New England Fishery Management Council
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Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

DRAFT

Dr. Eric Werwa
Deputy Asst. Secretary for Policy, Management and Budget
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Dr. Werwa:

The New England Fishery Management Council (NEFMC; Council) reviewed the request for information (RFI) issued by the Department of the Interior, on behalf of the interagency working group related to Executive Order 14008, Tackling the Climate Crisis at Home and Abroad.[1] The RFI published on January 4, 2022, focuses on how the American Conservation and Stewardship Atlas (Atlas) can best serve as a useful tool for the public and how it should reflect a continuum of conservation actions in the America the Beautiful initiative. NEFMC has already submitted related comments to the National Oceanographic and Atmospheric Administration (NOAA), see attached. Therefore, these comments will be limited to the specific questions included in the more recent RFI. Please consider the previous comments NEFMC submitted to NOAA as well, especially the comments relative to the Atlas.

The Regional Fishery Management Councils (RFMCs) have a principal role in developing regionally specific fishery conservation and management plans through a transparent, stakeholder-driven process. The Councils will likely be a primary end user of the Atlas when it is completed; therefore, we urge you to consult with the Council early and often during development of the Atlas.

In response to the America the Beautiful Report (Report), the eight RFMCs created an Area-Based Management (ABM) Subcommittee of the Council Coordinating Committee (CCC) to assist the Councils in coordinating with NOAA to achieve the goals set forth in the Report. This group has been meetings regularly since the Report was released in May 2021, and several NOAA staff members have been participating in these calls. Early collaboration between the Council and NOAA staff on this initiative has been very valuable to facilitate sharing of information and ideas about the overall effort as well as the Atlas. More direct communication

[1] Request for Information Federal Register Notice, October 29, 2021, https://www.govinfo.gov/content/pkg/FR-2021-10-29/pdf/2021-23590.pdf

with end users of the Atlas during the development stage will help ensure the tool is accurate and useful.

The NEFMC met in early February 2022 to review and approve the responses outlined below to the six questions in the RFI. It was also discussed that this RFI does not explain or seek direct input on how conservation will be defined in this initiative. Defining what a conservation area means is an essential first step in this process and something the CCC ABM Sub-committee has spent substantial time on already. The NEFMC supports the draft working definition under development, and the full CCC is scheduled to review the final work of the ABM Subcommittee in May 2022.

> *A conservation area is an: 1) established, geographically defined area, with 2) planned management or regulation of environmentally adverse [fishing] activities and/or spatial measures that support conservation goals, that 3) provides for the maintenance of biological productivity and biodiversity, ecosystem function and services [including seafood production].*

When DOI collaborates with other federal agencies to define conservation areas, the Council recommends the definition be broad; these areas should not be required to be "no-take" closures. No-take fishery closures can have negative unintended consequences. Allowing well-regulated fishing within a conservation area can still be consistent with the goals of the America the Beautiful Report.

1. *Science and Data*. What data sources, standards, and technical approaches should be applied to data included in the Atlas to ensure that it is an authoritative and useful tool for the public?

DOI and the other federal agencies involved in this initiative should verify all the data sources used in the Atlas with high scientific standards. A protocol should be established for a verification and documentation process, so it is transparent and repeatable. All data set should be accessible once included in the Atlas. There are numerous data portals that exist already, efforts should be taken to consolidate and build from these existing datasets. Also, it is important that the Atlas and annual reports include user-friendly interactive tools for end users and the public. Specific outreach and education programs could be established to review the Atlas and annual review reports to improve participation and ensure utility and transparency.

2. *Conservation as a Continuum*. How can the Atlas reflect the meaningful conservation work already underway in America?

It is critical that the Atlas accurately reflects the conservation measures already in place in America. Through the Council process, NOAA has implemented hundreds of fishery conservation areas in the US Exclusive Economic Zone (EEZ). The CCC ABM Subcommittee is in the process of cataloguing all these important areas and that work should be considered by DOI and other federal agencies. In addition, there are many other conservation measures in place to prevent overfishing and conserve healthy ecosystems that are not spatially based. This initiative should include a way to document the other conservation measures in place that avoid,

mitigate, and minimize impacts on ecosystems and support conservation. For example, catch limits, fishing gear modifications, and fishing effort controls provide holistic conservation benefits.

In addition to fishery conservation areas and other conservation measures, NOAA also has a critical role in conservation and restoration as a cooperating agency with other federal entities including the US Army Corps of Engineers, Bureau of Ocean Energy Management, US Coast Guard, and Environmental Protection Agency. These agencies are responsible for permitting and licensing activities in federal and state waters and are required to consult with NOAA on projects such as offshore wind development, sand and gravel mining, offshore oil and gas development, designation of offshore dredge disposal sites, etc. The conservation recommendations and restoration requirements NOAA recommends for federal projects in state and federal waters should not be overlooked. While these measures are not spatial closures, they play an important role in the overall conservation of resources and ecosystems in the US. It is essential that Atlas identifies a concrete way to quantify and track these conservation recommendations and restoration requirements as part of the conservation continuum within the Atlas.

3. What stewardship actions should be considered, in addition to permanent protections, to capture a more complete picture of conservation and restoration in America?

Not really sure what they mean here by stewardship actions? Voluntary only? Or is this where we should raise issue about other measures and consultation stuff – as described above?

If stewardship actions are referring to voluntary actions, or non-regulatory actions, there are several meaningful voluntary actions taken by fishing participants to conserve fishery resources and ecosystems in the New England region. For example, there are several voluntary bycatch avoidance programs that have been used in a handful of fisheries in the Northeast. Voluntary reporting systems have been developed for fishing vessels to share bycatch data real-time and vessels voluntarily move and/or avoid areas with higher bycatch rates based on those reports. Participation in these programs is not required by NOAA; vessels fund these programs directly or through research programs and other grants. Any others we should note?

NEFMC recommends that conservation areas established under this process should not be considered "permanent" protections. Some conservation areas have been closed to fishing for almost 30 years in the Northeast; therefore, seem permanent. However, fisheries science and management are dynamic and marine ecosystems are complex. Therefore, area-based management and overall conservation and restoration efforts need to be flexible to adjust to changing conditions. Climate change will inevitably require fisheries management to be even more adaptive. As a result, area closures and other conservation measures cannot be static in all cases. The inclusion of an area in the Atlas today should not mean it may never be removed or adjusted. As a result of climate change and other factors, an area identified now may not be an effective conservation area in the future.

4. What are the attributes of lands and waters that should be included in the Atlas? Considerations could include, for example, a clearly defined geographic boundary, status of ecological function, representation of species and habitats, extent of disturbance, expected future risks from climate change or other human stressors, ecosystem connectivity, or durability of management status.

The Atlas should include basic metrics such as location, size, and restrictions associated with the area. However, it should include additional details such as enforceability, monitoring and research plans for the area, as well as technical measures of how the area meets ATB objectives such as biodiversity, conservation, and creating more access for recreational opportunities. Identifying ways to quantify these metrics is challenging. DOI and other federal agencies need to reach out to the public and managing partners to identify the priority attributes and define specific ways to measure each element. Metrics should be quantitative, when possible, but qualitative metrics should be included as well if they address important elements of evaluating conservation areas. Before the attributes are final, the government should seek specific input from managing partners, key stakeholder groups and expected end users of the Atlas.

5. How can the Atlas best reflect the contributions of State, local, Tribal, territorial, and private lands?

The Atlas should include conservation areas that are implemented by State, local, Tribal, territorial, and private lands. A field should be added to the Atlas to identify the governance type so these areas can be sorted and catalogued appropriately. However, if an area meets the definition of a conservation area it should be included in the Atlas, regardless of the governance authority. Similar to fishery conservation, it may be necessary to expand the scope of the Atlas to include non-spatial measures that contribute to the conservation continuum of US lands and waters implemented by State, local, Tribal, territorial, and private lands.

6. *Outcomes*. How can the Atlas best reflect land and water contributions to biodiversity, climate change mitigation and resilience, and equitable access to nature and its benefits?

The Atlas has the potential to be a very powerful tool to identify and track biodiversity, climate change mitigation and resilience, and equitable access to nature and its benefits. It is critical to have an accurate baseline or starting point to identify any shortfalls and priority areas the government should focus on. Once the Atlas is developed it will require resources to maintain. Strong communication and collaboration with managing partners and other stakeholders will be essential to keep the Atlas current and accurate. Again, because ecosystems are complex and climate change will require management systems to be adaptive, the Atlas cannot be rigid. A specific process should be developed to add/change/remove conservation areas to keep the Atlas current and useful.

Sincerely,

Eric Reid
Chair