



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

FINAL MEETING SUMMARY

Habitat Committee

Holiday Inn

300 Woodbury Ave., Portsmouth, NH 03801

June 1, 2015

The Habitat Committee met on June 1, 2015 to review and possibly revise their preferred alternative recommendations for Omnibus Habitat Amendment 2 (OHA2).

MEETING ATTENDANCE: Dave Preble (Chairman), Terry Alexander, Vincent Balzano, Warren Elliott, Libby Etrie, Mark Gibson, Jeff Kaelin, Matthew McKenzie, Terry Stockwell (NEFMC Chairman), and Mary Beth Tooley; Michelle Bachman, Deirdre Boelke, Jamie Cournane, and Tom Nies (NEFMC staff). In addition, there were approximately 25 audience members including some Habitat Plan Development Team and Advisory Panel members.

OUTCOMES:

- Committee recommended a hybrid alternative for Georges Bank, with the western area from Alternative 7, and the eastern areas from Alternative 9, with some slight modifications to the boundary between the two eastern areas. The Committee also recommended gear restrictions and exemptions for each of the three areas.
- The Committee discussed but did not change their recommendations on spawning alternatives for Georges Bank or the Gulf of Maine.

To begin the meeting, the Chairman explained that the purpose of the day was to review and reconsider Committee recommendations to the Council on habitat management areas for Georges Bank and on spawning areas for both the Gulf of Maine and Georges Bank. He emphasized the April Council motion that indicated the intent not to revisit any final decisions made during that meeting.

AGENDA ITEM #1: GEORGES BANK HABITAT MANAGEMENT AREAS

Ms. Bachman (Habitat PDT Chair) summarized updated analyses developed by staff and the PDTs on Georges Bank Alternative 9, which the Council added to the amendment for analysis at their April 21-23 meeting.

The Committee discussed how to compare habitat management areas, specifically the extent to which size is a useful metric. Ms. Bachman responded that the answer is complicated. Size matters, but the composition of the area matters, as well as the management measures employed.

The habitat type characterization tables in the DEIS are useful for showing how efficiently a particular area encompasses, say, cobble-dominated habitats, but do not show an area's coverage of cobble habitat in square miles. Also, while the combined area of habitat and mortality closures on Georges Bank is fairly large (about 18,000 km² of a 50,000 km² area), these areas are far from fully closed and are fished via access programs and various gear exemptions. The combination of area size, habitat composition, and the extent of fishing impacts all influence the extent to which positive impacts may be realized from a habitat management area. The Chairman reminded the group that the purpose of the Swept Area Seabed Impact analysis was to identify high value areas for protection. The Committee generally agreed that it should be about protecting the right areas. This was echoed by some audience members.

A Committee member asked for some clarification on the EFH overlap analysis. Ms. Bachman noted that a detailed methods section is available in the October draft EIS (page 160 of Volume 3). This analysis is a semi-quantitative estimation of the degree to which each management area overlaps each EFH designation map, for all benthic species and lifestages. Overlap was scored as follows:

Overlap	Score	Definition
None	0	No spatial overlap
Slight	1	Overlap of less than 25% of the HMA
Moderate	2	Overlap of greater than 25% but less than 75% of the HMA
High	3	Overlap of greater than 75% of the HMA
Full	3	The entire HMA is mapped as EFH

For both the EFH overlap and substrate analyses, the large Northern Georges MBTG HMA (Alternative 8) contains a broader diversity of EFH designations and substrate/energy types, but the percent cover of gravel habitats is lower, and there are more EFH overlaps scored as moderate. In other words, the Alternative 8 area does not encompass gravels as efficiently as some of the others, but the overall coverage of gravel habitats (and overlapping EFH designations) is larger in km². While calculating the km² of EFH designation within each of the HMAs would be prohibitively time consuming, km² of coverage by substrate/energy for each HMA is easily done, and will be added to the Council meeting materials.

Ms. Bachman noted that one task before the staff and PDT is to evaluate whether the impacts associated with Alternative 9 fall within the range analyzed for other alternatives. The results of this evaluation will help GARFO determine, in consultation with the Council, whether additional public comment on the draft EIS is needed. If additional comment is needed, this would require preparation of a supplement to the October 2014 DEIS. This supplement would go through Agency review, a notice of availability would be published, and there would be a 45 day comment period. At the present time, it does appear that the impacts of Alternative 9 fall within the range estimated for other alternatives, but this determination is not yet final.

Next, Ms. Boelke (Scallop PDT Chair) summarized the updated sea scallop resource and fishery impact analyses. She emphasized that much of the updated text was adapted from two memoranda provided at the April Council meeting. She also noted that the human community impacts analysis drafted by Dr. DePiper and the Habitat PDT is generally independent of the net benefits analysis developed by the scallop PDT based on Scallop Area Management Simulator

(SAMS) model results. The VTR-based revenue analysis in the human community impacts section is retrospective, and focuses on potentially displaced revenues by gear type, while the SAMS results are projections. In response to an audience member question, Ms. Boelke confirmed that the SAMS model results do account for differences in the size frequency of scallops in various management areas, including expected price differences by size category (very large scallops are currently commanding a premium price).

She also explained how the fraction of scallop biomass in closed areas affects the annual specifications process. In the scallop FMP, the overfishing limit is set at $F_{MSY}=0.38$, with a target fishing mortality set below that level at $F=0.28$. Each year, $F=0$ in access areas that are not open that year, as well as in any areas that are closed to the fishery over the long term (including within habitat closures). Because of the biomass in rotational or long term closures, open area days at sea can be allocated so that fishing mortality rates exceed the overall target $F=0.28$. This allows fishing mortality to approach the overfishing limit of $F_{MSY}=0.38$ within the open areas. Increasing open area F above the target does not fully compensate for yield lost due to area closures, if a substantial fraction of scallop biomass is within closed areas. This has been the case in some recent fishing years, although the amount of biomass within long term closed areas is not always the constraining factor on overall scallop yields.

The short term and long term yield analysis is a useful way to compare between habitat management areas. The short term values reflect biomass that has built up within area closures overlapping areas of high scallop abundance, especially areas in the northern part of Closed Area II. Long term values better approximate the expected annual yields over a longer time horizon. Comparing the mean and median values reported in the summary table shows the variability over time, and a value somewhere between the mean and median is a reasonable estimate of the long term annual yield that could be expected from a given area. These yields are given both as absolute numbers and as percentages of overall scallop fishery yield to put the HMA yields in context.

After a short break, the Committee began discussion of the management alternatives.

Motion 1 (Alexander/Etrie): The Committee recommends that the Council select as a preferred Alternative on GB a combination of Alt 9 on the northern edge with the increased Habitat Management Area and Alternative 7 in the Georges Shoals area.

Mr. Alexander provided rationale for his recommended alternative: (1) Both the Georges Shoal 2 (Alt 7) and western area (Alt 9) have high SASI vulnerability scores, (2) the Alt 9 area is very important to the winter flounder fishery. Ms. Tooley commented that the approach seemed to balance the needs of affected industries. Mr. Gibson stated that it was not clear to him now, or at the April Council meeting, that Alternative 9 was a valid alternative, from a process standpoint, emphasizing concerns about the ability for the industry to vet the alternative and the public to provide comment. Dr. McKenzie shared these concerns, and worried about his ability to understand what the environmental impacts might be, as well as about the opportunity for all affected industries to weigh in. The maker of the motion argued that Alternative 9 was analyzed after it was added to the document at the April Council meeting, and that his motion was simply a mix and match combination of elements of two analyzed alternatives. Dr. McKenzie countered

that the opportunities for public comment on Alternative 9 were limited relative to those alternatives included in the published DEIS. Ms. Tooley agreed with Mr. Alexander, and noted that that public was aware since the April Council meeting that a new alternative was being developed.

Mr. Kaelin made a motion to amend:

Motion 1a (Kaelin/Alexander): The Committee recommends that the Council select as a preferred Alternative on Georges Bank a combination of Alt 9 on the northern edge with the increased Habitat Management Area and Alternative 7 in the Georges Shoals area. For Georges Shoal 2 area, select Option 2 (MBTG closure with hydraulic dredge exemption) with a sunset provision from Option 2 to Option 1 one year after implementation of the amendment if an exemption area is not implemented.

Motion 1 was amended 5/1/3 on a show of hands.

Audience member comments on the motion as amended:

- Jackie Odell and Vito Giacalone (Northeast Seafood Coalition) asked what the objective of the Alternative 9 mortality closure is. Ms. Bachman responded that she was not certain of the objective based on the April Council discussion, but that she would assume for the purpose of analysis that the area would have scallop access provisions, and that groundfish special access programs would be allowed to continue in the portion of the area west of 67° 20' W. They also emphasized some comments made in their letter to the Committee about the extent of the summer season winter flounder fishery in the Alternative 9 western habitat management area.
- David Borden (Atlantic Offshore Lobstermen's Association) commented that if any portion of CAII north of 41° 30' N is reopened that the area should be closed to mobile bottom-tending gears between June 15 and October 31.
- Drew Minkiewicz (Fisheries Survival Fund) supported the motion.
- Ron Smolowitz (personal comment) noted that the 'mortality' closure would be more appropriately identified as a habitat management area managed via reduced frequency and intensity of fishing, and that the term 'mortality closure' was not useful.
- Erica Fuller (Earthjustice) asked about the spawning benefits of the alternative. Ms. Bachman commented that spawning impacts associated with the Alternative 9 areas and measures had not yet been evaluated, but that they would be for the FEIS. Spawning impacts of the other Georges Bank HMA alternatives are described in the large mesh groundfish section of the document.
- Greg Cunningham (Conservation Law Foundation) commented that his organization did not support the motion, given that the underlying alternatives compared poorly with Alternative 8. He argued that the western part of Alternative 7, which is a part of the motion, is inferior to the western part of Alternative 9, such that proposal in the motion represented a 'watered down' version of Alternative 9. Also, he stated that he felt handicapped in his ability to effectively comment given last minute adjustments.

Ms. Tooley commented that she did not see any concerns relative to the herring fishery. Mr. Elliott agreed that the public process seemed reasonable, given prior discussions about the ability of the Committee and Council to mix and match. Dr. McKenzie reiterated his concerns about both process and impacts, and offered a motion to substitute:

Motion 1b (McKenzie/Gibson): The Committee adopts as a recommended alternative for Georges Bank Alternative 8, Option 1.

Dr. McKenzie offered the following rationale. Alternative 8 has been characterized as the ‘close everything’ alternative, but it is reduced in area relative to the status quo, and provides the best quality habitat to protect – more SASI/LISA clusters, most designated EFH, includes the cod HAPC, captures the highest habitat diversity, straddles ecoregional boundaries, has adequate size and isolation to yield more biomass if protected properly, has scored highly in TNC persistence analysis, Sherwood and Grabowski have highlighted benefits to cod, captures, hotspots for juvenile cod, haddock, and other fish, would reduce marine mammal interactions, and includes herring spawning areas. Alternative 8 is about 5% of current scallop fishery, thus it is practicable, and it is supported by the best science available. Also the area has high sediment stability scores.

Mr. Kaelin asked whether the motion was in order, given that the same motion had previously been rejected by the Committee. The Chairman responded that he considered it a new motion, given the extensive history between March and the current meeting.

Ms. Etrie commented that she would not support the motion, but could support the underlying motion given some modifications to the mortality closure restrictions/objectives. She argued that the motion to substitute ignored substantial impacts on the fishing industry.

Audience comments on the motion to substitute:

- Vito Giacalone reiterated an earlier point that all areas are not equal in their effectiveness (indicating that size alone is not sufficient justification).
- Ron Smolowitz (Fisheries Survival Fund) stated that he opposed the motion, and that he felt some of the rationale statements were not scientifically accurate.
- Gib Brogan (Oceana) agreed with Dr. McKenzie that Alternative 8 is not a huge economic blow to the scallop industry, given that the biomass within the area is similar to the biomass within the four No Action EFH areas. He emphasized the significant role of the northern edge in terms of the Georges Bank ecosystem, in particular for groundfish recovery, which makes Alternative 8 better than any of the other alternatives (perhaps No Action is close).

The motion to substitute failed 1/6/2 on show of hands.

On the main motion as amended:

Motion 1b (Kaelin/Alexander): The Committee recommends that the Council select as a preferred Alternative on Georges Bank a combination of Alt 9 on the northern edge with

the increased Habitat Management Area and Alternative 7 in the Georges Shoals area. For Georges Shoal 2 area, select Option 2 (MBTG closure with hydraulic dredge exemption) with a sunset provision from Option 2 to Option 1 one year after implementation of the amendment if an exemption area is not implemented.

Motion 1b (as amended) carried 7/1/1 on a show of hands.

See Figure 1 for a visual depiction of this motion.

After the motion passed, the Executive Director Tom Nies commented that he was not willing to go on record as stating that the staff would be able to fully analyze this alternative before the Council comment deadline (Thursday, June 11 at noon). At this juncture, the Committee broke for lunch.

After the break, Ms. Etrie made a motion relative the mortality closure element of the previously approved motion and Alternative 9

Motion 2 (Etrie/Alexander): Motion to clarify that the “mortality closures” referenced in Alternative 9 and the Committee-approved mix and match alternative are habitat access areas.

The Committee agreed that it was important to better specify the objectives and restrictions of the mortality closure area, but did not think the motion provided any additional clarity on which gears would and would not be allowed in the area. The group agreed that taking the issue up later in the meeting would be more productive, allowing time for some offline discussion.

Ms. Etrie made a motion to table (seconded by Mr. Kaelin).

The motion to table carried 7/1/1 on a show of hands.

AGENDA ITEM #2: SPAWNING ALTERNATIVES

Next the Committee discussed the spawning management alternatives for Georges Bank and the Gulf of Maine. Ms. Bachman explained that the current Committee preferences include:

- Gulf of Maine - the spawning and cod protection areas implemented via Framework 53, as well as the Massachusetts Bay area
- Georges Bank/Southern New England - Closed Area I North and Closed Area II from February 1 – April 15, closed to selected commercial and recreational gears, with an exemption for scallop dredges

Greater Atlantic Regional Fisheries Office staff member Moira Kelly explained that they are concerned that these alternatives may not meet the objective of the amendment to improve protection for groundfish spawning. While there is improved protection for winter spawning cod in the Gulf of Maine, the loss of the April rolling closure areas appears to have a negative impact on some spring spawning groundfish in the Gulf of Maine. While it is not yet clear how the changes net out in terms of overall impacts, they are trying to provide notice to the Council of

their concerns before final action is taken. In response to a comment from Mr. Alexander that there are currently no “spawning” areas on Georges Bank, Ms. Kelly responded that the areas function as spawning protection areas given their gear restrictions and year-round status.

- Audience member Ron Smolowitz asked if the effect of effort displacement were considered in the analysis, and Ms. Bachman responded that they were, qualitatively.

NEFMC Groundfish Plan Coordinator Jamie Cournane responded to a comment about whether it would be better to address groundfish spawning protection further in a subsequent groundfish action. She noted that this issue has been passed back and forth between the habitat amendment and the groundfish plan a number of times in recent years, and that further work on groundfish spawning protection is not a part of the current set of groundfish management priorities.

The Committee did not elect to adjust any of their spawning management recommendations adopted at the March 23-24 meeting.

AGENDA ITEM #1: GEORGES BANK HABITAT MANAGEMENT AREAS (CONTINUED)

Ms. Etrie made a motion to resume discussion of the tabled motion (seconded by Mr. Alexander).

The motion to resume discussion carried on a voice vote.

Ms. Etrie made a motion to amend:

Motion 2a (Etrie/Alexander): Motion to clarify that the ‘mortality closures’ referenced in Alternative 9 and the blended new alternative are “Reduced Impact Habitat Management Areas” generally closed to MBTG that (1) would allow rotational access for the scallop fishery, as approved in a subsequent scallop amendment or framework, and (2) would limit groundfish activity west of 67° 20’ W consistent with the Eastern US/CA Haddock SAP.

Note: Specifically, it was clarified that groundfish fishing would be prohibited within the reduced impact habitat management area east of 67° 20’ W. It was also clarified that groundfish fishing would be allowed to the north of the Reduced Impact HMA (aside from any continued seasonal spawning closure of CAII). Figure 1 reflects these clarifications.

Dr. McKenzie questioned how the Committee could justify this action. The area as currently configured is minimizing adverse effects.

- Audience member Gib Brogan (Oceana) asked how much fishing (frequency and intensity) is acceptable in the area if it is still minimizing impacts. He argued that a ‘to be determined later’ approach is problematic.

Motion 2a carried 7/1/1 on a show of hands.

Motion 3: Gibson/McKenzie: The Committee recommends that the area north of 41 ° 30' N, in Closed Area II be closed to the scallop fishery between June 15 - October 31.

Ms. Tooley argued that discussion of this motion was not appropriate at the Committee level, and should be saved for the Council meeting. She noted that given the typical, current timing of scallop specifications, there is approximately a six week window between access areas opening and June 15. Given that two scallop vessels often share a single crew, it would be difficult to fit an access season into six weeks, and fishing in the late fall and winter is not desirable.

Motion 3 was withdrawn by the maker and seconder.

AGENDA ITEM #3: OTHER BUSINESS

Mr. Alexander made a motion to change the boundaries of the Great South Channel HMA, which was adopted as preferred by the Council in April.

Motion 4: Alexander/no second. Motion to perfect the Council's preferred final Alternative 4 in the Great South Channel:

41° 00.00' N 69° 22.00' W
41° 34.00' N 69° 31.50' W
41° 34.00' N 69° 45.00' W
41° 00.00' N 69° 45.00' W
41° 00.00' N 69° 22.00' W

- The area is inside the current Alternative 4 except for the northern boundary, where it takes in four more miles of GSC #2 box.
- The surfclam fleet would have a one year exemption inside the perfected alternative (except for any part of boxes 2, 3 and 4) to go to NMFS and get access areas.

Ms. Bachman provided a map for the Committee to view, and Mr. Alexander explained the motion. The Chairman asked about what would be required in terms of analysis. Ms. Bachman saw a few differences between Mr. Alexander's approach at the Council's preferred alternative: (1) Expansion to northeast, (2) Reduction to the west and the south – areas to the west are somewhat data poor, (3) changes to potential clam exemption areas vs. mobile bottom-tending gear closures. Not possible to say now without analysis what changes in impacts would be in terms of habitat impact or potentially displaced revenue. Mr. MacDonald (NOAA office of General Counsel) indicated that he felt the proposed appeared to be more than a minor change, but could not comment on the scientific merits of the approach. He questioned whether the Council would have the ability to make a fully informed choice given existing analyses. The Chairman reminded the group of the Council's motion/intent NOT to revisit alternatives approved as final in April. Mr. MacDonald continued that he believed the Chairman would have the grounds to rule the motion out of order, but that is a value decision and not clear cut. Mr. Nies reiterated some process issues, i.e. that the public and Committee have not seen any analysis of the alternative. Also, he noted that the area represents a reduction in area relative to the current preferred alternative. Ms. Bachman clarified that the area is expanded to the

northeast, but reduced in the west and south, for a net reduction in area of approximately one third. Mr. Alexander asked if this could come up at the Council meeting, and Mr. MacDonald responded it was dependent on the wording of the agenda.

Following this discussion, Motion 4 was ruled out of order by the Chairman.

The meeting adjourned at approximately 3:30 p.m.

Figure 1 – Committee recommendation for Georges Bank habitat management areas

