

**Chapter 11.09 Atlantic Sea Scallop Harvesting Season, and Chapter 11.10(1)(H) Closed Areas
Chapter 11.10(1)(H)(10) Closed Areas, Whiting Bay and Denny's Bay Area and technical amendments**

Individual summarized comments

July 20, 2009, Yarmouth

Brian Preney, Falmouth

I'm a scallop diver for 20 years. I'm an urchin diver and a former member of the Sea Urchin Zone Council (SUZC). I've been involved in a lot of discussion about the proposed legislation [rulemaking] and I'm very much opposed to it passing.

I don't believe that any closures in the State of Maine should happen until a formal management plan is in place. I believe doing so is not fisheries management but an invitation for further fisheries mismanagement by the Maine Department of Marine Resources (DMR). When the argument to close areas came up it was based on a claim of imminent depletion of Atlantic sea scallops. Imminent depletion of Atlantic sea scallops does not exist by any scientific basis at all. As a matter of fact some people in some areas of the state find scallops the same as they have for their entire lives with no change. The imminent depletion is an attempt by the DMR to railroad this program through and it should be stopped at once. I have a longer testimony which I'm going to give at another public hearing related to the scallop industry so this will be very short. I'm reviewing the minutes of the last Scallop Advisory Council (SAC) meeting which I find to be very inadequate in describing the events that have occurred at that meeting. For one thing, part of this rulemaking or whatever legislation, involves both closing scallops and urchins in Cobscook Bay and the DMR claims that the SAC supported closing both scallops and urchins but that is absolutely false. It was referred to the Sea Urchin Zone Council (SUZC) and the SUZC voted unanimously not to involve closures with scallops and urchins. As I said that was [a] unanimous decision to do that. I have the minutes here of the SAC and the wording is very clear about that point that the SAC did not recommend that scallops and urchins be closed together. [L. Churchill (LC): the scallop or sea urchin?] Scallops and urchins together... [LC: You said the SAC?] part of that pilot program, they wanted it to be, they supported the Cobscook Bay program and I'll read it... They supported it but they wanted to refer any urchin issues to the SUZC, which was done and was denied unanimously just last week. Togue [Togue Brawn (TB)] was there [to] attest to that. That is all I'm going to say for now, I will have a much longer testimony at a further public hearing and I implore, I request, anybody in this audience [to] speak up and do their best to stop the DMR from moving forward with this program because it has no basis and will only result in denying fishermen rights to fish in their fishing grounds in the State of Maine.

I don't have a big stand on the season. I really believe it is the management plans that I want to see before any closures; that is my position. I believe there are people who know what is going to happen when it is closed, some are in this room. As a matter of fact some of the comments made at the last SAC kind of indicated what is going to happen in these closure areas. I believe they were slip ups. I don't believe they were meant to come out. I think if they came out before this went through I believe that more people would be totally opposed to this program. Even people who think they are for it now. I think you will find the situation where it [would] be limited access or permits, who knows who will get a permit, we don't know if people are going to be able to buy permits, trade permits; aquaculture is a big issue. How much is it going to cost; there are talks of enhancement, which around the world has been done successfully I might add but at great expense and generally it has been found that when it is done the cost of doing so far outweighs the value of any catch. So, and that is all very well documented. I believe I found that information in the DMR web site; anybody can look that up themselves because that is where I get all my information. As I said I'll expand on this later.

Brian Soper, Harpswell, Casco Bay, diver, scallops

I haven't been following this. I've only been to 3 or 4 meetings in the past, since November, since the Commissioner had an emergency shut down. I sort of had to get involved in this industry because I'm in it and I didn't really know that we were in that bad of a situation. I do now. A council was set up and I have a representative here and there is supposed to be collaboration between a council and the state and the DMR. But as I watched this progress I'm trying to figure out where the collaboration is because even, just as we go down the tubes here and looking at the chart on the wall that a group of people in Casco Bay got together and asked for specific areas, and they were good areas, and areas we could shut down for more than 3 years. Maybe something that might tell us something that [in] a 3, 5 or 10 year period that we could give up easily. Instead we were cut in half. They figured out, they meaning the state the DMR, figured out where all our scallops live, where we harvest, where we work and they cut it in half as far as I can see and they said you choose this half or you choose this half. And I'm trying to figure out where the collaboration is. I'll say that on the closed areas. And these closed areas because they are so important they can't be closed forever, so we're going to close them for 3 years then like Brain [Preney] says we don't know what is going to happen. We may have some aquaculture move in. They may give permits to reopen them but these areas are so valuable and the scallops will build up so thick that we're going to have to [?], somebody is going to have a hard time figuring who is going to harvest them. That is my whole problem with closing the areas they are closing, because they are very important areas; the size of the areas that they are closing and the exact location of the areas they are closing because these are where we make our living. Before this all started probably no one knew where these areas are, but this is fishing and all of our secrets are out. So I have a problem with what we've been given to choose. I met with the committee members and the guys that fish Casco Bay and our side and not all of Casco Bay. We sort of came up with an area that is part of these areas [that] would be very, very good and it is an area we could give up for many, many years, not just a 3 year period. But say a 5-10 year period so we could actually establish and study an area that might do us good in the long run. But instead we've been driven all out of that. So we've been given a choice, either this chunk or this chunk, which is half of what we work, so half of our employment is taken away. Now let's talk about our days fishing. Commissioner gave us 70 days last year. This committee asked, and this is ludicrous, the committee asked for 78 days. A lousy 8 days. Eight days that would allow us to work from December 1st until April 15th a 4 day work week, which is pretty tough in the winter time but this is what the SAC asked for and unless I'm mistaken that is what they asked for, was 78 days. They didn't ask for 100 days, they didn't ask for 120 days, they asked for 78 days. Eight more days than the Commissioner and the DMR would allow. Not one more day. Those 8 days are so important because it divides the whole state. If you gave those 8 days we could have 4 day work weeks and I think I'm right, Terrance[?], from December 1st until April 15th; without a closure. It's either 4 or 5 days. What it does is it opens up a schedule that is a straight schedule with no shut downs. These 8 days

are very important, it is the difference between driving us and all working at the beginning and all working at the end and sort of leveling things out between dragger fishermen and divers, which is sort of important that we all work together because a dragger like Terrance said he can go out there in February and [for] a diver it is a little bit tougher. I do it but let's talk about these 8 days that we're missing in February. Out of those 8 days probably only 3 of them will get fished. Three lousy days and the Commissioner could not give us 3 days. ...No one can bend the rule, this industry is in such bad shape that we cut us from 150 [days] down to 70 and our council which represents me and represents everybody, I'm pretty sure on this, they asked for 78 days. I was at that meeting. It was said, no, flat out no. Where is the collaboration between the sea urchin scallop council that has worked so hard for two years because something needs to be done and what we came up with a closure, which is a ridiculous closure when a realistic closure was given, by the people that work the bay and a closure that we said we can close this down and we can do it for a long period of time, and we can all still fish, and then a lousy 8 days. Eight days which we might work 3 because everybody on the coast of Maine ought to know we're busting ice and we work hard to work those few days.

Note:

This commentor is incorrect: The Scallop Advisory Council (SAC) did not recommend a 78-day season. In 2008, the Department (DMR) recommended a 56-day season, and the SAC recommended a 90-day season. The season ultimately proposed and approved was a 70-day season. During the community meeting process, season options were discussed, one of which would have amounted to a roughly 78-day season. This idea was never formally submitted to the Department. Further responses are given in the general summary.

George Freeman

I'm an ex-draggerman from Scarborough and I currently dive for scallops. I am also the western committee member for the SAC. As you know in the past I supported small closures in different areas in the State of Maine. The whole idea was to take and enhance these areas and have that expand into areas that would help create spawn and for other areas around it. I believe that the size[s] of the areas that we've come up with here are way too large. They've been expanded hugely compared to what we had in mind to start with. At this point I cannot support any closures until such time provisions are put in place before hand to reopen these areas. Closing areas without any plan beforehand whether it be on rotational closures, who will fish the areas once or if they are actually to reopen, or any other management plan, should be addressed first and not after the fact of closing these areas. I've spoke to maybe a dozen people in this area that I've contacted that have got back to me and not one person supports any of these closures as written. Not one. That should say quite a bit.

The plan originally was for enhancement to go into these closed areas. What's happened to this? Supposedly DMR has said we're going to [have] spat enhancement and then we were going to bring scallops in from offshore. None of this is happening. We're still in limbo as to the scientific evidence as to whether or not we can bring scallops in from other area[s] and put them into Casco Bay or wherever it happens to be.

Public apathy; a lot of people that I've talked to see absolutely no reason to be here because the meetings they believe DMR has already made up their minds on all these. Look around you, how many people do you see here, is this ridiculous or what. People have no faith in DMR and their management of scallops and they feel it is just a complete waste of their time to even be here.

As far as the seasons go; I see more support for a split season. December and March seasons [rather] than trying to open it up in January, February, March, [in] some of our worst weather, but from [who] I've talked to and probably more of them were divers than draggers they'd like to see us go into April where we have some better weather in April. Rather than just completely abandoning them. If you don't go in December or if you go December and not January, February, those same scallops are still going to be on the bottom whether you catch them in March or April. So it is not a question of overfishing scallops. [LC: Dec – Jan and some March-April?] I'd rather see December then March and April personally. Several other people that dive suggested that to me and a couple of the draggers did too because they're not doing much in early April. Last year we were given 70 days by the state. The season was cut in half. A lot of people don't see what the difference is when it is open. It is a question of how bad the weather is going to be for people to fish. I think I'd rather go in December. Then go again in March and April.

As far as the Denny's River closures that doesn't really affect any body in this room. I don't know anybody here who goes up to Machias or anywhere up that way. [?] But there's no body in here and we're Zone 1 and that's Zone 2 as far as urchins go and is a completely different animal.

What really bothers me about these closures, we're going to close these areas down and then compare data that we don't even have yet. We haven't had any survey in western Maine here, Casco Bay region for 3 years. So we're going to close an area down then supposedly do a survey on that in 3 years to see if anything else has come back; we're going to be comparing 6 years back data as to whether or not anything has come back. Unless we actually have some sort of survey before we close these areas there is no way to collate that information, absolutely impossible. All the surveys are concentrated on Cobscook Bay in eastern Maine in the last couple 3 years. This is supposed to be a state wide fishery. Not just an eastern Maine fishery.

I can't support this. I know in the past that I was instrumental in coming up with these original zones for the closures and the bay by bay closures so called. But as it is right here unless we come up [with a] management plan before hand how to reopen these it is ludicrous to give DMR the power to reopen these however they want.

Note:

The annual drag survey covers different areas of the state on a schedule of once every two or three years, depending on the area. The western portion of the state has the lowest abundance of scallops, which is why it is surveyed on a three-year cycle.

Terrence Kenney, SAC

On the closed areas I do not support the closed areas. They are too big. You would gain what you wanted if they were a lot smaller for the research you needed. On the season, I think it should be not a split season. Have it start later in December or if it would be better for the divers to even start in January or February and go straight into April. But the split season is very difficult for the draggers to rig their boat then let it sit without it being used or to do another fishery, you're rigged up for dragging and then if you try to do lobstering then you have to work around your rig for the amount of time until you get scalloping again. [No comment on Cobscook.]

George Freeman continued

I have one comment on the varying the urchin and scallop regulations in Denny's Bay. I've personally think it would set a bad example for the rest of the state. Right now probably 90-95% of the urchin landings come out of the Tenants Harbor, Rockland area. Currently under these proposals that is going to be closed off to scalloping. If you had urchins or scallops being managed the same way in each one of these zones right now that area would be closed to urchining also and would cut the landings back in Zone 1 to almost nil. I think right now this is probably an attempt to get some [?] it's been a place for urchins that they can't really get passed right now and it is just a back handed way to implement something down the line. [Would set] quite a bad precedent and opposed to that rule.

Brian Preney continued

On the [proposed closures], the closures may happen and they may happen because the Commissioner has chosen to put up a situation where we're basically being blackmailed to go along with the closures. He has threatened not to open the season next year if we do not support the closures. He said there would be some management in place before he opens the season next year. In Downeast Maine there are a great deal of poor fishermen who rely solely on scallop or some sort of fishing in the winter time and they cannot afford to be shut down at all. So I believe that the limited support for these closures in especially Downeast Maine is out of pure fear that the Commissioner would close the season down totally if we don't go along with those. I believe that that is absolutely unconscionable practice that the Commissioner has engaged in and I want it to be known that I'm totally against that and request that he withdraw that threat and then see if this program will pass.

Terrence Kenney continued

About the urchin and scallop [Denny's & Whiting Bay proposed rulemaking]; I think they should be completely separated. Regulated [separately] so one has no bearing on the other. So the scallop can't do anything with the urchins. My fear is the scallop can have precedent over where the urchin is for a closed area that will start an affect on other fisheries closing other fisheries to support their fishery at the time. So it would be other areas that were closed. The SUZC or the urchins could close the areas for scalloping because it would be better, more beneficial for the scallops, or a reverse impact. And if you start one then the chance of it moving over to another one is, [in] my opinion very great.

David Header, Portland, urchin diver

I fished in Cobscook Bay last year. I do not support the closure for urchins in that area [Denny's Bay and Whiting Bay]. Simply for the fact that in here it says urchin fishing should also be prohibited given the geographic layout of the area and the abundance of scallops, first of all, for you scallopers, it would be easy for urchin fishermen to illegally take scallops and evade detection by dumping contraband scallops should they see the Marine Patrol. So basically for that reason we are painted as criminals by the DMR right now with that statement. For that reason and multiple other reasons but that is just bad. Basically it paints scallopers and urchin divers to be criminals and [I oppose that].

Brian Soper continued

I forgot to add...I support a split season because diving in February is very difficult for me and I'm going to lose the days anyway. So I hate to go against Terrence on this one but support December and a split season. If that is what we end up with is 70 days, which we will, I support a split season.

I guess I will weigh in on the Cobscook thing. They need to be totally separate. I'm not worried about it because I'm on the SUZC and it is a non-issue as far as I'm concerned.

July 21, 2009, Machias**Jim Ackley, Machias, scallop dragger**

Unsatisfied (opposed)... to the season. I've been to every meeting they've had this side of Ellsworth. I thought that we were making progress. Obviously we weren't but from what I've understood on the season, we proposed that we have a 4 day season straight through and couple days off at Christmas and I think Togue has a copy of it that was submitted at the Ellsworth meeting by Doug [?]. I didn't bring this [document] with me because he was supposed to have submitted it for me so I didn't bring any dates or anything but I can or Jr. can get it.

I was on the understanding at the meeting in Ellsworth that because there were 2-3 individuals in the southern part of Maine that wanted the split season just because they didn't want to get out and get cold for 2 months that that is what they were going to do. It is still a split season, right? [Togue Brawn (TB): the proposed rule is a split season although we are specifically requesting to hear what you would like it to be.] Basically starting December 1st, Monday through Thursday, two days off at Christmas, two days off at New Years and a week off in February whenever school vacation [is]. Then there will have to be 2-3 more days that will have to come out to get it down to the 72 or 75 days. Because I think it came out to 77 days. That way a lot of the guys won't put their boats in because they don't want to baby sit them for two months. You're talking about conservation; if you let them go in December for 35 days then at the end for 35 days then you [will] have more better weather in those two time periods then you are running it straight through. If we have 4 days in February, except that one week, we may only get out one. So there is 3 days for conservation for you guys you didn't even plan for that you're going to get anyways because usually February is the worse month for weather. But we still like to earn a little money so we can pay our bills. [LC: Dec – Jan then March –April?] That is what is proposed, but I'm proposing straight through, 4 days. No split season.

[On the closed areas:] That is the first I've seen them [proposed]. I guess, you're going to close something anyways but I think I can live with that more so than I could with what I thought I read on the pink [postcard notice]... Because I was on the understanding it was going to be closed from Red Head to the Point of Maine, everything. That is the way I read it on the [notice] and I guess I was wrong. On proposed Cobscook rulemaking – I don't go down there. [No comment.]

Maurice Alley, Beals

[Season] I agree with Jim Ackley, it's 4 days a week, because our bills come every week... Also, last year you know December was a pretty miserable month so you can't figure that February is our worst [weather month], January or December is going to be good month, no, that didn't happen. Besides, scallops were already being brought in during the six weeks that scalloping was shut down. Everybody knows it. You'd have to be pretty naïve not to. You didn't help the scalloping a bit, it just shut some of us down from scalloping.

[Closed areas or Cobscook – no comment]

Farrell Beal, Beals

I agree with those guys, I think we should not have a split season, [have] the straight season. If it is so many days a week, ok. I don't think that worked out very good last year having a split season myself. As far as the closures go, the only question I have is in the Beals – Jonesport area it doesn't leave us a lot of area on bad days to get in the lee. I'd just a soon see a little bit less of closure in the area, that's fine the one within the Reach but the one going into Chandler Bay I'd like to see a little bit more area open in there for us to give us a chance to get out of the weather.

Cobscook – how I feel about it, they know the area down there that they feel needs to be closed; I respect their decision and the only thing else I'd say is I feel this is a mobile fishery and I buy a State of Maine license and I've heard rumors of closing, letting certain areas work a week or two before the other fishermen could come in there and I don't agree with that at all. No more than I would in our area work in it then open it to someone else.

Ernest Kelly, Jr., Jonesport

I agree with Jim Ackley on the 4 days a week but if Monday through Thursday is a problem I'd go with Tuesday through Friday. [On the closures] I agree with Farrell Beal but I think the closures should be shortened up in the Bay [Chandler] to the cable area. No comment on proposed Cobscook rules.

Tracey Sawtelle, Lubec, fisherman

I'd rather see the 4 day a week season like the rest of the fellas. I don't have anything to say about the closures. Prefer Tuesday – Friday [on days of the week]. On Cobscook rules I'm in support of the closure.

Jim Ackley continued

On the season I'd like a straight season, Tuesday through Friday, no Saturdays or Sundays. I'll submit a calendar so you know what days and it adds up to the same 70 day [length proposed].

Scott Emery, Eastport

I agree with the closure for Cobscook and I agree with the straight season of 4 days a week. No particular days.

Maurice Alley continued

No Saturdays and Sundays.

Tracey Sawtelle continued

No Saturdays and Sundays.

Tom Pottle, Perry

I'm in agreement with the straight season. As far as the closures in Cobscook with the sunset clause proposed I'm in agreement with that. I didn't like the way it was set up before ...to be determined at a later date and agreement upon everybody and that will never happen. Whatever works on the days without the weekends; I agree with taking the weekends off.

Paul Cox, Dennysville

I opposed the Cobscook closure up in there. I'd like to see at least the urchins stay open up in there. I support the 4 days [season] and any days but Saturday and Sunday.

Isaac Beal, Beals Island

I agree on the 4 days but would like to see them start the same 3 days as the urchin guys and them plus the other day. I think it would ease up on both fisheries.

Mike Danforth, Addison

Actually I'm not opposed to anything. Four days a week would be fine. As long as we don't end up segregating the fishery. No weekends.

Leo Murray, Lubec

I support the closures and the 4 day a week season. The other one [split season] didn't work very good for anything. No weekends. Closure comment includes those in both proposed rules.

Anne Tselikis, Penobscot East Resource Center, neutral comment

I'm neither for nor against. I've heard a lot of you say no weekends and I know why you're all saying no weekends, I get it but one of the things brought to my attention by a couple of younger guys in Stonington was that they as younger kids really looked forward to the weekends and to vacation time to be able to go fishing with their dads and learn how to go scalloping. That was something that I hadn't thought of before and I just wanted to bring that to everybody's attention. I totally understand why you guys don't want the weekends. Just adding that in.

Jim Ackley continued

Like Farrell Beal said up in Chandler Bay, I'd like to see it go up to the cable area. [That would] give us a little foul weather fishing. It's only going to last a little while but if we use it sparingly then we will have someplace to go when it is rough. I think at that meeting in Ellsworth they had a show of hands if they wanted the season split or straight through and I think they did 2-3 of the show of hands, [TB: It wasn't in the May meeting when the SAC gave the recommendation though. There may have been one in Ellsworth but not at the Hallowell meeting where they gave the recommendation.] I think you were the only one there at one of them and when Doug and others were there we submitted the 4 days a week but the guys in the back from the westward wanted Saturdays and Sundays, wanted every thing and give up nothing.

Owen Moody, Roque Bluffs

I'd like to see the whole season, 3-4 days a week [straight] instead of the split season. Gotta have something to do in the winter; weekends off. Either you're a fisherman or you're not. I'm ok with the closures for now. I support the [proposed] rules in Cobscook Bay.

Byron Matthews, Lubec

Regarding the proposed Cobscook Bay rules: I think if we closed it from the end of Raft Cove Point to at tip off the end of Williams Island going north to the far end of Little Dram Island we could close off all the scallop industry and not interrupt the urchins. We could close off the scallop industry and not hurt the sea urchins. [Close to only scallops not urchins.] In that new opening or non-closure, there are no scallops in there it is just sea urchins. [TB: lines?] This is a new line I've drawn [pointing to his computer chart] and this is Whiting Bay and this is all closed and this is the Denny's and this would be all closed. This used to be really good urchins; so it still is a real good urchins closure except up in here we do a lot of fishing and if you close this down for two years you'll have a 120 boats in there and its going to be in way worse shape in 2 weeks than it is now. They will just come in and destroy it. Any time there is a closure of that magnitude in a bay that productive they will come in and destroy it.

So this is Williams Island, [from Raft Cove Point], a line north and east; ~225 degrees [magnetic] to the easterly side of Mahar Point between Dram Island and Little Dram Island then [the proposed line that closed off Cobscook Bay]. Cobscook remains open and Denny's and Whiting remain closed. I'm still leaving the Whiting and Denny's as closed. See this is the mouth of the Whiting River and this is the mouth of the Denny's River. Both rivers would remain closed. It just is not interrupting the urchins fishery. [This keeps the deep water around Dram Island open for urchins.] This line could be twitched a little. It is much easier to use a point of land; they can see it visually and know they can't go beyond that line. But 99% of us have computers. I put one on David Cline's boat last winter. This is 100% sea urchins, no one goes in here scalloping ever.

Regarding the scallop season: I'm going to stay out of the scallops because I don't do it. I will let them speak on that because it is their business. [No comment.] David and I discussed it earlier [that] the worst thing they ever did was the 130 lbs because it allowed it to be fished for 6 months instead of 30 days. Everybody came in and got 500 lbs a day and in 20 days it was all done and it had an 11 month break. All they did was leave it open for 6 months and closed for 6 months and hurt it worse. Because you're getting beat for longer. That bay can't stand over 30 days for scallops. It will come back by itself.

Also, there should be a severe penalty for anybody fishing scallops during urchin season. Anybody caught should lose their license in any fishery for 3 years, \$5000 minimum fine. Make the penalty so severe that it will be a deterrent. A \$150 fine is not a deterrent. That's less than fuel.

David Cline,

I support what Byron Matthews has proposed here [alternative to the proposed Cobscook rules].

I go along with the 4 day straight season, no preference on particular days.

In Cobscook there should be a straight 35 day season and that is it. If you go in there for 35 days you have all the big stuff picked up. Then it should be shut down.

July 23, 2009, Ellsworth**Dennis Sargent Sr., Steuben**

My comment would be for Cobscook Bay and Denny's Bay. I think that the state should take into consideration that the bay has already this coming December will have already been closed for 11 months into this 2-year closure their planning. Other than that [on] everything else I agree with if you're going to close it wants to be closed to scallops and urchins together.

Other state closed areas, no comment, I was part of that process and I didn't want the whole of Gouldsboro Bay closed but it did so I'll have to live with that.

On the season length I agree with the 4 days a week for the total 70 days without having the 2 split seasons because that causes an awful hardship for a lot of people. I know it did in my area, they hauled their boats out and didn't have anything to do for 2 months. I'd say no to weekends because you can get 4 days; I don't know exactly what 4 days everybody has agreed on but I'd say Monday through Thursday.

Dana Black, Orland

My objection, I fishing the middle of the state in Blue Hill Bay area, and every area you propose to close, Gouldsboro Bay, Frenchmen's Bay, outside of Stonington, Upper Blue Hill Bay, that is every area I fish. So you might as well take our whole season away from us because we're all going to starve. You can't with things the way they are what are we going to do for the next couple of years and you already closed it down last year. There are so many other options you could do without starving us. You can give us a shorter season, drop the quota down for a couple of years. If we had 35 – 40 days to go at even 100 lbs you could put a meat count back on. All you need is a Campbell's soup can to enforce that. You can put your scallops in a can and count it. That way you can be strict about the law so no one's taking small scallops and bringing them in. [LC: You oppose the closed areas, period, and would use other options?] For the most part, yes, it is going to hurt, you could shorten the season up for some of us. If some of the guys want the closed areas

Downeast or to the westward but I mean shorten the season up and let us go make a little something with the lobster industry the way it is we're all going to be hurting.

Regarding proposed Cobscook rules: I don't know much about Cobscook but if you close all these areas up our way a lot of us are going to have to go down there and I'm sure them guys don't want us going down there and on their turf that is going to take away from their livelihood. That is not fair really, they don't come up and bother us, not many of us go down there and bother them, and you start closing off every spot that there is scallops our way we're going to have to go some place.

Regarding the season days: I'm dead against the split season. I don't want to leave my boat in the water for 2 months in the worst of the winter and have to go check on it every day. I'd just as soon have it go straight ahead or even 4 days a week is better than taking 2 months off and doing nothing.

Christine Howe, Orland

I am opposed to the closures as they've been proposed. In terms of the season length I support the first season but not a split season. You've got the season split so my take on it is it should be just go with one season if you want it to be a short season that is fine but don't split the season so that these guys have their boats in the water. I don't know enough about the Monday through Thursday stuff to speak about that so I'm not going to pretend like I do.

In terms of the proposal that was put together by the Stonington group which included Dana [Black] I'm very upset about that but what I would tell you is that it is not as was proposed by the Stonington group. Blue Hill Harbor was added as a tenth closure. I've gone through the SAC meeting notes from the beginning of the year and I know that Blue Hill Harbor was suggested as a trade by Andy Mays for in exchange for Frenchmen's Bay and I disagree with that. I also think that you've taken everything that the Stonington Fishermen including the Blue Hill Fishermen offered and you've added more on top of that. We understand that you need to close some areas and that is why we suggested Blue Hill Harbor only but you've added the upper bay as well and we disagree with that. I'm also concerned that scallops are a long lived species that are known to be cyclical across the world. We don't know what part of the cycle we're in. We don't know why we in that part of the cycle. We know that scallops don't really start reproducing until they are 4 years old yet we've got a three year closure in place which leads me to believe and this is my first time working with the DMR but leads me to believe that this is not going to be a three year closure that this is the start of a potentially long term closure. There is no plan to relocate any spat. There is no understanding of why thin shelled scallops that are found in deeper waters are not staying in those areas. There's to my knowledge no extra funding that has been established to support any studies that are going to be done during the closures, any relocation efforts during the closures, even the extra enforcement efforts that it is going to take to support these closures, which it is going to take extra enforcement efforts. Additionally I'm concerned that there is 1.7 million in income from the 2007 reported landings that we are now going to be taking away from the state and that is a lot of income to lose and that is was is reported landings. It doesn't include any other sales. Additionally there is the concern that when you take this amount out of the state that there is going to be a permanent loss of markets because restaurants, dealers, they are going to find other sources of scallops, they may find cheaper sources and then we may not be able to get those markets back. In the last 2 years DMR has passed 7 changes that have impacted the scallop industry. There [have] been 7 different regulations that have been passed since 2006. Yet we haven't given any time for those regulations to have any impact. The concern is that these closures will make it economically unviable for many fishermen with no plan to reopen. I understand the sunset clause but as we were talking about before that, that is unless you should use something else and I just don't feel that the trust is there that something else won't be done to extend the closures for a longer period of time.

Additionally, a concern I have is that similar to the lobster industry you're going to close these areas for 3 years and then make it so that fishermen don't have landings because it is economically unviable for a lot of them to fish and then you're going to use landings in order to allow them to keep their licenses. So that is another reason that I have of significant concern and why I oppose the closures.

Additionally, the last [scallop survey] data points for the western part of the state are 4 years old. The harvesting pressure has changed since the 2005 survey and I don't feel that their scientifically valid. Similar to the Commissioner, I have a degree in wildlife ecology and I will be the first to tell you that no way make me qualified to understand our complex marine ecosystems. But it does given me enough background to know statistically your data is extremely weak and inconclusive.

Additionally, I feel in many conversations that Togue and I have had via email that the reliance has been solely on the SAC input and not on the public input and the SAC is not representative of the fishermen in this state. They have 25% of the SAC is divers from Hancock county and I understand that they are trying and working very hard but I also understand that they are going to be looking out for their own interest as well.

Finally, I don't feel that these sites have been matched up against the oceanography to determine if they are suitable, I know that you haven't looked at flows, topography, physical, chemical changes, predation. I understand that we've been looking at the federal government and what happened in the mid-Atlantic that is a flow through system. Yet we're suggesting to close a lot of these areas that in the harbors and inside and I'm not confident that that is going to work. It doesn't make sense to me; I don't understand why we're picking these areas and then using the federal, what works for the federal government as well.

James West, Sorrento

I opposed just about everything the state is doing. I think if the state really wanted to save most of our fisheries instead of putting all the restrictions and ever since I've been fishing, about 30 years or pretty close to it, most every restriction comes down on draggers. I haven't really seen any on divers whether it is for basically anything whether it is sea urchins or scallops. I do know that if they really want to save the resources put a ban on diving for scallops, ban on diving for sea urchins, and I guarantee that those too will come back in just, might be 3 years, might be 5 or 6 but I guarantee they will both come back. How come the state won't let them dive for lobsters, because there is over 6000 lobster fishermen and it won't happen; I'm not saying they're the only reason there's not a lot of scallops or sea urchins around and I'm pretty sure that I as a dragger I've done a lot of damage to them too. But if you really want to save our resources you'd look hard at that. Whether you don't stop them, if you put some restrictions on them; we've got a 4-inch ring. When I first started we used 2.5 inch scallop rings and mostly used rock drags. We didn't get a lot of small scallops. We caught bigger scallops, pounded the rock holes but now it is 4-inch. I've dragged up 2 dive bags since I've been scalloping and dumped the bags out on the table, scallops still alive, dumped on the table and there was between 5 and 10 small scallops under, this was back when it was 3 ¼ inch, they were under the legal size. They didn't swim in that bag because it was closed up. So somebody that was diving put them in there. There are also draggers that shell small scallops too, I'm not saying it was just all divers but all the divers all say we only

save those U10's, the great big ones. But when they do save those great big ones up in the rock holes where no body else has got for generations [those] are all the seeders that seeded these bays. Frenchmen's Bay is all 60 feet or less where there [are] scallops, well it got killed. It didn't get killed because there were a bunch of draggers there. There'd been draggers there for generations. When the sea urchin boom came and the divers came out of the woodworks and it didn't cost them a lot of money to get going, they could go out with a bay liner they had for pond fishing or whatever and they came out with skiff and outboards. They didn't have much invested. Most draggers have between 20 and 400 thousand dollars invested in a boat. They come out with \$500 some of them, it cost them \$1000-\$1500 for a dive suit and a tank and they was already to go. You go out and rig your boat up for dragging and you've got a big investment. That really put a lot on it. That also put a lot of pressure on lobstering. I know you don't want to talk about lobstering but that is what really did a lot of our resources in.

I don't like your seasons; I think it should just be one season. I don't like you saying you can only go Monday through Friday. What happens if it blows 4 days in a row, you miss those 4 days. I got a 42' boat if I have to go I'll go but there are days I don't like to go when it is blowing 35-40 [knots]. You used to be able to find a hole you could get in the lee or whatever but if it is blowing like that I wouldn't even try going now a day, it's not worth it. So you miss that day and you're not going to make it up on the other end. If you only give 60 days and you lose, 30 days is probably what you'll get out of that. I don't think saying you can only go Monday through Tuesday, I think you say you've got 7 days a week, if you want to give people log books or whatever it is, give them a tag, they can only use so many days, when those tags are gone they are done. Don't just say you can't go Monday through Friday, that doesn't work. It will work but there won't be many fishing days.

Robert Ray, Deer Isle – Stonington

The last time we were up here we decided to close an area that was quite substantial from the [Eggmoggin] Reach to southeast out to Lazy Gut. Now what you've colored on the map here now, month later, you've got to the 3-mile line past the Spoons and everything up from the east side, all the islands are going to be closed down from Stonington – Deer Isle through Sedgwick. Everything, it is just unbelievable and what it really boils down to is there ain't going to be any fishing what so ever. You can't keep going to the same areas and keep towing; towing for something that ain't there to begin with. So you're really putting a strain on the areas that are open, which is very little, and like the other people that have come up here and talked about, how long are you going to close them, and what is the plan after the opening, is there going to be experimental plans for say diving in open area or dragging in the other and only dragging or only diving, just to experiment to find out what is taking away the brood stock and what is going to be the final analysis because what we need here is a final analysis of what is going on. That is the most important thing for scalloping, not just the scallop fishermen, but for the scallop and the resources. We've got to find out what is really going on. If we want to save our resources we've got to really save ourselves, everything that is involved in the whole system but we've got to do it fast and we've got to do it right. We can't do it, we'll experiment, we'll put the divers in one area after it is all open, and guarantee you everybody knows that any time a diver goes in the water to take anything it is depleted. That is why there is no diving for clams, lobsters, or anything else and they are still plentiful. That is just unbelievably, it keeps going and going. Thank God for that because if we didn't have that we'd all be out living 50 miles inland. We wouldn't have any fisheries left, none what so ever. That's why when somebody says diving shouldn't be involved they mean it is for the livelihood of everybody. If a diver wants to go get a scallop dragging license let him get one because that's the way it was before the divers came in. Every 2 years, because I've been on the stern of the boats for many years, every 2 years is always good years of fishing. If it's a mediocre year and the second year was always a good year because they have the brood stock and they had the seeders that seeded the whole area around the islands, any where you wanted to go. Just as soon as the divers came in they took the brood stock because a drag can't go over a ledge and grab 15 bushel that's in a crack. Those 15 bushels could be female scallops, brood stock in a whole area because scallops can swim. Just as soon as the drag goes over the scallops are gone. It is a great complex. It's not like they just lay there being taken. They can get out of an area; they can go back in an area. To me nobody has ever studied that; be there haven't been scallops in 15 years; there hasn't been a scallop since diving has been involved. It's been over, the whole system is gone. Any dragger knows it; we always had scallops before divers came in.

You shouldn't limit season days because what this gentleman [James West] said is true, if you limit any time limitation you got to go on those days and once you start limiting days you're done because it will go, what do you have on your license, 3 then down to 2 because you still ain't got enough scallops because divers are going in there and cleaning it all up. It's been that way since day one since the scalloping draggers the divers has got into the inner shores they've cleaned everything, it's gone. We never had a problem before the divers came in. But that is the whole thing they started diving for clams and they said no more; we got clams. If they ever dove for lobsters there would be no more lobsters.

Frank Jones, Stonington

I just want to mention that my areas, Stonington – Deer Isle, the last meeting that we had the state had asked for the group of fishermen to get together and their proposal on their closed area and we all had our meeting and we made our proposal and it was drawn out on the map, Southeast Harbor and up in Eggmoggin Reach. Now I see we've gone from there out to 3 mile line, which is totally taking in our complete area. We have no place to go. I'm just wondering why that happened and why you asked us to get together to do the work for you and then you've gone and done something completely different. In the Stonington – Deer Isle area where I live if we'd gone along with the original agreement none of us had any problem with that if it had stayed that way. Now with the season if I had to take the worst of two evils the season used to run from November 1st till April 15th. Back when I was young and used to go with my father they, I think you look somewhere in the state's books and they had changed from December 1st till April 15th and that only run for a couple of years then they changed it right back because the inshore lobstering when that was done the fella's went scalloping. Now you want a 70 day season and you want to split the season, I'm completely against that because by the time, the thing that we as fishermen now have enough on our plates as it is. We're talking \$2 lobster, possibly going lower and we got this whale rope that the tree huggers have drove down our throats and that's \$160 a coil and that's being conservative to try for even what traps we had out this spring we had to change over just so we could spring fish outside this imaginary line where the whales are supposed to be swimming. So now somehow this summer before we start our fall fishing we've got to buy truck loads of rope that there is no money to help us out with because the state money or whatever it is, I guess everybody here knows what I'm talking about, seems to run out awful quick. That's another thing we've got on our plates and the rope is completely trash besides what traps we're losing and we're only given 20 tags to replace with so...

Regarding Cobscook: I don't fish down there; I like staying in my area and don't rub elbows with my next door neighbor. [No comment] The split season I'm completely against that because if you go like me if I've got to go to the expense of, which I'm going to have to do, of the sinking rope or groundline or whatever it is, so that is going, I'm going to at least Christmas or January so by the time when the weather is as bad as it is you try to get the traps up so what's the sense of trying to rig the boat for one month, 4 weeks. That's completely stupid. So if you see my point what I'm trying to say but if you have to go so many, if he doesn't want to run the season from December 1st to April 15th you're only going to average if you're lucky, if you took the average for the season you're only going to get 4 days a week. Weather is going to be against you. The thinking that we're going to have 4 days a week for what he's talking if you just run the season it runs 4 days a week till the end of the season. Then we've got spring time to look at. As it is right now the fisherman has enough on their plate. Kind of have the state work with us not against us.

Anne Tselikis, Penobscot East Resource Center

The thing I said at the University of Maine at Machias the other day in regards to the season, I've had a couple of people in Stonington say to me that while they don't like the split season as proposed they also don't like the idea of not being able to fish on weekends. I understand why people don't want people to access weekend fishing but the thing brought to my attention was that when these guys were younger kids they really looked forward to going fishing on the weekends with their families and they would be prevented from doing that; same with regard to the potential closure to fishing around Christmas time and also February vacation. In reference to the area around Stonington and Deer Isle these guys are right, when the Stonington guys got together the area they had proposed was much smaller, Eggmoggin Reach and Southeast Harbor, and it was made much larger and the thing that is frustrating for me having worked with those guys is that they were really willing to give up really precious fishing areas. When I look Downeast at Pigeon Hill Bay and areas around Jonesport and Beals those areas are still pretty small and I'm not asking them to be bigger because obviously I don't fish. But the areas that were proposed down there seem to have been kept a little more sacred than the area around Stonington and Deer Isle. But I understand the concept of giving up a little now to be able to make way for more scallops in the future but that is taking away some pretty precious territory. In regards to the Blue Hill Bay closure, you're right it was proposed later but it was proposed by a Stonington fisherman, not because Andy Mays was trying to do a little swap of Frenchmen's Bay that happened last year and that sunset at the end of the scallop season last year. So, that did come from a guy from Stonington, the Blue Hill Bay closure. [audience: this year] no that was last year. What you see on the map was proposed by one of the guys from Stonington later and we can talk later.

Derek Jones, Stonington

I don't want the split season. Just the original plan; if it is 4 days a week you get to pick the 4 days a week and you should be able to go weekends weather permitting. I think the fishermen should be able to pick where stuff needs to be shut off like at the last meeting not this. Let the fishermen take care of the area. I think the fishermen should be able to tell what needs to be shut off and everything because the biologists have absolutely nothing to, they're clueless.

Dana Black, Orland, continued

You're talking about closed areas, the Frenchboro Swans Island cable was closed, it used to be open years ago, then they closed it to everybody, then they opened it to divers. Andy Mays said himself that he has dove it once or twice a year for the last few years and there is absolutely nothing there. So there's either 2 things that happened to the scallops. Either they just died off or they were over fished by the divers. It wasn't the draggers. In my personal opinion the closed areas really ain't going to work. I think the fishermen ought to manage their own areas because obviously there's no big money to make at it any more and the what few that still go enjoy what they do, they love it, I do. I'm happy out there going round in circle and I think what few that are still fishing know enough on how to manage this industry ourselves and we could take care of it better than the state, better than all these closures, we could manage our own closures, do a reseeding program and because what few that are left enjoy what we do. We've got our hearts in it and we could do a better job than what's up there on the board.

Robert Ray continued

You're absolutely right, and the bottom line to it is we get back to the same thing that I talked about earlier is our future and it is not just for us the fishermen today. But it is the fishermen for tomorrow and that is what our fathers and fore fathers done for us to begin with and that is why the sustainability, we've been farmers more than fishermen because we have to farm the area to keep the scallops or keep anything on the bottom. You can't take everything. And that's kept the fishery is going, that has kept the futures going for the kids for tomorrow. And the bottom line to it is we don't want to just create it for a few. We want to create it for everybody for enough so that everybody can make a living off this so they can stay on the coast. That's our livelihood. Our tomorrow's livelihood, that's the future, that's why you've got to be so compassionate for a fisherman because he has hundreds of years on that ocean and he's done considerably more than environmentalists can do because he is an environmentalist. He is a farmer; he keeps it going so that tomorrow there is something for tomorrow. That's why before vents were even issued we made sure that we were the ones that had lobster measures. We were the ones that made sure that there wasn't caught up. The bottom line is when things started being caught up we want to know why too but we know the reason why is far as fishermen go because before the diving ever got into it there was always scallops and just as soon as diving got into it there's been no scallops. That's the bottom line. We never had a problem ever.

Christine Howe continued

I understand that there was one Stonington fisherman maybe more, that proposed Blue Hill Harbor and the upper bay and I will tell you we were, Dana was part of the group in Stonington that met and hashed it all out. So for one person to come in and make a recommendation that the state jumps on and says that all the draggers in the area support that and then points us back to the Stonington fisherman, that is unfair. I'll tell you that we have talked to the draggers, to the active license holders in Blue Hill, Brooksville, Sedgwick, Brooklin, Penobscot and none of those draggers support this closure or the Stonington closure. So you've got a minority making decisions for the people and you've got people that aren't actively dragging making proposals. Then you've got divers, again I just want to restate it, 25% of the SAC is divers from Hancock County. That's a big number and those people are representing us and

they're making proposals to close the area down but they want to keep their areas open that they can still dive in. If anything I know that you were going to take suggestions from modification of boundary lines. If you need to do anything with Blue Hill just close the Harbor don't close the entire upper bay.

Dana Black continued

Talk about the closed areas again up in the bays. What if one of the state scientists said that they are not going to work because there isn't enough tidal flow, would things change? Because we've talked to a lot of people and like some of these upper bays there isn't enough tide water to come out through, I mean for this stuff to filter down through, I mean we don't think it is going to work. What if someone spoke up and said that for the state will things change or is this just the SAC doing whatever they want to do?

July 24, 2009, Rockland

Jim Wotton, Friendship

Opposed to number 3, closed area in Muscongus Bay, western Penobscot Bay area. At the SAC meeting held in Augusta on the 29th of May, I thought we had reached what we thought was a compromise and drew a line and it has been substantially moved to the southward. I was hoping that Togue or someone would be here that explain why.

As to the season I'd like to see the season start January 1st and run for 70 days consecutive days.

No comment on Cobscook Bay.

Paul Farmer, Cushing

I am opposed. Pretty much I came here because I was upset about the proposed season and I feel the same as Jim [Wotton], I'd rather see the season start January 1st and pretty much need to be able to go scalloping in the months of January and February. I'd rather see a 4 month season. I think it should have just been left alone. Things were going pretty good for me anyway. The reduction in the season already last year, it didn't work for me. I don't know about you guys but the harbor was froze up through January and February and those were the months we should have been scalloping. There was no other work. There's not many shrimp boats working, there's very few lobstermen going, and it is really the only work in fishing for those two months. It is just ridiculous to close us out of it. Unless, I don't know if anyone else in this room makes enough money throughout the whole year, 10 months a year, so they can sit it out two months but I need to work those two months. I need that income for sure. I feel that the season if it is going to be 70 days I would agree with starting January 1st and running through [straight season, no breaks]. I don't know what really the basis behind that was. December the winds always blow. I'm a diver and we don't really tend to do much in December. Sure the market is good and everybody wants scallops, but I mean it takes the land freezing up and before the visibility gets good and the winds shift and everything. So January and February, those are the months to go scalloping. Come March other things start to thaw out, you can go clamming, guys are back lobstering and there are more work opportunities. But that's pretty much putting us completely out of business and you have to just sit and look out the window and shovel snow. That was pretty much the reason I came here to get my comments down for the season. Then when I saw the closure line, pretty much the way it stands that every single place I've fished the past 3 years is closed, in section 3. I've done pretty good, I'm not saying I'm the best scallop fisherman out there but I've made a living at it the last 3 years and I don't know what they want but if an area is good and you get scallops and we go back next year and get scallops, etc, and there are small scallops there I don't know what the DMR is looking to do but that is a good area. That should be open for fishing. That's our scallop bottom. It just isn't right to take that away, that's just ruining the fishery for us. That I don't think is the goal of the DMR, they want to come to some compromise of the closed and open area but that just sealed our fate. All of our bottom will be taken away and we'll be left a few spots way down below where the winds always blowing and the water is deep, we don't find anything diving down below that line really. A few spots a little bit here and there on the sides of some of those islands. That pretty much closes every single spot and I sent in my landings report last year and we had some good days in March. We did good and was hoping to go back to those areas and go for season number 4 there and do pretty decent. It just is ridiculous to close them. I don't know what needs to be going on in an area for it to be open or closed. I think that the line should be definitely further north. That would make an enormous difference. That's pretty much the difference between us being able to work and make a living at it for the little bit of time we're going to get or not. That is going to make or break it for sure. There's not that many guys doing it, not that much area, we've got a few spots we go to and they are good areas it has worked. There's just no reason to close them. Something that is easily enforced like the mouth of the St. George River, mouth of the Waldoboro River, up inside there, Crotch Island and stuff. Sure, close those areas, it would be great, scallops go nuts, getting there 3 years later and do good. That makes sense. But to close further down below there is just unfair. The resource there is fine. All of this I think is ridiculous that there is super low abundance and I know guys did pretty good dragging last year too. It was a good year; there were scallops; that closure line will definitely be the nail in the coffin and would ruin us for sure. It really can't happen. If they're going to close that they may as well just take our licenses and give us our money back. Just end it; it just seems like everything is getting closed, it is not necessarily the best option. You need to keep the fishery going and keep the few guys that are still in it making money, making a living at it, and keeping and maintaining their boats. It's ridiculous the way things have been going lately.

Doug McLennan, Spruce Head

Opposed. I came to the last meeting telling people, urging them not to draw any lines on that chart to appease the state but the state seems like they want to blackmail all the scallop fishermen into drawing lines because they said if you don't draw some lines we're not going to have any season. If we had enough money we could probably go up and get a restraining order on the Commissioner and have the court take care of this for us and do away with this blackmail that the state likes to do on fishermen continuously in my opinion only. But what you're going to do by drawing those lines for these guys down in Friendship and Cushing is you're going to drive them up my way off Sprucehead. Travis and Mike's way so, you're going to have a little area up there where there's a few scallops that's open, there's been a few guys making a living there. That huge area you've got to the westward, all those guys are either going west or east. Looking to the west it is not very far there is another closure. More than likely they are going to come east up our way. So what is going to happen to that small little fragile 6 - 8 - 10 fathom water around all them Mussel Ridge Islands up there where there's a few scallops left, it's going to get twice the pressure it's had in years past and there's no guarantee that closure is even going to work where

you've got it drawn on off there because I scalloped around that area for 20 years and a lot of that bottom that is in that line there isn't any scallop bottom. We might have went down around Metinic a little bit pounding around but most of the bottom up our way has died off, it's nothing to do with over fishing, you can put all the regulations on you want it ain't going to bring back what ain't there. There's a few scallops left in those Mussel Ridge Islands. They're just going to get twice the pressure having all to the westward closed off. Scallopers are a nomadic breed, we travel around. We're not like lobstermen bound to lines where you get cut off and stuff if you go over the line. Scallopers move around, they've always; I've gone as far as North Rock up off Machias Seal Island [to] search for scallops before and I never had any trouble by anybody. They were always nice people. You broke down they give you a hand to help you out. You start drawing these lines, I've seen it all before down Mount Desert back in the 80's and 90's. They drew lines because the lobstermen wanted not to have scallopers towing in their lobster bottom, which I can understand but what it did was it drove all these boats into small areas that were left open because they had no choice but to go only where the state would allow them to go to make a living. Especially this year with tough times, lobstering is not looking very good, I might be out in my outboard towing around hand drags this winter, might be rowing. It's just the way it is. I haven't been scalloping the last few years because I haven't been able to make any money at it. It might come down to where I'm going to have to go.

I just want to be on the record saying these lines aren't the way to go. If you want to do a season thing, like Jimmy says, if [you're] going to have a season start it on [a] date and end it on a date. Having a split season, the December 1st, most guys that go scalloping now probably are doing something else in December anyway. I used to like November scalloping when I went. I fought hard against taking November away. I'd take my lobster gear up and go in November and give the lobstering a break, that was my style. Everybody's got their own style. Having a split season in the middle of everything and having all the days off and it's the hardest time of year weather wise too. I can go back in my books for dragging anyway in the month of February when we used to fish it was hard to get out 5 or 6 days a month. The weather changes over the years and depends on what you're doing. If you take and draw that line you've taken away a lot of lees and islands where you can't get in behind in the hard weather and get a day's pay. I just don't like drawing lines because it drives people into somebody else's backyards where those people in that town need their area to make a living and people in other towns; we travel around yes but, it is nice to be able to go out your front door and make a living, not have to travel. Them guys in Friendship are going to have to steam an hour and an half to get up my way to make a living every day and it is going to make it hard for them. I just want to go on the record saying I'm opposed to the lines, and the season should go [start] on a date and end on a date [straight]; as far as Cobscook Bay goes no comment.

Travis Fogg, Spruce Head

I agree with Doug McClennan as far as the closure areas are. I think we ought to let the limited season and 4-inch rings just do their job instead of piling everybody into small areas to work and giving it too much pressure.

I'd agree with Jim Wotton as far as the season being consecutive because that would alleve a lot of gear conflict between lobstermen and scallopers, which seems to happen with the December opening. Cobscook can deal with Cobscook itself [no comment].

Mike Keating, Owls Head

I too believe the season should run consecutive. I'm not opposed to December or January start, it doesn't matter to me but it should run pretty consecutive.

As far as the particular line drawn in Muscongus Bay, we had several meetings where Muscongus Bay wasn't even proposed as a closure and Jim and a couple of other guys went down there and offered some of the bay as some form of offering and now they've dropped the line way down to the south, which puts a lot of undue hardship on his/their behalf. Overall the lines that we've all drawn or proposed are done, I don't know if you want to call it blackmail but they are being forced upon us because we have no choice either we offer something or we have no season. It does in turn, like everyone else is stating, it forces everybody to go further to the east or further to the southwest and out of their own territory and into somebody else's.

As far as the eastern part of the closure the closure area that was offered, was offered based on the DMR's recommendation as far as where they'd done their test tows. We offered half and there were no test tows done in Muscongus Bay which show that the line that they have drawn that there is any abundance of scallops at all. So they've essentially enlarged the area to include portions where there are some scallops but they are not in any great abundance. So I think they are not achieving what their goal is by dropping these lines down.

No comment on Cobscook Bay.

Kendall Smith, Lincolnville

I'm opposed to it, all of it. I don't think there should be any lines and what people have said today is right. I grew up on Swans Island so I know what happened when they put areas in, they completely lock everyone in and it completely wipes out an area. I know what these guys are going to go through, because I had to live through it myself. You're going to completely destroy one area for no reason and I know as far as these meetings go I know I've asked before what kind of meeting we're going to have, or if meeting, you do it or else. So I don't think it is right the way the state is handling it. I know the Commissioner himself said that Maine's scallop industry should be like they do in New Bedford, which was said to my brother, so I know he said that. I think that is the wrong way to look at it and I think that is what he's trying to do myself. I think it is all wrong, last year they closed down Penobscot Bay and that put me out of it completely because I couldn't go, my boat, run down the bay in my size boat and the speed it goes. So that is what a closed area does it puts people completely out of business. You should just leave it as it is. It's closed down at least 8 months of the year. I thought that was quite a good closure, 8 months, to have an industry closed down with no effort to fish it. I think it should have been left alone 4 months, open. Your weather is going to take care of it in the wintertime. If you get out 2 months in the wintertime you're lucky. You're shutting it down to 70 days; you might as well say you going to shut everyone down to just one month out of the year to go scalloping. It's not right.

[No comment on Cobscook]

Mike Hutchings, Lincolnville

Opposed. The problem is with all this stuff is we don't have any science to back up what we're trying to do, which bothers me more than anything else. You just draw a line, well is it going to work, anybody here if you drew this line it would work would be one thing but

I don't know if there is any proof that any of this is going to help the scallop fishery, which is what we're trying to help. There's a few other things that and I don't want to offend anybody that goes scallop diving but I feel as though a few other things that maybe ought to be put in place. If you're diving for urchins I don't think you should be picking scallops. The reason, my logic for that is because if you're out urchin diving you wouldn't be out scallop diving for the amount of scallops there are in an area. But if you're urchin diving you're gathering up what you can for scallops. So it is putting the pressure on the resources. You're in there; it's an incidental catch, which has taken its toll over the years. A lot of people don't want to admit it but it has. We ought to have a size of a boat on the inshore to 50 feet. All of us have abused that with larger craft. Not all of us but some of us have. Inside the 3-mile limit; I think it ought to be limited in the future; this isn't going to hurt anything right now. In the future if the resource ever came back you'd come here with large offshore boats, which have worked in there, a few of us in this room have worked them in here and it wasn't right what we were doing but we did it and it was a bad thing but it was legal.

If you're a commercial scallop diver and this was brought to me by a Marine Patrol Officer to have recreation divers on board the boat when they are commercial diving is an enforcement issue, whose scallops are whose; you can have a bunch of people that are recreational divers and one guy holds a commercial license there is no way knowing whose scallops are whose. It is a conservation measure that maybe needs to be put into place.

Cobscook Bay – no comment

Season: it's already a pretty short season; forces people to work in weather they shouldn't be working in; weather issues through the whole months of winter anyway. Start drawing lines in southern areas where you can't work in the lee makes it even more complicated.

Kendall Smith, continued

I'd like to know if they've done anything about the disease that's been going through the scallops. [What do we know about the blue, grey scallops.] There was a guy talked to him last year that knew what it was. Why has it gotten worse? It was sort of a bacteria, got the guys email address, it is in the scallops to begin with. Bob Bayer...they've done research on it. It gets into their gills, salmon get it too, and is always there but whatever inflames it to become worse they don't know...it is like tuberculosis or something...they just suffocate and something is causing it to bloom.

Doug McLennan continued

I want to know what is going to happen; we come to these meetings and it seems like the state just does what they want to do anyway; that's what I've always said; and always seems to be what happens. It's like Travis said you've got 4 inch rings, they've only been in effect one year. The scallops died in our area, I saw it, told people, told Togue about it, she thought I was from Mars, I mean I saw it. I witnessed literally 10 bushel a tow go to nothing but clappers, dead. We didn't kill them off; they're gone; they're not coming back. It's been 12 years since that happened and the only scallops that weren't affected were inside the Mussel Ridges at that point and there is still a fishery there. Like I said put in closed areas where there is no activity is not going to do one thing. Closing off areas where people fish is just going to drive people into other areas. I just want to know so we come up here and try to fight for something but that line grew, that area doubled, from one meeting to the next and why ask the fishermen for input when you're going to do what you want to do anyway? It's a waste of all our time to come up here and to tell people that have no clue what they are doing on the water. My thing about scientists is they go out on the water, spend 2-3 weeks out there; they've got the whole ecosystem figured out. We live there, every day, year in, year out, I've been around that Mussel Ridge Island since I was old enough to crawl into a skiff or whatever, the fishermen got a pretty good idea of what goes on [on] the ocean, we'll probably tell you a bit of a lie so we can get a little bit more than we should, everybody's got a little greed factor there, but I'm trying to get at, why do you guys want to close these areas off, you've got 4-inch rings, put a 5.5' maximum drag, do more regulations that way but closing areas off, I've never been a fan of it and I just don't get what is going to happen. Everybody in this room is opposed to it. I don't know what's gone on the other meetings but nobody I've ever known scalloping wants closed areas. You got a short season, you've got the hardest months of the year, every winter is different, some winters you don't get any wind it is just colder than h***. Other winters you get southwest every day and it never gets cold. You've got a closed season; we used to say that before when we started in November. It was closed 5-7 months of the year as it is and you want to close it off more.

Brian Preney, Yarmouth, diver (read his written comments)

I testified at the Yarmouth public hearing but didn't have my written testimony ready so I promised I would make another appearance so I'm going to read it verbatim off here, make it part of the record.

I am testifying against the proposed rulemaking concerning scallop closed areas for the following reasons.

The department (DMR) initiated this rulemaking on the premise of imminent depletion of the species. The argument that there is imminent depletion of Atlantic sea scallops is un-provable and false given the level of survey data available. In fact, data exists that shows that in the federally monitored areas, substantial biomass exists to the point of over-abundance. As a diver I have seen no change in the amount of scallops available in the inshore waters. I have canvassed other fishermen, including draggermen, who say not much has changed in the last twenty years. Scallops are migratory and cyclical. Many of the claims of those who feel that scalloping is not what it used to be, are basing their claim on an unusually large set of scallops which happened in the past and has not re-occurred. Due to their migratory nature, and their abundance offshore, imminent depletion cannot be used as a basis for closing scallop grounds.

The (DMR) is either unwilling or unable to establish rules to govern closed areas prior to shutting the areas down. I believe that closing areas without doing so, is an invitation for further mismanagement of the Maine fisheries by the DMR and the Commissioner, George Lapointe. The scope of this management initiative is unprecedented. To properly "manage" these closed areas, a system of surveys, cost- analysis, enforcement, water quality testing, and re-opening should be solidly established long before any closing is allowed. No analysis of cost has been done, and despite repeated requests for this information, the DMR has not been forthcoming. The burden to Maine taxpayers most assuredly will outweigh the value of any improvement to scallop stocks.

The DMR has claimed that it has gained broad support from industry to proceed with these closings. I have attended most of the public hearings and the most recent Scallop Advisory Council meeting, and I have heard just the opposite, There are several on the Council who support it, but the minutes will show an increasing level of dissent for the program, especially if it is to proceed without rules established beforehand. Public testimony from previous hearings are all available on the DMR site. Review will show little or no support from industry for this program. Some feel something should be done, but few support closings without rules in place. The

Council member who was most instrumental in coming up with the initial closed areas, (George Freeman, Yarmouth public hearing, 7/20/09) is now against the closures given their increased size, and the reluctance of the DMR to establish rules beforehand.

From discussions, some initiatives are likely to occur in the closed areas. Stock enhancement is being proposed. World-wide, various degrees of success have resulted from scallop enhancement, or, aquaculture. Data in the hands of the DMR shows that in general, while enhancement can be successful, the costs to perform it, monitor it, test it, enforce it, etc., outweigh the value of the catch, so that in places that it continues, it is largely just another social program rather than a provable business venture. The state of Maine, and especially the DMR, does not have the resources to support a program of this scope at this time, which is most likely why they do not want to divulge cost data prior to enacting the closings. Limited entry is not necessarily discussed at this time, but several comments to permitting have arisen at the various meetings (Dana Temple, SAC meeting 5/21/09). One of the major concerns of fishermen over the closures is, if these areas rise to prominence, who gets to fish them? The most likely result of new management initiatives in the closed areas will be denial of fishermen who have been making a living there in the quest to find the "optimal" level of effort. This may be inevitable, but we must establish a system in advance of closing to avoid unfairness and corruption.

Commissioner George Lapointe has threatened to not open the scallop season at all next year unless industry and the SAC concedes to closures. The justification for not opening at all is non-existent, and for him to live up to this blackmail would be devastating to many Maine fishermen who most certainly in these hard times could not survive without scallop income, no matter how small. Proper management initiatives in place, such as the reduced season (150 days to 70 days), and the first-ever, harvester reporting requirements, should be given time to work, and the new data analyzed before taking measures as drastic and as expensive as closing the scallop grounds.

I urgently request that the DMR advisory council and the Joint Marine Resources Committee reject this rulemaking and request the Commissioner return at a later date with a real management plan.

Brian Preney, Scallop Diver 29 years, Urchin Diver 22 years, former vice-chair Sea Urchin Zone Council, current member Sea Urchin Zone Council Science sub-committee

Note:

Most of these comments were addressed in the summary of responses. However the following were not:

Concerning the complete lack of support for these closures: At the Machias meeting, the majority of commenters approved of the closures. Additionally, although many fishermen believe the closures should be smaller, review of SAC meetings for the past two years shows broad support of closures by both the SAC and industry. As noted in the summary responses, the closures were made larger in order to increase the likelihood of their success based on the input of management, science and enforcement advice.

Concerning rulemaking Scallop/urchin closure in Cobscook Bay

I am testifying against the proposed rulemaking for the following reasons.

Scallops and sea urchins are two distinctly different species with no similar characteristics. Therefore they should be managed entirely separately.

There is a very small population of fishermen in Cobscook Bay who wish to protect an area for their scalloping future. They feel that to do so, the area must be closed to urchin fishing as well. Despite the DMR's insistence that the SAC supported the Cobscook plan, the reality is that the SAC refused to consider closing both urchins and scallops together in Cobscook Bay, and told the representative of the Cobscook plan, Leo Murray, that he should pursue the issue with the Sea Urchin zone council. The result of that consultation was that the Sea Urchin Zone council; unanimously rejected the idea of closing areas to both scallops and urchins on two occasions.

This rulemaking should be rejected because it has no industry support, especially from the urchin industry, and because it would set a bad precedent for the future.

Written comments

Cobscook area – Whiting and Denny's Bay closure

- | | |
|--------------------------------------|--|
| David J. Cline, [no address] | I David J. Cline oppose the closure of Cobscook – Whiting Bay for the scalloping and urchining season of 2009 and 2010. |
| Joyce M. Cline, [no address] | I Joyce M. Cline oppose the closure of Cobscook – Whiting Bay for the scalloping and urchining season of 09 & 10. |
| Rita Lnadeen, [no address] | I Rita Landeen oppose the closure of Cobscook – Whiting Bay for the scalloping and urchining season of 2009 and 2010. |
| Adam Brooks, [no address] | I Adam Brooks oppose the closure of Cobscook and Whiting Bay for the scalloping & urchin season or 09 & 10. |
| Gina Bryant, [no address] | I Gina Bryant oppose the closure of scalloping & urchining in the Cobscook - Whiting Bay area for the 09 – 10 season. |
| Kadie L. Brooks, [no address] | I Kadie Brooks oppose the closure of Cobscook and Whiting Bay for the scalloping & urchin season or 09 & 10. |
| Kevin Brooks, [no address] | I Kevin Brooks oppose the closure of Cobscook/Whiting Bay for scalloping & urchining dragging. |
| David W. Cline, [no address] | I David W. Cline oppose the closing of Cobscook Bay - Whiting Bay. I believe a 35 day season would be enough for scallop conservation. |

Laurie E. Cline, [no address] I Laurie E. Cline oppose the closing of Cobscook Bay area for scalloping & urchining

Forest Atwater, [no address] I Forest Atwater oppose the closure of Cobscook - Whiting Bay for the 09 – 10 scalloping & urchin season dragging.

Virginia McGuire, [no address] I Virginia McGuire oppose the closure of Cobscook Bay - Whiting Bay for the scalloping & urchin season of 09 & 10.

21 names, [no addresses] We the undersigned people to not approve of the closure of the Cobscook Bay area for the dragging of sea urchins and scallops for the season of 2009 to 2010 this year.

A copy of the signatures for this petition is available to download from:

<http://www.maine.gov/dmr/council/dmradvisory/agenda/2009/sept162009.htm>

Closures and season written comments

Justin Boyce, Stonington

I just wanted to send an e-mail commenting on the recent proposed rules for the upcoming scallop season. So here we go.

First I would like to point out that the closed areas are a good idea but I think that they are way too large of areas and in questionable locations. It seems that the initial effect is going to be the pushing of a lot more boats into smaller areas where there are still a limited number of scallop populations. This is going to be very devastating to these areas seeing how there is a limited resource to begin with. Here in the Stonington area we are going to be hard hit because much of the grounds that we fish on year after year are going to be closed. There are the areas of South East Harbor and The Eggmoggin Reach. I think it is a great idea to close one area or the other but by closing both you have almost completely eliminated our fishing grounds. I understand that something needs to be done to help the industry but forcing all of the boats into smaller areas can't be the only solution.

I am also disappointed at the suggested Monday-Friday season starting Dec. 1 going till the end of Mar. with weekends and Feb. vacation off for fishing. This almost completely eliminates a whole generation of future fishermen. How else will kids get a chance to go on a boat scalloping and see what the fishery is all about. I know that you have already shut the door on future licenses but it would be good for younger generations to at least have a chance if scallops ever do come back. I know that when I was in school I went fishing with my father every chance I got just because it was an awesome thing to be able to go and see. I don't feel that it is right to take that chance away from children. Other than that I do think that the same kind of season as last year will work although I do not like the 5 week break in the middle of the season.

Well I hope that some of this will be considered when the rules are being made but I am doubtful. I will still be scalloping next year regardless but I would like to be able to make some money at it instead of going in the hole. Lobstering has been a bust so far this year and it is already looking like it is going to be a long weekend. Well have a good day. Thanks for your time.

Brian Soper, Gurnet Trading, Harpswell

In reference to the scallop proposals, I do not support the Casco Bay closure as it is too large. I do support the split season of December and March.

Christine Howe, Orland

It is my perception that despite the public hearings, the state's scallop manager is not receptive to ideas proposed by the fishermen unless they come from the SAC and she is mandated by the legislature to listen to the SAC. Unfortunately, the SAC is not representative of the scallop fishing industry which is as of 2008 split with 84% draggers and 16% divers. It is worth noting 100% of the fishermen attending the Ellsworth hearing were draggers. After the Ellsworth Public Hearings the fishermen present made several valid points

Understand what is going on with scallop survival rates before submitting closures. Juvenile scallops are not surviving in many areas in /around the proposed closures. I heard Togue's response as "everyone tells us what we need to do, but how, how are we going to do it"

Conduct a scientific survey/experiment that compares population dynamics against the two harvesting methods: diving and dragging. I heard Togue's response as "it sounds easy enough to do, but how would we pick areas, and choose who could harvest where." My suggestion would be to choose two small areas with similar oceanographic features and population size, and then conduct a 2-3 year study with long term monitoring (5+ years). The areas would remain closed and one dragger, one diver would be allowed to harvest each. You would have the other closed areas with similar characteristics remain the "control" areas. I may be oversimplifying but you already have the closed areas established, you should have data on what the attributes of each area are, and this should be a VERY easy experiment that may finally show more insight on diving pressure vs. dragging pressure which repeatedly becomes the "hot" topic at meetings.

We suggested that the Scallop Advisory Committee become elected by the fishermen and representative of the current license holders (84% draggers, 16% divers). Togue's response was that would be complicated and difficult, and didn't work with Urchins and needs to be mandated by our legislators. Togue stated that the legislature set up the current composition of the Scallop Advisory Committee and it would need to be changed by legislature in order to be representative of the fishermen.

My perception and the perception of others who attended the Ellsworth hearing, was that in the discussion afterward, Togue communicated to us that the fishermen's suggestions would be "difficult and complicated". My perception is that Togue is not receptive to ideas that might make her job more challenging. Rather than embracing these challenges, she responds with a "no, we've tried that, or no, that's too hard or "no we don't have funding". It is interesting that she is concerned about doing something that makes the DMR's job "complicated" while at the same time making things excruciatingly difficult and complicated for the fishermen by taking their livelihood away. I personally would prefer a slower more complicated approach over a simple approach that further deepens the economic recession Maine's fishermen are experiencing. Her attitude seemed to convey a "let me help you save you from yourselves,

because you have overharvested the resource and we need to close it all down before you kill it all." She said to me "what are we suppose to do, nothing?" Keeping in mind, Togue says this when Maine Scallop landings have been increasing since 2004, and the scallop survey only has 2 data points, the last of which was in 2006 for the Western Part of the State and showed a population increase in some areas, including Blue Hill Harbor.

My experience has been that many things that have been previously tried and failed, sometimes will work in a different time period because the dynamics of the situation have changed. I also want to go on record in stating that if the goal of the Maine Department of Marine Resources is truly to work with the fishermen, than the DMR should have a manager who is excited about the suggestions and public comment and is creatively embracing ways to work through obstacles (funding) instead of instantly creating roadblocks.

Christine Howe continued:

When I originally asked for the documentation from the April Community hearings, I was denied this request by Togue Brawn the scallop manager until I elevated this request to the Marine commissioner.

6/3 I requested documentation from the April Community Hearings from Togue Brawn. I was denied this documentation and told that documentation did not exist.

6/10 I speak with George Lapointe and find out there are notes taken and told that he will have Togue send them to me.

7/2 I receive the handwritten notes from the community meetings. Notes are brief and not organized or dated as to what meeting they came from.

Christine Howe and Dana Black, Orland

Togue Brawn will state to you that the fishermen believe, and I paraphrase her words from her preamble at the June 29th SAC meeting "that she, and the commissioner, and SAC are just a bunch of assholes, that the SAC doesn't represent the industry, and that the scallop population is in good shape." In fact we believe none of these things.

Several times I have heard Togue refer to her "personal notes or beliefs" for us this is not personal, it is a business! It is also a public job and office for Togue, she is an agent of the state of Maine, not a non-profit organization, which means she does not have personal information/notes and we can and will continue to ask for full disclosure. I have already submitted written comment indicating the difficulty she appears to have in releasing public information. For a business to have longevity and staying power it must be sustainable, the added benefit is that Dana truly loves scalloping and cares about the future of the industry and that becomes evident in his communication and the passion I have in my communication supporting him. It has nothing to do with name calling. So let's stick to the facts and avoid the assumptions Togue would place in your minds. We completely disagree with the DMR and Togue's representations about the impact and need for these closures. This is not a personal attack on her or the commissioner, the SAC and their teams, rather it is a disagreement with their decision making process and the information they have supporting it. And although Togue will tell you fishermen never agree, that is also untrue, what several fishermen agree on is that the closures are not a good idea as currently designed and that one set of "rules" doesn't apply to the whole coast which is why we need area management before closures are put into place. It is unfortunate that at the last SAC meeting valuable time was wasted while Togue felt the need to defend herself and the SAC with such statements instead of listening to the merit we and others have in the comments we have made.

We do believe the SAC represent the industry. We also do believe that the commissioner or his appointee has made a potential error in the geographic appointments on the SAC as required under Title 12 6729-B section 1, which states "The commissioner shall ensure geographic representation in making appointments under paragraphs A and B." The commissioner has appointed two divers from Hancock County to the council. These two divers are 50% of the weight of the divers, and 25% of the weight of the eight fishermen on the council. Divers that are license holders in Hancock County are only 27% of the total diver license holders, and represent only 4% of the total commercial license holders in the state. Yet these two divers hold a quarter of the decision making weight of the fishermen on the council. Couple this with the fact that the council draggers are represented by three draggers from Washington County and one from southern Maine, perhaps now it becomes clearer why draggers from Hancock County and the Blue Hill Bay area do not feel their voice is recognized and that the SAC does not represent active fishermen's interests. It has nothing to do with the industry! These two divers both fish Blue Hill Bay and one holds an aquaculture lease in that bay for mussels and has mentioned interest in scallop aquaculture leases for Blue Hill Bay. I have stated before and will state again, we do not feel they represent fishermen in our area. Later today we will submit a petition signed by the majority of scallop license holders on the Blue Hill peninsula- draggers and divers along with area residents and Maine residents who are tied to the scallop industry. It is very concerning to us that Dana Temple made the statement in the last SAC meeting that "petitions signed by license holders should be the only ones they consider" our petition is signed by consumers, residents, sternmen, lobstermen, area business owners, and families. We believe their voices should be heard as well. To allay Mr. Temple's concerns, we didn't go enlist 1000 young college kids to sign it online although that would have been easy enough. But even if we had chosen that path, To quote Dr. Seuss "a person's a person, no matter how small!" This decision to close these areas will have a social and economic impact that extends well beyond the license holders. The commissioner is required to consider this economic impact in his recommendations and we argue that the Maine fishing economy and the small communities that it supports cannot stand another large economic blow at this time. I took this quote from a link off the DMR's website regarding scallop information from the NMFS "The U.S. Atlantic sea scallop fishery is one of the most valuable fisheries in the United States and the most valuable wild scallop fishery in the world." Can Maine really afford to lose this revenue this year?

Finally to address the perception that we believe the scallop population is in excellent health. I can guess Togue drew this deduction from my previous public comment where I quoted the statistical facts from the landings data and scallop survey that show increasing numbers, specifically for Blue Hill Bay. In fact we are VERY concerned about the health of the scallop population; it is evident to Dana and other fishermen that something is killing thin-shelled juvenile scallops before they reach sexual maturity and harvestable size. Yet the DMR will not investigate and does not have a pathologist. We also believe the predator-prey balance could potentially be tipped to one side due to the known influx of rock crabs and the increased lobster population. We also believe the scallop growth rates in certain areas far exceed normal lifecycle patterns year after year and there is something going on, potentially pollution and sewage runoff that is impacting these rates and increasing survival and scallop size. In other areas scallops are not surviving where they traditionally have for years, the seed is there, but then it disappears. Yet the DMR does not have the resources to investigate these concerns and the scallop manager does not appear to be seriously listening to us and looking to find outside funding resources. I would argue that the DMR is not truly concerned with the health of the scallop population because they are not seeking the funding from outside sources to

find answers! Because of this, and because WE CARE we are now working to find outside organizations with esteemed scientists, private funding, and grants to conduct some studies that will begin to understand what is happening in this lifecycle. Because of the known fact that scallop closures in the past (Swan's Island) have resulted in large die-offs with no explanation, to preserve our business we cannot in good faith put blind trust in the "hope" that this "experiment" will work.

Originally, Blue Hill Bay was not on the closure list. According to Togue, a written request was received by a Stonington dragger to close it. We support closing the inner harbor only. We do not support the rest of the closure. Togue has said the "inner harbor closure is too small" It seems the DMR has reversed their position from not including Blue Hill Bay at all to stating that a harbor closure is too small on the advice of the minority. We suggest closing inner Blue Hill Harbor only and adding it to the East Penobscot Closure instead of saying it is a separate closure area. We know including upper Blue Hill Bay as marked will be extremely difficult for the marine patrol to enforce and will lead to poaching by divers and urchin draggers. We also do not support these closures because the areas are not closed to all harvesters which basically enables poaching by urchin draggers/divers and mussel dragger/divers. Togue has taken the Marine Patrol's request for large areas over small areas out of context. The Marine Patrol didn't want 34 small areas to enforce which is understandable because that would spread their resources to thin, however we have gone from 8 to 9 closures with Blue Hill Bay and the practical reality that can not be denied is that the inner harbor can, has, and will be easier to enforce than the upper bay.

Christine Howe, Orland submitted petition with 169 signatures and town

Sign this to : Support LD 932 – Area Management for Maine's Scallop Fishery / oppose DMR's proposal for nine closed areas.

Recently the Maine Department of Marine Resources (DMR) in conjunction with the Scallop Advisory Council (SAC) has created a proposal to close nine areas within state waters to scallop fishing off the coast of Maine for a minimum period of three years. Although we strongly commend the DMR and SAC on their efforts to garner public input and find a solution that meets the needs of all interested parties we do not support the closures. We would like to see a more geographically diverse group of fisherman on the SAC to insure that fishermen's interests are fairly represented. Additionally we would like to see the SAC seats elected and representative of the current license holders (84% draggers, 16% divers). The DMR has primarily used SAC input in making their closure proposal. Blue Hill Peninsula and Stonington fishermen met as a group prior to the April 2009 community meetings and presented their ideas as a group at the community meetings. This group input did not advocate closing upper Blue Hill Bay and extending the Stonington area out to the three mile line as has been proposed by the DMR. Instead the group made several other suggestions, including closing SouthEast in Stonington and Eggmoggin Reach, which the DMR implemented in their proposal. By adding the ninth closure of Blue Hill Bay and extending the Stonington area closure out to the three mile line as proposed, the DMR has made scallop dragging economically unfeasible for many of these fishermen and directly ignored their voice during the community meetings. In speaking with fishermen from Jonesport to Friendship the DMR has taken most of the proposals originally presented by the fishermen and substantially increased the boundary lines and/or modified the areas proposed.

As a group of concerned citizens and fishermen we do support LD 932 "An act to establish area management of Maine's Scallop Fishery." Specifically, we support area management that still maintains a mobile fishery. This act was sponsored by Kevin Raye and presented to the legislature in the last session and has been sent to the Marine Resources Committee. We do not support the DMR's nine proposed closures. We do not support the addition of Blue Hill Bay to the closure list as recommended.

We also propose:

- **No regional closures be put in place until area management is established through LD 932**
- **During the period that closures are in place, some sort of economic stimulus should be provided to the fishermen currently holding scallop licenses.**
- **That the eight seats held by fishermen on the SAC council be representative of the state's current license holders (84% draggers (6 seats) & 16% divers (2 seats)) and that those seats be voted in by the license holders rather than appointed by the scallop manager.**

Background information:

The timing of these closures from an economic standpoint foretells of sheer disaster. Many scallop fishermen use this winter income to supplement the income they get from other fishing ventures. With this income gone, higher fuel costs, this year's rainy weather, widespread clam flat closures, a poor lobster market, and a depressed local economy, it creates a "perfect storm" leading to economic ruin for many of these draggers.

Fishermen are in a unique niche, being self-employed they do not receive unemployment benefits when forced out of work. Additionally, there are significant concerns that in areas where these closures make fishing economically unfeasible, markets will be **permanently** lost. If enough Maine Scallops are kept out of the markets, restaurateurs and dealers may find scallops outside of Maine to be a cheaper and more favorable alternative permanently.

Scallop populations are known to be cyclical in nature across the world, however, what is not known is exactly what causes these cycles. We do agree that any harvest of scallops could expedite the downward cycle, but we should use caution when being led to believe that the harvest of scallops is causing the downward cycle. The DMR is closing areas with the stated reason that it will "work in increasing the population." Once it is determined to "work" it is strongly believed that the DMR will keep these areas closed until the scallops increase to yet undetermined levels, which could be 20 years from now if the scallops follow their normal cyclical pattern. This false success will then be attributed to the success of the closures, when really it was just nature managing itself. The depletion of the scallop resource is being used as the primary justification for closures. The DMR has compared the controversy surrounding these closures and scallop fishery management to the same issues that surrounded the Urchin industry in late 90's when the DMR stepped in and helped the urchin industry out. Unfortunately, the verdict is still out on whether DMR has been successful in managing that fishery. The facts show that the socio-economic controversy may well be similar; however basic scallop biology, the cyclical lifecycle, and scallop harvesting factors are not parallel. DMR's comparison is unfair to say the least. We believe any "overharvest of scallops" occurred more than 10 years ago in the last "scallop boom." Since that period of time, scallop fishermen have responded to the basic laws of supply and demand and their numbers have substantially dwindled. This reduction has been further bolstered by the DMR's ruling in 2008 to make the license holders follow a limited entry system. The harvest of scallops is only one contributing factor in the decline of scallop populations in Maine. These closures will let the DMR know how much of a contributing factor the harvest is at the expense of taking the economic livelihood away (approximately \$1.2 mm dollars in 2007) from over 850 families. This is a very dramatic

experiment at the expense of the fishermen. The other factors are unmeasured. An example of this has been repeatedly elevated to the state biologists regarding thin shelled scallop mortality and parasites. Unfortunately, the state no longer has a pathologist and does not have funding to investigate these concerns.

We have been told we need closures because it worked in the Federal fishery. However, this is not comparing apples to apples. The federal areas are offshore, were completely closed to all harvesters, have different ecosystems, harvested by much larger fishing vessels, and not subject to diving pressure. Recent studies also indicate that the recovery of the federal offshore scallop resource could be assisted by global warming and the change of the Labrador Ocean Current which is now bringing more cold water (nutrient/food rich) farther south. Several of the closures target small harbors and coves, where the impact of being able to seed in larger areas is virtually negated without human intervention. Some of these harbors have surrounding areas where juvenile scallops are not surviving, yet the causes are unknown. Closures themselves are not going to "bring scallops back." The underlying circumstances impacting the life cycle and survival and mortality rates need to be understood so informed decisions can be made. An example of this is the Swan's Island Cable area, which was closed for many years, and now has no scallops and no one knows why.

The closures only close the resource to scallop fishermen. These areas will still remain open to the harvest of mussels and urchins. Unfortunately, depending on the type of the harvesting method, the harvest of other species will substantially impact and in some cases decimate any scallops that are in these areas. Until the DMR can work to create a unified multi-species approach these closures unfairly target the scallop fishermen and will not work to bring the species back if other fishermen are killing scallops as by-catch. It must be noted again that the Federal Closures closed the waters to ALL harvesting. The DMR is looking for a simple uncomplicated fisheries management solution. Natural environments do not have tunnel vision with a singular focus. The only true successful fisheries management we are going to see in this state is going to come from forcing the DMR to look at multiple facets even if that makes things difficult. For example, urchins have decreased, crab and other predators have increased, these predators also impact scallop populations. Fisheries management needs to be a web not a straight line. Understandably, straight lines are easier to enforce and conceptualize from the standpoint of a resource manager; unfortunately this simplified concept often lacks effectiveness. It's an exceptionally large risk to shut down a revenue stream in today's economy with absolutely no guarantee of even a minimal level of effectiveness.

There are a myriad of factors (other than the harvest) that could be influencing the scallop population: changes in food resources (phytoplankton, microzooplankton, and detritus), pollution, disease, reproduction densities, water temperatures, disease/parasites, and predation. With these factors in mind, the point must again be made that **scallop populations are known to be cyclical world-wide**.

In 2000, the DMR created an outline of research priorities related to the scallop industry. The priorities listed in order were:

1. Understanding Near shore oceanography
2. Scallop Life History
3. Gear
4. Enhancement

We have to ask: Is the DMR following the same list of priorities it established in 2000?

As previously mentioned, Maine already has a significantly reduced number of scallop fishermen in the last few years, and scientific data does not exist that can tell us that this trend we are currently in is not part of the natural cycle. We commend the DMR on recognizing the population cycle has decreased, and they have reacted strongly within the last two years. Here is an overview of 2006-2008 changes:

- Changed licenses to owner/operated
- Increased harvestable Shell size
- Limited entry established, no new individuals can enter the fishery
- 200 lb daily quota for draggers
- Draggers -Gear change to 4" rings
- Split season was established (then 2nd season was closed, then reopened)
- 2008- Logbooks required
- Many draggers gave up federal permits in 2008 because Federal/State regulation changes indicated they would not be able to fish in State waters when the federal quota was met. Thus several draggers gave up their federal permits for a short term harvest so they could maintain the ability to fish all winter in State waters.

All of these had an impact, and yet we have not given the resource or industry time to monitor the impact or see what will happen if it begins to recover. Additionally, the closures effectively eliminate many draggers' ability to make sufficient money to operate their business at a loss, let alone support their families. In areas where the DMR has made scallop closures so large it is economically unfeasible for fishermen to go out for the next three years, fishermen are concerned that in 2012 when the limited entry and closures sunset, the DMR will use 2009-2012 landings to prevent entry into the fishery and eliminate more license holders. When this has been elevated, the DMR will not make any statements to the fishermen that this is not the intent. If fishermen knew that landings would not be held against them for future entry/maintenance of licenses than they might be more receptive to these closures.

In areas where large closures have been instituted another concern is the increased fishing pressure on the remaining open areas will be at a level that concentrates and pinpoints the open populations and destroys them, rather than spreading the effort out over several aggregate locations as is currently done by the harvesters.

Scallops have a long life cycle, becoming sexually mature at two years old, and really not reproducing until they reach four years old. They have an average life span of 20 years. Fishermen in several different public venues have mentioned die-offs in the Swan's Island cable area, diseased shells with blisters in other areas, and a change in the amount of pollution impacting our waters (could cleaner waters be naturally reducing scallops' food sources?). The DMR has not conducted any scientific research to investigate these concerns and no longer has a pathologist on staff to test these scallops. Because of all these unanswered questions and this long life cycle we do not think short-term closures in these nine areas are going to be effective, nor do we believe the harvest to be the root cause of the population decline.

The DMR has started regulating without knowing what part of the cycle the population is in or why it is there. There are six years of scallop survey data. **The entire coast has only been surveyed twice. Each location only has two numbers to look at, this**

is not enough historical data to make dire predictions and cost people their livelihood, given the knowledge that the species itself is cyclical in nature. The sample size and trendline is simply too small.

The landings data from 2007 is 595 metric tons, which is roughly the same as the landings from 1955-1957. If we look at historical landings data, we reached our lowest ever landings in 2004 and landings have been steadily **increasing** since that point. The DMR discounts the landings data, yet it is the only historical data that anyone has over the past 40 years. This trend has repeated itself in the landings data over the last five decades, further supporting the known fact that scallop populations are cyclical. Given all these factors and the fact that it is now a limited entry fishery with substantial regulations on gear, shell size, and quotas, there is little chance that the scallops will face the same overharvesting pressures they did when the population soared in the past. Local fishermen know how to manage their own resource best, they also have the vested interest to do it right with an appropriate balance between environmental stability and economic feasibility. This model has been proven effective by the zone management of the lobster fishery in the State of Maine. Scallop fishermen should be afforded the same privilege.

A copy of the signatures for this petition is available to download from:
<http://www.maine.gov/dmr/council/dmradvisory/agenda/2009/sept162009.htm>

Note:

Concerning the comments here not addressed in the general summary:

- All sections of the coast have been surveyed at least three times since 2002.
- The need for these closures is based on far more than survey data, as described in the summary of comments.
- Although landings data was used in part to define the scope of the decline, the Department has stated that the data can be used to show general trends only, as reporting only recently became mandatory. In fact, because reporting was made mandatory in 2008, we would expect to see an increase in landings. The combination of mandatory dealer reporting and mandatory harvester reporting should greatly increase the quality of our data from 2008 onward.
- Concerning apparent lack of interest or support for alternative ideas: when Ms. Brawn explained to Ms. Howe that her commenter's ideas were not being pursued, it was not to dismiss them out of hand. Ms. Brawn attempted to explain to Ms. Howe that these ideas had already been discussed and rejected at numerous SAC meetings that Ms. Howe had not attended.
- Scallop populations exhibit cyclical levels of abundance worldwide. However evidence suggests their declines can be exacerbated and their recovery prevented by fishing pressure. It also shows closures can help speed their recovery.
- As noted in the general summary, despite millions of dollars being spent around the world, no one truly understands why scallops behave the way they do. But the best available science and evidence from around the world suggests these closures will work.
- Since September of 2007, 6 grant proposals have been submitted to state and federal agencies in an attempt to address research and enhancement issues of interest to the scallop fishery.
- Concerning markets, many markets have already been lost due to the severe decline in resource abundance. Many fishermen have opted to sell directly to restaurants in order to make up in value what they've lost in volume. We do not expect the closures to impact this. In fact, the recent interest in sustainable seafood may create new markets for scallops managed in a more responsible manner. It is also worth noting that scallops are delivered in their "final form", so processing machinery and associated infrastructure is not an issue as it is in other fisheries.
- The paraphrased quote is not entirely accurate: the point of her preamble was to note that although some individuals would disparage the SAC and the Department no matter what they decided to recommend, others would appreciate what they did.
- Concerning notes for the community meetings: the purpose of the meetings was to have fishermen make suggestions concerning closures that would then be placed on charts. The products of the meetings were the charts themselves and the discussions that went on between industry, the SAC, and the Department. No formal notes were taken. Ms. Brawn made a few personal observations for her own benefit which were not intended for public release. When Ms. Howe requested notes of the meetings, Ms. Brawn informed her that formal notes were not taken. When Ms. Howe asked the Commissioner for notes, he asked Ms. Brawn to send the personal notes she took during the meetings to Ms. Howe, which she did. The fact that they were not dated or organized is a reflection of their purpose: as memory-joggers and interesting observations of personal note that occurred over a two-week period.

Mike Hutchings, Lincolnville

I would like to see a season that went from Dec. to April but if we have to have 70 day season the dates proposed by D.M.R. are fine. Certain days per week in the winter are putting people in harms way need to fish when the weather is good. The lines proposed D.M.R. are fine, but I do not know if they will do any good, maybe worth a try. Other things that I would to see done: Should not be allowed to drag or dive for scallops when you are dragging or diving for urchins. The reason if you are getting urchins and there not that many scallops you should leave them alone it would not be worth it to take scallops if you were not there to get urchins to go out to get 10 pounds of scallops would not be worth the trip. Next subject recreational scallop divers and com scallop divers should not be allowed on same boat taking scallops, whose scallops are whose is a enforcement problem for M.P.O. One commercial diver on boat and bunch of your friends and you're good to go. Next subject boats of 50 feet or more should not be allowed to fish for scallops in state waters should be a small boat fishery. Big boats big gear weather is not a problem should be a fishery for lobster boats in the off season take the pressure off lobster something else to do. Next subject areas that are closed to scallops should be closed to urchin dragging and urchin diving if you get urchins and scallops in open area then go urchin dragging or diving in closed area who knows where the scallops came from? Enforcement problem for M.P.O. but if you can not take scallops and urchins at same time that would solve that problem also. Thanks

James Ackley, Machias submitted a Petition with 117 signatures and addresses

Proposed season for the 2009-2010 scallop season:

Tuesday thru Friday starting December 1, 2009 thru March 31, 2010. No weekends. Only exception is on the weeks of Christmas and New Year's, scalloping will be on Monday thru Thursday.

A copy of the signatures for this petition is available to download from:

<http://www.maine.gov/dmr/council/dmradvisory/agenda/2009/sept162009.htm>

Dana Temple, Chair, Scallop Advisory Council

Scallop Advisory Council Recommendation regarding the season configuration and the proposed closed areas

Please accept the following as the recommendation of the Scallop advisory Council regarding the proposed scallop season configuration and closed areas.

The Scallop Advisory Council has been working with the DMR and industry representatives for the last two years in an effort to construct a management plan which will bring about a recovery of the scallop fishery in the State of Maine. For as many council members and fishermen as there are, there seem to be as many ideas about how the fishery should be managed. Those opinions have ranged from no action at all to a complete closure of the fishery. At the SAC meeting on July 31, 2009, a consensus was reached by the council members present. This consensus can only be described as a compromise by all those present on the council. We listened to comments from the attending public, read petitions submitted at the meeting, reviewed comment submitted by SAC members who could not attend, and discussed our own views and those of others. No one group controlled the eventual outcome. The topics of overall season length, weekend vs weekday, recreational harvesting, marketing during the holidays and gear conflict were all discussed. The following is what we propose:

Season configuration:

Season start date: December 15, 2009

Work week: Tuesday through Saturday excluding the two Friday holidays of Christmas and New Years Day

Season end date: March 24, 2010 This allows for a 70 day season

Closed areas:

Clarification was made to the Western Penobscot Bay Closure area. The SAC also approved a reduction in the size of the Stonington Area closure.

Togue Brawn has a map of the areas as modified and approved by the council.

The SAC supports this recommendation and urges the DMR to consider this proposal as a carefully constructed compromise to all of the many concerns presented.

Andy Mays, Southwest Harbor, SAC member

The members of the Scallop Advisory Council, present at the July 29th, 2009 meeting in Ellsworth, submit the following recommendations to be placed in the public comment record concerning the 2009-2010 Scallop season.

After much discussion and testimony, the majority of SAC members agreed to a compromise of Tuesday through Saturday fishing with Christmas and New Years Days off, beginning on December 15 and ending on March 24 for a total of 70 fishing days.

All members present supported the minor changes to the closed areas outlined below, which are also colored with green marker on the charts currently held by Togue Brawn. We strongly believe those changes are in the best interests of the harvesters and managers working to restore the health of the scallop resource and sincerely request that they be adopted in the final version adopted by the DMR.

Proposed Comment:

At our July 29 meeting, we did not have a full quorum, and could therefore not come up with an official SAC recommendation. However, the following closure changes were recommended by all 6 members present:

Western Penobscot Closure:

Amend the Muscongus Bay portion of the closure to the 43 55' line to Mosquito Island, then keep the same language from there eastward.

Eastern Penobscot Closure:

We recommend splitting this into two closures to open up an area in Jericho Bay/off Isle au Haut for fishing.

For the northern closure, keep the Reach western boundary language, but for the eastern boundary, go from Naskeag Point to Stinson Neck, then from Stinson Neck to Coles Point.

For the southern closure:

From the Southernmost point of Little Spoon Island to Black Horse, due south to the 3 mile line. From the northernmost tip of Little Spoon Island to the Easternmost Point of Marshall Island. Then from the most western point of Marshall Island to the Northern Tip of Heron Island, then southeast to the RW "BC" Whistle Buoy, then due south to the 3-mile line.

For the Chandler Bay/Englishman's Bay component of the Jonesport/Machias closure:

Strike "North of a line starting at Loon Point, Jonesport and replace with "North of a line starting at the Chandler Bay Cable Area".