



## New England Fishery Management Council

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Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

# MEETING SUMMARY

## Habitat Committee

June 10, 2022

8:30 am – 12:30 pm

Via Webinar

The Habitat Committee met on June 10, 2022 via webinar to discuss 1) a framework to designate a Habitat Area of Particular Concern (HAPC) in Southern New England, 2) aquaculture, 3) updates on offshore development, 4) the Northeast Regional Habitat Assessment and 5) any other business.

**MEETING ATTENDANCE:** Eric Reid (Committee Chair), Peter Aarrestad, Togue Brawn, Pete Burns (GARFO), Libby Etrie, Peter Hughes (MAFMC), Scott Olszewski, Cheri Patterson, Geoff Smith, Melissa Smith, and Kate Wilke (MAFMC)<sup>1</sup>; NEFMC staff: Michelle Bachman (Plan Development Team Chair), Jenny Couture, Chris Kellogg, Tom Nies, and Janice Plante; NOAA General Counsel: Mitch MacDonald; NOAA GARFO: Chris Schillaci, David Stevenson, and Alison Verkade. MAFMC staff: Jessica Coakley. In addition, three other Council members, four Advisory Panel members, and about 13 members of the public attended.

### **KEY OUTCOMES:**

- Regarding the Habitat Area of Particular Concern designation, the Committee discussed the draft alternatives at length and recommended the Council adopt none of the alternatives. The Committee recommended the Council clarify its focus for the alternatives and determine whether work on this framework should continue.
- The Committee received updates on aquaculture projects in the EEZ, including the Blue Water Fisheries Project and recommended continuing to work towards initiating an action related to authorizing Atlantic salmon aquaculture in the EEZ at the September Council meeting.
- The Committee deferred updates on offshore wind development and the Northeast Regional Habitat Assessment during the June Council meeting given the Committee ran out of time to discuss these agenda items.

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<sup>1</sup> Ms. Wilke listened to the meeting but was unable to participate in the discussion or vote on motions via the webinar platform.

***AGENDA ITEM #1: HABITAT AREA OF PARTICULAR CONCERN (HAPC) IN SOUTHERN NEW ENGLAND***

***Presentation – HAPC***

Ms. Bachman and Ms. Couture updated the Committee on the development of the Southern New England (SNE) HAPC designation framework. By way of background, the presentation reviewed the discussion and outcomes from the following meetings: March 17<sup>th</sup> Habitat Committee meeting, the March 28<sup>th</sup> Plan Development Team (PDT) meeting, April 12<sup>th</sup> Council meeting, April 29<sup>th</sup> PDT meeting, May 24<sup>th</sup> AP meeting, and the June 1 PDT meeting. Staff also described the evolution of the draft alternatives and the supporting information and data to consider during development of the action. This information includes recent acoustic data on cod spawning, cod stock structure, essential fish habitat designations, and fishery-independent survey data, as well as relevant literature. Staff presented the PDT’s recommendations, a brief overview of the impacts of each of the three draft alternatives (in addition to No Action), and a synopsis of the status of the SNE offshore wind projects.

***Discussion***

A Committee member asked if Essential Fish Habitat (EFH) consultations will occur whether an HAPC is present or not. Staff noted that yes, EFH consultations will occur for all offshore wind development projects regardless of whether an HAPC is designated but that an HAPC is meant to elevate the level of importance of an area. HAPCs can be effective early on in the offshore development process to the extent that they promote modifications of projects to avoid impacts to EFH and are less likely to influence projects that are already permitted. Although South Fork is already permitted, as part of the Record of Decision, the project has time area restrictions for where and when construction can occur to minimize impacts to cod spawning, which was a result of the EFH consultation process. The South Fork EFH consult was conducted without the HAPC designation contemplated in this framework, although considered some of the same data.<sup>2</sup>

One Committee member expressed significant concern over the speed of the action and that two of the alternatives focused only on cod, noting that in the future some people may argue to close these areas to fishing to protect cod spawning. Staff emphasized that the Council and NOAA Fisheries already evaluate these types of concerns during the EFH consultation process when considering changes in fisheries management and that the main reason for designating an HAPC is to help minimize impacts from offshore wind development. The HAPC designation qualifies for a Categorical Exclusion given this is an administrative action based on the determination of no impacts (i.e., the actual designation does not cause any action on the environment but could result in a future action that may impact the marine environment). EFH consultations for fisheries management and offshore wind will consider important areas of cod spawning regardless of whether there is an HAPC designated or not. The Committee member reiterated her concern over any unintended consequences of an HAPC designation focused on cod spawning.

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<sup>2</sup> Not mentioned during the meeting, but the Inshore Juvenile Cod HAPC was instrumental in developing terms and conditions for Vineyard Wind I cable route through Muskeget Channel. “5.4.4 Final Cable Protection in Hard Bottom (Operations). No later than 3 months prior to the placement of cable protection equipment, the Lessee must submit to BOEM, BSEE, and NMFS a plan for monitoring the effectiveness of natural and engineered cable protection equipment in the OECC. The plan must include a section on monitoring the effects of cable protection equipment on juvenile cod HAPC. The Lessee must submit this plan to BOEM and BSEE.”

Another Committee member asked about the impacts of the designation on the fishing industry. Because this is a Categorical Exclusion, staff's understanding is that only the impacts to the ecosystem components as determined by the Magnuson Stevens Act need to be included. This has been taken to include fish, fisheries, and EFH but not protected species impacts. Clarification should be added to the impacts analysis, noting that industry could have some short-term impacts from the HAPC designation but in the long-term could experience positive impacts if stocks recover. This is noted in the document at present but can be further emphasized.

**Public Comment:**

- **Ron Smolowitz (AP member)** asked if and how the existing inshore juvenile cod HAPC (designated via Omnibus EFH Amendment 2 in 2018) affected offshore wind development. Ms. Verkade (GARFO HESD, PDT member) emphasized that the HAPC played an important role in the development of the habitat minimization alternatives for multiple projects, even before the EFH consultation process. Mr. Smolowitz responded that he did not think the HAPC added any value beyond EFH alone and that the designations have impacted his ability to conduct research via Exempted Fishing Permits (EFPs), especially on the Northern Edge. Ms. Verkade reiterated that in her experience the existence of the juvenile cod HAPC has been significant in terms of BOEM's inclusion of habitat minimization alternatives for ongoing projects.

Chris McGuire (AP Chair) stated that the South Fork Record of Decision includes some restrictions and other requirements to avoid cod spawning but he was not certain how or to what extent the inshore juvenile cod HAPC was considered. He also noted that he and Ms. Bachman connected with GARFO staff following the AP meeting to explore Mr. Smolowitz's concerns about HAPC and EFPs. The responded that it depends on the objectives of the work and the potential impact, that they've denied EFP applications to operate in these areas in the past, and at the same time, they've allowed them and so there are no blanket restrictions from the GARFO staff perspective to conducting research in either habitat management areas or HAPC. On the issuance of EFPs, staff clarified that the Northern Edge is a Habitat Management Area, which has different restrictions than an HAPC, in addition to being an HAPC.

- **Drew Minkiewicz (Fisheries Survival Fund, AP member)** asked how an HAPC designation will influence projects that are already leased, more specifically how turbines can be microsited if an entire area is an HAPC. The GARFO Committee member responded saying the HAPC gives GARFO the opportunity to emphasize habitats of particular value to the Council during and prior to the EFH consultation process and that where there are areas that are more complex or functionally valuable then development can be shifted to avoid those areas. Ms. Verkade reiterated that the HAPC provides NOAA guidance for areas to focus its conservation recommendations on and that the HAPC allows for the Council to provide input more directly into the offshore wind development process. In other words, the designation indicates to BOEM that cod spawning and complex habitat, for example (draft alternatives) are important to both the Council and to NOAA and that BOEM should consider excluding turbines and cable routing in these areas, require certain type of scour protection, etc.

***Further discussion***

One Committee member mentioned that the Council has written many comment letters to BOEM and the Council's recommendations were not taken into account, noting only one project in the Mid-Atlantic changed its layout. He is concerned about the designation, cumulative effects from the various wind projects, and that it is likely too late to influence offshore wind development. The GARFO Committee member explained that because NMFS is a cooperating agency, if BOEM does not accept NMFS' conservation recommendations through the EFH consultation process then BOEM must provide a reason in writing. BOEM does not have to provide responses to the comment letters submitted by the Council and other members of the public, so an HAPC is a mechanism for which BOEM must respond to via the EFH conservation recommendations. He also emphasized that the inclusion of habitat minimization alternatives in the EIS documents for these projects does appear to be getting traction, and that NMFS is doing what they can, and that HAPC is another tool they can use. Ms. Verkade acknowledged the frustration related to existing leases and that they feel it too, but emphasized that BOEM has to respond to EFH conservation recommendations based on the HAPC. The HAPC designation, whatever it will be, allows the Council to have a strong voice in the process. NMFS uses the designations to support and focus their recommendations. They hope that HAPCs can help to change the narrative.

After a short break, the AP Chair provided a brief overview of the May 24<sup>th</sup> AP meeting. After discussing all four alternatives, the AP recommended Alternative 2 as the preferred alternative for a cod spawning HAPC because this is a balanced approach protecting cod spawning with minimal impacts to the fishing industry in the long run given the discrete area (relative to Alternative 3). They also recommended No Action instead of designating a multispecies HAPC for complex habitat via Alternative 4, stating they felt the scope was too broad.

The AP also had a presentation from Mr. Schillaci at GARFO, about aquaculture and agreed on a consensus statement that the Committee should continue to track issues of Atlantic salmon aquaculture, including specific projects and siting of those projects. And the rationale was that location is really important for determining impacts of projects.

**1. MOTION: ETRIE/M. SMITH**

Recommend Alternative 4, using statistical areas 537-539 and 611-613 as the basis for the mapped area, as preferred.

***Rationale:*** Shares everyone's frustration about how BOEM's process has unfolded and is concerned that the fishing industry has not been viewed as a user group that provides jobs and is fundamental to coastal communities and economies. Understand why folks struggle with seeing what value an HAPC could be in this development process, which is not as open and transparent as the Council process we're all used to. Supportive of the HAPC concept so that conservation recommendations have more teeth.

Alternative 2 is too cod-centric and ignores the fact that we have multiple species that we manage as a Council. Alternative 4 will better reflect all the Council's concerns. Also concerned that in being very focused on cod spawning, the Council would inadvertently be creating a situation where we established a dynamic where people focus in on us having additional

spawning protections for cod and we have just designated an area that could come in via secretarial action or some other process that is not as open and transparent as we'd want it to be. So, focusing in on habitat areas of complex bottom creates a little structure and process for the Council to comment on the development and siting discussions happening in southern New England. It acknowledges the fact that New England does, in fact, manage multiple species, and we're not just solely focused on cod. And it balances the concerns industry has with HAPC so hopefully some of the research concerns that we see on the northern edge we won't see with this designation.

**Discussion on the Motion:** A Committee member liked that Alternative 4's focus on complex habitat is in line with the Council's offshore wind policy. The member did not support Alternatives 2 and 3 and thought that if possible the spatial extent of Alternative 4 should be reduced to be more effective.

Staff noted that cod spawning is not part of Alternative 4 so if there is interest in protecting cod spawning through an HAPC, this would need to be added to Alternative 4 so that it can be one combined alternative, if only Alternative 4 were preferred at the end of the day. She noted that spawning habitat, in addition to complex habitat, is a focus of the Council's offshore wind policy.

The GARFO committee member agreed that Alternative 4 was quite broad, but that the Council is charged with protecting multiple species, including cod, and Alternative 4 misses an opportunity with regards to cod. He recommended an amendment as follows:

**1A. MOTION TO AMEND: BURNS/**

Recommend Alternatives 3 and 4, using statistical areas 537-539 and 611-613 as the basis for the mapped areas, as preferred.

**Rationale:** see above comment; misses focus on cod spawning.

**Note:** The maker of the original motion did not wish to include this as a friendly amendment, so it was made as a motion to amend.

**Discussion on the Motion:** A Committee member expressed that in their understanding the impetus of this framework was to have more say in wind development, and that the focus was not established as being on cod spawning. They argued that this action might be viewed differently and might attract additional participants if the focus on cod spawning was clearer.

Another member asked if/how the spatial footprint differs between Alternatives 3 and 4. Staff noted that Alternative 3 is a subset of Alternative 4 because there are fewer EFH designations in Alternative 3 given this alternative is focused on certain cod life stages. She also noted that if this motion were to move forward, the Council could implement two HAPCs, and proposed in the document, one for cod spawning and one for complex habitat, or merge the concepts into a single HAPC designation for those statistical areas. She emphasized that the hatched portion of Alternative 3, as well as Alternative 4, would only apply where evidence of spawning or complex habitat, respectively, occurs, not throughout the entirety of the six statistical areas.

**MOTION 1A TO AMEND FAILS FOR LACK OF A SECOND.**

A member asked if the Council has the authority to manage Statistical Area 611 (Long Island Sound) given this is state waters. NOAA General Counsel stated that the Council can and has identified EFH in state waters and federally permitted and federally managed vessels are allowed to fish in state waters. State waters can be also designated as HAPC. The inshore juvenile cod HAPC is primarily state waters and was based on depth rather than distance from shore. The member then expressed interest in status quo, and was concerned that NOAA's emphasis on protecting cod spawning may result in future time-area closures for the fishing industry.

Another member wanted to protect the fishing industry from offshore wind development but was reticent of unintended consequences of having an HAPC. She supported either status quo or Alternative 2 which was more spatially explicit. Another Committee member supported a more spatially explicit HAPC like Alternative 2 that is based on solid scientific information but thought Alternative 4's focus on complex habitat and several Council-managed species was beneficial.

Another Committee member asked whether the framework's objectives will be further refined once a preferred alternative is determined, since the reference to spawning in the objectives seems minor and is not consistent with the focus on cod in the alternatives. Staff noted that this was not the original plan given the objectives encompass all the draft alternatives but that the objectives could be updated if that is the desire of the Committee.

Another Committee member stated that the initial impetus of the framework, including its problem statements and objectives, did not focus on cod, but was broader in focus to provide protection for several species in which the Council manages. According to the Committee member, the framework process is moving rapidly since the offshore wind development is also moving at a rapid pace and behind closed doors. They did not recall a Committee motion to be cod-centric. They reiterated concerns about unintended consequences of an HAPC.

The GARFO member reiterated his concern that Alternative 4 won't really won't do a lot to protect spawning cod, the way that alternative 3 would. He acknowledged concerns that this is too cod centric, and that maybe this wasn't the initial scope of what this action was intended to do. From the agency standpoint, we know that the cod population could be particularly vulnerable to things like pile driving noise, and they are concerned about disruption of the complex social aggregations that cod have. That was a major concern when preparing conservation recommendations on the South Fork wind farm and on other projects, that there is the potential for population level impacts cumulative leave going forward. This work has brought the cod spawning protection issue into the forefront for the agency.

Another member asked why cod eggs and larvae are not included within Alternative 4 given this alternative is so broad. Staff responded that Alternative 4 is focused on complex habitat so only includes the species and life stages that have dependence on complex habitat. Eggs and larvae are both pelagic.

**Public Comment:**

- **Drew Minkiewicz (Fisheries Survival Fund, AP member):** Fishery Survival Fund strongly opposes this motion. Back in 1996, Congress passed the Sustainable Fisheries Act and created the concept of essential fish habitat. And the idea was to name discrete areas that were essential, essential for fish. What in fact happened was every bit of the EEZ was deemed essential. So, we established the fish need water. On top of that, NMFS put it into regulation the concept of an HAPC, which was even further refined, or highly specific area of a habitat, that area of particular concern. If you look at this proposal with these six statistical areas, we would be saying that all of Nantucket Sound, all of Vineyard Sound, all of Buzzards Bay, all of Narragansett Bay, all of Block Island Sound, all of Long Island Sound, all of the Great South Bay, and all of the offshore waters of southern New England, are habitat areas of particular concern. At this rate, we're going to have to create an HAEPC, habitat areas of extremely particular concern. Because we're going to name everything in HAPC, on top of being EFH. This is reaching levels of absurdity. And this will do nothing to impact BOEM. In fact, if BOEM sees this, I mean, how are they going to respond to it? Are they really going to change anything they do? And this isn't to denigrate the significant efforts of NIMS and everything they're trying to do in consultation, because I know they're working hard. So then what are we left with? Every fishery management action that regulates a fishery in Southern New England will have to be evaluated as to how it impacts HAPC throughout its entire grounds.
- **Ron Smolowitz (AP member):** I agree with Drew's comments, but I have an operational question. Most of the adults here that are listed occur on non-complex bottom. Sea scallops, monkfish, little skate. How does this work? In other words, are there going to be maps drawn? Were adult scallops on what is the actual HAPC within these areas? Or is the entire area going to be an HAPC for adult scallops? That sort of a question before my comment.

Ms. Bachman responded that within these six statistical areas, when complex habitat occurs, it would be HAPC. So it's certainly not everywhere in all of the EFH, especially for the adults, since some of these animals use a range of habitat types. A determination about the occurrence of complex habitat is going to happen at the project level. This would include Council actions. This is the way that the agency applies the long-standing summer flounder HAPC, which focuses on a habitat type, submerged aquatic vegetation, throughout the species range, wherever that habitat type is found to occur. In response to a follow-up question, she noted further that a map of complex habitat would not be developed now, but the distribution of complex habitat at the site would be determined at the project stage.

- **Ron Smolowitz (AP member):** I've obviously fished in this area over the last 50 years or so I have a good idea of where these species occur. And what habitat is sand and what is complex. And so I can't imagine how this once you start defining this, and we and we want to go out and do a research survey with a scallop dredge, all of a sudden, now, an EFP will be impossible to obtain. This is an unbelievable misuse of the whole concept of habitat areas of particular concern. I strongly urge this get voted down and we go to the status quo, because one thing we understand is nothing we're going to do is going to alter anything for wind, it's just going to be putting extreme restrictions on fishing.

A Committee member followed up on Mr. Smolowitz's question on what information would be used to identify complex habitat in Alternative 4. He was concerned that the HAPC designation is more effective early in the wind development process, however, the project level data may not be collected until a later stage. Council staff commented that a combination of existing data sources including available project specific data (site assessment data, geological and geotechnical surveys) are used in the EFH consultation process. Existing data sets are already listed in the draft HAPC framework document.

NOAA General Counsel sought to clarify how the process would work. If the Council is notified of the project, would the PDT do an analysis? Without areas identified upfront, there is not much advanced notice for people that a specific area is of concern. There may be a notice issue here. Ms. Bachman responded that the habitat data within the project area would be examined through the consultation process, which is the way that process always operates.

Mr. Burns offered a motion to substitute.

**1B. MOTION TO SUBSTITUTE: BURNS/**

Recommend Alternative 3, using the recommended HAPC boundary based on SNE Cod stock areas (SA 537-539, 611-613), as preferred.

**Rationale:** Alternative 4 will not protect spawning cod like Alternative 3. Wind development is expected to have population level impacts on cod, which has been the focus of the EFH consultation conservation recommendations. Keeping Alternatives 3 and 4 separate seems clearer than possibly adding cod spawning into Alternative 4.

Ms. Bachman clarified that the distance used to buffer the cod spawning activity observations comprising the Cox Ledge portion of Alternative 3 is 500 meters.

**Discussion on the Motion:** No additional discussion.

**MOTION 1B TO SUBSTITUTE FAILS FOR LACK OF A SECOND.**

**ON THE MAIN MOTION**

**YES – ETRIE**

**NO – AARRESTAD, BRAUN, OLSZEWSKI, PATTERSON, G. SMITH, HUGHES, BURNS**

**ABSTAIN - M. SMITH**

**MAIN MOTION 1 FOR ALTERNATIVE 4 AS PREFERRED FAILS 1/7/1.**

**2. MOTION: ETRIE/PATTERSON**

Recommend that the Council adopt No Action as the preferred alternative.

**Rationale:** Continuing to struggle to find an alternative that satisfies a high-level concern and lack of trust into the wind development process, while also minimizing issues that could be created in the future for the fishing industry. Want to create a dynamic of focused discussion within BOEM's wind process while wanting comfort that a ripple effect won't impact fishing businesses. Concerned with overarching effects on fishing industry.

**Discussion on the Motion:** The maker commented that this action has moved forward at light speed and she didn't know why. There is already a wind energy area identified. She and another member expressed trust issues; this was a wind energy issue and now it is a cod issue for NOAA Fisheries. They expressed concern that this could lead to further action on fishing.

Another member countered that this is a wind issue, and the HAPCs are intended to mitigate wind development impacts.

Another member made a motion to substitute:

## **2A. MOTION TO SUBSTITUTE: G. SMITH/AARRESTAD**

Recommend that the Council adopt Alternative 2 as the preferred alternative.

**Rationale:** Interested in an HAPC that is spatially explicit and focused, based on sound science. Want to influence wind development. NOAA already has an opportunity during the consultation process (just with EFH and existing HAPC designations). This is focused on cod spawning where there are a lot of wind energy proposals. Want NOAA to be able to look more closely at this area during consults. This was the AP's motion.

**Discussion on the Motion:** A member commented that Cox Ledge is an important area; want there to be a closer look at the entire area. There are also right whales that aggregate here. They were in support of the motion.

A member indicated that they would reluctantly support the motion; suggesting that in some ways it is too late. They are trying as an agency to find ways to improve their ability to take a hard look at offshore wind projects. There are only a couple of projects in the Alternative 2 area, and this alternative doesn't allow for future data. As another member said, Cox Ledge includes productive spawning areas.

A member said he heard one of the AP members note his issues with Exempted Fishing Permits to analyze benefits of HAPCs regarding fish growth. He was concerned that scientists won't be able to get EFPs to study the region if it is designated as an HAPC. The member wasn't sure how he would vote, since we need to be able to do science in the region.

A member noted she they didn't support Alternative 2 because it is not beneficial; we already have leases issued. Protection of cod goes to my concerns about speed and process of this framework and focusing on mitigating impacts of wind but ways to mitigate impacts on cod. Change in Council priorities and transitioning of cod stock structure; don't see how this helps the wind discussion. The process for this framework has been quasi-non-transparent.

A member commented that Alternative 2 is too narrow; we need to consider more than that. Going with No Action, we can have further discussions with the full Council.

**YES – AARRESTAD, OLSZEWSKI, G. SMITH, BURNS**

**NO – ETRIE, BRAWN, PATTERSON, M. SMITH, HUGHES**

ABSTAIN - NONE

**MOTION 2A TO SUBSTITUTE FAILS 4/5/0.**

The GARFO Committee member sought clarification as to whether the Council needs to vote for No Action now, or perhaps we need to rethink the scope of the action, whereas No Action is an active decision to recommend not designating an HAPC at this time.

The maker noted that she had put up the no action motion because she felt it was important for the Committee to recommend something at this meeting, since that is the Committee's role (vs. making no recommendation and deferring to the Council for a decision). She was open to more discussion but was concerned we would continue to discuss the same issues.

The seconder recommended perfecting the motion. The chair clarified that what he was hearing in the discussion is that none of the alternatives are satisfactory to the Committee, including No Action. The maker noted that this action has already been sent back to the Committee once. The following language was agreed to:

**2B. MAIN MOTION AS PERFECTED: ETRIE/PATTERSON**

Recommend that the Council adopt none of these actions as the preferred alternative. The Committee recommends that the Council clarify its focus for these alternatives and consider whether the Committee should continue work on this framework.

**Rationale:** Prior discussions today have centered around concerns that Alternatives 2 and 3 are too narrowly focused on cod spawning and Alternative 4 is too broad in spatial extent. The perfected language acknowledges that the Council may wish to have us continue to work on this action to address unresolved issues.

**Discussion on the Motion:**

A member asked if this passes, does this mean that all alternatives have failed, such that we would need to develop a new suite of alternatives? The chair responded that some committee members feel that none of the alternatives are satisfactory, including no action. The report to the Council will indicate the conflicted nature of the discussions, and the Council can make a determination.

**YES – ETRIE, AARRESTAD, BRAWN, OLSZEWSKI, PATTERSON, M. SMITH, P. HUGHES**

**NO – G. SMITH, BURNS**

ABSTAIN - NONE

**MOTION 2B AS PERFECTED PASSES 7/2/0 BY ROLL CALL VOTE.**

**AGENDA ITEM #2: AQUACULTURE**

**Presentation**

Mr. Schillaci updated the Committee on the status of federal waters aquaculture projects, including the Blue Water Fisheries Project, which is proposed to include Atlantic salmon. He described the project details, the environmental review and permitting process, and an example of the Environmental Impact Statement (EIS) content.

***Discussion***

A Committee member asked if NOAA evaluates aquaculture projects more holistically, not just what happens in the water, such as the capacity of shoreside services if/once the project is permitted. Mr. Schillaci explained that the scope of the analysis includes hatchery considerations, though the project scope does not include information on agreements and timelines in place for the shoreside portion. He noted that even if the project is permitted that the project is not granted exclusive use of the area(s). Another member asked about the purpose of the request for proposals contractor. Mr. Schillaci said that NOAA is not set up to fund the development of aquaculture NEPA documents, so the project proponent must pay a contractor under NOAA's discretion.

**CONSENSUS STATEMENT**

The Committee recommends that the Committee and Council continue to work towards initiating an action related to authorizing Atlantic salmon aquaculture in the EEZ at the September Council meeting.

***Rationale:*** The Committee is interested in evaluating the scope of the action and where the Council's authority aligns once the project is further along.

**Discussion on the Consensus Statement:** The Committee Chair noted that this consensus statement is similar to the AP's consensus statement from May 31<sup>st</sup>.

The Committee unanimously agreed to the consensus statement.

***OTHER BUSINESS***

The scoping process was recently announced to consider designating Hudson Canyon as a National Marine Sanctuary. A Committee member was interested in reviewing background information for other similar designations (i.e., Stellwagen Bank National Marine Sanctuary) and comment letters that were submitted in the past on this area. Staff noted that the comment letters submitted in the past focused on information the sanctuary program should consider when contemplating a designation, noting that the Council manages fisheries adjacent to Hudson Canyon. The Stellwagen Bank National Marine Sanctuary included provisions that the Council would retain fisheries management responsibilities; the member was interested in similar provisions for the potential Hudson Canyon designation. NOAA General Counsel plans to review the legislation to determine if the exemption to allow the Council to retain fisheries management responsibilities extends to other potential designations.

The Habitat Committee meeting adjourned at approximately 12:35 p.m.