



New England Fishery Management Council

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MEETING SUMMARY - DRAFT

Habitat Committee

Double Tree by Hilton
 363 Maine Mall Road, South Portland, ME
 March 23-24, 2015

The Habitat Committee met on March 23, 2015 in South Portland, ME to review analyses prepared by the Plan Development Team in response to the Committee's tasking and select preferred options under the Omnibus Habitat Amendment 2 (OHA 2) alternatives.

MEETING ATTENDANCE: Dave Preble (Chairman), Doug Grout (Vice Chair), Jeff Kaelin, Mark Gibson (Day 1 only), G. Warren Elliott, Vincent Balzano, Matthew McKenzie, Terry Alexander, Mary-Beth Tooley, Libby Etrie, Lou Chiarella (Designee for John Bullard); Michelle Bachman, Deirdre Boelke, Jaime Cournane, Maria Jacob, and Tom Nies (NEFMC staff). In addition, there were approximately 50 audience members on Day 1, and 27 audience members on Day 2.

KEY OUTCOMES:

Habitat Management Area alternatives

- In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 1 as their final preferred alternative.
- In the Central Gulf of Maine, the Committee recommends that the Council select Alternative 3, Option 1, without Platts Bank (Modified Cashes Ledge, Modified Jeffreys Bank, Fippennies Ledge, Ammen Rock) as their final preferred alternative.
- In the Western Gulf of Maine, the Committee recommends that the Council select the Western Gulf of Maine habitat closure, the Western Gulf of Maine groundfish closure with the eastern boundary shifted to match the habitat closure, Alternative 7a (roller gear), and Alternative 8 (shrimp exemption) as their final preferred alternatives. All gear restrictions in the WGOM Closure Area would remain as-is.
- On Georges Bank, the Committee recommends that the Council select Alternative 7, Option 1 as their final preferred alternative.
- The Habitat Committee recommends that the Council support development of an agreement between the scallop fishery and the offshore lobster fishery that includes an area of Closed Area II north of 41° 30' N would remain closed to all MBTG between June 15 and October 31 subject to the scallop fishery having access to the area north of 41° 30' N between March 1 and June 15. This motion also recognizes and supports the existing agreement between the trawl fishery and the offshore lobster fishery for this area, which could be subject to revision per the agreement.

- In the Great South Channel, the Committee recommends that the Council select Alternative 5, Option 1 as their final preferred alternative.
- The Habitat Committee recommends that the Council create an HMA in the Cox Ledge Areas (1 and 2), with a prohibition on trawl ground cables with bridles capped at 30 fathoms per side, and a prohibition on hydraulic clam dredges.
- The Committee deferred decision making on hydraulic clam dredge exemptions until their next meeting.

Spawning alternatives:

- In the Gulf of Maine, the Committee recommends that the Council select the Framework 53 spawning and cod protection measures as their final preferred alternative for spawning protection.
- In the Gulf of Maine, the Committee recommends that the Council select Alternative 3, the Massachusetts Bay Spawning Protection Area, as their final preferred alternative.
- On Georges Bank, the Committee recommends that the Council select Alternative 3 (Closed Area I North and Closed Area II, Feb 1-April 15) with Options B and C as their final preferred alternative for spawning.

Dedicated Habitat Research Area alternatives:

- A motion recommending DHRA Alternatives 3b and 5 in the Gulf of Maine was tabled until the next Committee meeting.
- For Dedicated Habitat Research Areas on Georges Bank, the Committee recommends that the Council select Alternatives 4 and 5 as their preferred alternatives.
- The Council recommends to NMFS that habitat research projects funded with government or RSA funds and conducted from commercial vessels will be allowed access into habitat management areas contingent on EFP approval.

Framework and monitoring alternatives:

- For Framework and Monitoring approaches, the Committee recommends that the Council select Alternative 2 as their preferred alternative.

AGENDA ITEM #1: HABITAT PLAN DEVELOPMENT TEAM UPDATE

Ms. Bachman gave an update on progress made by the Habitat Plan Development Team (PDT) towards completion of the Habitat Committee's February 24, 2015 tasking. She briefed the Committee on various ongoing PDT discussions, including scallop/lobster gear conflict, the winter flounder Essential Fish Habitat (EFH) designation, a comparison of spawning protection alternatives in OHA2 vs. Framework 53, a recommendation not to update realized adverse effects estimates for more recent years, discussion on hydraulic clam dredge exemptions, and efforts to catalog scientific information referenced in the public comments. Work on many of these topics remains ongoing.

Discussion:

Mr. Alexander asked if there was any discussion at the PDT meeting on impacts on habitat by lobster gear. Ms. Bachman responded that we did not specifically discuss lobster gear impacts (although impacts of trap gears on habitat were evaluated in the Swept Area Seabed Impact analysis). Information provided in the public comments related to lobster resource impacts will be included in the Final Environmental Impact Statement (FEIS), as appropriate. At the PDT meeting, the discussion of gear conflicts between the lobster and scallop fisheries focused on the timing issue, specifically, sharing agreements between the two fleets hinge upon when the scallop fishery can gain access to the area.

Regarding the prey maps and information developed by the Plan Development Team, Mr. Kaelin asked if herring feed on copepods. Based on the information in the DEIS Appendix B, yes, Atlantic herring eat copepods during all lifestages from recently hatched larvae through adulthood.

AGENDA ITEM #2: SCALLOP PLAN DEVELOPMENT TEAM UPDATE

Ms. Boelke presented a memo developed by the scallop Plan Development Team. They further examined potential impacts on the scallop industry and resource raised in the public comments. The public comments raised concerns that socioeconomic impacts in the Gulf of Maine (GOM) are underestimated due to an emerging scallop fishery in the area. Generally the analysis in the DEIS was not broken out by permit category, so the Scallop PDT compared Limited Access and Limited Access General Category effort. Vessel trip report data by ten-minute square shows that in 2013, Platts Bank had an increase in fishing activity, and it appears to be more intensely than it was in the past. There was also an increase in fishing activity within the Large Eastern Maine Habitat Management Area (HMA) in the recent years. Due to data confidentiality requirements, the charts cannot show ten minute squares with less than three vessels. Commenters suggested that the Northern GOM area boundary should be adjusted to include areas like Platts Bank. Staff noted that this change would require a change to the groundfish fishery management plan.

There appear to be impacts on Limited Access General Category scallop vessels in the Great South Channel and Cox Ledge. Both the northern part of the Great South Channel East HMA and the Cox Ledge 1 HMA show relatively high levels of scallop fishing effort. Also, the memo highlighted the fact that these vessels are restricted by the scallop dredge exemption areas, such that in some cases reopening existing closures would not benefit LAGC vessels. As for the NGOM area, changes to the dredge exemption areas would require changes to the groundfish plan, unless the reopened areas are developed into scallop access areas.

The Scallop PDT recommended adding details about temperature and salinity requirements to the proposed EFH text description for sea scallops.

The comment letter from the Greater Atlantic Regional Fisheries Office argued that the DEIS analysis underestimates the benefits of re-opening the closed areas. The scallop PDT noted that the DEIS does discuss this issue (see Volume 3 Table 140). The Scallop PDT also discussed the potential negative effects of closed areas on the rotational scallop management, and they will add

further discussion about the relationship between recruitment and closed areas to the FEIS. Regarding the importance of removing older scallops from the area, the memo notes that there is no proof that removing larger, older, scallops from areas would benefit younger and smaller scallops.

Public Comment:

An audience member asked if the Habitat PDT plans to update the essential fish habitat text descriptions to include prey information. Ms. Bachman responded that once the amendment is adopted, there will be new maps and text for EFH consultation purposes, and that GARFO Habitat Conservation Division will recommend using the supplemental information, including the prey species information, to support conservation recommendations made during EFH consultations. The plan currently is to keep the prey information in the supplementary appendix, rather than adding it directly to the text descriptions.

Another audience member asked for clarification on the scallop vessel trip report maps. Ms. Boelke responded that the maps show increased fishing activity in the Machias area based on vessel trip report information for three or more fishing vessels combined. The maps also show fishing activity in the Large Bigelow Bight area. As noted above, Platts Bank also shows more fishing activity in recent years.

Greg Cunningham (Conservation Law Foundation) commented that the Council identified the Eastern Maine and Machias closures as their preferred alternatives. The 2013 vessel trip report map shows no fishing in the Machias area by three or more boats, and no fishing for 2014 in the area by three or more boats. Platts Bank shows higher fishing effort in the offshore area; this information is clearer than the vessel trip report data for the Machias area.

Maggie Raymond (Associated Fisheries of Maine) asked if the Scallop PDT looked at the impacts of scallop dredges on groundfish spawning. Ms. Boelke explained that the habitat PDT is better equipped to answer this question.

AGENDA ITEM #3: SELECTION OF PREFERRED ALTERNATIVES

Ms. Bachman described the Habitat Advisory Panel's recommendations for preferred alternatives (see meeting summary from March 18).

Mr. MacDonald clarified issues about mixing and matching of alternatives (see GARFO correspondence on this issue). Also related to the GARFO letter, Mr. Chiarella stated that while there are four criteria for designating habitat areas of particular concern, each designation only needs to meet one of the four criteria. After HAPCs are identified, regulations require analysis of fishing impacts with the HAPCs, and mitigation of fishing impacts to the extent practicable.

Eastern Gulf of Maine Habitat Management Alternatives

MOTION #1 (Alexander/Grout): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Options 1 and 5 as their final preferred alternative.

MOTION #1a (To substitute the original motion, McKenzie/Gibson): In the Eastern Gulf of Maine, the Committee recommends that the Council select Alternative 2 (Large Eastern Maine and Machias) with Options 1 and 5 as their final preferred alternative.

Discussion:

Ms. Tooley explained the grey zone issue compromises the protections of that habitat closure in Machias area. In addition, the adverse economic effects to small fishing communities in the area are great. Ms. Tooley asked if the habitat closure included purse seine restrictions. Ms. Bachman confirmed this to be true if Option 5 is selected, but note that the Committee/Council should specify exactly what their preferred gear restrictions, if they differ from what is written in the DEIS. Mr. Balzano and Ms. Tooley stated that they could not support the motion due to the effects on the small fishing communities in the area. Mr. Chiarella commented that the Large Eastern Maine area provides the most protection for juvenile groundfish, has a great diversity of habitats, a high essential fish habitat value for a variety of species, so they would support minimally the Large Eastern Maine area without the Machias HMA. Mr. Grout stated that habitat protections would not be achieved in the Machias HMA given the grey zone issue. Dr. McKenzie stated that he would accept a friendly to remove the Machias area from the motion. Ms. Tooley stated that she could not support the motion even with the friendly. Ms. Tooley also stated that the DEIS seems to support the Small Eastern Maine area as the best option for habitat protection.

MOTION #1b (A friendly amendment to the substitute motion by Mr. Grout, McKenzie/Gibson): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Large Eastern Maine HMA with Options 1 and 5 as their final preferred alternative.

- **The motion to substitute failed on a roll call vote 3/5/2 (Yes/No/Abstentions).** For: Chiarella, Gibson, McKenzie; Against: Alexander, Balzano, Etrie, Kaelin, Tooley; Abstentions: Grout, Elliott.

Public Comment:

Togue Brawn (Maine dayboat scallop vessels) stated that she would support Alternative 1 (no action), or the Small Eastern Maine Habitat Management Area (HMA) with Option 4.

David Stevenson (Greater Atlantic Regional Fisheries Office) commented that the Large Eastern Maine HMA covers more area, so it covers more vulnerable habitat, albeit areas of complex habitat that have not be well mapped. Considering just the substrate data assembled for the

Swept Area Seabed Impact model, it is less efficient at protecting those vulnerable habitats, so both Ms. Tooley and Mr. Chiarella are correct in their statements.

Jud Crawford (PEW Charitable Trusts) commented that the amendment is going to reduce the overall area of habitat protection. Eastern GOM is a chance to add more protection. There were more spawning groundfish in the area in the past. Closed Area Technical Team information shows more juvenile protection in the larger area. Spawning herring would be protected by the Large Eastern Maine area. Also supports Machias, but would support Large Eastern Maine as well.

A commenter (Maine fisherman) stated that any alternative with Option 5 is concerning. The commenter stated that fishermen do not see groundfish in this area, but it is an important area for the day boat scallop fleet.

Greg Cunningham (Conservation Law Foundation) commented that maybe we can exclude the grey zone and still maintain other parts of the Machias area. Mr. Cunningham supports Jud's comment regarding the importance of these areas. I urge the adoption of Alternative 2 as the preferred alternative.

One commenter stated that Alternative 2 would effectively end any chance of a groundfish re-emergent fishery by the small boat fishery in the area.

Ted Ames (Penobscot East Resource Center) supports the elimination of Option 5 and replace with mobile bottom-tending gear restrictions only (Option 1). There is a need to accommodate the small boat fisheries in these areas. He would be more comfortable with the Small Eastern Maine area. The inshore scallop fleet is sustaining fishermen during the winter months. Mr. Ames has concern with Option 5 because it eliminates every gear type from the area.

Patrick Paquette (recreational fisheries) asked for clarification on if Option 5 includes restrictions for hook and line¹.

Vito Giacalone commented that the Northeast Seafood Coalition defers to the testimony from the small boat eastern Maine fishery. They support the Small Eastern Maine HMA; the 'no action' alternative seems to be impractical.

Hotspot analysis table for this area was provided for 2002-2012. There are hotspots for juveniles in this area. Mr. Alexander commented that the data is based on two 20-minute tows only. Ms. Tooley indicated that it looks like there are more hotspots outside the closed area than inside the closed area.

¹ Gears capable of catching groundfish were defined in the DEIS as any gears that are not on the exempted gear list in the Fisheries of the Northeastern United States regulations at 50 CFR §648.2. These exempted gears are as follows: "Exempted gear, with respect to the NE multispecies fishery, means gear that is deemed to be not capable of catching NE multispecies, and includes: Pelagic hook and line, pelagic longline, spears, rakes, diving gear, cast nets, tongs, harpoons, weirs, dipnets, stop nets, pound nets, pelagic gillnets, pots and traps, shrimp trawls (with a properly configured grate as defined under this part), and surfclam and ocean quahog dredges." (DEIS, Volume 3, p. 42).

MOTION #1c (A motion to amend the original motion, Balzano/Alexander): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 4 as their final preferred alternative.

- **The motion to amend failed on a show of hands, 4/5/1.**

Public Comment:

Ron Smolowitz (Fisheries Survival Fund) stated that there is a lot of information from the west coast that proves gear modifications do work. Increasing the mesh sizes of gillnets would increase their efficiency to target large spawning fish. These closures are not the right step in the Eastern Gulf of Maine because closing square miles would not improve spawning activity.

Another commenter stated that the Eastern Maine HMA closes the entire area to the small fishing communities.

MOTION #1d (An amendment to the original motion was offered, Grout/Kaelin): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 1 as their final preferred alternative.

- **The motion to amend carried on a roll call vote, 6/4/0. For: Grout, Alexander, Chiarella, Elliott, Etrie, Gibson; Against: Balzano, Kaelin, McKenzie, Tooley; Abstentions: None**
- **Motion to amend becomes the main motion.**
- **The main motion as amended failed on a show of hands, 5/5/0.**

Motion #2 (Balzano/Alexander): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 1 and 4 as their final preferred alternative.

- **The motion was withdrawn by the maker.**

The Committee took a lunch break at 12:30 for an hour.

Motion #3 (Motion to reconsider the original motion in the Eastern Gulf of Maine, Motion 1d, Tooley/Kaelin): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 1 as their final preferred alternative.

- **Motion carried on a show of hands 10/0/0**

Motion #3a (Motion to amend the reconsidered motion, Balzano/Alexander): In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 1, allowing an exemption for shrimp trawls and scallop dredges, as their final preferred alternative.

- **The motion to amend the reconsidered motion failed on a roll call vote, 3/7/0.** For: Alexander, Balzano, Tooley; Against: Grout, Chiarella, Elliott, Etrie, Gibson Kaelin, McKenzie; Abstention: None.

Main motion: In the Eastern Gulf of Maine, the Committee recommends that the Council select the Small Eastern Maine HMA with Option 1 as their final preferred alternative.

- **The reconsidered motion carried on a roll call vote, 8/2/0.** For: Grout, Alexander, Chiarella, Elliott, Etrie, Gibson, Kaelin, Tooley; Against: Balzano, McKenzie; Abstentions: None.

Central Gulf of Maine Habitat Management Alternatives

Motion # 4 (Chiarella/McKenzie): In the Central Gulf of Maine, the Committee recommends that the Council select Alternative 1, Option 1, with Options 1 and 5 on Ammen Rock as their final preferred alternative.

Discussion:

Mr. Chiarella explained that this alternative received public support, and there has been 13 years for recovery within the existing closed areas. The DEIS shows it is the most practicable option in the central Gulf of Maine. What is analyzed as the preferred alternative would provide less habitat protection. Mr. Balzano disagreed. Dr. McKenzie stated that this is one of the deepest [kelp] forests in the world. Grabowski's 2014 research stated that mud substrate takes a very long time to recover. Mud is some of the most vulnerable habitat and needs protection. To meet the goals and objectives of the OHA2, the existing closures should be maintained.

Motion 4a (Motion to substitute, Alexander/Etrie): In the Central Gulf of Maine, the Committee recommends that the Council select Alternative 4 (Modified Cashes Ledge, Modified Jeffreys Bank, Ammen Rock) as their final preferred alternative.

Discussion:

Mr. Alexander stated that the hotspot analysis information is based on one tow in the spring and one tow in the fall. Mr. Alexander also stated that this area in Cashes Ledge has little cod fish but does have other groundfish stocks that can be fished in the area. The opening of the mud area west of the kelp forest could improve fishing opportunity. Mr. Chiarella stated that the area is unique compared to other areas within the Gulf of Maine.

Mr. Grout stated that one of the goals of the OHA2 is to reduce adverse impacts of fishing on essential fish habitat. While Alternative 4 is listed as neutral impacts, Alternative 3 has more

conservation benefits. As Dr. McKenzie pointed out, the distribution of hotspots is worth noting. Given the most-recent data for Platts Bank, he was concerned with the impacts to the scallop fishery, and whether it would be practical to close the area and negatively impact the scallop industry in the area. Dr. McKenzie stated that the Nature Conservancy's species persistence information for managed species supports Alternative 1/No Action.

Public Comment:

Greg Cunningham (Conservation Law Foundation) asked to show on the screen the color-coded graphs of the impacts to valued ecosystem components. The complex habitat to the west of Cashes (i.e. Fippennies Ledge) is essential fish habitat for eight different species. In addition, numerous other features including DEIS analysis has the 'no action' alternative scoring higher than all other proposed alternatives. Every other alternative is scored lower in 9 of the 11 valued ecosystem components. The impacts under this alternative are already realized because the areas are currently closed. Alternatives 3 and 4 have a short-term economic gain for increased fishing opportunity. The Greater Atlantic Regional Fisheries Office is taking the cod stock status seriously, and therefore recommends the 'no action' alternative.

Togue Brawn (Maine day boat scallop fisherman) stated that the Platts Bank closure would shut down the entire northern Gulf of Maine scallop fishery.

Geoff Smith (Nature Conservancy) stated that he supports the Cashes Ledge closure because it hosts a variety of habitats in one area that is currently protected (including mud habitats, kelp habitats, and Fippennies Ledge). As Mr. Cunningham mentioned, the status quo has positive impacts on groundfish, habitat, and some of the socioeconomic impacts. Very clear that there is a lot more than just mud that would be opened; there is a lot of hard bottom in the area as well.

A commenter stated that there is a lot to be gained by fishing the edge of Platts Bank, which should remain open. He supported maintaining the Cashes Ledge closure.

Jud Crawford (PEW) opposed the motion and urged support for the status quo option.

Maggie Raymond (Associated Fisheries of Maine) stated that the Associated Fisheries of Maine, Fisheries Survival Fund, and Northeast Seafood Coalition support Alternative 4. These groups do not think that Alternative 1 is appropriate for discussion in the habitat amendment. Cashes Ledge is protected under Alternative 3 and 4. There have been no gains from this area being closed; cod are not doing well in the area. Ms. Raymond stated that she understands that there are large resident cod in the area, but there is research showing that the large migratory cod are more productive than the resident cod. A lot of PDT analysis supports Alternative 4. The group could likely live with Alternative 3, but not Alternative 1.

Sarah Smith (Environmental Defense Fund) suggests rejecting the substitute motion and supports Alternative 1. There is mud and hard bottom habitats that provide a mosaic for different life stages of cod in the area. The resident cod in the area also need to be protected.

Vito Giacalone (Northeast Seafood Coalition) stated that he would support the motion on the table over Alternative 1. The Northeast Seafood Coalition has supported Alternative 4 to respect a lot of the comments to preserve Ammen Rock and the Cashes Ledge area. Cashes Ledge area is surrounded by quite a large closure (Cashes Ledge). Who is quantifying the abundance of cod in the area? Are there abundant spawning cod in the area? Nobody is checking this information. Alternative 4 has neutral impacts compared to Alternative 1. However, many people are under the impression that bigger closure areas are better than smaller closed areas. We support Alternative 4, or Alternative 3 as a second option, but do not support the status quo option.

David Stevenson (Greater Atlantic Regional Fisheries Office) mentioned Graham Sherwood's research (see public comment) that compared inside/outside closed area and found more large cod in the closed area. The Swept Area Seabed Impact model was developed to compare habitat vulnerability, and shows that gravel bottom is more vulnerable to mobile bottom-tending gear, but there are other habitat (i.e. mud/sand) that also need protection. Cashes Ledge is has deep water and has been protected for over 10 years.

Motion 4b (Motion to amend the substitute motion) Grout/Tooley: In the Central Gulf of Maine, the Committee recommends that the Council select Alternative 3, Option 1, without Platts Bank (Modified Cashes Ledge, Modified Jeffreys Bank, Fippennies Ledge, Ammen Rock) as their final preferred alternative.

- **The motion to amend carried on a roll call vote, 7/3/0.** For: Grout, Alexander, Balzano, Gibson, Kaelin, Tooley, Elliott; Against: Chiarella, Etrie, McKenzie; Abstentions: None.
- **The motion to substitute carried on a roll call vote, 8/2/0.** For: Grout, Alexander, Balzano, Etrie, Gibson, Kaelin, Tooley, Elliott; Against: Chiarella, McKenzie; Abstentions: None.
- **The motion as substituted and amended carried on a roll call vote, 8/2/0.** For: Grout, Alexander, Balzano, Etrie, Gibson, Kaelin, Tooley, Elliott; Against: Chiarella, McKenzie; Abstentions: None.

Western Gulf of Maine Habitat Management Alternatives

Motion #5 (Etrie/Alexander): In the Western Gulf of Maine, the Committee recommends that the Council select Alternative 6 (Stellwagen Large), Option 1 as their final preferred alternative.

Motion #5a (A motion to substitute, McKenzie/Chiarella): In the Western Gulf of Maine, the Committee recommends that the Council select Alternative 1 (No Action) as their final preferred alternative.

Discussion:

Ms. Etrie stated that Alternative 6 protects habitat and allow for continued fishing in other areas. Mr. Alexander stated that there are annual catch limits, mesh size limits to protect the juvenile fish, and roller gear restrictions to protect the habitat. Mr. Chiarella stated that Alternative 1 shows the most positive benefits compared to the other alternatives. Mr. Grout supports Alternative 1 for positive impact on the seabed compared to Alternative 6, which has moderate positive economic impacts.

Motion #5b (Motion to amend the substituted motion): Grout/Kaelin: In the Western Gulf of Maine, the Committee recommends that the Council select Alternative 1 (No Action, WGOM habitat and groundfish closures), Alternative 7a (roller gear), and Alternative 8 (shrimp exemption) as their final preferred alternatives.

- **The substitute motion was amended on a show of hands, 9/1/0.**
- **The main motion was substituted, as amended, on a show of hands, 9/0/1.**

Discussion:

There was a clarification that Alternative 7A would make the 12-inch roller gear area a habitat management area, which would re-apply the roller gear restriction to the shrimp trawl vessels. Ms. Tooley stated that there is work done all around the world for gear modifications to protect habitat. The concept that gear modifications do not protect habitat is incorrect. Mr. Grout clarified that a maximum restriction for roller gear makes it harder for the gear to go over large boulder and complex habitat. It is a measure that could minimize the adverse impacts from fishing gear on habitat because vessels are less likely to enter complex habitat and risk being ‘hung up’ on the bottom. Ms. Bachman clarified that Alternatives 7 and 8 were intended to serve as add-ons to Alternative 1/No Action.

Public Comment:

Maggie Raymond (Associated Fisheries of Maine) supported the shrimp exemption. Ms. Raymond stated that gillnets fishing for groundfish would not be allowed to fish in the area if Alternative 1 is selected. She asked for the rationale for including the mortality closure in the preferred alternative. Mr. Grout responded that protection for 0-1 year-old groundfish is his rationale for this motion.

Rom Smolowitz (Fisheries Survival Fund) stated that fishing has dropped by 63 percent due to closures. It is ridiculous to think that larger areas for closure protect more habitats.

Jud Crawford (PEW) stated that Alternative 1 is preferred. Sherwood and Grabowski’s [cod] analysis shows that these closed areas do work. Size at age of fish is better inside the closure. Any reduction in the scale of closed areas is not good. Looking at nearly 1,000 sites around the world shows that if closed areas are large enough, isolated enough, and protected enough, they do achieve their goals to increase biomass in the area.

Vito Giacalone (Northeast Seafood Coalition) stated that they support Stellwagen Large HMA. Restricting gillnets in a habitat management area is not appropriate. The Northeast Seafood Coalition understands the support for the status quo, but wants to see the area to the east of 70° (extra 5-mile-wide area) left open.

Sarah Smith (Environmental Defense Fund) supports Alternative 1 for reasons stated by Jud Crawford. As with the Cashes Ledge closure, the benefits of the existing Western Gulf of Maine closure are clear, given for the number of juvenile hotspots found in the area.

Motion #5c (A motion to amend the substituted motion): Alexander/Kaelin: In the Western Gulf of Maine, the Committee recommends that the Council select the Western Gulf of Maine habitat closure, the Western Gulf of Maine groundfish closure with the eastern boundary shifted to match the habitat closure, Alternative 7a (roller gear), and Alternative 8 (shrimp exemption) as their final preferred alternatives. All gear restrictions in the WGOM Closure Area would remain as-is.

- **The motion to amend carried on a roll call vote, 7/1/2.** For: Alexander, Balzano, Elliott, Etrie, Gibson, Kaelin, Tooley; Against: McKenzie; Abstentions: Grout, Chiarella.
- **The main motion as amended carried on a roll call vote, 7/1/2.** For: Alexander, Balzano, Elliott, Etrie, Gibson, Kaelin, Tooley; Against: McKenzie; Abstentions: Grout, Chiarella.

Discussion:

Mr. Alexander provided rationale that this would open areas where pollock and hake fishing can take place. Mr. Grout stated that he likely supports this amendment. Mr. Grout asked if there was any work in the DEIS that shows what the impact that this change would have on essential fish habitat, age 0-1 groundfish, spawning, and habitat protection?

Ms. Bachman stated an exemption area proposal for the same eastern five miles of the WGOM closure was analyzed in NE Multispecies Framework 48 (similar analyses would be completed for the OHA2 FEIS if this alternative was selected by the Council). The conclusion in the framework was that the biological impacts were mixed, depending on the groundfish stock. Mr. Chiarella stated this alternative would be preferable if the Cashes Ledge status quo closure was maintained. Dr. McKenzie stated that there are a number of other studies that suggest small discreet closures do not achieve the same habitat protection as larger areas. Ms. Tooley stated that this alternative is not small and discreet. Several years ago, there was expectation that mortality closures were no longer necessary due to hard catch limits and a sector system to control mortality of fished stocks.

Public Comment:

Greg Cunningham (Conservation Law Foundation) stated that this alternative has not yet been analyzed in this amendment. Ms. Bachman affirmed this, and stated that further analysis would be necessary.

Gulf of Maine Spawning Protection Alternatives

Motion #6 (Alexander/Tooley): In the Gulf of Maine, the Committee recommends that the Council select the Framework 53 spawning and cod protection measures as their final preferred alternative for spawning protection.

- **The motion carried on a roll call vote, 7/2/1.** For: Grout, Alexander, Balzano, Etrie, Gibson, Kaelin, Tooley; Against: Chiarella, McKenzie; Abstentions: Elliott.

Discussion:

Mr. Chiarella stated that there should be PDT analysis on spawning protections for other stocks (i.e. not only cod). Ms. Tooley stated that expertise [on spawning issues] is within the groundfish plan, and that is where protection measures should be maintained.

Public Comment:

Maggie Raymond stated that there is spawning protection through the Framework 53 cod protection areas, and that no fish spawn year-round [such that year-round closures are necessary for spawning protection]. The Council did call for a review of those areas to make sure they are in the right place at the right time. We support what is proposed in Framework 53.

Ron Smolowitz (FSF) suggested applying the right amount of fishing effort protections. We have some very large predator stocks that could decimate the young of the year that we're trying to protect.

Jud Crawford (PEW) stated that there is a lot of agreement for protecting spawning fish. We don't support this motion as appropriate for protection of spawning. Spawning is identified in the Magnuson-Stevens Act regarding essential fish habitat protection for critical life stages. To focus on a single FMP for protection of these spawning stocks is not appropriate.

Greg Cunningham (Conservation Law Foundation) asked if we have a practicability analysis for this motion. Ms. Bachman replied no, and explained that the PDT has been working to compare the OHA2 and Framework 53 measures, but have not looked at impacts to other valued ecosystem components for FW 53 proposed measures.

Patrick Paquette stated that there is a lack of spawning protection for Atlantic herring within OHA2.

Discussion:

Ms. Tooley stated that spawning protections are not intended to protect all spawning fish stocks; it is not a practicable approach. Ms. Bachman explained that there is not a lot of new information that the PDT would be able to bring to the table beyond they analyses developed for Framework 53; we would simply re-evaluate those analyses as they apply to the goals/objectives of OHA2. Mr. Chiarella noted that the Council included improvement of groundfish spawning protection in

this amendment, and this objective should be addressed. Mr. Kaelin stated that Atlantic States Marine Fisheries Commission plan does protect herring spawning, and the last assessment showed that the spawning stock biomass is well above its target².

Motion # 7 (Grout/Alexander): In the Gulf of Maine, the Committee recommends that the Council select Alternative 3, the Massachusetts Bay Spawning Protection Area, as their final preferred alternative.

- **The motion carried on a show of hands, 8/2/0.**

Mr. Grout provided rationale that the area was identified as a discreet cod spawning area. There was a clarification that the FW 53 measures only close the area to commercial groundfish vessels, not recreational vessels. Dr. McKenzie supports this as the bare minimum for spawning protection, and does not feel that this meets the OHA2 goals for spawning protection. Mr. Kaelin asked how the existed exempted fisheries would be addressed. Michelle clarified that exempted gears would be allowed, but not exempted fisheries.

Mr. Nies stated that exempted fisheries are not allowed in all closed areas. This proposal is written to adopt the same restrictions as the current Gulf of Maine Cod Spawning Protection Area (Whaleback).

Patrick Paquette supports this, in addition to the other recreational fishermen that support this motion. It is important that these fishermen have the ability to transit to access the winter pollock grounds.

Gulf of Maine Dedicated Habitat Research Area Alternatives

Motion #8 (Chiarella/McKenzie): The Committee recommends that the Council select as their final preferred alternatives for Dedicated Habitat Research Areas Alternative 3a (Stellwagen DHRA with southern reference area) and Alternative 5 (sunset provision) as preferred.

Discussion:

Mr. Chiarella provided rationale that the Stellwagen DHRA provides a suitable control area to conduct before and after controlled impact studies. Dr. McKenzie supports the southern reference area because scientists stated that it would provide more research opportunities. Ms. Bachman clarified that the restrictions in the dedicated habitat research area would be closed to mobile bottom-tending gear and other gears currently restricted in the WGOM groundfish closure area, and the reference area would additionally restrict recreational/charter/party gear that catch groundfish. Lobster gear would be allowed in the area. Mr. Alexander stated that the reference conditions of the area are compromised if we would allow lobster gear in the area.

² In 2011, the SSB for Atlantic Herring was 518,000 metric tons, well above the SSB threshold of 78,500 metric tons (<http://www.asafc.org/species/atlantic-herring>).

Motion 8A was modified by a friendly amendment (Chiarella/McKenzie): The Committee recommends that the Council select as their final preferred alternatives for Dedicated Habitat Research Areas Alternative 3b (Stellwagen DHRA with northern reference area) and Alternative 5 (sunset provision) as preferred.

Public Comment:

Patrick Paquette stated that the lobster fishery removes live fish from the area and introduces bait that is not from the area. It lacks common sense that lobster gear would be allowed and not recreational gear. Maggie Raymond (Associated Fisheries of Maine) was opposed to this motion for the same reasons.

Jud Crawford stated that they support a broader array of research areas including this one, arguing that we need more of these measures to increase scientific research to better inform in relationship between fish and benthic habitat.

Mr. Alexander stated that he cannot support the motion if it allows fishing in the area when it is supposed to be a reference area.

Mr. Nies stated that there is a question on whether the Council can regulate lobster activity in a research area.

A motion to table until the next Committee meeting was offered (Alexander/Balzano).

- **The motion to table carried on a show of hands, 8/1/1.**

The Habitat Committee meeting adjourned at approximately 5:00 p.m. on Day 1.

Day 2

Note: Mark Gibson absent and Warren Elliott left after lunch on Day 2

AGENDA ITEM #1: SELECTION OF PREFERRED ALTERNATIVES

Ms. Bachman summarized the AP's preferred alternatives for sections of the amendment not discussed during the first day of the meeting. Ms. Raymond provided some clarification on the outcome of the Habitat AP meeting, and stated that the gear exclusion for Cox Ledge was to apply to clam dredges only. Regarding Closed Area II, she noted that the agreement between the groundfish and scallop industries should be developed outside of the regulation process, and also that it was important to keep in mind that Closed Area II has the potential to be closed for spawning. There would only be 145 days for the scallop industry to operate in the area if the spawning alternative is implemented, given fall closures for groundfish protection and exclusive lobster fishery access in the summer.

Ms. Tooley stated that should areas become available to the scallop fishery that they would be entered into the rotational management system and would not remain as open areas. The scallop fishery management plan would implement a framework to do this.

David Borden (Wallace and Associates and Atlantic Offshore Lobstermen's Association) stated that the Atlantic Offshore Lobstermen's Association and the sectors updated their Closed Area II gear sharing agreement and it was signed by both parties.

Georges Bank Habitat Management Alternatives

Motion #9 (Alexander/Kaelin): On Georges Bank, the Committee recommends that the Council select Alternative 7, Option 1 as their final preferred alternative.

Motion #9A to substitute the original motion (McKenzie/Chiarella): On Georges Bank, the Committee recommends that the Council select Alternative 8, Options 1 and 5, as their final preferred alternative.

- **The motion to substitute failed on a roll call vote, 1/6/2. For: McKenzie; Against: Grout, Alexander, Balzano, Etrie, Kaelin, Tooley; Abstentions: Chiarella, Elliott. Note: Gibson absent for remainder of meeting.**

Discussion:

Dr. McKenzie provided rationale that there are larger fish and higher biomass in the area under consideration. Graboswki's analysis shows that the age structure in the closed areas is better than outside the closed area. There is protection for juvenile stocks and herring. Economically, the average total revenue for this area is approximately \$26 million (6% loss to the New Bedford fishery)³. There would be some dislocated economic activity, but Nantucket Lightship, if opened, would help mitigate those economic losses to the scallop fishery. Mr. Chiarella stated that there has been a habitat area of particular concern for cod for 16 years, and that this HAPC was reaffirmed via earlier decisions in the OHA2 process.

Ms. Tooley stated that our focus needs to be on net benefits to the nation – therefore, choosing Alternative 8 simply because you don't like Alternative 7 is impractical. Mr. Kaelin stated that the substitute motion is an overreaction to try and bring back cod fish. To displace fishermen on Georges Bank is economically reckless, and is based on the assumption that we can bring back cod fish, so I cannot support it. The benefits are not clear enough to go this far. Mr. Grout also cannot support the motion due to the overwhelming economic impact to the industry. Dr. McKenzie stated that the Nature Conservancy's analysis supports the idea that this area would enhance groundfish productivity. This motion is not impracticable, but it may be inconvenient. Ms. Etrie stated that Alternative 8 would be a significant economic impact.

³ Omnibus Habitat Amendment 2 DEIS, SASI Model Appendix

Public Comment:

Ron Smolowitz (Fisheries Survival Fund) referenced the cost/benefit analysis in the swept area seabed impact model document. “For nearly all area and gear type combinations, opening existing closed areas to fishing is predicted to decrease aggregate adverse effects. For mobile bottom tending gears, which comprise nearly 99% of all adverse effects in our region, allowing fishing in almost any portion of the area closures on Georges Bank is estimated to substantially decrease total adverse effects from fishing.⁴” In addition, “It is significant (and often overlooked) that the most extensive assessment of fishing impacts conducted on the US east coast concluded that the removal of the three large marine protected areas on Georges Bank would reduce aggregate adverse impacts of fishing (NEFMC 2011).” The most effective way to minimize adverse impacts on habitat is to increase catch per unit effort. Grabowski et al 2014 supports this. Smart gear modifications and minimizing catch per unit effort would protect the most habitats. Data produced by the Northeast Fisheries Science Center shows a massive die-off costing over 600 billion dollars. Yet, we have not had a good year class of cod in that area. Scallop managers would have the ability to relocate fishing effort, which could help the industry by \$15 million.

Greg Cunningham (Conservation Law Foundation) stated that Alternative 8 is by far the most beneficial to essential fish habitat. It captures more of the high vulnerability habitat and groundfish hotspots.

Jim Odlin (Atlantic Trawlers) stated that his vessel specifically targets haddock and redfish, catching 10 percent of the eastern area haddock. If the closed area were expanded, he would catch even less haddock. The U.S. fishermen sustain a \$450 million loss in revenue due to lack of harvesting U.S quota at the same rate as the Canadian counterparts. Atlantic Trawlers has done survey work with the Gulf of Maine Research Institute and self-funded experimental fisheries using separator gear, and found the areas surrounding the existing closed areas had bigger fish. Therefore, he supports Alternative 7.

Jud Crawford (PEW) stated that legally and scientifically, Alternative 8 is the only option. The alternatives being chosen for preferred alternative do not encompass the areas that were highlighted by the swept area seabed impact and groundfish hotspot analyses. There are a lot of stakeholders that would benefit from the tremendous habitat protections.

Maggie Raymond (Associated Fisheries of Maine) clarified that the organization she represents is not giving up on cod rebound. In the past, they thought that closures would increase productivity, but we have not seen that. There has been very little benefit to Georges Bank cod following the closed area implementation. Therefore, they cannot support Alternative 8. Three groups, Associated Fisheries of Maine, Fisheries Survival Fund, and Northeast Seafood Coalition, came to a collaborative agreement on Alternative 7. Closing additional areas just allows the lobster industry to cover more bottom habitat with traps. Impact to the groundfish fleet is great, because there are already very restrictive effort control measures currently in place. Alternative 8 has short-term and long-term negative impacts.

⁴ Comment Letter by Ron Smolowitz on OHA 2 (December 4, 2014).

Gib Brogan (Oceana) supports the substitute motion and rejects the original motion. He suggests that fishery managers give the remedial attention to the failing cod stock; action can't be a drop in the bucket, it must be substantial. The potential for an ESA-listing for cod is a concern for the Regional Administrator at the Greater Atlantic Regional Fisheries Office and should be avoided if possible. Alternative 8 has highly moderately positive groundfish impacts.

Vito Giacalone (Northeast Seafood Coalition) noted that fishing harvests on the eastern portion of Georges Bank have been low relative to allocations. Closed areas are to be in place when there are not enough effort control measures; fishermen have hard TACs. The existing closed areas were once highly productive fishing grounds, and the harvest since then remains low despite the closures. After a closure opens, fishing is not great for a while. It is as if the bottom dies, starving for stimulation to help productivity. Alternative 7 would close new areas that were never closed before. Alternative 7 would minimize impacts to the fishery. All 11 sectors have re-signed the agreement in Closed Area II with the Atlantic Offshore Lobstermen's Association. Cod should not be managed under the OHA 2.

Erica Fuller (Earthjustice) stated that she is in favor of Alternative 8, not Alternative 7. Net benefit to the nation does not mean net benefit to the fishing industry.

Drew Minkiewicz (Fisheries Survival Fund) opposes Alternative 8, and strongly supports Alternative 7. The DEIS is the record of decision to consider these alternatives; the Committee and Council has to choose the option that gives the most protection while minimizing the adverse impacts to the fishery. Habitat areas of particular concern rationale list the area as a unique habitat. The northern edge area has been photographed by UMASS School for Marine Science and Technology, and shows that the habitat in the area is ubiquitous. The epifauna is also not unique because it is an extremely dynamic area. The DEIS analyses shows that Alternative 7 meets the habitat and economic practicability standards. The habitat area of particular concern rationale is wrong; the information has been wrong since its inception 7 years ago.

Sally McGee (Nature Conservancy) strongly supports Alternative 8. The Nature Conservancy created a new dataset to determine where a wide range of species have been persistent for the past 40 years. The analysis provided was updated to focus on Council-managed species. When compared to the analysis within the DEIS (swept area seabed impact analysis), they matched up really well. Swept area seabed impact analysis has been thoroughly reviewed, and same for the Nature Conservancy's analysis. When considering which alternative matched up best, Alternative 8 clearly met this best fit approach, with 1,912 km² of 'far above average' habitat areas for protection. Alternative 7 had 27 km² habitat protection in areas that scored far above average⁵.

David Borden (Atlantic Offshore Lobstermen's Association) was opposed to the substituted motion. Fishing Option 1 and 5 prohibit surf-clam fishing in the area. There is an enormous quantity of clams in this area, and there was a lot of work done by the NOAA's National Ocean Services to reopen this area to the clam industry (PSP testing protocol development).

⁵ The Nature Conservancy comment letter on OHA 2, Table 4 (January 8, 2015).

Sarah Smith (Environmental Defense Fund) stated that yellowtail flounder protection on Georges Bank would not be met under Alternative 8, but Alternative 8 would enhance groundfish productivity. Ms. Smith is against Alternative 7 and disagrees with Mr. Minkiewicz because Alternative 7 is likely to have highly negative impacts on 0-1 year-old groundfish species and their habitat.

Peter Hughes (Atlantic Capes Fisheries, Inc.) stated that the groundfish industries came together with the lobster industry to understand benefits to each of the industries, and chose Alternative 7 for this reason. Mr. Hughes supports Alternative 7 and opposes Alternative 8. Alternative 8 would permanently remove a viable and fertile fishing ground that has been in existence since the 1700s. There are protective measures in place for yellowtail flounder and other species, as annual catch limits are in place for all these fisheries.

Mr. Alexander stated that Alternative 8 would eliminate the winter flounder fishery in the area. Mr. Alexander agrees with Mr. Giacalone's point. The bottom habitat needs to be turned over to increase productivity. We have closed areas currently in place that do not improve productivity. Mr. Chiarella supports Alternative 8 because it does a good job of protecting the habitat⁶. Alternative 7 looks ideal because it looks like nobody is fishing in there right now. Ms. Etrie stated that when considering bottom trawl effort in the analysis of potential impacts to the industry, recent activity in the area is biased because in recent years, windowpane flounder accountability measures reduced effort in that area. Mr. Kaelin stated that he is not convinced that 20 years of closures is beneficial, and cannot support the motion.

Drew Minkiewicz (Fisheries Survival Fund) stated that if there are two alternatives scored similarly in the DEIS document for habitat protection, then the Committee should not select a preferred alternative that would have the most adverse economic impact to the fishing industry. Regarding Mr. Chiarella's comment that Alternative 7 is an area with low fishing activity, there is no requirement that the habitat protection area needs to previously have fishing activity. The Alaskan habitat management areas that had no fishing effort are successful. Area swept reduction is the primary factor in reducing adverse impacts on habitat.

Vito Giacalone stated that the use of the habitat area of particular concern as a tool to protect habitat should also be reconsidered.

Ron Smolowitz (Fisheries Survival Fund) stated that habitat areas of particular concern are not left unprotected. The scallop fishery management plan has measures in place to minimize swept area and adverse impacts. The SASI vulnerability analysis ignores the positive impacts of fishing (i.e. benefits of fishing the bottom and creating some disturbance).

Greg Cunningham (Conservation Law Foundation) opposes Alternative 7 in order to protect the habitat area of particular concern.

Jud Crawford (PEW) stated that if the Committee chooses Alternative 7 as its preference, then they would be recommending a reduction in 90 percent of habitat areas for protection compared to the status quo option.

⁶ OHA 2 DEIS, Volume 3, Table 94, page 421-422).

Ms. Tooley stated that this alternative under consideration has more negative impact long-term to the scallop industry. Alternative 6A has a short-term reduction in yield by 10 percent, which does not pass the practicability standard. Dr. McKenzie stated that there is no such thing as a practicability standard; there are no guidelines in place to meet any general standard.

Motion #9B to substitute the original motion (Grout/Chiarella): On Georges Bank, the Committee recommends that the Council select Alternative 6A, Option 1, as their final preferred alternative.

- **The motion to substitute failed on a roll call vote, 3/6/0.** For: Grout, Chiarella, Elliott; Against: Alexander, Balzano, Etrie, Kaelin, McKenzie, Tooley; Abstentions: None.

Back to the main motion: On Georges Bank, the Committee recommends that the Council select Alternative 7, Option 1 as their final preferred alternative.

- **The main motion carried on a roll call vote, 5/3/1.** For: Alexander, Balzano, Etrie, Kaelin, Tooley; Against: Grout, Chiarella, McKenzie; Abstentions: Elliott.

Motion #10 (Grout/Kaelin): The Committee recommends to the Council that they support the Advisory Panel's recommendation that an area of Closed Area II north of 41° 30' N would remain closed to all mobile bottom-tending gear between June 15 and October 31, subject to the scallop fishery having access to the area north of 41° 30' N between March 1 and June 15. This motion also recognizes the agreement between the trawl fishery and the offshore lobster fishery, which could be subject to revision. There is no intent to include the groundfish/lobster agreement in the regulations.

Discussion:

Mr. Alexander stated that the intent of the motion was to have this agreement in the sector operations plans. Mr. Grout confirmed that the intent of the motion is not to have this agreement promulgated in the regulations, but to express to the Council that the Committee supports the concept of this gear-sharing agreement.

Mr. Nies clarified that the Council has a long history of trying to allow the industry to resolve gear conflicts first, including a gear sharing amendment. Then, if the conflict does not reach a resolution, the Council will step in and adjust regulations to address the gear conflict. The language of the motion also mentions scallops even though such an agreement between the scallop and groundfish industry does not currently exist. Mr. Grout stated that this is not to impact habitat management whatsoever. That this agreement is something the Committee can support and is recommended by the Atlantic States Marine Fisheries Commission in its comment letter on OHA2 alternatives.

Public Comment:

Dave Borden (Atlantic Offshore Lobstermen’s Association) supports the motion as a statement of intent by the committee that they support this agreement between the industries. Mr. Borden is also confident that there can be an agreement signed by the scallop and lobster industry by the next Habitat Committee meeting. In addition, the Atlantic States Marine Fisheries Commission’s comment letter raised concerns for the lobster resource without such an agreement.

Maggie Raymond (Associated Fisheries of Maine) stated that it is important that this motion does not become a regulatory action. This agreement becomes binding for the groundfish industry through a 2-year sector operations plan.

Vito Giacalone stated that every industry has its own way of adopting this gear-sharing agreement. The updated lobster/groundfish agreement says it is indefinite, so it stays in effect unless the two industries agree to change it.

Motion #10A (Etrie/Grout): Motion to table the preceding motion until after lunch.

- **The motion to table carried unanimously, without objections.**

Great South Channel/Southern New England Habitat Management Alternatives

Motion #11 (Alexander/Tooley): In the Great South Channel, the Committee recommends that the Council select Alternative 5, Option 1 as their final preferred alternative.

Discussion:

Mr. Alexander provided rationale that the information on page 46 of the public hearing document indicates that this is the best alternative.

Motion #11A to substitute the original motion (McKenzie/Preble): In the Great South Channel, the Committee recommends that the Council select Alternative 3, Options 1 and 5, as their final preferred alternative.

- **The motion to substitute failed on a roll call vote, 1/6/2. For: McKenzie; Against: Grout, Alexander, Balzano, Etrie, Kaelin, Tooley; Abstentions: Chiarella, Elliott.**

Discussion:

Dr. McKenzie provided rationale that the substitute alternative protects a key migration area between the Great South Channel and Georges Bank. The alternative captures essential fish habitat, which protects 73 percent of unique life stages of fish species. Information on managed fish persistence from the Nature Conservancy shows that this alternative is the most beneficial. Herring stock assessment shows that they need more protection, based on the best available science. Ms. Tooley stated that there is no analysis of Option 5 in the document. The economic impact is higher than is stated in the DEIS document. There are 10 national standards that require

a balancing of multiple objectives. This alternative is not a balance of all 10 national standards. Mr. Kaelin stated that the herring stock assessment model cannot determine where herring consumption is occurring. The long-term yields for the herring resource do not indicate that more protection of the resource is needed.

Public Comment:

Ms. Raymond stated that the Associated Fisheries of Maine does not support Alternative 3; they support the underlying motion - Alternative 5. Ms. Raymond asked whether the substitute motion would restrict gillnet vessels. Ms. Bachman affirmed that Option 5 would prohibit gillnets in the area. Mr. MacDonald stated that additional requirements of Magnuson-Stevens Act, state that when an area is closed to all fishing, it must be based on benefits for conservation, evaluation of closed area performance, and benefits/impacts to user groups. Therefore, further analysis would be required. It was clarified that although Option 5 would not prohibit all gear in the area, the scope of impacts of such a measure would need to be addressed in the EIS document.

Drew Minkiewicz stated that the substitute motion encompasses more area than Alternative 5, which goes above and beyond the goals for the OHA2. The additional portion of the Great South Channel area to the east that is proposed under Alternative 3 has 16 percent of the annual scallop production, which would be lost if Alternative 3 is selected. This would have substantial adverse economic impact compared to the Alternative 5, which already meets the habitat protection goals of OHA2.

Jud Crawford (PEW) supports Alternative 3, which is less than half the size of the current no action alternative. Alternative 5 would have a 65 percent reduction in habitat management area for protection. Alternative 3 would recognize the hard bottom habitat and highly production area, migratory corridor for fish, and high biodiversity of the area.

Gib Brogan (Oceana) opposes Alternative 5 because consideration of the cod essential fish habitat designation would make the alternative ineffective by design since it avoids the cod essential fish habitat area. Alternative 5 analysis shows that the effects to the groundfish resource are not known. Alternative 3 has moderate habitat benefits and groundfish benefits. Disruption caused by fishing gear relocating large boulders caught during fishing activity should not be allowed to continue. I do have fear for the future of Georges Bank cod.

Ron Smolowitz (Fisheries Survival Fund) stated that he proposed a habitat area of particular concern for the entire area. However, the area has strong currents, and has been open to fishing for 200 years. The area has the highest and densest vertical epifauna. The 'fingers' portion of the area has high young-of-year fish (age 0), which changed due to high predator activity from 20,000 seals in the area, and dogfish in the area. Ecological imbalance due to high predation, not gear damage, is leading to the adverse effects of younger fish abundance in the area. Mr. Smolowitz opposes Alternative 3.

Vito Giacalone opposed the substitute motion because he would like to see the eastern portion of the area remain open. The Southern New England winter flounder fishery is viable and happens

in the area east of Alternative 5. There is a lot of economic revenue from the harvest of winter flounder in that area. There should be a balance in protecting essential fish habitat and allowing harvest of other species.

Greg Cunningham (Conservation Law Foundation) stated that related to the practicability analysis, there is no account for potential revenue to provide a net impact of the alternative. Therefore, the economic implications are not complete without these additional considerations.

Sally McGee (Nature Conservancy) stated that the Conservancy's analysis compares each of the alternatives. Alternative 5 covers half the habitat area at 5,500. Alternative 5 would protect 40 km² of 'above average' fish persistence is (versus 316 km² in Alternative 3).⁷

Ms. Tooley stated that closure of the northern edge of Alternative 3 would have substantial adverse impact to the limited access general category scallop industry; they would not accrue many benefits from the offshore areas under consideration for re-opening. Mr. Alexander stated that Alternative 4 is supported by the scallop industry, but it was replaced as their preference by Alternative 5. Ms. Etrie would not support the substitute motion because Alternative 5 has significant economic impacts to the gillnet fisheries, and the economic implications are not reflective of all fisheries that would be affected by the closure.

Back to the main motion: In the Great South Channel, the Committee recommends that the Council select Alternative 5, Option 1 as their final preferred alternative.

- **The main motion carried on a roll call vote, 5/2/2. For: Alexander, Balzano, Etrie, Kaelin, Tooley; Against: Grout, McKenzie; Abstentions: Chiarella, Elliott.**

Mr. Kaelin notes that clam exemption is necessary in the Great South Channel.

After the lunch break, the tabled motion was brought forward.

Motion #10B (Grout/Kaelin): The Habitat Committee recommends that the Council support development of an agreement between the scallop fishery and the offshore lobster fishery that includes an area of Closed Area II north of 41° 30' N would remain closed to all MBTG between June 15 and October 31 subject to the scallop fishery having access to the area north of 41° 30' N between March 1 and June 15. This motion also recognizes and supports the existing agreement between the trawl fishery and the offshore lobster fishery for this area, which could be subject to revision per the agreement.

- **The motion carried on a show of hands, 6/0/3.**

⁷ The Nature Conservancy comment letter on OHA 2, Table 5 (January 8, 2015).

Motion #12 (Alexander/Kaelin): The Habitat Committee recommends that the Council create an HMA in the Cox Ledge Areas (1 and 2), with a prohibition on trawl ground cables with bridles capped at 30 fathoms per side, and a prohibition on hydraulic clam dredges.

- **The motion carried on a show of hands, 6/3/0.**

Discussion:

Mr. Kaelin stated that this is an area that the clam industry would be willing to give up. Dr. McKenzie stated that gear modifications have been dismissed by the Plan Development Team as not benefitting habitat protection.

AGENDA ITEM #3: CLAM INDUSTRY PRESENTATION

David Borden and Louis Lagasse presented a chart representing areas fished from 6 different boats for a number of years (colors on the chart have no meaning). There is a disconnect between swept area seabed impact grid areas of complex habitat and the industry chart showing that it is where the fishery takes place because the clam dredges are fishing on the small areas within these complex habitats. There is a hydraulic clam dredge gear type that can fish within rocks. The surf clam industry avoids very rocky areas to avoid destroying the dredge, which would end the trip. This is a built-in incentive to avoid complex habitat. There are 18 boats that fish in this area, almost all from Cape Cod, providing clams to three processing plants, with a revenue of \$18 to \$25 million. The OHA2 should avoid fishing dislocations from this area. This is an important source of revenue for these New Bedford boats. First priority is for exemption of this area.

Public Comment:

Ms. Bachman confirmed that the PDT did not look at tows like this at their March meeting, but instead discussed patterns of effort in the clam fishery more generally.

Mr. Grout raised concern that we have 2 options, either allow clam dredges in the area or exclude them from the area. Developing a hybrid of that is problematic in the two weeks we have. Committee should consider a concept where we would allow clam dredges in area until we can develop some type of temporary access area with a sunset provision, to be developed by the Mid-Atlantic Fishery Management Council. Evaluate if these areas are in fact high energy sand areas. Dr. McKenzie suggested that the chart include the swept area seabed impact results overlaid with the clam fishing areas.

AGENDA ITEM #4: SELECTION OF PREFERRED ALTERNATIVES, CONTINUED

Georges Bank Spawning Protection Alternatives

Motion #13 (Alexander/Etrie): On Georges Bank, the Committee recommends that the Council select as their final preferred alternative, Alternative 3 (Closed Areas I and II) with restrictions similar to those currently in effect.

Motion #13A to substitute the original motion (McKenzie/Preble): On Georges Bank, the Committee recommends that the Council select Alternative 1/No Action as their final preferred alternative.

- **The motion to substitute failed on a roll call vote, 1/6/1. For: McKenzie; Against: Grout, Alexander, Balzano, Etrie, Kaelin, Tooley; Abstentions: Chiarella. Note: Elliott absent after lunch for remainder of meeting.**

Public Comment:

Jim Odlin (Atlantic Trawlers) stated that the May closure in the No Action alternative is only closed to common pool, and that there is likely no spawning in the deep water. Ms. Bachman clarified that there is an Option C that would exempt scallop dredge from closures.

Ron Smolowitz (Fisheries Survival Fund) stated that access to the area during anything other than the ideal time for scallop resource harvest would affect bycatch rates. Historically, scallop dredges were exempt from groundfish closures.

Jud Crawford (PEW) supports the substitute motion, Alternative 1.

Vito Giacalone stated that the May closure was an effort closure, which is why the sectors got an exemption to that area on Cape Cod, and asked if there was any new spawning information that would justify making this area a spawning closure. This was an effort control area in 1990s under rolling closures.

Back to the main motion: Motion #13B was modified by a friendly amendment offered by Ms. Tooley (Alexander/Etrie): On Georges Bank, the Committee recommends that the Council select Alternative 3 (Closed Area I North and Closed Area II, Feb 1-April 15) with Options B and C as their final preferred alternative for spawning.

- **The motion carried on a roll call vote, 6/1/1. For: Grout, Alexander, Balzano, Etrie, Kaelin, Tooley; Against: McKenzie; Abstentions: Chiarella.**

Public Comment:

Ms. Boelke clarified through Ms. Tooley that related to Option C, all scallop vessels would be exempt, regardless if the area is open access or rotational management area.

Motion #14 (Grout/McKenzie): For Dedicated Habitat Research Areas on Georges Bank, the Committee recommends that the Council select Alternatives 4 and 5 as their preferred alternatives.

- **The motion carried on a roll call vote, 7/0/1.** For: Grout, Alexander, Balzano, Etrie, Kaelin, Tooley, McKenzie; Against: none; Abstentions: Chiarella.

Discussion

Generally related to habitat research, Ron Smolowitz (Fisheries Survival Fund) stated that they want to ensure that they would be allowed to continue conducting research in habitat management areas. As an Advisory Panel member, Mr. Smolowitz made a motion to this effect and has had subsequent discussions with Greater Atlantic Regional Fisheries Office staff Ryan Silva.

Motion #15 (Tooley/Alexander): The Council recommends to NMFS that habitat research projects funded with government or RSA funds and conducted from commercial vessels will be allowed access into habitat management areas contingent on EFP approval.

- **The motion carried on a show of hands, 6/0/2.**

Discussion:

Based on Mr. Nies' questions, Ms. Tooley clarified that the intent is to allow cooperative research to go on inside dedicated habitat research areas. There was a friendly amendment to the language of the motion by MacDonald to use contingent instead of pending.

AGENDA ITEM#5: FRAMEWORK AND MONITORING ALTERNATIVES

Motion #16 (Grout/Alexander): For Framework and Monitoring approaches, the Committee recommends that the Council select Alternative 2 as their preferred alternative.

- **The motion carried on a roll call vote, 6/1/1.** For: Grout, Alexander, Balzano, Etrie, Kaelin, Tooley; Against: McKenzie; Abstentions: Chiarella.

Ms. Bachman stated that supporting the Alternative 2 would endorse an evaluation time frame.

Dr. McKenzie stated that there are many unknowns before this consideration and asked whether adjustments to the closed area boundaries could be accomplished through a framework action.

Mr. MacDonald responded that it depends on the nature of the action whether an amendment might be required, and the nature of the impacts would dictate whether an environmental assessment or an environmental impact statement would need to be completed.

Ron Smolowitz (Fisheries Survival Fund) supports putting as many items as frameworkable, because it can always be switched over as an amendment if significant changes are apparent.

But, the OHA2 measures need the option to be frameworkable if the change is not significant. For example, gear modifications to reduce habitat impacts should be able to go through a framework process.

Committee members stated that it would be useful to have a general history of the habitat area of particular concern designations in the OHA2 and staff agreed to work on this.

The meeting adjourned at approximately 3:30 p.m.