

#691

ADDITIONAL
CORRESPONDENCE
Related to Surfclam Fishery

Michelle Bachman

From: MONTE ROME <montesan04@yahoo.com>
Sent: Wednesday, September 19, 2018 7:17 PM
To: Tom Nies
Cc: David Wallace; Dan Cohen; Michael Pentony; Michelle Bachman; David Pierce; McKiernan Dan (FWE); Eric Powell
Subject: September 18 PDT Meeting
Categories: Outside correspondence, Clam action



Dear Mr. Nies,

I attended the PDT meeting in New Bedford on Sept 18, and am writing to express my opinions about the meeting and to recommend a course of action for the fulfillment of the needs related and mandated for the GSHMA rule making concerning surf clamming. I am a surf clam vessel operator and surf clam processor. My vessels are: F/V Tom Slaughter, F/V Tom Slaughter 2, F/V Bing Bing, all surf clam vessels, and F/V Hotate, a 600lb scallop boat. I process surf clams and other seafood out of Gloucester at Intershell International Corp.

My takeaway from the meeting was that for the first time the PDT was adequately informed about the surf clam habitat in the Nantucket Shoals area. Scientist and Dr. Eric Powell, on behalf of SCMFIS presented a body of research from the scientific study of the Shoals which was conducted in late summer of 2017. Dr. Eric Powell was an important contributor to the survey work as it occurred and through his involvement with this organization as it compiled, analyzed and reported the results. His presentation at the PDT Meeting was his report in his own words as he presented the accompanying slide show of his results. Dr. Powell's science produced the 'BEST AVAILABLE SCIENCE' on the subject to date and necessarily must be used in the rulemaking. It seemed that the PDT members agreed with this as they responded to the question of "how did they rate the newly presented science compared to the static drop photos collected which had been applied as BEST AVAILABLE SCIENCE in the previous analysis for rule making in the GSCHMA. It is essential that all members of the Council as well as other interested parties review Dr. Powell's report thoroughly.

At the meeting numerous charts and documents were presented but the one most telling about how surf clamming affects its territory is the one depicting the overlaid tows collected from NMFS OLE from VMS tracks of the vessels working the area over several years. In this slide you can clearly see that there is minimal activity in the red hash mark area which has been designated as 'closed' which is a valid indication that surf clamming and essential habitat are not co-dependent and that clamming does not take place in those types of substrate. Additionally you can see that the surf clammers do not fish in certain areas more directly in the channel area for the same reason - the mixed substrate bottoms with essential elements to the fish habitat are not workable or productive for the surf clam fleet. Gear damage is a serious consideration when clamming and all of us avoid the habitat areas where damage is likely to occur. Down time from gear damage is often more costly than the damage itself.

After the presentation at least one committee member suggested that maybe this was not habitat that needed protection - a welcome comment and believed to be true after review of the many aspects of the EFH discussion.

It is equally questionable as to whether the mussel habitats and harvests of the mussels affect the EFH at all as the mussels do not attach to cobbles, rocks or boulders but rather to small sediments at best and each other as a rule. This information was also presented by Dr. Powell who has studied the mussel habitat at length and verified this information during the clam survey work of 2017.

The surf clam habitat is surf clam habitat and is not all things to all animals. The surf clam specie resets itself often and recovers after a few years because the harvesting is not destructive to their habitat and there are no other different types of animals particularly aggregating there because this is surf clam habitat. This defined habitat is for the growth and reproduction of surf clams and not different types of species which is why it is not reasonable to assume that surf clamming damages other habitats more suitable to the EFH. If surf clams don't live in the Northeast closed area, then why would Cod live or spawn in the surf clam habitat.

The surf clam community has offered to use it's vessels and manpower to continue to collect the data necessary to assist the Council in their analysis and we hope the Council hears us and takes us up on it because there are too many assumptions being offered as foundation for the rule making regarding this area of concern as was expressed by many if not all members of the Team.

It is recommended that the Council allow the Industry to assist them in filling in the many blanks about this habitat by partnering with us and reverting to the originally suggested exemption of 3 years so that we can have adequate time to better define this area as to just what it represents and take the assumption based rule making out of the equation.

Very truly yours,

Monte Rome

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September 19, 2018

Dr. John F. Quinn, Chairman
New England Fishery Management Council
40 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: Clam Framework – Great South Channel Habitat Management Area

I am writing to you again on behalf of Atlantic surfclam fishermen regarding the Clam Framework for the Great South Channel Habitat Management Area.

Yesterday, I attended the Plan Development Team ("PDT") meeting held in New Bedford regarding the habitat impact issue in the surf clam and mussel fishery. The meeting was chaired by Michelle Bachman. I want to compliment the PDT members for the excellent discussion that was had regarding the difficulty of crafting a recommendation to the Council on how to protect essential fish habitat without having current relevant, scientific data to formulate their recommendation.

It is clear from the meetings, over the past several months, that scientific data regarding the habitat within the Great South Channel is lacking. As I have noted in prior correspondence, there is no scientific data or evidence to support restricting the surfclam industry from harvesting clams in the Great South Channel.

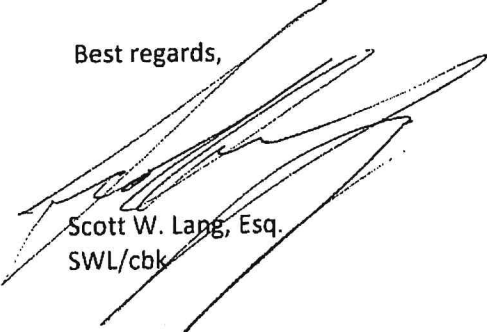
Due to the lack of scientific data and the need for such data to effectively manage the industry's activity, both to protect essential fish habitat and ensure the industry's continued prosperity, within the Great South Channel, the industry has come forward and proposed a private, public partnership to conduct scientific research which will produce the data necessary to draft regulations to manage the fishery in this unique area. In light of these circumstances and the industry's proposal, I ask that the Council continue and extend the exemption for the Nantucket Shoals region while the government and

industry design and conduct a joint research program. I would expect that the details of such a program will be finalized within a 6 month period and the research itself would be conducted over a 3 year term. The data garnered from such a collaborative project will be cost effective and invaluable in identifying where the essential fish habitat is in the Great South Channel and also to regulating the very important surfclam industry as it pertains to activity in the Great South Channel.

The surfclam industry has been collaborating with the government and has also been extremely cooperative throughout this process and during the last several months. In order to allow the NEFMC, Habitat Committee, and PDT to better understand where the industry harvests clams and the economic impacts any actions would have to the industry, the industry has provided BoatTracs and other data to your staff for plotting, analysis, and the public record. Additionally, the industry made multiple proposals for alternative exemptions for the Great South Channel. The industry now makes this additional proposal to work with the government to collect the data necessary to answer the questions raised by the Habitat Committee and PDT. It is clear that there is insufficient scientific data to answer said questions at this time.

My clients are available to discuss the specifics of this proposal with the Council staff prior to the Council meeting of September 27, 2018. I look forward to hearing from you or your designees.

Best regards,



Scott W. Lang, Esq.
SWL/cbk

CC: Governor Charlie Baker
Senator Elizabeth Warren
Senator Edward Markey
Representative William Keating
Speaker Robert DeLeo
Senate President Karen Spilka
New England Fishery Management Council, *via email to comments@nefmc.org*



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September 17, 2018

Mr. Tom Nies, Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Via email: tnies@nefmc.org

Dear Mr Nies,

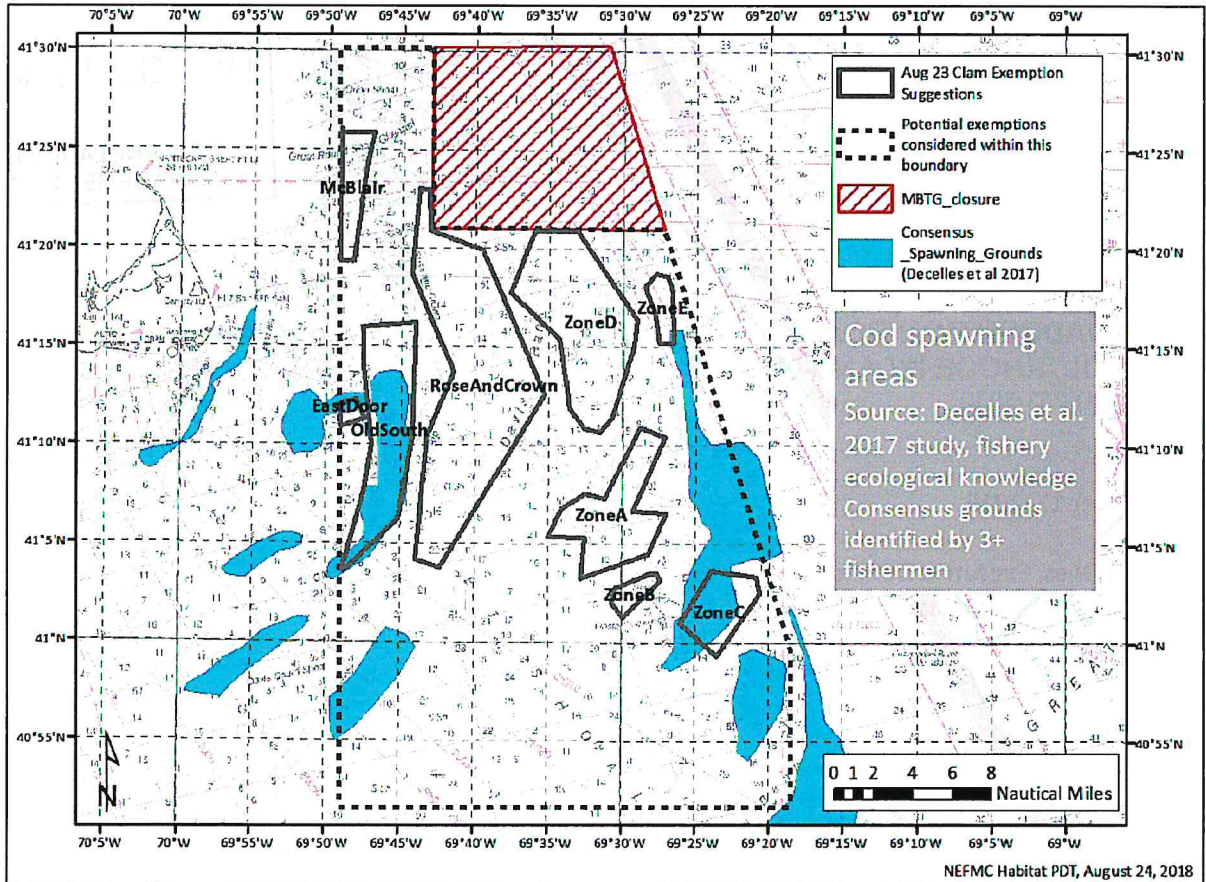
This letter outlines a request by the surf clam industry currently fishing in the GSCHMA that the full New England Fishery Management Council at its September meeting vote to modify the Habitat Committee Motion of August 28, 2018 which is copied below:

1. *"(Reid/Alexander) Move to task the PDT to analyze five of the areas proposed by the clam industry (Rose and Crown, McBlair, Zone A, Zone B, and Zone D) for development into a rotational area management scheme, which should:*
 - a. *Minimize adverse effects on EFH per the goals/objectives of OHA2;*
 - b. *Consider historical fishing effort;*
 - c. *Develop 2-3 distinct areas for rotation with a timeframe of a minimum of 7 years open per area in succession;*
 - d. *Consider age distribution of clams in these areas."* Motion carried 8/1/1

There are two areas contained within the Habitat Committee motion which we believe need to be modified by a motion of the NEFMC in its charge to the Habitat PDT.

1. **Proposed modification to allow seasonal access to cod spawning areas - East Door, Old South, Zone C, and Zone E:**

We believe the basis for the motion was a cod spawning analysis of the New England Fishery Management Council Staff, presented to the Habitat Committee on August 28, see below:



The motion would close four proposed surf clam exemption areas year-round due to seasonal cod spawning. To the best of our knowledge the best available information indicates cod spawning takes place in these areas in November in December. To assure clamming is not taking place during cod spawning, we propose the four areas would be closed for surf clamming for six months, e.g. October through March. We propose that the same four areas would be seasonally open for surf clamming for six months April 1 through September 30. Therefore we propose that the motion be modified to allow surf clamming for six months when cod spawning is not occurring in the four the areas- East Door, Old South, Zone C, and Zone E. Cod spawning closure should be October through March.

2. The second issue concerns references to rotational management in the Habitat Committee motion.

- e. If the intent of the Habitat Committee motion was some form of Habitat Rotational Management of the GSCHMA surf clam exemption areas for habitat reasons, the science is not available.
- f. If the intent of the Habitat Committee was some form of rotational management to increase yield per recruit of surf clams, this is a NEFMC Habitat Management Amendment not a Surf Clam Amendment of the MAFMC. The Habitat Amendment is not the appropriate vehicle to experiment with

rotational management. The MAFMC would be the appropriate forum for a discussion of rotational management, but NMFS lack of survey and analytical time of NEFSC staff make any discussion at the MAFMC impractical.

- g. Therefore the concept of rotational management should be removed from the motion:**

If the intent of the Habitat Committee's motion was to suggest rotational management for habitat reasons, e.g. to clam some areas and then allow them to remain fallow to return to pre-dredging condition, we believe specific scientific information for the GSCHMA is insufficient to justify any arbitrary number of years of a rotational management scheme.

Moreover we believe the best available science shows that the GSCHMA, in the areas in which we are seeking an exemption, has significant high velocity currents and storm events that return the area to pre-dredge conditions in a matter of months not years.

In the event the NEFMC votes for seasonal cod closures of the four exemption areas these would be good areas for initial scientific evaluation using either drop cameras or side scan for those specific areas immediately after clamming ceases and then prior to the area opening again, e.g. what impacts can be seen after six months.

In the event the Habitat Committee motion was intended to increase the yield per recruit that would be a surf clam plan amendment of the Mid-Atlantic Fishery Management Council (MAFMC).

If some NEFMC members are looking at the successful scallop fishery rotational management program, there is a big difference in surf clams. Scallop rotation to increase yield per recruit has been successful because of an annual commitment of significant NEFSC analytical time and NMFS commitment to three annual surveys (one by NMFS and two by academia), all of which provides robust data to identify juvenile scallops and open and close large managed areas. Even the rotational management of scallops to increase yield per recruit is a NEFMC Scallop Plan Amendment, it is not a NEFMC Habitat management measure.

NMFS does not have the same commitment to surf clams. NMFS performs surfclam and ocean quahog surveys every year for only 1/3rd of the fishery and then does a NEFSC assessment only once every three years. The NMFS surveys does not include GSCHMA because the survey vessel is too large to operate in the area.

For all of the above reasons we propose that any reference to rotational management be eliminated from the motion. A simplified motion, to be passed by the full NEFMC at its September meeting to guide the Habitat PDT could be:

Move to task the PDT to analyze five of the areas proposed by the clam industry (Rose and Crown, McBlair, Zone A, Zone B, and Zone D) for year round exemption and four of the areas to be seasonally exempt from March 1 to August 31 and closed for six months for the protection of spawning codfish (East Door, Old South, Zone C, and Zone E).

On behalf of the clam industry currently fishing the GSCHMA, I hope the NEFMC will discuss our proposed changes to the Habitat committee's motion in its charge to the habitat PDT, as the habitat PDT analyzes the practical design of exemption areas in the GSCHMA based on the ten years VMS analysis of the NEFSC.

Thank you for your cooperation with the above.

Sincerely,



Daniel Cohen, Atlantic Capes Fisheries, Inc.

Cc: Ben Galuardi, NMFS

Dr. Quinn, NEFMC

Chris Shriver, Atlantic Capes

Dave Wallace, Wallace Associates

Guy Simmons, Sea Watch

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