



## New England Fishery Management Council

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 E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

## DRAFT MEETING SUMMARY

### Habitat Committee

Radisson Hotel Providence Airport  
 2081 Post Road, Warwick RI  
 April 9, 2015

The Habitat Committee met on April 9, 2015 to finalize their selection of preferred alternatives for Omnibus Habitat Amendment 2 (OHA2).

**MEETING ATTENDANCE:** Dave Preble (Chairman), Doug Grout (Vice Chair), Terry Alexander, Vincent Balzano, Lou Chiarella (Designee for John Bullard), Libby Etrie, Jeff Kaelin, Matthew McKenzie, Rick Robins (MAFMC Chairman, for Warren Elliott), Terry Stockwell (NEFMC Chairman); Michelle Bachman, Maria Jacob, and Tom Nies (NEFMC staff). In addition, there were approximately 25 audience members including some Habitat Plan Development Team and Advisory Panel members.

### **OUTCOMES:**

- Committee recommended updates to EFH designations: winter flounder map southern geographic limit (all life history stages), juvenile Atlantic cod map (remove shallow depth limit), Atlantic sea scallop map (add maximum depth limit) and text (add detail), and Atlantic herring egg map.
- Committee recommended a strategy for clam exemptions on Nantucket Shoals.
- Committee recommended Stellwagen DHRA with northern reference area (DHRA Alternative 3B).
- Committee recommended development of two new management areas on the Northern Edge of Georges Bank.

### **AGENDA ITEM #1: ESSENTIAL FISH HABITAT AND HABITAT AREA OF PARTICULAR CONCERN DESIGNATIONS**

Ms. Bachman (Habitat PDT Chair) and Dr. Stevenson (GARFO Habitat Conservation Division/PDT member) summarized PDT recommendation on various EFH designation issues.

#### Winter Flounder EFH

Ms. Bachman stated that Delaware Bay is the southernmost extension of the essential fish habitat based on ELMR (Estuarine Living Marine Resources) data and inshore trawl data, which has a long time series. As water temperatures have changed, there appears to have been a shift

northward in the distribution of winter flounder. This particular EFH designation triggers conservation requirements for non-fishing activity such as dredging.

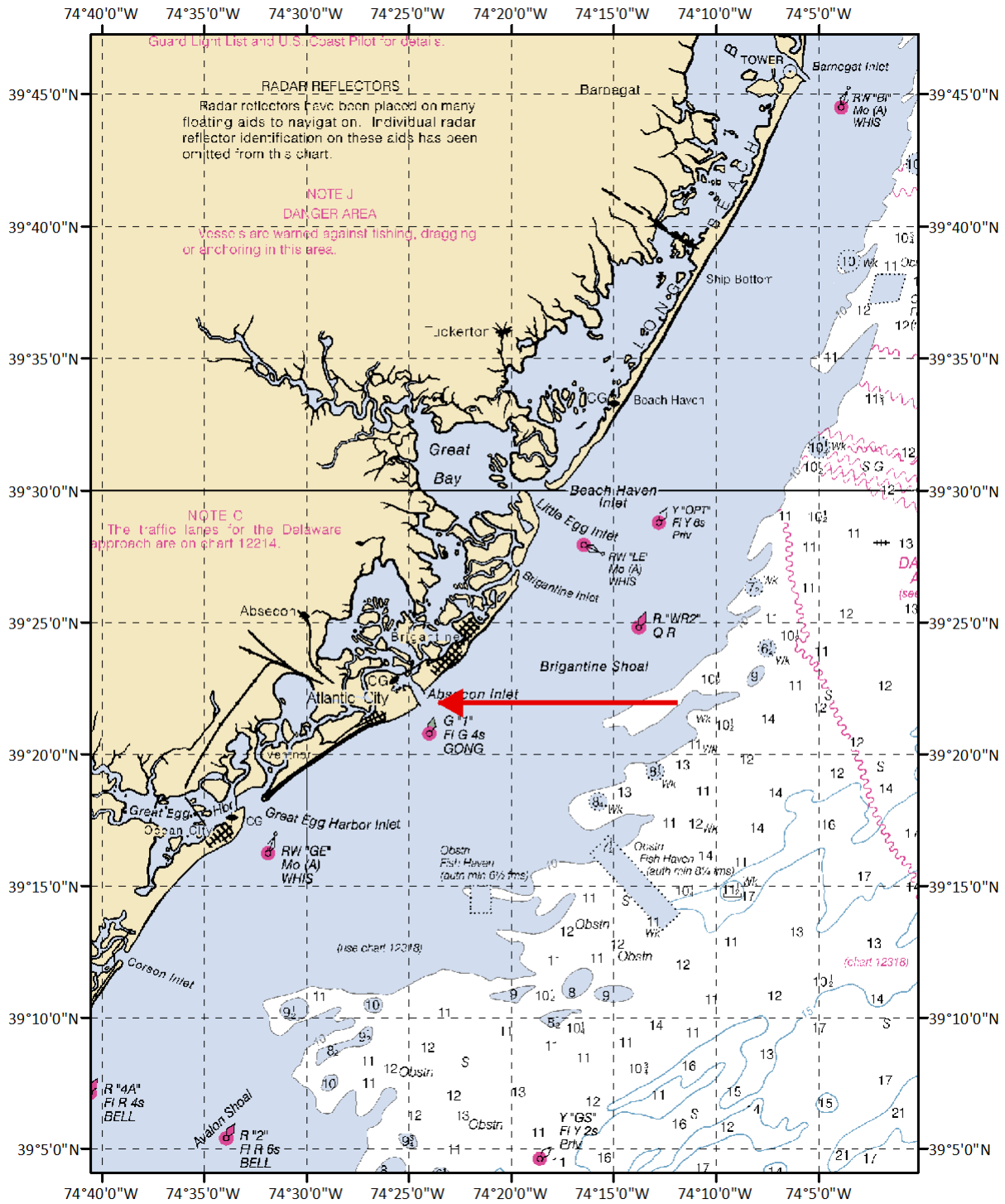
Currently, the preferred alternative uses the occurrence of adult winter flounder in at least 10% of state survey tows to map inshore EFH for eggs. Using New Jersey trawl survey data, Ms. Bachman presented a map that illustrates the ranking of average relative abundance for winter flounder along the New Jersey coast. The figure illustrated that as you go farther south, there is decreased abundance of winter flounder. Rutgers University faculty member Dr. Eleanor Bochenek recommended in her comments to the Council that the Cape May, NJ area does not require EFH designation because there is relatively low catches in the area, and it is not winter flounder habitat. Dr. Bochenek recommended that the area from, at minimum, Great Bay north should maintain its EFH designation.

The PDT has also examined survey data in Delaware Bay, and a very small percentage of recnet tows catch any adult winter flounder. For both the NJ coast and Delaware Bay, the PDT recommended that survey data should be used instead of the ELMR report. She also noted that the Plan Development Team has discussed the siltation issue, and concluded that if there is too much sedimentation, the area is not suitable egg habitat. This text was added to the essential fish habitat designation previously and is already incorporated in the DEIS.

**Motion 1 (Kaelin/Robins): The committee recommends to the Council a revision of the southern boundary of the winter flounder EFH designation (eggs, juveniles, and larvae/adults) established at 39° 22' N latitude, such that Absecon Bay would represent the southern limit of winter flounder EFH.**

- Motion 1 carried 8/0/1 on a show of hands.

Figure 1 – Southern limit of winter flounder EFH designation, entrance to Absecon Bay (Absecon Inlet), as indicated with red arrow.



## Sea Scallop EFH

The Committee discussed whether to add a maximum depth to the EFH map for the species. Most sea scallops are found in waters shallower than 110 meters. This depth encompasses Georges Bank and the mid-Atlantic Bight, as well as the tops of features in the Gulf of Maine, such as Cashes Ledge, Jeffreys Ledge, and Platts Bank. One Committee member stated that if Platts Bank is designated as essential fish habitat, the designation should be based on scientifically accurate information since there is a small fishery that operates in that area. Mr. Stevenson clarified that scallop EFH is mapped based on any tow where scallops were caught; it was not based on a catch rate threshold. Also, even though the scallop EFH is currently mapped to include all depths, the text for essential fish habitat designation takes precedence, and this text references depths of 18-110 meters. Thus, combining the current preferred alternative map and the current preferred alternative text, deeper waters would not be considered EFH because they do not meet both the text description criteria and the map criteria. Thus, adding a maximum depth to the maps makes the maps and text more consistent.

In addition, the scallop and habitat PDTs discussed adding detail back into the text description, e.g. salinity, temperature, etc.

**Motion 2 (Grout/Robins): Committee recommends limiting the sea scallop EFH map to 110 meters, and having the PDT add back in the more detailed text description information inclusive of salinity, temperature and other requirements as appropriate.**

- Motion 2 carried 8/0/1 on a show of hands.

An updated text description is provided below:

The EFH map for all life stages of Atlantic sea scallops includes all the ten minute squares where scallops of any size were caught during the following surveys: 1968-2011 NMFS trawl (fall and spring), 1981-2012 NMFS summer scallop dredge, 2000-2013 Maine/NH trawl, and 2005-2013 Maine scallop dredge. For each survey, scallop EFH was only identified if at least three tows were conducted in a particular ten minute square. Thus, some ten minute squares with very low sampling rates could not be designated EFH on the basis of some surveys, despite having positive catches of scallops. In addition, the map includes bays and estuaries identified by the NOAA ELMR program where juvenile or adult Atlantic sea scallops were "common" or "abundant."

Text descriptions:

Essential fish habitat for Atlantic sea scallops (*Placopecten magellanicus*) is designated anywhere within the geographic areas that are shown on Map 97 and listed in Table 31 which exhibit the environmental conditions defined in the following text descriptions.

Eggs: Benthic habitats in inshore areas and on the continental shelf as shown on Map 97, in the vicinity of adult scallops. Eggs are heavier than seawater and remain on the seafloor until they develop into the first free-swimming larval stage.

Larvae: Benthic and water column habitats in inshore and offshore areas throughout the region, as shown on Map 97. Any hard surface can provide an essential habitat for settling pelagic larvae ("spat"), including shells, pebbles, and gravel. They also attach to macroalgae and other benthic organisms such as hydroids. Spat attached to sedentary branching organisms or any hard surface have greater survival rates; spat that settle on shifting sand do not survive.

Juveniles: Benthic habitats in the Gulf of Maine, on Georges Bank, and in the Mid-Atlantic, as shown on Map 97, in depths of 18 to 110 meters. Juveniles (5-12 mm shell height) leave the original substrate on which they settle (see spat, above) and attach themselves by byssal threads to shells, gravel, and small rocks (pebble, cobble), preferring gravel. As they grow older, they lose their byssal attachment. Juvenile scallops are relatively active and swim to escape predation. While swimming, they can be carried long distances by currents. Bottom currents stronger than 10 cm/sec retard feeding and growth. In laboratory studies, maximum survival of juvenile scallops occurred between 1.2 and 15°C and above salinities of 25 ppt. On Georges Bank, age 1 juveniles are less dispersed than older juveniles and adults and are mainly associated with gravel-pebble deposits. Essential habitats for older juvenile scallops are the same as for the adults (gravel and sand).

Adults: Benthic habitats in the Gulf of Maine, on Georges Bank, and in the Mid-Atlantic, as shown on Map 97. Essential fish habitat for older juvenile and adult sea scallops occurs on sand and gravel substrates in depths of 18 to 110 meters, but they are also found in shallower water and as deep as 180 meters in the Gulf of Maine. In the Mid-Atlantic they are found primarily between 45 and 75 meters and on Georges Bank they are more abundant between 60 and 90 meters. They often occur in aggregations called beds which may be sporadic or essentially permanent, depending on how suitable the habitat conditions are (temperature, food availability, and substrate) and whether oceanographic features (fronts, currents) keep larval stages in the vicinity of the spawning population. Bottom currents stronger than 25 cm/sec (half a knot) inhibit feeding. Growth of adult scallops is optimal between 10 and 15°C and they prefer full strength seawater.

### Atlantic Cod EFH

The Committee discussed removing the minimum depth limit for juvenile cod EFH on the EFH map. The Plan Development Team recommended filling in the map to reflect the text description, which does not include a 30 meter minimum depth.

**Motion 3 (McKenzie/Chiarella): The Committee recommends that the Council adjust the map for juvenile cod EFH to be consistent with the text description (i.e. eliminate the minimum depth cropping).**

- Motion 3 carried 8/0/1 on a show of hands.

### Atlantic Cod HAPC (Habitat Area of Particular Concern)

Also, there is an HAPC in the Great South Channel based on the juvenile cod EFH designation, and the PDT recommended updating/filling in the HAPC, if the map designation is updated. Note that the HAPC was discussed after lunch when a preliminary map was available for review, but is included in this section of the summary. *Note: This discussion included both the Great South Channel Juvenile Cod HAPC, and the Northern Edge Juvenile Cod HAPC, even though the motion and underlying PDT recommendation focused on the Great South Channel*

Ron Smolowitz (Fisheries Survival Fund) expressed his concern that a lack of survey data indicates that the area would not be designated as essential fish habitat. The methodology for essential fish habitat designation should be consistent across for all areas.

Vito Giacalone (Northeast Seafood Coalition) stated that the public would benefit from the habitat area of particular concern discussions as it applies to fishing restrictions. The industry is not aware of the implications of HAPC designation. In the Great South Channel, there are no fishing restrictions. In the northern edge, the area is closed because of the groundfish closure, not

HAPC closure. There should be some consistency used to determine what justifies an HAPC designation and rationale for any fishing restrictions in these areas. Ms. Bachman clarified that there were discussions to determine whether or not a change in the footprint to exclude fishing is warranted, but that would be a separate discussion. Mr. Stevenson clarified that the fishing restrictions within the Northern Edge Juvenile Cod HAPC were put in place due to groundfish closure in 1994. However, the area was subsequently made an HAPC for juvenile cod in 1998 under Omnibus Habitat Amendment 1. Gear restrictions that apply to the area now would remain even if the groundfish closure is lifted. Mr. Giacalone asked why the juvenile cod essential fish habitat is not under reconsideration as a habitat management area for this amendment when all other areas are habitat management areas. Mr. Stevenson responded that the HAPC designation would be broader than the other habitat management areas. One way that these habitat areas of particular concern areas can be used is for the Council to look at what areas are in need of protection from fishing activity (or non-fishing activities).

Ms. Etrie stated that if the alternative is currently preferred for opening under the habitat management area options, and this habitat area of particular concern is in place, then it would essentially have to remain open to fishing.

Sally McGee (Nature Conservancy) stated that in considering the other habitat area of particular concerns, the Council does not necessarily need to enact fishing restrictions within those HAPC designations.

**Motion 4 (Grout/McKenzie): Modify the juvenile cod HAPC in the Great South Channel to reflect the updated juvenile cod EFH map (i.e. map with shallow depth limit removed).**

- Motion 4 failed 2/3/4 on a show of hands.

#### Atlantic Herring EFH

Mr. Stevenson reported on the Atlantic herring egg map designation. Public comments on the Omnibus Habitat Amendment 2 DEIS stated the importance of management for prey species and the need for management areas to overlap herring spawning grounds. It is important to improve the essential fish habitat designations so that it is more accurate for these eggs. There is a lot of new information that was not considered when these new maps were created, specifically recent surveys that include data on where very small larvae are caught. The PDT suggests updating the egg map to include areas where very small larvae are abundant. On the other hand, Mr. Stevenson suggested that the Committee move to remove the two ELMR areas in Casco Bay.

Mr. Alexander asked how long do herring eggs stay on the bottom, because towing at 3-4 knots speed in the area would mean that within a few days, these larvae could be much farther than that original spot of hatching. Mr. Stevenson reported that 10 days is an average. Mr. Kaelin stated that herring spawning based on the recent stock update for herring shows that the species is doing well.

Mr. Smolowitz (Fisheries Survival Fund) stated that it is wrong to look at larval transport, when they could be transported 50-60 miles with the currents. Mr. Smolowitz cautioned that these egg

beds would not be protected in these broad areas; a more refined essential fish habitat is appropriate.

Jud Crawford (PEW Charitable Trusts) stated that herring is extremely important forage fish, but expressed concern that the maps used for EFH designation is based on a lot of old information and should be updated based on the new information, because it is the best available science.

**Motion 5 (McKenzie/Kaelin): The Committee recommends that the Council add additional Atlantic Herring Egg EFH areas as recommended by the PDT.**

- Motion 5 carried 8/0/1 on a show of hands.

***AGENDA ITEM #2: HYDRAULIC CLAM DREDGE EXEMPTION***

The Committee discussed whether hydraulic clam dredges should be exempt from preferred habitat management alternatives on Georges Bank and Great South Channel/Nantucket Shoals. Note that both of the alternatives below (Alternative 5 GSC and Alternative 7 GB) were recommended at the previous Committee meeting on March 24.

Ms. Bachman presented a map that indicates that cobble was the dominant sediment type in many areas of Nantucket Shoals where clam dredges fish, but there are also other sediment types in the area as well. Cobble dominated means that in areas sampled by the video survey, cobble was the largest grain size occurring at all for quadrats (images) at a single station. In short, it appears that the Nantucket Shoals are has complex habitat, and the industry is fishing within these complex habitats, presumably working around cobble areas. At the request of Dr. McKenzie for clarification on how the hydraulic dredge system work, Louis Lagasse (clam fisherman) provided this information. Mr. Lagasse stated that the digging part of the dredge protrudes down to travel through the sand and the clams float up from the habitat and are caught in the gear. Two to ten minutes later, the dredge is retrieved back onto the boat. There is 2” bar spacing on the dredge, so small clams and stones go through it. There is no market value in harvesting small clams. There are 18 boats that fish Nantucket Shoals, with a core group of a dozen or less and others fishing in this area sporadically throughout the year. Once catch per unit effort gets less than one bushel, fishermen move to a new area.

Vito Giacalone (Northeast Seafood Coalition) stated that Alternative 5 was preferred by the groundfish and scallop industry. The groundfish industry would support clam dredge exemptions; however, the industry does not want the area to be disapproved by the agency.

Ms. Bachman stated that there is some overlap between exemption areas proposed by the clam industry and what the Plan Development Team originally proposed for the four distinct areas in the Great South Channel. Specifically, there is overlap in the northeast corner of Alternative 5.

Daniel Cohen (Atlantic Capes Seafood) stated that for Georges Bank and Great South Channel, there are 15 vessels that access the area. Therefore, an exemption would be easy to enforce because on any given day, there are about 6 vessels in the area. The clam fishing area on Nantucket Shoals is very important and supports the plant in New Bedford.

Tom Slaughter (clam fisherman) stated that because clams do not migrate far distances, these small closed areas for clam exemptions would eventually lead to unsuccessful fishing with a high catch per unit effort that depreciates quickly if everyone is forced to fish there and the fishery would not be able to rotate to other areas to harvest clams in order to maintain fishing in an area that allows for a high catch per unit of effort. The industry is very successful, and there are small areas that we can fish because that is where the clams are located. Structured habitat encounters are minimal because it is very costly to fish in structure, and therefore self-regulating.

In response to Mr. Robins' question, Mr. Chiarella stated that the National Marine Fisheries Service cannot make any approvability determination until they have received a document from the Council. However, NMFS would prefer to see an area that would be prohibited from mobile bottom-tending gear without an exemption, and the agency would need to see a better analysis of how this would work. Another issue is that there has been an HAPC designation in the area that likely overlaps the area (the Great South Channel Juvenile Cod HAPC); the agency has not seen analysis to determine whether the HAPC needs to be protected from fishing activity. If protection for vulnerable habitat is lost in one area, it should be made up for in another area. Mr. Preble stated that the Council will have to look at all these habitat management areas as a package.

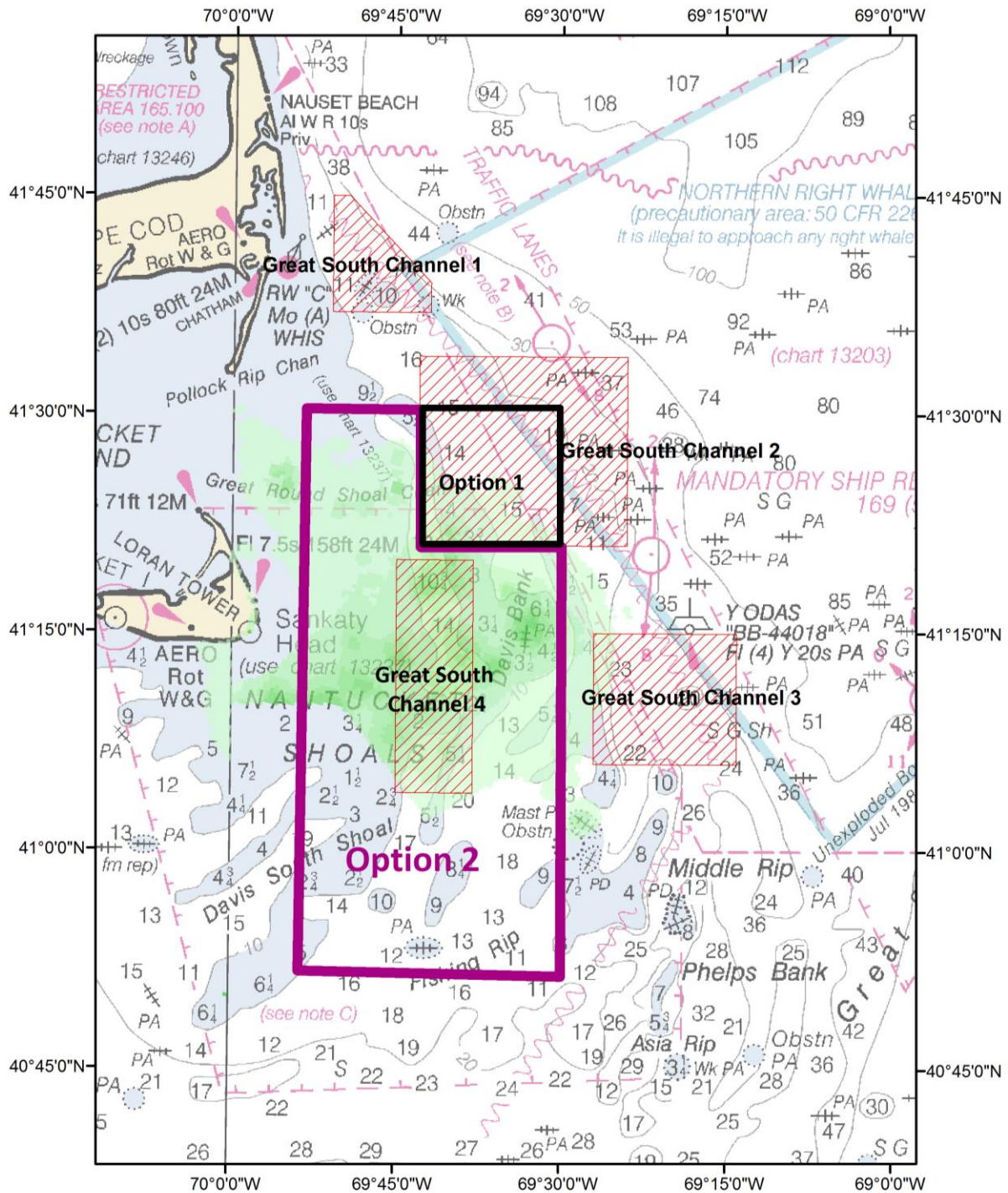
Mr. Kaelin agreed with Mr. Preble that some more work needs to be done to analyze the clam exemption options. Access areas are complex for enforceability issues. Sediment re-suspension in the area is quick, and sand storm in the area affects the habitat more than anything else. There was a lot of work that went into opening the areas on Georges Bank after the PSP closure. Millions of dollars have been spent on these protocols. Mr. Grout stated that refinement of the areas for clam exemptions cannot be analyzed now if final decision is expected soon. Mr. Grout suggested that the Committee select Alternative 5 and allow clam dredge vessels in the area for up to 3 years and refine areas for clam dredge access at a later date. Mr. Robins suggested that we ask for some analysis from the PDT between now and final action, to allow for more options for consideration as final action.

**Motion 6 (Grout/Kaelin) Recommend to the Council Alternative 5, with Option 1 (MBTG closure) in the northeast corner identified by the PDT, and Option 2 (hydraulic dredge exemption) for the remainder for the area, with a sunset provision from Option 2 to Option 1 three years after the implementation of the amendment if an exemption area is not identified.**

- Motion 6 carried 3/2/4 on a show of hands.



Figure 2 – Areas described in Motion 6. Black outline labeled Option 1 shows mobile bottom tending gear closure. Note overlap with hatched area “Great South Channel 2” originally identified by Plan Development Team. Purple outlined area labeled “Option 2” would be open to hydraulic clam dredges for three years. Green shading shows hydraulic clam dredges revenues between 2007 and 2012 (DePiper 2014 logbook confidence interval analysis).

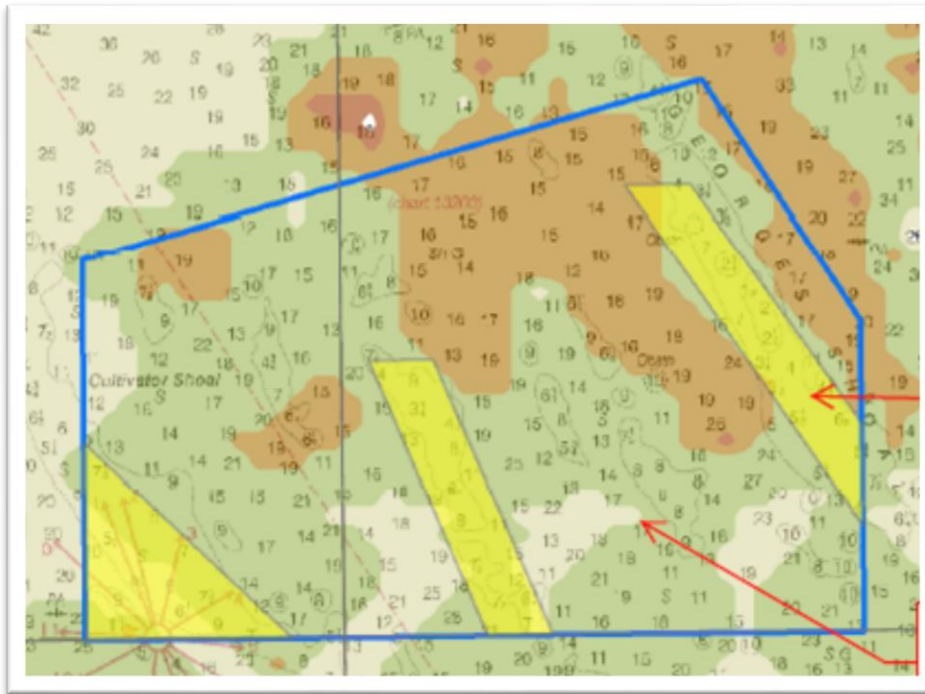


A similar motion was offered for Georges Shoal.

**Motion 7 (Kaelin/Robins): Recommend to the Council Alternative 7, with Option 2 throughout the Georges Shoal 2 HMA, except the yellow shaded areas below, which would be Option 1, with a sunset provision from Option 2 to Option 1 three years after the implementation of the amendment if an exemption area is not identified. The EFH south HMA would be implemented with Option 1 throughout.**

- Motion 7 failed 2/5/2 on a show of hands.

Figure 3 – Georges Shoal 2 mobile bottom-tending gear HMA with potential clam closure area in yellow.



***AGENDA ITEM #3: STELLWAGEN DEDICATED HABITAT RESEARCH AREA***

Next the Committee discussed the Stellwagen DHRA. The issue had been tabled at the last meeting to allow for investigation of whether lobster gears could be restricted from the DHRA reference area. In order to meet the conservation goals of the groundfish plan and habitat management, it does seem that the Council would be able to exclude lobster gear from the area. GARFO recommended working with the Atlantic States Marine Fisheries Commission on this issue. The Plan Development Team looked at the distribution of lobster trap effort using vessel trip report information. Note that lobster permit holders do not report Federal VTR data unless they have another Federal permit such as groundfish, so there are some assumptions/inferences made about the overall magnitude of lobster fishing. Despite these assumptions, the existing data show there is little trap fishing activity within the northern reference area.

**Motion 8 (Alexander): Motion to untable the Stellwagen DHRA motion from the last committee meeting: (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.**

- The motion was brought back to the table 8/0/1 on a show of hands.

On the motion:

**Motion 9: (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.**

- Motion 9 carried 3/2/5 on a show of hands.

***AGENDA ITEM #4: OTHER BUSINESS***

**Motion 10 (Robins/Kaelin): Move to add an option to OHA2 for analysis and consideration by the Council, to include the habitat closure area contained in “New\_Northern\_Edge\_1” combined with the “Georges Shoal 2 MBTG” component of Alternative 7.**

- Motion 10 carried 5/2/2 on a show of hands.

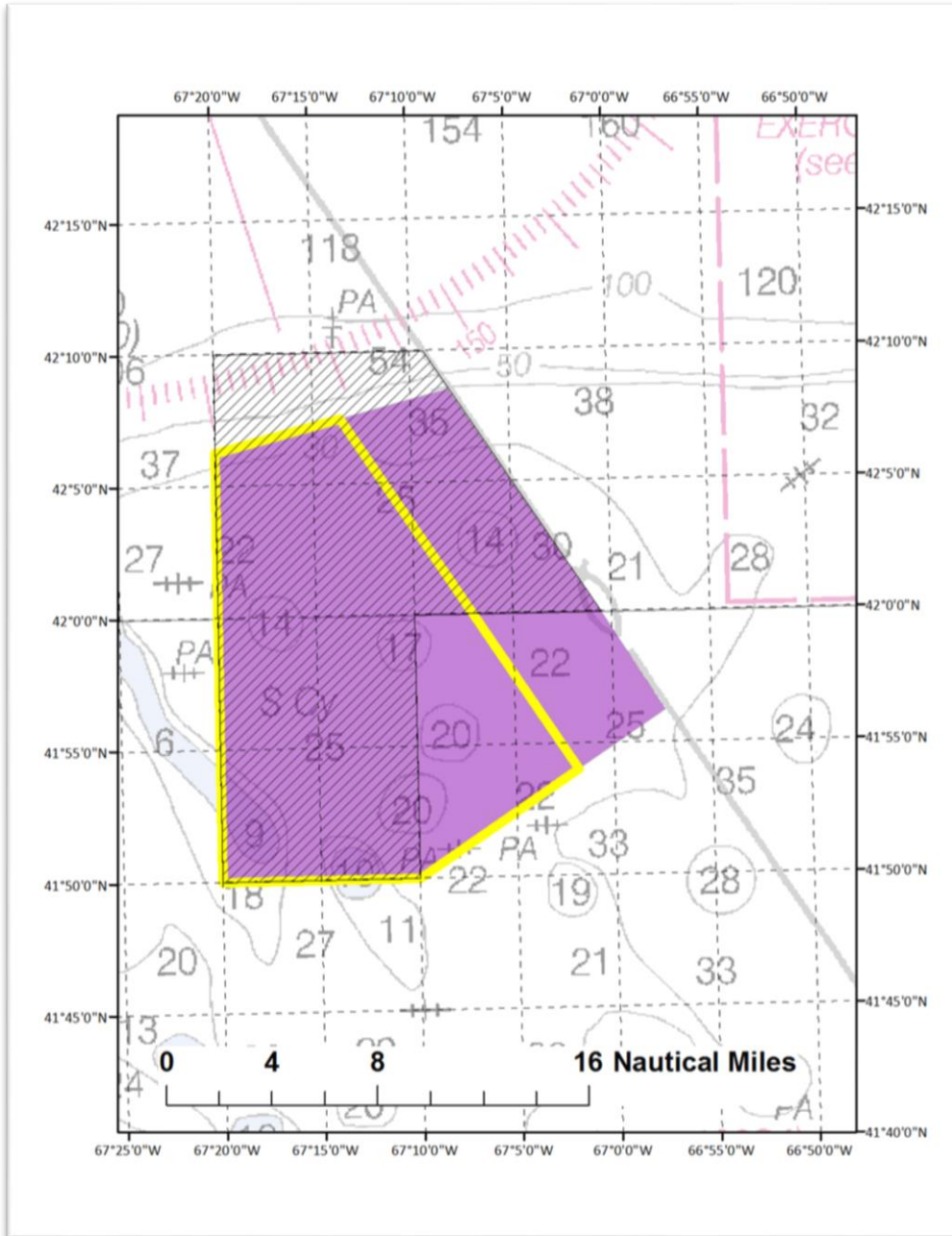
Mr. Robins stated that this motion would strengthen the Council’s position with respect to cod and habitat protection goals of the amendment due to sensitive habitat around the HAPC designation for cod. The intent of the motion is to put it forward as an option for Council consideration that would not be put forth as a preferred alternative. Mr. Grout stated that there would not be sufficient time for the analysis to be developed for the April meeting, and it was not an option put forward for public comment. In response to Mr. Terry Alexander’s question, Ms. Bachman stated that staff could do a preliminary comparison between this area and other areas already analyzed. The analysis should also look at scallop yield in the area, if possible.

**Motion 11 (Alexander/Balzano): Move to add an option to OHA2 for analysis and consideration by the Council, to include the habitat closure area contained in “New\_Northern\_Edge\_1”, less a four nautical mile alley along the Hague Line, combined with the “Georges Shoal 2 MBTG” component of Alternative 7.**

- Motion 11 carried 4/2/3 on a show of hands.

Mr. Alexander stated that this motion affords more habitat protection while allowing the U.S. fishermen along the Hague line to have competitive opportunity to fish the area with the Canadian vessels.

Figure 4 – New Northern Edge 1 Area (purple shaded) referenced in Motion 10. The smaller motion 11 area is outlined in yellow.



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