



New England Fishery Management Council

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

DRAFT MEETING SUMMARY

Habitat Advisory Panel

September 12, 2022

1:00 pm – 3:15 pm

Webinar

The Habitat Advisory Panel (AP) met on September 12, 2022 to discuss 1) the final report from a research project conducted in the Great South Channel Habitat Management Area (HMA) under exempted fishing permit (EFP) 19066, 2) the Greater Atlantic Regional Fisheries Office (GARFO) review of two Dedicated Habitat Research Areas (DHRA), 3) aquaculture project updates and initiating a framework to authorize Atlantic salmon aquaculture in the EEZ, 4) offshore wind development, (5) 2023 Council work priorities, and 6) any other business.

MEETING ATTENDANCE: Chris McGuire (AP Chair), Gib Brogan, Rip Cunningham, Jeff Kaelin, Lane Johnston, Meghan Lapp, Elizabeth Marchetti, Ron Smolowitz, and Dave Wallace; NEFMC staff: Michelle Bachman (Plan Development Team Chair), Jenny Couture, and Janice Plante; NOAA GARFO: Laura Deighan. In addition, one Council member and about seven members of the public attended.

KEY OUTCOMES:

A quorum of AP members was present. The AP did not formally adopt consensus statements or make motions during the meeting.

- Regarding the Great South Channel HMA Research Project Review (EFP #19066), the AP discussed the project final report and applications to management. AP members recommended conducting a study of impacts and recovery relative to natural disturbance in the HMA. The AP also noted that seasonal variation in habitats/fauna as well as information about high amounts of surfclam catch given the amount of bottom contact/impact were underemphasized in the PDT's report.
- The AP received an update on GARFO's DHRA review including the Council's research objectives, review criteria, and findings. As a group, the AP did not make consensus recommendations about keeping or removing either of the DHRAs. Some members agreed DHRAs should be retained.
- The AP discussed initiation of an action to consider authorizing Atlantic salmon aquaculture in the EEZ. AP members supported developing this framework and identified a range of issues for staff to explore as the Council considers initiation, including the need for and scope of the action.

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- The AP also received updates on offshore wind development including Council comments under development. Members agreed with the direction of draft comments and offered suggestions for other issues to address, e.g., unexploded ordnance risks and mitigation.
- Regarding the 2023 priorities, the AP did not have any specific recommendations for additional priorities to consider. A member recommended including RODA on the list of offshore wind science collaborators given their ongoing science and research portfolio.

AGENDA ITEM #1: GREAT SOUTH CHANNEL HMA RESEARCH PROJECT REVIEW (EFP #19066)

Presentation

Ms. Bachman reviewed major findings from the final report from Coonamessett Farm Foundation's clam dredge mapping study, conducted in a subset of the Rose and Crown area under an EFP. Staff presented the Habitat Plan Development Team's (PDT) findings about what the research does and does not show, how the results might be used to inform future management in the region, and potential next steps for evaluating fishing gear impacts from HMA. The Committee recommended clarifying information needed to support management, supported EFP-based studies that are carefully designed, supported use of fishery-independent survey techniques, and acknowledged that funding for habitat characterization and fishing impacts research is limited, such that exempted fishing/set asides are likely to be part of the solution.

Discussion

A couple of advisers recommended conducting research on impacts and recovery relative to fishing and natural disturbances. The Council does not have funding for this, though there could be interest from industry to partner with the Northeast Fisheries Science Center to conduct such studies (a parallel was drawn to the before-after-control-impact study on the Northern Edge, which was largely done by Woods Hole Oceanographic Institute with scallop Research Set Aside funding, and recently continued by Coastal Ocean Vision, supported by the Council with data provided by the Northeast Fishery Science Center). One adviser urged this work to be completed sooner rather than later because the clam industry is limited to less productive areas.

Regarding the EFP work specifically, one adviser thought that Plan Development Team did not sufficiently emphasize the seasonal variation in substrate, bryozoans, fish, and megafauna documented in the final report. They also felt the fishing aspect of the work was underemphasized. Specifically, they highlighted the high value/volume of catch relative to the low amount of impacts considering the amount of area swept as compared to the overall size of the HMA. They asserted that habitat complexity is used as a proxy for overall habitat productivity, and staff agreed this was generally true. They reminded the group that practicability is to be considered as part of adverse effects minimization.

AGENDA ITEM #2: DEDICATED HABITAT RESEARCH AREA REVIEW

Presentation

Ms. Bachman gave a brief overview of the two DHRAs designated via Omnibus Habitat Amendment 2, which were implemented in 2018 with a three-year sunset provision. The Regional Administrator has the authority to remove the DHRAs under certain conditions. GARFO is currently soliciting information on research that might be occurring in the two areas to inform the review of the DHRAs (a 30-day comment period closed August 19). The

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Committee recommended that the Council wait until GARFO completes its review before submitting findings. Staff also described the Stellwagen Bank National Marine Sanctuary monitoring project within the DHRA including how the research project objectives align with the Council research priorities. GARFO requested that if there is a Council recommendation to pass along to the agency, that would be helpful.

Discussion

The chair asked what happens if the Council does not make a recommendation on the areas. Staff acknowledged that the Omnibus EFH Amendment isn't entirely clear about which organization, GARFO or the Council, is supposed to recommend retention/removal. However, it is clear that the Council granted GARFO the authority to take administrative action, so if the Council failed to make a recommendation one way or the other, GARFO could move forward with an administrative removal, at their discretion. Another member expressed interest in keeping the Georges Bank DHRA and suggested that optical surveys could help document long term shifts in the area and determine why the area is not productive in terms of scallop abundance, relative to highly abundant scallop areas just beyond the DHRA.

Public Comment

- **Alison Lorenc (Conservation Law Foundation)** supports retaining the DHRAs and noted that funders may be more reluctant to fund projects if the research designations are removed. She thought additional DHRAs would be helpful to add, including one on the Northern Edge of Georges Bank.

AGENDA ITEM #3: AQUACULTURE

Presentation

Ms. Couture reviewed key elements of the original Atlantic Salmon Fishery Management Plan (FMP) and the subsequent amendment which allows for salmon aquaculture, if consistent with the goals and objectives of the FMP. Staff also discussed the possible scope of Council work on this issue. The Council can draft an Atlantic salmon aquaculture framework authorizing possession of salmon in the EEZ, which will facilitate aquaculture operations in the EEZ. The Council can address other issues and concerns through consultation work with agency partners on specific projects, such as the Blue Water Fisheries project. During their August 18th meeting the Committee recommended the Council initiate a possession-oriented framework in September. The Committee also recommended continuing consultations with permitting agencies and NOAA Fisheries on other project-related concerns.

Discussion

An AP member supported initiating the framework adjustment, however they were uncertain as to whether this action was truly needed, given the way the regulations are written. They suggested expanding the Council action to authorize aquaculture for other finfish within the EEZ, since culture of other federally managed species has been considered/studied. Staff commented that we have discussed narrowly focusing this action on Atlantic salmon because possession is prohibited in federal waters, and because Atlantic salmon is a species that is both Council-managed and proposed for culture in the ongoing Blue Water Fisheries project (steelhead, the other species they intend to culture, is not federally managed).

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Another member asked about the legal opinion relative to aquaculture in the Gulf of Mexico, which addresses whether NOAA and the Council have the authority to authorize aquaculture. Staff's recollection was that the results of that particular court case did not set a precedent for the entire country (the ruling was not appealed by NOAA), and thus, has no bearing on whether NMFS has authority to authorize aquaculture in the Northeast region. (Note that the Council action, as envisioned, wouldn't be authorizing an aquaculture project, but rather would consider authorizing possession, which would facilitate a project permitted by EPA and ACOE). The AP member recommended the Council request project reporting information over time as a way to monitor any fish escapement, disease issues, etc. as a stipulation for authorizing salmon possession. This last comment might be part of what the Committee was thinking about when it suggested exploring reporting and enforcement issues.

One adviser asked whether formal ESA consultations would occur for Atlantic salmon aquaculture before permits are issued, and he expressed a general tendency to not support salmon aquaculture given potential Endangered Species Act issues (other fin fish were viewed as less of a problem). Another advisor recognized that some fishermen oppose aquaculture, but given limited supply of fish relative to demand, recommended that the Council indicate a willingness to support aquaculture under reasonable circumstances.

Staff were asked why GARFO is not able to issue a policy statement clarifying that the salmon FMP only applies to wild caught salmon and not farm raised salmon. Staff was uncertain exactly, (we have not asked this specific question) but understood GARFO's advice here was that a clear Council action would be preferable, given that salmon is managed by the Council. The adviser followed up with a question on how a decision is made on genetic modifications to salmon and more broadly the agency that regulates genetics. Staff said they understood the EPA handles these issues as escaped salmon are treated as a pollutant (this needs to be confirmed).

AGENDA ITEM #4: OFFSHORE DEVELOPMENT

Presentation

Ms. Couture provided an overview of Council comments under development in response to BOEM's Gulf of Maine (GOM) Request for Competitive Interest (RCFI), GOM Request for Information (RFI), and Revolution Wind Draft Environmental Impact Statement. Staff solicited AP feedback and suggestions for developing these comment letters.

Discussion

One adviser asked whether the Council received any response from BOEM on the Council's request to conduct a Programmatic Environmental Impact Statement. Staff stated that the Council has not received a response from BOEM and plans on reiterating some of those comments in the GOM RFI comment letter. Presumably since BOEM moved forward with the RFI this is an indication that they do not plan to prepare a PEIS at this time. The adviser suggested that the Council consider including a comment emphasizing the importance of an efficient, comprehensive, publicly available dataset as part of BOEM's RFI data inventory and a way for fishermen to provide data and information to BOEM.

Using the Revolution Wind DEIS as an example, another adviser recommended emphasizing the importance of conducting NEPA impact analysis based on a specific turbine size for each alternative (vs. using a range of possible turbines specified in the project envelope). Larger turbine sizes will likely have greater impacts to fish and habitat through additional pile driving

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force, additional scour protection needed, etc. thus, any impact analysis should reflect the turbine size that will be used in the project (e.g., if the impact analysis was based on an 8-10 MW turbine, the project should not be allowed to use a 14 MW turbine). The adviser also expressed concern over unexploded ordnance, more specifically who is responsible for removal if ordnance is exposed due to construction activities and how notification to mariners and other affected stakeholders could be improved. She recommended the Council weigh in on this issue as it is a safety issue affecting the fishing industry.

A couple of advisers discussed the potential impacts of cabling from floating turbines on North Atlantic right whales. The main concern is most likely secondary entanglement in which fishing gear becomes caught on the cable and then whales become entangled within that gear. The cables are thick so there seems to be less of an issue with direct entanglement with whales but additional research may be warranted.

AGENDA ITEM #5: 2023 PRIORITIES

Presentation

Ms. Bachman provided a short update regarding the status of 2022 priorities, potential 2023 priorities (based on ongoing work, continuing from 2022 and earlier), and potential new priorities. This included a description of an ongoing contract to examine habitat recovery on the Northern Edge of Georges Bank, for which the Committee recommended including this as a new priority along with revising essential fish habitat designations.

Discussion

An adviser recommended the Council also participate in Responsible Offshore Development Alliance (RODA) activities (in addition to the Responsible Offshore Science Alliance activities) given the organization is conducting an integrated ecosystem assessment with NMFS and planning a second State of the Science workshop focused on floating offshore wind.

OTHER BUSINESS

A couple of AP members discussed the impacts associated with boulder clearing being done for the South Fork wind farm. As indicated in a recent Marine Affairs Spotlight Notice ([Marine Affairs Spotlight Edition 5 Seabed Preparation](#)), the plow will clear a 75'-wide path where there are too many boulders to remove individually using an ROV. They wondered if the degree of habitat impact was clearly described in the FEIS. Staff noted that boulder relocation more broadly is something that the Council previously commented on but did not remember the details of what was in the COP or FEIS.

The Habitat Advisory Panel meeting adjourned at approximately 3:15 p.m.