



New England Fishery Management Council

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MEETING SUMMARY

Habitat Advisory Panel

Hilton Garden Inn, Boston, MA

November 5, 2018

The Habitat Advisory Panel met to review and make recommendations to the Habitat Committee regarding alternatives for the clam framework and discuss offshore renewable energy development activities.

MEETING ATTENDANCE: Chris McGuire (Chair), Dave Wallace, Gib Brogan, Drew Minkiewicz, Ron Smolowitz, Meghan Lapp (Advisory Panel members); Michelle Bachman (PDT Chair, NEFMC staff); David Stevenson (NMFS GARFO staff), Eric Reid (Council member, RI, Enforcement Committee Chair). In addition, approximately 6 members of the public attended.

AGENDA ITEM #1: CLAM DREDGE FRAMEWORK

With six members of twelve attending there was not a quorum, so panel statements were not made as motions or voted. There was consensus that the panel did not recommend rotational management of exemption areas. The panel also discussed additional topics as outlined below.

To begin the meeting, Ms. Bachman reviewed the range of alternatives and summarized the feedback from the Enforcement Committee and Advisory Panel meeting held on November 1. She also addressed questions related to various Plan Development Team discussions and analyses. The PDT's recent work is summarized in a memorandum to the Committee dated October 31. This memo, among other things, describes habitat as well as fishery and clam resource characteristics of each of nine potential exemption areas identified by the clam industry. The alternatives identified by the PDT based on tasking from the Habitat Committee and Council include the following:

1. No Action
2. Designate year-round and seasonal clam dredge exemption areas (potential for as many as five areas year-round and four seasonal)
3. Designate year-round and seasonal clam dredge exemption areas with a three or two grouping rotational management framework with 5 and 10-year rotational intervals, respectively
4. Exempt mussel dredges in locations where clam dredges are exempted

During their November 1 meeting, the Enforcement Committee and AP recommended an adjusted set of management area boundaries where McBlair was squared off; East Door, Old South, Rose and Crown, D, and A were simplified and reduced in size; and areas B, C, and E were dropped from consideration.

Rotational management

The Advisory Panel agreed by consensus that the rotational management proposal is problematic from a timing and clam resource data standpoint, and that they did not recommend it. The management timeframe (7-10 years) was noted as being very lengthy given available information. Ms. Bachman noted that the PDT identified a 10-year interval as matching the maximum recovery time identified during development of the Swept Area Seabed Impact Model. This is also the rough timeframe over which the Council has generally agreed to revisit habitat management approaches in general. She mentioned concerns raised by industry members that when rotational areas reopened it could lead to an influx of fishing effort on the shoals, beyond typical fishery participants.

A member noted that scallop area management is not a good analog; much more data intensive. Given that surfclams are shifting in their distribution and are responsive to ongoing changes in water temperature changes, it seems likely that the most important fishing locations may shift in 5-10 years. Ms. Bachman noted that young clams (less than ~3 years old) have low catchability, and with the last survey in August 2017 this means we don't know what the last ~4 years of recruitment look like in the HMA. Fishery independent clam surveys in this area would likely need to be industry-driven, as the NEFSC survey does not (and likely will not) cover this area well.

Rationale for exemption areas

The group discussed but did not reach consensus around the finding that exemptions for the clam industry are practicable since there is very high reliance on this area. Overall there are around 40 vessels with surfclam permits, and about half fish in the HMA (about a dozen routinely). These vessels tend to be highly dependent on the HMA. The fishery generates around 20% of coastwide surfclam landings. Considering the importance of the area as a percentage of landings and the dependence of these vessels closures is not practicable.

Exemption area boundaries

One member suggested that zones A and B should be combined into a single area, and most members supported this idea, although there was not consensus on the issue. VMS data suggest that fishing is not occurring in the lane between zones A and B, but the width of the area between the zones is narrow (< 1 mi) and therefore concerning from an enforcement standpoint.

Some members agreed, although there was not consensus, that the adjusted boundaries put forward by the Enforcement Committee and Advisors were a sensible approach. Members asked whether a rationale for dropping B, C, and E was discussed at the Enforcement meeting, and Mr.

Reid acknowledged that there was limited discussion at the meeting of this issue. Ms. Bachman noted that zones B and E are quite narrow as drawn, and zone C overlaps cod spawning grounds.

Seasonal spawning closures

The group discussed but did not reach consensus on the merits of seasonal closures to protect spawning cod. The Council recommended a closure period of September-February to create a 2-month buffer on either side of a peak spawning period estimated at November and December. The PDT noted that November to April is understood to be the window within which spawning occurs in this location and recommended this time period as the seasonal closure. Some members agreed that a seasonal closure for spawning protection would be useful; others argued that this ignored other lifestages that required year-round habitat protection and that the seasonal closure would not allow for habitat recovery. A straightforward open/closed system would be simpler.

Mussel dredge exemptions

At present there is a ~10 million lb. fishery in Cape Cod Bay, and a desire to expand onto Nantucket Shoals. The fishery uses a small New Bedford-style dredge and does not require a permit or a letter of authorization to fish in the existing Mussel/Dredge Exemption Area, which overlaps the HMA. This exemption area does have gear requirements associated with it.

The group discussed how requirements such as VTR, VMS, VMS declaration could be attached to the mussel fishery if it is not a federal FMP and no mussel permit is required. Ms. Bachman will follow up with GARFO staff.

Some members agreed that mussel dredging should be allowed wherever clam dredging is authorized, but the panel did not have consensus on this. One member offered the observation that mussel dredging would enhance habitat. Others expressed reservations about an exemption given that the fishery has no permits, caps, or controls, and it was noted that the mussel fishery is not currently reliant on the area. Reflecting on the small footprint of the Cape Cod Bay fishery, one member suggested that perhaps a more tailored approach warranted (i.e. exemptions in a subset of the areas identified for clam dredging).

Research

The group acknowledged that many research questions about habitat characterization, fishery interactions with habitat, and fish use of habitat remain. It was noted that the clam industry has expressed interest in helping develop a research program and that they are willing to fund research in the HMA. One member wondered if access under an EFP might be exchanged for participation in a research program.

Q&A: Does clam fishery operate on cobble boulder habitat?

A member asked whether the fishery works in cobble and boulder habitats. Ms. Bachman responded that they do, at a scale of kilometers, but that we don't have data at a sufficiently fine resolution to assess interactions at the scale of a tow. The PDT memo covers this issue of scale in

some detail. A panel member observed that the fishery has not worked in the northeast corner of the HMA, which is the most complex habitat area. Ms. Bachman agreed with the assessment that at some degree of complexity certain locations seem to be avoided entirely by the fishery. Clam fishermen Lou Legace noted that they do catch cobbles, but in relatively limited amounts (a fraction of a cage over a tow, as compared to multiple cages of clams per tow). His assumption was that if this is the catch over 500 m that the cobbles are relatively scattered on the seabed. At broad scale, yes, at

Q&A: Is there an opportunity to make this an access fishery for small boats with history in areas, vs. an exemption for any interested clam vessel, in order to cap effort?

Ms. Bachman commented that her read of the Committee was that they were reluctant to overengineer the fishery since it is not New England's FMP. An AP member agreed, commenting that New England would not want the Mid-Atlantic managing scallop access off NJ, for example. Mr. Legace offered that larger vessels are unwilling to fish in the area because it is too dangerous for them. There is a lack of interest in fishing on the shoals on the part of some smaller vessels as well. This puts some practical limits on the scale of the Nantucket Shoals fishery.

AGENDA ITEM #2: OFFSHORE ENERGY DEVELOPMENT

Ms. Bachman explained that she was working with NMFS and Mid-Atlantic Council staff to develop comments on various offshore-wind projects at different stages, including the Notice of Intent for South Fork, the updated areas under consideration for leasing in the NY Bight, and the Vineyard Wind draft EIS. The timing of environmental review for these projects is proceeding at a blistering pace, and analysts are struggling to keep up.

The group agreed that an important role for the Council was to provide analysis and information based on our knowledge of fisheries and using fishery data. One AP member suggested that rather than the Council convening its own workshops around offshore wind and fisheries issues that priority be given to attending others' workshops and providing data and information about fish and fisheries usage in various areas. Another member suggested that the Council might start using the EFH consultation provisions of the Magnuson Stevens Act more directly to influence the process. The group agreed that it was very important for the Council to work early in the process to influence the initial location of lease areas. One member suggested that the Council draft a letter to the Secretary of Commerce indicating concerns about impacts to fish and fisheries as well as the lack of time to conduct a careful environmental review of these projects. In terms of the impacts of offshore wind, one member observed that transit corridors developed for vessels will likely become transit corridors for managed fishery species and megafauna such as whales as well. This could create conflicts in these spaces.

The meeting adjourned at approximately 1:30 p.m.