott), John Seeley (Trescott), Patricia A Vinzani (Whiting), Mike McConnell (Lubec), Travis Carter (Lubec), Augustus Look (Whiting), Darlene Doherty (Lubec), Tommy Cassidy (Lubec), Wanda Matthews (Lubec), D. S. Pener (Whiting), Norma McCarthy (Lubec), Sheldon Tyler (Trescott), Barry Huckins (Trescott), Timothy Griffin (Pembroke), Helen Saccone (Lubec), Dexter Lyons (Trescott), Makayla Cobb (Edmunds), and Stephen C. Taylor (Pembroke); petition pages with signatures submitted with the comment below at Machias public hearing along with the following .

Cobscook Bay Fisherman's Association

Meeting on September 9, 2015

Pembroke Elementary School

Thirty-one Cobscook fishermen attended a meeting called by the Cobscook Bay Fishermen's Association. Will Hopkins moderated the meeting. State Representative Will Tuell ® of East Machias offer brief remarks.

Regarding the proposed rules for the 2015-16 scallop season, the fishermen unanimously agreed that:

- ***We support 3 days of fishing per week in Zone 3.***

**Tracey Sawtelle, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I am in favor of the three day week for Zone 3, Cobscook.

**Julie Keene, Zone 3 dragger, Lubec; comment received at Machias public hearing:** Cobscook Bay Fishermen's Association is here. We submitted 237 signatures to keep it at three days.

**Togue Brawn, scallop buyer, Maine Downeast Dayboat; comment received via email:**

**I support the start date of December 15 in Western Maine.** Having attended the Machias hearing, I was appalled to hear so many fishermen from Cobscook Bay suggest the suggested December 15 start date was designed to allow western Maine fishermen to descend upon their area. This start date was designed to try to allow western Maine fishermen to make the most of a very limited resource. Many western Maine fishermen fish for lobsters through December. If they're not going to rig over to fish for scallops in their backyards, they're certainly not going to rig over to steam down to Cobscook Bay for 10 gallons. Fishing practices in Western Maine are very different from those in Eastern Maine, but because the vast majority of Maine scallops come from Eastern Maine, Western Maine fishermen generally have to put up with an opening date that doesn't suit them particularly well. A December 15 start date is a great way to limit the onerousness of the 10-day reduction by scheduling the days at a time when the guys may actually want to fish.

**I would also like to support the 10-day reduction in Zone 1.** For a number of reasons, Zone 1 has not responded as positively to attempts to restore the fishery. There are too many people fishing for too few scallops, and we need to strike a better balance between economic and biologic goals. This is a good start.

As a dealer, I would like to **remind you of the importance of having scallops available early in the week.** At the Ellsworth public hearing, Justin Boyce suggested taking Mondays off in February and adding Thursdays in in March. If you're going to take a day out, I'd prefer you take out Thursdays rather than Mondays. I ship my scallops across the country and it's best to avoid shipments that occur over the week-end. If the guys fish Thursday, their scallops can't be shipped out until Friday. That means they have to

be sent via overnight Saturday delivery, which costs extra so is less appealing to customers. If there are reasons the fishermen would rather fish later in the week, then so be it, but no one seemed to have any.

**Neither for Nor Against**

**Justin Boyce, Zone 2 dragger, Stonington; comment submitted at the Ellsworth public hearing:** For Zone 2, I would like to propose to take the Mondays out of February and put them as Thursdays in March for weather, as last year February was terrible. March wasn't very much better but I think that might help a little bit.

**James West, Zone 2 dragger, Sorrento; comments submitted at the Ellsworth public hearing:** I understand what he is saying [Justin Boyce], the only problem I have is that it gives us less days in February. A lot of the time you might not get out but it gives you an extra day so that you can get out. I understand where he is coming from, last year in February it was bad for anyone that had to fish outside. We fished quite a bit in February the past two years, but we took a pounding. Me personally, I would like to have more days in December. I look at the dive schedule and they have 20 days in December and we have 17. They have more days earlier in the season when the weather is better. A lot of guys might stay lobstering, maybe they won't. That's my opinion.

**Jon Mitchell, Zone 2 dragger, Bass Harbor; comment submitted at Ellsworth public hearing:** I agree with what James [West] is saying. I would like to get more days in December. We only get 6 days in April. With four days a week, your luck to only get 3 days in. With 5 days a week you can get 4. I think if we could move these April days into December and January it might be helpful.

**Representative Will Tuell; comment received at Machias public hearing:** I am not a fisherman. I make no bones about it. I am State Representative Will Tuell. It does seem to me that if folks all agree, regardless of where they are from, that it all ought to start on the same day, whatever that is. Now if there are folks that don't, they probably ought to get up here and speak their piece. And there may be good reasons for it. But again I am not a fisherman. It seems only common sense that it should all start the same day if that is what folks from Washington County want. Everyone in this room is Washington County, regardless of where you are from. Beyond that everybody has got to get over where else they are from. I am going to be a little blunt, but everybody's got to get over where they are from and see where you can work together and where there is agreement and go from there. I do think that if the same day is reasonable than it should be specified either legislatively or through the rule if folks are on board with this. And if there isn't, than please get on up here and say so because I am not going to know otherwise.

**DMR Response:** For the Zone 1 Dive Calendar, two the Department supports moving two Saturday Limited Access Days from January 9 and 16 to March 16 and 23. However, to provide access to non-commercial harvesters as well as harvesters that are not able to access the resource during the week as well as the fact that divers wanted the majority of days in December and March-April when the weather is better, Saturdays have been included in the schedule.

In regard to the numerous comments received about the delayed start in Zone 1, the Department originally implemented the three management Zones to allow for uniquely tailored management approaches to be applied based on the differences and diversity in both the fleet and the resource across the state. Each management Zone has a rebuilding framework that is based on input from harvesters who fish in each of these areas of the state. At the spring local meetings, faced with the need for further conservation measures to aid with the rebuilding effort in Zone 1, harvesters came to a consensus on a 10 day reduction with a delayed start of December 15<sup>th</sup> as well as numerous targeted conservation closures in the Zone. At their season setting meeting, the Scallop Advisory Council accepted this decision and recommended the 10 day reduction and delayed start date for rulemaking. As with the desire for the numerous comments received from Cobscook Bay fishermen who support the three day week in Zone 3, the Department supports the desires of the Zone 1 fishermen to have a delayed December 15<sup>th</sup> start date for the draggers. Finally, statute §6722 is the law that sets the parameters for the scallop season and it states that "unless modified by rules...a person may not fish for or take scallops in the territorial waters from April 16 to Nov 30." This statute sets the limits on the season; however it does not require the Department to

**2015 - 2016 Scallop Season Calendar**  
Zone One (1)  
60 Day DIVE Season (15 gallons)

Zone 1 Limited Access Areas Divers       Open       Closed

December 2015						
S	M	Tu	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

22

January 2016						
S	M	Tu	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

9

February 2016						
S	M	Tu	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

0

March 2016						
S	M	Tu	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

18

Muscle Ridge: OPEN Thursdays & Fridays to DIVERS

April 2016						
S	M	Tu	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

11

<b>Total Days</b>	<b>Total Limited Access Areas Days</b>	<b>Total Weeks</b>
60	15	15

start the season across the state at the same time. Therefore, the Department is able to pursue differing start dates for the season as well as differing calendars, season lengths and other conservation measures based on harvesters needs/desires and what the resource is able to support.

There was a comment submitted which proposed to move Mondays from February to March in the Zone 2 drag calendar. However, there were also comments stating that these days are needed to ensure that the fleet can access the resource during this time to ensure at least a day or two of fishing due to inclement weather at this time of year. Therefore, the Department is not proposing to make a change to this calendar.

Finally, a diver submitted a comment regarding the fact that the draggers are able to fish earlier in the week and the divers fish later in the week. Because over 95% of the product is landed by draggers as well as the fact that dealers prefer to get the scallops earlier in the week so they are able to ship out to distant markets by the weekend, the draggers have always had Monday through Thursday fishing and this is not likely to change. Therefore, diver days are placed later in the week to minimize the overlap with the dragger fleet in the calendar. However, in an effort to provide for more flexibility and safer access to the fishery this season, the Department proposed dive calendars that placed the majority of the days earlier in the season in December and later in the season in March and April when the weather was better. In addition, in Zone 1 the divers will have access to the Limited Access Area in December, while the draggers will gain access starting in January.

### **ADDITIONAL COMMENTS - PUBLIC PARTICIPATION**

**Ray Swenton, Bristol Seafood, Portland and member of the Scallop Advisory Council; comment submitted at Augusta public hearing:** I sit on the advisory council and helped draft some of this. What I can say is this: I think this is the best compromise we can come up with to try to keep as many people happy as we can. I hear what the gentlemen are saying about the draggers and what they perceive as unfairness. All I can say is to that is please attend more meetings. Please speak up. And Brian [Soper], believe it or not, there are people who complain about what draggers are doing, you might have missed that meeting or two. Please come, help us. We need input to make good decisions. And good decisions are based on the information we get from the fishermen, from the scientist, regulators. We do the best we can considering the information that we have. The more information the better. The more input the better.

**Ray Swenton, Bristol Seafood, Portland and member of the Scallop Advisory Council; comment submitted at Ellsworth public hearing:** I want to encourage everyone in here and everyone you know to come to encourage people to come the Advisory Council meetings because your input is really valuable and it helps everybody make better decisions. Whether we agree with you or not, we agree with each other or not, it is always good to have a voice. I highly encourage everybody to come and say your piece. Trish listens really well and most of the people on the [Scallop] Advisory Council listen and take it very seriously, so I would encourage you to come. I have only been on it for a little less than a year, I have learned a lot and I appreciate input so I can make better decisions on the council. Thanks.

**DMR Response:** *The Department appreciates all the effort and time that industry members take to attend meetings and provide input. This ensures that informed decisions are made resulting in a workable regulatory environment for the fishing fleet.*

### **ADDITIONAL COMMENTS – DRAGGING IMPACT**

**Brian Soper, Zone 1 diver, Harpswell; comment submitted at Augusta public hearing:** What I am going to speak about here is probably not the forum for it, but I am going to anyway. I guess who I am speaking to is, it's hard when we come to these public forums when we get to speak, I guess we are speaking to the Advisory Council and maybe the State Legislature. I don't know who listens to these public comments. My public comments is - when are the divers of the state of Maine going to stop getting penalized because of what the draggers area doing is number one? Number two is - I go to scallop meetings, I go to urchin meetings, I go to advisory meetings. I am never allowed to speak ever of what draggers, in any of these forums, do to the ocean floor at all. It is never allowed to be discussed, it is a non-issue. We go to scallop meetings we can't talk to it; we go to urchin meetings we can't talk to it. You go to an advisory meeting your only spoke when you're spoken to speak. So I want to know which forum the state is going to present to us when we are going to start discussing what the scallop dragger is doing to the Coast of Maine? That is what I want to know. It's not really, I am supposed to be here doing a public comment, but I am asking a question directly to those entities. What forum are we going to get to speak in? We have been doing this now, let's see, I started scallop diving in when I was in college in 1981. So I have been scallop diving for almost forty years now and I never thought that draggers would exist on the coast of Maine for forty years, yet they are still controlling everything that I do, including my season being shortened to 60 days.

**DMR Response:** *The Department acknowledges that there are impacts associated with all forms of fishing; however, they are not all equal. It agrees with the commenter that divers are able to hand harvest scallops with no impact to sublegal scallops or the habitat. However, due to the fact that the majority of scallops are in deeper depths, unreachable by divers and where ocean currents are too strong for diving to occur, the only way to be able to access this resource is with a drag. Scallops prefer a sandy bottom, and this habitat is disturbed annually by large hydrological events such as fall hurricanes and winter Nor'easters. The epifauna living in this habitat is often comprised of annual species which are adapted to this environment. The scallops themselves are incredibly resilient to not only those natural events, but also fishing drags with sublegal scallops being able to escape the drag through the four inch rings. However, where the fishery operates close to shore or near the interface of hard bottom substrate and sandy, shifting bottom, drag gear can have an impact on both habitat and by dispersing aggregations of spawning scallops. Therefore, the Department strongly encourages industry members in Zone 1 to consider employing a rotational management approach, such as the one that has been implemented in Zone 2 with success, as it would mitigate the impacts of dragging on not only the bottom but also on the scallop resource itself, allowing for undisturbed spawning and a higher yield per recruit from each animal, ultimately resulting in higher economic yields to the industry.*

### **ADDITIONAL COMMENTS – MEAT COUNT**

Stephen DeWitt (Pembroke), Charles Curtis (Perry), Will Hopkins (Eastport), Elizabeth Drinker Hopkins (Eastport), Pail Cox (Dennysville), Jason Leighton (Edmunds), Chris Leighton (Edmunds), Jeremy Brown (Pembroke), Jesse McPhail (Perry), Charles Sinclair (Edmunds), Jenny Ganong (Pembroke), Gordon Ganong (Pembroke), Frank Gardiner (Edmunds), Tanika Matthews (Edmunds), Deanna Francis (Pembroke), Tim Sheehan (Pembroke), Taylor Cushing (Pembroke), Kristen Morano (Pembroke), Amy Barnes (Pembroke), Violet Willis (Dennysville), Andrea Kendall (Perry), Amanda Rodgers (Pembroke), Melissa Cushing (Pembroke), Thomas Carter (Edmunds), Daniel Brown (Pembroke), David Sweenie (Pembroke), Miranda Mahar (Pembroke), Jason Jamieson (Pembroke), Justin Wentworth (Pembroke), Tom Wentworth (Pembroke), Sandra Nystrom (Pembroke), Judy Murray (Pembroke), Randy Morgan (Cathance), Bruce Bailey (Pembroke), Jeremy Griffin (Edmunds), Brenda Francis (Pembroke), Jaclyn Sockbeson (Perry), Chris Sockbason (Perry), Wynter McPhail (Calais), Tom Pottle (Perry), Scott Emery (Eastport), Ricky Cox (Eastport), Dale Maddocks (Eastport), Robert A Lewis (Eastport), Dana Bowen (Eastport), Roger Muir (Eastport), John Sullivan (Eastport), Rochard McPhail (Pembroke), James P. Lowe, Victor J. Voisine, Salam Wahib (Lubec), Sean Blanch (Lubec), David Lord (Lubec), Alana Boutin (Lubec), Brittany Presten (Lubec), Kevin Preston (Lubec), Jonathan Marzoll (Lubec), McGinley Jones (Lubec), Angel Kelley (Lubec), Jennifer Wallace (Lubec), Janet Blake (Lubec), Ashley Bragg (Lubec), Shelley Jones (Lubec), Michelle Robbins (Lubec), Ben Lyons (Lubec), Ashley Ferris (Lubec), Evan Matthews (Lubec), Jessica Jones (Lubec), Van Denbow (Lubec), Wanda Corey (Trescott), Frank Talotta (Lubec), Charlotta Farmer (Lubec), Dana Maker (Lubec), Shelley Stolfi (Lubec), Heather Wright (Lubec), Michael Grathers (; Lubec), Suzanne Wilcox (Lubec), Janet Trent (Lubec), Derek J. Green (Lubec), William Feltner (Lubec), Jeremy Lyons (Lubec), Christopher Grant (Lubec), Shawn Ross (Lubec), Barry Cox (Lubec), Colby Sawtelle (Lubec), Derek Lyons (Lubec), Deanna Newman (Lubec), Wayne Moores (Lubec), Michelle Farmer (Lubec), Travis Carter (Lubec), Debra Holmes (Lubec), Douglas Sevrate (Lubec), Jonathan Wallace (Lubec), Michael Wentworth (Lubec), Philip Avery (Lubec), Rickey Wright (Lubec), George Swaller (Lubec), James Robbins (Lubec), Randy Wright (Lubec), Shawn Tinker (Lubec), Gregory McConnell II (Lubec), Tracey Sawtelle (Lubec), Susie Bassett (Lubec), Rhonda Eaton (Lubec), Danny Farrell (Lubec), Shelby Searles (Lubec), Jay Dexter (Lubec), Carlestone Pike (Lubec), Chris McCaslin (Lubec), Kathy Murray (Lubec), Sunshine Green (Lubec), Angie Reed (Lubec), Bruce Davis (Lubec), Robert Barnet (Lubec), Susan Reilly (Lubec), Nick Jones (Lubec), Jean Mills (Lubec), Adam Boutin (Lubec), Kris Matthews (Lubec), Vin Gartmayer (Lubec), Jessica Matthews (Lubec), Angel Kelley (Lubec), Tony Cannone (South Lubec), Pete Haycock (Lubec), Craig L Chute (Lubec), Loring Munson (Lubec), Sherry Munson (Lubec), Wayne Moores (Lubec), John C. Burnes (Lubec), Richard Hoyt (Lubec), Pricilla Hill (Lubec), Toby Wilcox (Lubec), Leon Clark (Lubec), Linda Farrell (Lubec), Donald Farrell (Lubec), Suzette Francis (Lubec), Jane Parker (Lubec), Kathleen Mishkin (Lubec), Joseph Knox (Lubec), Christine Brown (Lubec), Bernard Brown (Lubec), Nancy Williams (Lubec), Howard Shaw (Lubec), Peter Case (Lubec), Barry Cox (Lubec), Amanda Brewer (Lubec), Joseph Keene (Lubec), Bob Judd (Lubec), Joe Davidson (Lubec), Bob Jean (Lubec), Lovine M Wormell (Lubec), Julie Keene (Trescott), Caled Lord (Lubec), Rob Burgess (Calais), Martin Cassidy (Lubec), John McCurdy (Lubec), Jordan Hall (Lubec), George Baker (Lubec), Joseph Fredette (Pembroke), Earnest L. Williams (Lubec), Amada Lyons (Lubec), Virginia McCaslin (Lubec), Charles C. Cousins (Lubec), Travis Clark (Lubec), Kathy Burns (Lubec), Loring Monson (Lubec), Steven Lyons (Lubec), Brandon Lyons (Lubec), Mary Greene (Lubec), Dawn Lyons (Lubec), Howard Robbins (Trescott), Mary Robbins (Trescott), H. Barstow (Trescott), Ryan L. Preist (Dennysville), Mike Baker (Charlotte), Mary Jane Summers (Eastport), Traci Calder (Perry), Ella Kowal (Eastport), Kimberly S. Mitchell (Eastport), Robert P. Scott (Eastport), Elaine Abbot (Eastport), Chrstine Keene (Trescott), Paulette Bryant (Trescott), Kenny Moores (Trestcott0, Frank Theriault (Trescott), Mel Gallant (Trescott), Misty Moores (Trescott), Aaron Lyons (Trescott), Raymond Huckins (Trescott), Chase Fitzsimmons (Lubec), Ralph Sawtelle (Lubec), Cody Jodway (Lubec), Mike McCabe (Whiting), Jon Watts (Whiting), Baird

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Regarding the proposed rules for the 2015-16 scallop season, the fishermen unanimously agreed that:

- **There should be a meat count state-wide.**

**Tracey Sawtelle, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I was kinda wondering why the state never looks at a meat count. That's another big issue. It doesn't have to be 35 like in Zone 3, it could be 50. You can shell anything you want to; there is absolutely no meat count. You can shell a 2 inch scallop if you want. No one is going to know any different once it's shelled in the bucket. If you want to do something for the resource, you gotta have something on the bottom that is going to throw out some spat. You can't just take everything and expect, oh geeze, it didn't come back this year – ha, must have took too many small ones. In Zone 3, we had to fight to get a meat count and we are the only ones in the whole state who has one. We had to fight to get a limit and the state kinda jumped in onto that with the rest of the state. We had to fight for all kinds of stuff. Also, we were the first ones to have a tote limit for urchins. It is not like we are not trying to get a better fishery, would just like to have a little help from the rest of everybody.

**Jimmy Ackley, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** As far as shelling small scallops, as far as meat size go, I don't know anyone in this room that would want to go out there and shell 60 count scallops. I have yet to see anybody do it. I don't know who you [Tracey Sawtelle] are pointing fingers at. I don't understand. I am sure there are some that are going to break the law –they do it in everything. Clamming, urchining, they are everywhere. You can't punish everybody for what a couple of guys are doing. The guys at the back of the room up there, the guys in uniform [Marine Patrol Officers], they are doing the best they can. They leave the dock and it is on the radio before the boat even gets warmed up. It's hard for them to catch somebody. I am getting tired of finger pointing. We are all in this together and if you can't go out there and fish like you are supposed to fish, then stay home. It has just got to that point where if you want to go fishing go fishing, if you don't then stay home.

**DMR Response:** *The Department proposed a state wide meat count a few years ago and it was overwhelmingly not supported by industry. While Zone 3 currently does have a meat count, the rotational management plan in Zone 2 aims to increase the yield per recruit of scallops by allowing for two years of undisturbed growth with no fishing activity. As observed in the fishery in this area last season, the overall meat count was very low [larger meats] compared to years before of fishing in the area. In addition, the Department has the ability to employ the trigger mechanism so that when 30% of the harvestable resource has been removed, an area is closed. This ensures that a substantial amount of legal product is left on bottom to aid in rebuilding and reducing the chance that sublegal scallops end up in the catch. In addition, feedback from dealers who prefer the larger scallops due to higher market value had aided in ensuring that small scallops were not harvested from areas last year, and were taken into consideration when targeted closures were implemented in the Addison Rotational Area Targeted Closure and the Inner Little Kennebec/Englishman Bay Area Targeted Closures.*

#### **ADDITIONAL COMMENTS – ROTATIONAL MANAGEMENT**

**Farrell Beal, Zone 2 dragger, Beals Island; comment received at Machias public hearing:** Looking at this here, it really doesn't show we have got a lot of area to tow. Last two years I been able to stay right in the Beals-Jonesport area and work right out of there and that is what I really would rather do. But when you don't give us any more area than that to tow and this is the poorest

kind of scallop bottom there is. The best we're gonna see is from Red Head up the shore and what boats there is there in two days it will be all over. And the rest of this up in the Western Bay, I have dragged scallops there all my life, there just isn't any body of scallops there to work on. My question is the area up behind Roque Island, that area been closed for about four years, hasn't it? Last year that we could tow up in there we were doing quite well. Yes, there was some small scallops up in there. Just taking the legals we were doing pretty well I thought. I was well satisfied with what I was catching. That has been closed all this time and they don't show signs of growing? If we had that this year it would make quite a difference in the boats being able to stay home and not having to travel. I don't like to go anywhere, I like to stay in my own dooryard. But when we don't have anymore area to tow than this, there is no place to go.

**Tracey Sawtelle, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I agree with Farrel [Beal] on the rotational closures. When you close such an area and you have a small area open, all the boats have to go to that small area. How long can it really last? If there isn't rotational closures, and everything is open then the fleet can spread out as they usually do. I don't understand the ones that wanted the rotational closures, but where is it working? Do we have any proof that it is working?

**Adam Stanwood, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** As you know right all along I was opposed to these rotational areas. We are squeezed into such small box this year that what is going to be left after this year. You know? I think the limits that we have now and the amount of days that we have now, I think we could pick out a few areas like the [Jonesport] Reach and stuff like that that could be permanent closures for broodstock and you could have all the bottom open. I lived right at home the last few years and normally I travel around, but that bottom has sustained us. And the first year we fished that bottom and it sustained us the whole winter after we left Union River was the first year that was closed. So it wasn't anything that the State done to bring that back. The resource was rebuilding itself. But we have got such a mess now with the amount of boats and the amount of effort that you're not gonna keep ahead of it. You are just going to take more and more bottom and closing areas where it is not going to work. I think we should open everything, spread it out.

**Thurman Alley, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** I pretty much agree with what Adam [Stanwood] had to say about it. With what you are doing here you are going to put a tremendous amount of pressure on Cobscook Bay and Gouldsboro Bay is going to be the other place. I don't see Gouldsboro Bay last too long. So if you don't open up some more bottom in between here and somewhere along the line you are not giving us much choice with what we can do. I would rather stay home. I feel we have enough area around home that if you could open it up we could stay home. I think your four inch rings are going to do your job for you.

**Farrell Beal, Zone 2 dragger, Beals Island; comment received at Machias public hearing:** We have a couple of guys on the zone council, Mike [Murphy II] and Curtis [Haycock]. When you guys are talking this over, considering what area we got here and all the other places are in the same situation. Consider the area inside Roque Island, that's been closed for some time. A day a week, two days a week in an area like that is not going to kill it. It will make the difference between boats staying home or having to travel somewhere. I don't want to go anywhere. Last two years I have been right at home and I have loved it. I like getting up in the morning, driving over the breakwater and take my outboard and put her on the waters and go to work and back home at night, five minutes and I am back at my house again. So that is all I have got to say.

**DMR Response:** *The current rulemaking does not include any proposals to amend the 10-year rotational management plan that is currently being phased-in for Zone 2. When the rotational management plan was enacted four years ago, it was clearly explained that the areas included in the 2015-16 season's rotation were only going to have one year to rebuild and it would likely be a poor fishing year. This was due to the fact that the industry wished to delay the implementation of having 1/3 of the areas open and 2/3 of the areas closed for the first two years, and that this season was a compromise that allowed for this delayed implementation. The Department has been giving the industry notice that this upcoming season would be a "lean" year over the past three years as well as at the spring local meetings earlier this year. In addition, in anticipation of the shorter rebuilding time for the areas, the Department closed Gouldsboro Bay and Machias Bay via emergency regulation two seasons ago to ensure adequate biomass remained on bottom to buffer the fact that these areas would only have one season with which to rebuild. However, it is very likely this this season may not be as productive as the past three. These short-term sacrifices are needed to ensure that the resource can continue to rebuild while allowing for a limited fishery to occur at the same time. This is the last year of the phase-in of the 10-year rotational management plan and each season after this will have a full two years with which to rebuild, allowing scallops to be able to spawn successfully undisturbed and maximize yield per recruit [larger meat size], which results in a higher economic yield from the fishery.*

*The Department will be reviewing information collected from this upcoming season in Zone 2. Meetings will be held with industry after the season is completed. Discussions through a round of local meetings and subsequent SAC meetings will be had to address*

any potential changes to the 10-year rotational management plan next spring. It is the Department's intent to ensure that the rotational management plan is adaptive and flexible while still incorporating the best available data to ensure that it benefits both the long-term health of the resource and the industry that relies on it for its livelihood.

#### **ADDITIONAL COMMENTS – NGOM EXEMPTION**

**Julie Keene, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I would like to bring up that I read in the federal registry that there is something that the state of Maine is doing to allow Federal boats with federal permits when they reach their total allowable catch that they can now enter the inshore fishery and that was prevented before. Up to 32 boats.

**DMR Response:** *The Department submitted a request for a Northern Gulf of Maine (NGOM) closure exemption, as detailed in §648.54 (a)(4)(d) for vessels holding a NGOM permit which participate in the Maine state sea scallop fishery. Should the NGOM reach its Total Allowable Catch (TAC), it would have unfairly restricted these permit holders from being able to participate in the Maine state waters fishery for the rest of the Federal fishing year, which ends on the last day of February. Since the scallop resource within state waters is not accounted for in the NGOM TAC, the Department requested the exemption for these permit holders from a potential NGOM closure should the TAC be reached this fishing year. This exemption was recently granted by NMFS.*

#### **ADDITIONAL COMMENTS – MOBILE FLEET**

**Jimmy Ackley, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** Everybody in this room has a state of Maine scallop license I am assuming. What is to say that even though it is your back yard, if you have a state of Maine scallop license you should be able to go any place you want to go.

**Danny Fitzsimmons, Zone 3 Dragger, Lubec; comment received at Machias public hearing:** The fellow was talking about back yards. What is the difference between lobstering and scalloping? If a fellow from Lubec was to drop his drags a little bit further towards Moose River, past the line that their back yard. It doesn't happen that way. Like he said back yard, well our back yard is the one that is being invaded.

**Adam Stanwood, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** These guys complained for thirty years we have been coming down here [Cobscook]. That is the way it is. You can come up here.

**Derek Beal, Zone 2 dragger, Jonesport; comment received at Machias public hearing:** I haven't been dragging too long but I have been dragging with Thurman a lot, my uncle. Talking about back yards. Where else we gonna to go? Last year was great fishing, awesome fishing? But, closed off an area that has been closed off a couple of years, you gotta have a place to go...open it up and let's go to work.

**Farrell Beal, Zone 2 dragger, Beals Island; comment received at Machias public hearing:** I agree 100% with what Adam [Stanwood] had to say. I know the other towns they don't want us there and that is fine. And we wouldn't be there. But do you see what they have given us? They haven't given us a damn thing. If you're going scalloping, your either going to have to go to Gouldsboro Bay or Cobscook Bay and we have got no damn choice. You will see us coming and your say what the hell are they doing down here? Why don't they stay in their own back yards? Well that is why. And I agree with Adam [Stanwood]. Close the [Jonesport] Reach down and leave it closed forever. There is plenty of tide there that will, it will seed the whole area. Shut her down and don't open it again. But open the rest of it and let's go to work.

**Tracey Sawtelle, Zone 3 dragger, Lubec; comment received at Machias public hearing:** I would like to say something. I don't know where all this finger pointing came from because I was not pointing my finger at anybody, saying who couldn't come down or anything like that. But I will tell ya one thing: Down the shore is better lobster bottom than it is up our way. What do you say everybody goes down that way? Why don't everybody put their knives away, let 60 people go down the shore lobstering. Might as well open up Machiasport and those places for clamming because we don't have the clams you guys have up there. We are not allowed to go everywhere for all these different species. We have scallops. We have a few urchins. And a lot of it is because we got it that way. We had to hire an attorney to get the laws changed down there. I don't see anybody else in their communities doing such a thing. I just don't see it. We can't even sell our clams down to Jonesboro and get another 40-50 cents a pound because we are from out of town. If everybody is all "Can't wait to go down to Cobscook", then why the hell can't you let some of us come your way?

**Wanda Matthews; comment received via email:** To whom it may concern, I am writing in reference to Cobscook Bay and Johnson Bay fisheries in Downeast Maine. I am not sure why this area is on the agenda every year for opening to more fishermen from

other counties. For starters, we are the ones that pay the hefty tax bill because we can view it. The state has a concern about conservation to this area. How does opening it to hundreds of boats help conservation to this area? It makes me wonder every year whose side our government is on. We are the poorest county in this state. Will you consider giving our fisherman a fair and realistic chance? Thank-you.

**DMR Response:** *The mobility of the fleet has long been a topic of conversation at many industry meetings over the past few years. While many stakeholders consider themselves to be “resident” fishermen by fishing in their “own back yards”, there is also a large component of the fishery who are “nomadic” in nature and travel across the state to fish. Mobility allows for the fleet to be able to move around and maximize profits from the fishery. However, that must also be balanced with safeguards that ensure this mobile fleet does not get concentrated in an area resulting in overfishing and depletion of the resource. Therefore, three years ago the Department began to use the trigger mechanism, first in the Limited Access Areas, and then expanding the authority to the entire fishery. This ensures that if reports come in from the port and sea sampling programs, Marine Patrol or the industry themselves, indicating that 30% of the harvestable resource has been removed, the area can be closed via Emergency Regulation. This safeguard allows for both resident and nomadic fishermen to have the flexibility to fish where they prefer while at the same time as ensure the resource in specific areas is not depleted. Until the industry as a whole can come to consensus on the mobility issue, this approach strikes a balance between fishermen who prescribe to the two different approaches to access this public resource which has always had a mobile component to it.*

### **ADDITIONAL COMMENTS – FISHERY MANAGEMENT PLAN**

**Gary Libby, Port Clyde; comment received via email:** I don't understand why there isn't a rebuilding timeline. This fishery should have a fishery's management plan. I've been told that it's still under development. The problem I have with this is the risk, what I mean is if when we don't have a time when this scallop fishery is going to be rebuilt and a management plan that is under development that creates a serious problem with safety of the resource. With that point made, the law makers should be considering the fact that the [resource] is in trouble. When there is a fishery's management plan under developed and there isn't a timeline, that means we don't know where we are and we don't know where we are going like I said risky. I hate to say this but with so much uncertainty law makers need to consider closing this fishery until we know where we are and where we are going and when. This can bring stability to the state scallop fishery for future generations. I think it's time to move in a direction that will get the fishery to a stable, reliable resource that it should be throughout the whole coast for fishermen and seafood dealers, if closing seem drastic and it is please get the fishery management plan in place with a timeline. Then some of the things with the area rotation will have a better chance of making a difference. Thank you for the opportunity to commit on this important issue  
Captain Gary Libby  
Never stop fighting till the fight is done.  
Live long, live strong, eat seafood.

**Togue Brawn, scallop buyer, Maine Downeast Dayboat; comment received via email:** I would like to close by expressing my gratitude to Trish Cheney in particular, but also to other members of DMR staff who have gone above and beyond to keep this fishery on track to rebuilding. We have a lot more work to do, and DMR will take a lot more abuse along the way from shortsighted or self-interested stakeholders. More than any other fishery, scallops have the potential to provide much-needed sustainable, predictable income to many fishermen throughout this state, so it's worth the abuse. Err on the side of caution, because that will almost always yield more money to fishermen in the (not even very) long run. Keep at it people – remain focused, remain optimistic, and keep your finger on the trigger.

**DMR Response:** *The Department is in the process of developing a Fishery Management Plan for this fishery. While there currently is no defined rebuilding timeline per se, Zone 2 essentially has a 10-year rebuilding timeline laid out to them in the form of a 10-year rotational management plan. While the Department feels that Zone 3 is well on its way to achieving its rebuilding goals with its restrictive 50 day season and 10 gallon daily limit, Zone 1 is very much in need of a better management framework. While the 10 day season reduction and nine targeted closures are good attempts, the Department feels that this is only a short term fix, and hope that industry members in this Zone will consider a much more robust approach to rebuilding in this Zone. We agree with the commenter on this point.*

*Finally, Department staff rarely receives expressions of gratitude during formal rulemaking comment periods and this one is very much appreciated. Thank you.*