



## New England Fishery Management Council

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

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

## MEETING SUMMARY

### Habitat Committee

Hampton Inn and Suites, Foxborough MA

May 9, 2019

The Habitat Committee met to discuss a research framework for the Great South Channel Habitat Management Area, learn about the Fishing Effects model, get updates on offshore renewable energy development activities, and discuss a plan for development of additional Council policies on non-fishing impacts to habitat.

**MEETING ATTENDANCE:** Doug Grout (Committee Chair), Eric Reid (Vice Chair), Terry Alexander, Lou Chiarella, Peter deFur, Libby Etrie, Peter Hughes, Matthew McKenzie, Scott Olszewski, Melissa Smith, Terry Stockwell; Michelle Bachman (NEFMC staff, PDT Chair); Doug Potts, David Stevenson, (NMFS GARFO staff); Mitch McDonald (NOAA General Counsel). In addition, approximately 12 members of the public attended.

### **KEY OUTCOMES:**

- The Committee recommended a series of updates to be made to the research framework for the Great South Channel Habitat Management Area.
- The Committee discussed two research projects being developed for the area. This discussion included potential feedback the Council might provide when NMFS publishes requests for comments on the exempted fishing permits for these projects.
- The Committee will review the Mid-Atlantic Fishery Management Council's policies on non-fishing activities that impact fish habitat and fisheries and will continue to work towards the development of additional NEFMC policies during the remainder of 2019. These policies help shape the Council's and NMFS' comments on such activities.

### **AGENDA ITEM #1: GSC HMA RESEARCH FRAMEWORK**

Ms. Bachman presented the Plan Development Team's (PDT) work on the research framework (Documents 3) referencing recent team discussions on this issue (Documents 2a and 2b). The framework includes four objectives related to habitat characteristics, impacts assessment, and habitat utilization and benefits within the Great South Channel Habitat Management Area (GSC HMA). In addition to summarizing the contents of the draft framework (Document 4), the presentation included background on related Council research priorities (approved April 2019) and definitions for exempted fishing permit (EFP) and compensation fishing.

The Committee had a range of comments and questions about the research framework, and questions about the EFP process.

Related to the design of impacts studies, the Committee asked if there were control or reference sites within the HMA that might be considered ‘virgin’, i.e. recently unfished. The response was that this condition is probably better approximated for mussel beds, which surfclam vessels attempt to avoid, and have not been commercially harvested on Nantucket Shoals since the 1990s. Surfclam dredging has occurred throughout the HMA, although at varying levels of intensity. The PDT can work with researchers to identify the best reference sites given presently available data on habitat and fishing effort distributions.

The Committee asked if NEPA analysis was part of NMFS’ review process for EFPs. Related to reducing impacts to habitats within the HMA, the Committee recommended that work should be done outside the HMA if possible. The response provided was that effects of an EFP are evaluated during the review process, consistent with NEPA requirements, and alternative or modified approaches that reduce impacts to habitat (e.g. conducting research in other locations) would be considered. The Committee recalled that Omnibus Habitat Amendment 2 (OHA2) included a policy statement that habitat-related research should be allowed HMAs, contingent upon EFP approval.<sup>1</sup> While the Greater Atlantic Regional Fisheries Office (GARFO) is ultimately responsible for approving EFPs, Council feedback is considered during the review process.

The Committee agreed it was important to get the objectives right at this early stage in the process, and that it was also important to ensure to the extent possible that the information gathered by these projects would be useful for management, and meet the definition of best available scientific information. The studies should be designed in such a way that will produce robust and statistically meaningful results. The specific amount of fishing effort associated with each project has not been discussed in detail, but the need for and effects of such fishing will be evaluated as part of EFP review. The Committee acknowledged that given the distributions of mussels and surfclams and the management structures for each, it might be unrealistic to expect that compensation fishing would be desirable outside the HMA.

The Committee emphasized the importance of laying out what we already know and understanding whether and how each of these projects was necessary to improve our understanding of the GSC HMA. Are we asking questions we don’t already have the answers to? The Committee asked specifically if research on other types of dredging such as that used for laying cables might be applied to questions about fishing gear impacts. The PDT will consider this.

In a broader context, the Committee discussed that these research objectives, with minor modifications, would be relevant to any of the Council’s HMAs. There was agreement that decisions about these EFPs and HMA would be precedent setting regarding future work in other

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<sup>1</sup> From OHA2 Vol 3, page 15: The Council also recommended that National Marine Fisheries Service allow habitat research projects on commercial vessels within the HMAs contingent upon approval of an exempted fishing permit. The intent of this recommendation is that research conducted in HMAs should be allowed so the Council may evaluate the success of the closed areas.

areas. The Committee debated the merits of explicitly suggesting that the work done under this research framework was intended for broader evaluation of the effectiveness of the HMA. While some members were concerned that this question went too far beyond the research framework objectives, others felt it was important to evaluate the effectiveness of our management efforts. A member commented that the direct and indirect benefits of HMAs may extend beyond protection of seafloor habitats, and we should not be too narrow in our consideration of the possible outcomes of spatial management. It was argued that while effectiveness of our HMAs is an important question, the new HMAs including this one are only 13 months old, and we need to give time for them to work as intended before evaluating their effectiveness. Ultimately the Committee voted to request that the PDT discuss this concept in the framework document and put the issue in front of the Council in June.

### **1. Motion: Stockwell/Alexander**

**Move to keep language about evaluation of the HMA in the Committee's list of additions to the research framework.**

**The motion carried 8/1/1.**

The Committee's suggested additions to the research framework are summarized below.

Include in research framework an underlying understanding that research should be designed in a manner that is statistically rigorous and effectively supports decision making.

Include in research framework an underlying understanding that it should be necessary to conduct proposed research within the GSC HMA, vs. outside the HMA. Specifically, regarding research activities that involve the use of fishing gear and would have impacts to habitat, it should be explored whether it would be possible to complete this work outside the HMA.

Edit Objective 4 language to read "such as Atlantic cod". This creates flexibility to adapt this objective for other HMAs. Related to this objective, identify the types of direct and indirect benefits that might be expected.

Explain what the characteristics of the research results should be

Define the term "vulnerability" more explicitly.

Identify management applications for the data.

Identify two overall hypotheses for the program:

1. Can dredging be conducted in a manner that is consistent with habitat protection/conservation? This question is central to the revision of the exemption area program.
2. Is the HMA functioning the way we intended? Do the management measures (gear restrictions) have the intended effect? This question is a broader expectation for ongoing

habitat management, and while it goes beyond this research framework, the results of the studies envisioned here may support future attempts to answer this question.

Audience member Pete Kaiser from Nantucket asked how data would be gathered under these EFPs and said that it would be fine to study the area with gears that do not impact habitat. He observed that the McBlair area is scattered with mussel beds, and that the HMA should be allowed time to work before exemptions are granted, expressing his opinion that the area will work with time.

Audience member David Frulla (Kelley, Drye, and Warren) suggested that it was important for the Council to engage in adaptive management, evaluating the effects of decisions and reconsidering them.

The Committee next heard about two different EFP proposals (Documents 5 and 6) and had the opportunity to ask questions. The project under development by Coonamessett Farm Foundation (CFF) was presented by Ron Smolowitz and includes an assessment of habitat and managed species distribution in the HMA. One element of the project involves towing cameras from hydraulic clam dredges and cataloguing habitat characteristics observed along the transects. Surfclams and bycatch would also be documented during these tows, with more intensive sampling envisioned for trips with CFF personnel aboard. Other project elements include baited underwater video surveys to ascertain relative abundance of juvenile Atlantic cod, plus drift and stationary camera stands to assess benthic habitat characteristics. The stationary stands would be used to observe sediment movement over multi-day time frames.

Committee members asked how the sampling design would be worked out and suggested that it would be helpful to have scientific personnel on each trip. The PDT will discuss sampling design with researchers including coordination between different projects. Mr. Smolowitz indicated that the plan for trips without scientific personnel was to photograph the catch for later analysis.

Next George Maynard of Cape Cod Commercial Fishermen's Alliance presented a proposal they have developed in collaboration with Domenic Santoro of Chatham Light Seafood and the Center for Coastal Studies. This project includes acoustic mapping to identify mussel beds, followed by a before after control impact study of mussel dredge impacts. One question they want to address is whether anecdotal observations that mussel growth is faster in fished beds can be documented in the GSC HMA. They plan to sample the catch to assess mussel condition, age, and growth across beds and over time. Other questions include what the role of mussels as habitat for other invertebrates is, and how do mussel beds persist over time.

A Committee member suggested that it was important that the projects build on each other and work in a coordinated manner, and there was agreement that this was the intent.

Both projects rely on compensation fishing within the HMA to provide funding for data analysis and for sampling with gears that do not catch clams or mussels (i.e. camera stands, acoustic systems). Mr. Smolowitz that their approach to determining the amount of fishing was to take recent effort in the HMA and reduce it by about 50%.

After a lunch break, the Committee discussed the sorts of feedback that they would envision the Council providing to GARFO in response to both EFPs. They agreed that it was important that the projects adhere to the objectives identified in the research framework, have no substantial negative impacts on the HMA, and result in useful and scientifically rigorous information to support management. A member suggested that it would be important to understand the amount of science that could be accomplished with the funds from a given amount of fishing, to ensure that the project is worthwhile. NOAA staff indicated that the EFP applications are required to indicate the expected amount of harvest so this issue will be considered during EFP review. Ms. Bachman asked if it would be possible to solicit comments on the EFPs during a Committee meeting, vs. at a full Council meeting, and Mr. MacDonald indicated that this would likely work.

### ***AGENDA ITEM #2: FISHING EFFECTS MODEL***

Next, Ms. Bachman briefed the Committee on the results of the Fishing Effects Model (Documents 7 and 8). The model generates temporally and spatially specific estimates of fishery impact to habitat for six gear types over the period 1996-2017. The model domain is the northeast region including state waters from Maine to North Carolina. After the presentation the Committee offered the following suggestions:

- Add fishery management areas and wind energy areas to the time series of outputs to show the relationship between fishing activity and these areas over time.
- Consider study fleet data to determine trawl gear swept area parameters.
- Give some thought to why there appear to be mobile gear impacts in state waters off NH. Ms. Bachman emphasized that the PDT will need to investigate and caveat all of the outputs before using the data in-house to support impacts analysis of management measures or providing the outputs to outside partners.

Audience member Erica Fuller of Conservation Law Foundation inquired as to whether the model outputs would be made available to the public, and Ms. Bachman said that was the intent, likely through the regional data portal. The model code could also be made available.

Drew Minkiewicz (Kelley, Drye, and Warren) suggested that the information be disseminated widely, as it did a good job of showing long term patterns of area usage.

### ***AGENDA ITEM #3: OFFSHORE ENERGY DEVELOPMENT***

The Committee briefly discussed offshore energy issues. A very extensive briefing was provided during the recent Council meeting. Ms. Bachman indicated that we are still awaiting final Bureau of Ocean Energy Management recommendations for NY Bight wind energy areas; this is likely an issue the Council will wish to comment on (the notice will include a request for feedback on information that should be considered in the environmental assessment to support the leasing process). The Council has provided comments on other similar notices in the past. A Committee member noted that the South Fork project was on hold; Ms. Bachman affirmed this was the case. He also expressed concern about the analysis used to support impacts determination for the Vineyard Wind Incidental Harassment Authorization permit. Ms. Bachman said she would

inquire with NMFS staff about whether they were aware of the issues raised around hammer size.

***AGENDA ITEM #4: NON-FISHING POLICIES***

Finally, the Committee had a brief discussion about a path forward for developing additional policies on non-fishing activities and their impacts on fisheries and fish habitats. The Committee agreed to review MAFMC policies and think about whether other policies might be useful. One idea raised was a policy on pipeline and cable impacts; this was raised in the context of offshore wind transmission cables but could apply more broadly. Sand mining was also noted as a possible policy topic. Ms. Bachman noted she was attending a workshop in August related to non-fishing activities and fisheries, which would include participants from all Councils and various NMFS staff involved in EFH consultations. One specific topic identified for discussion was how to develop these sorts of policies effectively. The group agreed it would be useful to see what ideas might come out of this workshop before recommending any additional policies to the Council.

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The meeting adjourned at approximately 3:45 p.m.