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## Judge opens door to forced fed testimony on lawsuit

By Richard Gaines  
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A federal judge Thursday put a lawsuit challenging the Obama administration's New England groundfishery regulatory scheme on a tight schedule, and left the door open to an extraordinary request for discovery that could put top officials under oath to determine if the new system rooted in fishermen's catch shares was honorably chosen.

U.S. District Judge Rya Zobel set Sept. 23 for the filing of motions on the request for depositions, a big add to the suit by New Bedford Mayor Scott Lang and supported by Gloucester Mayor Carolyn Kirk on behalf of the region's two main groundfishing ports.

Zobel also set Feb. 9, 2011, as the hearing date on the suit itself.

The expanded legal action was initiated after months of political efforts and debate within the established regulatory system proved fruitless to the industry, and just days after a small armada assembled off Martha's Vineyard, forming a marine informational picket line courting the attention of President Obama and the national media.

The overall lawsuit alleges that the federal government's Amendment 16, which imposes hard catch limits and diminished allocations on the already strapped fleet, will bankrupt the industry, leaving the fishery to outside investors. Under the catch share system, fishermen working in assigned "sectors" are granted "shares" of a "total allowable catch" for each fish stock, with those shares open for fishermen or investors to buy, sell or trade.

Lang said the unusual request for discovery in an administrative law case was essential to allow the plaintiffs to learn whether influence on the

government by green groups with an anti-fishing agenda and a zealous faith in catch shares improperly helped shape the regulatory regimen.

"We don't believe they (the government officials) were honest," Lang said in an interview with the industry news Web site SavingSeafood.com. He has long-contended that Environmental Defense Fund played a pivotal role in the shaping of the re-engineered system.

NOAA administrator Jane Lubchenco was vice chairwoman of EDF when she was nominated by President Obama to take control of the oceans and fisheries. EDF also has a paid senior staffer, Sally McGee, on the New England Fishery Management Council, while the council's chairman, John Papalardo, now heads an organization of Cape Cod fishermen and lobbyists closely allied with EDF and other green groups.

Lang said the best news of the day was the judge's willingness to consider the request for discovery that would allow deposing officials.

"The only win was that the judiciary has begun to look under the hood," said Lang. "They don't follow the law, and the judge is going to find that out."

Kirk said she was encouraged by the judge's effort to take a quick read on the impact of the regulatory system, which has brought consolidation and left many boats tied to the docks due to the small allocations.

"We emphasized the urgency of moving quickly," said Kirk. "Every day that goes by fishing families are being hurt.

(Judge Zobel) was tenacious," Kirk said. "She dogged the lawyers time and again."

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