

## Objection to the certification of the Omega Protein Corporation US Atlantic menhaden purse seine fishery

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### Objectors A and B: Response to the CAB's Proposed Changes on Remand

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The Theodore Roosevelt Conservation Partnership (TRCP) respectfully requests that the IA find that the CAB's proposed changes to the Final Certification Report do not address the IA's remand directive in its July 31st decision regarding the Atlantic menhaden. As described in detail below, in order to address fully the IA's directive, the IA should require the CAB to revise Conditions 1 and 2.

The IA found that State adoption and implementation of the harvest strategy and HCR integral to the fulfillment of the conditions, and if the conditions did not require such State actions, then they would be arbitrary and unreasonable. The remand decision explicitly states that the conditions need to require State implementation and adoption. The CAB's response, however, makes no change to the actual conditions. The only changes the CAB makes is to the Year Four milestones. The CAB's response assumes that by changing the language within a milestone that it addresses the IA's mandate to require State adoption and implementation within a condition. Conditions and milestones are distinct, as discussed in MSC guidelines. Milestones are measurable improvements to help fulfill conditions, while the conditions are the measuring yardstick for the client. Importantly, by the end of the 5-year period a client fishery must fulfill conditions, not milestones.

The CAB should revise Conditions 1 and 2 to include language requiring State implementation. For example, Condition 1–PI 1.2.1 should read:

“The Client Group must provide evidence of the implementation **and adoption** of a harvest strategy **by both the ASFMC and States relevant to the management of the Atlantic menhaden reduction fishery** that is designed to take into consideration the ecological role of Atlantic menhaden and is responsive to the state of the stock with respect to its role in the U.S. Northwest Atlantic ecosystem.”

Additionally, Condition 2–PI 1.2.2 should read:

The client must provide evidence of implementation **and adoption** of well-defined harvest control rules **by both the ASFMC and States relevant to the management of the Atlantic menhaden reduction fishery** that take into consideration the ecological role of Atlantic menhaden as key low trophic level in the U.S. Northwest Atlantic and that;

1. ensure the exploitation rate is reduced as the point where serious ecosystem impacts could occur is approached and;
2. are expected to keep the stock fluctuating around a target level consistent with ecosystem needs.

Including the integral language requiring State implementation and adoption in the conditions definitively addresses the IA's directive. Moreover, including the language within the conditions would prevent the conditions from being arbitrary and unreasonable under PD 2.7.2.2 and would absolve any ambiguity in the conditions.

Thank you.

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