



New England Fishery Management Council

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MEETING SUMMARY

Habitat Committee

Four Points by Sheraton, Wakefield MA

January 22, 2020

The Habitat Committee and Advisory Panel met jointly to discuss Council research priorities, an EFP application for the Great South Channel HMA, offshore renewable energy development, and Council policies on non-fishing impacts to habitat. The group also received an update on the Northeast Regional Habitat Assessment.

MEETING ATTENDANCE: Committee: Eric Reid (Chair), Peter Aarrestad, Terry Alexander, Rick Bellavance, Lou Chiarella, Peter deFur, Libby Etrie, Peter Hughes, Scott Olszewski, Melissa Smith; Advisory Panel: Gib Brogan, Beth Casoni, Rip Cunningham, Ben Haskell, Lane Johnston, Jeff Kaelin, Elizabeth Marchetti, Drew Minkiewicz, Ron Smolowitz, Dave Wallace; Michelle Bachman (NEFMC staff, PDT Chair); Mitch McDonald (NOAA General Counsel); Mike Ruccio (GARFO).

Public attendees: Elizabeth Hansel, Allen Rencurrel, Chris Sarro, Scott Lang, Louie Legace, Patrick Paquette, John Williamson, and Kevin Staples.

KEY OUTCOMES:

- Related to research priorities, the Committee and Advisory Panel made a series of recommendations (Motions 1-4) to adjust the description and scope of certain priorities.
- Related to the EFP for the Great South Channel HMA, the Committee and Advisory Panel listed a range of ideas and concerns about the proposal which will be brought to the Council's attention in order to support development of comments on the Federal Register notice.
- Related to offshore wind, the Committee and Advisory Panel discussion focused on siting issues in the GOM. The Advisory Panel reached consensus on a recommendation for transparent planning that involves the fishing industry and raised specific concerns with the unsolicited bid approach to leasing. While there was no Committee consensus on exactly how to frame the issue, in general members are seeking a transparent, data-driven, and inclusive siting process that accommodates a range of perspectives, including from the fishing industry.

- Related to policies on non-fishing impacts, the Committee and Advisory Panel expressed no disagreement with the proposed path forward and will await future updates from the PDT on the development of background documents for each of the three topics.

AGENDA ITEM #1: ANNUAL REVIEW OF COUNCIL RESEARCH PRIORITIES RELATED TO HABITAT AND OFFSHORE WIND

Ms. Bachman reminded the group about a recent change to the research priority setting process, where priorities are still set for five-year periods, but reviewed annually for additions, removals, or edits. The PDT reviewed the habitat and offshore wind related priorities on January 9. The PDT's suggestions were provided to the Committee and Advisors. The group discussed these priorities and made a series of recommendations.

One issue that received particular attention was benthic habitat sampling in conjunction with offshore wind development. This was discussed earlier in the month by the PDT. NMFS Habitat Conservation staff are working to provide more specific survey guidelines to BOEM, such that developers will be asked to collect data sufficient to enable NMFS to estimate impacts to EFH. In general, existing guidelines indicate benthic sampling to support engineering and design of the wind farm, but habitat maps (in the sense of living and non-living features at scales < 0.5 m) are not really the outcome of these surveys. A final version of the NMFS guidance should be forthcoming in the coming weeks and will be shared with the Council. The NMFS guidance was developed collaboratively and was a product of ongoing discussions with BOEM, developers and their survey contractors, and other experts. Motion 1 followed this discussion of the NMFS guidance.

Ms. Bachman noted that BOEM also has fishery survey guidance; while it is widely accepted that this guidance could be strengthened, to date, there have not been substantial efforts to review and suggest revisions. NMFS is beginning to look at the fishery guidance now. Somewhat related to this, NMFS NEFSC has a working group tasked with evaluating the effects of wind farms on NEFSC's fishery independent surveys. Overarching data and science coordination efforts related to offshore wind will be raised through discussions at the Responsible Offshore Science Alliance (ROSA), however surveys of lease areas are ongoing and will continue before coordinated guidance from ROSA is available.

Motion 1 (Minkiewicz/Wallace)

It is the consensus of the Advisory Panel that habitat surveys of current and future wind energy areas should provide information to fishery managers and NMFS at a resolution and scale (spatial extent) useful for understanding effects on EFH and HAPCs. Specific applications might include the Fishing Effects Model and other models.

The Advisory Panel adopted the recommendation by consensus.

The Committee adopted the Advisory Panel's recommendation by consensus.

This motion should be general enough to be consistent with the forthcoming NMFS guidance on benthic surveys.

Motion 2 (Smolowitz/Casoni)

The Advisory Panel recommends that seasonality (of habitat conditions, species distribution, oceanographic features, etc.) be identified as an important parameter under various research priorities.

The Advisory Panel adopted the recommendation by consensus.

The Committee adopted the Advisory Panel's recommendation by consensus.

Mr. Smolowitz noted that there is substantial variation in habitat features (benthic and oceanographic) as well as species distributions across seasons. He recommended that seasonality be added to the description of various research priorities. Staff will make these edits; likely this comment is pertinent to priorities 74, 78, 87, 88, and 91.

Jeff Kaelin suggested that priority 69 (existence value of corals and tradeoffs between coral protection and fishing) would be more appropriately identified as strategic (i.e. valuable, but not attached to an ongoing management action or one expected in the near term), rather than important (i.e. near term).

Priority #95 relates to evaluation of the effects of offshore wind on fishery surveys. Ms. Bachman understood that this priority was specific to NEFSC surveys that inform stock assessment, although this could be perhaps made more explicit. The Committee and Advisors agreed this was an urgent priority and recommended identifying multiple regions and potential wind technologies (fixed and floating) as this work is undertaken. They also suggested expanding the scope to encompass effects on fishery dependent data. It was noted that survey changes could have significant costs, for example if different vessels are required.

Motion 3 (Alexander/Bellavance)

The Committee emphasizes the urgency of priority #95, not only for Southern New England/Mid-Atlantic but also for the Gulf of Maine. This priority should be expanded to encompass maintaining and developing fishery independent surveys, survey methodology, and fishery data streams, including socioeconomic impacts of these changes.

The Committee adopted the recommendation by consensus.

The Advisory Panel adopted the Committee's recommendation by consensus.

The inclusion of survey methodology in this motion refers to the idea that novel approaches (new survey vessels, methods, sampling designs) may be required for continued assessment of fishery resources in and around wind farms. Atlantic cod was identified as a focal species.

Building on the benthic survey discussion earlier in the morning, the issue of habitat surveys relative to array design was discussed. Concerns were raised that a relatively narrow sampling within sections of a lease area (i.e. mainly around locations targeted for turbine placement) can

make it difficult to adjust the design of the array later in the process to accommodate, for example, transit considerations.

Motion 4 (Minkiewicz/Wallace)

Consensus of the Advisory Panel that the Council recommend to BOEM that at a minimum habitat surveys (as indicated in motion 1) are conducted of an entire wind lease area prior to selection of turbine locations.

The Advisory Panel adopted the recommendation by consensus.

The Committee adopted the Advisory Panel's recommendation by consensus.

Ms. Casoni noted that the wind resource is a primary driver for layouts. It was also acknowledged that design of the array within a lease area is an entirely different matter from determining location of the lease areas to begin with (this issue was raised again later for the GOM). The overlap between the horseshoe crab sanctuary and a wind energy area was cited as an example of where fisheries concerns did not override other siting considerations.

Dr. deFur asked Mr. Chiarella if BOEM has generally been responsive to NMFS concerns; he responded that they have, although perhaps not to the extent that they would like on some issues. Mr. Brogan asked if the Council had ever used the EFH consult provisions as a hook to really push an issue; Ms. Bachman was not aware of an example of this. Mr. Kaelin noted NMFS' EFH consultation letter on the Vineyard Wind project as a good attempt to make strong recommendations to BOEM related to fishery resources and habitats.

AGENDA ITEM #2: EFP FOR THE GREAT SOUTH CHANNEL HMA

Coonamessett Farm Foundation requested an exempted fishing permit to conduct a dredge-mounted camera survey (and undertake related work) in portions of the Great South Channel Habitat Management Area. CFF and GARFO have worked together since June to refine the proposal, and a forthcoming Federal Register notice (to be published January 27) will see public comments on issuance of the EFP. Mike Ruccio (GARFO SFD) described the EFP and changes made to the project since the original request was submitted. NMFS is recommending a phased approach, with a limited spatial area available for study during Phase 1 of the project. He had two questions for the Committee and Advisors:

1. Is the phase 1 work proposed appropriate in terms of sense and scale? Note that EFPs are usually issued for one year.
2. Is this responsive to the research request of the Council, and valuable to the Council/PDT?

Mr. Ruccio noted that one option would be to include any Council/Committee/PDT suggestions about the larger efficacy of research as part of Phase 2, while proceeding in the near term with Phase 1.

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Ron Smolowitz provided some background on the project. The clam industry asked CFF to develop a research project. Tremendous unknowns acknowledged in the Council's research planning document, and the idea was to work through some of these. Before the HMA closed in April 2019, CFF completed five pilot trips on clam boats to see what technology would work and what information could be collected, to help design the proposal. Mr. Smolowitz noted that he had not been directly involved in much of the back and forth with GARFO staff, and that other researchers on the project had taken the lead. He raised a concern about the adaptability of the exemption pending resource conditions in the study area of the HMA, i.e. if they we go out in Phase 1 and don't find sufficient clams, then what?

Mr. Ruccio wasn't certain what the best approach would be – if there simply isn't sufficient biomass of clams in the study area, then might consider adjusting it. For example, extending or expanding the area if there appears to be biomass on the edge of the study area. He noted that they might need to take public comment again or could just work within existing EFP. He wondered if the Council would be willing to support expansion/adjustment of area if it seems necessary based on the resource. It isn't yet clear how adjustments might be made, if indicated, but NMFS would consider the impacts of dredging on the HMA, to ensure that major impacts would be unlikely to result from a modified approach.

Mr. Smolowitz asked if the full proposal would be provided with the announcement, since the broader project (not just the Phase 1/pilot) addresses more of the Council's research questions.

Terry Alexander expressed concern that the study area is too small to be workable. This was echoed by others in attendance.

Mr. Ruccio noted that monitoring would be required at the higher VMS polling rate envisioned in the Council's framework action, and that they intended to implement some sort of performance metric (data collection on at least 75% of tows). There would be CFF staff on some trips, with vessel crew enumerating the catch on other trips. Camera work is planned in the control areas.

Peter deFur suggested that the data to be collected during the pilot should be mapped to the Council's research questions, so as to provide a clear indication of the expected outcomes as related to these questions. He also asked about the sampling protocol for biological data, i.e. numbers, volume, weight, presence/absence?

Ron Smolowitz talked about what next steps will be in terms of potential data collection – he sees the effort as a habitat mapping project, not really a fishing impacts project. He asked what happened to idea of putting whole proposal out for comment and then having PDT evaluate progress and suggest adjustments mid-stream?

Peter Hughes agreed with the concerns about the small size of the study area. Are we answering all the questions if we do this? Seems problematic if low CPUE could stop the whole experiment.

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Mike Ruccio commented that the revised Phase 1 project strikes at challenges and the need for compromise. Habitat mapping can be done in less impactful ways, but this project maps with a dredge mounted camera that will have an impact, thus the study area was limited. Would like to hear recommendations for process should adjustments be needed. Seems to NMFS to be a viable proof of concept approach.

Peter Hughes acknowledged that it would be great to have some more funding for this, but we don't, hence the dredge work.

Gib Brogan wondered if the exemption was an end run around OHA2 and the framework.

Ron Smolowitz responded that we have tons of data gaps that need to be filled. We don't have funding to look at these issues another way. Have tried.

Gib Brogan commented that it would be helpful in the project narrative to justify 120 trips, why that will create the compensation described. Describe finances/incentives. Why this is necessary? Mr. Smolowitz responded that in terms of cost, they worked backwards to estimate costs and then determine number of tows that would be needed to generate that amount of catch/money.

Drew Minkiewicz expressed frustration about OHA2 – the areas we were evaluating lacked data. Would be a real shame if we continue to not do research in these areas. Opportunity for growing our knowledge. Costs/impacts, yes, but shouldn't be at the cost of doing anything. Too long a process and a very pared down proposal. Should err on the side of learning; encourage NMFS to take that sort of mindset going forward.

Libby Etrie commented that in her view, the EFP is designed to help us learn more. Sometimes these EFPs are the only way to get the data – this is a balancing act. Sounds like this is a good balancing for now; should think more about process for modifying given that area seems a bit small.

Audience member Scott Lang commented that at the December 2018 Council meeting, industry said they would come back with research if the Council could come up with a research plan. There is no data. This compromise is too inflexible, doesn't provide enough continuity. Industry is funding this, Council designing it. If it is destined to fail before it starts, let's not do it. This is not a real compromise. Predictions have played out – layoffs in industry, loss of landings in New Bedford. If fishing there makes sense for the future, let's figure out how to do that. If you have money to pay for food/fuel/cameras, industry will go out and do the work.

Dave Wallace mentioned Nantucket Shoals clam survey conducted by the Science Center for Marine Fisheries. The finding was that clams are moving. Learned there are lots of rocks, most are buried, and Nantucket Shoals is a very dynamic area. Very few barnacle scars even. Disappointed with outcome of framework, and that NMFS wants to limit scope of EFP project to extent that it may fail.

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The chair brought the discussion back to Mr. Ruccio's two questions. Hearing area is too small. What is minimum industry can deal with? What is the process for making this area bigger, if needed? Hearing we need data, need industry to fund it. What is the way forward?

Mr. Ruccio acknowledged that what is going out for comment is likely not going to answer all questions raised today. High bar – difficult to find that path forward. Found original proposal had too substantial an impact. Want to see if cost recovery aspect works. Don't see a big difference between fishing amounts within the area – once towed it is towed. Wanted to be able to speak on a more informed basis about how an expanded version of project will work. Options: full stop, back to drawing board, or start Phase 1 then begin conversations about Phase 2, perhaps with dynamic back and forth with PDT/committee.

Peter deFur suggested that the Chair work with AP chair and Ms. Bachman to develop a list of comments made and points raised and submit to the Council as our discussion and not try to reach any consensus. Action will occur on EFP regardless of Council input. Ms. Etrie and Mr. Bellavance agreed with this.

Question to industry - is this project feasible as is? Industry members Louie Legace and Allen Rencurrel acknowledged that area size was a concern, but that they supported issuance of the EFP as a first step to gathering needed data. Mr. Rencurrel noted that he would like to move ahead for now, get the ball rolling. See what we can do with the area available.

Drew Minkiewicz said he would like to see research being done to learn more about areas and impacts. Dave Wallace recommended that NMFS should go forward with compromise proposal. If industry is willing to do it, we should support it.

Overall, the Committee agreed to document the concerns raised and provide those to the Council to assist in the formulation of comments.

AGENDA ITEM #3: OFFSHORE WIND UPDATES AND DISCUSSION

Note: Many research-related offshore wind issues were discussed earlier in the day under Agenda Item #1.

Ms. Bachman presented slides on various offshore wind topics (a similar presentation will be given at the Portsmouth Council meeting). In terms of project updates, multiple Construction and Operations Plans are under review at BOEM or should be provided to BOEM in the near future. Once these are deemed sufficient, this clears the way for BOEM to publish a Notice of Intent to prepare an EIS for the project. The Council will be able to comment on the content of the EIS at the NOI stage and will need to consider how much time to devote to this vs. other work. She noted that Brian Hooker will address the Council on the topic of the SEIS for the Vineyard Wind project next week; Gib Brogan asked if the forthcoming North Atlantic Right Whale Biological Opinion was being considered by BOEM during development of the SEIS (an answer was not available during the meeting, but yes, they are considering it). Ms. Bachman emphasized that the MAFMC/NEFMC joint offshore wind webpage is continually updated, with a recently added section on comment opportunities.

There was a relatively lengthy discussion of the GOM regional task force meeting and the next steps for wind development in the region. A few Committee and Advisory Panel members were in attendance at that meeting, held in NH on December 12. Audience member John Williamson commented that he felt the task force was very oriented towards fisheries. Ron Smolowitz asked how siting it going to work; there was then discussion of the solicited vs. unsolicited bid process, and the different types of areas identified (Planning and Request for Information Areas, which are optional steps, followed by Call and Wind Energy Areas, which are required steps). The group continued to discuss GOM siting issues, and the Advisory Panel agreed to the following:

Motion 5 (Kaelin/Wallace)

That the Council recommend to BOEM that the planning process for wind energy areas in the GOM should be transparent (including no unsolicited bids) and involve the fishing community.

The Advisory Panel agreed to the motion by consensus.

The Committee was generally supportive of the Advisory Panel's statement but couldn't reach agreement on the best language with which to convey a recommendation. Some draft language, discussed by the group:

- *That the Council recommend to BOEM that the planning process for wind energy areas in the GOM should be transparent (no unsolicited bids) and involve the fishing community throughout the process with meaningful input on delineation of Planning, RFI, Call, and then Wind Energy Areas.*
- *The Committee recommends that the Council consider any and all avenues to advise BOEM on the siting of Wind Energy Areas.*

Members suggested asking BOEM what would be the best mechanisms for meaningful Council engagement. Lou Chiarella suggested one path forward would be to recommend specifically how fish/fisheries information should be used to support area identification.

Audience member Patrick Paquette cautioned that the Council should strive for consistency in terms of thinking of the effects of various activities on the Council's habitat management areas. For example, if the Council is prepared to recommend that wind farms not be installed in HMAs, is that consistent with allowing exempted fishing in HMAs? Audience member John Williamson emphasized that it is important to be influential early in the siting process, as further down the road after the site assessment has been completed and the EIS drafted it is more costly to adjust project layouts.

Ms. Bachman reviewed a range of recent and ongoing activities of the Responsible Offshore Development Alliance. Elizabeth Marchetti, Lane Johnston, and Peter Hughes conveyed their enthusiasm about two recent workshops to identify layout ideas for Equinor and Ørsted projects in the NY Bight. These seem to be a good model for data gathering. Speaking for Equinor, Ms. Marchetti noted that the feedback was provided to their engineers for review. The Empire Wind

site was surveyed in such a way that it will be possible to adjust the layout later without gathering additional engineering data.

Finally, Ms. Bachman noted that the Coast Guard's Massachusetts Rhode Island Port Access Route Study should be available soon.

AGENDA ITEM #4: DEVELOPMENT OF COUNCIL POLICIES ON NON-FISHING IMPACTS TO HABITAT

Ms. Bachman reviewed recent work on efforts to develop policies for non-fishing impacts to habitat. The topics being developed are floating offshore wind, submarine cables, and aquaculture. The policies are intended to be a compilation of best management practices, and, where appropriate, value judgements, to inform these types of development, both near and offshore. They can be applied when drafting Council comments on specific projects and can be referenced by NMFS staff as they conduct EFH consultations. They also serve as a communication tool to convey Council's perspectives on these activities and preparing them will be an educational exercise for the Council and its stakeholders.

To the last point, an initial step before drafting the actual policies is to develop a background on these three topics. When MAFMC created similar policy statements they created background information documents as a first step, and these seems an appropriate step for NEFMC to follow as well. The PDT, with the participation of Advisory Panel and Committee members as well as outside experts will coordinate these background documents. They are intended to be less than ten pages each, and will include sections describing the activity, potential effects on EFH, potential effects on managed species, and potential interactions with other activities, including fishing. Outlines for each document were developed during January. Over the next two months, PDT members and others will continue to assemble information and begin to draft sections of these documents. Ron Smolowitz suggested looking at previous NEFMC Aquaculture Committee work. Ms. Bachman will check in with a progress update during March to see how the work is proceeding and estimate a timeline for completion. Some sort of review/information sharing meeting with the Committee, Advisors, and others will likely be the appropriate next step, after the background documents are completed.

AGENDA ITEM #5: NHRA UPDATE, OTHER BUSINESS

Ms. Bachman gave a quick update on the Northeast Regional Habitat Assessment or NHRA, a collaborative effort between the New England and Mid-Atlantic Councils, NOAA, and other partners to "describe and characterize estuarine, coastal, and offshore fish habitat distribution, abundance, and quality in the Northeast using a partnership driven approach". The three-year project has been underway for just over six months. Recent efforts include a data inventory, initial exploration of habitat suitability models for regional fishery species, development of metadata for spatial data sources, and assembly of species habitat profiles (building, when available, on EFH source documents and other resources). The NHRA teams are fostering partnerships with other assessments in terms of data gathering to avoid duplication of efforts and develop a shared understanding of caveats and applications for different sources. Team members are also working to identify related modeling projects and other analyses, so that we can compare results and possibly borrow ideas for how to package and present the results of NHRA.

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The assessment originated with the MAFMC, which was beginning to do a 5-year EFH review, and realized that they and various partners would benefit from a broader regional habitat assessment. Partner organizations supported a broader approach, and planning teams, a steering committee, and finally work teams were assembled during 2018-2019, with the assessment formally beginning after steering committee approval of the workplan in July 2019. NHRA will include the elements of a 5-year EFH review and have applications for Council EFH work, but will have many other uses as well. Efforts to present results are just beginning to be explored, but the vision is to serve up spatial data products on the regional ocean data portals.

The meeting adjourned at approximately 4:10 p.m.