

## **EXHIBIT TWO**



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

April 8, 2009

Ms. Patricia Kurkul  
Regional Administrator  
NOAA/NMFS  
55 Great Republic Drive  
Gloucester, MA 01930

Dear Pat:

I want to inform you of a recent Council action related to the Northeast Multispecies fishery.

On April 7, 2009, the Council considered a document presented by NOAA General Counsel titled "Draft Consideration and Analysis of the Application of the Mixed-Stock Exception to Ending Overfishing and its Applicability to Framework 42 to the Northeast Multispecies Fishery Management Plan," and its attached addendum. This document was dated February 2009 and includes revisions to an earlier draft that were made after the February 2009 Council meeting. After discussion of this document the Council passed the following motion with a roll call vote of twelve in favor, four opposed, and one abstention:

"that the Council should: (1) disagree with the conclusions of the NMFS report dealing with further consideration of the application of the mixed stock exception and submitted to the Council for review as ordered by Judge Edward J. Harrington; and (2) inform Judge Harrington that NMFS has failed to perform the analyses for Council review; consequently, the Council is unable to provide the court with a review."

Council member, Sally McGee, will be submitting a dissenting opinion.

Please consider this motion as you finish preparation of this document for the court. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Paul J. Howard". The signature is written in a cursive, flowing style.

Paul J. Howard  
Executive Director

cc: The Honorable Edward F. Harrington  
U.S. District Court, District of Massachusetts  
Civil Action No.: 06-12110-EFH