

April 7, 2025

Pat Geer  
Chief, Fisheries Management  
Virginia Marine Resources Commission  
380 Fenwick Rd. Bldg. 96  
Fort Monroe, VA 23651

Dear Mr. Geer,

In response to your request for comments on the Dec. 18, 2024 Petition for Rulemaking by the Chesapeake Legal Alliance, we have provided brief comments on each of the items raised below. Personnel from the Office of Research & Advisory Services and fisheries scientists at VIMS discussed each of these items. As is our practice, we have based our comments on the best available science, which is admittedly very limited.

1. *Impose an immediate moratorium on reduction fishing within the Chesapeake Bay, in the alternative, reduce all purse seine fishing within the Chesapeake to 10% of current allowable landings.* The alternative action is offered as a means of preserving the bait fishery. As we have noted in the past, there are insufficient data available to quantify the impacts of the purse seine reduction fishery on the ecology of Chesapeake Bay, nor its impacts on individual species in the Bay. Over the past two-and-a-half-years VIMS has invested considerable time and effort in designing a suite of studies<sup>1</sup> and pursuing funding to conduct them to reduce the uncertainty around the ecological impacts of this fishery. These efforts have not so far resulted in the funding necessary to complete this work, and we remain uncertain about the likelihood of future funding. As such, VMRC finds itself in the position of needing to make management decisions on this important issue in a data-limited context. In such a situation, it is perhaps the wisest course of action to take a precautionary approach and give serious consideration to reducing purse seine fishing in Chesapeake Bay.

2. *Limit purse seine fishing in state waters to no more than 25% of Virginia's current total allowable landings.* While the science is clear that the coastwide stock of Atlantic menhaden is healthy, we again find ourselves in a limited data situation on the status of the population in Virginia waters on the continental shelf. As in the previous situation concerning menhaden abundances in Chesapeake Bay, we do not anticipate that more data on which VMRC can base an informed decision will be forthcoming soon. Responsible fisheries management action will require that VMRC consider the perspectives and arguments on both sides of this issue recognizing that clear science-based answers are not available at this time.

3. *Codify a 1-mile shoreline buffer: Establish a permanent 1-nautical mile shoreline buffer along Virginia's shoreline prohibiting the use of menhaden purse seines.* We assume that this recommendation is related to concerns that have been expressed about damage to benthic habitats, including submerged aquatic vegetation (SAV) and fish from net spills washing onshore. We addressed the former concern in our letter, dated October 4, 2023, to the Commission noting that SAV beds are found only at depths too shallow for this fishing activity to occur, and that no data were available to assess the impact of a purse seine occasionally contacting the bottom. At its December 5, 2022

meeting, the Commission voted to approve a Memorandum of Understanding that included a call for the reduction fishery to work collaboratively with the Governor's Office to establish time closures and buffer locations. Although net spills impacting the coastline did not occur during the 2023 & 2024 fishing seasons, we are not able to attribute that outcome to buffers, primarily because to our knowledge the exact locations of those buffers have not been disclosed.

*4. Formally request funds from the General Assembly to expand the VIMS' research planning proposal.* Regrettably, the bill that would have provided funding for the studies proposed by VIMS failed to pass during the 2024 or 2025 General Assembly sessions. VIMS has not changed its opinion that management decisions regarding the menhaden reduction fishery are best when based upon robust data. We strongly believe conducting the studies outlined in our Atlantic menhaden research proposal would significantly advance the ecological, fishery impacts, and socioeconomic knowledge of Atlantic menhaden in the Commonwealth. We note that the planning proposal, which was developed with broad participation from user groups (including industry) and stakeholders, included evaluating the ecological effects of the reduction fishery.

*5. Require comprehensive monitoring and public reporting of the reduction fishery, including electronic reporting and vessel monitoring.* This would seem to be an issue for the Commonwealth's Attorney General and the General Assembly to address.

We wish to reiterate the assertion above that VIMS has not changed its position on this matter. We would prefer to see well-informed fisheries management based on sound science; however, the reality is that data on menhaden abundances in Chesapeake Bay, their movements between the Bay and the inner continental shelf, localized depletion resulting from fishing, and the ecological impacts of the purse seine fishery all remain woefully inadequate and difficult management decisions must be made in this context. In the absence of sufficient data to support a science-based decision, this becomes a political and socioeconomic decision. At this point, we recommend that the Commission thoughtfully consider the issues raised in this petition and the views of all stakeholders.

Sincerely,



Mark W. Luckenbach  
Associate Dean of Research & Advisory Service  
Professor of Marine Science

#### Citation

<sup>1</sup> Latour, R.J. and J. Gartland. 2023. Atlantic Menhaden Research Planning. Report submitted by the Virginia Institute of Marine Science, William & Mary to the Virginia General Assembly and the Secretary of Natural and Historic Resources, Gloucester Point, VA. 19pp.