



Atlantic Surfclam and Ocean Quahog Excessive Shares Amendment
Draft Public Hearing Summaries (four meetings)
August – September 2019

Thursday, August 1, 2019: Cape May, New Jersey

Hearing Officer: Peter Hughes

MAFMC Staff: José Montañez, Jessica Coakley

Attendees (13): Tom Alspach, Guy Simmons, Jamie Sanyer, Martin Truex (Sea Watch International), Barry Cohen (Atlantic Capes Fisheries), Chris Shriver (Galilean Seafoods, Inc.), Tom Dameron (Surfside Seafoods), Peter Himchak, Michael LaVecchia (LaMonica Fine Foods), David Wallace (Wallace and Associates), Joe Cimino (NJ DEP/Council member), Joshua O'Connor (NMFS), and John Kelliher.

Peter Hughes read the meeting statement to open the meeting. José Montañez gave a presentation on the contents of the amendment. Questions and comments were taken.

Tom Alspach, Sea Watch International

- The status quo alternative is not fairly represented in the document. The current system has worked for 29 years and now, GARFO is requiring a quantifiable excessive shares cap. This is not required by the MSA.
- Sea Watch International is willing to compromise to achieve the results everyone can live with.
- We do not support alternatives 5 and 6 because these are not excessive shares proposals. These alternatives would reduce quota to a value that is based on recent years landings (i.e., 30 to 35% reduction in quota). As an example, take an entity that owns/holds 20% of the entire surfclam allocation, that would result in about 680,000 bu (assuming current quota of 3.4 million bu), but under alternatives 5 and 6, that value would be reduced to 440,000 bu of Quota A shares (20% of 2.2 million bu). So, this entity would have to lease 240,000 bu to maintain the same level of production they currently have [before the Quota B shares are released]. The leasing rate used to be \$6/bu, now it is \$2-\$3/bu. This additional cost will be passed to the consumer. The purpose of alternatives 5 and 6 is not to protect against excessive shares, but to align supply and demand, which amounts to social engineering. It creates a market for “non-participating owners.” Instead of selling the ITQs, they held on to them with the intent of leasing them or passing them on to their children. Many of them have nothing to do with the industry. To do this, it arbitrarily reduces the ITQ for those that paid dearly, and requires them to pay again to lease from the non-IT Q owners. This is done only as a mechanism to create an ITQ market for those who don’t participate in the market [fishery]. These owners don’t attend meetings or participate in the industry or participate in the fishery. Most of them are hoping we create a windfall for them.

- The SSC comments found in the SSC report dated 17 May 2019 are wrong [Comments on the SCOQ Excessive Shares Amendment presented to Council in June 2019].
- A reasonable compromise alternative would be sub-alternative 4.3 with a slight modification.¹ We suggest the following modifications to the values in sub-alternative 4.3:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- With this new plan in place and the fact that the antitrust laws will not go away, if people engage in anticompetitive behavior, the antitrust laws would address any anticompetitive behavior.

Guy Simmons, Sea Watch International

- As a result of the implementation of Amendment 8 in 1990, the fishery has experienced a lot of consolidation. Consolidation was one of the FMP objectives.
- This is a highly capitalized business on both land and sea. The industry has made large investments in infrastructure. These investments are the only reason the fishery remains today. These businesses produce jobs, taxes, and support traditional coastal communities.
- Alternatives 5 and 6 are not designed to address excessive shares but rather as a mechanism for reallocation.
- Understanding that the Council has the task of deciding on an excessive shares cap, we propose a modification to sub-alternative 4.3, which would allow for the industry to innovate and grow and create a robust leasing market for ITQs.
- We suggest the following modifications to the values in sub-alternative 4.3:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- For the following alternatives, we also support:
 - Excessive Shares Review (Box ES-2) – Alternative 1, No Action
 - Framework Adjustment Process (Box ES-3) – Alternative 1, No Action
 - Multi-year Management Measures (Box ES-4) – Alternative 2, Specifications to be set for maximum number of years consistent with the Northeast Regional Coordinating Council (NRCC)-approved stock assessment schedule
- Alternatives 5 and 6 could have devastating ramifications to Sea Watch International and the whole industry.
- I also support comments made by Tom Alspach regarding the SSC, as well as other comments made him.

Chris Shriver, Galilean Seafoods, Inc.

- Represents a hauling manufacture, sales, and marketing.
- Concern about some of the alternatives in the document. Particularly, alternatives 5 and 6. These two alternatives imply that the participants do not catch the quota and do not lease from others [non-participants]. We are competing with imports, and these two alternatives do not allow industry to use all the quota. Splitting the quota (Quota

¹ Sub-alternative 4.3, as stated in the public hearing document includes:

- Two-Part Cap Approach – A cap on quota share ownership and a cap on combined quota share ownership plus leasing of annual allocation (cage tags).
- The ownership quota share cap would be 30% and the combined cap (quota share ownership plus leasing of annual allocation or cage tags) would be 60%.

A and Quota B shares) is nothing but social engineering that supports a small number of quota holders. These alternatives would diminish the ability to grow.

- We suggest the following modifications to the values in sub-alternative 4.3:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- Thank you for the opportunity to comment.

Michael LaVecchia, LaMonica Fine Foods

- We do not use all of the quota we have because of market demand. If we could, we would land every clam we need to fill all of our ITQ. Our fixed cost drops with every additional clam we catch. In fact, there is clam quota we lease that we do not use and we throw tags out at the end of the year.
- Sub-alternative 4.3, with some slight modifications, is something that we could work with, without overwhelming each other.
- We suggest the following modifications to the values in sub-alternative 4.3:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- We think this would be fair and equitable and give a good definition and basis around excessive shares.
- Staff asked if the difference between the surfclam and ocean quahog values was due to the number of ocean quahog processing plants.
 - Response: Yes, only 2 ocean quahog processing plans operating now.

Barry Cohen, Atlantic Capes Fisheries

- The clam fishery is an extremely dangerous industry. People are not only seeking to make a profit but also undertaking substantial risk. Both in treasure and risk to life.
- We are profoundly impacted by habitat up in RI [Great South Channel Habitat Management Area], but if we are not catching what we want, it is because the major source of our surfclams has been removed by habitat closures.
- We are in a business that is highly capitalized, has a whole lot of risk, and is underproducing because we can't catch what we need to catch.
- Under alternatives 5 and 6, we would need to lease more shares from non-participants that do not have capital invested in the industry and are not taking any risks.
- Industry has shrunk, not because it is successful, but because there is so much foreign competition. Alternatives 5 and 6 will create additional stress in this industry.
- There has not been a concerted study of why these ITQ holders [non-participants] are not participating in the fishery.
- We can live with sub-alternative 4.3 with some modifications, at the same levels previously indicated earlier by other individuals.

Peter Himchak, LaMonica Fine Foods

- Not going to differ with the comments provided by Michael LaVecchia.
- In addition, support the additional following alternatives:
 - Excessive Shares Review (Box ES-2) – Alternative 1, No Action
 - Framework Adjustment Process (Box ES-3) – Alternative 1, No Action
 - Multi-year Management Measures (Box ES-4) – Alternative 2, Specifications to be set for maximum number of years consistent with the Northeast Regional Coordinating Council (NRCC)-approved stock assessment schedule

- I want to provide a different perspective on how I view this amendment. In 40 years in state marine fisheries, I was involved in quota-based systems for fisheries, gears, capping licenses, etc., and all of these were based on limited entry and there were winners and losers. The upshot of this was that they did get a piece of the fishery and were defined as small business. Now what they did with their permits and practices, was their problem so we would never reconsider eligibility. You don't reshuffle the cards. Alternatives 5 and 6 redo the system and provide non-participants with an advantage, if these non-participants are deprived it's their own fault. So why should the current participants have to pay for the non-participants. Alternatives 5 and 6 need to go.

John Kelliher, Surfside Industries

- Alternatives 5 and 6 would kill our business. We lease a great deal of clams.
- I agree with the comments provided by others.

David Wallace, Wallace and Associates

- As an industry, we vehemently oppose changing the goals of objectives of the plan. When these new goals and objectives were being developed, we unanimously objected to them as an industry throughout the process.
- The new objectives have all kinds of new ideas that could be pursued as a joint venture with the NEFMC. The NEFMC put the small boats in the fishery out of business to protect buried rocks. The ideas that we are going to snuggle up with NEFMC is preposterous.
- All of these alternatives [in the public hearing documents] are social engineering. The impacts of these alternatives are wrong, they should be reversed. The management system that we have is the best, it is extremely flexible, and does not allow the Council and NMFS to come in with all kinds of silly ideas and micromanage this fishery.
- Gorton's of Gloucester, Mid-Atlantic Foods, Doxy, American Original – are all example of large unprofitable companies with shareholders that demanded high margins, so they left the industry in recent years. And Eastern Shore Seafood, which lost lots of money finally found someone to buy them out and left the industry with huge losses.
- The Council now is talking about getting back to micromanaging this industry. We remember when the government tried to micromanage the fishery and it was a disaster.
- There is not a monopoly problem in the fisheries, but is a surplus and a good time to get into the fishery, all you have to do is figure out how to sell clams.
- More management structure from the federal government that has no clue of how this industry works is not the answer, and when one thing gets out of kilter, everything gets out of kilter.
- Alternatives 5 and 6 have a fatal flaw. There are a couple of allocation holders that currently will not lease out their allocations. This is due to negative feelings towards everyone in the business. If it was up to them, they would find a way to mess up this industry and make the catch go down. If the catch goes down, then you have a death spiral as Quota A shares are based on recent landings. Some people don't understand this and think this is just a fairy tale. This could substantially increase production cost and we cannot pass that along to the large buyers. A few years back we tried to raise the prices and the large buyers said that they would emphasize clams and use clams

from other countries (like clearwater from Canada that has a monopoly) to drive the price down [and hurt the industry]. We will not be in business if the NMFS and the Council decide they know best and micromanage the fishery. These poor people [non-participant ITQ holders] make millions and haven't missed a meal because of this.

- In the affiliate categories, including the corporate officers, you have indicated that all the data aren't even there all. If we don't have good data, we can't base this on what we have is false.
- The review alternatives in the document [Excessive Shares Review and Framework Adjustment Process] are not desirable either as these review would come from the FMAT. The FMAT is a closed society, including you [Council staff] and NMFS and others. In the past, we wrote management plans, currently we did not write a word in this document.

Wednesday, August 7, 2019: Webinar

Hearing Officer: Stewart Michels

MAFMC Staff: José Montañez, Jessica Coakley

Attendees (7): Tom Alspach, Guy Simmons (Sea Watch International), Peter Himchak (LaMonica Fine Foods), Sam Martin (Atlantic Capes Fisheries, Galilean Seafoods, Inc.), Dave Wallace, Tom Hoff (Wallace and Associates), Ann M.

Stewart Michels read the meeting statement to open the meeting. José Montañez gave a presentation on the contents of the amendment. Questions and comments were taken.

David Wallace, Wallace and Associates

- As I said in Cape May, I do not believe the goals and objectives needs to be changed. They have been effective for 30 years. The industry has been managed well under those goals and objectives.
- Regarding objective 2.2 “Objective 2.2: Promote coordination with the New England Fishery Management Council” under objective 2 “Maintain a simple and efficient management regime;” we do not think that the NEFMC should be a partner of the MAFMC. The NEFMC shut down the small clam fishery in Nantucket Shoals because they wanted to protect buried rocks. The MAFMC was not supportive of our request to keep the area open to clam dredges. We are disappointed that the MAFMC did not put its foot down and help the clam industry. No one at the MAFMC was willing to help the industry. They [NEFMC] needed to have a substitute for not closing areas for scallopers – there were only clams on Nantucket Shoals so they chose to stick it to the clam industry. So, to include the NEFMC as a partner is not a good idea – with friends like these who needs enemies.
- All the key companies, as requested, have come up with an excessive shares alternative that we support. Which is not alternatives 5 and 6. We support sub-alternative 4.3 with the following modifications:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- Everyone at the Cape May public hearing meeting indicated that they supported sub-alternative 4.3 with these modifications and we think that this is fair and reasonable. It meets the Compass Lexecon suggestion of a two-part cap. It also meets the 40/40/20 requirements. The industry does not advocate any of the other excessive shares cap alternatives or sub-alternatives.

Tom Hoff, Wallace and Associates

- From what I understand, the industry is fully united and supports sub-alternative 4.3 with the following modifications:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- As you know, I was the Council staff 15 years ago when the excessive shares issue started, and the only things the industry was united on was the no action as this was adequately covered under antitrust laws. The fact that the industry is united supporting sub-alternative 4.3 as stated above is a once in 15 year opportunity. The Council should seriously consider this sub-alternative.
- The goals and objectives were developed 30 years ago – the Council and government have been operating effectively under those for many years. I caution the staff and the Council not to change a word – there could be potential misinterpretation.
- Regarding Framework Adjustment Process (Box ES-3) – I support Alternative 1, No Action. In no way should this be frameworkable – this took 15 years of a drawn out battle. To think 2 meetings would be adequate to make changes is not advisable. We should go through the full FMP process [Amendment] to make any changes.

Sam Martin, Atlantic Capes Fisheries

- Represent 6 vessels and Atlantic Capes Fisheries.
- We are involved in complex fisheries and complex marketing. We need flexibility and the ability to consolidate, to create the synergy that we may need within our business operations.
- Agree with the recommendations made by industry regarding sub-alternative 4.3 with the proposed adjustments.
- Alternatives 5 and 6 seem to be designed around the quota holders that don't have lessors to rent to. Furthermore, there are some quota holders that are used to leasing 100% of their quota out – under alternatives 5 and 6, they will not be able to lease 100% of their quota out if the market does not allow the industry to catch over the A shares [if B Quota shares are not released]. These alternative would have grave impacts from a market perspective and a leasing perspective. This is social engineering, so a few leaseholders, that are large leaseholders, can use their quota. This will appease the few to the detriment of the many.

Peter Himchak, LaMonica Fine Foods and Associates

- I am repeating the comments from the Cape May meeting for Stew to ponder, as a state agency representative on the Council.
- I support the alternatives proposed by industry.
- I was with the NJ marine fisheries for 39 years. We put in limited entry systems/programs for many fisheries and gear types. Everyone got a “piece of the action” as the SSC referred to. They were defined as small business owners, but at no time did a state agency revisit any limited entry program to advantage or disadvantage any aspects of those limited access programs. Alternatives 5 and 6 try to address the systematic disadvantage of non-participating quota holders; but you got a “piece of the action,” so deal with it with your business skills.

Guy Simmons, Sea Watch International

- I would like to accentuate some of my comments that were made at the Cape May meeting that active participants, that own ITQ, actually harvest clams, market clam products, and contribute to the cooperative science and to draw contrast to the absentee owners that do none of these. Active participants support jobs, payroll, taxes, and maintain investments and infrastructure.
- We support sub-alternative 4.3 with the following minimal changes:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- As it relates to alternatives 5 and 6, and I know we are harping on those, but I can't help but think that the people who consider these are not fully aware of the impact that lease costs can have to a finished product. These alternatives will result in prices being raised on the consumer. The lack of advertising has dramatically reduced the price of our products. The price increase allows for low quality, lower priced imports.
- Millions of dollars of clams are imported into the US each year. When demand goes down, the need for employment goes down. I'd like to draw contrast between Sea Watch International and absentee owners. Sea Watch International and TMT clam companies employ hundreds of people (896 during peak production season and can fluctuate as much as 30%).
- Alternatives 5 and 6 reduces everyone's quota including the "absentee participants" and force harvesters and processors to lease quota before all of their quota is used. This would raise price to producers and consequently to consumers. When domestic prices get too high, the cheaper imports have the opportunity to gain market share in the US. In 2018, \$79 million worth of clams were imported into the US. This could result in a reduction in employment. At the risk of being redundant, I would like to restate our support of the following measures.
- Sea Watch International would support Sub Alternative 4.3 with a slight modification.
 - Surfclams
 - Two-part cap with an ownership cap of 35% and the combined cap (quota share ownership plus leasing of annual allocation or cage tags) at 65%.
 - Ocean Quahogs
 - Two-part cap with an ownership cap of 40% and the combined cap (quota share ownership plus leasing of annual allocation or cage tags) at 70%. Sea Watch would support the following.
- Sea Watch International would also support:
 - Excessive Shares Review (Box ES-2) – Alternative 1, No Action
 - Framework Adjustment Process (Box ES-3) – Alternative 1, No Action
 - Multi-year Management Measures (Box ES-4) – Alternative 2, Specifications to be set for maximum number of years consistent with the Northeast Regional Coordinating Council (NRCC)-approved stock assessment schedule
- Thank you for the opportunity to provide comments. My comments will be provided in written form as well.

Tom Alspach, Sea Watch International

- I gave some extensive comments at the public hearing last week. So, I am not going to repeat those again. Maybe Stew is sorry he did not get to hear them, maybe he is not. But they are on the record. I will not go thru them again.

- But I do want to emphasize a few things, and ask for some clarity on a number of points. If not tonight, perhaps as we move along the process. In the discussion of the percentage of leasing that should be allowed – nowhere in this report is the issue made between short-term leasing (i.e., less than a year) versus long-term leasing (i.e., more than a year). The Compass Lexecon report indicated that long-term leases could let someone exercise market power. But a short-term lease did not give you enough time to affect the market. So, whatever you come with at the end in terms of a proposed rule, it should exempt short-term leases.
- I made my comments already in support of sub-alternative 4.3 with some modifications.
- I also provided comments regarding alternatives 5 and 6 and their potential devastating impact on the industry if implemented. So, I want to expand on my comments about alternative 5 and 6. One of the things that has troubled me in the public hearing draft is in the effort that has been made to make them sound appealing. One thing is when the ITQ amount is based on the average landings for the previous years and not the ITQ quota. This would force us to lease more ITQ from other non-participants; simply, in order for us to maintain the same level of production that we have been maintaining in the past. And one of the repeated rationales for doing this is that alternatives 5 and 6 address the exercise of market power through capping ownership levels for surfclams and ocean quahogs but also align supply in the fisheries with market demand, and this may result in more activity in the in the leasing market. This is repeated over and over again. This doesn't make any sense, the supply in the industry is already aligned with market demand. We are supplied with the amount of clams we need to support the market; that is the amount of clams demanded by the market. Fortunately, we have enough resource to meet that demand. The number of ITQs that are used is what the market is demanding. It is already aligned.
- This is a phony rationale for alternative 5 and 6 and it doesn't make any sense. It is held out as a benefit. What this does is create a market for those who don't currently have a market, so they have as the SSC put it “a piece of the action”. What it appears, while not kindly admitted, is to create a market for lessors that currently do not have a market for their ITQs by reducing the market of ITQs held by active participants.
- This notion that these non-participants are unable to lease their shares is untrue. Our company could not meet the demand it needed (both surfclams and ocean quahogs) with just what ITQs the company controls. We have had to lease surfclam ITQ (200,000 to 300,000 surfclam bu per year) for many years from those who do nothing (non-participants) – so the idea that the active are not leasing from the non-participants is untrue. We also had to lease for years about 700,000+ bu of ocean quahogs in order to supply our customer's needs.
- It is a shame that the SSC claimed that this is going on and put this information in their documents.
- If for argument sake, which by the way is not true, you claim that there is monopsony power exerted by ITQ holders (participants), by limiting the shares of, now you are forcing them to lease from non-participants (to maintain recent production levels) you are now transferring monopsony power to them. What are you doing to protect us (participants) from these non-participants that will gouge us and charge prices that are too high?
- We will be forced to stop producing because it is not affordable. Or, lease and try to pass the cost to the consumers who will resist the high prices. We have been down this road in the early 2000s, and we were not able to pass [costs] along to the

consumers for the high lease prices that we have paid in the past. This is not discussed in the document.

- Another thing that has been described in previous opportunities as a detriment, an antisocial benefit, is that these guys that we are leasing from are all multi-millionaires which could get back into the industry if they wanted to but it is much easier to sit on the couch and get a check and not have to do anything.
- The sad part is that those of us in the industry have been contributing with money to new science, participating in the surveys and stock assessments, participating with the New England Council in the habitat discussions. More recently we have been putting money into trying to control where these wind farms will go. We spent millions of dollars to get Georges bank open to relieve fishing pressure from the mid-Atlantic area. We have done all of these through our own dollars. These non-participating ITQ owners have not paid a penny to any of that work effort; nor they have any intention to do that ever. So, under alternatives 5 and 6 you will take money away from us because you will reduce our ITQ which is going to reduce the funds that we have available to put into these scientific programs and projects that benefit everyone. So, the science money will go to paying the man on the couch to lease ITQs. Those kinds of social detriments of 5 and 6 are not found in the public hearing documents. And these are among the many reasons alternatives 5 and 6 should be rejected.
- I will be submitting comments in writing as well. I feel very strongly about the comments I just made and hope that the Council considers them when they are forced to make decisions about alternatives 5 and 6.
- Staff made two comments to address some of the statements made by Mr. Alspach. First, when the data collection protocol was being developed, one of the data elements that were proposed to be collected was detailed information on long-term leasing arrangements (e.g., how long were the leasing arrangements for). And at those early meetings, industry members indicated that they would not provide this data as it was confidential/proprietary. So, we can only work with the information that we have. The second issue under alternatives 5 and 6 is that the FMAT did a good job describing the positive and negative benefits of alternatives 5 and 6. In fact, we added information about potential negative impacts that the industry had identified and provided during the June Council meeting.
- Mr. Alspach commented that the FMAT added information about the potential negative impacts of alternatives 5 and 6 in the document, and that he was just trying to add substantive information about impacts that may have not been considered yet.

Sam Martin, Galilean Seafoods, Inc.

- I just thought about an additional comment regarding alternative 5 and 6.
- I represent a company that has about 125 employees as a major contributor in Bristol RI.
- Our quota and what we use to harvest clams is almost 100% owned – we only lease a small percent (less than 10%). If alternative 5 or 6 are implemented we could have a reduction in quota of up to 30%. Because the ITQ quota could be reduced by 30% (Quota A shares), then the ITQ quota for all would be reduced (ITQ participants and non-participants). As such, since non-participant ITQ holders have already made leasing arrangements (ITQ leases are spoken for), when our company hits the level of production that we are accustomed (say mid-July), our company would not be able to lease additional quota as long as all Quota A shares are not completely used or exhausted. Our company may have no quota to lease, and quite frankly could close

our doors for three-four months at a time, which would drive us out of business. The impacts of alternatives 5 and 6 have not been fully vetted with each company in mind.

- We have not identified how many bushels don't get leased each year – therefore, you can't really put an economic analysis on what will happen if alternatives 5 and 6 are implemented.
- When the quota is reduced when A shares are released, the whole quota will go down, and the leasing of ITQ shares will be up for grabs. Those who aren't used to leasing in this market will lose out, and have to shut our doors, and put 125 people out of work.

Monday, September 9, 2019: Salisbury, MD

Hearing Officer: Sonny Gwin

MAFMC Staff: José Montañez, Jessica Coakley

Attendees (12): Jeff Pike (Bumble Bee Seafoods), Guy Simmons, Jerry Gordon, Bob Brennan, Joe Mayers (Sea Watch International), John Martin (Martin Fish Company), Phil Twilley (City of South Port Inc), Sam Martin (Atlantic Capes Inc), David Frulla (Kelly Drye & Wareen LLP), Mike Garvilla (My Holding), Dave Wallace (Wallace and Associates), Steve Martin (Woodrow Laurence Inc).

Sonny Gwin read the meeting statement to open the meeting. José Montañez gave a presentation on the contents of the amendment. Questions and comments were taken.

- Sam Martin (Atlantic Capes Inc), I have a question about alternative 5, regarding Quota A and B shares. What does it mean that this would start in year 4 [Box 5.1.5 of the public hearing document]? Staff response: you would be taking the 3 prior years to come up with the average, for Quota A shares. So, if you were to implement this system in 2020 for example, you would need to use landings from 2017, 2018, and 2019 to come up with the Quota A share value for 2020. It doesn't have to be the average landings for the last 3 years. It could be the 3 year average of the highest values of the last 5 years, or other approaches approved by the Council.
- Jeff Pike (Bumble Bee Seafoods), I have a question. In that example, what percentage of the Quota A shares are not used, are not active participants right now? Because we need to use all Quota A shares before B shares are released. Staff response: we don't have Quota A shares implemented now. Now what we have is the breakdown of shares that are transferred, the number of cage tags that were unused, etc. But it may not all be in one table. These are the numbers we gave to the Council meeting in June.
- Sam Martin, follow-up question: In order to assess the efficacy of alternatives 5 and 6, which would increase the ability of those which have not been able to lease, what percentage of the overall quota is that? That has been unleaseable? Which means, people that are receiving the quota and they cannot lease it (i.e., what percentage of the quota is unleaseable?). There are companies that lease quota that do not use all and some of these leased tags are discarded at the end of the year. So, what is the true additional activity in the leasing market that would occur as a result of alternatives 5 and 6? This is a big question. The values that we have are on page 108-109, it breaks down some of this but it does track it at the individual level. At least it gets to the number of allocation holders using their tags, of those allocation holders using their tags, 64% of surfclams and 59% of ocean quahogs tags were used. So, this says that you either owned or transferred tags to your entity and of those 64%/59% were used.

But it does not break it down by own/leasing independently. To do that APSD would have to track every individual tag record to get that number. The main objective of alternatives 5 and 6 are to set excessive cap values for these fisheries and not to increase activity in the leasing market. We are talking specifically about leasing, but what we actually have in terms of our data for tracking is transfers. So, in some cases, folks have indicated when they do their transfers if they are a short-term lease or a long-term lease. But most of that information is not provided on the forms. So, we do not know what those lease values are. For example, we can clearly see when a banking institution receives tags at the beginning of the year (that is holding tags as a collateral) and those are transferred to the “allocation owner” but a lot of those transfers that occur throughout the year are likely to be impossible to disentangle from transfers that occur between affiliate business and LLCs, because there are holding companies that hold allocations under vessels, separate holding companies or entities or other affiliated businesses/entities, so we know that there are a lot of transfers that occur within a company, and within the data we can see when you move tags from X to Y, but there is no way to disentangle all details when transferring/leasing. Sam Martin, I agree with you that you have done all you can with the data you have and you cannot get an answer to the question I have because the data is not there, but this is still a very important question, because this is a large driver of what alternatives 5 and 6 are trying to do for a minority percentage of the industry, while adversely impacting the majority of the industry.

John Martin, Martin Fish Company

- I manage a fish company that offloads products and has dealt with clams and quahogs over the years. We recommend giving the largest percentage possible as it will give maximum flexibility. We oppose alternatives 5 and 6. We recommend sub-alternative 4.3 – as written in the document [with no modifications].

David Wallace, Wallace and Associates

- At the Cape May meeting, every major company was represented there. They all agreed to 4.3 as modified for surfclam and ocean quahogs:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- These recommended values are in compliance with the Compass Lexecon and the CIE report.
- We could recommend the no action/status quo alternative, or 95% (sub-alternative 2.3) or the highest number in the CIE report which was 83%. However, all the companies actually stepped up and recommended the values as modified so that is what we are proposing. Other groups may have a different view, and we will hear from some of them. But the 4 clam companies that I represent collectively are determined to make a compromise.
- All the framework adjustments are not needed – we can manage the industry ourselves and want to tell the clam industry how to run. We are flexible and can manage ourselves.
- We strongly support the current goals and objectives – the current ones have served us well for 30 years and will continue to serve us well.
- Ownership cap should be based on the individuals and families, and should be based on the actual percentage [not cumulative 100% model]. Not interested in playing Russian roulette since they don't have the data.

- We have a whole bunch of issues with 2 public hearing documents – it should be called a social economic document and you will be hearing a lot more about this. There were a lot of individuals who used a lot of capital and bought quota. The others got the quota for free, but those still in the business had to go buy or lease quota. You are going to make them pay for this twice.
- Staff asked if the recommendation was alternative 4.3 with minor modifications? Response was Yes. Staff asked if the recommended affiliation level was “Family Level?” Response was Yes. Staff also indicated that there is data to assess the cumulative 100% model.

Joe Myers, Sea Watch International

- My name is Joseph Myers. I am the director for Marine Innovation and Technology for Sea Watch International. The comments I am making tonight are supplemental to the written comments that will be submitted - more detail will be provided in the written comments.
- Key points, alternative 5 and 6 go beyond what is stated to be required by the Council. These go beyond the stated core purpose and are considered solely for economic purpose. These measures are in violation of National Standard (NS) 5. The economic conditions that alternatives 5 and 6 are attempting to address are at best hypothetical and are based on theoretical and purposes that are incorrect. My interpretation of the consensus reached is that clams are indeed price elastic and that these are met by greater substitutes in terms of imports that have been mentioned. They are competing with other indirect proteins. With increasing substitution, these tend to become more price elastic over time. Demand will decay with greater elasticity over time, and given any limit has a long-term impact. Therefore, attempts to increase prices on the side of suppliers are met in the marketplace with a greater decrease in demand. This is due to the greater availability of substitutes, including other marine and terrestrial protein sources that can be used as a substitute for clams. Alternative 5 and 6 include those who chose not to be active in the fishery, and would impact those who have remain engaged in the fishery and chose to engage in fishing, market development, and support research, etc. The investments that have been made by active participants are substantial. Non-participants have not invested in the fishery and yet these alternatives would benefit non-participants and hurt active participants.
- Alternatives 5 and 6 are not only novel to the US fisheries management, but they also introduce a large amount of uncertainty which could hurt active participants. These alternatives are a natural experiment and not needed as the fishery is well-managed.
- The SCOQ landings value has economic multipliers that are higher than in typical of most fisheries. The SCOQ fisheries are well-managed based on core biological and management fundamentals of fishery management. Relative to the other fisheries that have ITQ systems in the country, none have this system that provides numerous upstream and downstream businesses that interact with our sector both directly and indirectly. Those businesses would also be negatively impacted under alternatives 5 and 6.
- In summary, it is clear from my comments that we do not support alternatives 5 or 6.
- An alternative that Sea Watch can support is sub-alternative 4.3, with slight modifications:
 - Surfclams
 - Two-part cap with an ownership cap of 35% and the combined cap at 65%.

- Ocean Quahogs
 - Two-part cap with an ownership cap of 40% and the combined cap at 70%.
- Sub-alternative 4.3 (with recommended modifications) would allow the SCOQ FMP to be in compliance with NS4 without creating following non-compliance issues with NS5. And allows management to proceed with the best available science.

David Frulla, Kelly Drye & Wareen LLP

- I represent Surfside, Atlantic Capes, LaMonica Fine Foods, and Sea Watch International.
- Will be submitting written comments. Noting the extreme effort being made not to support alternatives 5 and 6. The changes to the public hearing document the Council had finalized/approved in June. The public hearing document was changed substantially before the public document was provided. There were major changes made to the document; it added substantial information noting that there is now monopsony, deleted description of competitive market conditions, by deleting language about the competitive imports. In terms of the NS guidelines – a close reading of the NS guidelines – in no way could this be in line with FMP objectives that would require rewiring of the underpinnings of the fishery. The number of clam quota that is not leased is unknown. Unless you know the information, you calculate the benefits and hardships. When you look at the definition of the avoidance of excessive share of fishing privileges – its to avoid creating conditions by inordinate numbers of buyers or sellers that would not otherwise exists. The condition of going from A and B, you will never get into the issue of inordinate control.

Bob Brennan, Sea Watch International

- First, I want to talk about our company leasing of ITQs.
- Selected payments by Sea Watch to absentee ITQ holders. Leaseholder A, \$35+ million; leaseholder B, 3.8 million; and leaseholder C, \$8 million.
 - Surfclam: \$6.25/bu, or \$0.60/lb or \$15.60/case
 - Ocean quahog \$1.50/bu, or \$0.16/lb, or \$4.16/case
- Leaseholder C was a major supplier in New Bedford. Decided to sell his boats and lease the quota at a high price.
- Absentee lease holder investment into the fishery is zero. In contrast, here is some of the expense that we have spent in different areas:
 - New Vessel - \$25 million
 - Georges Banks – 2 million
 - Wastewater compliance - \$3 million
 - Allocation acquisition - \$12 million
- Absentee lease rates have significantly impacted the reduced annual harvest over the last 20 years. These charges are passed onto the consumer without adding value to the resource. This decline can be largely due to the greed of absentee owners who have reinvested none of their expense-free revenue back into the industry. Additionally, both B and C leaseholders were offered contract extensions in return for renegotiating more reasonable rates and both refused.
- The vast majority, if not all absentee ITQ holders, initially had clam operations that they relinquished since leasing was much more profitable without [incurring] any expense. A more reasonable policy would have been to require the transfer allocation, at value, with the sales assets. This would result in all allocation holders actually

being involved in the business. Absentee owners have no way of supplying clams to the producers.

- In terms of Georges Banks, approximately 40% of the resource is there. This area was opened a few years back due to the large investment made by the Truexes to develop testing procedures and protocol to address PSP issues. Without this investment, the quota, in all probability would have been reduced. All quota holders have benefited from the investment made by Sea Watch.
- Sea Watch pays in excess of \$800,000 annually for testing.
- Alternatives 5 and 6 will not benefit the clam industry. However, they will increase the clam imports.

Sam Martin, Fishing Vessels Enterprises

- I represent a company that owns and operates 6 clam vessels out of New England.
- I want to speak against alternatives 5 and 6 because of the large negative impacts that they would have. We believed that the discussion/description in the document under these alternatives do not reflect what is happening in the industry. These alternatives are defined to increase lease activity for those that have not had the opportunity to lease out their allocations. They are also designed to align the quota with market demand. Neither of these have been proven to benefit the industry whatsoever. The market is driven largely by imports, and a large amount of investment is needed, so transferring the power to ITQ holders that have not been able to lease their ITQs would make the industry less competitive and would increase lease prices for tags. It would also result in increase in product prices and increase foreign imports. This is not fully vetted in the document.
- Our company doesn't not lease ITQ, we own ITQ. If we decrease the quota by 30-35% in the surfclam fishery (our primary fishery) under the Quota A/B shares, there would be a grab for quota (we only own 10% of the total quota). Other larger companies than ours would quickly absorb available quota and there would likely be little quota for us to lease, because other large companies already have long-term contracts. Probably couldn't afford to lease it even if it was available, because our margins are so slim. This would put us out of business. Splitting the A and B shares, could put us out of business by September or 4 months out of the year. Because under the current market demand, B shares would not be released.
- We borrow against 100% of our shares right now. So, the value of what we own, our collateral would also be reduced by 35% under alternatives 5 and 6.
- We would go out of business and this would also affect our associates (i.e., Galilean Sea Foods, Inc.).
- We support sub-alternative 4.3 with the following adjustment:
 - For Surfclams: 35% ownership / 65% combined
 - For Ocean Quahog: 40% ownership / 70% combined
- Finally, in terms of the leasing market for tags for inactive participants. It is a free leasing market – anyone can choose to compete with anyone if they chose to lease cheaper. They aren't precluded from anyone from leasing their tags due to monopsony power. That's why these long-term contracts take place, and that's why A and B shares are problematic.
- We would go out of business and this would also affect our associates (i.e., Galilean Sea Foods, Inc.).
- Sonny Gwin asked - Sonny asked – do you have both a processing capabilities and boats. Response: Yes.

- Staff asked - theoretically, what do you think would happen to the long-term leases in the market under alternatives 5 and 6? Response: Those alternatives would solidify any existing long-term contracts and it would be difficult for people that do not currently have long-term leasing agreements to get in. So, there is a lot of quota that would be sitting in NOAA unleased – because as an entity that uses almost all of its quota.
- Staff asked: if there was no excess quota, would the long-term leasing market disappear? Response: You are speculating. Those quotas are already locked up. They wouldn't break the contract to speculate on the idea that they could get it for 50 cents cheaper from someone the next year. You have less ability to lease, because you don't have a lot of quota to lease. If the quota is cut, someone has to lease. But the price and product only demand a certain prices. So, until we can get better marketing and markets to open up. So, others that can put it in a drawer on speculation. No one would go into a contract longer than they need to; however, they need to look further and further into the future.

Phil Twilley, City of South Port Inc

- I have been leasing my ITQ allocation the whole time. I either approach a processor or they approach me and it has always been a free market. I have the option to lease under long-term contracts if I wish to do so. It has been a give and take, so I've only been able to lease. So, it makes me think that those who are not are holding out for something that isn't a reality right now in the market.

Jeff Pike, Bumble Bee Seafoods

- We have appeared in front of the Council and provided comments a number of times. As we indicated during the scoping comments, we believed this initiative [amendment] is driving solely by the need to satisfy the regulatory environment and has nothing to do with any issues that exists in these fisheries. The current system we believed relies in US antitrust laws is functioning properly. There is no evidence that a person or company is capable of market manipulation. The fishery is functioning properly with no market power or other issues.
- On the issue of goals and objectives, we stand with our original comments we submitted in July 2017. We support the Council initiative to update the goals and objectives for these fisheries, we provided a list of revised goals and objectives for the Council to consider. Refreshing those goals and objectives to include things like sustainability and science/research would be good, especially after 30 years. So, refreshing is a good idea.
- With respect to the excessive shares issue, we stand by the written comments we have already made. We have indicated that if there is a cap to be implemented, we do not penalize any active quota holders and allows for additional growth. While we think that sub-alternative 2.2 (single cap on based on ownership at 49% with unrestricted leasing) and sub-alternative 3.3 (combined cap at 49%), would satisfy those needs stated, Bumblebee prefers the approach stated under sub-alternative 4.3 as is (two part cap at 30%/60%). We think this approach better reflects the actual level of engagement in the fisheries by the various companies and would prevent any single entity to accumulate an excessive shares. We also strongly support the modifications to sub-alternative 4.3 made by the clam industry (35% ownership / 65% combined for surfclams and 40% ownership / 70% combined for ocean quahog). Bumble Bee owns

quahog shares only, we do not fish, we do not own any vessels. We simply process clams that are delivered to us by vessels that fish those tags.

- Lastly, we strongly oppose alternatives 5 and 6. The stated goals of these alternatives is to align supply in the fisheries with market demand by creating a two-tier quota system. We submit that this goal is contrary/inconsistent with MSA NS1 which states that “conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry”. Creating two classes of quota shares under alternatives 5 and 6, would force active quota holders to lease from non-participants in order to utilize the entire allocation that non-participants hold. We oppose these social engineering alternatives that appear to be designed more to benefit non-participants in the fishery than to establish and excessive shares cap. I have been involved in fisheries management for over 40 years and never have I seen a goal or objective in the management system that is intended to align harvesting and market demand.
- Staff asked if there were any additional comments regarding the models or affiliation levels? Response: My comments assumed the 100% cumulative would be the one to consider.

Guy Simmons, Sea Watch International

- In my written comments which I will provide via email, I lifted a page from Magnusson that points out that alternatives 5 and 6 are in direct violation of NS5 and a portion of NS8. NS5 reads “conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.” Alternatives 5 and 6 would reallocate the quota allocation in a purely economic matter. This is the goal stated in the public hearing documents, to align the supply in the fisheries with demand. This can only be described a measure that results in a form of economic allocation, which is exactly what NS5 disallows. There is no scientific basis for this type of reallocation in a fishery that has been well managed for 29 years under the ITQ system. NS8 states “(a) provide for the sustained participation of such communities, and (b) to the extent practicable, minimize adverse economic impacts on such communities.” Alternatives 5 and 6 would have direct adverse impacts on fishing communities which have developed over the years and that have provided thousands of jobs in the SCOQ fishery. Alternatives 5 and 6 would have direct negative impacts on jobs by raising processors cost structure. This would result in an increase in prices to the US consumers and loss of US jobs due to increase in cheap imports. We live, work, and provide jobs in a capitalistic society, if this is a dirty word to you, I cannot apologize for that. Let strong processors develop more demand here at home and abroad. The need for excess ITQs will be in high demand when that market demand is increased.
- May I remind you that thousands of bushels are being lease every year by the processors that alternatives 5 and 6 could potentially decimate. The SCOQ fishery will not thrive and grow, and may be lucky to survive with these kinds of overbearing regulations/measures under alternatives 5 and 6. We do not agree with this type of social engineering.
- As of August 31, 2019, Sea Watch International has exhausted all of the ITQs owned by its owners. Therefore, every clam that crosses our plant from September 4 to sept. 4 to December 31, 2019 will be leased from some accepted ITQ holder.

- Support sub-alternative 4.3 with a slight modification (two part cap approach with 35% ownership / 65% combined for surfclams and 40% ownership / 70% combined for ocean quahog).
- There are only 2 ocean quahog processors. Thanks for the opportunity to make comments. I will provide written comments as well.

Dave Wallace, Wallace and Associates

- I want to make an additional positive statements, the clam industry is interested in doing things that are not anticompetitive. We couldn't do that even if we wanted to do it. We operate in a global world and are not an industry that gets to dictate what we want. To the contrary, our customers dictate to us- we can't just arbitrarily increase the price.
- If you implemented alternatives 5 or 6, the processors would go out of business because the costs and overhead would be out of control and our customers would not do business with us. They would reduce their purchases and quota would be of no use to anyone. Be careful what you wish for, you must understand the unintended consequences.

Tuesday, September 10, 2019, Warwick, RI

Hearing Officer: Peter deFur

Staff: José Montañez, Jessica Coakley

Attendees (8): Chris Shriver (Galilean Seafoods, Inc.), Tom Sproul (unaffiliated), Guy Simmons (Sea Watch International), Eric Reid (NEFMC member), Sam Martin (Atlantic Harvesters Inc), David Wallace (Wallace and Associates), Louis Legace (F/V Mariette), and Monte Rome (Intershell, F/Vs Tom Slaughter I, II, Bing Bing).

Peter deFur read the meeting statement to open the meeting. José Montañez gave a presentation on the contents of the amendment. Questions and comments were taken.

- Sam Martin (Atlantic Harvesters Inc), I have a question about alternative 5 and 6. Is there an impact chart Staff response: Yes. It was not included in the presentation because it did not include the rankings. But the impact discussion of alternatives 5 and 6 we presented in bullet points and other tables shown during the presentation.

Guy Simmons – Sea Watch International

- I am the senior vice-president for marketing and product development at Sea Watch International. I have attended all public hearing meetings and gave separate comments at those already. Today, I will be making separate comments on investment in marketing and the expansion of the industry made by Sea Watch International as an active ITQ participants in contrast to the contribution made by absentee ITQ participants.
- I have been involved with SCeMFiS and NFI – these are two primary mechanisms for cooperative science with SCOQ industry since 1997.
- Last night at our Salisbury meeting, our managing partner Bob Brennan commented on our capital investments. My comments today describe other investments made by our company. While my comments pertain to Sea Watch in specific, I can tell you that most of the other processor involved in the fishery have made similar investments.

About 95% of the harvesting/processing groups involved in the fisheries participate in these types of activities.

- For the 1999 to 2019 period, Sea Watch International has made the following non-capital investments: NFI (membership fees) \$639,019, NFI clam committee (cooperative science) \$1,259,433, NSF/SCeMFiS (cooperative science) \$275,000, Georges Banks PSP protocol (FDA and ISSC) \$2,000,000, Marketing (marketing, training, expanding markets, global expansion, etc.) >\$50,000,000. In addition, we also invested in MSC (Marine Stewardship Council) certification – this was done at zero cost to taxpayer with zero contribution from the absentee quota holders. In order to grow and maintain the fishery, we are constantly investing large sums of capital Under the Sea Watch and Truex umbrellas we have spent money and time to better the fisheries, but we have never seen \$1 come in to from absentee ITQ holders towards these efforts.
- We support sub-alternative 4.3 with slight modifications (two-part cap; 35% ownership / 65% combined for surfclams and 40% ownership / 70% combined for ocean quahog).
- At this point, particularly regarding the ocean clams at 40% ownership cap, there are only 2 processors for ocean quahogs. Last year, Sea Watch processed 40% of the total allocation not the harvest. So, we want to have a little room for flexibility if needed.
-

Sam Martin, Atlantic Harvesters Inc.

- I represent 6 vessels and about 35 employees and crew members.
- We support sub-alternative 4.3 with the adjustments recombined by industry. Agree with the bump so there can be alignment with the rest of the industry. (two-part cap; 35% ownership / 65% combined for surfclams and 40% ownership / 70% combined for ocean quahog). This will provide the greatest flexibility so the fishery can maintain itself if there are future changes in the industry or markets. In the tables that show changes across change across ownership levels, this is the only one that shows consistently across ownership levels.
- I want to speak against alternatives 5 and 6. Our company that relies solely on owned quota, we lease very little. We operate at about 300,000 bu which are mostly own with only about 6,000 bu leased. If alternatives 5 and 6 were chosen, then we would suffer a reduction in our ownership opportunities with the current levels of harvest rates with is about 65%. Therefore, we would have a reduction in the allowable quota by about 35% in the surfclam fishery. Our boats, employees, and plants would have no quota to work with after about September.
- It's not been established how much of the quota goes unleased. If in reality only 5% of the clam quota goes unleased and we reduce the harvest rates by 65%, then you will be decreasing the activity in the leasing market, not increasing it by implementing alternatives 5 or 6. This would be a reality if 65% of the clam ITQs go unleased and the harvest rates are reduced by 65%. If the market only allows us to have 65% netted out, we are not increasing the leasing market if the other quota is already leased. We don't think aligning the quota with the market, and leaving the quota in NMFS drawers will be beneficial. This will decrease the value of the fishery, decrease the leasing market, and increase the cost of leasing tags. It would decrease our ability to properly operate under these circumstances. These comments are critical because alternatives 5 and 6 deal with the leasing market. It is critical to know how much of the quota is going unleased. If it is 1% and you are going to reduce the viability of the

industry to a large degree. Right now, it is an unknown number because that information is not available.

Tom Sproul

- I have been retained by members of clam industry to provide an expert peer review of the analysis and statements in the public hearing document. I will provide full details in writing before the end of comment period. I hold a PhD. in Agricultural & Resource Economic and work as an associate professor at the University of Rhode Island (URI). The comments provided here are my own and do not reflect any official position of the URI.
- In constructing my review, I consider the 2019 Northern Economic report, the Compass Lexecon report and the CIE report. I also considered the SSC report as source of text. These conclude there is insufficient information to conclude that there is not information to support the need for an excess shares cap, There is no information to conclude that a harmful market power is being exercised in the SCOQ fisheries.
- Alternative 1 (no action/status quo) is the most prudent alternative to implement, followed by alternative 2 (quota share cap at 95%). These have the least potential for negative economic impacts.
- Alternative 5 and 6 are likely to have the greatest economic impacts based on my analysis.
- With respect to all other alternatives and sub-alternative. They can all be prioritized by how much or how little impact they could have on the industry. The document concludes the most aggressive alternatives are best. The public hearing document reads as if the harmful exercise of market power in the SCOQ fisheries is an established fact. The public hearing documents also reads as if it is an established fact that industry consolidation leads to negative socioeconomic impacts. This is untrue. The only thing to support this is text copied from the SSC report. Concludes that excessive consolidation would lead to negative impacts.
- The public hearing document misrepresents the CIE report by suggesting it recommended a 40% cap. This document includes text copied from the SSC report that monopsony power exists, this is not supported by other documents. I believe that the document comes to the exact wrong

Monte Rome, Intershell, F/Vs Tom Slaughter I, II, Bing Bing

- I just found out about this meeting today while talking to other industry people that are attending the meeting here today. I was not aware of this meeting. But I do believe that status quo is the way to go. I don't see anyone taking advantage of any markets. I don't think anyone can. I'm mainly active in the fresh clam and live clam market, for nearly 30 years. I haven't seen any effort for anyone to take advantage of any situation that would allow for market manipulation in any situation.

David Wallace, Wallace and Associates

- I have been trying to avoid talking about alternatives 5 and 6 because this is not a socialist country, it's a capitalist country. Amendment 8 was very specific in its objectives. It was designed to address overcapitalization in the fishery and it was designed to be an industry funded buyout (of surplus capacity) and not a state funded buyout.

- There is a finite number of people that cannot rent their quotas. There are those who have quota and don't lease it because they don't want to and would like the ocean quahog market to collapse. On the surfclam size, all the big buyers will scale back their purchases because they are not going to put themselves in a position when they cannot meet their market demands. The calm quota holders will increase the leasing price and this will impact processing operations.
- This rolling average to derive Quota A shares is a downward spiral into oblivion.
- We have already had four or five major processors go out of business because we ran out of clams, and everyone started scaling back. Then we had the recession in 2007/2008/2009, and many restaurants went out of business. Which then further reduced the demand for these products which we supply, which are ingredients in things like clam chowder and clam sauce. So, some of it was the clam industry including the non-participants that pushed for increase in prices, and some because of the economic situation in the US and the World. When the volume went down, overhead went up, and the weakest companies failed. That was anticipated. We had too many boats (including a very large number of little boats), and too many plants. So, amendment 8 gave each vessel a percentage of the quota, whether they deserved it or not, since some of those boats got in at the very end to get ITQ allocation. So now we had the industry funded buyout and the high production boats (for the last 3 to 4 years) were given less than they caught, so they could give more quota percentage to the low production boats to get a consensus and move the amendment forward. Those who had very low quota just sold it, and those who bought it went into a great deal of debt. There was also a group of people that got rid of their boats and plants, and just kept their paper entitling them to a percent of the quota. So, for a while there were people paying outrageous prices for the quota and then we collapsed the market because of that. As an example, people that inherit stocks, can do two things, they can sell it now at face value, or keep it hoping it will increase value in the future. So, this is business decision. In the clam business, there were two groups. One group sold their quota to people that wanted to stay in the business and by doing so went into substantial debt. The people that sold made a great deal of money by selling and getting out of the business. Another group made a business decision to stay in but need to cooperate with the industry. These are not mom and pop operations – this is industrial scale, with big cages and the product need to be processed very quickly.
- Alternatives 5 and 6 are a socialist idea that we have put forward in order to redistribute the allocations and all the work that the industry has done for many years. This is the most unfair communist plot that I have ever seen.
- I suggest that we go with the recommended modification for sub-alternative 4.3 (two-part cap; 35% ownership / 65% combined for surfclams and 40% ownership / 70% combined for ocean quahog). We already have 28% controlled by the highest surfclam owner.
- As the professor just said, you have it backward. What is positive for socioeconomics, good socialist stuff, would put companies out of business. Former members of the Council thought the MAFMC was the greatest in terms of coming up with new ideas. The MAFMC did everything first – first FMP, first ITQ. This is a world class operation. Now we are proposing to destroy it. If you are talking about 5 and 6, just get rid of it and just put a fixed quota on it. Without the processors, everyone is out of business. There are about 2,000 people involved with the plants and boats and the MAFMC is just about to destroy it. If you are a socialist, you might as well wave a flag and say we got them.

Louis Lagace, LNA incorporated, F/V Mariette

- I am a single boat owner. I was awarded an allocation with my vessel. Just learned about this public hearing document and the complexity of it. I would generally go with alternative 1 (no action/status quo), but I am not strong on that.
- I never gambled on it. I was about 40 years old when the allocation was given out. I had a choice, to sell or to stay in the fishery. I figured that I could work and make a living with what I had. I sold clams when times were difficult and went for the ride. Over the course of time, I saw my way to borrow money to get more quota. Spent about \$300,000 to \$400,000 to keep myself in business. Now my son is poised to take over my business.
- At one point in 1999, I lost my boat and had to use my allocation for income for two years. Then, I bought a slightly larger boat and got back into the business. I don't want to be rich, or poor, just want to be successful.
- Now, things are getting more complicated. We just got shut out of our prime fishing grounds due to the NEFMC habitat closures.
- Maintained my ability to sell clams using my own allocation. Try to keep a good working relationship with whomever I sell too, provide a good product, and would like to stay involved in the business and my son too after me. I am not in favor of anything that smacks of socialism control in the industry.

Monte Rome, Intershell (3 fishing vessels)

- I have a question: Are you going through this because there is a market power issues? What proportion of the quota is taken? Because if not all the quota is taken, there is no market power issues. Staff response: recently, about 60-65% of the quota is taken. Every ITQ program has to have measures to address excessive shares, part of it has to do with the legal and regulatory environment that we have to work with. In the public hearing document, there is a list of all the ITQ/LAPP systems in the country and Federal regulations require that all these systems have some type of provision to address/prevent excessive shares accumulation. The SCOQ ITQ system is the only one in the country that does not have those types of provisions in place. So, the SCOQ FMP is the only one that does not have all the requirements needed for an ITQ program.
- There is one more thing that I would like to say. There is access to funding, the is access to knowledge and the ability to go out and catch the quota. The regulations don't make us feel comfortable and spending more capital in this industry would not be necessarily be supported because we don't know which way this is going. It would be a lot of risk to go out and try to catch that additional 1 million bushels. Why would you invest more money if your boat could just sit idle due to area closures?

Sam Martin, Atlantic Harvesters Inc.

- I want to make one more comment. We had a contract for a \$1 million vessel and because we lost Nantucket, and when we saw the push towards or highlighting of alternatives 5 and 6 (which would reduce our quotas), we were cancelled the contract 2 days away from buying the boat.
- We have taken our company off the table for a year for producing more clams because of the perception of what alternatives 5 and 6 could do to us. I hope this is not falling on a deaf ear, or that the calm industry just wants their way. These folks are scared to death of a couple of these alternatives.

- There is a tone here that you are hearing from the industry, that are small players in the industry which are active with a little quota or are inactive and are relaying/using 100% of their quota for income. This shows the collective partnership that is found in this industry. I know for a fact that there are companies that are leasing quota/trying to break into this market.
- We have to have an excess share definition, we know that, but let's pick one that is workable and will not disrupt the fishery.

List of participants and public hearing meetings. Cells shaded grey represent participants that provided comments.

Participant	Public Hearing Meeting			
	Aug. 1, 2019 Cape May, NJ	Aug. 7, 2019 Webinar	Sept. 9, 2019 Salisbury, MD	Sept. 10, 2019 Warwick, RI
Tom Alspach	✓	✓		
Bob Brennan			✓	
Joe Cimino	✓			
Barry Cohen	✓			
Tom Dameron	✓			
David Frulla			✓	
Mike Garvilla			✓	
Jerry Gordon			✓	
Peter Himchak	✓	✓		
Tom Hoff		✓		
John Kelliher	✓			
Guy Simmons	✓	✓	✓	✓
Chris Shriver	✓			✓
Louis Lagace				✓
Michael LaVecchia	✓			
Ann M.		✓		
John Martin			✓	
Sam Martin		✓	✓	✓
Steve Martin			✓	
Joe Myers			✓	
Jeff Pike			✓	
Monte Rome				✓
Eric Reid				✓
Jamie Sanyer	✓			
Tom Sproul				✓
Martin Truex	✓			
Phil Twilley			✓	
Joshua O'Connor	✓			
David Wallace	✓	✓	✓	✓
Total (attended/ commented)	13/7	7/6	12/8	8/6

