MEETING SUMMARY

Habitat Committee
Doubletree by Hilton, Danvers, MA
September 23, 2015

The Habitat Committee met on September 23, 2015 in Danvers, MA to discuss upcoming management actions including a possible clam dredge exemption area framework, the Omnibus Deep-Sea Coral Amendment, and management priorities for 2016.

MEETING ATTENDANCE: Doug Grout (Acting Chairman), Terry Alexander, Vincent Balzano, Lou Chiarella, Warren Elliott, Elizabeth Etrie, Mark Gibson, Jeff Kaelin, and Mary Beth Tooley; Council Chairman Terry Stockwell, Michelle Bachman and Maria Jacob (NEFMC staff); Moira Kelly, David Stevenson, Doug Potts (NMFS GARFO staff); and Mitch MacDonald (NOAA General Counsel). In addition, more than 27 members of the public attended, including six members of the Habitat Advisory Panel and two additional Habitat Plan Development team members.

KEY OUTCOMES:

- The Committee recommended that the Council initiate a framework adjustment to consider hydraulic clam dredge access within two habitat management areas approved in Omnibus Essential Fish Habitat Amendment 2. (See page 4)
- The Committee developed a draft problem statement for the clam access action for the Council’s consideration. (See page 5)
- By consensus, the Committee directed the Habitat Plan Development Team to coordinate with the Science Center for Marine Fisheries to further refine their research proposal related to the clam access framework. (See page 6)
- By consensus, the Committee tasked the Habitat Plan Development Team with evaluating recently collected data related to the deep-sea coral amendment, including development of recommendations about adjustments to management alternatives. (See page 7)
- In addition, the Committee tasked the Plan Development Team with conducting a preliminary assessment of the potential impacts of the existing range of deep-sea coral management alternatives on affected fisheries. (See page 8)
- Finally, the Committee agreed that the Deep-Sea Coral Amendment and clam access framework were important work priorities for 2016. Specifically they noted that both actions might benefit from workshops to refine management alternatives. (See pages 8-9)
AGENDA ITEM #1: POTENTIAL CLAM DREDGE EXEMPTION AREAS

During final action on Omnibus EFH Amendment 2 (OHA2), the Council adopted as preferred a one year clam dredge exemption from mobile bottom-tending gear closures in two habitat management areas (HMAs), the Great South Channel HMA and Georges Shoal HMA. Ms. Bachman presented information on clam dredging effort and benthic habitat characterization within these two areas.

The presentation described three representations of fishing activity: the logbook-based confidence interval analysis used in OHA2, landings per unit effort data binned by TMS, and unfiltered VMS data that show vessel location. In terms of seabed characterization, she described the coverage of the Swept Area Seabed Impact (SASI) model substrate grid, as well as six datasets based on the School for Marine Science and Technology video survey, including dominant substrate at each station, largest substrate at each station, sediment coarseness, sediment heterogeneity, benthic boundary shear stress, and sediment stability.

Committee discussion:

One Committee member asked about the relatively small amount of Vessel Monitoring System (VMS) data shown within the Georges Shoal HMA. Ms. Bachman emphasized that the VMS data shown were for 2006-2010. This time period precedes removal of the paralytic shellfish poisoning closure in January 2013. Since removal of the PSP closure, the PDT’s analysis indicates that clam dredging in the area has increased annually. Doug Grout, who is involved in the Northeast Regional Planning Body, indicated that more recent VMS data sets, filtered for vessel speed, are being developed through that planning process.

Audience questions and comments:

Peter Hughes (Atlantic Capes Fisheries, Cape May, NJ): Are the revenue maps only for tows predicted to have occurred within the management areas? Ms. Bachman clarified that no, the revenue maps show hotspots of revenue for all trips reported via the clam logbook system, not just the distribution of revenue associated with trips overlapping the management areas. In other words, the figures represent a census of all fishing effort. Mr. Hughes observed that these data indicate clearly the high degree of overlap between the OHA2 proposed management areas and clamming both on Nantucket Shoals and on Georges Shoals.

Louis Lagasse (Clam dredge fisherman): Is the assumption that the attached fauna [which seems to be of conservation interest] would be in areas with stable sediments? Ms. Bachman stated that yes, the PDT has inferred that attached fauna require hard substrate to colonize, and that areas of greater predicted sediment stability would likely provide better habitat for attached fauna. These assumptions can be ground trothed using video and other visual sampling within these particular management areas.

Ron Smolowitz (Fisheries Survival Fund): Changes over time in the substrate distribution can be evaluated using the SMAST video data. Both these changes and the actual distribution of benthic
fauna should be evaluated as metrics. Given the short timeframe to develop this action we should be focusing on these data now.

Jeff Pike (BumbleBee Seafoods): We’re one of the largest Quahog processors, and we contract with the vessels. We’re concerned on the impact to the company. What happens when we fail to designate open areas for clam dredges? We plan to work with the Plan Development Team and others to discriminate between habitats in need of protection and areas suitable for clam access. We want to work with you to make sure the fishery continues to operate in a sustainable way. This needs to be a Council priority. It is not clear how long it will take to complete this data analysis. Therefore, an extension to the one-year exemption should be considered.

Moira Kelly, NMFS GARFO clarified that a framework would take 6-8 months for NMFS approval an implementation, following Council submission of the framework document and associated NEPA document. Frameworks must be discussed at two meetings, but public hearings are not required for framework adjustments. Based on this approval timeline, and likely summer 2016 implementation of OHA2, the Council’s December 2016 meeting would be the likely deadline for final action on an access framework. It was also noted during the meeting that an extension to the 1-year exemption timeframe would require Council action.

Jud Crawford (Pew Environmental Trusts): We’ve heard that the clamming would only be in sandy areas. How are we to be persuaded that they just fish in sandy areas and not the areas intended to be protected by the habitat plan? How do we know vessels don’t operate in sand and gravel? More data? Ms. Bachman clarified that we should be able to more fully characterize hard bottom habitats (scattered vs. dense gravels, types of attached fauna, etc.), distribution of fishing effort, and habitat variability over time. In combination, all of these will help us to groundtruth observations about which habitat types are fishable and not fishable.

Sally McGee (Nature Conservancy): We’ve worked with SMAST on the video survey habitat type information. We have a final project review in October. Would you be able to incorporate the results of our project into this framework? Ms. Bachman affirmed that the timing appeared to work well.

**Additional Committee discussion:**

The Committee also asked what metrics, besides effort distribution, would be used to develop access areas. What are the benthic fauna (both attached epifauna and burrowing infauna) in the two management areas, and how do these features contribute to fish conservation? Lou Chiarella: there is information in conflict with what we assumed and where the clam industry can operate. Do these clammers have the ability to fish in some of these complex habitat areas. We need this basic information before we can go forward with this process.

The Chairman posed three questions to the Committee – are we going to initiate a framework? What should the goal and objectives be? What information do we need to develop the action?
1. MOTION #1: TOOLEY/ALEXANDER

Recommend that the Council initiate a trailing framework action for OHA2 to develop fishery access areas for surfclams and ocean quahogs in the Great South Channel and Georges Shoal Habitat Management Areas

Discussion on the Motion: Mr. Kaelin stated that he supported the motion, and suggested adding some language to clarify why we are prioritizing such a framework and what the goal/intent is. Intent might be to maintain access to areas currently fished; if so, we need to be upfront about that. The maker of the motion agreed that a problem statement was appropriate, but felt it should be discussed under a separate motion. Mr. Kaelin followed up that the timeframe seems very short, and asked rhetorically whether protecting the habitat in these particular areas was worth eliminating a fishery worth tens of millions of dollars.

Public Comment:

- Dave Wallace (representing an ad hoc group of clam fishermen): Support the motion, and share Mr. Kaelin’s view that one year from implementation of OHA2, something positive has to happen, or we end up shutting down the small clam boats on Nantucket Shoals. The processing plants that process those clams would also be out of business. On Georges Bank, we may be able to find other areas for a short period of time, that have catch rates high enough to justify the expense of fishing out there, but the PSP monitoring and compliance costs are substantial. The value added to the economy from these landings is substantial, and is underrepresented by the landed value of shellstock alone (700 processing jobs, etc.).
- Jud Crawford (Pew Environmental Trusts): We oppose this motion because this gear is arguably the most damaging gear in this region. To allow access for the clammers in areas designated for habitat protection begs the question of why you have HMAs at all; makes them look like mere lines on a map.
- Peter Hughes: I support this motion; we need to find a way to make this work for the entire industry, ocean quahog and surfclam. One of the things I’d like to explain very quickly is that clamming is not fishing where you can add ice to preserve the product at sea. Vessels have 36-48 hours to harvest the resource and transit to and from Georges Bank, so they need to operate on areas with very high catch per unit effort.
- Gib Brogan (Oceana): We don’t support this motion. If this action is initiated, any exemptions should be consistent with the goals and objectives of OHA2. Moving forward without that guidance is a mistake. This fishery has only recently been occurring on Georges Bank.
- Tom Slaughter (surfclam fisherman): Noted that he was fishing on Georges Bank, including on Cultivator Shoals, during the mid-late 1980s prior to the PSP closure, so this is not a new fishery. Clams were very dense in the area and there was no bycatch, just clams. The width of the dredge can range from 4 feet to 10 feet, with most vessels using dredges on the smaller end of this spectrum. As the tide shifts, this can cause larger substrates to be uncovered such that the dredges start catching the coarser substrate. When this occurs, the fishermen move out of the area. We fish in this areas because it is where the clams are located. We move around to allow the resource to recover back to high CPUE, so we need that flexibility to move about within these areas. Would not be
fishing in this area if there were such high densities of clams elsewhere due to difficulty of fishing in this area. Closing these two areas to clamming would shut down the industry in New England. Look to stay away from habitat, which can be done with modern electronics.

**MOTION #1 CARRIED 7/0/2.**

2. **MOTION: TOOLEY/ALEXANDER**

The SC/OQ fishery will be granted a one year exemption for the Great South Channel and Georges Shoal HMAs following implementation of OHA2, which will allow the New England Council to consider development of an access program through a framework action for this fishery. The Council intends through this action to identify areas within the Great South Channel and Georges Shoal HMAs that are currently fished or contain high energy sand and gravel that could be suitable for a hydraulic clam dredging exemption that balances achieving optimum yield for the SC/OQ fishery with the requirement to minimize adverse fishing effects on habitat to the extent practicable and is consistent with the underlying objectives of OHA2. This problem statement supports the Committee’s recommendation to initiate a framework adjustment (see Motion 1).

**Public Comment:**

- Dave Wallace: I strongly support this motion, and appreciate the clear and concise statement.

**MOTION #2 CARRIED 7/0/2.**

**Additional discussion on clam framework agenda item:**

What kind of information do we want to task the PDT and industry with bringing forward?

Mr. Alexander stated that the TNC/SMAST work can help show what fauna are within these closure areas. How can we confirm movement of the sediment? Ms. Bachman agreed that the TNC/SMAST project can be used to understand distribution of fauna in these areas. In terms of the movement of the sediment, many of these areas have been repeatedly sampled over time. Uncertain how change over time may have been previously explored using these data, but we can look into it.

Ms. Tooley asked if the SCeMFiS project was proposing to collect information that would be useful for this action. Ms. Bachman responded that if there is additional data to be mined from the NEFSC fishery-independent surveys, such as the locations of tows that couldn’t be completed and why, it seems worth looking at. We have no reason to think this project would answer all the questions we have related to data needed to develop this amendment, but it is worth looking to see what additional data are available. Ms. Tooley agreed that it would be worth it for the Committee to make a recommendation on this project.
Mr. Kaelin recommended that Guy Simmons and Peter Hughes introduce their proposal and the Committee agreed.

Peter Hughes (Atlantic Capes Seafood) and Guy Simmons (Seawatch International, Vice Chairman of NSF SCeMFiS, NFI Clam Committee Chairman): Discussed this during a clam committee meeting two weeks ago. Objective is to identify areas where the survey dredge has surveyed throughout the years, and overlay these areas with industry tows from plotters in a GIS format. Nantucket Shoal has been identified as an area with really high energy sand, which is frequently shifting. Don’t know how many data points we will get from the R/V Delaware on Nantucket Shoals, given depth of area and difficulty of fishing in areas. But bottom substrate, dredge damage, ability to complete tow, layered with industry data should be useful. Guy explained that on Georges Bank the vessels avoid structure due to potentially expensive damage to the gear. He asked how valuable the report might be the Council, and for the Council to provide feedback so that they can provide a useful product.

Mr. Grout asked how long it would take for information to be made available to the PDT, if the project is supported. Mr. Simmons responded that they would potentially assign funds on October 30, and that Dr. Mann and Dr. Powell (principal investigators) could then provide an updated timeline. The PIs will attend the Council meeting next week and plan to visit Woods Hole to discuss available survey data. For the PDT, Ms. Bachman agreed that the team could begin a dialog with SCeMFiS to ensure that the necessary data are being compiled in a useful way. Ms. Tooley emphasized that this discussion should be clear about timelines.

COMMITTEE RECOMMENDATION (BY CONSENSUS): The Committee agreed that the project appeared to be worth pursuing and encouraged coordination between project proponents and the Plan Development Team.

AGENDA ITEM #2: OMNIBUS DEEP-SEA CORAL AMENDMENT (OHA3)

Staff gave a presentation on the management alternatives in OHA3 and in the Mid-Atlantic Fishery Management Council’s (MAFMC) deep-sea coral amendment, recently collected data relevant to the NEFMC amendment, and possible next steps. Ms. Bachman discussed alternatives within the Deep Sea Coral Amendment, including the broad zone areas and the discrete zone areas along the canyons and seamounts. Ms. Bachman summarized the Mid-Atlantic Council’s June 2015 decisions on their deep-sea coral amendment, and also described updated scientific information to support OHA3, which includes observations from remotely operated vehicle surveys. To develop their management alternatives for deep sea coral protection, the Mid-Atlantic Fishery Management Council convened a fishery management action team (FMAT) that developed an initial set of boundaries based on bathymetry, slope, coral presence, and predicted suitable coral habitat. Towards the conclusion of their Council’s process, a workshop was convened to review all available data and adjust the boundaries.

Committee Discussion:

A Committee member asked whether this action would be a joint action with the Mid-Atlantic Fishery Management Council. Ms. Bachman stated that it was not the original intention.
However, while the New England Council would be responsible for this action, there will be collaboration with the Mid-Atlantic Council per the memorandum of understanding.

Related in particular to the boundaries for broad coral zones, a Committee member stated that it was his understanding that the National Marine Fisheries Service does regulate by the depth contours out west. Ms. Bachman stated that this is something she would investigate further, but that she expected there would be continued enforcement concerns over the type of approach. The Mid-Atlantic Council’s broad zone will have straight line boundaries that are no shallower than 400 m, no deeper than 500 m, and align with the discrete zone boundaries as much as possible.

A Committee member clarified that the deep-sea red crab exemption from the Mid-Atlantic coral zones could be temporary, and that the Council left open the possibility of changing measures in the future. The Mid-Atlantic Council’s motion from June was as follows: “Move to [prohibit] all bottom-tending gear in discrete zones, [with] an exemption for the red crab fishery from gear restrictions in all 15 discrete zones, for a period of at least 2 years following implementation of the deep sea corals amendment or until the exemption is superseded by a framework action.” In the broad zone, the Council agreed to prohibit all bottom-tending gears, but to allow an exemption for the red crab fishery, without specifying a timeframe, i.e. indefinitely.

Another Committee member stated that conceptually, we should be taking a “freeze the footprint” approach in the canyons. Within the Gulf of Maine, this may not be possible given the distribution of fishing effort in coral zone areas.

Public Comment:

- Megan Lapp (Seafreeze Ltd.): The potential depth contours for broad zones go out to 500 meters in the amendment. However, there is bottom trawl activity in 200-300 fathoms, which is deeper than 500 meters. Is there a possibility of revising the broad zone boundaries? What was the rationale for the 300, 400, and 500 meter alternatives?
- Ms. Bachman replied that the broad zone depth limits was based the Committee’s understanding of depths beyond which limited fishing activity occurred, combined with information that corals do occur shallower than 500 meters. The Committee and Council had previously discussed these alternatives as a “freezing the footprint” approach. There was still an opportunity to modify these alternatives. Mr. Grout added that his recollection of the original Committee and Council discussions was that the intent was to allow much but not necessarily all current fishing activity to continue, and to balance coral protection with fishery operations/impacts.

Committee Recommendation (by Consensus): The Habitat Plan Development Team should evaluate new data to support development of the Omnibus Deep-Sea Coral Amendment and recommend adjustments to management alternatives as appropriate based on these data.

Committee Discussion:
One Committee member stated that VMS data and the plotter data from the industry should be used in the analysis.

Public comment and Committee responses:

- Erica Fuller (Earth Justice): There is some 2010 guidance from NOAA General Counsel said that the New England Fishery Management Council cannot regulate lobster. However, at the Mid-Atlantic Fishery Management Council, Kevin Collins (NOAA General Counsel) stated that this guidance was revisited in 2014 and that the guidance had changed.
- Mitch McDonald responded that the revised General Counsel guidance does allow for lobster vessels to be added to the list of gears not allowed in these areas. However, it would be important to clearly demonstrate the need for such an action. Also, the Atlantic States Marine Fisheries Commission should be consulted.
- Mr. Gibson suggested that the Council should be extremely careful about invoking any new guidance that would enable it to regulate lobster gear in OHA3. Doing so would be inconsistent with the action taken by the Mid-Atlantic Council, which does not restrict lobster trapping. The MOU between the Councils includes a commitment to seek consistency in management approaches when possible.
- Mr. Kaelin recalled that this did not become an issue for the Mid-Atlantic Fishery Management Council because the depths at which lobster vessels operate were generally shallower than their coral zones.
- Erica Fuller: I was under the impression that the rationale for not including lobster gear in the Mid-Atlantic Fishery Management Council Deep Sea Coral protection areas was that the lobster fishermen were not at the meeting, and that a subsequent framework could limit lobster vessels in the future.
- In response to a question about whether or not data are available on the location of lobster fishing, Ms. Bachman explained that approximately 60% of lobster landings in the dealer data are represented on VTRs (see VTR/dealer comparison in OHA2 DEIS, Volume 1). This includes VTRs with good position information only, between 2005-2012. Sixty percent is an average across all vessel sizes, with roughly 90% of large vessel (>70 ft) landings in the dealer data represented through the VTRs.
- Mr. Stockwell noted that the Mt. Desert Rock area in the Gulf of Maine is an important lobster ground, and that Maine DMR has data from lobster sampling that can be provided to the Plan Development Team.

COMMITTEE RECOMMENDATION (BY CONSENSUS): The Habitat Plan Development Team should conduct a preliminary analysis of potential impacts to fisheries operating with the range of coral protection zones currently under consideration.

AGENDA ITEM #3: 2016 HABITAT-RELATED MANAGEMENT PRIORITIES

The Committee briefly discussed 2016 management priorities.

COMMITTEE RECOMMENDATION (BY CONSENSUS): The Council should include the Omnibus Deep-Sea Coral Amendment and the clam dredge access framework on its list of 2016 management priorities.
COMMITTEE RECOMMENDATION (BY CONSENSUS): The Council may wish to consider convening workshops to refine alternatives during development of both of these management actions.

Mr. Stockwell clarified that the workshop would not need to be included in the Council Report, because it falls under the work required for the action itself. Mr. Stockwell also stated that the Plan Development Team should advise whether the clam workshop would be helpful to development of the action.

AGENDA ITEM #4: OTHER BUSINESS

The Committee discussed recent proposals to designate Cashes Ledge Area and some canyons and seamounts as national monuments under the Antiquities Act (1906). There is nothing specifically proposed for the monuments on Cashes and Canyon/Seamounts in terms of area boundaries or use restrictions. New England Fishery Management Council staff and Council members did attend the NOAA Town Hall meeting on September 15, 2015 in Providence, RI, and provided comments on existing and proposed fishery management measures overlapping these locations. Ms. Bachman explained that the Obama administration’s decision on the monument proposal could influence measures in the Deep-Sea Coral Amendment, if it made some of the fishery management areas unnecessary. Mr. Gibson commented that his agency had heard a lot of concerns from industry members that could be affected by this action (fishing activity in statistical area 525), and that they were looking closely at fishing effort data.

Public Comment:

- Ron Smolowitz (Fisheries Survival Fund): I recommend that we develop a set of research needs, for Saltonstall Kennedy proposals, etc. We have no habitat data that reflect seasonality. We have no program to collect information on young of the year fish in these areas. There is a huge pelagic resource in these coral areas.

- Sally McGee (The Nature Conservancy): Some OHA2 alternatives were developed after the comment period ended. What is your intention with respect to the new information submitted during and after the comment period? Ms. Bachman responded that all alternatives would be analyzed in the FEIS, and that additional analyses and new information provided are being reviewed for possible inclusion in the FEIS.

The Habitat Committee meeting adjourned at approximately 2:30 p.m.