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Related to Surfclam Fishery

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ADMITTED TO PRACTICE
*MASSACHUSETTS
°DISTRICT OF COLUMBIA
#FLORIDA
+NEW YORK
-RHODE ISLAND

August 23, 2018

Dr. John F. Quinn, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dr. David E. Pierce, Director
Massachusetts Division of Marine Fisheries
250 Causeway Street, Suite 400
Boston, MA 02114

Dear Sirs:

Re: August 28, 2018 Habitat Committee Meeting/Clam Dredge Framework

I write representing multiple Atlantic surfclam fishermen, to address the clam dredge framework item on the agenda for the August 28, 2018 Habitat Committee meeting. Previously, I wrote to the Council on this matter in a June 8, 2018 letter (attached). It is my understanding that the Habitat Committee is considering implementing restrictions at its meeting that will adversely impact the Massachusetts surfclam industry. It appears that these restrictions are supported by newly considered, misconstrued, and inconclusive scientific results. I suggest that the Habitat Committee review the previous work of the Plan Development Team ("PDT") and approve a plan whereby fishermen may continue to work and earn their livelihoods in the areas now open to them, while collaborating with scientists and regulators on a meaningful, long-term study of the impact of the surfclam industry on the ocean bottom habitat. Such a study is necessary to determine in a scientific manner whether restrictions should be placed on a forty million dollar offshore industry that is the source of many needed jobs, both offshore, and on land in ancillary businesses. Such a cooperative study would be an important model for developing fishery management plans in the future.

As the Committee is well aware, the Nantucket Shoals has a unique bottom topography that changes daily, with significant shifts over the course of a fishing season and year. These changes necessitate long-term study. The fishermen have extensive knowledge of the area and operate smaller vessels designed to traverse these waters. The government can take advantage of the clambers' navigation and fishing equipment and knowledge by conducting continuing scientific studies of the habitat and environmental impact of clamming and can place satellite monitoring

systems onboard the clambers' vessels, as well. This will enable a comprehensive real-time survey of the impact, if any, that clamming is having on the Nantucket Shoals habitat. Such a study will yield results based on the best science and methods available, delivering the type of data that the Habitat Committee needs to assess whether restrictions are necessary and how they may be tailored to avoid unwarranted interference with the surfclam industry. Incidentally, this public/private study will save the government millions of dollars in taxpayer funds versus the Government attempting to duplicate this effort on its own.

While the study is undertaken, the clambers will continue their operations in the same manner in which they normally fish. They will harvest while moving at extremely slow speeds (1-2 MPH), for a short period of time (15-30 minutes per tow), in confined areas, while limiting themselves to one tow per area. This will allow for the sediment to settle back into a similar position on the ocean floor following dredging. In point of fact, the Nantucket Shoals ocean currents continually move more sediment on the ocean floor as the surfclam dredge operations.

The Committee must be completely transparent and concede that the proposed study is necessary, as no scientific support has been shown for implementing restrictions on the surfclam industry. While the "Stokesbury study" has been cited in support of restrictions, it is based on extremely limited data taken in an area of the ocean floor that changes daily and often with dramatic results. Dr. Stokesbury did not present his data as a representation of the environmental impacts of the surfclam industry on the ocean floor habitat and it would be a misuse of his data to construe it as such. If Dr. Stokesbury's study is to be used to justify regulation for regulation's sake, then I suggest that Dr. Stokesbury testify before the full committee as to his findings and conclusions, if any, as to whether his study can be used as "the best available science" to justify a restriction in the surfclam industry. I predict he will concede that his "study" was not conducted for this purpose.

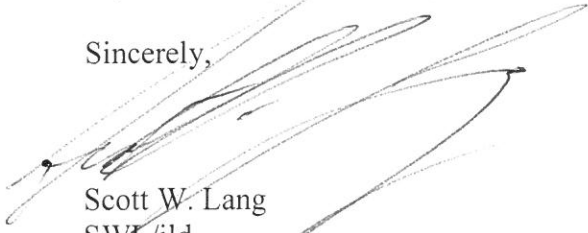
In addition, no scientific studies of the area tides have been presented. Given the ever-changing nature of the area in question, this information is necessary for a proper understanding of the area and how surfclamming and other factors impact on the habitat of the Nantucket Shoals.

Finally, it must be noted that, in the Spring of this year, the Habitat Committee did not find sufficient scientific evidence to restrict the surfclam industry. At the time, it presented an option for clamming through April 2019, with parallel study, to allow for a proper understanding of the issue. Nothing has happened since the Spring to justify a change in plan. What happened behind the scenes to provide for a complete reversal of the staff's conclusions? Any action undertaken now would necessarily be based on the same inconclusive results that were deemed insufficient just three months ago. Such action would not be based on "the best available science," as is necessary to support restricting the surfclam industry that is vital to the Massachusetts economy.

I ask that you consider adopting a measured, positive approach to developing a fishery management plan for the surfclam industry in the Great South Channel/Nantucket Shoals fishing grounds. Such an approach involves a partnership with the surfclam industry as outlined in the June 8, 2018 letter.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott W. Lang". The signature is fluid and somewhat stylized, with a long horizontal stroke at the end.

Scott W. Lang
SWL/jld

cc: Governor Charlie Baker
Senator Elizabeth Warren
Senator Edward Markey
Representative William Keating
Speaker Robert DeLeo
Senate President Karen Spilka

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June 8, 2018

Governor Charlie Baker
Commonwealth of Massachusetts
Office of the Governor
Massachusetts State House, #280
Boston, Massachusetts 02133

Dear Governor Baker:

Once again, I hope this letter finds you well. I am again writing to you on behalf of multiple Atlantic surfclam fishermen in a matter involving the fishing grounds in the Great South Channel, which is within Nantucket Shoals and in federal waters. I have new input from stakeholders who have added information that I believe should be in this correspondence.

As I discussed in my June 1, 2018 letter regarding the Atlantic surfclam fishery and the Great South Channel, the Atlantic surf clam industry is a mainstay industry for our state's fishing industry. Again, some facts and information about the surf clam industry that demonstrate its importance to the Commonwealth are as follows:

- The Atlantic surfclam fishery is estimated to be worth \$40 million, not including on-shore, ancillary businesses.
- In 2016, Atlantic surfclams was the 3rd most valuable fishery for the City of New Bedford (the Number 1 fishing Port in Revenue in the United States since 1999) at \$13 million (the Sea Scallop fishery was first and the Groundfish fishery was second).
- Several fishermen who harvest Atlantic surfclams from the Great South Channel fish out of Massachusetts ports, including New Bedford, Fairhaven, and Hyannis.

- These fishermen sell their harvest to on-shore businesses in Massachusetts.
- Atlantic surfclams are harvested by non-destructive hydraulic dredging.
- Harvesting of Atlantic surfclams in the Great South Channel Area has little environmental impact because it is done at a slow speed (1-2MPH), for a short period of time (15-30 minute tows), in confined areas, and vessels do not complete multiple tows over the same area. As a result, sediment settles back onto the ocean floor in a similar place following the dredging.
- Ocean current can move the equivalent or more sediment on the ocean floor as the Atlantic surfclam dredges.

Again, on May 22, 2018, the Habitat Committee held a public meeting in Providence, Rhode Island and took up the matter of whether or not to close a portion of the Great South Channel Area to hydraulic dredging of the Atlantic surf clams, because the area is essential fish habitat. Again, the Plan Development Team's ("PDT") report contained the following notable information:

- The estimated Atlantic surfclam annual revenue from the portion of the Great South Channel Area under review is worth upwards of \$8 million, not including on-shore, ancillary businesses;
- The fishing communities that would be most affected by the proposed restriction would be primarily those located in Massachusetts (New Bedford, Barnstable County, and Fairhaven);
- The Massachusetts fishing communities comprise approximately 99.9% of the revenue derived from the portion of the Great South Channel Area under review;
- The scientific studies were inconclusive as to whether surf clamming has any impact on essential fish habitat in the Great South Channel Area; and
- There is no scientific evidence of detrimental impact on the habitat and there is socio-economic evidence to show substantial detrimental impact on the economy of ports which are home to the surf clam fishermen.
- There are multiple Atlantic surfclam vessels that have two monitoring systems onboard. The first is a satellite monitoring system that all Atlantic surfclam vessels are required to have and that record the location of the vessel every hour. The second, called the Faria Beede, has been voluntarily installed by some vessels. The second system makes a record every minute of the vessel's location, speed in knots and whether the hydraulics are engaged. The second system automatically sends the data to NOAA by cell phone when the vessel comes into port.

After public comments, the Habitat Committee voted to make the following recommendations to the NEFMC at the June 14, 2018 Council meeting:

1. Take no action at this time to impose any new restrictions on the areas that the surfclam fishermen can harvest clams from;

2. Permit the surfclam fishermen to harvest Atlantic surfclams from the Great South Channel Area through the April 2019 exemption deadline;
3. Encourage the NEFMC to recommend to NOAA's Science Center that it conduct collaborative benthic habitat studies of the Nantucket Shoals Area with the Atlantic surfclam fishermen in order to determine whether surf clamming has any habitat impact and if any, the extent of such impact and what the remedy should be; and
4. That the NEFMC should determine whether increased monitoring frequency of vessel location (the current frequency is every hour) and what the frequency would be, with the goal of determining what areas the fishermen are most frequently harvesting from to better understand which areas should be considered for exemption in the future.
5. The Habitat Committee also voted that the NEFMC should be presented with multiple options regarding how to move forward with exemptions, including the option of continuing the current exemption for two and a half years in order to allow further scientific studies to be conducted.

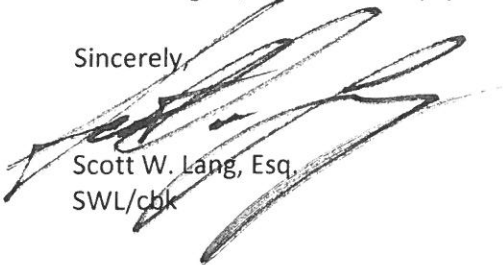
I again commend the Habitat Committee for basing its decision upon the best available science and the economic impacts to the fishing industry and finding that due to the lack of scientific evidence regarding the impact these fishermen have on the habitat, that the economic impact to a \$40+ million industry outweighed any unproven theory of possible habitat impact.

In summary, the Habitat Committee's vote and recommendations will now go before the full New England Fishery Management Council on June 14, 2018. The full NEFMC will vote on the matter of whether or not to close the portion of the Great South Channel to Atlantic surfclam fishermen. My clients are supportive of the recommendation that the NEFMC (1) continue the exemptions with a sunset date of April 2021 and (2) that all vessels be equipped with the two monitoring systems, as discussed above (Motion #5 in the Council staff's prepared and publically available June 14th presentation). Additionally, my clients are supportive of conducting collaborative studies with NOAA's Science Center.

The best available science supports the Habitat Committee's recommendations to the New England Fishery Management Council, as outlined above. I am again optimistic that the Commonwealth's representatives on the NEFMC will adopt the PDTs and Habitat Committee's recommendations regarding the Great South Channel.

Again, if you have any questions, please do not hesitate to contact me.

Sincerely,



Scott W. Lang, Esq.
SWL/chk

CC: New England Fishery Management Council, *via email to comments@nefmc.org*
Dr. John F. Quinn, Chairman
Dr. David E. Pierce, Director for Massachusetts Division of Marine Fisheries

We believe this NEFSC data analysis is the best available independent third party (VMS and NEFSC) data to provide to the NEFMC confirmation of the ...” *areas within the Habitat Management Area that are currently fished or contain high energy sand and gravel that could be suitable for a hydraulic dredging exemption...*”

This letter summarizes the request of the surfclam industry to the Habitat Committee to understand how this data could be utilized to draft a Framework Action to meet the NEFMC goals for the Habitat Amendment for an exemption for surf clam vessels to harvest in discrete surfclam exemption areas within the GSCHMA.

In the past few weeks working with NEFMC Staff (including you), NMFS OLE, existing VMS approved vendors, our captains, and independent vessel owners we have proposed a process based upon two independent but parallel pathways, that will hopefully converge in a timeline to implement a Framework Action by April 2019. These two parallel pathways are:

1. NMFS OLE ENFORCEMENT PROTOCOLS FOR SMALLER IRREGULAR SHAPED AREAS USING 5 MINUTE PINGING VMS:

- a. The industry has been working with NMFS Office of Law Enforcement (“NMFS OLE”), William Semrau in Gloucester and Kelly Spalding in Washington of the NMFS VMS program. The industry was unaware that all the current approved VMS vendors are capable of five-minute pinging. While NMFS OLE is not currently accessing this five-minute pinging in the Northeast region, NMFS is accessing five-minute pinging in a fishery in a selective area in the South Atlantic region.
- b. Last Thursday, August 16, a meeting was held in the port of New Bedford with the clam industry, NMFS OLE, and NEFMC Staff to discuss the immediate implementation in the GSCHMA of “voluntary use of existing VMS technology by a study fleet of 1 to ~12 surfclam vessels currently surfclam fishing in the GSCHMA.” The installation of the first unit is tentatively planned for the week of August 27, next week. The goal of this VMS surfclam study fleet is for NMFS OLE to develop and test the enforcement protocols for managing smaller discrete areas. NMFS OLE has to date confirmed that with 5 minute pinging areas could be designed with multiple waypoints (e.g. not limited to a 4 corner box, the VMS is capable of up to 100 way-points per area) and the area could be smaller in size (due to the limited distance a vessel can travel in 5 minutes).¹
- c. To implement and test smaller irregular shaped areas, captains were tasked to utilize the 10 year NEFSC history 1/5 mile heat maps to delineate the areas within the GSCHMA where they have historically fished and need (hope) to continue to harvest beyond April 2019, through a NEFMC Framework Action. These waypoints will be loaded into the existing approved VMS starting next week. The vessel owners will sign voluntary

¹ Attendees by phone or in person to the August 16 meeting to discuss VMS protocols and Industry proposed exemption areas based on 10 year fishing history:

- NEFMC; Dr. John Quinn, Michelle Bachman, Rachael
- NMFS OLE: William Semrau, Sean Eusibio
- MA DMF: Kathryn Ford
- Clam Industry: Daniel Cohen, Chris Shriver, Chad Brayton, Allen Rencurrel, John Verissimo, Louie LaGace, Alex LaGace, Sam Martin, Guy Simmons, Tom Donovan
- Clam Industry Advisors: David Borden, David Wallace, Stephen Ouellette

authorizations for NMFS OLE to monitor effort every 5 minutes, and both the NMFS OLE and industry will experiment with fishing in small irregular shaped areas. The clam captains will test whether they can fish “without going over the line” in a small box and NMFS OLE will be testing their monitoring protocols.

- d. NMFS OLE made it very clear the sizes and shapes of these areas will be “tested” by the study fleet only for enforcement protocol purposes. The actual locations and design of habitat exemption management areas, if any, is the responsibility of NEFMC, not NMFS OLE (see parallel pathway #2 below).

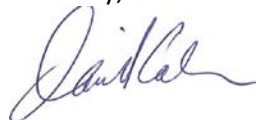
2. CLAM INDUSTRY REQUEST OF NEFMC TO UTILIZE 10 YEAR NEFSC 1/5TH MILE CHART TO DEFINE HISTORICAL SURFCLAM HARVEST AREAS FOR EXEMPTION FROM THE GSCHMA:

- a. The clam industry, by two of its captains, yesterday delineated 9 areas in the GSCHMA of traditional harvest. The clam industry requests the NEFMC Habitat Committee and the PDT evaluate these nine areas for exemption from the restrictions of the GSCHMA via a NEFMC Framework Action. Attached please find charts and waypoints for these nine areas.
- b. We would appreciate if the Habitat Committee would at its August 28th meeting add this industry proposal and the nine areas as an option for its consideration and evaluation.
- c. The clam industry expects to provide an update of the voluntary study fleet VMS program at the Habitat PDT meeting in early September. Additionally at the Habitat PDT meeting, the industry requests the opportunity for academic researchers, including those associated with SCEMFIS, to present data and discuss the habitat within these nine areas.

On behalf of the clam industry, I wish to express my appreciation that all parties have a greater understanding of the dependence of three of the six plants for 90% of their surf clam supply which comes from the GSCHMA.

Thank you for your cooperation with the above.

Sincerely,

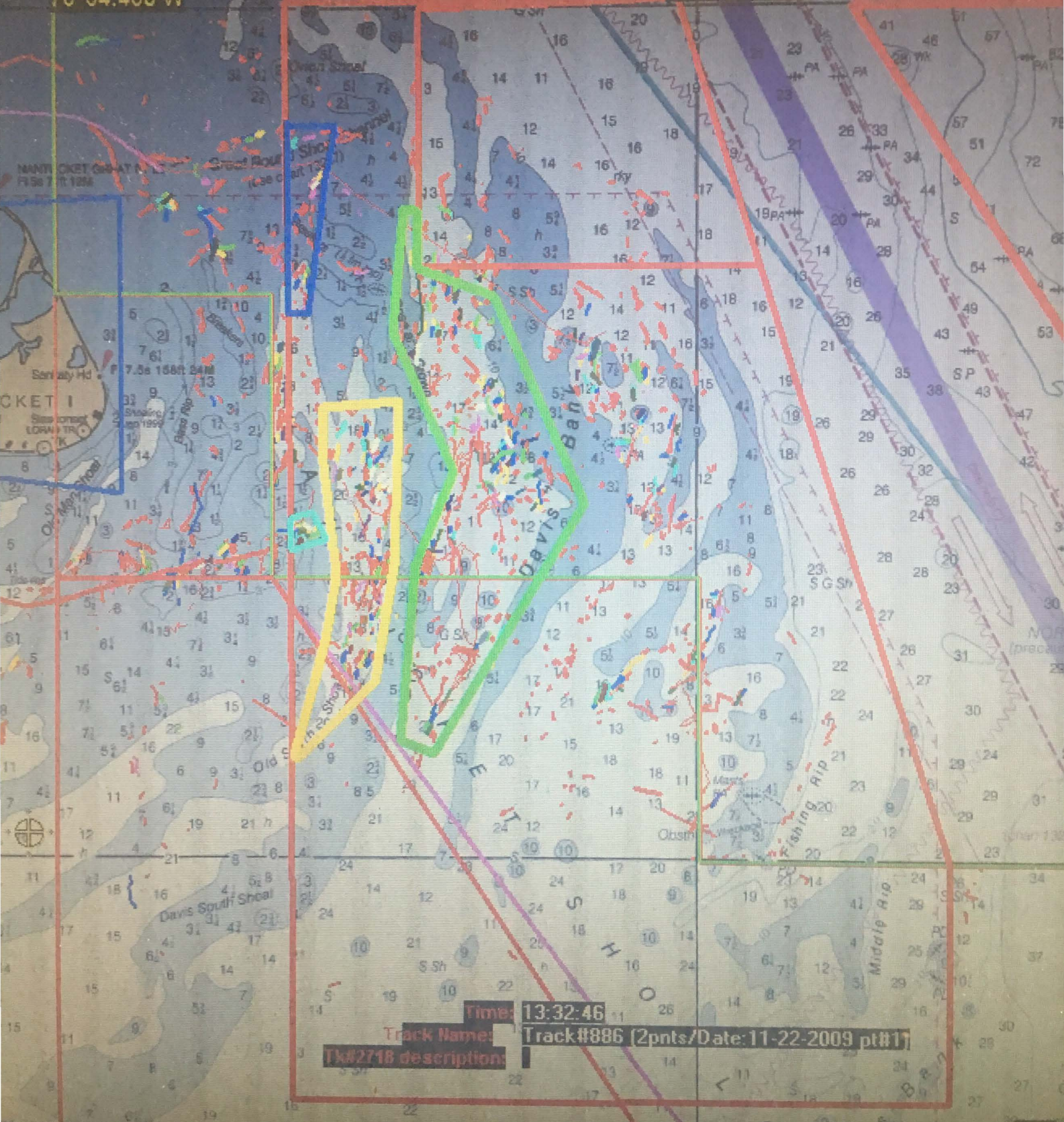


Daniel Cohen on behalf of Atlantic Capes, Intershell, LaMonica, Nantucket, Sea Watch, and Surfside

Cc:	Ben Galuardi, NMFS	Tom Nies, NEFMC
	Dr. Quinn, NEFMC	Chad Brayton, Atlantic Capes
	Chris Shriver, Atlantic Capes	Louie LaGace, Mariette
	Dave Wallace, Wallace Associates	James Meyers, Sea Watch
	Guy Simmons, Sea Watch	Daniel LaVecchia, LaMonica
	Michael LaVecchia, LaMonica	Sal LaMonica, Surfside
	Tom Dameron, Surfside	Allen Rencurrel, Nantucket
	Monte Rome, Intershell	John Verissimo, MFMGA
	William Semrau, NMFS OLE	Kelly Spalding, NMFS OLE

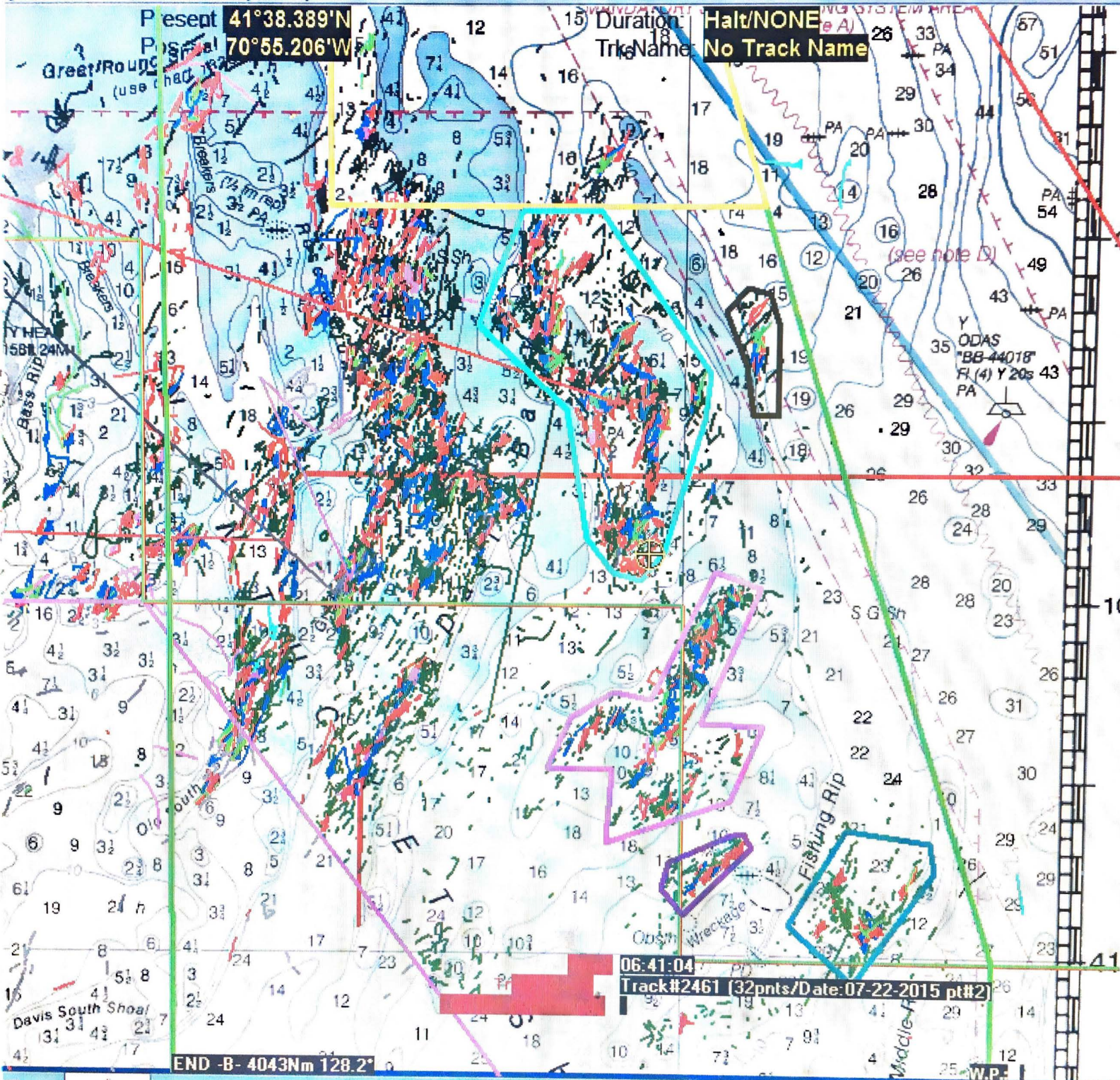
41°38.262'N
70°54.438'W

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Track Name: No Track Name



Time: 13:32:46

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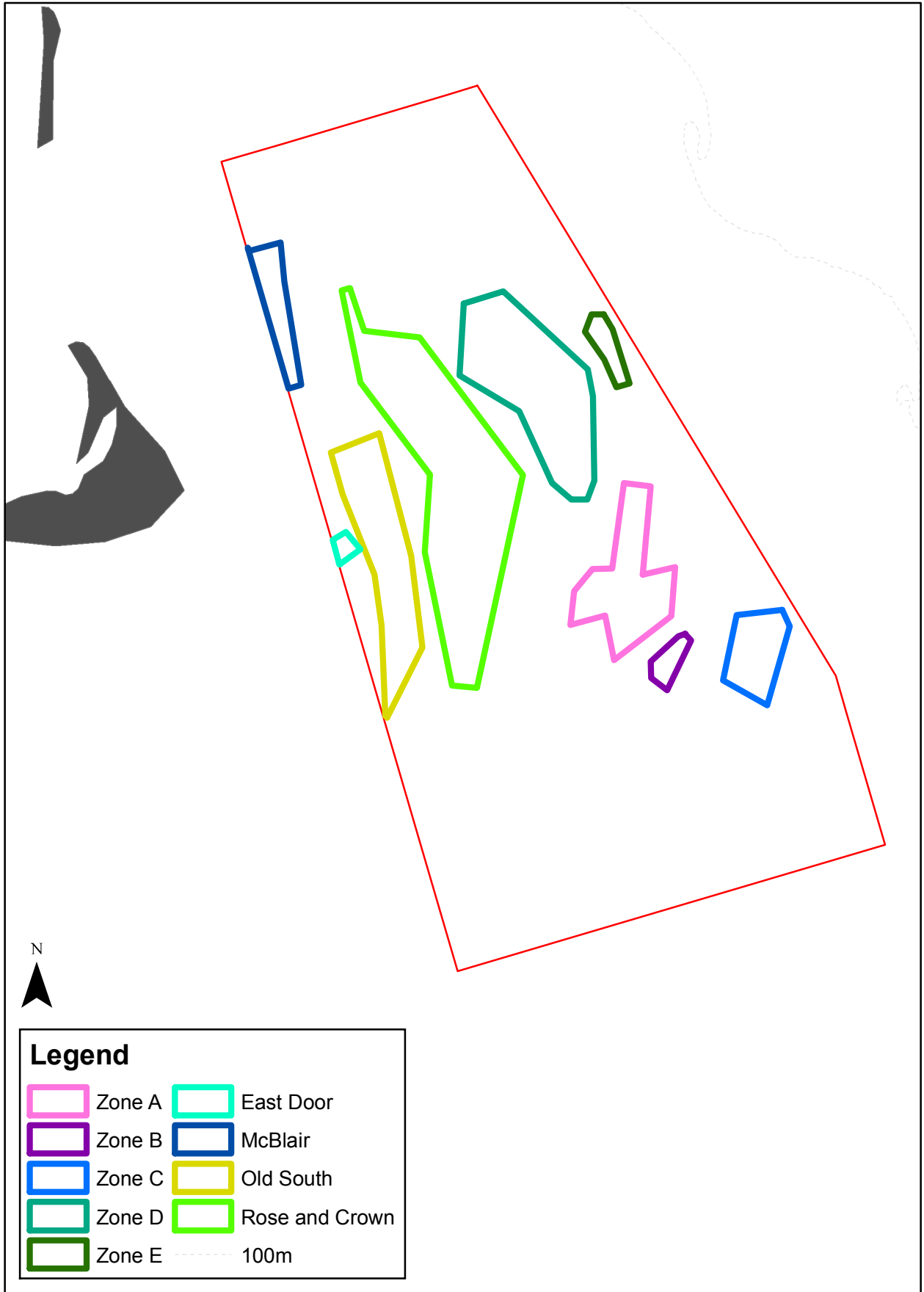


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Position **70°55.206'W**

Duration **Halt/NONE**
Track Name **No Track Name**

06:41:04
Track#2461 [32pnts/Date:07-22-2015 pt#2]

END -B- 4043Nm 128.2°



Rose and Crown

Latitude	Longitude
41° 22.975'N	69° 43.209'W
41° 20.926'N	69° 43.084'W
41° 19.949'N	69° 39.540'W
41° 12.601'N	69° 35.324'W
41° 03.801'N	69° 42.350'W
41° 04.224'N	69° 43.960'W
41° 10.431'N	69° 43.254'W
41° 13.773'N	69° 41.436'W
41° 18.711'N	69° 44.296'W
41° 23.008'N	69° 43.828'W
41° 22.994'N	69° 43.234'W

East Door

Latitude	Longitude
41°10.962'N	69°49.084'W
41°11.361'N	69°47.432'W
41°12.317'N	69°48.058'W
41°12.124'N	69°49.084'W
41°10.965'N	69°49.096'W

Zander Zone A

Latitude	Longitude
41°06.699'N	69°29.311'W
41°06.609'N	69°27.034'W
41°04.516'N	69°28.222'W
41°03.306'N	69°32.816'W
41°05.368'N	69°32.579'W
41°05.398'N	69°35.035'W
41°06.848'N	69°34.124'W
41°07.580'N	69°32.520'W
41°07.356'N	69°31.193'W
41°10.963'N	69°28.829'W
41°10.485'N	69°27.106'W

Zander Zone B

Latitude	Longitude
41°03.550'N	69°27.642'W
41°03.198'N	69°27.376'W
41°01.297'N	69°29.905'W
41°02.036'N	69°30.712'W
41°02.776'N	69°30.446'W
41°03.538'N	69°28.122'W
41°03.556'N	69°27.635'W

McBlair

Latitude	Longitude
41° 25.885'N	69°49.202'W
41° 25.872'N	69°46.951'W
41° 24.116'N	69°47.444'W
41° 19.340'N	69°48.278'W
41° 19.340'N	69°49.164'W
41° 26.059'N	69°49.232'W

Old South

Latitude	Longitude
41°03.616'N	69°48.801'W
41°06.262'N	69°45.179'W
41°10.432'N	69°44.220'W
41°16.246'N	69°44.007'W
41°16.005'N	69°47.576'W
41°14.001'N	69°47.576'W
41°10.072'N	69°46.990'W
41°07.746'N	69°47.469'W
41°03.696'N	69°48.907'W

Zander Zone C

Latitude	Longitude
41°03.379'N	69°20.822'W
41°02.555'N	69°20.644'W
40°59.380'N	69°23.594'W
41°01.028'N	69°26.050'W
41°03.738'N	69°23.892'W

Zander Zone D

Latitude	Longitude
41°20.888'N	69°35.999'W
41°20.922'N	69°33.170'W
41°16.437'N	69°29.050'W
41°15.180'N	69°29.237'W
41°11.438'N	69°30.731'W
41°10.703'N	69°31.546'W
41°10.908'N	69°32.610'W
41°11.882'N	69°33.561'W
41°15.453'N	69°34.353'W
41°17.768'N	69°37.624'W

Zander Zone E

Latitude	Longitude
41°18.638'N	69°26.957'W
41°17.871'N	69°26.640'W
41°15.278'N	69°26.572'W
41°15.278'N	69°27.500'W
41°16.660'N	69°27.795'W
41°18.126'N	69°28.519'W
41°18.792'N	69°27.772'W



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Attn: William Semrau, VMS Program Manager
Cc: Kelly Spalding, VMS Washington, DC

Via email to: William.Semrau@noaa.gov
Kelly.Spalding@noaa.gov

August 8, 2018

From: Daniel Cohen

FOLLOW UP FROM AUGUST 7, 2018 CONFERENCE CALL WITH NMFS OLE VMS PROGRAM MANAGERS CONCERNING VMS ENFORCEMENT OF DISCRETE AREAS FOR SURFLAM HARVEST EXEMPTION IN GREAT SOUTH CHANNEL HABITAT MANAGEMENT AREA

Dear Bill,

Thank you for organizing today's very productive conference call with Kelly Spalding NMFS OLE Washington office. This letter summarizes our discussions.

I appreciate, on behalf of the surf clam industry, the willingness expressed today by you and Ms. Spalding to mobilize the cooperation of NMFS Office of Law Enforcement to assist the surf clam industry in identifying existing VMS approved equipment and vendors capable of enforcing exemptions for surfclam harvesting in small discrete areas in the Great South Channel Habitat Management Area ("GSCHMA").

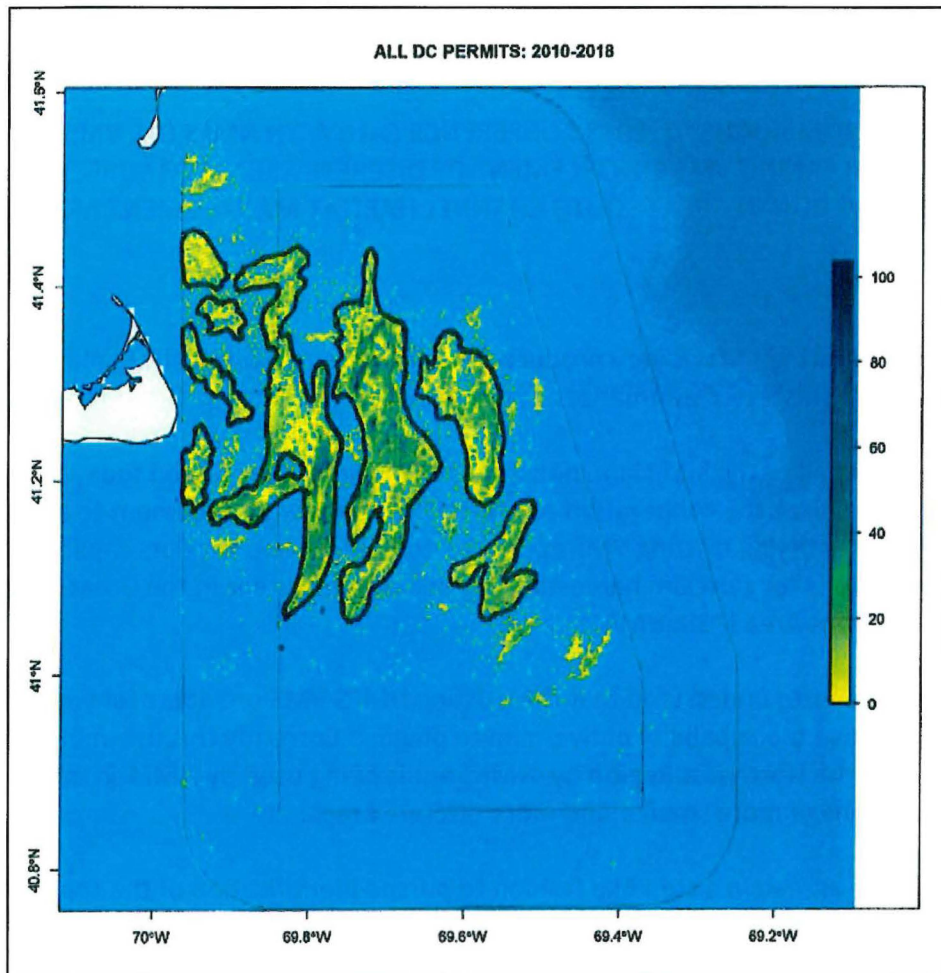
It was welcome news to understand that the existing NMFS VMS providers (of which there are at least four) all have the capability of five-minute pinging. Currently this five-minute pinging is not being used in the Northeast Region by NMFS but is being used by NMFS in other regions successfully to manage more smaller and more discrete areas.

On today's call we agreed in a step-like fashion to pursue identification of the capabilities of the currently approved VMS vendors to determine if the equipment is sufficiently specific to allow enforcement of discrete small areas in the GSCHMA. This process will be iterative and will be

parallel to our discussions with the NMFS Habitat Committee to determine those areas which would be exempt.

As we discussed NMFS OLE will help determine, if possible whether small areas can be successfully monitored in the surf clam industry in the GSCHA using the existing 5 minute pinging capabilities of the existing VMS. The exact delineation of those areas to be exempt, though, will be the purview of the NEFMC Habitat Committee, the full NEFMC, and NMFS as they analyze the data to determine the specific areas for the Framework Action. The role of NMFS OLE will be to assure the NEFMC, in a parallel iterative process, that those areas chosen by the NEFMC are in fact enforceable using the existing five minute pinging rates of which the equipment is capable.

As you requested attached is the 10 year fishing effort data map on 1/5 mile squares as prepared by Ben Galuardi of NEFSC. I have drawn, with little input from vessel captains and no input from the NEFMC Habitat Committee, arbitrary lines around some of those areas heavily fished by the surf clam industry. I am providing this only as an example of the type of discrete small areas which the Habitat Committee might consider and might approve, if NMFS OLE finds them enforceable.



Before we engage in serious discussions with the Habitat Committee and before we engage in serious discussions with the various VMS vendors, you wanted to confirm with Tim Donovan of NMFS OLE that a five minute pinging rate is sufficiently precise to enforce small irregularly shaped areas such as those delineated above, e.g. surfclam vessels would be allowed to fish in the delineated shoals and would be in violation if they fished in the GSCHMA outside those shoals.

Please discuss with Mr. Donovan whether these types of sized and shaped areas are enforceable. If necessary, please organize a conference call with me, other members of the industry, yourself, and Mr. Donovan to discuss the parameters of size and shape that are enforceable with the existing VMS set at 5 minute pinging. With this specific information, we can engage immediately with the Habitat Committee to propose those areas based on the available information of clam historical harvests from the GSCHMA.

On a parallel path, as we discussed, the about 12 surfclam vessels currently fishing in the GSCHMA are all prepared to volunteer their vessels as platforms to begin experimenting with the protocols of 5 minute pinging, buffer zones, and efficacy using the existing VMS (both Boatracs and the other providers). All the vessel owners in the affected area have indicated their willingness to work with NMFS OLE, the VMS vendors, and the about 12 vessels to install or upgrade their equipment to provide to NMFS OLE a study fleet, which will in real time provide feedback of enforceability to the Habitat Committee and NEFMC.

For purposes of installation and coordinating of reporting and enforcement protocol, I will initially continue to be a group contact for the industry with NMFS OLE. The following industry contacts will coordinate for their plants and vessels the installation and operation of the testing VMS equipment and protocols. If possible, we could begin next week. The main contacts, in addition to me, are:

- Captain Chad Brayton, ACF New England Vessel Manager – 609-600-7903 cell
- Captain Allen Rencurrel, Nantucket Sound Seafood – 508-951-3137 – cell
- Monte Rome, Intershell Seafood – 978-815-2361
- David Wallace, for Sea Watch International – 609-425-1727

I am copying Michelle Bachman and Tom Nies of the NEFMC with this letter to keep them informed. I will also speak to Michelle Bachman so the industry can begin the iterative process of discussing with the Habitat Committee how to evaluate the data provided by the 10 year VMS history in the GSCHMA to determine the exact size and shape of areas exempt for surfclam vessels from the harvest restrictions of the GSCHMA. Again, I appreciate the active cooperation of NMFS OLE and look forward to the input of Tim Donovan of your office.

BEST - Daniel Cohen, President -cellphone 609-425-1044

Cc: Michelle Bachman, NEFMC
Tom Nies, NEFMC
Ben Galuardi, NEFSC
Mike Pentony, NMFS GARFO Regional Director
Surf Clam Industry members



**985 OCEAN DRIVE
CAPE MAY, NEW JERSEY 08204
TEL. (609) 884-3000**

**16 BROADCOMMON ROAD
BRISTOL, RHODE ISLAND 02809
TEL. (401) 253-3030**

**140 WALDRON ROAD
FALL RIVER, MA 02720
TEL. (508) 990-9040**

www.atlanticcapes.com

William Semrau, VMS Program Manager

Via email to: William.Semrau@noaa.gov

August 1, 2018

From: Daniel Cohen

**REQUEST BY THE SURFLAM INDUSTRY TO WORK WITH NMFS OLE WITH NEXT GENERATION
VMS FOR ENFORCEMENT OF DISCRETE AREAS OF SURFLAM HARVEST EXEMPTION FROM
HABITAT OMNIBUS 2 - GREAT SOUTH CHANNEL HABITAT MANAGEMENT AREA**

Dear Bill,

This letter follows our conversation of about a week ago. I began this letter that same day and thought I had completed and sent it off to you that day. Today I realized that I had not sent the letter to you. This explains why I have not heard back from you. I apologize, the mistake and delay in progress is fully mine.

The purpose of this letter is to summarize our conversation and to request, as quickly as possible, your helping to coordinate a conference call with you, Kelly Spalding of NMFS OLE Washington, me, and, at the appropriate time, possible participation of VMS providers.

I am writing on behalf of six surf clam shucking plants, which collectively represent close to 100% of the surf clam shucking capacity of the US industry. More importantly I am also writing on behalf of ~20 surf clam vessels that have historically supplied surf clams harvested from the the newly created Great South Channel Habitat Management Area ("GSCHMA") created by Habitat Omnibus Amendment 2 ("HOA2"), to supply primarily three of the New England located clam plants with 90% (or more) of their surfclams, exclusively from this area. It is important to

mb 8/7/18

note that these three hand shucking plants located in New England (Atlantic Capes, Nantucket Sound, and Intershell) are ~90% dependent upon harvests from these smaller vessels harvesting in the GSCHMA and likely could be forced to close due to lack of supply. Their vessels are smaller and are not capable of effectively steaming to and harvesting from Georges Bank, if they are permanently prohibited from harvesting surf clams from the GSCHMA.

As we discussed on the phone, the clam industry has a very short time window to work with the New England Fisheries Management Council (“NEFMC”) and NMFS to propose, have analyzed, and then (hopefully) have approved a Framework Action to HOA2 which would allow surf clam vessels to continue harvesting surf clams after April 2019 from a discrete subset of areas within the GSCHMA. Attached with this letter please find a copy of the letter from the six clam companies to the NEFMC requesting data analysis from NMFS using historical Boatracs data from ~20 vessels over an ~ 10 year period to the highest resolution possible with current Boatracs historical data, e.g. ~ 1/5th mile squares.

Also attached please find a copy of the July 18, 2018 email from Ben Galuardi, NEFSC, transmitting two charts which clearly delineate 10 years of historical surf clam harvest areas within the GSCHMA. This data is by far the best available verifiable information showing the exact locations of surf clam harvesting to supply the three New England hand shucking plants. The identical charts (only portrayed differently for visualization) clearly demonstrate the dependency on Nantucket Shoals for the three hand shucking surf clam plants and confirms that very little effort is conducted outside this area. If the GSCHMA closes permanently in April 2019 to the harvest of surf clam vessels it is highly likely these three plants will be forced to stop operating.

As you know currently utilized VMS technology with its low “rate of pinging” requires that any type of management by “area” requires quite large and simply shaped area for ease of enforcement. For the surfclam industry to propose to continue harvesting in the GSCHMA in smaller, more varied shaped areas, the currently available VMS precision would not be sufficient. To be successful to accommodate the needs of the surf clam fishery and to obtain NEFMC approval we believe much smaller areas of irregular shape must be designed. But they can only be designed within the capabilities of NMFS OLE, VMS technology, and enforcement software.

Prior to my phone conversation with you, the industry had primarily been focused on proposing the voluntary use of an additional VMS, a one minute pinging VMS manufactured by Faira Beede. This cellphone based VMS technology has been used by some state waters fishery management programs. Attached please find a presentation by Faira Beede to the Atlantic States Marine Fisheries Commission (“ASMFC”).

We believe this equipment is economical to operate and could be a viable one minute pinging VMS tool to allow the NEFMC Habitat Committee and the surfclam industry in cooperation with

NMFS OLE to design an approvable and enforceable exemption program, which would be used by likely less than 20 vessels, allowing them an exemption to surfclam in small discrete areas of the GSCHMA.

During our phone conversation you mentioned Orolia-McMurdo was developing a new VMS, not yet NMFS certified, that might have some of the similar capabilities as the Faira Beede unit. After you and I spoke I contacted Gary Holman of Orolia-McMurdo.

Gary Holman confirmed Orolia-McMurdo has developed a next generation VMS based upon dual technology of cellular and satellite that had more capabilities than the current Omni tracks. This new Omni-com, unit has the capability, I understand, of economically pinging more often (e.g. one minute) and then downloading the information to NMFS in batches on whatever time protocol NMFS OLE would require (e.g. a batch every 15 minutes).

Gary was not fully prepared to discuss the capabilities and costs of the Omni-com unit, but did indicate an interest to place a number of units experimentally on vessels to begin testing for NMFS type certification. Additionally Gary confirmed the new Omni-com unit had one or more NEMA ports which could be used for recording additional information (e.g. hydraulics on or off, clam pump pressure high or low, or other output data which either NMFS OLE, NEFMC fishery managers, or the vessel owner wished to record automatically for analysis for any purpose).

Currently there are only about 11 surf clam vessels actively fishing on Nantucket Shoals. All of these vessels currently have Omni tracks units. Additionally at least three of these vessels have experimentally on board the Faira Beede VMS. The state of Massachusetts has also experimentally purchased one Faira Beede one minute pinging VMS.

Based upon my phone conversation with you and subsequent phone conversation with Gary Holman I would propose to have a conference call with you and Kelly Spalding in Washington as soon as possible, with or without VMS providers

The surf clam industry is attempting to respond to the NEFMC (see letter from Tom Nies) as soon as possible. Michelle Bachman returns from vacation on Monday of next week. For the surf clam industry to draw irregular circles around discrete areas in the GSCHMA which NMFS is potentially willing to enforce, it will require experimentation with the next generation VMS.

The vessels currently fishing on Nantucket Shoals have all indicated their willingness to immediately try experimental VMS equipment to help NMFS OLE determine for enforcement purposes what would allow small discrete areas to be managed in the GSCHMA.

It is important for NMFS OLE to understand that this exemption would be for a discrete number of vessels which would utilize the more precise one minute VMS reporting technology when they fish in the GSCHMA area, after April 2019. With the appropriate VMS macros NMFS would know every day which surfclam vessels would be fishing that day in the GSCHMA exemption areas.

We believe, though, if the surf clam industry pioneers the adoption of this new VMS equipment (possibly including auxiliary sensors to provide additional fishery dependent data) NMFS OLE will have developed a new tool for managing other fishing activities taking place in small discrete areas. This will have the added benefit of assuring the public precise fishery dependent data, tighter enforcement, while providing fishing opportunities and economic life for an industry which might be prohibited from harvesting only due to the lack of precision of current technology to enforce.

I hope this letter and its attachments are sufficiently clear to provide the basis for you to help organize a conference call for me with Kelly Spalding, NMFS OLE in Washington as quickly as possible. I hope to find a pathway for NMFS OLE to work collaboratively with the surf clam industry, VMS technology providers, the Habitat Committee, and the NEFMC to develop enforcement protocols using the next generation VMS that could be proposed to the NEFMC so surf clamming in the GSCHMA can continue after April 2019.

Currently these vessels can fish the entire GSCHMA. If in collaboration with the VMS providers and NMFS OLE we install one or more next generation VMS units on a subset of these vessels experimentally in the next few weeks we can speed up the designing of an acceptable program in time for April 2019.

I apologize again for inadvertently not emailing this letter to you earlier in the week. The delay was all mine. I hope, though, this delay will not impede our mutual follow-through with Washington OLE, and the VMS providers.

Thank you for your attention to the above.

BEST

Daniel Cohen, President -cellphone 609-425-1044

Cc: Michelle Bachman, NEFMC
Tom Nies, NEFMC
Ben Galuardi, NEFSC
Surf Clam Industry members

As noted in the NEFMC Press Release of June 18, 2018 through a GSCHMA Framework *“The Council intends...to identify areas within the Habitat Management Area that are currently fished or contain high energy sand and gravel that could be suitable for a hydraulic dredging exemption...”*

In discussion with you and both Doug Christel and Ben Galuardi of NMFS, the clam industry has learned that NMFS NEFSC has an existing computer program that can quickly filter surfclam vessel speed to indicate towing to a 1/5th of a mile square, about 1000 feet by 1000 feet square. On Nantucket Shoals area most of the vessels tow at 1.8knots to 2.5knots, so a cut off of 2.5knots would capture the majority of all surfclam tows in the GSCHMA. The six companies have identified the 21 below listed surfclam vessels which likely harvested 90% or more of the surfclams from the GCSHMA from the implementation of VMS (2008) through to current fishing activity.

The starred vessels owners, all related to the six companies, have all agreed to consent to NMFS for the release of their confidential tow data in the GSCHMA. We also believe the other owners, non-starred, will also consent when asked. To document the consent of all of these vessel owners we hereby request from you, or NMFS NEFSC (copied with this letter), for the actual consent form each owner will need to execute to release their data for use in this analysis.

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Mariette	410204	608020	
Enterprise	330202	518840	*
Lori Ann	410108	573728	*
Lauren	320409	589864	*
Silver Fox	310993	686249	*
Misty Blue	310937	1043789	*
Sea Fox	321114	1107736	*
Miss Kara	251778	919001	*
Sereno	321097	686466	
Sentinel	330196	575736	
Retriever	240719	635001	

It is our hope that this 10+ years of tow data will help the industry to accurately address the goal identified by the NEFMC in the Framework problem statement to define where surfclam harvest takes place in the GCSHMA. With this information the surfclam industry may be able to provide to you and the Habitat Plan Development Team areas to analyze in advance of the next Habitat Committee meeting as requested by Tom Nies in his letter to the clam industry of June 25th.

From our conversation with Ben Galuardi these reports can be run quickly. Whereas time is of the essence we would greatly appreciate your cooperation along with the NMFS NEFSC to have these reports provided to the surfclam industry so we can work with our captains to proof them, synthesize them, and hopefully present to the Habitat Plan Development Team a reasonable alternative(s) for their analysis.

I am available to answer any questions you or NMFS NEFSC have concerning this request.

Thank you for your cooperation with the above.

Sincerely,



Daniel Cohen on behalf of Atlantic Capes, Intershell, LaMonica, Nantucket, Sea Watch, and Surfside

Cc: Ben Galuardi, NMFS
Tom Nies, NEFMC
Dr. Quinn, NEFMC
Chad Brayton, Atlantic Capes
Chris Shriver, Atlantic Capes
Louie LaGace, Mariette
Dave Wallace, Wallace Associates
James Meyers, Sea Watch
Guy Simmons, Sea Watch
Daniel LaVecchia, LaMonica
Michael LaVecchia, LaMonica
Sal LaMonica, Surfside
Tom Dameron, Surfside
Allen Rencurrel, Nantucket
Monte Rome, Intershell
John Verissimo, MFMGA

Here is the first installment of the request. This is 2010-2018 effort information for the 22 vessels you provided, aggregated to ~1/5 mile squares, within the Nantucket Shoals Habitat Management Area (NSHMA). I used the speed filter you suggested (0-2.5 knots) to assign fishing effort to individual VMS polls. This was then aggregated and summed across all permits and years. The color scale indicates hours fished/cell.

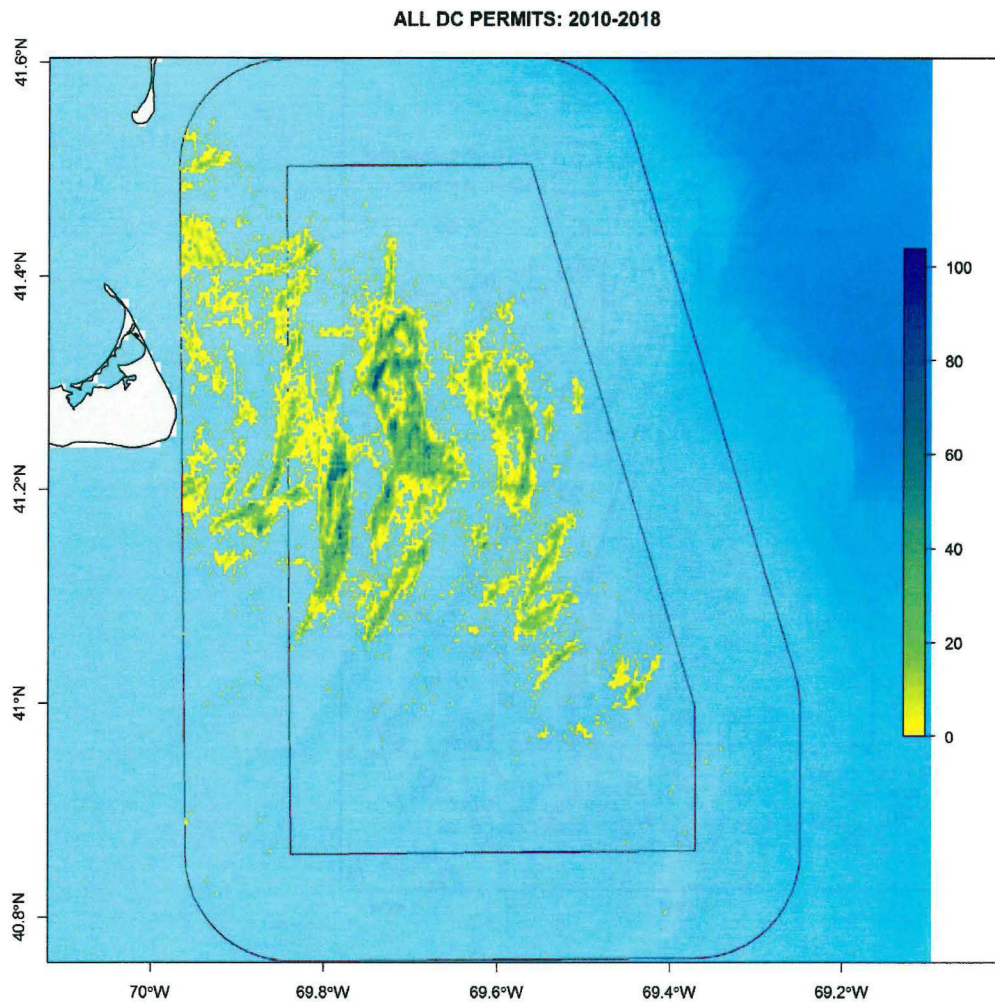
The map shows the NSHMA plus a 6 nmi buffer. The shape was created by the New England Fisheries Management Council (Michelle Bachman).

The background depth is the [NOAA 3-second bathymetry model](#). I didn't put this over a NOAA chart but you should be able to discern important features in the area.

When the permit check is complete, I'll send the individual records and yearly aggregates.

Best Regards,

Ben



On Fri, Jul 13, 2018 at 11:46 AM, Benjamin Galuardi - NOAA Federal
<benjamin.galuardi@noaa.gov> wrote:

Hi Danny,

I'm working on your VMS data request and had a couple of questions.

1. I don't have access to VMS data pre-2010. Would 2010-2018 (June) be sufficient?
2. Do you want a tabular summary of hours fished/vessel/year? I did this as a QC check. If it's useful, I can include it.

Have a great weekend

Ben

--

Benjamin Galuardi
Statistician (Biology)
NOAA National Marine Fisheries Service
[Greater Atlantic Region](#)
Analysis and Program Support
978.281.9187

"The contents of this message are mine personally and do not necessarily reflect any position of NOAA."

--

Benjamin Galuardi
Statistician (Biology)
NOAA National Marine Fisheries Service
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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Daniel Cohen, President
Atlantic Capes Fisheries
985 Ocean Drive
Cape May, NJ 08204

Dear Dan:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

To remand the draft Framework back to the Habitat Committee for further development, with a request to the clam industry to propose additional alternatives for analysis at the next Habitat Committee meeting.

The motion carried unanimously on a show of hands (17/0/0).

I hope that you will participate in the development of these alternatives. The intent of this letter is to provide some guidance as to what these alternatives should look like, and to let you know how best to communicate with Council staff regarding their development.

Based on recent discussions, and on the problem statement for the action, an important point is that the Council is thinking of the exemption areas as a relatively small subset of the Great South Channel HMA, such that the bulk of the area should remain closed to hydraulic dredges and other mobile bottom-tending gears to protect the habitats within it. The alternatives developed by the Committee during May reflect this view. In terms of which areas to focus on for closure vs. exemption, the Committee and Council have discussed that exemption areas should minimize the exposure of complex benthic habitats to clam dredging. The Habitat Plan Development Team has developed various data products to identify areas of the HMA with complex habitat which you may find useful. For more information see the April 24 and May 16 memos from the Habitat Plan Development Team to the Habitat Committee, which are available on our website at <http://s3.amazonaws.com/nefmc.org/3.-180423-Hab-PDT-memo-to-CTTE-re-clam-fwk-alt.pdf>

and <http://s3.amazonaws.com/nefmc.org/3b-180516-Hab-PDT-memo-to-CTTE-re-clam-fwk-alts-CORRECTED.pdf>.

Once any proposals are finalized, please submit them to me, including a description, rationale, and maps and/or coordinates, and I will forward them on to the Habitat Committee for review. We understand that efforts are already underway to develop some possible approaches for closures vs. exemption areas. Michelle Bachman on my staff (mbachman@nefmc.org, 978-465-0492 x 120) is available to work with you directly on mapping these proposals and understanding how they relate to data sets being used by the Habitat Plan Development Team. Please contact her directly to discuss this.

The Committee will meet next on August 28, 2018, and we will update our website with the meeting location once it is determined. I encourage you to attend the Committee meeting and present your proposal to members. Working back from this date, it is important for staff and the Plan Development Team to have final versions of any industry proposals by early August so that they can be initially evaluated prior to the meeting. This will position us to have an updated range of alternatives coming out of the Committee meeting, allowing us to put proposals in front of the Council at their September meeting in Plymouth. The Council should take final action on the framework in early December to avoid or minimize a gap in access to the HMA, which will close to hydraulic clam dredges on April 9, 2019 absent implementation of this framework.

Thank you for the work you have already put into helping the Council develop this framework. Please do not hesitate to contact me or Ms. Bachman with questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC
Michael Pentony, Regional Administrator, NMFS GARFO

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From our conversation with Ben Galuardi these reports can be run quickly. Whereas time is of the essence we would greatly appreciate your cooperation along with the NMFS NEFSC to have these reports provided to the surfclam industry so we can work with our captains to proof them, synthesize them, and hopefully present to the Habitat Plan Development Team a reasonable alternative(s) for their analysis.

I am available to answer any questions you or NMFS NEFSC have concerning this request.

Thank you for your cooperation with the above.

Sincerely,



Daniel Cohen on behalf of Atlantic Capes, Intershell, LaMonica, Nantucket, Sea Watch, and Surfside

Cc: Ben Galuardi, NMFS
Tom Nies, NEFMC
Dr. Quinn, NEFMC
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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 29, 2018

Mr. Daniel Cohen
Atlantic Capes Fisheries, Inc.
50 Middle St.
Fairhaven, MA 02719

Dear Mr. Cohen:

Thank you for your June 28 letter requesting clam vessel monitoring system data to support identification of exemption areas in the Council's clam framework. Vessel monitoring system (VMS) data are maintained by the National Marine Fisheries Service Office of Law Enforcement (OLE), and we are unable to authorize the release of such data. You should contact the Analysis and Program Support Division at the Greater Atlantic Regional Fisheries Office in Gloucester to obtain the necessary authorizations.

We have been advised that this form can be used to initiate the request:

<https://www.greateratlantic.fisheries.noaa.gov/aps/permits/forms/datarequestfactsheet.pdf>.

Based on conversations this week with GARFO staff, we understand that they can assist you with gridding and mapping the data once OLE has authorized its release.

We look forward to seeing the management alternatives you develop using the VMS information. Note that if you provide products to the Council that include or use these data that they will be public information.

Please contact me or Michelle Bachman (978-465-0492 x 120) if there is anything further we can assist with at this time.

Sincerely,

Thomas A. Nies
Executive Director

cc Michael Pentony, Regional Administrator, GARFO



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. David Wallace
Wallace and Associates
1142 Hudson Road
Cambridge, MD, 21613

Dear Dave:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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I hope that you will participate in the development of these alternatives. The intent of this letter is to provide some guidance as to what these alternatives should look like, and to let you know how best to communicate with Council staff regarding their development.

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Thank you for the work you have already put into helping the Council develop this framework. Please do not hesitate to contact me or Ms. Bachman with questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC
Michael Pentony, Regional Administrator, NMFS GARFO
David Borden, Atlantic Offshore Lobstermen's Assoc.



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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Allen Rencurrel, CEO
Nantucket Sound Seafood
350 South Front Street
New Bedford, MA 02740

Dear Allen:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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closures vs. exemption areas. Michelle Bachman on my staff (mbachman@nefmc.org, 978-465-0492 x 120) is available to work with you directly on mapping these proposals and understanding how they relate to data sets being used by the Habitat Plan Development Team. Please contact her directly to discuss this.

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Thank you for the work you have already put into helping the Council develop this framework. Please do not hesitate to contact me or Ms. Bachman with questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC
Michael Pentony, Regional Administrator, NMFS GARFO



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Thomas T. Alspach
Sea Watch International
8978 Glebe park Drive
Eason, MD 21601

Dear Mr. Alspach:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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I hope that you will participate in the development of these alternatives. The intent of this letter is to provide some guidance as to what these alternatives should look like, and to let you know how best to communicate with Council staff regarding their development.

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Thank you for the work you have already put into helping the Council develop this framework. Please do not hesitate to contact me or Ms. Bachman with questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC
Michael Pentony, Regional Administrator, NMFS GARFO



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Daniel Cohen, President
Atlantic Capes Fisheries
985 Ocean Drive
Cape May, NJ 08204

Dear Dan:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC
Michael Pentony, Regional Administrator, NMFS GARFO



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Sam Martins, Vice President
Atlantic Capes Fisheries
985 Ocean Drive
Cape May, NJ 08204

Dear Sam:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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I hope that you will participate in the development of these alternatives. The intent of this letter is to provide some guidance as to what these alternatives should look like, and to let you know how best to communicate with Council staff regarding their development.

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Thank you for the work you have already put into helping the Council develop this framework. Please do not hesitate to contact me or Ms. Bachman with questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Attorney Scott Lang
Lang, Xifaras, & Bullard
115 Orchard Drive
New Bedford, MA 02740

Dear Attorney Lang:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. John Verissimo, Executive Director
Massachusetts Fishermen's Mobile Gear Alliance
114 MacArthur Drive
New Bedford, MA 02740

Dear John:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of "sensitive habitat" and may not meet the framework's "purpose and need for action.", The Council responded to this comment with the following motion:

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New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Jeffrey Pike
Pike Associates LLC
203 Maryland Ave, NE
Washington, DC 20002

Dear Jeff:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”. The Council responded to this comment with the following motion:

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Louis Legace
Owner
F/V Mariette

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Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC



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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

June 25, 2018

Mr. Chad Brayton
Clam Vessel Manager
Atlantic Harvesters LLC
50 Middle Street
Fairhaven, MA 02719

Dear Chad:

I wanted to be certain that you are aware of a recent Council decision on the framework action that may designate exemption areas for clam dredge vessels in the recently implemented Great South Channel Habitat Management Area (April 2018). At the June Council meeting the National Marine Fisheries Service (NMFS, NOAA Fisheries) Regional Administrator expressed concern that all of the alternatives proposed to date in the Clam Dredge Framework appeared to include a fair amount of “sensitive habitat” and may not meet the framework’s “purpose and need for action.”, The Council responded to this comment with the following motion:

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The motion carried unanimously on a show of hands (17/0/0).

I hope that you will participate in the development of these alternatives. The intent of this letter is to provide some guidance as to what these alternatives should look like, and to let you know how best to communicate with Council staff regarding their development.

Based on recent discussions, and on the problem statement for the action, an important point is that the Council is thinking of the exemption areas as a relatively small subset of the Great South Channel HMA, such that the bulk of the area should remain closed to hydraulic dredges and other mobile bottom-tending gears to protect the habitats within it. The alternatives developed by the Committee during May reflect this view. In terms of which areas to focus on for closure vs. exemption, the Committee and Council have discussed that exemption areas should minimize the exposure of complex benthic habitats to clam dredging. The Habitat Plan Development Team has developed various data products to identify areas of the HMA with complex habitat which you may find useful. For more information see the April 24 and May 16 memos from the Habitat Plan Development Team to the Habitat Committee, which are available on our website at <http://s3.amazonaws.com/nefmc.org/3.-180423-Hab-PDT-memo-to-CTTE-re-clam-fwk-alt.pdf>

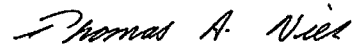
and <http://s3.amazonaws.com/nefmc.org/3b-180516-Hab-PDT-memo-to-CTTE-re-clam-fwk-alts-CORRECTED.pdf>.

Once any proposals are finalized, please submit them to me, including a description, rationale, and maps and/or coordinates, and I will forward them on to the Habitat Committee for review. We understand that efforts are already underway to develop some possible approaches for closures vs. exemption areas. Michelle Bachman on my staff (mbachman@nefmc.org, 978-465-0492 x 120) is available to work with you directly on mapping these proposals and understanding how they relate to data sets being used by the Habitat Plan Development Team. Please contact her directly to discuss this.

The Committee will meet next on August 28, 2018, and we will update our website with the meeting location once it is determined. I encourage you to attend the Committee meeting and present your proposal to members. Working back from this date, it is important for staff and the Plan Development Team to have final versions of any industry proposals by early August so that they can be initially evaluated prior to the meeting. This will position us to have an updated range of alternatives coming out of the Committee meeting, allowing us to put proposals in front of the Council at their September meeting in Plymouth. The Council should take final action on the framework in early December to avoid or minimize a gap in access to the HMA, which will close to hydraulic clam dredges on April 9, 2019 absent implementation of this framework.

Thank you for the work you have already put into helping the Council develop this framework. Please do not hesitate to contact me or Ms. Bachman with questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Christopher Moore, Executive Director, MAFMC
Jessica Coakley, Fishery Specialist, MAFMC