

# SENATE OF VIRGINIA



October 31, 2017

**RICHARD H. STUART**  
28TH SENATORIAL DISTRICT  
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COMMITTEE ASSIGNMENTS:  
AGRICULTURE, CONSERVATION AND  
NATURAL RESOURCES  
COMMERCE AND LABOR  
COURTS OF JUSTICE  
GENERAL LAWS AND TECHNOLOGY

Mr. Robert Beal  
Executive Director  
Atlantic States Marine Fisheries Commission  
1050 N Highland St # 200  
Arlington, VA 22201

Mr. Robert Ballou  
Chair, Atlantic Menhaden Management Board  
c/o Atlantic States Marine Fisheries Commission  
1050 N Highland St # 200  
Arlington, VA 22201

**RE:** Allocation Decisions Under Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden

Dear Messrs. Beal and Ballou:

As the Atlantic States Marine Fisheries Commission's legislative appointee for the Commonwealth of Virginia and a member of the Atlantic Menhaden Management Board, I am gravely concerned about a number of the options in Amendment 3 that would deprive my state's fishing industry of its historic share of the menhaden resource. The Commission's own scientists have indicated that the menhaden resource is highly abundant and could withstand harvest levels up to 314,500 metric tons under standards widely utilized by federal fisheries managers. As such, there is ample room to raise the annual total allowable catch and provide increased allocations for historic bait fisheries in other states.

As you are aware, Virginia supports such an alternative, Option F in the draft amendment. Under Option F, Virginia voluntarily agrees to forgo a significant percentage of the allocation share it is entitled to under Amendment 2 to foster increased fishing opportunities for other states. This offer is contingent, however, on each and every state, the Commonwealth included, being made whole from the 20% reduction imposed on each state in 2013.

So long as the Board continues to manage the menhaden resource as if it requires conservation—that is, so long as the TAC remains below the 212,500 mt threshold from which the 20% reduction was taken—the ASMFC's governing authorities require that each state contribute

equally. The ISFMP Charter and the Commission's Rules and Regulations are designed to protect states like Virginia from majoritarian action.

As should be clear by this point, Virginia's representatives on the Commission believe that the alternatives which guarantee each state a "fixed minimum" amount of quota, including those like Pennsylvania, South Carolina, and Georgia with no fishery, are flatly illegal. Even if they were not, it is simply inequitable and unjust to give states an allocation for which those with fisheries would have to horse-trade.

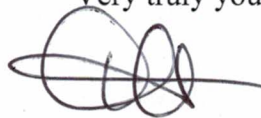
It is also critical that the Commission follow the repeated written advice of its technical experts regarding the management approach used to set reference points. The Menhaden Technical Committee has explained the Commission will jeopardize the spawning adults in a thriving stock of fish by managing it using a method that is not suitable for menhaden.

In closing, I want to be very clear that if the Menhaden Board engages in an unprincipled reallocation, or ignores its own scientists, I will not support in my committee the Commission's recommendations. As you know, the General Assembly has regulatory authority over the Commonwealth's menhaden fishery. Under the federal Atlantic Coastal Fisheries Cooperative Management Act, a state is not subject to sanctions for failure to adopt a recommendation unless the Secretary of Commerce finds that the management measure is "necessary for the conservation of the fishery in question."

There is simply no need to place the ASMFC's processes at risk over a resource that is as abundant as Atlantic menhaden. The Board should both follow the scientific advice provided by its own experts and adopt a TAC for next year on the order of a still very conservative 240,000 mt, as the industry has urged. A quota at that level will provide ample fish for those states that wish to take advantage of high local abundance.

I look forward to seeing you both in Baltimore next month.

Very truly yours,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Richard Stuart