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February 27, 2017

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NOAA National Marine Fisheries Service  
55 Greater Republic Drive  
Gloucester, MA 01930

Tom Nies, Executive Director  
New England Fishery Management Council  
50 Water Street  
Newburyport, MA 01950



## **RE: Democratic Process**

Dear Administrator Bullard and Executive Director Nies,

On behalf of the Northwest Atlantic Marine Alliance I would like to express concern over the democratic decision-making process in regards to the New England Fishery Management Council (the Council) and the Greater Atlantic Regional Fisheries Office (GARFO).

As an organization that supports fishing families and allies around New England to advance healthier marine ecosystems and fishermen's livelihoods, we have engaged in the Council's decision-making process for the past 20 years with our most direct involvement occurring over the past seven years.

We are deeply concerned that the Council and GARFO have failed to uphold democratic principles over the public process as demonstrated by the recent amendment to the groundfish management plan known as Amendment 18 (A18).

**What the recent events have shown is how a defunct democratic process has made it easy for adopting fisheries management plans that are privatizing, consolidating, and corporatizing our public resource.**

**We recommend that the Council and GARFO make significant course corrections to establish a genuine participatory democracy immediately.**

## **Background**

In 2010 the New England Council rushed to implement Catch Share policy with the promise to immediately establish safeguard protections in the following amendment. A18 was the vehicle to create safeguards and ensure equity in the fishery; however, following several years of a

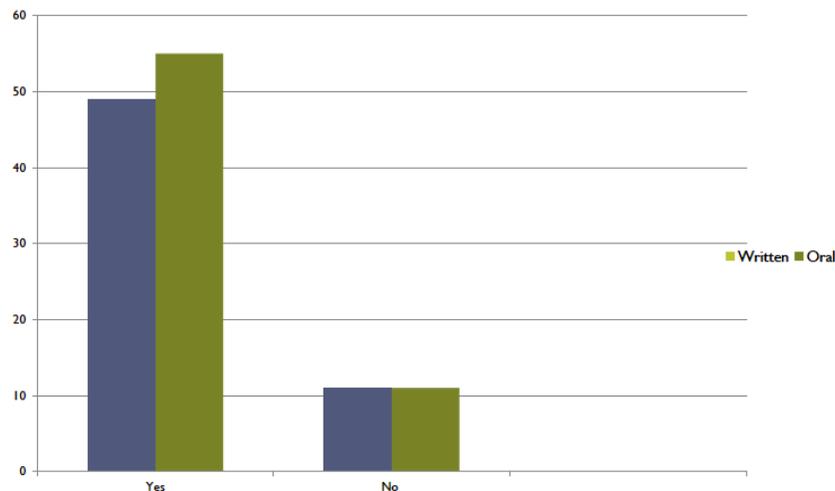
federally declared groundfish disaster and on the eve of A18 implementation, no real safeguards are on the table.

A18 had two broad objective statements that were informed by a dozen public scoping hearings and thousands of public comments.

- Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, and geographic locations.
- Prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.

The original goal statements were established in 2010 based on public comment and provided the baseline for public comments during the public scoping hearings in 2012. By nearly a 7:1 ratio, public comments overwhelmingly supported A18 to solve the dire problems associated with fleet consolidation and loss of fleet diversity. Comments included hospital, university, and sustainable economy networks who represent thousands of people and over a billion dollars worth of seafood purchasing power.

### Majority: Amendment 18 Important



*Graph prepared by NMFS, June 2012*

However, in early 2013 the goal statements were altered based upon recommendations from the Groundfish Advisory Panel (GAP). The recommendations were not based on public comments, but rather on a small group of special interests. The altered goal statements included “enhancing sector management” and “promoting resilience and stability of fishing businesses”. We rejected these added goal statements due to a violation over process and the Council shifting the goal posts mid game. Yet, this was just one example of a defunct participatory democracy and decision-making process.

## **Council is Failing to Uphold the Public Process**

Over the course of the seven-year A18 process, hundreds of fishermen and members of the public weighed-in and followed the Council's direction. They showed up to the meetings. They wrote letters. They articulated clear problems and solution statements. Yet the Council effectively ignored the majority of public testimonies, failed in its duties to uphold the public process, and is left with an amendment that maintains the status quo.

During those years I personally witnessed fishermen attend Council meetings only to have the agenda shift at the last minute and not get to have their say. I've seen fishermen interrupted or turned off at the mic. I've even personally had the mic turned off or been interrupted on four separate occasions, with the most recent incident at the April 2015 Council meeting where the Council Chairman publicly called me an asshole.

Patterns of violating the public process have already been acknowledged by the New England Council. In 2011, the Council requested a third-party review of its "public process." The resulting Touchstone Report acknowledged serious problems and found that the Council's governance process is too complex and discourages active participation; lacks collaboration or constructive dialogue; lacks any presence in the field or use of industry knowledge; requires overly burdensome reporting along with untimely feedback; uses overly complicated wording; is vulnerable to certain Council members "filibustering" in order to make meetings run late into the night; and, lacks a vision or strategic plan to guide decision-making.

The Report also offered solutions including: create a more welcoming environment that fosters "service" to the industry; redesign meetings and provide more time on the agenda for collaborative working sessions that promote active participation and dialogue; change the meeting layout and format to be more collaborative; engage professional facilitators to encourage full participation from Council and audience members; minimize individuals dominating the conversation; work with fishermen to understand how, when, and what information they want to receive; and develop a strategic plan for New England fisheries.

**The Report goes on to say that many have lost faith in the process. The responsibility is with the Council to show what it has done to adopt these recommendations since they were issued to restore their faith. Clearly, what we have experienced around Amendment 18 demonstrates not much has been done in the way of implementing any of the report's suggestions.**

Furthermore, there is the peer-reviewed article "The Discourse of Participatory Democracy in Marine Fisheries Management." ([link](#)) Written in 2001 and yet completely relevant today, the article concludes that despite official claims to the contrary, the fisheries management - especially in New England - is not a genuine participatory democracy, fails to include stakeholders in substantive ways, and does not meet conservation goals.

The article recommends fisher-run workshops for state and federal employees, swapping a day at work periodically with someone in another area of fisheries management, centers for indigenous fisheries knowledge, and formally reconstituting the management process with internal mechanisms that decentralize authority and create

authentic participatory roles for fishers and all other interested parties. None of these recommendations were taken into account by the Council.

We recommend that the National Marine Fisheries Service immediately implement the recommendations from the Touchstone Report as well as the report, "The Discourse of Participatory Democracy in Marine Fisheries Management".

## **Moving Forward**

The current Catch Share policy has the explicit goal to consolidate the fishing industry and privatize fisheries access. For seven years fishermen and the public followed the process to establish social, environmental, and economic safeguards in order to improve the Catch Share program. But the process failed them. We conclude that the Council is incapable of defending what is in the best interest of the public and the broader fishing industry. Therefore, we will commit to continue seeking recourse outside of the Council's failed process.

The path forward begins with a commitment to alter course. The Council must avoid repeating the same patterns over and over again and expecting different results. For trust to be restored amongst fishermen and the public, we need to see a public commitment from the Council to address these issues and restore a genuine participatory democracy for fisheries management.

Sincerely,

Brett Tolley

A handwritten signature in blue ink, appearing to read "Brett Tolley", with a stylized flourish at the end.

Community Organizer