

FINAL

**AMENDMENT #11 to the NORTHEAST MULTISPECIES
FISHERY MANAGEMENT PLAN**

**AMENDMENT #9 to the ATLANTIC SEA SCALLOP
FISHERY MANAGEMENT PLAN**

**AMENDMENT #1 to the MONKFISH
FISHERY MANAGEMENT PLAN**

**AMENDMENT #1 to the ATLANTIC SALMON
FISHERY MANAGEMENT PLAN**

**COMPONENTS of the PROPOSED ATLANTIC HERRING
FISHERY MANAGEMENT PLAN**

FOR

ESSENTIAL FISH HABITAT

incorporating the

ENVIRONMENTAL ASSESSMENT

VOLUME III

Public Comments

Prepared by

New England Fishery Management Council

in consultation with

National Marine Fisheries Service

Final document submitted by NEFMC:

**New England Fishery Management Council
Essential Fish Habitat Amendment**

Public Comments Summary and Council Responses

The following section contains a summary of written and verbal comments received during the EFH public hearing and review period from July 1 - July 31, 1998. The comments are not presented verbatim since the same point was often made by more than one individual. Further, a number of comments addressed points not directly relevant to the amendment proposals, objectives or analyses. These comments are not included in the summary, although they are provided in the following section which includes all comments provided to the Council. This section also includes brief responses from the Council related to the comments.

General Comments Related to Essential Fish Habitat:

1. **Comment:** A large number of letters, form letters, and verbal comments supported the Council's essential fish habitat designations. The Council received a few comments that it should add a ten minute square to EFH designation for Atlantic herring eggs.

Response: The Council maintained the EFH designations as presented in the EFH public hearing document, except for Atlantic salmon, Atlantic halibut and Atlantic herring. Additional information was presented by the State of Maine which contradicted the information used to include the Medomac and St. George rivers in the Atlantic salmon EFH designation, so these rivers were removed from the designation. Based on the information received during the public hearing process and on further Council deliberation, EFH was designated for Atlantic halibut based on a combination of the historic range and the current scientifically observed range. The Council considered the additional information presented by the Maine Department of Marine Resource related to the EFH designation for Atlantic herring eggs and determined it most appropriate to include this additional area. All other proposed EFH designations remained the same and are reflected in Section 3.4 of the EFH amendment.

2. **Comment:** A comment expressed concern that the Council should not attempt to designate EFH until all of the sea bottom is mapped.

Response: The Council was obligated, by the Sustainable Fisheries Act, to designate EFH for all managed species, using the best information *available* and to complete these designations by October 11, 1998. While having detailed maps of the entire sea bottom would allow the Council to refine its designations, adequate information exists to develop initial designations that meet the intention of the law.

3. **Comment:** Several comments reflected concern about the future of EFH and how the Council will implement measures to protect habitat. At least one comment noted that the lack of specific measures to implement EFH is a problem. Several comments also expressed concern that the Council will use the EFH designations to close all of Georges Bank to all fishing activity.

Response: The Council has developed an EFH Strategic Plan (Section 8.0) that outlines how the Council will continue the EFH management process over the next five years, leading up to a review and revision of all the Council's EFH designations. This plan also explains how the Council will pursue the development and implementation of measures determined necessary to protect EFH from any adverse impacts associated with fishing activity. Although all of Georges Bank is designated EFH for one species or another, the Council will use the designations to pinpoint small areas that are EFH for multiple species at especially critical life history stages. If measures are determined necessary to protect EFH from any adverse impacts associated with fishing activity, these small areas would most likely be the focus of Council consideration.

4. **Comment:** There were several comments that the Council's EFH designations are too broad and encompass too much area.

Response: The Council designated EFH for all species as narrowly or as broadly as was most appropriate for each species, based on the guidelines provided to the Council by NMFS, the information available on each species, and the status of the stocks. In some cases the EFH designation for a particular species is a broad expansive area and this occurred when there was little information on the species or when the species was in a overfished condition. In other cases, in light of detailed information and/or a species that was not overfished, the Council designated EFH more narrowly. The Council will continue to review the EFH designations, and refine them as more information becomes available.

5. **Comment:** The Council received several comments suggesting that natural events impact bottom habitats more than man-made impacts and therefore the Council should not manage habitat as habitat issues are not a problem

Response: The Council is required by the Sustainable Fisheries Act to identify and describe the EFH for all managed species and take action to manage both the fishing and non-fishing related activities that have the potential to adversely impact EFH. There is a substantial amount of scientific literature that suggests that both some fishing and non-fishing related activities have the potential and do cause adverse impacts to the habitat of our fishery resources. Sections 4.0, 5.0, and Appendix E describe these activities and the impacts they can cause.

6. **Comment:** The Council received a comment that there is no indication how the Council will use the EFH designations for habitat conservation and management.

Response: Sections 4.0 and 5.0 provide an assessment of the potential adverse

impacts to EFH from fishing and non-fishing related activities. Section 4.0 also describes the Council's existing management measures which provide habitat conservation benefits and the process the Council will use to implement future conservation measures, should they be determined to be necessary. Section 6.0 of the amendment describes the conservation and enhancement measures that the Council recommends to mitigate non-fishing impacts to EFH. Section 8.0 describes the Council's EFH Strategic Plan for continuing its habitat management program.

7. **Comment:** The Council received a comment that the Council clarify its explanation of the methodology for developing the EFH designations.

Response: This has been done in the EFH amendment document, Section 3.2.

8. **Comment:** The Council received one comment that the entire EFH amendment document should be made available for public review rather than a public hearing document.

Response: The Council policy is to publish a public hearing document that summarizes the points under consideration by the Council, rather than to develop an FMP document in its entirety prior to receiving public input. Many sections of FMPs and amendments are required by law, but not of highest interest to the public. Public hearing documents are designed to be shortened, summary versions of the Council decision documents in order for the public to understand the most significant decisions before the Council and to provide input on those decisions as efficiently as possible. Waiting to develop the full amendment package, then sending out documents that are often several hundreds of pages would unnecessarily delay and overwhelm the public process.

9. **Comment:** The Council received one comment that the Council should send public hearing notices to all towns in the region.

Response: The Council has a mailing list that it maintains of all individuals and organizations that have expressed an interest in being kept abreast of Council issues and made aware of Council meetings and hearings. All individuals and organizations on the Council mailing list are sent notices of public hearings. The Council also sends notices to several newspapers in the New England and Mid-Atlantic region. Council management actions are focused on the fishing industry and the major fishing communities receive hearing notices through their local fishing organizations and commissions. Sending additional notices to all communities in the affected regions (often all New England and Mid-Atlantic coastal states) would be cost prohibitive and unnecessarily redundant.

10. **Comment:** The Council received two comments opposing the designation of Wells Harbor, Maine as EFH, suggesting that the appropriate scientists were not consulted, that there was no information contributing to the designation, and that the designation was intended to prevent a maintenance dredging activity.

Response: Wells Harbor, Maine, was designated EFH for five species: Atlantic

herring, white hake, windowpane flounder, winter flounder, and yellowtail flounder. The information used to develop these designations was obtained from the NOAA Estuarine Living Marine Resources (ELMR) program reports. A summary of these reports and an explanation of the Council's rationale for incorporating the information they contain in the EFH designation process is provided in Section 3.2.2 of the amendment. Local scientists were consulted in the development of the ELMR reports used by the Council. The Council made great efforts to ensure that all EFH designations were based on biological information without regard to human activities or their impacts -- addressing impacts to EFH separately. Review of any planned maintenance dredging operation will fall under the EFH consultation process led by NMFS. The Council will support NMFS in this process. No EFH designations were made for the purposes of preventing any specific actions including dredging.

11. **Comment:** There was a single comment asking where the habitat area of particular concern (HAPC) concept came from.

Response: The guidelines published in the *Federal Register* via an Interim Final Rule on December 19, 1997, Volume 62, Number 244, describes the definition, criteria and use of HAPCs. §600.810, §600.815(a)(6), §600.815(a)(7), and §600.815(a)(9) provide detailed guidance to the Council regarding the designation and management of HAPCs.

12. **Comment:** The Council received a comment that when using adult distributions as a proxy for designating EFH for eggs and/or larvae, the Council should limit the use of the proxy to the distribution of spawning adults, rather than the entire range of adults.

Response: The Council agrees with the intent of this comment, unfortunately, the data and information available to the Council did not differentiate between the range of adults in general and the range of spawning adults. As this information is made available, the Council will refine its EFH designations.

Comments Related to the Proposed Juvenile Atlantic Cod HAPC Designations:

13. **Comment:** A large number of letters, form letters, and verbal comments supported maintaining current closure restrictions for the juvenile Atlantic cod HAPCs, rather than restricting the use of all fishing activity within this area. The Council received several letters of support for providing these areas permanent protection from destructive fishing practices. The Council received several comments specifically opposed to closing the juvenile Atlantic cod HAPCs to all types of fishing activity.

Response: The Council proposes to maintain the current Closed Area II closure restrictions for the juvenile Atlantic cod HAPC and, by doing so, the Council did not propose to close the area to all types of fishing activity. For a discussion of the Council's rationale for choosing this alternative, see Section 12.2.5. No action that the Council takes is ever "permanent" as a later Council action can undo the earlier action.

14. **Comment:** A large number of form letter and other written comments suggested that there is evidence of areas in Gulf of Maine that should be designated as HAPCs for juvenile Atlantic cod.

Response: The comments did not provide any additional information and the Council did not have access to any information suggested by these comments. The Council will pursue this issue and continue to review any information made available. The Council has the option to designate additional HAPCs using the framework adjustment process.

15. **Comment:** The Council received several comments supporting the designation of two areas (one in Closed Area II and one in Closed Area I) as juvenile Atlantic cod HAPCs.

Response: The Council considered the information available on both areas and determined that only the information available for Closed Area II was sufficient for the Council to designate this area as an HAPC. The information on the area within Closed Area I was insufficient to make an HAPC designation.

16. **Comment:** The Council received several comments that the proposed HAPC designation for juvenile Atlantic cod in Area I was based on insufficient and inconclusive information.

Response: The Council considered the information available on both areas and determined that only the information available for Closed Area II was sufficient for the Council to designate this area as an HAPC. The information on the area within Closed Area I was insufficient to make an HAPC designation.

17. **Comment:** The Council received several comments opposing the areas proposed for juvenile Atlantic cod HAPCs, either because the information on which the designations were based is wrong (either there is no cobble in these areas or there are no juvenile cod in these areas), because these areas are productive scallop grounds and therefore should not be designated juvenile Atlantic cod HAPCs, or because there may not be enough information to support the cod HAPC designations.

Response: There is a substantial literature of scientific studies that demonstrates the importance of this habitat type and the characteristics found in Closed Area II for increased survival of recently settled juvenile Atlantic cod (see Section 3.3.1 for summary). NMFS research clearly indicates an abundance of juvenile Atlantic cod within the HAPC designated in Closed Area II. Independent scientific research has, for several years, documented the location of cobble substrate along the northern edge of Georges Bank. Taken together, this information provides more than enough of a basis for designating the small area on the northern edge of Closed Area II as an HAPC for juvenile Atlantic cod.

18. **Comment:** The Council received one comment that the range of management alternatives presented to conserve the juvenile Atlantic cod HAPC does not really represent the two extremes of possible measures.

Response: The Council felt that going out to public hearing with a range of alternatives from maintaining the status quo to the most restrictive possible measure (prohibiting all fishing activity in the area) did represent the two extremes of measures it could implement for this area.

19. **Comment:** The Council received one comment that the juvenile Atlantic cod HAPC is also an important area for herring (egg beds).

Response: The Council recognizes that this may be the case, and the Council will continue to review the information on this area and take additional action, as appropriate.

Comments on the Proposed Atlantic Salmon EFH and HAPC Designations:

20. **Comment:** The Council received two comments that it should be more specific in the designation of Atlantic salmon EFH, as well as a comment that the best available data was not used to designate salmon EFH.

Response: The Council agrees that with more detailed information it may be able to refine the EFH designations for Atlantic salmon to be more specific and limited to specific portions of rivers, rather than the entire river watershed. At this point, however, the information available to the Council did not provide a level of detail sufficient for the Council to limit the EFH designations beyond naming entire river systems as EFH. It is important to note that the Atlantic salmon EFH Text Description (Section 3.4) does provide limiting factors, such as substrate type, water depth, etc. for the EFH designation.

21. **Comment:** The Council received one comment that the river tributaries should be included in Atlantic salmon EFH designations.

Response: In its review of the information available, the Council agreed that the Atlantic salmon EFH designations should include the tributaries to the named river systems. The Atlantic salmon EFH Text Description clearly states that these tributaries are included in the EFH designation.

22. **Comment:** The Council received one comment that the St. Croix River should not be considered EFH for Atlantic salmon because it borders Canada.

Response: The Council considered the available information and the methodology used to designate EFH for Atlantic salmon and the St. Croix River met the criteria set by the Council. However, the Council can only designate EFH in U.S. waters, so, by definition, only those portions of the St. Croix River that are within the U.S. border are included in the EFH designation for Atlantic salmon.

23. **Comment:** The Council received a few comments that it should limit the Atlantic salmon HAPC designation to seven rivers in Maine rather than the proposed eleven rivers.

Response: The Council considered all available information regarding the appropriateness of designating just the seven rivers, or all eleven rivers as HAPCs for Atlantic salmon. Considering the importance of all eleven rivers for Atlantic salmon, and the likelihood that the salmon from the four rivers in question are part of the same distinct population segment as the salmon from the other seven, the Council felt that it was appropriate to include all eleven rivers in the Atlantic salmon HAPC designation. These four rivers met the same criteria used by the Council to designate HAPC for Atlantic salmon as the other seven.

24. **Comment:** The Council received one comment that it should designate all eleven proposed rivers as HAPC for Atlantic salmon.

Response: The Council considered all available information regarding the appropriateness of designating just the seven rivers, or all eleven rivers as HAPCs for Atlantic salmon. Considering the importance of all eleven rivers for Atlantic salmon, and the likelihood that the salmon from the four rivers in question are part of the same distinct population segment as the salmon from the other seven, the Council felt that it was appropriate to include all eleven rivers in the Atlantic salmon HAPC designation.

25. **Comment:** The Council received one comment that the Connecticut and Merrimack Rivers should be considered for HAPC designation for Atlantic salmon.

Response: Based on the information available to the Council in review of this issue, it did not appear that the habitat of these two rivers met the criteria for HAPC designation. The rivers are not thought to support salmon from the distinct population segment of salmon that occupy the rivers in Maine, and thus do not meet the criteria set by the Council. These rivers are considered EFH for Atlantic salmon.

Comments Related to Fishing Related Impacts Assessment:

26. **Comment:** The Council received one comment that lobster gear (pots) has no adverse impact on habitat. This individual was concerned that the Council might assume that all gear has the same impact and that to protect EFH, the Council might prohibit all types of fishing gear.

Response: While it is possible that under certain conditions and used a certain way, lobster pots would have the potential to adversely impact certain types of benthic habitat, based on the available information, under most conditions lobster pots contribute minimally, if at all, to the adverse impacts on habitat associated with fishing activity. The Council recognizes this and in no case did the Council propose to restrict the use of lobster pots for habitat protection.

27. **Comment:** The Council received several comments that scallop dredging contributes to habitat destruction, and because of this, scallopers should not be allowed in the Closed Areas.

Response: The Council agrees that there is evidence that scallop dredges have the potential to cause adverse impacts to certain types of benthic habitats. No where in the EFH amendment does the Council propose to allow scallop dredges into any of the Council's current closed areas where they are currently prohibited.

28. **Comment:** The Council received *two* comments that scallop gear does no more damage to habitat than any other gear, and that scallop dredges actually enhance habitat.

Response: All fishing gears interact with the bottom in different ways and have different impacts on different types of habitat. On some types of habitat, certain gears may have a greater potential to cause an adverse impact, while on other types of habitat, different gears may have a greater potential to cause an adverse impact. There may be certain conditions under which a scallop dredge may enhance habitat, but the scientific literature available to the Council largely suggests that scallop dredges are more often associated with adverse impacts to habitat.

29. **Comment:** The Council received one comment that killing epifauna may not be bad for the environment.

Response: There is no evidence to support this assertion, but if the Council received scientific information which does support the assertion, it would give it due consideration. Emergent epifauna provides a third dimension to the sea floor, providing shelter for many juvenile groundfish to avoid predation, as well as attracting organisms which are prey for these juvenile groundfish.

30. **Comment:** The Council received many individual letters and form letters suggesting that the Council's EFH management proposal does not go far enough to protect EFH from the adverse impacts associated with fishing activity.

Response: The existing management measures and the new management measures proposed in the Council's SFA amendments provide significant conservation benefit to EFH. The Council will continue to examine any adverse impacts to EFH associated with fishing activity and will implement new management measures if it determines that such action is required to meet the intent of the Sustainable Fisheries Act. Section 8.0 describes the process the Council will use to continue this process.

31. **Comment:** The Council received one comment that the current management measures do not protect EFH.

Response: The Interim Final Rule suggests three options for managing the adverse effects from fishing: (1) fishing equipment restrictions; (2) time/area closures; and, (3) harvest limits. The Council currently employs all three of these mechanisms in the various fisheries it manages and, as such, these existing measures meet the standard set out in the Interim Final Rule for protecting EFH.

Comments Related to the Non-Fishing Related Impacts Assessment:

32. **Comment:** The Council received several comments expressing concern about the impacts on habitat of non-fishing related activities.

Response: The Council is also concerned about non-fishing related impacts to EFH and has completed an assessment of the most significant non-fishing related threats to EFH (Section 5.0) and has developed habitat conservation and enhancement recommendations to mitigate these impacts (Section 6.0).

33. **Comment:** The Council received two comments that it should prioritize the most significant non-fishing impacts and develop trigger levels for Council involvement.

Response: The Council recognizes that it can not become involved with all decisions relating to non-fishing related activities that may adversely impact EFH, but it does not want to unnecessarily rule out possible involvement in the future, regardless of the level of the activity.

34. **Comment:** The Council received one comment that it should take a stand against land-based outfall systems, especially the Massachusetts Bay outfall pipe system.

Response: The Council does intend to keep informed of developments in this area and will review information as it becomes available, especially on the Massachusetts Bay outfall system. If and when appropriate, the Council will become actively involved and provide comments to the relevant agencies.

Comments on the Proposed Framework Adjustment Process:

35. **Comment:** The Council received several comments supporting the use of a framework adjustment process to streamline future EFH actions.

Response: The Council has proposed to use the framework adjustment process detailed in Section 4.12 of the amendment to streamline future designations of EFH or HAPC and to implement future management measures for the conservation of EFH.

36. **Comment:** The Council received two comments opposing the use of a framework adjustment process to streamline future EFH actions.

Response: The Council has proposed to use the framework adjustment process detailed in Section 4.12 of the amendment to streamline future designations of EFH or HAPC and to implement future management measures for the conservation of EFH. The Council's framework adjustment process complies fully with the Administrative Procedures Act which ensures the appropriate level of public input. This is the most efficient mechanism the Council can use to accommodate future action. The public will continue to have an opportunity to provide input on all actions proposed by the Council.

New England Fishery Management Council

Public Hearing Summary Essential Fish Habitat Amendment

Gloucester, MA
July 14, 1998

Chair: John Nelson

Other Council Members: none

Council Staff: Michael Pentony, Tony Wilbur

Attendance: 15 (11 signed)

Vito Calomo, Executive Director, Fisheries Commission of Gloucester: Thank you for your presentation. A lot of times research is passed back to the public saying that fishermen are responsible for habitat destruction. Your point is well taken that outfall pipes and power plants may have destroyed more habitat than fishing has over the past 375 years. Fishermen, the scientists of the ocean because they do it everyday and their livelihoods depend upon their knowledge of the sea, can now fish in every area that they have fished over the past 375 years. As far as a lack of codfish, in the Gulf of Maine, our fishermen are reporting enormous catches, far greater than we ever believed possible at this time. Our fishermen are tied to the dock because they are catching their trip limit in one set, and this is of record, not a fabrication. Essential fish habitat is very important but I want everyone to know what direction we are going in. When Peter Prybot asked what does this mean to a fisherman, I wondered also. It was a good presentation, but it was soft. I think when more restrictions are placed on the fishermen, that more restrictions ought to be placed on the dumping at sea of illegal toxins by government agencies that have been done in the past and we find out 20 or 30 years later that it was done. I think it is very easy to use fishermen as scapegoats, and we are sick and tired of it, especially here in Gloucester, the oldest fishing port in the country as we come up on the 375 year. Our history is based on two species mainly -- the Atlantic codfish and the Atlantic mackerel. We are seeing vast schools of mackerel coming back our way in the spring. Have we disturbed habitat by our fishing practices? I'm not so sure. I see that you have streetsweeper gear listed. Are they detrimental? Has science shown that they are detrimental? Just because everybody jumped up and down over a new gear technology, it may be better for the environment, better for the habitat. No one can tell me yet that this type of gear is detrimental to habitat. Maybe they catch more fish, but I'm not so sure I would have listed that. Today we are seeing fast growth in fish stocks, especially in Georges Bank area. We have had long closures in place, but nowhere near as long as the scientists suggested it would take. Seeing recoveries three and four times as fast for cod, haddock and yellowtail flounder. We are seeing these recoveries and we haven't done much to protect habitat. We are seeing large massive schools of striped bass, all recovering, and I don't see any protection of habitat. If you tell me we should protect habitat from toxins, I'll jump up and down and support you 100%. When we start aiming a little to strong at fishermen because they are weak at best right now, from Amendment 5, Amendment 7, boat buybacks, closures, new closures, they are getting pounded to

death. They are not on their knees, they are on their bellies, where they have been for some time. But, we have had a few sparks of life with the resurgence of groundfish, the resurgence of topnotch herring, mackerel, pelagics such as tuna, striped bass. So we have this resurgence, and really, not tremendous things were done, just Amendment 7 with a larger mesh and a closure that everybody yelled about but seems to be working out very fine. I don't think the habitat came back that fast, I think it was a reduction in the fleet and a larger mesh size that is working and I think it is a highly educated fisherman. I think the Council has done a good job in a very tough time. I don't agree with the Council all the time, or with Andy Rosenberg all the time, but as a team the effort was put forward and has shown good results. A lot of people did go out of business, but some of them needed to go out of business they were poor managers and not good fishermen. Some of our fishermen have been lost, not because of habitat but because of poor management. When times are good it is easy to be a good fisherman and a good manager, but when times are tough you have to be good fisherman and a good manager. Some are falling by the wayside just like any other industry. Our concerns are great as we wonder where and how you may use this, but it was music to my ears to hear you speak of a specific feature that I believe has caused more destruction than any other activities -- the toxins in the water, the pollution from outfalls, the power plants that discharge (it is easy to see that in that area there are no fish, the lobsters seem to be deformed in the area and there aren't any lobsters or crabs or other crustaceans growing in that area). This is of great concern to fishermen and of great concern to you people who manage the fisheries. I will probably have written comments to submit.

Ralph Maling, President, Massachusetts Lobstermen's Association: I am pleased to see you looking at things other than the fisheries that are causing problems for the habitat, because I come from the area that is devastated by the chemicals put in the water. There are going to be problems when that outfall goes in there, just nine miles from Deer Island. Right now in our area you can draw a line from Beverly to Scituate and everything west of the line is gone. There are no crabs, lobster or flounder. Nobody fishes for crab and yet the crabs are gone. There are no small flounder and yet we used to have a tremendous recreational flounder fishery. We've lost a lot. They tell us the lobsters are healthier, but when you go into an area and pick up only 10 lobsters and one is healthy, but years back you would go in and pick up 200 and 5 might be diseased, it makes a difference. They are cleaning up 1 or 2 lobster, but they are killing 1000's. I was surprised by the presentation showing that so many species are caught by pots, when that hasn't been so for many years. Massachusetts Lobstermen's Association is opposed to closing any area, regardless of where it is, to lobster gear. We feel lobster gear is inert; it does nothing. We feel that this shouldn't be a problem for the habitat, it just lays there. I really want to see this committee look at the possibility of damage from the outfall. Once it opens in October, it is too late. They said they looked at the impacts to habitat, but they didn't, they studied what we call sand fleas, these tiny little shrimp. But heck, they will live anywhere, even the surf zone. Once the outfall opens, the wastes that aren't going out to that area now, will be going out there. It will get carried off by the currents, and there will be a greater volume of water affected. If something goes wrong with the plant, they have no way to turn it off. We are concerned that the wastes are going to be carried off and impact Cape Cod Bay, Massachusetts Bay, and Stellwagen Bank. We will be

sending written comments. On all your charts, you show concentrations of juvenile fish in Massachusetts Bay and Boston Harbor, and we don't see them anymore.

David Lincoln, Gloucester Fishermen's Wives Association: written statement attached.

Peter Prybot, commercial fisherman: If I interpreted everything correctly, this group is looking at man-made impacts to habitat, but I'm wondering if you are taking into account natural impacts. Natural impacts to habitat can be significant and can dramatically change the habitat.

Tom Brancaleone, President, Gloucester Fishermen's Association: In the last 40 years, I have seen the number of passenger vehicles quadruple, plus we have all the trucks. This is a big industry and it also has significant impacts on the habitat. It takes 25 years and then it hits the sediment. We have seen this in the Mississippi, in the Gulf of Mexico. Are we going to do this EFH for all species? Or all we going to just look at a few? Everybody is scared, every time we open a door to the NMFS, it always goes against the fishermen. I wonder if there is someone way up there trying to do something. Once we make something essential, they can do whatever they want. The government can do whatever they want and kick out the fishermen to have people come in and mine and drill. Regarding the specific HAPC, he has never seen cod spawning in this area, and never sees juveniles, they migrate in from Canada. When we started fishing, we fished the banks, not around here. There were no rules, we did what we wanted. We brought in the spawners and yet the next year there were still lots of fish. So it hasn't been the fishermen that have caused the problems. We never devastated the area, something else is causing the problems: the fish are not growing fast enough, they are not spawning enough, they don't stay here, they move away. We see a difference in water temperature, it is getting warmer. We don't want to be told that we can't go somewhere and yet someone else can go there.

Angela SanFillipo, Gloucester Fishermen's Wives Association: I was at the Oceans Conference, in Monterey, CA, and the President signed two executive orders which unfortunately have not been publicized very much here on the east coast. One of the orders focused on the mapping of the sea floor for the whole U.S. and Dr. Sylvia Earle was put in charge of that effort. We understand that under the SFA, you have to do this by October, but this was just signed recently and this is going to give us a really good picture of what the bottom looks like. The dead zone in the Gulf of Mexico was discussed. This area is dead because of what comes out of the Mississippi River. I understand the mandate, but given what is coming up, isn't this premature? What if we close an area to fishing because of what we think the bottom is and displace boats to another area, then we find out that that area wasn't what we thought it was, and it was really where we displaces the boats to? Has the Council been notified that this is going to be taking place? For 21 years, we have disrupted people's lives through regulations and now we are at the bottom with these things and we can accept assumptions that are going to devastate people's lives and sure we can say in the future that we made a mistake, but its not going to bring the fishing families and the fishing communities back. Offshore pollution was discussed and accepted as a cause of habitat impact. The Council should

not be making decisions that impact people's lives without complete information. The Council should request this additional information. We are concerned that these areas have been affected by many things not related to fishing. We are concerned about that the Canadians are talking about the end of their moratorium in 2000. As soon as they can prove that there isn't much of an industry left, they will move in and we won't be able to stop them. In the early 1980's we were able to stop them, but it was because the industry was at its strongest and its best.

New England Fishery Management Council

Public Hearing Summary Essential Fish Habitat Amendment

**West Boothbay Harbor, ME
July 15, 1998**

Chair: John Nelson

Other Council Members: Lewis Flagg

Council Staff: Michael Pentony, Tony Wilbur

Attendance: 8 (6 signed)

Jeff Kaelin, Maine Sardine Council: Regarding the EFH designations for Atlantic herring, I believe that the preferred alternatives of 100% of herring egg beds, 90% of the range of larvae, and 50% of the ranges of juveniles and adults are very fair and represent the areas we feel are most essential for where the herring are. We wanted to remind the Council that our comments on the Herring FMP state that we believe that more information is needed on herring egg beds and we believe that we get more information on the locations of herring egg beds, then discrete areas should be closed to all mobile gear fishing to protect the habitat of these areas, similar to the approach taken for the juvenile cod HAPC designation. Because these designations are based on the locations of cobble substrate, these areas must also be important for herring spawning and we think that closures will protect the herring areas from the impacts of mobile fishing. We are comfortable with these designations. Nothing in the document suggests implementing juvenile catch limits for herring, but we do note that there are juvenile protection areas for Atlantic cod, and there doesn't appear to be information on areas where juvenile herring congregate or what the conditions are under which they congregate to be able to implement any type of closure to protect juvenile herring. We like the idea of the critical habitat approach, but there isn't enough information on herring to implement this yet for juvenile herring. Based on the description of the habitat of the juvenile Atlantic cod habitat areas of particular concern, it probably includes herring spawning grounds as well. There is considerable research being undertaken by groups such as NOAA and the Island Institute on the identification and understanding of herring spawning habits and egg beds. Our overall concern with the document is that it is too broad and we would like to see more specifics on the management measures considered by the Council. The document doesn't say that the Council wants to protect habitat to maximize fish production and we are concerned about the scope of what the Council intends regarding EFH. It is expected that the current year-round closures to bottom-tending mobile gear will provide significant benefit to herring spawning grounds without additional impact to groundfishermen. There are additional closures to groundfishing, however, that are at the wrong time to protect herring spawning grounds, and yet the herring fishermen are prohibited from using midwater gear during herring spawning season. The EFH public hearing document is amazing in its scope. We believe that the framework adjustment process, as outlined in the document, is the way to go for the Council. There is not enough of a statement as to why the Council is doing this, other than because the SFA

requires it, nor does it say what the Council's habitat policy is. We support the SFA and are pleased to see that the habitat provisions were strengthened. We operate five sardine plants in Maine, processing 35,000 metric tons of herring each year valued at \$60 million. When the Clean Water Act was implemented, it forced us to change our processes, but there is still a long way to go to get 100% compliance in the upland areas. The seafood processing sector is not polluting, but the coastal areas are the most susceptible to pollution. More research is needed on the impacts of pollution on the coastal environments. The definitions in the document regarding threats and impacts appear to suggest zero tolerance for all impacts. We are primarily concerned with public health and not necessarily all contaminants are bad. The definitions in the document are too broad and the document is value neutral. The term "adverse" is not defined in the document. Based on the document, any activity could be prohibited as an adverse impact. We would like to see the Council hold additional public hearings on these issues as the Council gets more specific. I would like to also comment on the proposed designations of eleven rivers as HAPC for Atlantic salmon. I am also working with the Council on Farming, Fishing, and Forestry. The Council had a meeting on Monday to discuss the provisions of the document related to Atlantic salmon and they will be submitting written comments. There has been a lot of attention focused on the seven rivers of Maine, and now the Council has expanded its focus to include eleven rivers without first focusing on developing concrete measures for the first seven. As a citizen observer, it seems to me that the Council ought to get behind the efforts to conserve the seven rivers and support the existing and planned state efforts. With only 200 naturally-spawned fish, how are they going to make it and be brought back? We should focus efforts on developing and improving modern stocking programs. We would support limiting the Atlantic salmon HAPC designation to the seven rivers. Also wanted to mention that the current research partnership between NMFS, Maine DMR and the industry is working really well. The regional research boards are a good idea, but there should be more focus on basic research.

David Stevenson, Maine Department of Marine Resources: We may have missed a ten minute square in our designation of herring egg beds at the northeastern most part of the map. There has been recent research which has shown this area to support herring spawning, and this area should be included in the designation.

Tom Howard, Georgia-Pacific Corporation; Maine Pulp and Paper Association: We are looking at the document and will be submitting written comments.

Lou Flagg, Maine Department of Marine Resources: We really need to emphasize the paucity of data and it makes people concerned because of the very large areas that are designated. There is information from the Maine Salmon Authority on specific parts of rivers that are more valuable for salmon habitat. This information should be incorporated into the process to give the Council more credibility. We should be identifying the truly high priority areas.

New England Fishery Management Council

**Public Hearing Summary
Essential Fish Habitat Amendment**

**Portsmouth, NH
July 16, 1998**

Chair: John Nelson

Other Council Members: Patten White

Council Staff: Michael Pentony, Tony Wilbur

Attendance: 13 (11 signed)

Pat White, Maine Lobstermen's Association: We are opposed to closing the Atlantic cod habitat areas of particular concern to all types of fishing activity.

Nick Jenkins, Shafmaster Fishing Co.: I am opposed to closing the Atlantic cod habitat areas of particular concern to all types of fishing activity.

Lori Howell, Spinney Creek Shellfish, Inc.: I feel that both the non-fishing impacts report and the conservation and enhancement measures should be made available for public review and comment.

Robert Foley, Town of Wells: Was not notified of the hearings; the Council should send hearing notices to all towns.

New England Fishery Management Council

Public Hearing Summary Essential Fish Habitat Amendment

Buzzards Bay, MA
July 17, 1998

Chair: Bill Amaru

Other Council Members: Eric Smith, Phil Coates, Jim Kendall

Council Staff: Michael Pentony

Attendance: 13 (12 signed)

Jim Kendall, New Bedford Seafood Coalition: When you identified the two alternatives for managing the Atlantic cod habitat areas of particular concern, you stated that it could be either one of these or something in between, and I don't think that's the case. I don't think this is the minimum and the maximum that we're looking at. I think that these are the most extreme sets of alternatives and yet you identified that it would be somewhere inside these two ranges. I am particularly bothered by this. We're looking at access to the Closed Areas for experimental fisheries. That in itself takes away one of the options, it takes away the closure restrictions on scallop dredges within that area. Take that away and you no longer have a range within which to work. You have another option that you could try to apply that would be to close the areas. It could stay within that range but there is another option; we could do away with the status quo. That is not to say that it has to remain. I'd like to go and prove that these two areas that have been proposed as HAPC for codfish are the same for scallop, particularly when the benefit to the nation is taken into account because these areas contain the highest concentrations of adult scallops. How do we affect those two issues if we're caught between two alternatives that allow me no access. This is for the record and it needs to be answered, it is not your opinion or mine. It should be no secret that I'm particularly concerned, myself, about these areas, because I think they are very disingenuous. They're arbitrary; they have been taken on a lot of information loosely assimilated and extrapolated to include a second area within Closed Area I. There is absolutely no evidence, other than geologic surveys, that says yes, there are rocks there. And with that they've made a habitat area of particular concern there. That is stretching their rights and their charge an awful long way. And I say for us, for this is our interpretation, this is not the way this plan is supposed to work. It is supposed to be explained as practical as possible and give the public their due rights to comment, as I am trying to do. I think that it has been missed on this, whether they have jumped too quick at the bait or what. It is fast, footloose and fancy free.

Bob Naly, commercial fisherman: There are a range of gear types, landings, size and types of boats being used, yet the same restrictions exist for all fisherman regardless of the size of their boats. We with small boats can't stay out in storm, yet the big boats can. We have to save our days-at-sea for when fishing is good. There are certain types of gear and boats that don't impact the habitat as much as other types. Hook fishermen have the

least impact on the resource and the habitat. The little guy shouldn't get hurt because of what the big guy can do or did. For small boats, they shouldn't be limited to the same DAS as the big boats, because Mother Nature limits when we can fish. There are so many differences in a small boat fishery versus a large boat fishery and some of the things that are being kept equal such as DAS and all of those kinds of things that if the Council is going to do something to protect the HAPC, I don't like the idea of closing the areas to all types of gear. I think that my type of gear [hook tub trawler] should be cut some slack.

Bob Davies, commercial fisherman: I fish whatever I can fish, wherever I can fish. I have a multispecies DAS permit. I have several state permits. I started fishing when I was 7 years old and I'm now 55 years old. I've fished all types of boats and all types of gear. I've gone out on scallop boats, not as crew but just for the sake of going out and having a good time. I fished gillnets as crew for about fifteen years. I've been on various types of draggers throughout my life. I now fish a 22' boat, because of my choice to be a day boat. I don't think I destroy the bottom, but I've fished a lot of bottom and I've seen a lot of bottom destroyed. You can't let one type of gear, scallop dredges, into the closed areas and then they will destroy the habitat by turning the bottom over and removing the growth. Unless you put an observer on board, he's going to keep going and go as far as he can and take as much as he can get away with. Gillnets stay out there all the time and they impact the bottom, too. You've got a leadline and it moves over the bottom. If you're going to let the scallopers in there, which are going to do a lot more damage than even a gillnetter, why not let boats like me in there, too. The MAFMC has allowed the squid fishery to go down the tubes. The habitat has been destroyed by draggers. There used to be a lot of rocks where the squid were, but you've got all the draggers in there and there are no rocks anymore. Send a diver down to look, there's nothing left. Most of us couldn't get more than 50 pounds out of there. By letting the scallopers in there, you're not stopping the destruction of the habitat. This year you can hardly catch a scup in the Sound. Habitat destruction is responsible for decreases in the scup fishery. Big draggers go to a spot and drag all day and they have to be impacting the bottom. I have to fish every little bump and every little rock that I know of, and there are fewer and fewer because of the big draggers and habitat destruction. They turn it all into a big sand pit. You've got to stop destruction of the habitat and discards. There used to be eelgrass all around but we don't have any eelgrass around any more. That's why we don't have a scallop fishery in Hyannis. It used to be a great fishery, but we ruined it because we had little scallop dredges dredging up the grass. To me it don't make sense. That's habitat destruction. Whatever you do, you've got to stop that, stop the raking over the grass. Bycatch reduction has to part of it. Why would you fish something at 3 inches that doesn't spawn until it is 9 inches. You're killing your own resource. I'm dead against putting a scalloper in the Closed Areas for any reason. If you want to sea sample, put a federal boat in there and let them sample. Don't let a scalloper in there and rake the bottom. It is not right; it is wrong.

Phil Coates, Massachusetts Division of Marine Fisheries: I have a couple comments on the development of the EFH amendment and the process. We are on record in supporting the process, we think it is an appropriate way to begin addressing the difficult issues

relating to the complex interactions of the ecosystem and man's use of the ecosystem and if it will develop and result in the additional protection on some of these resources, we strongly support these initiatives at both the Council, federal and interstate levels. We are pleased to see the Council identify in the winter flounder EFH designation the area of Nantucket Sound and the adjacent areas off Nantucket. We do have some concerns, however, about the habitat areas of particular concern. We think the Council may be jumping the gun on this, there is a lot of information we need to get and I understand the concerns of a lot of the people on the range of alternatives presented. I realize that we can back off from those extreme measures, but we do not support closing the areas to all types of fishing.

Judy Pederson, MIT Sea Grant Program: My only comment is that you have a lot of potential non-fishing impacts listed that you may want to address and I urge you strongly to identify which ones are potentially important. You are probably going to have to come up with some sort of range below which there is no effect, above which there is definitely an effect and in between you need to study them. Otherwise you are going to end up with such a broad array of pollution issues that the public is going to always be questioning what the Council is doing. I suggest taking a look at the review for the outfall for a place to start in developing these trigger levels.

Ray Starvish, commercial fisherman: I am against the two huge HAPC areas that you are asking for because they are very productive scallop grounds. Where there are big sets of scallops, they cover the rocks and you would get no benefit to cod. When we find a set of scallops, we can go into an area and we don't catch any rocks. The longer and longer we fish there, eventually we get rocks. If you want an area, I would suggest an area on the northern edge about one tenth the size. It's a highly productive area. Many people in the industry are concerned that we are going to use habitat to close all of Georges Bank to create a gigantic marine reserve and ban all otter trawling and dredges forever. Is it so bad? I've seen pictures when a scallop dredge goes over the cobble areas, they knock it all around and all the green stuff gets knocked around and gets killed. Maybe that's not so bad, maybe the green stuff just dies by itself after awhile and its good to knock it around and move it around and keep everything going.

Ken Silva, commercial fisherman: I remember when the Texas tower blew down in the mid-1960's. For 14-15 years we fished in that area, scalloping with a 57' boat. In that one storm, the bottom was trashed way more than all the fishing in the world could have done.

Jim Kendall, New Bedford Seafood Coalition: We are stewards of the resource and should not attack each other. Defend your own fishery - don't attack others. Yes, there are always impacts, but then we make assumptions about the extent and magnitude. Please just state that these are not known facts, but just assumptions.

Bob Davies, commercial fisherman: You can't convince me that dragging doesn't change the habitat. I've seen it - the rockpiles are no longer there, the hills are no longer there. Over time, the dragging, a centimeter at a time, smoothes the bottom. There didn't

use to be rockhoppers and things that let you drag over the rocks. If you are going to let the scallopers in the Closed Areas, put observers on board. Discards are also a big problem.

Ken Orsine, commercial fisherman: The scallopers do no more damage to the habitat than any other gears. If there were no closed areas, the scallopers wouldn't be in the Channel. The biggest problem is the Council needs to manage itself better. There are 20,000 - 30,000 people in the south coast of Massachusetts that distrust the Council and the government. The habitat will be meaningless. Maybe in the year 2000, someone will be elected that has the same fear and people are going to lose their jobs. This is a very dangerous thing and we are at the end of the line. My days as a fisherman and owning a boat are over. Be very careful how you treat this habitat business. All the problems come from fear. The whole fishery management council is managed poorly.

Ken Silva, commercial fisherman: You said you need the information and cooperation of the fishermen, and I've never been contacted. This whole thing didn't happen overnight, it took 300 years and you're not going to fix it in six months.

Jeff Plante, Eastern Utilities: You need to prioritize the non-fishing impacts.

New England Fishery Management Council

**Public Hearing Summary
Essential Fish Habitat Amendment**

**Toms River, NJ
July 20, 1998**

Chair: John Nelson

Other Council Members: none

Council Staff: Michael Pentony

Attendance: 8 (6 signed)

Art Glowka, Save the Sound: I applaud the tremendous amount of effort that has gone into this process. You've certainly come a long way from what you had before. Are you considering the planktonic communities important for these species? Are you considering predator-prey relationships?

Ray Grodeska, commercial fisherman: The scallopers are ruining the areas that we fish called The Forms. They are running over the wrecks and the rocks. There used to be 10 - 20 wrecks and now they're gone. The banks are gone and the rocks are gone. Every year, the scallopers take around 3000 lobster pots of ours and we've been trying for ten years to keep them out of there. I've been talking to Andy Rosenberg and he can't do anything. We've had meetings with the scallopers and now they won't even come to the meetings and they keep taking our pots. Now you've got the monkfish fishermen coming down from the north and setting their nets out. Fish habitat is being impacted by the scallopers.

New England Fishery Management Council

Public Hearing Summary Essential Fish Habitat Amendment

Warwick, RI
July 22, 1998

Chair: John Nelson

Other Council Members: Jim O'Malley

Council Staff: Michael Pentony

Attendance: 8 (5 signed)

Ellen Skaar, commercial fisherman: I was born a fisherman's daughter and I am a fisherman's wife. Fishing industry is my life and my livelihood. This amendment and this fish habitat that the government embarks on again without having a clue what they are doing, to me is totally ludicrous and I am sorry to call myself an American at this point. There is one thing that I want to say to the document when the Council asked: no, no framework. This ridiculous stuff has to be brought to the public's attention one by one. For the record, this Boston Globe article from Thursday, July 16, 1998, should be considered by the Council [copy of article is attached].

Jeremy Collie, University of Rhode Island: I have two technical comments about the document and I will take them in turn. The first has to do with the designation of winter flounder eggs being based on the distribution of adults. And likewise, the EFH for winter flounder larvae and juveniles is also based on the distribution of adults. The EFH for monkfish eggs is based on the distribution of monkfish adults, as well. My thinking here is that these designations ought to be based on locations of spawning adults, which would be smaller areas than the entire range of adults. Second comment regarding transboundary stocks and what are we assuming about the proportion that occurs outside of the U.S. EEZ. Should we be designating EFH for these species over the entire range, including areas within Canadian waters? Given that the percentage provided in the caption for each preferred alternative is based on the entire range of the species, including that portion in Canadian waters, but that the proposed designation is limited to U.S. waters, then the percentage is not quite accurate.

Jay Hermsen, University of Rhode Island: I spent some time at the NMFS Northeast Fisheries Science Center and they were conducting research and examining the gonad condition of fish for all eighteen species. This information should be available to the Council and could be incorporated into the EFH designation process. Also, can you explain how you developed the criteria for developing the set of alternatives considered by the Council for each species?

Laura Ernst, Rhode Island Coastal Management Council: I am looking for a clarification of the planned extent of Council comments in state waters. Also, what about areas not specified in the text description as EFH?

Harriet Deidrekson, commercial fisherman: I own part of a fishing vessel. Fishing has supported me for my entire life and my family for generations. Here in America we have fished since the early 1900's. When we talk about all of this today, my fear is the future. All fishing people are in fear of their future. When I see the metric up there asking for framework, and I see stopping of DAS and the numerous things up there, I see fishing being stopped. I worry where this is going to go. When I hear you saying you are going to identify the essential fish habitat, and we have information from the fishermen, how good is the information? We're down to the same thing: you don't have the information, yet we are going to move forward. This is the problem I see with everything that is being done. Then we will get down to the best available, and we'll have to settle. I fear where it's going to go. We learned in grammar school that the continental shelf was one of the best homes for fish and produced fish. But when we look at National Fisherman and it says "fight the hype of the green movement." Then I look at the document that you put on the table, and it says that you really don't have the information and I look at the dates of the surveys and some are from the 1970's. You don't have the long-term studies to really give the information. I ask that the government look at fishing and how long fishing has been going on in the U.S. and that if there weren't still fish out there then we wouldn't be here today and I ask that this be given the greatest weight. I would like to say that it is fear of the future for fishing, that's why I am here today. No frameworking.

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'We were being told all kinds of crazy things. There were reports of... big electric rays in very shallow water where you would never see them.'

GARY FITZHUGH, National Marine Fisheries Service

Rare cold spot ravages the Florida Panhandle

Fish found to be almost nonexistent

By Cyril T. Zaneski
 KNIGHT RIDDER SERVICE

MIAMI - A dramatic and mysterious cooling of waters in the north-eastern Gulf of Mexico is killing fish and chilling bathers along the beaches of the Florida Panhandle.

Coastal water temperatures, from near the Alabama line to as far east as Panama City, Fla., plunged suddenly from the upper 80s last week to the low 70s, just a bit higher than one might find off Cape Cod this time of year.

What is most puzzling to scientists is that the clear, cold water is devoid of life. Fish are smothering in its very low levels of dissolved oxygen.

"Nobody has ever seen anything like this before," said Gary Fitzhugh of the National Marine Fisheries Service in Pensacola. "And nobody has come up with an explanation about what's causing this phenomenon."

The best scientific guess now is that the cold water has welled up from the DeSoto Canyon. The canyon's terraced walls begin their gradual descent to 6,000 feet just 30 or so miles off the Panhandle beaches. The canyon is believed to play an important role in steering currents through the Gulf.

"There's just not a whole lot known about the specifics of what goes on in that canyon," said Sneed Collard, a biological oceanographer at the University of West Florida. "So it's very hard to say why there would be an upwelling at this time."

The chilly water, with temperatures in the lower 60s a few miles off

The US Geological Survey saw it then in satellite imagery. The cold water was stretched in a 15- to 20-mile-wide band just a few miles off the beaches, he said.

What was startling about that band was its lifelessness.

"In 80 to 100 feet of water you would see only dead or lethargic fish and shrimp," Fitzhugh said. "We were being told all kinds of crazy things. There were reports of big fish, like big electric rays, in very shallow water where you would never see them."

Gulf waters off Florida usually have dissolved oxygen that measures 4 or 5 milligrams per liter, oxygen levels in the cold water plume measured less than 1 milligram and as low as 0.2, said Nancy Rabalais, a Louisiana researcher.

"That low reading is very surprising," Rabalais said. "Usually, cooler water brings oxygen with it."

Not only should the cold water have carried larger amounts of dissolved oxygen, it should also not have been at the surface. It should have sunk.

"Having cold water from top to bottom probably killed all the food sources for marine life," Collard said.

With the reports of fish kills in late June and early July, the state Department of Environmental Protection's marine scientists investigated for possible red tides or other harmful algae blooms. They found none.

In the last week, the blob of cold water expanded and moved right to the beaches, Collard said.

New England Fishery Management Council

5 Broadway, Saugus, MA 01906-1036
Tel (781) 231-0422 • Fax (617) 565-8937

7

Chairman
Joseph M. Brancaleone

Executive Director
Paul J. Howard

Essential Fish Habitat

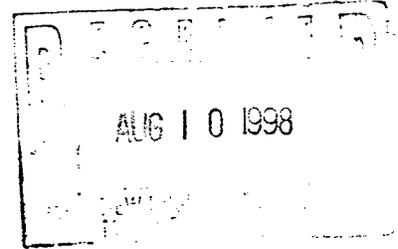
Written Comments

Late comments received: August 10, 1998 – August 13, 1998



July 29, 1998

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA



Dear Mr. Howard,

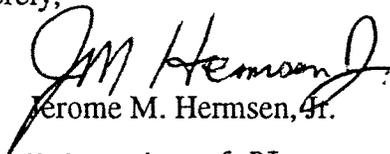
The following are comments on Essential Fish Habitat:

In general, kudos to the members and employees of the Council who clearly worked long and hard on the Public Hearing Document.

Although the need to designate a "preferred EFH designation", an area for each of the managed species which can be called essential fish habitat, is clear, the designation process can and should remain dynamic. I, therefore, agree with the proposed framework adjustment process described on pages 182-3 of the public hearing document. If essential fish habitat is to be used as a management tool, a means by which management councils promote stewardship of marine resources by emphasizing habitat, then designation of EFH might be better as an open process. For example, suppose the Council wanted to discourage a non-fishing impact such as the disposal of radioactive waste on the grounds that habitat will be adversely affected. If proposed waste disposal areas are not within the "preferred alternative" areas for any of the Council's managed species but are within the known range of any of these species, then the Council may choose to modify the EFH designation in the context of the impact. Or, if the disposal grounds are set at a distance from the EFH-designated areas but oceanic circulation patterns put EFH in the path of radioactive water, then the Council may wish to modify EFH recommendations.

Concerning Habitat Areas of Particular Concern (HAPC's): These area designations might also be justified on the grounds they allow for scientific study on a myriad of topics of concern to marine resources. One of the more obvious would be research on the rate and mode of recovery of impacted areas after such impacts as scallop dredging and trawling. Research might also focus on marine refugia for the enhancement of commercial fishery resources including the feasibility, size and shape of a given refuge. In many cases, an investigation of this nature cannot be conducted in areas where impacts are continuing. Such closures, which would serve to enhance the marine resource in the long-term, should become a priority for the Council.

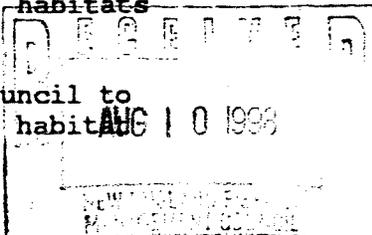
Sincerely,


Jerome M. Hermsen, Jr.

University of RI
Grad School of Oceanography
Narragansett Bay Campus
Narragansett, RI 02882-1197

As a scuba diver, I have become more interested in marine habitats during my education.>

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.



I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

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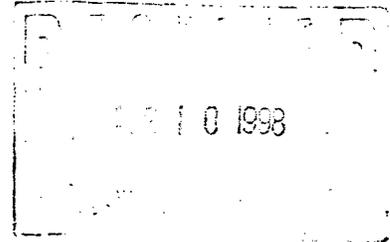
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UNIVERSITY OF
RHODE ISLAND

29 July, 1998

Mr. Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906



Dear Mr. Howard:

I am writing to comment on the Public Hearing Document for Essential Fish Habitat. I have also read the National Marine Fisheries Service's draft recommendations dated 7 July 1998, and will also address some of the comments made therein. My comments are of two types: technical comments about designating EFH and more general comments about designating Habitat Areas of Particular Concern (HAPC).

Designation of EFH

1. I agree with NMFS that the EFH designations would benefit from a more complete description of the methodology used for determining EFH. In particular it would be useful to clarify the relationship between the 10-min squares ranked by decreasing abundance, and the percent of total abundance that is represented. A simple graph, like the one sketched below, for one of the species (cod) would help to explain this relationship, which is difficult to describe with words. I agree with NMFS that it would be desirable for the textual definitions of EFH to be more specific.
2. For several of the species (e.g. monkfish, winter flounder, pollock, redfish) EFH for the larval and/or juvenile stage is based on the survey distribution of adults. Ideally these definitions would be refined as the adult distributions, during the spawning season.
3. The NMFS review pointed out that the captions for the preferred alternative EFH designations list the percentage of the observed range encompassed by the selected alternative from the survey data only. These percentages are not strictly correct for species whose range extends into Canadian waters or where squares have been added based on historical or industry information. I think that the

preferred alternatives should reflect the complete percentages of the observed range of the species, including its occurrence in Canadian waters.

In some cases (e.g. sea scallops on page 106) the preferred alternative is based on differing information sources. The survey data are based on CPUE and the areas identified by the fishing industry are essentially presence-absence data. I think that sea scallops occur at lower densities along the coast of Maine than on Georges Bank and in the mid Atlantic.

Designation of HAPC

I support the proposed habitat areas of particular concern for juvenile cod. I favor option 1: to maintain the current Closed Area I and II restrictions on bottom fishing activity. The closed areas have attracted fixed gear (e.g. off-shore lobstering) but at present levels, these fixed-gear activities are unlikely to significantly impact the habitat.

The case for designating HAPC in Area II is quite clear-cut. This gravel habitat has been well mapped by Valentine et al. and it is known to be a nursery area for juvenile cod. Contrary to the comment made in the NMFS review, this habitat does provide two ecological functions. The colonial epifauna in this habitat provide shelter for the juvenile cod and for their invertebrate prey. The importance of habitat complexity for juvenile cod has been demonstrated in the studies cited in the Public Hearing Document and in a more recent experiment by Lindholm and Auster. The importance of habitat complexity for the prey species of groundfish was measured by Collie et al. (1997).

The case for designating HAPC in Area I is less clear-cut. There is gravel habitat in this area, but it has not been mapped with the same resolution as the northern part of Georges Bank. The sediment map that has been reproduced by NEFMC appears to be the same as a map produced by John Schlee in 1973 (Geological Survey Professional Paper 529-L) based on a grid of grab samples and echo sounding. In 1996 we conducted preliminary sampling in Closed Area II, but to the west of the 10' quadrant designated as HAPC. There is gravel habitat in this area, but it seems patchier than on northern Georges Bank, and interspersed with mobile sand. The USGS has planned an intensive side-scan sonar survey of this area. Initially planned for 1997, the side-scan survey will not occur until late

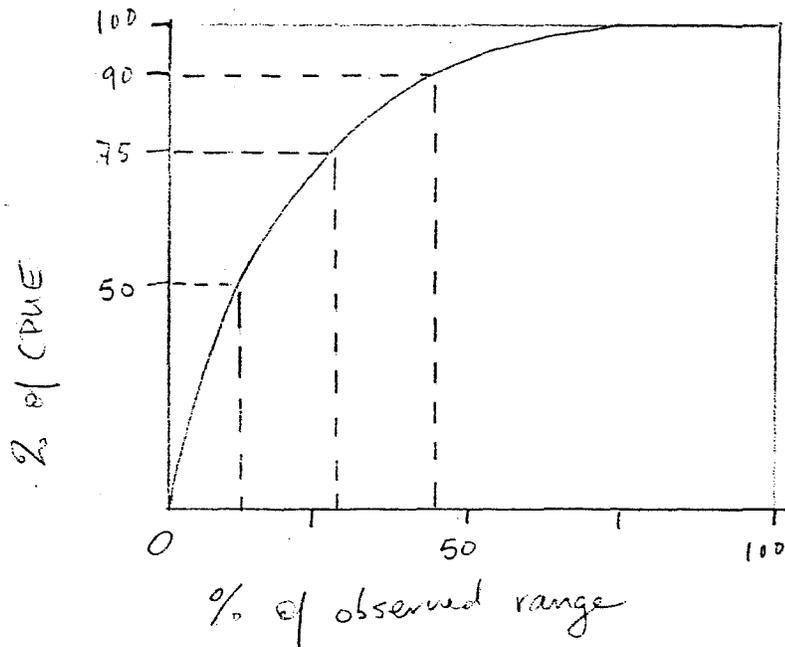
October 1998, according to Page Valentine. We have postponed biological sampling of this habitat until we have a better sediment map.

Based on the precautionary approach, I think that the Council would be justified in making the Area I HAPC designation. The boundaries of the HAPC could be refined under the framework adjustment process, when additional habitat data become available. A case can also be made for the value of the HAPC as scallop habitat. If these are settlement areas for juvenile scallops, which later diffuse out to surrounding areas, they may increase the catch per unit effort of the scallop fishery, as suggested by Caddy (Spatial model for an exploited shellfish population, and its application to the Georges Bank scallop fishery, J. Fish. Res. Bd. Can. 32:1305-1328). The HAPC could thus become part of a spatial management plan for sea scallops.

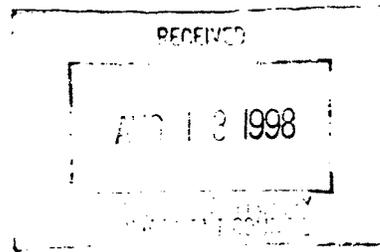
Sincerely,

Jeremy Collie
Jeremy S. Collie
Associate Professor

cc: Michael Pentony



To Paul Howard,



8-9-98

I support efforts of the New England Fishery Management Council to protect coastal waters, ~~with~~ with regulations of ~~gear~~ ~~netting~~ ~~and~~ fishing + minimum size regulations for angle fishing + close fishing during spawning to ensure a sustainable yield of fish populations + other marine organisms.

Specifically that the council
"describe + identify EFH for the fish species w/in their jurisdiction - minimize to the extent practicable adverse effects on EFH caused by fishing - identify other actions to encourage the conservation and enhancement of EFH." for fishing management plans.

Thank you,

Jim Ninkovich

PO Box 1415

Madison, IL 62443

New England Fishery Management Council

5 Broadway, Saugus, MA 01906-1036
Tel (781) 231-0422 • Fax (617) 565-8937

Chairman
Joseph M. Brancaleone

Executive Director
Paul J. Howard

Essential Fish Habitat

Written Comments

Late comments received: August 3, 1998 – August 7, 1998

I support conservation of essential
marine fish habitat, especially pre-
ferred alternatives for designating Essential
Fish Habitat (EFH) for ocean fish of
New England; designate 2 Habitat Areas
of Particular Concern (HAPC) for juvenile
cod; protect the sensitive areas
from damaging fishing gear by, at the
very least, maintaining the current closure
restrictions within the 2 cod HAPCs;
continue to designate EFH for remaining
species (such as halibut) & devise to
minimize adverse impacts on EFH (from
fishing as well as non-fishing activities)

Thank you very much

Respectfully

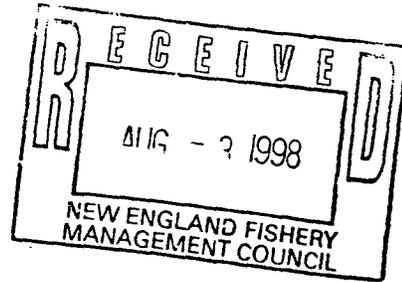
Lynne Tisdale

2-2-1998

Mrs. Richard Tisdale
43 Greenway St
Cranston RI 02910-5913

RECEIVED
FEBRUARY 2 1998

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

**Hayden Brockett
183 Victoria Rd
New Britain, CT 6052**

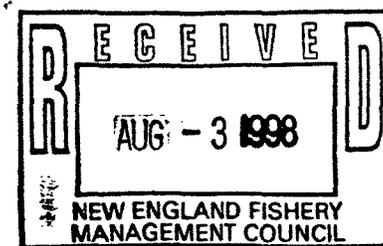
cc:

**Senator Joseph I. Lieberman
Senator Christopher J. Dodd**

Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

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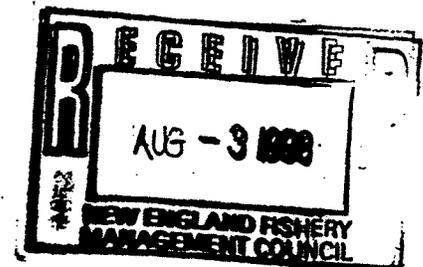
The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

July 31, 1998

Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906



Re: **Essential Fish Habitat**

Dear Captain Howard:

The Center for Marine Conservation (CMC) appreciates this opportunity to comment on the New England Fishery Management Council's plan to designate and protect Essential Fish Habitat (EFH) for fish species within its jurisdiction. CMC feels that the Council has made impressive progress toward *designating* EFH, but has fallen short of fulfilling its mandate under the Sustainable Fisheries Act (SFA) to *protect* EFH.

CMC recognizes the hard work of the Council's Habitat Committee and advisors and we are generally supportive of the Council's preferred alternatives for designating EFH. We urge the Council to complete EFH designation for the remaining species, particularly Atlantic halibut.

CMC strongly supports establishing "Habitat Areas of Particular Concern" (HAPCs) for areas judged to be particularly important to the long-term productivity of fish populations or particularly vulnerable to degradation. We support the New England Council's attention to areas characterized by gravel/cobble substrate that support thick colonies of "emergent epifauna." As documented in the public hearing document, scientists have shown that such epifauna can increase survival of juvenile cod by providing both readily available prey and refuge from predators. Bottom fishing, particularly scallop dredging, reduces emergent epifauna and thereby threatens the survival of juvenile cod. Although scientific information on other species is lacking, it is likely that protection of such areas will similarly benefit a wide array of marine organisms including other depleted groundfish.

CMC supports the proposed HAPCs for cod and urges the Council to protect these sensitive areas from damaging fishing gear by, *at the very least*, maintaining the current groundfish closure restrictions within them. We believe that a scientific basis exists now for the Council to identify additional gravel/cobble bottom areas in New England waters that should also be designated as HAPCs and closed to trawling, dredging and other practices that damage emergent epifauna.

Paul Howard
July 31, 1998
page 2

Despite these commendable designation proposals, CMC believes that, even when combined with the other existing fishery management measures identified in the hearing document as protective of EFH, the New England Council's proposals fall short of fulfilling the SFA mandate to *protect* EFH. We urge the Council, as required by law, to systematically inventory and evaluate a wide range of measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. A practical and effective strategy should be adopted swiftly. The Council and its advisors should also continue their work to identify additional actions that will address adverse impacts from non-fishing activities and enhance marine fish habitat.

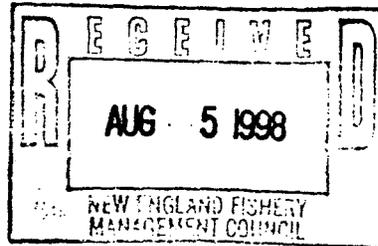
Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Sonja V. Fordham". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sonja V. Fordham
Fisheries Project Manager

**Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937**



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

**Christopher Friar
131 Brittany Manor Dr.
Amherst, MA 01002**

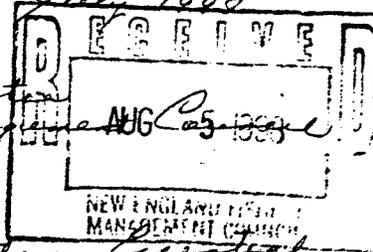
cc:

**Senator Edward M. Kennedy
Senator John F. Kerry**

Judith M. Coe
400 Foster Rd.
South Windsor, Ct. 06074

400 Foster 1
So. Windsor, CT 06074
19 July 1994

Paul Howard Esq. Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906



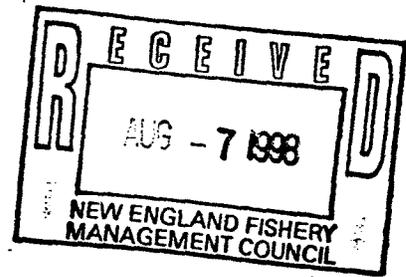
Dear Sir: RE: Comments on Essential Fish Habitat.

I would like to express my support for your Council's preferred alternative for designating Essential Fish Habitats for ocean fish of New England, & especially for the proposal to designate two Habitat Areas of Particular Concern for juvenile cod. I'd like to urge the Council to protect these sensitive areas from damaging fishing gear by at least maintaining the current closure restrictions within the two cod HAPC's.

Finally, I'd like to encourage the Council to continue to designate EFH for remaining species such as halibut, & devise strategies to minimize adverse impacts on EFH from fishing as well as non-fishing activities.

Thank you,
cc: Senator Chris Dodd
Senator Joe Lieberman. Judith M. Coe

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

Please see to it that the the New England Fishery Management Council takes strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

If we don't protect our fish habitats, we may no longer have any fish at all. Please take a strong stance in your position on the New England Fishery management Council to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

Timothy Hoopkins
18 Phillips Lane
Darien, CT 6820

cc:

Senator Joseph I. Lieberman
Senator Christopher J. Dodd

New England Fishery Management Council

5 Broadway, Saugus, MA 01906-1036
Tel (781) 231-0422 • Fax (617) 565-8937

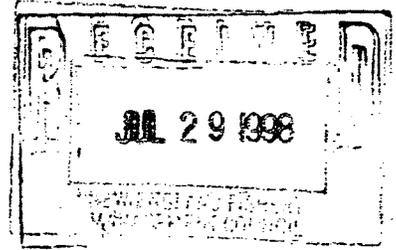
Chairman
Joseph M. Brancaleone

Executive Director
Paul J. Howard

Essential Fish Habitat

Written Comments

July 29, 1998



29 July, 1998

Mr. Paul J. Howard
Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906

Dear Mr. Howard:

I am writing to comment on the Public Hearing Document for Essential Fish Habitat. I have also read the National Marine Fisheries Service's draft recommendations dated 7 July 1998, and will also address some of the comments made therein. My comments are of two types: technical comments about designating EFH and more general comments about designating Habitat Areas of Particular Concern (HAPC).

Designation of EFH

1. I agree with NMFS that the EFH designations would benefit from a more complete description of the methodology used for determining EFH. In particular it would be useful to clarify the relationship between the 10-min squares ranked by decreasing abundance, and the percent of total abundance that is represented. A simple graph, like the one sketched below, for one of the species (cod) would help to explain this relationship, which is difficult to describe with words. I agree with NMFS that it would be desirable for the textual definitions of EFH to be more specific.
2. For several of the species (e.g. monkfish, winter flounder, pollock, redfish) EFH for the larval and/or juvenile stage is based on the survey distribution of adults. Ideally these definitions would be refined as the adult distributions, during the spawning season.
3. The NMFS review pointed out that the captions for the preferred alternative EFH designations list the percentage of the observed range encompassed by the selected alternative from the survey data only. These percentages are not strictly correct for species whose range extends into Canadian waters or where squares have been added based on historical or industry information. I think that the preferred alternatives should reflect the complete percentages of the observed range of the species, including its occurrence in Canadian waters.

In some cases (e.g. sea scallops on page 106) the preferred alternative is based on differing information sources. The survey data are based on CPUE and the areas identified by the fishing industry are essentially presence-absence data. I think that sea scallops occur at lower densities along the coast of Maine than on Georges Bank and in the mid Atlantic.

Designation of HAPC

I support the proposed habitat areas of particular concern for juvenile cod. I favor option 1: to maintain the current Closed Area I and II restrictions on bottom fishing activity. The closed areas have attracted fixed gear (e.g. off-shore lobstering) but at present levels, these fixed-gear activities are unlikely to significantly impact the habitat.

The case for designating HAPC in Area II is quite clear-cut. This gravel habitat has been well mapped by Valentine et al. and it is known to be a nursery area for juvenile cod. Contrary to the comment made in the NMFS review, this habitat does provide two ecological functions. The colonial epifauna in this habitat provide shelter for the juvenile cod and for their invertebrate prey. The importance of habitat complexity for juvenile cod has been demonstrated in the studies cited in the Public Hearing Document and in a more recent experiment by Lindholm and Auster. The importance of habitat complexity for the prey species of groundfish was measured by Collie et al. (1997).

The case for designating HAPC in Area I is less clear-cut. There is gravel habitat in this area, but it has not been mapped with the same resolution as the northern part of Georges Bank. The sediment map that has been reproduced by NEFMC appears to be the same as a map produced by John Schlee in 1973 (Geological Survey Professional Paper 529-L) based on a grid of grab samples and echo sounding. In 1996 we conducted preliminary sampling in Closed Area II, but to the west of the 10' quadrant designated as HAPC. There is gravel habitat in this area, but it seems patchier than on northern Georges Bank, and interspersed with mobile sand. The USGS has planned an intensive side-scan sonar survey of this area. Initially planned for 1997, the side-scan survey will not occur until late October 1998, according to Page Valentine. We have postponed biological sampling of this habitat until we have a better sediment map.

Based on the precautionary approach, I think that the Council would be justified in making the Area I HAPC designation. The boundaries of the HAPC could be refined under the framework adjustment process, when additional habitat data become available. A case can also be made for the value of the HAPC as scallop habitat. If these are settlement areas for juvenile scallops, which later diffuse out to surrounding areas, they may increase the catch per unit effort of the scallop fishery, as suggested by Caddy (Spatial model for an

exploited shellfish population, and its application to the Georges Bank scallop fishery, J. Fish. Res. Bd. Can. 32:1305-1328). The HAPC could thus become part of a spatial management plan for sea scallops.

Sincerely,

Jeremy S. Collie
Associate Professor

cc: Michael Pentony

New England Fishery Management Council

5 Broadway, Saugus, MA 01906-1036
Tel (781) 231-0422 • Fax (617) 565-8937

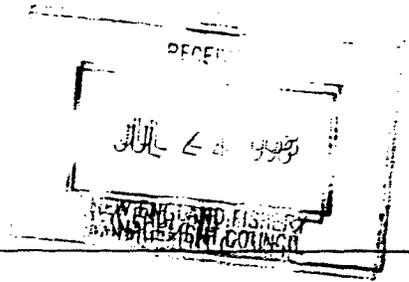
Chairman
Joseph M. Brancaleone

Executive Director
Paul J. Howard

Essential Fish Habitat

Written Comments

July 24, 1998 – July 31, 1998



"Comments on Essential Fish Habitat"

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906

Dear Mr. Howard:

The 1996 Sustainable Fisheries Act (SFA) improved current law by emphasizing the importance of a healthy habitat to healthy fish populations and strengthening the ability of regional Fishery Management Councils to conserve it.

I support conservation of essential marine fish habitats and the New England Council's proposals for

1. preferred alternatives for designating Essential Fish Habitat for ocean fish of New England
2. two Habitat Areas for juvenile cod.

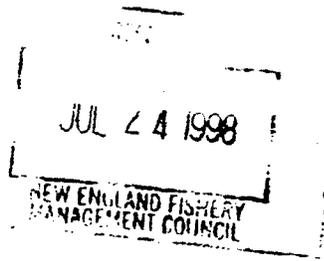
I urge the Council to protect these sensitive areas from fish gear, to designate EFH for remaining species such as halibut and to minimize adverse impacts on EFH from fishing and non-fishing activities.

Sincerely yours,


Kenneth P. Kates, CIU, ChFC

KPK/jss

31 Kingstown Way
Duxbury, MA 02332
July 22, 1998



Paul Howard
Exec. Dir.
New England Fishery Management Council
5 Broadway (Rt. 1)
Saugus, MA 01906

Comments on Essential Fish Habitat

I am writing to express my support for the Council's preferred alternatives for designating ESSENTIAL FISH HABITAT (EFH) for ocean fish of New England. I am very much in favor of the Council's proposal to designate two HABITAT AREAS OF PARTICULAR CONCERN (HAPC) for juvenile cod. I am requesting that the Council protect these sensitive areas from damaging fishing gear by maintaining the present restrictions within the two cod HAPCs. I hope the Council will continue to designate EFH for remaining species and devise strategies to minimize adverse impacts on EFH (from fishing as well as non-fishing activities).

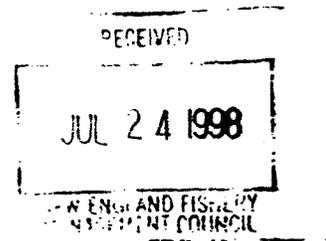
Sincerely,
Thomas Chapman

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906

Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

As a Rhode Islander concerned about the future of fish habitats, I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.



I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

Jim Marsden
540 Hope St.
Providence, RI 02906-2661

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

Re: Comments on Essential Fish Habitat

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Thank you for considering these views.

Sincerely,

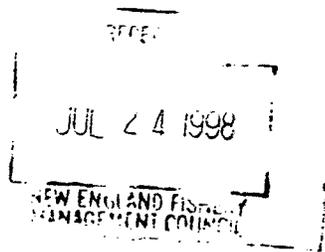
Roy McCluskey
239 Allston St.
Cambridge, MA 2139

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

RECEIVED
JUL 24 1998
NEW ENGLAND FISHERY
MANAGEMENT COUNCIL

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

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Thank you for considering these views.

Sincerely,

Sara Holland
6 Liberty Lane West
Hampton, NH 3842

cc:

Senator Bob Smith
Senator Judd Gregg

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

Re: Comments on Essential Fish Habitat

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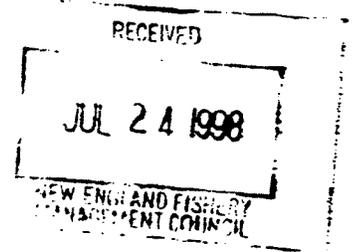
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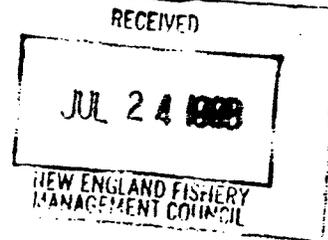
Dominic DeSiata
33 Second Brook St.
Kingston, MA 02364

cc:

Senator Edward M. Kennedy
Senator John F. Kerry



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5 Broadway
Saugus, MA 01906
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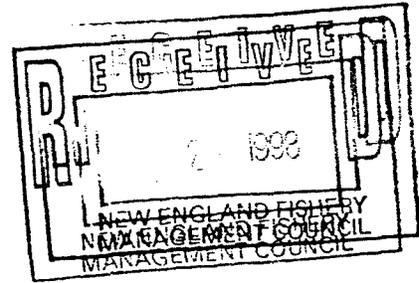
Sincerely,

Azur Moolaert
6 North Market Building
Faneuil Hall Marketplace
Boston, MA

cc:

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Senator John F. Kerry

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New England Fishery Management Council
5 Broadway
Saugus, MA 01906
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Robert K. Reidda
22 Muzzy St
Bristol, CT 2809

cc:

Senator Joseph I. Lieberman
Senator Christopher J. Dodd

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5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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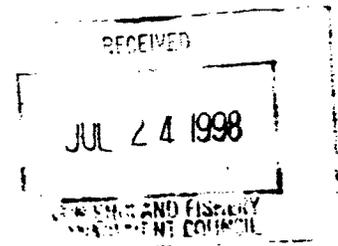
Sincerely,

MARISA MAZZOTTA
10 KICKAPOO RUN
CHARLESTOWN, RI 02813

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
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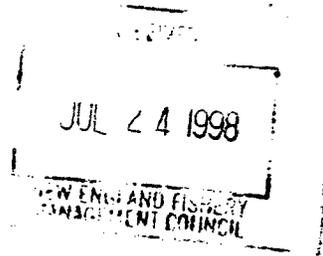
Sincerely,

Tara Swinchatt
52 Cook Hill Road
Cheshire, CT 06410

cc:

Senator Joseph I. Lieberman
Senator Christopher J. Dodd

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
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The saddest fact is that the majority of competition USA fisherman feel is from foreign vessels. Enacting the strictest legislation practicable is mandatory to protect American waters, American natural resources, American jobs, and American heritage industries.

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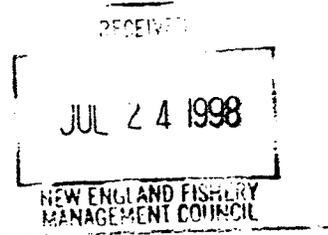
Sincerely,

David Russo
65 Hills Ferry Road
Nashua, NH 03060

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Senator Judd Gregg

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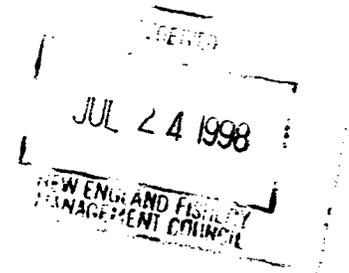
Sincerely,

Rosemary Russo
65 Hills Ferry Road
Nashua, NH 03060

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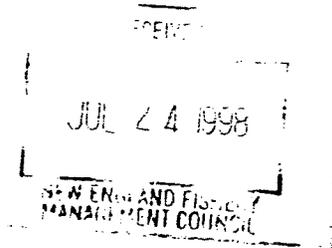
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Curran Nachbar
Box 4766,
Brown University
Providence, RI 02912

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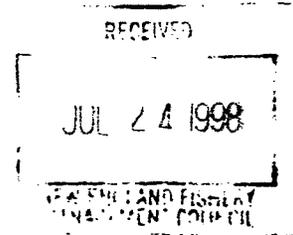
Sincerely,

Belinda Cox
P.O.Box 493, Main St
Farmington, ME 04938-9999

cc:

Senator Olympia J. Snowe
Senator Susan Collins

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New England Fishery Management Council
5 Broadway
Saugus, MA 01906
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RR 1 Box 185
E. Lebanon, ME 4027

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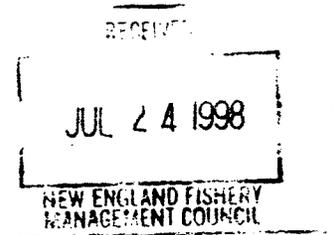
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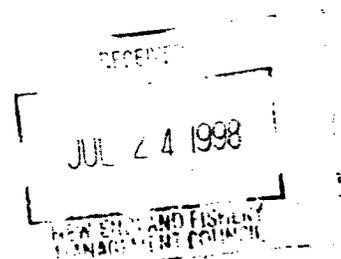
George Levesque
80 Sheffield Rd
Waltham, MA 2154



cc:

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Senator John F. Kerry

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For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

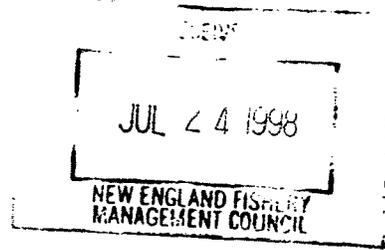
John Colton
303 Tappan St.
Brookline, MA 02146

cc:

Senator Edward M. Kennedy

Senator John F. Kerry

*Robert A. Foley
57 Shady Lane
Wells, ME 04090
207-646-2409*



Paul J. Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906

Re: Comments on Essential Fish Habitat

Dear Members of the Council:

Please accept the following written comments to be included as part of the public record for the establishment of Essential Fish Habitat.

My name is Robert Foley, I am a resident of the Town of Wells in the State of Maine. Although I attended the public hearing on the proposal in Portsmouth, N.H. Thursday, July 16, 1998 and gave limited public comment, I wish to expand upon my objection to the inclusion of Wells Harbor as a part of the designation of essential fish habitat in the Gulf of Maine.

At the time of the "public" hearing, which only 8 members of the public participated, I did not have ample time to review the document prior to the meeting. I only found out about the meeting and the proposal the day before. All attempts to secure information prior to the meeting about the proposal, from local and state officials, were unsuccessful. Not one of officials in the Town of Wells had prior knowledge of the current proposal or even knew that the proposal was being considered. Not the Town manager, Town attorney, Harbor Master, head of the local fisherman's co-op or the Chairman of the Board of Selectmen. I contacted Dr. Michelle Dionne, head of research for the Wells National Estuary Research Reserve, a Division of N.O.A.A. She has conducted the most extensive research of the fish population in the Wells Embayment, including Wells Harbor and she knew nothing of the proposal. She found the consideration of Wells Harbor as essential fish habitat a far reaching aspiration based on bad scientific data. Bad science makes for bad decisions. Not only was she not contacted but none of her extensive research data was ever used or consulted. Many of the scientist within the New England Division of N.O.A.A. and the National Marine Fisheries know of Dr. Dionne and her work.

My first objection to the inclusion of Wells Harbor as a part of this proposal is based on inadequate public notice and participation in the development of the propo-

sal. The lack of public consultation with local officials should have been mandated regarding the establishment of any local facility or area to be considered in this proposal. While I did object to this at the public hearing I sensed that public input was not a high priority on that agenda. Had public input been wanted it could have been received. Notice to the local officials previously mentioned would have assured the committee ample scientific input as well public comment. Rather than 8 participants you could have had 80.

My second objection to the inclusion of Wells Harbor as a part of this proposal is based on the science, or lack of scientific information, necessary to make such a considered judgment reliable. Of the 18 species under consideration in the essential fish habitat designation, Wells Harbor only has 2 reported as having any presence within the waters of the harbor. That presence is limited to a few adults and juveniles, if we can believe or trust the information provided. The material used for making this "informed" decision was based on a N.O.A.A. study conducted between 1977 and 1988. Current information is available and should have been used in any study that establishes such a restrictive proposal. Even those members of your organization who conducted the meeting acknowledged the limited and out-dated material. It was that concern that was given for establishing a research priority for ongoing consideration of new areas to be designated, however we were told that all current areas would remain a part of the proposal. What I heard far too often was that the Magnuson-Stevens Fishery Conservation and Management Act mandates that something must be done, quickly. I don't believe that the act requires imprudent establishment of habitats for the sake of compliance with the legislation! bad science makes for bad policy decisions.

Having lived along the Wells Embayment for over 20 years, having served on the Board of the Wells Reserve Management Authority and having been involved in the management issues and concerns regarding the environmental considerations of Wells Harbor in relationship to maintenance dredging, I have not once heard the term essential fish habitat used by any of the "concerned" environmental agencies in order to establish a concern for the proposed dredging project. Many creative environmental suggestions have been offered but not this one, until now.

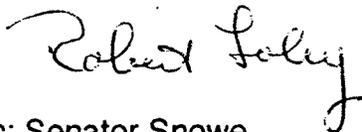
Several months ago town officials, Wells Reserve officials and myself met with the New England Division Of National Marine Fisheries as part of the Town's attempt to communicate with interested parties regarding the Wells Harbor Dredge. Not once did any of the officials of N.M.F. advise of this potential designation. John Caskey has been our contact person with that organization and he has never mentioned this issue or potential as a concern of that organization. Based on the scientific information cur-

rently available I can assure you that the Webhanet River, the source for Wells Harbor, does not currently qualify for essential fish habitat within the proposals definition . Wells Harbor is essential fisherman habitat and lobsterman habitat not fishery habitat. Certainly areas like the Little River to the north of the harbor have greater potential and could perhaps support such a designation but not Wells harbor, already a Federally designated habitat for human species, essential for commercial and pleasure water craft.

I also object to the limited description of the boundaries contained within the designated proposal sites. Wells Harbor, by definition, is a small inlet at the mouth of the Webhanet River used for mooring boats and providing ocean access to the general boating public. The study that was referenced in the proposal by N.O.A.A. was conducted some 3 miles off shore within the Wells Embayment , significantly outside of the Wells Harbor boundaries. Definitions of the proposed areas need to be redefined to be far more specific of the area needing protection. To have stated that the Wells Embayment, outside of the Wells Harbor inlet, was to be considered as an essential habitat site, I believe, would be a better definition of an actual potential site, but not Wells Harbor.

I strongly oppose the inclusion of Wells Harbor in this proposal. It would appear to me that the only reason that the inclusion of Wells Harbor was added to begin with was to prevent future attempts at maintenance dredging. Local, state and federal environmental agencies have opposed the dredge of Wells Harbor for decades. Attempts to circumvent the regulatory review process have failed, they are now resorting to the designation of essential habitat under the endangered species act to close the lands surrounding the harbor and now the endangered fisheries act to close the lands within the harbor. This abuse of Federal regulatory power must stop here and now. No scientist worth his or her salt would concur with the establishment of Wells Harbor as essential fish habitat under this or any other proposal.

Respectfully submitted,

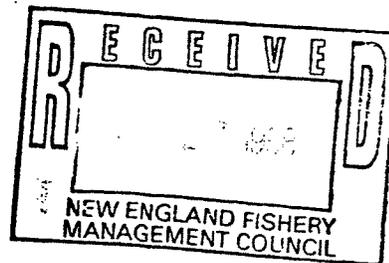


cc: Senator Snowe

Senator Collins

Wells Town Manager and Board of Selectmen

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act. The Environmental Defense Fund sent me a pre-written letter, but I'm just adding my own thoughts here.

I want to see a thriving New England fishing industry both in the rivers and in the sea. I just turned fifty and I can honestly say that I don't see as many fish as I did when I was ten. I remember going fishing from Hampton Beach, NH in the late 1950s for cod and mackerel. Our group from summer camp rented a "deep" sea fishing boat each Thursday for our Friday fish lunch. Generally, we had no trouble catching lots of fish.

I know now that you have to go miles out to sea to catch fish. There are not as many fish as there used to be. The rivers are not different. They are not as polluted but they need more fish.

Thank you for considering these views.

Sincerely,

WILLIAM ALDRICH
1733 COMMONWEALTH AVE
Newton, MA 02165-2828

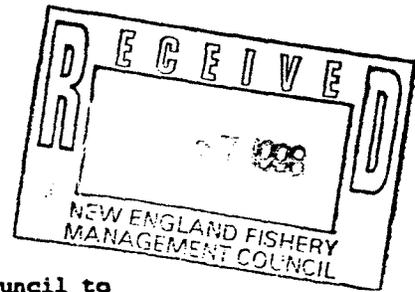
cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

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Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

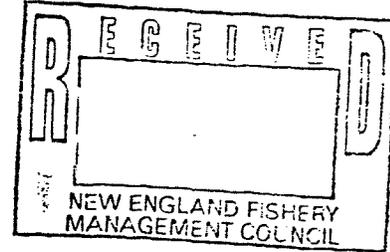
Sincerely,

Patrick D. Hayes Jr.
18 Maplewood Ave.
Marlborough, MA 01752

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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Sincerely,

Ralph Earle
50 Belknap Street
Concord, MA 01742-2402

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

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Thank you for considering these views.

Sincerely,

Allyson Beck
Rt. 106
South Woodstock, VT 05071

cc:

Senator James M. Jeffords
Senator Patrick J. Leahy



Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

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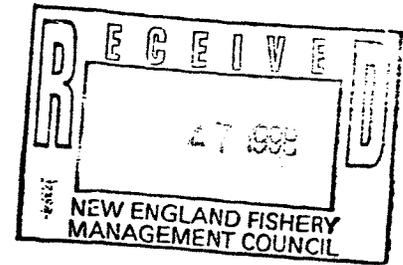
Thank you for considering these views.

Sincerely,

KENNETH B COGSWELL
4 ROCKY HILL RD
AMHERST, NH 3031

cc:

Senator Bob Smith
Senator Judd Gregg



It is really ridiculous how little protection fish stocks get in this country. If we do not act now to put the fisheries on a sustainable course, fish stocks will disappear, the fishing industry will collapse, and ocean ecosystems will suffer.

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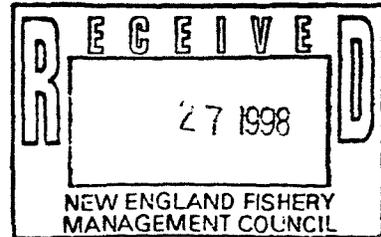
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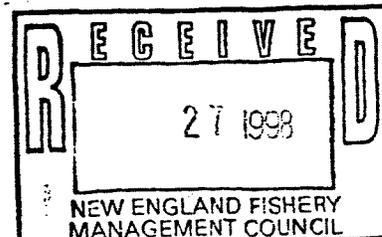
David Schorr
100 York St
New Haven, CT 6511

cc:

Senator Joseph I. Lieberman
Senator Christopher J. Dodd



Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

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I wish to thank you in advance for considering these ideas and viewpoints and hope that you will be able to continue in your support defending our spaceship earth.

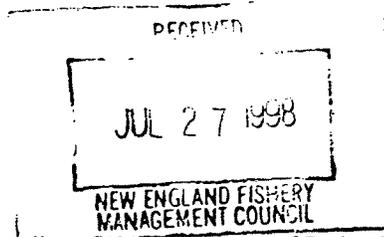
Sincerely,

J. Peter Whitley
P.O. Box 4063
30 Ben Franklin Rd.
Old Lyme, CT 06371-4063

cc:

Senator Joseph I. Lieberman
Senator Christopher J. Dodd

Comments Essential Fish Habitat



July 23, 1998

Dear Sirs,

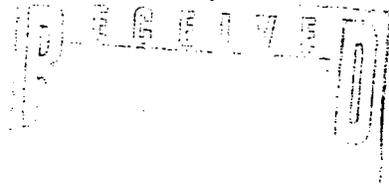
I am a full-time scallop fisherman out of Point Pleasant, New Jersey and am also concerned about the coastal habitats. The scallop fleet has been dragging over the ocean bottom for years not just recently, dragging stimulates the ocean floor and makes habitat such as gravel bottom. Scallop dredges are usually dragged over sandy bottom which in most cases has become stagnant. Many sediments such as mud is stirred up and washes away rejuvenating the bottom making it more attractive to sea life. While the scallop boat drags back and forth over the bottom it deposits the guts back so that fish feed there. The drags also dig up worms and crabs that fish feed further stimulating the ecosystem. There are more fish there as a result of dragging. Though my many years of scallop dragging I feel that we enhance habitat rather than hurt it. Scallop dredges are never dragged over coral reefs, wrecks, or sensitive habitat areas because the nature of those places would severely damage the dredges.

Sincerely,

Arthur A. Ochse Jr.

2 Muriel Place
Manasquan, NJ 08736

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Need to Protect Essential Fish Habitat

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Thank you for considering my views.

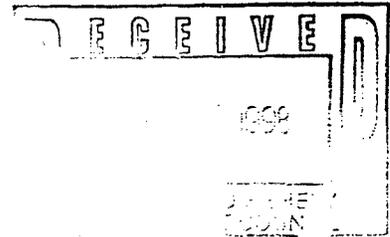
Sincerely,

Austin Bliss
21 Winnemay St.
Natick, MA 1760

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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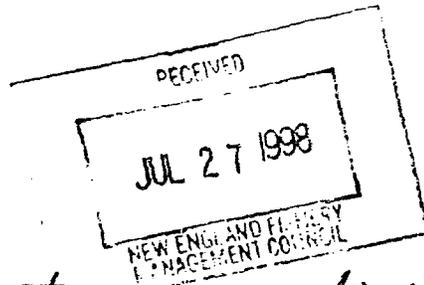
Austin Bliss
21 Winnemay St.
Natick, MA 1760

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

July 23, 1998

Mr. Paul Howard
Executive Director
New England Fishery
Management Council
5 Broadway (Route 1)
Saugus, Mass. 01906



Dear Sir,

Please accept these comments on essential fish habitat.

Please support the "preferred alternatives" regarding the Council's plans for Essential Fish Habitat (EFH) for fish off the coasts, etc., of New England.

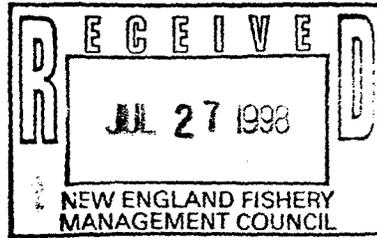
Regarding protecting juvenile cod, please fully support the proposal of the Council for two Habitat Areas of Particular Concern (HAPC).

Please support keeping harmful fishing apparatus out of the two cod HAPCs by continuing and extending the present bans and restrictions in those areas.

Please extend EFH protection for any other threatened or otherwise species, such as flounder, halibut, etc., to keep the ecosystem as healthy and thriving and complete as it can be, and, please, also, commentate on ways of protecting the fish, etc., ^{and structure} of EFH zones from any destructive activities of man.

Thank you very much, indeed, Mr. Howard, for your kind consideration of these matters very urgent for protecting the future of fish and the fishing and marine environment off the coasts of New England.

Sincerely yours,
Welling T. Pope
Mr. Welling T. Pope
56 Newfield St.
West Roxbury



COMMENTS ON ESSENTIAL FISH HABITAT
as Mr. Howard

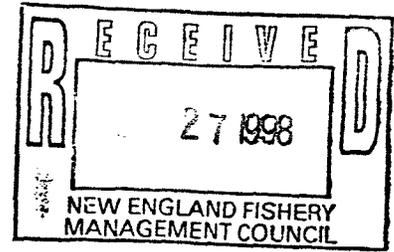
7/18/98

I want to express my support for
your Council's proposed alternatives for designating
EFH for New England ocean fish. I strongly
support the Council's proposal to designate
habitat areas of Particular Concern for juvenile
cod. I also hope that the Council will protect
these areas from damaging fishing gear by, at
the very least, maintaining the current closure
restrictions within the two cod HAPC's. It is
also my hope that the Council will continue to
designate EFH for remaining species (such as
habitat) and devise strategies to minimize
adverse impacts on EFH, from fishing as well
as non-fishing activities.

Sincerely,
Colgate S. Prentice

Mr. Colgate S. Prentice
185 Howland Road
Westport, MA 02790

Paul Howard, Executive Director
 New England Fishery Management Council
 5 Broadway
 Saugus, MA 01906
 fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

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For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

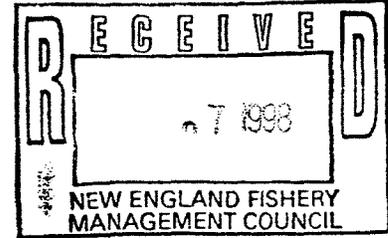
Sincerely,

Burr Taylor
RR5; Box 2458A
Cundy's Harbor, ME 04011

cc:

Senator Olympia J. Snowe
Senator Susan Collins

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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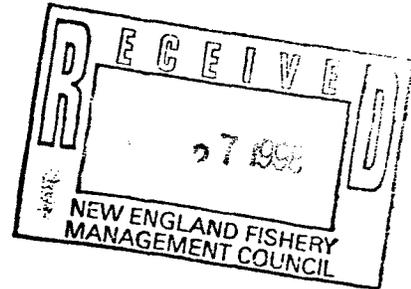
Sincerely,

WILLIAM SCHENCK
209 LUCAS RD
East Greenwich, RI 02818-4516

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

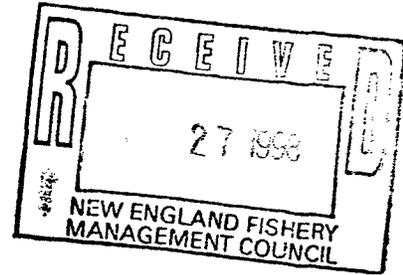
Sincerely,

Calvin L. Weide
RD1 Box 216
Waterbury, VT 05676

cc:

Senator James M. Jeffords
Senator Patrick J. Leahy

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I strongly support these new steps to protect essential fish habitat, but feel that they fall short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH, even when combined the existing fishery management measures.

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The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

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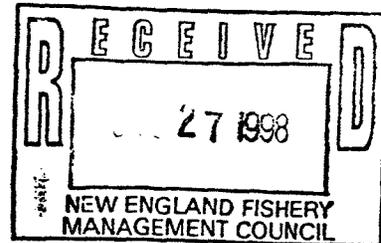
Sincerely,

**Dr. Alison Sartonov
45 Greensboro Road
Hanover, NH 03755-3105**

cc:

**Senator Bob Smith
Senator Judd Gregg**

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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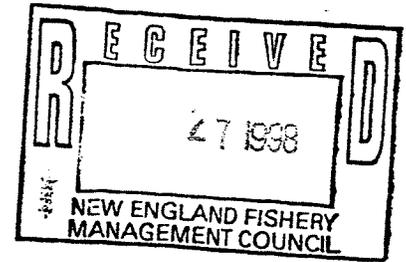
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Thank you for considering these views.

Sincerely,

LAWRENCE HORWITZ
PO BOX 674
Kennebunkport, ME 04046-0674

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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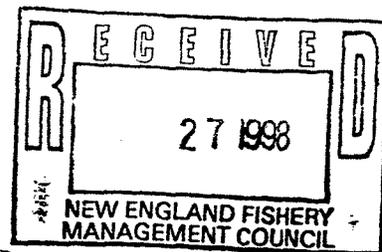
Sincerely,

John Printz
18 Lincoln Ave
Ashburnham, MA 01430-1284

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
 New England Fishery Management Council
 5 Broadway
 Saugus, MA 01906
 fax: (617) 565-8937



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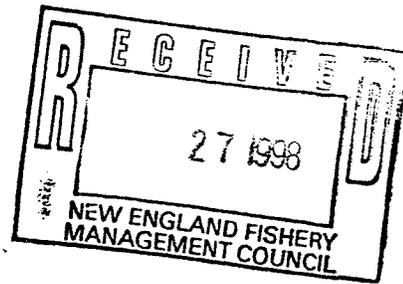
Sincerely,

Damon Milhem
102 Cypress St.
Brookline, MA 2146

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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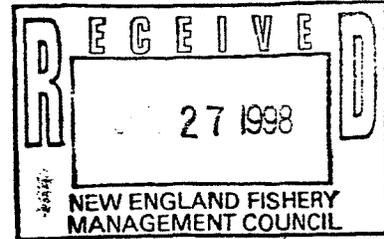
Sincerely,

Vanessa Loeblich
Box 3502, Brown University
Providence, RI 02912

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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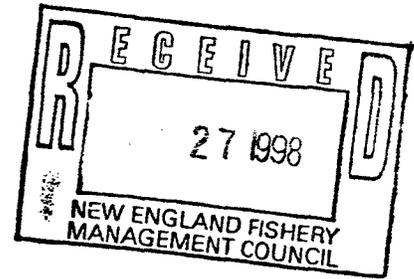
Sincerely,

Rev Nancy Johnson
7 Harold St
Medford, MA 02155

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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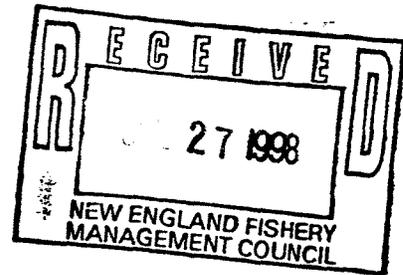
Sincerely,

Marie Farrington
Rte. 9
Dixmont, ME 04932

cc:

Senator Olympia J. Snowe
Senator Susan Collins

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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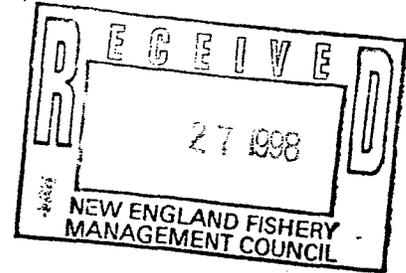
Sincerely,

Tracy Koral
359 North Main Street
Andover, MA 01810

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobble bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

Garret Whitney
445 Lowell Rd
Concord, MA 01742

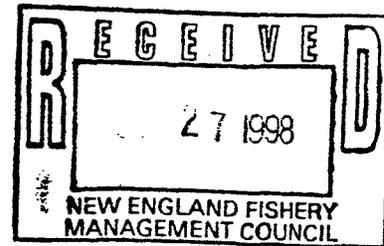
cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:



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Thank you for considering these views.

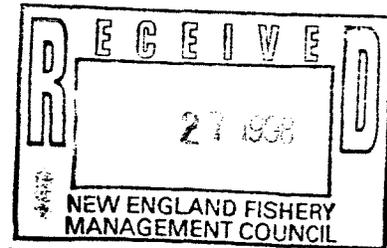
Sincerely,

VIRGINIA KNAPP
ZIMAN RD
HINSDALE, NH 3451

cc:

Senator Bob Smith
Senator Judd Gregg

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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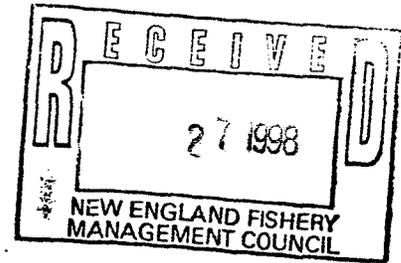
Sincerely,

Vivian Valtri
P.O. Box 141
Rochester, VT 05767

cc:

Senator James M. Jeffords
Senator Patrick J. Leahy

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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Thank you for considering these views.

This may be a form letter, but I agree with it totally. There is too much irresponsibility going on in our environment that damages habitats that animals and fish depend on for life. Fish we need to live on are being damaged to beyond rehabilitation and are lost forever. If we keep on doing this we are endangering our own existence.

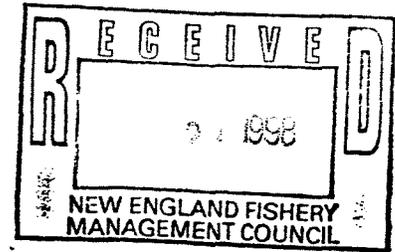
Sincerely,

Camille Lessard
57 Oak Street
Ludlow, MA 01056-2435

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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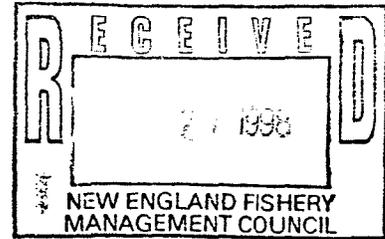
Sincerely,

stuart gilbert
67 avice street
Wakefield, RI 02879-9999

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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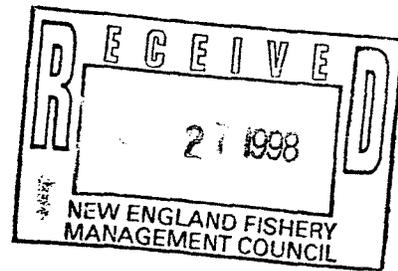
Sincerely,

gary demuria
122 newport rd. p. o. box 201
oneco, CT 6373

cc:

Senator Joseph I. Lieberman
Senator Christopher J. Dodd

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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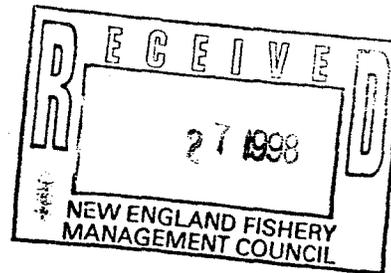
Sincerely,

Beatrice Lemoine
55 Hallville Road
Exeter, RI 02822

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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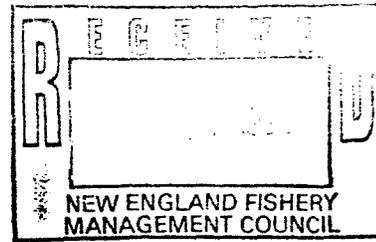
Sincerely,

Christopher Orff
55 gerrish rd.
hiram, ME 04041

cc:

Senator Olympia J. Snowe
Senator Susan Collins

Paul Howard, Executive Director
 New England Fishery Management Council
 5 Broadway
 Saugus, MA 01906
 fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I urge the New England Fishery Management Council to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act. Clearly New England waters are in need of strong protective measures to preserve their health and viability as working fisheries.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. I urge the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for each of these species. When additional scientific research becomes available, these designations may be refined and narrowed or widened as appropriate. Meanwhile, action must be taken to avert a collapse of breeding stock for these important commercial fish species. The preferred EFH designations are representative of the best currently available science. The Council and its staff are be commended for their diligent effort in developing the proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has proposed closing indefinitely to most fishing the two juvenile cod HAPCs. These proposed new steps toward protecting essential fish habitat have my strong support. They don't go far enough, however. Even combined with other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions are insufficient and fail to fulfill the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

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The New England Council has made impressive progress toward designating essential fish habitat. Yet it still falls short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH and its moral obligation to the people of New England.

I urge the Council, as required by the Sustainable Fisheries Act, to inventory and evaluate the practicality of every possible measure to prevent, mitigate, or minimize any adverse effect on EFH

from fishing. All practicable measures should be adopted at once.

I want you to consider my letter not only as a citizen of Massachusetts concerned about her environment, but as a granddaughter and niece of men who fished and lobstered commercially for a living until they died. I know the hard life of fishermen from my own family, and I know that without fish, the fisherman and his or her family cannot survive. And that's why it's so important to take these measures now to make our fishery sustainable and strong so that the New England fisherman is not just a tale of the past, but a living and vital part of life here.

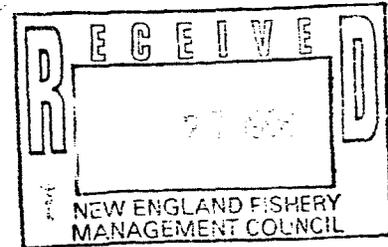
Sincerely,

Julia Petipas
44 Foscett St
Somerville, MA 02144

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing you because I feel strongly that the New England Fishery Management Council take strong measures to protect the important and precious fish habitat in accordance with the 1996 Sustainable Fisheries Act.

Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30 1998). for each of the species that is being managed by the Council. These include, as I understand it, proposed essential fish habitat (ESH) for eighteen species that the Council manages. When additional scientific information and research becomes available, these designations can be tailored or altered. Right now, however, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

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wildlife community of New England. Please recognize how very important and crucial it is to act on it right now.

Thank you for considering these views.

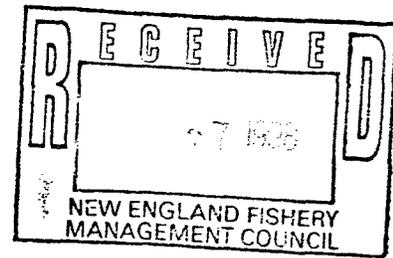
Sincerely,

Lesley Bennett
Box 0902. Brown University
Providence, RI 02912

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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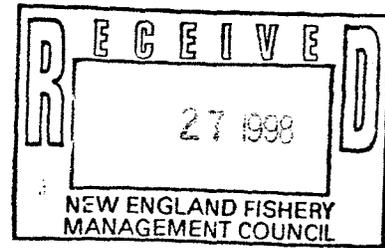
Sincerely,

Barry Berger
3 Columbus Ave.
Milford, MA 1757

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
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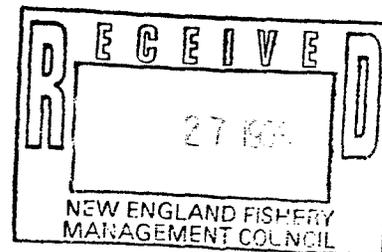
Sincerely,

Jean Esser
P. O. Box 4011
1069 Bug Hill Rd.
Ashfield, MA 01330>

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

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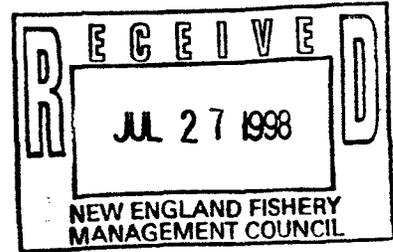
Sincerely,

Peter Constantine
113 Metropolitan Dr
Warwick, RI 02886

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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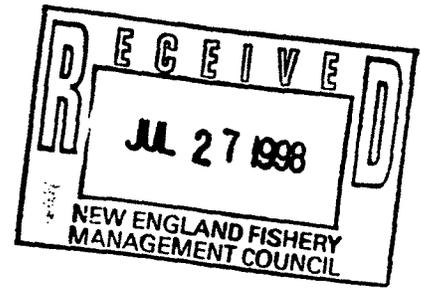
Sincerely,

Christy Magliozzi
16 Balmoral Street #317
Andover, MA 01810

cc:

Senator Bob Smith
Senator Judd Gregg

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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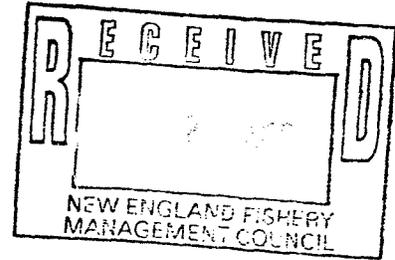
Sincerely,

Arthur Wallace
4 Saw Mill Brook Rd
W. Newbury, MA 1985

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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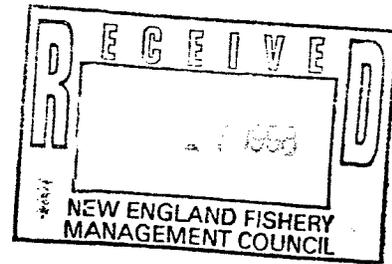
Sincerely,

Margot D. Lenhart
5 Perrin Rd.
Brookline, MA 2146

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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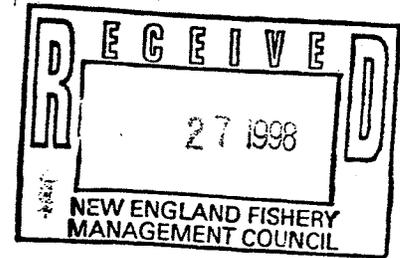
Sincerely,

Cornell Rosiu
45 Highland Street
Amesbury, MA 01913

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council to inventory systematically and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing – as is required by the Sustainable Fisheries Act. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

**Benjamin Teitelbaum
144 Cross Highway
Westport, CT 6880**

cc:

**Senator Joseph I. Lieberman
Senator Christopher J. Dodd**

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New England Fishery Management Council
5 Broadway
Saugus, MA 01906
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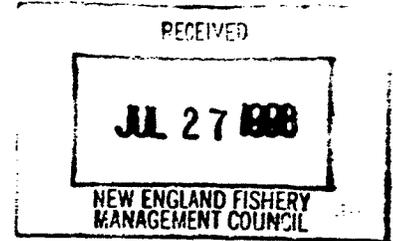
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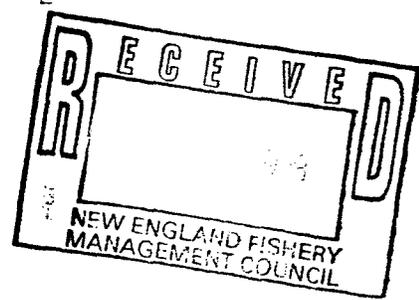
Bill Roberts
44 Beeholm Road
Redding, CT 06896-3301



cc:

Senator Joseph L. Lieberman
Senator Christopher J. Dodd

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

The purpose of this fax is to urge that the New England Fishery Management Council take strong, immediate action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

Regarding the proposed essential fish habitat (EFH) designations for the fish species managed by the Council (including cod, haddock, sea scallops, Atlantic Salmon, winter flounder, and others), I urge you to ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. Presently, however, the June 30 Public Hearing Document recommendations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

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For example, there is now a likely scientific basis for the Council to identify sections of the Gulf of Maine with cobbled bottom that should be designated as HAPCs for juvenile cod, and should therefore be closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

With world population approaching 6 billion and placing a strain on the earth's resources as never before, we have little room for error.

Thank you for considering these views.

Sincerely,

Randy Braun
343 Main St.
Medford, MA 2155

cc:

Senator Edward M. Kennedy
Senator John F. Kerry



United States Department of the Interior

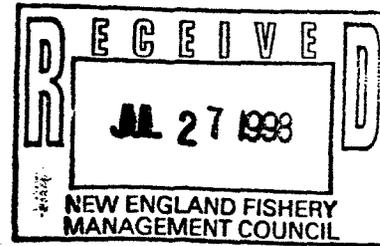
FISH AND WILDLIFE SERVICE

300 Westgate Center Drive
Hadley, Massachusetts 01035-9589

In Reply Refer To:
FWS/Region 5/FR

JUL 27 1998

Joseph M. Brancaleone, Chairman
New England Fishery Management Council
5 Broadway
Saugus, Massachusetts 01906-1036



Dear Mr. Brancaleone:

We appreciate the efforts of the New England Fishery Management Council to comply with the Congressionally mandated short time frame for developing Essential Fish Habitat amendments to existing Fishery Management Plans. The Council adopted an Atlantic salmon FMP in October, 1987, to complement the existing management regimes of the various state and federal agencies in New England who have been engaged in a long-term salmon restoration programs. We believe that FMP which closed federal waters from 3-12 miles to the possession of salmon will be strengthened by the proposed designations of EFH and Habitat Areas of Particular Concern.

We specifically recommend that Prestile Stream and the Meduxnekeag River, Maine/New Brunswick tributaries to the St. John River, as is the Aroostook River, should be included in the "present" category and therefore included in salmon EFH. Salmon presence in these two additional systems is documented in the 1997 report of the Maine Atlantic Salmon Authority to Maine's Joint Standing Committee on Inland Fisheries and Wildlife.

We realize that the designation of all aquatic habitats in the watersheds of the designated rivers may seem an extremely broad designation. However, we believe it not only is consistent with Council guidelines, but is entirely appropriate given that freshwater habitat degradation and lack of access have been major factors contributing to the decline of salmon throughout New England. It is important for the public to understand that EFH is in fact a subset of the aquatic habitats in those watersheds that meet the attributes described for each life history stage in the text. We are aware that more detailed data exist to further refine EFH in subsequent reviews, but as with inshore/nearshore data for a number of other Council managed species, also know that these data could not be compiled in the required time frame. We support future agency efforts in concert with the Council, to compile these data in a manner that will provide more discrete guidance on the freshwater habitats essential to Atlantic salmon.

We have read National Marine Fisheries Service's draft recommendations to the Council on proposed EFH and share a similar concern with regard to HAPC proposed for Atlantic salmon. We believe there is a high probability that all eleven rivers are part of the same Distinct Population Segment and as such should collectively remain HAPC as proposed in the Public Hearing Document. We believe this is consistent with and supportive of the Maine Atlantic

Joseph M. Brancaleone

2

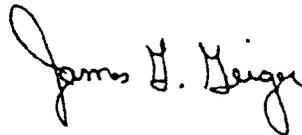
Salmon Authorities' statewide goal to "...protect, conserve, restore, manage, and enhance Atlantic salmon habitat, populations, and fisheries within historical habitat in Maine."

We propose the following specific language change to the last paragraph of the description at the bottom of page 97. Amend the first sentence to read "...to the extent that the rivers are accessible for salmon migration *or designated for production of one or more life history stages in fishery management agency(ies) restoration and management plans* (new language is in italics). This language is proposed to insure that restoration programs utilizing suitable, historical habitat for outplanting of eggs, fry or parr to produce natural smolts as part of the restoration program are included in EFH determinations even if that habitat is currently inaccessible to adults.

Recommendation 1 in Section 3.5 of the Council's current Atlantic salmon FMP states "All natural habitat for salmon stocks (as identified in restoration and management plans) should be preserved by encouraging management of conflicting uses to assure continued access by fish to essential habitat." We agree with this recommendation and believe that the currently proposed EFH with the addition of our proposed language (see above) will significantly focus the Council's efforts to conserve EFH to those areas deserving special consideration.

We appreciate the opportunity to provide comments and look forward to the completion of the Council's EFH designations, especially for Atlantic salmon. We hope our comments are incorporated into the final proposals approved by the Council for Secretarial consideration. Please direct any questions on our comments to Steve Rideout at 413-253-8403.

Sincerely,

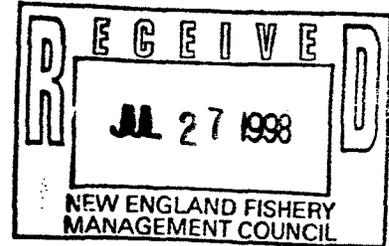


James G. Gelger
ACTING

Ronald E. Lambertson,
Regional Director

cc: Maine Atlantic Salmon Authority
Connecticut River Atlantic Salmon Commission
Rhode Island Division of Fisheries and Wildlife
Chairman, Policy Committee for Anadromous Fishery Management of the Merrimack River

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

At a time in history (now) when 30,000 species are going extinct every year it is criminal for politicians not to take honest informed action to help preserve the species that are left. I have heard it said that in Ipswich where I am from, schools of cod used to be so dense that it seemed as if a person could walk over their backs from Great Neck to Plum Island. Now the cod are nearly gone. Courage and smarts are what are required to save New England's endangered fish species. Foolish half hearted "band-aid" measures will only worsen the problem and insult voters like myself.

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

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Please do not let us down.
Thank you for considering these views.

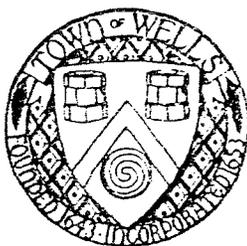
Sincerely,

Helen Weatherall
21 Brookside Ave.
Boston, MA 02130

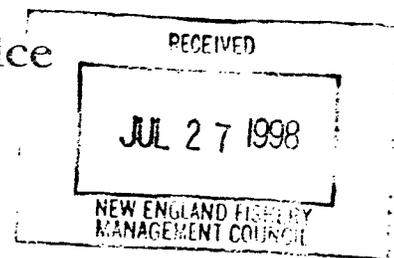
cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Municipal



Office



P.O. Box 398
Wells, Maine 04090

Offices of the
Town Manager and
Board of Selectmen

July 22, 1998

Telephone
Voice (207) 646-5113
Fax (207) 646-2935
TDD (207) 646-7892

Paul J. Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906

RE: Comments on Essential Fish Habitat

Dear Members of the Council:

Please accept the following written comments to be included as part of the public record for the establishment of the Essential Fish Habitat.

My name is Jonathan L. Carter, Town Manager for the town of Wells. I am writing on behalf of the Wells Board of Selectmen. My comments are based on discussions with former Selectmen Robert Foley who attended the July 16, 1998 public hearing on the proposal in Portsmouth, NH and on my reading of the public hearing documents Mr. Foley supplied to Town Officials. We oppose and object to Wells Harbor being considered part of the proposal.

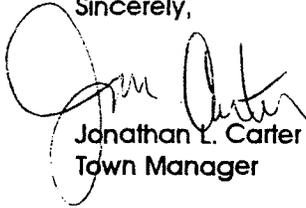
Not one of the officials in the Town of Wells I've contacted had any prior knowledge of the current proposal or even knew that the proposal was being considered. Not myself, nor the Town Attorney, Harbor Master, head of the local fisherman's co-op or the Chairman of the Board of Selectmen were aware of the proposal. I also contacted Dr. Michelle Dionne, head researcher for the Wells National Estuary Research Reserve, a division of N.O.A.A. She has conducted the most extensive research of the fish population in the Wells embayment, including Wells Harbor, and she knew nothing of the proposal. She found the consideration of Wells Harbor as an essential habitat to be a far reaching aspiration based on bad scientific data. Bad science makes for bad decisions. Not only was she not contacted but none of her extensive research data was ever used or consulted. Many of the scientists within the New England Division of N.O.A.A. and the National Marine Fisheries know of Dr. Dionne and her work. The lack of public consultation with local officials should have been mandated regarding the establishment of any local facility or area to be considered in this proposal.

Several months ago, Town and Wells Reserve officials met with the New England Division of National Marine Fisheries as part of the town's attempt to communicate with interested parties regarding the Wells Harbor dredge. Not once did any of the officials of N.M.F. advise of this potential designation. John Caskey has been our contact person with that organization and he has never mentioned this issue or potential as a concern of that organization. Based on the scientific information currently available, we believe that the Webhannet River, the source for Wells Harbor, does not currently qualify for essential fish habitat within the proposal's definition. Wells Harbor is essential fisherman habitat within the proposal's definition. Wells Harbor is essential fisherman habitat and lobsterman habitat not fishery habitat. Certainly areas like the Little River to the north of the harbor have greater potential and could perhaps support such a designation but not Wells Harbor.

We also object to the limited description of the boundaries contained within the designated proposal sites. Wells Harbor, by definition, is a small inlet at the mouth of the Webhannet River used for mooring boats and providing ocean access to the general boating public. The study that was referenced in the proposal by N.O.A.A. was conducted some three miles off shore within the Wells embayment, significantly outside of the Wells Harbor boundaries. Definitions of the proposal areas need to be redefined to be far more specific of the area needing protection. To have stated that the Wells embayment, outside of the Wells Harbor inlet, was to be considered as an essential habitat site, we believe, would be a better definition of an actual potential site, but not Wells Harbor.

We strongly oppose the inclusion of Wells Harbor in this proposal. Inclusion of Wells Harbor appears to us, in our opinion, to place impediments in our attempt at a maintenance dredge. The Army Corps of Engineers and the Town have recently received a State environmental permit to dredge our harbor. Dredging may occur in the Fall of 1999 and extend into the Winter of 2000. This plan is seen by us as a potential cog in our plans.

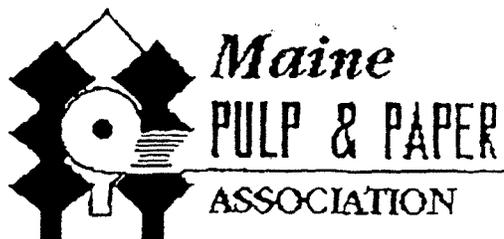
Sincerely,



Jonathan L. Carter
Town Manager

JLC/cr

cc Board of Selectmen
Robert Foley, S.O.S.
Senator Olympia Snowe
Senator Susan Collins
Hal Winters, DMR

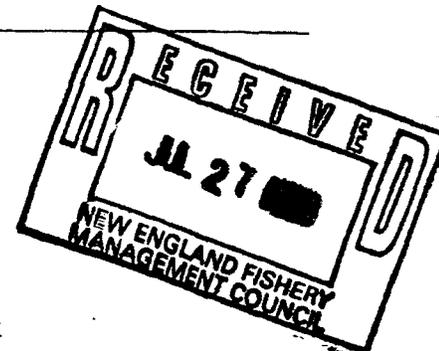


Maine
Forest
Products
Council



July 27, 1998

Paul J. Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1097



Re: Comments on Essential Fish Habitat Public Hearing Document

Dear Mr. Howard:

On behalf of the Maine Pulp and Paper Association (MPPA) and the Maine Forest Products Council (MFPC), and their members, we write to express our concerns regarding the proposed amendment to the Council's fishery management plans to address the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (the "Act"). Our organizations represent both the forest products industry and the pulp and paper industry which are important contributors to Maine's economy. Our members have mills, landholdings and, in some instances, hydroelectric projects in areas that could be significantly impacted by the proposed EFH amendments. We have followed the development of the EFH amendment with increasing concern about how the EFH process could adversely and, we believe, unnecessarily affect our members in the State of Maine.

MPPA and MFPC recognize the importance of conserving habitat that is truly essential for the biological needs of the various species of fish which are managed by the Council. As the process has developed, however, the EFH areas recommended for designation are far broader than what we believe Congress intended when it amended the Act in 1996. Our review of the public hearing document indicates that, if the preferred alternatives are adopted as EFH, then the entire Gulf of Maine, including all nearshore and estuarine areas, as well as 25 river systems (including all aquatic habitats in their watersheds and tributaries) will be EFH for some life stage of some species. This very broad designation could have a huge impact on large areas of the State of Maine.

While we recognize that the Council is doing its best to comply with the provisions of the National Marine Fishery Service's interim final rule to implement the EFH provisions of the Act, we strongly believe that the rule goes beyond what Congress authorized or intended when it enacted the EFH amendments in 1996. As you may be aware, our organizations have commented extensively on the proposed and interim final rules issued by NMFS. *See Comments of MPPA and MFPC, dated July 7, 1997 and February 13, 1998.*

Maine Pulp & Paper Association
PO Box 3670
Augusta, ME 04332-5670
(207)622-3166

Maine Forest Products Council
146 State Street
Augusta, ME 04330
(207)622-9288

Paul J. Howard, NEFMC
July 27, 1998
Page 2

Based on our review of the public hearing document, we believe there are several very significant concerns that must be addressed before any final EFH amendment is adopted. Our primary concerns are as follows:

1. EFH designation is overly broad and exceeds the intent of Congress

As noted above, the extremely broad interpretation given to the term "essential fish habitat" is perhaps the most disturbing aspect of the public hearing document. Given the statutory definition and the common understanding of the term "essential," it is clear that Congress intended the Councils to undertake a review of data to identify only those waters that are truly necessary for each managed species. The approach taken in the EFH public hearing document, in contrast, recommends designating large percentages of the observed range of each life stage of each species as "essential" habitat. Nearly all of the designations exceed 50% and many exceed 90% of the observed range of the species. For Atlantic salmon, the designation goes even further and includes all aquatic habitats in the watersheds of any river, including all tributaries, where salmon currently occur or that are upstream of any manmade barriers to migration. In a very real sense, the recommended EFH is actually a designation of "fish habitat" rather than "essential fish habitat."

These broad recommended designations extend into State waters, including inland rivers, and are intended to affect activities both in these waters and in adjacent upland areas. Yet there is a complete absence of any indication that Congress intended to extend the reach of this law so far. Neither the language of the Act nor the history of its implementation suggest that it was intended to affect actions in State waters or to affect the upland activities of non-fishing interests. In these circumstances, we believe the recommended EFH designations far exceed the statutory authorization.

2. Given the broad EFH designation, the consultation and recommendation provisions will be burdensome and unworkable.

One consequence of the overly broad designations of EFH is the likelihood that the consultation and recommendation provisions of the interim final rule will be triggered for every federal and state agency action, including all permitting actions, that occur in or near coastal or inland waters in Maine. The implications of this are enormous from both a procedural and substantive perspective. At the recent public hearings on the draft plan, many of those that testified cited concern regarding the breadth and uncertainty of the consultation process. Procedurally, it is difficult to see how federal and state agencies, NMFS, or the Council will be able to manage these new workloads. As a consequence, we fear that state and federal agency actions will be bogged down resulting in a significant drain on resources of permitting agencies as well as NMFS and the Council.

Substantively, MPPA and MFPC are concerned that the added review and consultation process will add little in the way of environmental benefit to fish given the numerous and comprehensive programs already in place in the State of Maine, and more

Paul J. Howard, NEFMC
July 27, 1998
Page 3

specifically the Gulf of Maine, to address water quality and habitat issues. Unfortunately, the public hearing document sheds little light on what the regulated community can expect in the way of substantive recommendations to address potential adverse impacts to EFH. We view this as a very significant problem that hampers our ability to meaningfully assess the impact of the EFH proposal.

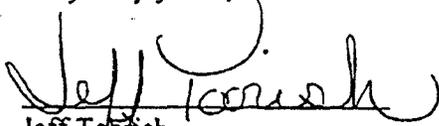
3. Specific concerns regarding Atlantic salmon

MPPA and MFPC are especially concerned with how the EFH amendment will impact conservation of Atlantic salmon in Maine. As you may be aware, many agencies and interested parties (including members of our organizations) spent an enormous amount of time and effort developing the Maine Atlantic Salmon Conservation Plan which addresses potential threats to Atlantic salmon in the seven Downeast rivers that had been proposed for listing under the Endangered Species Act. Having worked through that process, obtaining the approval of NMFS on the Plan, it is particularly disheartening to see an entire new regulatory program that ignores the Conservation Plan and revisits the very same issues but applies them to an even broader range of aquatic habitats. The regulated community will have to think long and hard about whether to participate in such a process again if the resulting program can be ignored in favor of an entirely new program, with new rules and requirements, the significance of which, even at this late date, is very difficult to determine.

* * * * *

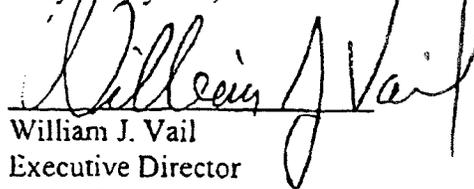
We appreciate the opportunity to provide these comments to the Council. If you have any questions, please feel free to call either of us.

Very truly yours,



Jeff Topish
President
Maine Pulp and
Paper Association

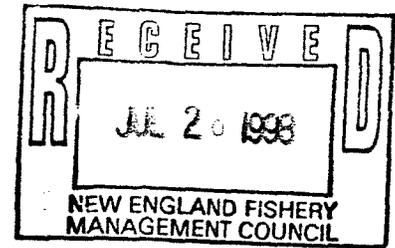
Very truly yours,



William J. Vail
Executive Director
Maine Forest Products Council

- cc: Honorable Olympia J. Snowe
- Honorable Susan M. Collins
- Honorable John E. Baldacci
- Honorable Thomas Allen
- Honorable Angus King, Jr.
- Elizabeth R. Butler, Esq.
- Louis Flagg, Acting Commissioner, Maine DMR
- Andrew A. Rosenberg, Regional Administrator (NMFS)

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I wish to encourage the New England Fishery Management Council in its current actions to identify and protect essential fish habitat as required by the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I therefore urge the Council to take the strongest of actions to prevent, mitigate, or minimize the effects of fishing on essential fish habitats.

Thank you for your consideration of my views.

Sincerely,

ANITA GOLDNER
13 MALVERN ST # 3
Somerville, MA 02144-2416

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
 New England Fishery Management Council
 5 Broadway
 Saugus, MA 01906
 fax: (617) 565-8937

Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

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The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

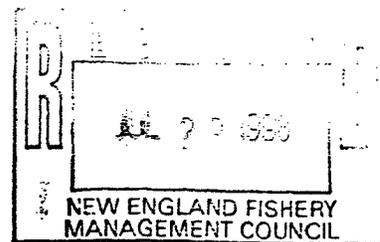
Thank you for considering these views.

Sincerely,

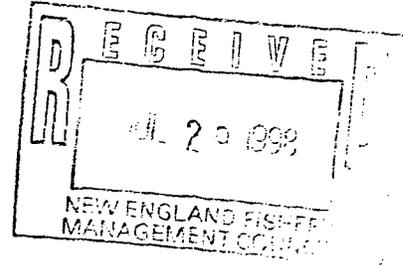
MICHELLE SCOTT
 632 SAND PIT RD
 MASON, NH 92886-4325

cc:

Senator Bob Smith
 Senator Judd Gregg



Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

You have an opportunity to provide the kind of leadership that will make a positive difference to many people in the future.

All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

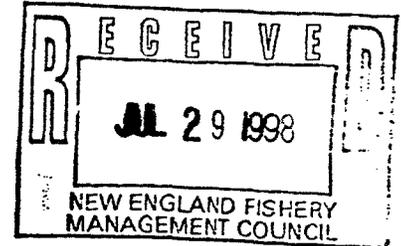
R SANTOPIETRO
23 SHAFTER ST
Providence, RI 02909-3805

cc:

Senator John H. Chafee
Senator Jack Reed

CHRISTOPHER PERCY
12 NEW SHORE ROAD
WATERFORD, CT 06385-3609
TEL: (860) 443-3547
FAX: (860) 443-1908

July 25, 1998



Mr. Paul Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906

RE: Essential Fish Habitat Document
& Public Comment

Dear Mr. Howard:

NEFMC Staff and Committees are to be commended for having prepared a very fine "Public Hearing Document for Essential Fish Habitat", dated June 30, 1998.

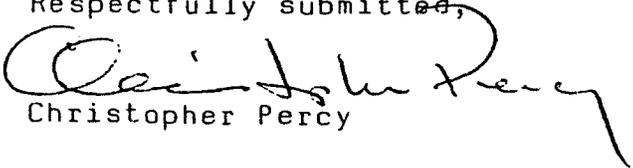
I'm sure that all involved in this major effort to meet the requirements of the 1996 Sustainable Fisheries Act would agree that this work and resulting document represent a GOOD FIRST START in helping to identify and begin to protect spawning, juvenile and critical life habitats of our marine fisheries.

As additional scientific information and knowledge are developed, I'm sure that the program and objectives of protecting essential fish habitats will be implemented. To do less, or nothing as in the past, will surely doom our regional efforts to rebuild and sustain stocks of indigenous marine species.

I urge the Council to adopt the proposed preferred EFH designations described in the Public hearing document of June 30, 1998, and, especially, the Habitat Areas of Particular Concern for juvenile cod on Georges Bank and the 11 river areas for Atlantic salmon.

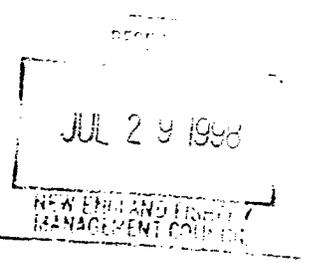
I must call the Council's attention to a publication by my former organization, The Sounds Conservancy, Inc., titled "Perspective On Finfisheries In Southern New England", March 1995. The NEFMC was sent a copy, and the surplus was given to the Quebec-Labrador Foundation/Atlantic Center for the Environment in Ipswich, MA. The report highlights the LINKAGES between our coastal fish species and their habitats: tidewater streams, intertidal marshes, eelgrass beds, sand-gravel substrate, rocky coast and cobble, underwater sand ridges and reefs which are the critical habitats for spawning, nursery, and food for myriad forms of marine life.

Respectfully submitted,


Christopher Percy

Dist.

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. I am currently interning with a non-profit organization in Westport, MA that works towards the restoration of bay scallop populations in nearby rivers, so this issue really hits home with me. Therefore, please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

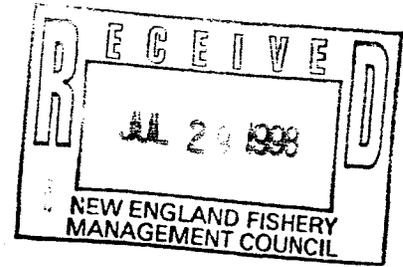
Sincerely,

David Micallef
Box 6147, Brown Univ
Providence, RI 02912

cc:

Senator John H. Chafee
Senator Jack Reed

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Protect Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

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The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

Ram C. Dutta
65. Craig Drive
W. Springfield, MA 1089

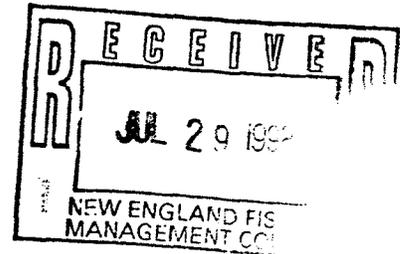
202-745-1984

2 Wed Jul 29 15:20:55 1998

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
 New England Fishery Management Council
 5 Broadway
 Saugus, MA 01906
 fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

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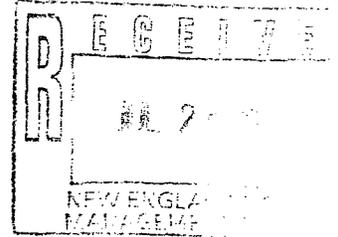
Sincerely,

Melissa Fino
202K Tall Oaks Drive
S. Weymouth, MA 02190

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
 New England Fishery Management Council
 5 Broadway
 Saugus, MA 01906
 fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

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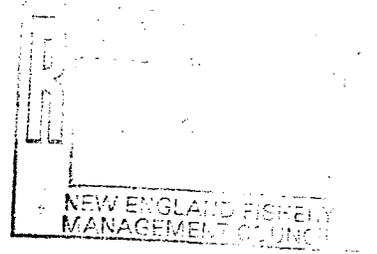
Sincerely,

**IVAN H LUBASH
25 BARBARA RD
SUDBURY, MA 92026-1902**

cc:

**Senator Edward M. Kennedy
Senator John F. Kerry**

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



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Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent and hard work in the face of political pressure and lack of media coverage in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

Unfortunately, the New England Council has made impressive progress toward designating proper coverage but has still fallen far short of its legal obligation under the Sustainable Fisheries Act.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately. Without such measures, I believe the New England fishing industry and its important history and place in the New England Economy is doomed.

Thank you for considering these views.

Sincerely,

FAITH CRISLEY
26 GROSVENOR RD
Needham, MA 02492-4417

cc:

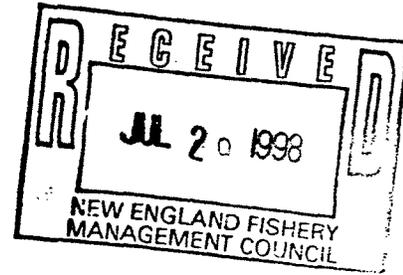
Senator Edward M. Kennedy
Senator John F. Kerry

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937

Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.



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The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

Todd Roberge
296 Thompson Rd.
Arundel, ME 4046

cc:

Senator Olympia J. Snowe
Senator Susan Collins

Comments on Essential Fish Habitat 7-25

I support the preferred alternatives for designating EFH for NE ocean fish. I support your proposal to designate 2 Habitat areas of Part. Conc. for juvenile cod.

I urge you to protect these sensitive areas from damaging fishing gear + keep current closure restrict's in 2 cod HAPCs - keep designating EFH for remaining species (halibut) + minimize bad impacts on EFH re. fishing + non-fishing activities. J. Leonard



Jane Leonard
5 Brentwood Rd #2
Exeter, NH 03833



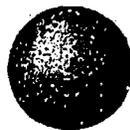
Paul Howard

Exec. Dir.

*E. Fishery Mgmt. Council
5 Broadway (Rte. 1)*

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NEW ENGLAND FISHERY
MANAGEMENT COUNCIL





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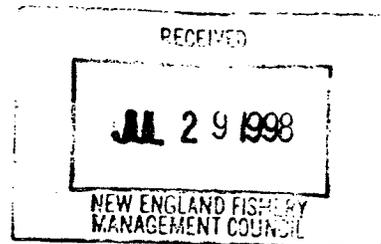
Bob Talbot

Michael Visbal

David Younkman
Executive Director

29 July 1998

Mr. Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906



Dear Mr. Howard,

In an attempt to rebuild overfished stocks and to ensure the conservation and long-term viability of our nation's fisheries, the Sustainable Fisheries Act, P.L. 104-297 (Magnuson-Stevens Act), was signed into law on October 11, 1996. Included in the Magnuson-Stevens Act were several habitat mandates; the new law required identification and designation of Essential Fish Habitat (EFH), defined as "those waters and substrate necessary to fish for spawning, breeding, or growth to maturity." Identification is a crucial step in protecting EFH, which is paramount to the recovery and continued health of our fisheries.

The New England Fishery Management Council has identified two areas of EFH that are utilized by juvenile cod, a species whose status is depleted due to overexploitation. The defined areas have been determined to be especially important, or "Habitat Areas of Particular Concern" (HAPC), to the long-term productivity of cod stocks.

These areas are particularly vulnerable to deleterious fishing methods such as trawling and dredging. The two HAPCs (currently within existing closed areas of Georges Bank) consist of thriving benthic communities that provide juvenile cod with both forage material and refuge from predators. Trawling and dredging destroy these communities, thus reducing the survivability of the juvenile cod stocks. Preservation of these areas will aid in the restoration of the cod fishery, as well as benefit other related groundfish species such as haddock and flounder. The restoration of the cod fishery, as well as the other groundfish species, represents a potential economic windfall for associated fishermen.

American Oceans Campaign endorses the New England Fishery Management Council's designation of EFH for juvenile cod in New England, and we encourage the continued identification and protection of EFH for other finfish and shellfish species. We support the Council's proposal to designate these two areas within Georges Bank as HAPCs for juvenile cod, and we urge that these two areas be permanently protected from destructive fishing practices.

A non-profit organization dedicated to safeguarding the vitality of the nation's oceans and coastal areas.

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Thank you for your attention to this matter.

Sincerely,



Michael C. Barnette
Marine Wildlife Program Leader



MAINE SARDINE COUNCIL

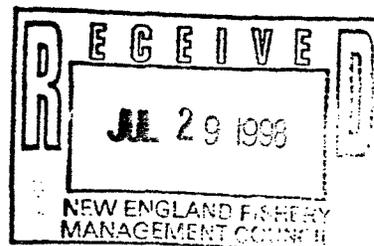
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141 Main Road, P. O. Box 440,
Winterport, Maine 04496-0440
Email: msardine@mint.net

July 27, 1998

Paul Howard
Executive Director
New England Fishery Management Council (NEFMC)
5 Broadway
Saugus, MA 01906-1036



Re: June 30, 1998 Public Hearing Document for Essential Fish Habitat

Dear Paul:

I am writing to provide you with the Maine Sardine Council's (MSC) written comments in response to the NEFMC proposal to implement the Essential Fish Habitat (EFH) mandates of the Magnuson-Stevens Fishery Conservation and Management Act (the Act). These written comments reflect my oral statement made on behalf of the MSC at the public hearing held in West Boothbay Harbor, Maine on July 15, 1998.

The Maine Sardine Council is an industry-funded governmental organization representing Maine's sardine packers who operate five herring-canning plants along the Maine coast. Our associate members include a New Brunswick herring-canning company and an Eastport, Maine processor of herring scales used in a variety of cosmetic and industrial products.

Maine's five sardine processing plants employ nearly 850 people and convert about 35,000 metric tons of Atlantic herring, valued at approximately \$3.5 million, into about 100 million cans of sardines and other canned herring products, which in turn are valued at more than \$40 million each year. According to a 1998 University of Maine study, An Economic Evaluation of the Maine Sardine Industry, the total economic impact of these five sardine plants on the Maine economy was nearly \$63 million in 1996. Our industry continues to thrive today.

First, we want to complement the Council and its staff for producing a very comprehensive public hearing document proposing to define EFH for many fish species of important commercial value to our region. *It is obvious that the Council has taken its responsibilities seriously by beginning to articulate how this important fishery management policy will be implemented in New England.* The MSC continues to support the goals of the Act's 1996 EFH amendments. We believe the EFH amendments were intended to minimize adverse, long-term impacts to EFH, which could threaten the sustainability of important commercial (and recreational) fisheries resources.

Unfortunately, the Council's public hearing document is essentially a value-neutral document that does not clearly articulate why the Council intends to identify and protect EFH (other than that the law requires it), and fails to begin to specifically describe how this will be done in the future. *We believe that the Council should clearly state that it intends to develop EFH-focused management measures in order to sustain important commercial and recreational fisheries resources and the fishing communities that depend upon them.*



Because it does appear to be value-neutral, the public hearing document has the potential to establish a "zero-tolerance" approach to eliminating any impacts on EFH, whether from fishing or through other actions. *While the Act states that management plans should minimize adverse impacts to EFH caused by fishing, "to the maximum extent practicable" and "identify other actions to encourage the conservation and enhancement of such habitat", the document is so broad that the public really has no other alternative than to expect the worst case regulatory scenario to develop.*

We have a similar concern about the fact that "adverse" is not specifically defined anywhere (either in the Act or the public hearing document) and that "threat" is defined in the document as "any...stress that may...degrade...EFH." *From a fishing industry perspective significant water quality (or fish habitat) threats would directly, or cumulatively, reduce fisheries stock recruitment, or place at risk the wholesomeness of the seafood that is being eaten by consumers. "Any stress" on EFH would not be expected to produce these outcomes.* We hope that the Council will clarify what its definition of these critical terms may be.

The document's serious lack of specific regulatory proposals has alarmed many of us who have taken the time to look for them in the document. *Commenting on a proposed definition of EFH, without some understanding of what a designation's impact is expected to be, makes us very uncomfortable. Similarly, the broad range of habitat that may be designated as essential makes it very difficult for the public to understand what the Council intends "essential" to mean.*

The enhanced coordination of federal (and, ultimately, state) actions, which could seriously impact EFH, remains an important goal. It is equally important, however, that better-coordinating fishery management policy with upland land-use activities be done with the primary objective of avoiding the duplication of regulatory authorities and establishing consistent permitting and regulatory regimes. Again, the absence of specific proposed management measures in the document understandably creates significant concern about the outcome of the Council's implementation of the Act's EFH policy, in our view.¹

====

The balance of our comments will focus on the public hearing document's treatment of the designation of EFH for Atlantic herring and the associated fishing-related impacts to herring EFH:

ATLANTIC HERRING EFH DESIGNATION ALTERNATIVES

As already stated, the absence of specific management measures, which may result from an EFH designation for Atlantic herring, makes it very difficult to comment fully on the public hearing document's alternatives. Our comments are, therefore, an initial reaction to the Council's proposals.

¹ In Maine, we believe that this problem is particularly acute regarding the designation of EFH and HACP (habitat areas of particular concern) for Atlantic salmon. As non-affected observers of this situation, we strongly urge the Council to support Maine's Atlantic salmon conservation plan, which is focusing on developing effective EFH policy for seven Maine rivers of particular concern. Expanding EFH for Atlantic salmon to include 11 or 28 watersheds, before the seven-river plan is fully developed, could seriously jeopardize any progress that is currently being made in this fisheries management arena.

Estuaries and Embayments

- Outer Penobscot Bay should be designated as an EFH where eggs would be found.
- Based upon research undertaken by the Maine Department of Marine Research 10 years ago, and again today in cooperation with the Island Institute and the MSC, the Little Machias Bay, Little River, Moose Cove, and Bailey's Mistake estuaries and embayments should be considered EFH for eggs.
- Why wouldn't areas where eggs are found also be designated as areas where spawning adults are found? It is surprising that the table on page 36 includes no proposed designations for any estuaries and embayments as EFH for spawning adults.

Eggs

- *We support the EFH alternative representing 100% of the known Atlantic herring egg beds. We identify this habitat as being of particular concern.*
- Egg beds known to exist in the Cutler, Maine area (see above) should be added to the chart designating EFH, at page 37.
- The MSC supports developing a more complete understanding of the distribution of herring egg beds so that they may be better protected during the times that herring are there to spawn. The current fisheries management regime closes very large areas of the coast to enhance spawning and uses a tolerance for landing small amounts of spawned herring, so that herring that will not be spawning or have already spawned may be caught to sustain the fishery. We believe that the Council (and the Atlantic States Marine Fisheries Commission) should continue to investigate completely closing smaller, more discrete spawning areas - to all mobile fishing gear, both midwater and bottom-tending - where herring are known to spawn. It makes little sense to close areas where herring are spawning to mid-water fishing (trawls and seines) but allow bottom trawling to continue to take place. Fixed gear should be recognized as having no impact on herring - spawning EFH.

Larvae

- *We support the preferred EFH designation representing 90% of the observed range of herring larvae. Larval survival is of particular importance to stock success. After natural mortality, we expect that coastal pollution may have the greatest impact on larval survival. We do not believe that fishing for herring, or any other species, would significantly affect larval survival. Unfortunately, we know little about the impact of coastal pollution on the survivability of herring or other finfish larvae. In Maine, the MSC has supported state policies developed to identify a water-quality "baseline" along the Maine coast so that any significant pollution impacts on "primary productivity" may be identified and mitigated in the future. This work also enhances the wholesomeness of Maine seafood. Since our knowledge base in this area is so poor, we urge the Council to make understanding coastal pollution impacts on fish stocks a major research priority in the future.*

Juveniles

- *We support the preferred EFH designation representing 50% of the observed range of juvenile herring because it includes "all areas where juvenile herring occur in relatively high concentrations" and is the least conservative alternative.* We are not convinced that juvenile herring mortality should be a specific management concern today. Juvenile fishing mortality for herring is far less today than it was historically (pre-1981) due to developments in fishing technology and associated market changes. The Council and its technical committee should identify target juvenile and adult fishing mortality levels, on a matrix of differing harvesting assumptions, and attempt to manage the herring fishery accordingly. This has been a herring management objective for years but has never been completely evaluated. The Council's June 15, 1998 public hearing document for the herring fishery management plan states that herring management should "avoid patterns of fishing mortality by age which adversely affect the age structure of the stock." This goal is a recognition, we believe, of the fact that juvenile herring harvests are particularly valuable to the sardine industry and that some balance between juvenile and adult fishing mortality in the fishery should be defined and maintained in order to ensure the sustainability of the resource. This work remains to be done.

Adults

- *We support the preferred EFH designation representing 50% of the observed range of adult herring because it is the least conservative alternative.* Without any specific management measures being articulated, it is impossible for us to develop any other response.

FISHING-RELATED THREATS AND IMPACTS

- The Council should begin to investigate the impact of mobile, bottom tending gear on herring egg bed habitat.
- Table 4 identifies bottom trawls, midwater trawls, mid-water pair trawls, seines, stop seines and weirs as taking 100% of herring landings today. We believe this is correct although it may be that some amount of herring is also taken in gillnets for the bait market. Table 3 lists many other gear types as taking herring today (25 in total.) This significant inconsistency needs to be addressed. Fixed gear (stop seines and weirs) should be recognized as having no impact on EFH. Mobile, mid-water gear would be expected to have only a minor impact on herring EFH, if any at all.
- The proposal to identify areas on Georges Bank as "habitat areas of particular concern" (HAPC) for juvenile Atlantic cod may be appropriate. We are strongly opposed, however, to the Council's proposed management alternative 2 (page 171), to "close these areas to all types on fishing activity". The current Closed Area I and II restrictions appropriately authorize mid-water trawling and seining for herring in these closed areas because these fishing methods are recognized to not significantly impact the success of juvenile cod. The discussion of the importance of the gravel/cobble substrate found in this habitat (page 6), to the success of juvenile cod, would also be expected to serve as EFH, if not HAPC, for herring eggs. We hope that the Council will continue its investigations of the value of certain bottom substrates to other species of commercial interest in the region and begin to identify HAPC for Atlantic herring.

NON-FISHING RELATED THREATS AND IMPACTS

- Tables 5 and 6 list a variety of "potential" chemical, biological and physical threats to EFH although no actual data is sighted to describe the health of EFH in the region today. A "zero tolerance" regulatory stance is suggested with the language used in the public hearing document. What can be said about the impacts of these threats on stock recruitment or seafood safety within the Council's jurisdiction? How good, or bad, are the actual cumulative impacts of these "threats" on the commercial or recreational species under the Council's jurisdiction? How will the Council prioritize the risks to fish stocks and human health in future management measures or in its consultations with state and federal agencies?

FRAMEWORK SPECIFICATIONS

- We agree that the framework adjustment process is the appropriate, and most timely, method to integrate specific EFH-related management measures into the Council's management plans.

RESEARCH AND INFORMATION NEEDS

- The impacts of coastal pollution on the productivity of fish stocks and the wholesomeness of seafood appear to be missing from the list of research needs at page 184. We believe that our collective understanding of the impacts of coastal pollution on the primary productivity of our coastal waters is very poor. Also, consumers and producers of seafood need to know that our coastal waters are free from any contamination that could threaten human health.

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Thank you for the opportunity to comment on the Public Hearing Document for Essential Fish Habitat. We look forward to working with the Council to fully implement this important fisheries policy in the New England region.

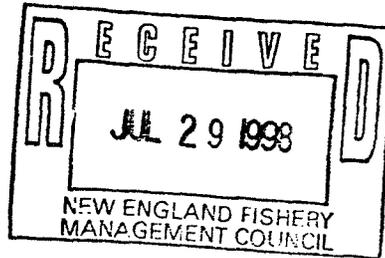
Sincerely,
MAINE SARDINE COUNCIL



Jeffrey H. Kaelin
Executive Director

Cc: Maine Congressional Delegation
Hon. Angus S. King, Jr., Governor, State of Maine
Acting Commissioner Lewis Flagg, Maine Department of Marine Resources

Council on Farming, Fishing & Forestry



7 Community Drive
Augusta, Maine 04330
July 24, 1998

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1036

Re: Comments Regarding New England Fishery Management Council Proposed Designation of and Management Proposal and Alternatives for Essential Fish Habitat

Dear Mr. Howard:

The Maine Council on Farming, Fishing & Forestry (CF3) is a statewide network of organizations united to promote the current and future economic well being of Maine's natural resource based businesses. The roster of our membership is attached for your information. It is the goal of CF3 to seek out areas of common interests and pursue opportunities to increase value added manufacturing, research and innovation, create stability in the regulatory arena, and enhance our state's cultural and economic ties to the farming, fishing and forest industries.

CF3 supports development of Essential Fish Habitat (EFH) focused management measures necessary to sustain important commercial and recreational fisheries resources. However, the proposals by NEFMC contained in the Public Hearing Document for Essential Fish Habitat (EFH) are of great concern to our group and we respectfully submit the following comments for your consideration.

- The range of the proposed EFH designations is very far reaching and for all practical purposes eliminates the concept of essential from EFH. The proposal to designate 11 Maine rivers as "Habitat of Particular Concern" is particularly disturbing. Maine's Atlantic salmon conservation plan is focusing (with federal government support) on 7 Maine river systems critical to restoring this species. Even before an appropriate regulatory regime can be established for these 7 river systems – with the cooperation of *all* parties – the NEFMC proposes to expand the area of particular concern without any explanation for doing so. In addition, also without providing any specific rationale, the NEFMC would immediately designate 28 rivers, most of which are in Maine, as essential Atlantic salmon habitat.
- The proposed EFH designation extends regulatory authority of NEFMC and National Marine Fisheries Service (NMFS) over non-fishing activities throughout a wide geographic

area that extends from the marine environment up through river watersheds and even to upland activities. The likely result is NEFMC and NMFS becoming involved in thousands of land use and permitting decisions. Considering the extensive state land use regulations that already exist in Maine, we believe the additional involvement of NEFMC and NMFS in reviewing state land use activities will most probably lead to unnecessary duplication and add considerable costs to the permitting process.

- Considering the breadth of proposed EFH designations, the demands for review and consultation will pose a huge burden to state and federal agencies that will certainly stress available resources. As a result, the EFH process will likely slow down permitting proceedings significantly.
- EFH preferred designations are made without any specificity regarding management restrictions, alternatives or potential impacts. The consequences of designation of EFH without first identifying regulatory impacts and management alternatives are extremely difficult to understand and lead us to expect the very worst case.

We urge NEFMC to reconsider its proposals to address our concerns. NEFMC should identify a regulatory regime based upon specific management impacts and practicable alternatives, and develop detailed information regarding truly "essential" habitat to provide a rationale for designation as EFH.

Sincerely,



Dana Connors
Chairman

Enclosure

Cc: Hon. Angus s. King, Jr., Governor, State of Maine
Hon. Olympia J. Snowe, U.S. Senate
Hon. Susan M. Collins, U.S. Senate
Hon. H. Thomas Allen, U. S. House of Representatives
Hon. John E. Baldacci, U. S. House of Representatives
Hon. Mark W. Lawrence, President, Maine State Senate
Hon. Elizabeth H. Mitchell, Speaker, Maine House of Representatives
Commissioner Ronald Lovaglio, Maine Department of Conservation
Commissioner Ned Sullivan, Maine Department of Environmental Protection
Commissioner Edward McLaughlin, Maine Department of Agriculture
Acting Commissioner Lewis Flagg, Maine Department of Marine Resources

Council on Farming Fishing & Forestry

Associated Fisheries of Maine
PO Box 287
South Berwick, Maine 03908

Maine Lobsterman's Association
41 Route 103
York, Maine 03909

Biotechnology Association of Maine
PO Box 721
Augusta, Maine 04332-0721

Maine Potato Board
744 Main Street
Presque Isle, Maine 04769

Gould Consulting Services
HCR 76, Box 260
Greenville, Maine 04441

Maine Pulp & Paper Association
104 Sewall Street
Augusta, Maine 04330

Maine Aquaculture Association
141 North Main St., Suite 202
Brewer, Maine 04412

Pulp & Paperworkers Resources Council
204 Martin Road
Rumford, Maine 04276

Maine Association of Conservation Districts
PO Box 228
Augusta, Maine 04330

Maine Sardine Council
PO Box 440
Winterport, Maine 04496-D440

Maine Chamber & Business Alliance
7 Community Drive
Augusta, Maine 04330-9412

Northeastern Lumber Manufacturers Association
Box 7-A
Cumberland Center, Maine 04021

Maine Cranberry Growers Association
310 Main Road North
Hampden, Maine 04444

Professional Logging Contractors of Maine
PO Box 696
Lincoln, Maine 04457

Maine Farm Bureau Association
RR 5, Box 1254
Augusta, Maine 04330-9322

Resource Policy Group
820 Lovejoy Shores
Fayette, Maine 04349

Maine Forest Products Council
146 State Street
Augusta, Maine 04330

Somerset Associates
PO Box 326
Newport, Maine 04953

Maine Lobster Dealers Association
491 Boothbay Road
Edgecomb, Maine 04556-3211

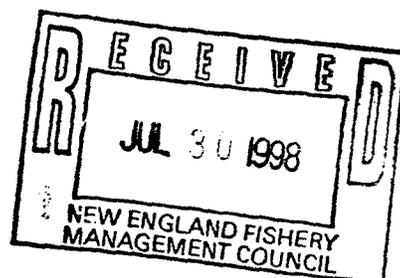
W.J. Brennan Associates
100 Commercial Street, Suite 417
Portland, Maine 04101

Wild Blueberry Commission
5715 Coburn Hall
Orono, Maine 04469-5715



CAPE COD COMMERCIAL
HOOK FISHERMEN'S ASSOCIATION, Inc.
P.O. Box 585, West Chatham, MA 02669

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1036



July 25, 1998

Dear Paul,

On behalf of the Cape Cod Commercial Hook Fishermen's Association (CCCHFA) I would like to respectfully submit our comments on the Public Hearing Document for Essential Fish Habitat (EFH). While the CCCHFA supports adopting the preferred alternative EFH maps for each life history stage of the managed species, we are not surprised to note that the document fails to identify any substantive means for mitigating threats to EFH from fishing or non-fishing activities. This alone puts the New England Fishery Management Council (NEFMC) out of compliance with the Sustainable Fisheries Act (SFA) amendments to the Magnuson-Stevens Fishery Conservation and Management Act.

The CCCHFA fully supports the thorough manner in which EFH maps were constructed and would like to support the adoption of the "preferred alternative" maps described in the public hearing document. By calling upon scientific data, fishermen's anecdotal information and the Industry Advisory Panel, the NEFMC and staff has succeeded in compiling a wealth of information regarding those habitats which are "essential" to the fish species which we all depend upon. In particular, we would like to offer our sincere gratitude and thanks to NEFMC staff member Mike Pentony for the long hours and selfless devotion that he has dedicated to the task of putting these maps together. Unfortunately, identifying EFH is only a portion of the task delineated by Congress in the SFA amendments.

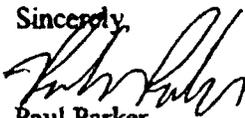
The failure of the New England Fishery Management Council to comply fully with the habitat provisions of SFA is no great surprise. Since early in the implementation stages of the regulations, it has been clear that the Council only intended on delineating EFH by October 1998 and not actually managing or regulating it's use. In fact, for months the Council adhered to a timetable of identifying EFH in 1998 and determining what to do about it in 1999. Consequently, it was with some surprise that we read anything at all about fishing or non-fishing impacts on EFH in this public hearing document.

We agree with what much of the document has to say about the effects of mobile gear on benthic habitats. In essence, the document recognizes that mobile gears impact the habitats that they work on and that these impacts are harmful to the survivability of the fish that live there. Acknowledging these facts, the document goes on to point out that the Council has created closed areas, has limited fishing effort by restricting days at sea, may ban street sweeper gear and may further reduce scallop effort in Amendment 7 to the Sea Scallop Management Plan. All fine management measures, but none of them does anything to mitigate the damage done to EFH by mobile gears. Nor do these measures succeed in differentiating between mobile and fixed gears as required by law.

Furthermore, with scallopers threatening to compromise the integrity of the closed areas' habitats, the Council balking at banning street sweeper gear, and politicians pressuring the Council to lighten up on regulations in Amendment 7 of the Sea Scallop Management Plan, we have serious questions over whether any of these measures should even be listed in the document.

To conclude, we would have embraced a document acknowledging the effects of mobile gear on benthic habitats and at least promoting some form of long term plan for dealing with these impacts. Instead, we were handed a document with the classic NEFMC bottom line...more of the status quo. With fish stocks collapsing like a row of dominos, its high time we started accepting the fact that some serious mistakes have been made in configuring our groundfishing fleet and that we need to begin making steady progress towards rectifying these mistakes. Aside from the "preferred alternative" EFH designations, there is little progress in this document.

Sincerely,



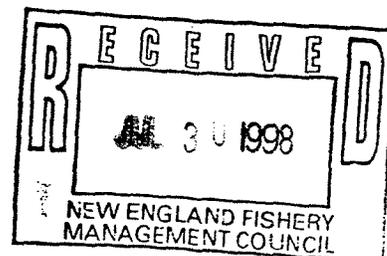
Paul Parker
Executive Director



Massachusetts Lobstermen's Association, Inc.
8 Otis Place
Scituate, MA 02066-1323
Bus. (781) 545-6984 Fax. (781) 545-7837

July 27, 1998

New England Fishery's Management Council
5 Broadway
Saugus, MA 01906-1036



RE: PUBLIC HEARING DOCUMENT FOR ESSENTIAL FISH HABITAT

Dear Council Members:

The Massachusetts Lobstermen's Association would like to submit the following comments with regard to the Public Hearing Document for Essential Fish Habitat.

We believe that it is appropriate that efforts be made to protect habitat that is essential for the recovery of fish stocks. In doing so however we must be sure that the areas chosen are truly essential and will result in a measurable difference. Certainly this will require frequent monitoring of an area thought to be essential in order to be sure it is worthy of selection. Please don't just pick some spots and stop fishermen from fishing there because it may be essential.

As we know, there is fishing gear and then there is other fishing gear. Operations that disrupt the bottom and alter its makeup do need to be kept out of essential habitat. Other operations such as traps, hooks, mid water trawling and even gillnets do not upset the bottom habitat and therefore need not be restricted for habitat purposes. Actually, gear such as hooks should be encouraged as a way to fish for fish without adversely affecting the bottom.

We also believe that the Council and the National Marine Fisheries Service should take a hard stand against habitat destruction caused by land based Outfall discharge systems. Ever since the Clean Water Act has mandated cleaner discharges from treatment plants, habitat areas near these discharges have experienced a decline in productivity as the new "cleaner", by CWA standards, chemically treated water is poured out on the marine environment. These new discharges have altered the bottom, upset the balance, and in some cases made the area sterile. An example of such an experience has been Boston's Deer Island facility, and the Lynn and Salem Massachusetts discharge areas. It is interesting to note that according to your charts showing areas of likely Cod habitat, for example, Massachusetts Bay seems to be prime habitat yet this area is right in the path of the new, soon to be opened, "Mother" of all outfall pipes. What will happen to the habitat there? We urge the Council and NMFS not to overlook these systems along the coast in your effort to protect the habitat. To disregard this source because it is not "fishing related" would be a disservice to the marine resources and the fishing community. We believe that of all the land based possible sources of habitat destruction mentioned in your document, the Outfall discharge systems along the coast pose the biggest threat. We would hope that provisions would be included in the amendments to fishery plans that would mandate monitoring of the habitat in these areas and wording included that would mandate corrective action or shutdown be imposed should it be needed to protect the habitat. This may seem like David taking on Goliath here but this is important to all of us and remember who won that encounter.

Page two

In seeking to protect essential fish habitat for the species currently being targeted, we urge the Council not to forget that what may not be essential for one species, may be essential for another. Of concern here is the possibility of further destruction of lobster habitat by fishing operations that have been re-routed away from essential "fish" habitat because of their destructive nature. If the essential habitat for lobster and fish is always the same that's fine, but is it? Great care should be taken in this regard.

We oppose the proposal on page 171 that would close the two areas under consideration to all fishing activity. Lobster traps do not destroy habitat. If anything they provide feeding stations and now with vents and biodegradable panels can actually provide habitat and shelter.

Likewise there are other forms of fishing that also do not disrupt habitat and, if anything, these fishing operations should be encouraged rather than banned in a habitat sensitive area.

Closing out these habitat friendly fishing activities in the two areas under consideration, we believe, sets a dangerous precedent that is likely to expand to many other essential habitat areas that will be identified in the future. It is unfair and unnecessary to penalize fishing operations that have not adversely affected a fishing ground.

We trust that you will carefully consider our comments with regard to habitat protection and will exercise wisdom in your decisions so that while the habitat is provided with protection, fishermen will also be provided the opportunity to continue to fish.

Very truly yours,



William A. Adler
Executive Director

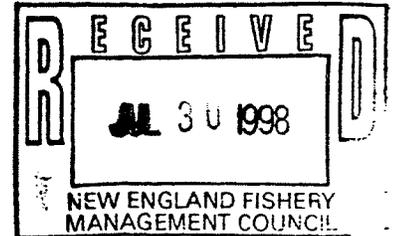
WAA/mah



2 Howell Lane • P.O. Box 310 • Eliot, Maine 03903
(207) 439-2719 • Fax (207) 439-7643

July 17, 1998

Mr. Paul J. Howard, Exec. Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906



Re: Essential Fish Habitat

Dear Mr. Howard,

Please be advised that I have reviewed the *Public Hearing Document for Essential Fish Habitat* and attended the public hearing held July 16, 1998 in Portsmouth, NH. I wish to comment on several specific areas of concern. I am concerned that there is a paper on aquaculture and its environmental effects that was not included in the EFH process. Your staff has agreed to send this to me, however, without its availability prior to the close of the EFH comment period, it is of little value.

The Non-Fisheries Activities Assessment has been completed but has not been made available to the public. I also understand that the Conservation and Enhancement Measures Recommendations have not yet been completed, and that further, this will *not* be made available to the public and there will be *no* opportunity for comment. I am disturbed that these two critical aspects of EFH were not included in the public hearing document and hearings.

With respect to the Conservation recommendations, your staff has stated that these are "just" recommendations to other agencies. While these recommendations may be non-binding, it must be recognized that management restrictions by the New England Fisheries Management Council, at the requirement of the Magnuson-Stevens Act will be viewed by other agencies, as more than mere recommendations. These recommendations which will impact other businesses and livelihoods, will be viewed as mandates. They must be a part of the public process in order to have the hearing process be meaningful. As it stands, it is incomplete and meaningless. I suggest that you incorporate these areas into the hearing documents and convene further hearings.

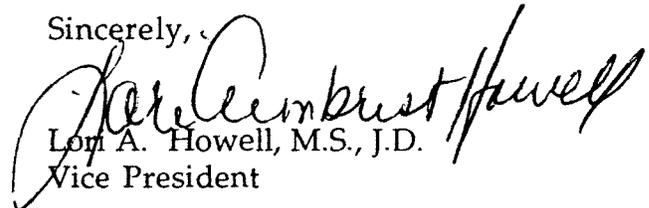
The EFH designations are broad, and in fact extract the concept of the term

"essential" from the designation due to the far reaching identifications. The usefulness of the hearings process is limited since the hearing document focuses on *any ...stress that may degrade...EFH* without defining what an "adverse" impact is.

It would appear that the New England Fisheries Management Council must put in place a finer filter and identify both what a truly "essential" habitat is, and as well as what an adverse impact is while informing and including other user groups in the public process in a meaningful way.

I look forward to your response and action.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Howell". The signature is fluid and cursive, written over the typed name and title.

Lori A. Howell, M.S., J.D.

Vice President

Hon. Angus S. King, Jr., Governor, State of Maine
Honorable Ted Stevens, U.S. Senate
Honorable Susan M. Collins, U.S. Senate
Honorable Olympia J. Snowe, U.S. Senate
Honorable Thomas H. Allen, U.S. House of Representatives
Honorable John E. Baldacci, U.S. House of Representatives
Acting Comm. Lewis Flagg, Maine Dept. Marine Resources
Hon. Mark Lawrence, President, Maine State Senate

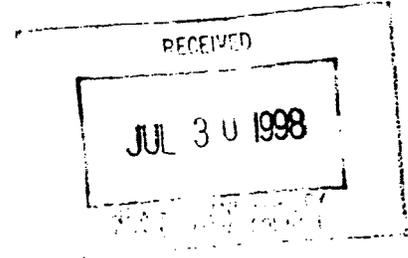


STATE OF MAINE
DEPARTMENT OF
MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

ANGUS S. KING, JR.
GOVERNOR

LEWIS N. FLAGG
COMMISSIONER (ACT'ING)

July 30, 1998



Joseph M. Brancalone, Chairman
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1036

RE: Comments on June 30, 1998 Public Hearing Document for Essential Fish Habitat

Dear Joe:

I am writing on behalf of the Land and Water Resources Council ("LWRC")¹ to provide the State of Maine's comments on the New England Fishery Management Council's ("Council") June 30, 1998 Public Hearing Document for Essential Fish Habitat ("Document"). The State understands that the proposal outlined in the Document, if approved by the National Marine Fisheries Service ("NMFS"), will be published by NMFS as a proposed rule. The State offers its comments on the Document with the recommendation that the concerns and deficiencies identified be addressed prior to initiation of rulemaking.

The State recognizes that the future of the fishing industry and fishery resources in Maine and elsewhere in New England is directly dependent on the continued health and biological productivity of fish habitat, and thus strongly supports the concept of identification and inclusion of essential fish habitat (EFH) in the Council's Fishery Management Plans (FMP). We commend the Council and its staff on the major effort that has gone in to the development of this document in a very short time frame. However, the State has a number of serious reservations about the Council's proposal. These concerns are centered on the following:

- the quality of the data on which EFH and HAPC designations are based and the resulting overbreadth of those designations; and

¹ The LWRC is established to facilitate more effective coordination and action among Maine state agencies on matters involving natural resources and land use management. Chaired by the Director of the Maine State Planning Office, the membership of the Council is as follows: Commissioner of Agriculture, Food, and Rural Resources, Commissioner of Conservation, Commissioner of Environmental Protection, Commissioner of Human Services, Commissioner of Inland Fisheries and Wildlife, Commissioner of Marine Resources, Commissioner of Transportation, and the Commissioner of Economic and Community Development or designee.

OFFICES AT STEVENS SCHOOL COMPLEX, HALLOWELL

PHONE: (207) 624-6550

FAX: (207) 624-6024

- the lack of clarification of how the Council will administer its essential fish habitat authority and obligations, regarding review and comment on activities in Maine.

The State is concerned that these significant flaws in the Document may undermine long standing and ongoing State efforts to protect and conserve anadromous and other fishery resources.

L. Proposed Designations of Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) are Overbroad and Rely on Inadequate Data.

A. General Concerns.

Although the Document provides a good general overview of the distribution of the various species' life stages in the New England area, the existing data sets on which the Council relies are too broad and nonspecific for a truly valid designation of species' essential fish habitat. The Document acknowledges that "[c]ertain types of research and information are needed to improve the information base upon which EFH has been designated"², and generally lists other research needs and information deficiencies. However, the Document provides no guidance on when or how these information gaps may be filled. Given the limitations of the data on which the Document's EFH and HAPC designations are based, the State is concerned with the reliability of these designations as a basis for comments and recommendations on federal and State activities.

The Document also fails for the most part to differentiate among the relative values of areas within the EFHs identified. The Document should note areas' particular habitat values, where known, so that the Council can make appropriate recommendations on activities that may unreasonably affect high value habitat. The Document should emphasize that further work is needed to distinguish high value habitat from marginal habitat, and outline a schedule for completion of this work.

B. Species Specific Concerns

1. Atlantic salmon

State is particularly concerned with the lack of specificity in designations of habitat areas of particular concern (HAPC) for Atlantic salmon. The State disagrees with including eleven Maine rivers³ as recommended HAPCs. This blanket approach does not reflect the best available scientific information, and thus may undermine salmon recovery efforts by eroding public confidence and commitment. In addition, designation of Tunk Stream, the Kennebec River, the Penobscot River, and the St. Croix River in their entirety as HAPCs along with the seven

² Document, p. 184.

³ The Council has proposed designation of the following 11 Maine rivers as HAPCs: the Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap, Sheepscot, Penobscot, Kennebec, St. Croix Rivers, and Tunk Stream. CITE. In addition, the Council has proposed designation of 28 Maine rivers as EFH. See Document, p. 13, Figure 3; p. 101, figure 10.3. *[Lew - is DMR concerned re: designation of 28 as EFH?]*

downeast rivers⁴ prioritized in Maine's Atlantic Salmon Conservation Plan ("Salmon Plan")⁵ is not based on the best available scientific information, and threatens to undermine achievement of the Salmon Plan's objectives.

Although almost all of the Maine salmon rivers have been surveyed and specific river reaches or tributaries identified as important spawning and nursery habitat, the Council's proposal identifies whole river systems as essential fish habitat or habitat areas of particular concern. The failure to accurately reflect this river survey information in the HAPC designations is inconsistent with NMFS' guidelines⁶ directing the Council to use the best available information. The final document should identify specific river sections rather than classifying whole rivers as HAPCs. There are extensive habitats within most of these salmon rivers which provide no special value to salmon and should not be included in HAPC designations.

Failure to acknowledge that some areas within the proposed HAPCs provide marginal or no significant habitat value undermines the credibility of the HAPC designation and may erode public confidence in salmon recovery efforts generally. Public confidence and commitment is integral to the success of the Salmon Plan, which is designed to marshal the expertise and involvement of communities in the downeast region in conservation planning and implementation. By identifying specific high value habitats, the credibility of the data will be greatly strengthened and we believe Council recommendations will carry more weight when responding to activities that adversely impact genuine HAPCs.

In its EFH recommendations, NMFS has suggested that "the EFH amendment should include a clear explanation of the Council's rationale if the Council decides to limit the scope of the HAPC to cover only a portion of the habitat within the distinct population segment."⁷ There are several compelling reasons to recognize the significant distinctions between the seven downeast rivers on which the Salmon Plan focuses and the four additional rivers the Council proposes as HAPCs.

The four rivers the Council proposes as HAPC have not yet been determined to be habitat for a distinct population segment of Atlantic salmon. In addition, most of the minor coastal streams identified as supporting juvenile salmon do not contain enough habitat to generate adult runs large enough to be considered a distinct population segment although they might be collectively considered a coastal meta population. The Document lists the notion that the seven downeast rivers represent a distinct population segment as the primary reason for designation of those rivers as HAPCs.⁸ Thus, designation of the Kennebec, Penobscot, and St. Croix Rivers,

⁴ The State's Atlantic Salmon Conservation Plan recognizes the seven downeast rivers (Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap, and Sheepscot) as our highest priority rivers for the conservation and restoration of Atlantic salmon runs.

⁵ *Atlantic Salmon Conservation Plan for Seven Maine Rivers* (March 1997).

⁶ See 50 C.F.R. 600.815(a)(2)(ii)(A).

⁷ Draft Essential Fish Habitat Recommendations to the New England Fishery Management Council, NMFS, July 7, 1998, p. 4.

⁸ Document, p. 7.

and Tunk Stream as HAPC is at best premature. Designation of these four rivers in their entirety as HAPC compounds the problem.

The seven downeast rivers are non-industrial rivers, relatively uninfluenced by the history of industrial pollution and extensive hydropower development typical of other rivers such as the Penobscot, St. Croix, and Kennebec. Because of lack of dams and industrial development, the seven downeast rivers represent the best opportunity of reestablishing self sustaining runs of Atlantic salmon. Council concerns for salmon habitat should therefore focus on these systems and not the Penobscot, St. Croix⁹, Kennebec, and Tunk Rivers. Council's proposal emphasizes that HAPCs "are intended to receive more of the Council's and NMFS' attention when providing comments on federal and state actions, and in establishing higher standards to protect and/or to restore such habitat."¹⁰ As a result, the Council's proposal is contrary to the determination in the Salmon Plan to focus efforts and resources on the seven downeast rivers. This disparity threatens to undermine achievement of the Salmon Plan's objectives by diverting time, energy, and resources away from salmon rivers of primary and immediate concern.

Atlantic salmon eggs, juveniles and adults are listed as present in the Medomak and St. George rivers. These two systems should be deleted from categories as habitat containing Atlantic salmon as there is no recent documentation that salmon are present in these rivers. The Medomak and St. George rivers should continue to be included under EFH alternative 5 since this category refers to all historical salmon rivers. There should be an acknowledgment that the St. Croix is a boundary river with Canada and that habitat protection will require collaboration with Canadian officials. This acknowledgment also applies to certain marine species where EFH extends into adjacent Canadian waters.

2. Atlantic herring

Recent studies by DMR in collaboration with others has documented the presence of Atlantic herring eggs in Grand Manan channel. The maps of Atlantic herring egg beds should be updated to include the 10 minute square that encompasses the Grand Manan channel.

II. The Proposal Fails to Clarify How the Council Will Coordinate With and Thus Contribute to State Conservation and Management Efforts in Carrying Out its EFH Responsibilities.

Although throughout the EFH process Maine¹¹ and others states have consistently requested clarification of the relationship between the federal EFH/HAPC review and existing state permitting and other resource management actions, the Document is nonspecific on this crucial point.¹² As the State has consistently noted, it is essential that the final Document and any

⁹ The location of the U.S./Canada boundary further complicates designation of the St. Croix as a HAPC. It is unclear how this designation could be effective without a comparable Canadian commitment.

¹⁰ Document, p. 5.

¹¹ DMR letter 6/5/97

¹² Document, p. 181.

NMFS rule provide for coordination and consistency with permitting and other resource management processes that exist at the State and local levels. Information and decisions generated in these nonfederal processes are central to the protection and enhancement of EFH and HAPC. Maine's Salmon Plan and experience with project SHARE demonstrate the benefits of planning and decision making in concert with local and regulated communities, supported by scientific expertise.

The State Planning Office (SPO) has previously discussed with NMFS steps to ensure coordination of EFH review and comment actions with existing State procedures. SPO has offered to assist NMFS in organizing meetings with pertinent State and local agencies and is willing to assist the Council in this way as well. As outlined in the attached letter regarding the Document from the Maine Department of Transportation¹³, coordination among review agencies on anadromous and other fishery and resource issues has promoted efficiency in a variety of regulatory programs through early identification and resolution of issues. It is critical to the success of State and local resource management efforts that federal EFH process be timely. The State urges the Council to adopt NMFS suggestion that the Council adopt "abbreviated procedures for the development of Council recommendations"¹⁴ as necessary to avoid delaying State permitting and other management actions.

The provision for NMFS' Interim Final rules¹⁵ allow for General Concurrence regarding federal activities with *de minimis* effects on EFH and HAPC. The State urges the Council to work closely and soon with NMFS and other federal agencies to develop the necessary protocols. In addition, the State would like to work with the Council to develop a comparable programmatic approach for State activities with potential for only *de minimis* impacts, such as routine permit by rule decisions issued by the Maine Department of Environmental Protection, as well as activities approved by the State under the core laws of the Maine Coastal Program¹⁶. Discussions among the State, the Council, and NMFS aimed at clarifying review procedures and identifying the limited categories of actions that may merit more detailed federal review are necessary to ensure that the EFH process adds value to resource planning and decision making.

The Document also fails to clarify a reasonable, minimal level of impact that will trigger the Council's EFH review and comment responsibilities. NMFS' EFH rules define "adverse affect" as "any impact which reduces quality and/or quantity of EFH."¹⁷ The Document's lack of qualification of the types of unreasonable or significant adverse effects that may trigger EFH review and comment implies a zero tolerance standard, since any human activity may affect essential fish habitat. The focus of the Document should be maintenance of the health and biological productivity of the habitat and rehabilitation of degraded habitat, recognizing the legitimacy of reasonable and established human uses.

¹³ See Attachment 1

¹⁴ 50 C.F.R. '600.930(a)

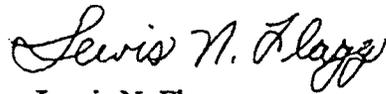
¹⁵ 50 C.F.R. '600.920(f)

¹⁶ The Preamble to NMFS Interim Final EFH rule recognizes that FMP amendments adding ESH and federal EFH actions would require state review for consistency with the enforceable policies (core laws) of the Maine Coastal Program. 62 FR 66531, 66546-66547 (December 19, 1997).

¹⁷ 50 C.F.R. '600.810(a)

Thank you for the opportunity to comment on this important document. We look forward to continued collaboration on this and related issues. If you or staff have questions, please feel free to contact me at 207-624-6553.

Sincerely,



Lewis N. Flagg
Commissioner

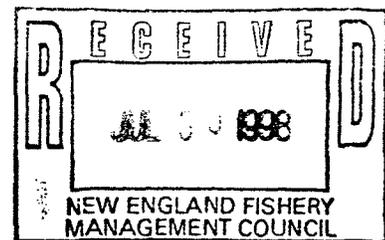
SUSAN M. COLLINS
MAINE

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United States Senate

WASHINGTON, DC 20510-1904

COMMITTEES
GOVERNMENTAL AFFAIRS
LABOR AND HUMAN RESOURCES
SPECIAL COMMITTEE
ON AGING



York County Office
109 Alfred Street
Biddeford, Maine 04005
July 27, 1998

Mr. Paul J. Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, Massachusetts 01906

Dear Mr. Howard:

Senator Collins was contacted recently by concerned citizens in Wells, Maine about the proposal to designate Wells Harbor as a so-called "Essential Fish Habitat."

Enclosed for your reference are copies of the correspondence received recently by this office. At your earliest convenience, please review these concerns and respond directly to Senator Collins at the address printed above. Any information that you might provide will be much appreciated by Senator Collins and by concerned citizens and town officials in Wells.

If you have questions or if you need additional information, please remember that you are welcome to call me at (207) 283-1101. Office hours are from 8:30 a.m. to 5:30 p.m., Monday through Friday.

On behalf of Senator Collins, thank you in advance for your attention to this matter.

Sincerely,

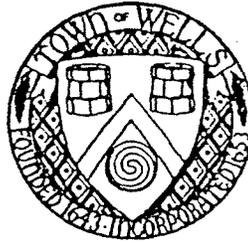
A handwritten signature in black ink that reads "Cliff G. Garvey".

Cliff G. Garvey
State Office Representative for
Susan M. Collins
United States Senator

Enclosures

JUL 24 1998

Municipal



Office

COPY

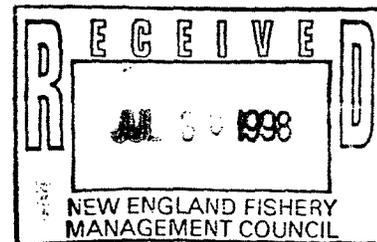
P.O. Box 398
Wells, Maine 04090

Offices of the
Town Manager and
Board of Selectmen

July 22, 1998

Telephone
Voice (207) 646-5113
Fax (207) 646-2935
TDD (207) 646-7892

Paul J. Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906



RE: Comments on Essential Fish Habitat

Dear Members of the Council:

Please accept the following written comments to be included as part of the public record for the establishment of the Essential Fish Habitat.

My name is Jonathan L. Carter, Town Manager for the town of Wells. I am writing on behalf of the Wells Board of Selectmen. My comments are based on discussions with former Selectmen Robert Foley who attended the July 16, 1998 public hearing on the proposal in Portsmouth, NH and on my reading of the public hearing documents Mr. Foley supplied to Town Officials. We oppose and object to Wells Harbor being considered part of the proposal.

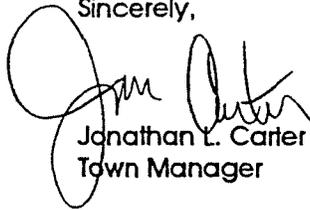
Not one of the officials in the Town of Wells I've contacted had any prior knowledge of the current proposal or even knew that the proposal was being considered. Not myself, nor the Town Attorney, Harbor Master, head of the local fisherman's co-op or the Chairman of the Board of Selectmen were aware of the proposal. I also contacted Dr. Michelle Dionne, head researcher for the Wells National Estuary Research Reserve, a division of N.O.A.A. She has conducted the most extensive research of the fish population in the Wells embayment, including Wells Harbor, and she knew nothing of the proposal. She found the consideration of Wells Harbor as an essential habitat to be a far reaching aspiration based on bad scientific data. Bad science makes for bad decisions. Not only was she not contacted but none of her extensive research data was ever used or consulted. Many of the scientists within the New England Division of N.O.A.A. and the National Marine Fisheries know of Dr. Dionne and her work. The lack of public consultation with local officials should have been mandated regarding the establishment of any local facility or area to be considered in this proposal.

Several months ago, Town and Wells Reserve officials met with the New England Division of National Marine Fisheries as part of the town's attempt to communicate with interested parties regarding the Wells Harbor dredge. Not once did any of the officials of N.M.F. advise of this potential designation. John Caskey has been our contact person with that organization and he has never mentioned this issue or potential as a concern of that organization. Based on the scientific information currently available, we believe that the Webhannet River, the source for Wells Harbor, does not currently qualify for essential fish habitat within the proposal's definition. Wells Harbor is essential fisherman habitat within the proposal's definition. Wells Harbor is essential fisherman habitat and lobsterman habitat not fishery habitat. Certainly areas like the Little River to the north of the harbor have greater potential and could perhaps support such a designation but not Wells Harbor.

We also object to the limited description of the boundaries contained within the designated proposal sites. Wells Harbor, by definition, is a small inlet at the mouth of the Webhannet River used for mooring boats and providing ocean access to the general boating public. The study that was referenced in the proposal by N.O.A.A. was conducted some three miles off shore within the Wells embayment, significantly outside of the Wells Harbor boundaries. Definitions of the proposal areas need to be redefined to be far more specific of the area needing protection. To have stated that the Wells embayment, outside of the Wells Harbor inlet, was to be considered as an essential habitat site, we believe, would be a better definition of an actual potential site, but not Wells Harbor.

We strongly oppose the inclusion of Wells Harbor in this proposal. Inclusion of Wells Harbor appears to us, in our opinion, to place impediments in our attempt at a maintenance dredge. The Army Corps of Engineers and the Town have recently received a State environmental permit to dredge our harbor. Dredging may occur in the Fall of 1999 and extend into the Winter of 2000. This plan is seen by us as a potential cog in our plans.

Sincerely,

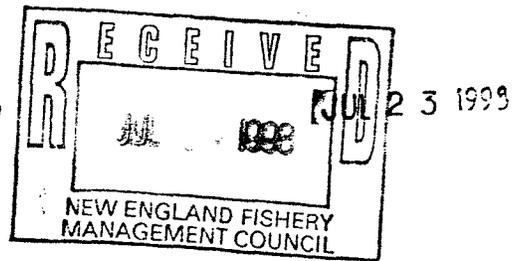


Jonathan L. Carter
Town Manager

JLC/cr

cc Board of Selectmen
Robert Foley, S.O.S.
Senator Olympia Snowe
Senator Susan Collins
Hal Winters, DMR

Robert A. Foley
57 Shady Lane
Wells, ME 04090
207-646-2409



Paul J. Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906

COPY

Re: Comments on Essential Fish Habitat

Dear Members of the Council:

Please accept the following written comments to be included as part of the public record for the establishment of Essential Fish Habitat.

My name is Robert Foley, I am a resident of the Town of Wells in the State of Maine. Although I attended the public hearing on the proposal in Portsmouth, N.H. Thursday, July 16, 1998 and gave limited public comment, I wish to expand upon my objection to the inclusion of Wells Harbor as a part of the designation of essential fish habitat in the Gulf of Maine.

At the time of the "public" hearing, which only 8 members of the public participated, I did not have ample time to review the document prior to the meeting. I only found out about the meeting and the proposal the day before. All attempts to secure information prior to the meeting about the proposal, from local and state officials, were unsuccessful. Not one of officials in the Town of Wells had prior knowledge of the current proposal or even knew that the proposal was being considered. Not the Town manager, Town attorney, Harbor Master, head of the local fisherman's co-op or the Chairman of the Board of Selectmen. I contacted Dr. Michelle Dionne, head of research for the Wells National Estuary Research Reserve, a Division of N.O.A.A. She has conducted the most extensive research of the fish population in the Wells Embayment, including Wells Harbor and she knew nothing of the proposal. She found the consideration of Wells Harbor as essential fish habitat a far reaching aspiration based on bad scientific data. Bad science makes for bad decisions. Not only was she not contacted but none of her extensive research data was ever used or consulted. Many of the scientist within the New England Division of N.O.A.A. and the National Marine Fisheries know of Dr. Dionne and her work.

My first objection to the inclusion of Wells Harbor as a part of this proposal is based on inadequate public notice and participation in the development of the propo-

sal. The lack of public consultation with local officials should have been mandated regarding the establishment of any local facility or area to be considered in this proposal. While I did object to this at the public hearing I sensed that public input was not a high priority on that agenda. Had public input been wanted it could have been received. Notice to the local officials previously mentioned would have assured the committee ample scientific input as well public comment. Rather than 8 participants you could have had 80.

My second objection to the inclusion of Wells Harbor as a part of this proposal is based on the science, or lack of scientific information, necessary to make such a considered judgment reliable. Of the 18 species under consideration in the essential fish habitat designation, Wells Harbor only has 2 reported as having any presence within the waters of the harbor. That presence is limited to a few adults and juveniles, if we can believe or trust the information provided. The material used for making this "informed" decision was based on a N.O.A.A. study conducted between 1977 and 1988. Current information is available and should have been used in any study that establishes such a restrictive proposal. Even those members of your organization who conducted the meeting acknowledged the limited and out-dated material. It was that concern that was given for establishing a research priority for ongoing consideration of new areas to be designated, however we were told that all current areas would remain a part of the proposal. What I heard far too often was that the Magnuson-Stevens Fishery Conservation and Management Act mandates that something must be done, quickly. I don't believe that the act requires imprudent establishment of habitats for the sake of compliance with the legislation! bad science makes for bad policy decisions.

Having lived along the Wells Embayment for over 20 years, having served on the Board of the Wells Reserve Management Authority and having been involved in the management issues and concerns regarding the environmental considerations of Wells Harbor in relationship to maintenance dredging, I have not once heard the term essential fish habitat used by any of the "concerned" environmental agencies in order to establish a concern for the proposed dredging project. Many creative environmental suggestions have been offered but not this one, until now.

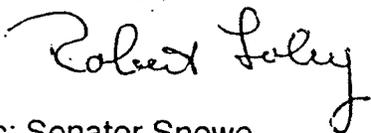
Several months ago town officials, Wells Reserve officials and myself met with the New England Division Of National Marine Fisheries as part of the Town's attempt to communicate with interested parties regarding the Wells Harbor Dredge. Not once did any of the officials of N.M.F. advise of this potential designation. John Caskey has been our contact person with that organization and he has never mentioned this issue or potential as a concern of that organization. Based on the scientific information cur-

rently available I can assure you that the Webhanet River, the source for Wells Harbor, does not currently qualify for essential fish habitat within the proposals definition . Wells Harbor is essential fisherman habitat and lobsterman habitat not fishery habitat. Certainly areas like the Little River to the north of the harbor have greater potential and could perhaps support such a designation but not Wells harbor, already a Federally designated habitat for human species, essential for commercial and pleasure water craft.

I also object to the limited description of the boundaries contained within the designated proposal sites. Wells Harbor, by definition, is a small inlet at the mouth of the Webhanet River used for mooring boats and providing ocean access to the general boating public. The study that was referenced in the proposal by N.O.A.A. was conducted some 3 miles off shore within the Wells Embayment , significantly outside of the Wells Harbor boundaries. Definitions of the proposed areas need to be redefined to be far more specific of the area needing protection. To have stated that the Wells Embayment, outside of the Wells Harbor inlet, was to be considered as an essential habitat site, I believe, would be a better definition of an actual potential site, but not Wells Harbor.

I strongly oppose the inclusion of Wells Harbor in this proposal. It would appear to me that the only reason that the inclusion of Wells Harbor was added to begin with was to prevent future attempts at maintenance dredging. Local, state and federal environmental agencies have opposed the dredge of Wells Harbor for decades. Attempts to circumvent the regulatory review process have failed, they are now resorting to the designation of essential habitat under the endangered species act to close the lands surrounding the harbor and now the endangered fisheries act to close the lands within the harbor. This abuse of Federal regulatory power must stop here and now. No scientist worth his or her salt would concur with the establishment of Wells Harbor as essential fish habitat under this or any other proposal.

Respectfully submitted,

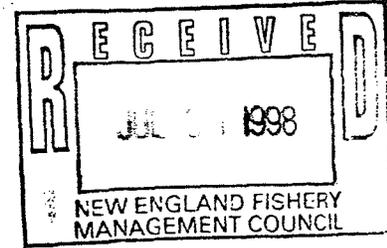


cc: Senator Snowe

Senator Collins

Wells Town Manager and Board of Selectmen

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

JOSEPH STENGER
113 HAPPY HOLLOW RD
Oakham, MA 01068-9612

cc:

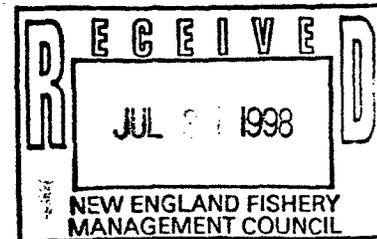
Senator Edward M. Kennedy
Senator John F. Kerry

Alma Doughty
HC 75 Box 2160
Sebago Maine 04029

Fax (207) 787-2133
Email lraco@juno.com

July 30, 1998

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01908
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to influence the New England Fishery Management Council to take definite action to identify and protect essential fish habitats in accordance with the 1996 Sustainable Fisheries Act.

It is to my understanding that the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including haddock, cod, Atlantic Salmon, winter flounder, sea scallops and others. Please ask the Council to adopt the proposed and preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for each of these species. As auxiliary scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations depict the finest available scientific information and recommendations. The Council and its staff are to be applauded for their sedulous work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for young cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed the indefinite shutdown of fishing of the two juvenile cod HAPCs. I support these proposed steps toward protecting essential fish habitat. They do not extend to their full potential, however. Even when associated with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions hardly fulfill the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis most likely exists now for the Council to classify areas in the Gulf of Maine with cobbled bottom that should be identified as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling organisms such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. It has, however, fallen short of maintaining its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to evaluate the practicability of all possible measures to prevent or minimize any hostile effect on EFH from fishing practices. All sensible measures should be adopted immediately.

Thank you for considering these views.

Unequivocally,

Alanna Doughty
Alanna Doughty

cc:

Senator Olympia J. Snowe
Senator Susan Collins

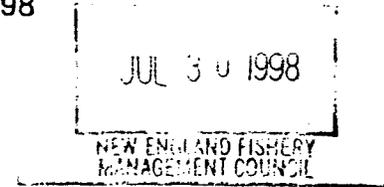
Attachment1



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0016

ANGUS S. KING, JR.
GOVERNOR

July 24, 1998



Mr. Lewis N. Flagg, Commissioner
Maine Department of Marine Resources
21 State House Station
Augusta, ME 04333-0021

Dear Commissioner Flagg:

My staff has reviewed the information provided by the Land and Water Resources Council (LWRC) and by your staff regarding the New England Fishery Management Council (Council) proposals to take action to address the new and revised requirements of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996. It is our understanding that the Act does not impose new permitting or other standards upon non-fishing activities but that it does contain mandatory review and comment coordination requirements that would apply to transportation projects and activities. It also appears that what we have reviewed is only a small part of what the Council is proposing because what we have seen largely applies to Atlantic salmon which is only one of the 18 species the Council is concerned with. Given the above, we offer the following comments for your consideration in responding to the Council on behalf of the LWRC.

The Maine Department of Transportation (MDOT) supports justifiable efforts to conserve and manage fishery resources, including efforts to identify and describe essential fish habitat. However, it appears that in the case of Atlantic salmon, available data (which we ourselves receive from resource agencies) is not being used to identify essential fish habitat and that instead extensive areas (including entire river systems) are being proposed. We feel this is inappropriate as it ignores and contradicts the best scientific data available, is not scientifically defensible, and would actually be counterproductive to conserving and managing this species.

We believe the Council proposal would also add a bureaucratic layer to the existing transportation project review processes without discernible benefit to the species of concern. MDOT projects are developed by coordination processes which include interagency review and comment. Projects requiring state permits that potentially could affect anadromous, catadromous, or marine fishery resources are reviewed by the Department of Marine Resources (DMR), Inland Fisheries and Wildlife (IF&W), and/or the Atlantic Salmon Authority (ASA). These agencies comment regarding potential impacts and MDOT takes measures as necessary to protect fishery resources. For projects that require federal permits, the National Marine Fisheries



PRINTED ON RECYCLED PAPER

Mr. Lewis N. Flagg
Page two
July 24, 1998

JUL 30 1998

NEW ENGLAND FISHERY
MANAGEMENT COUNCIL

Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the Environmental Protection Agency (EPA) are consulted and their comments and concerns are addressed. MDOT holds monthly interagency permit meetings to which all of the above state and federal agencies are invited plus the regulatory agencies. This provides opportunity for further discussion of proposed projects with all the agency players present. We strongly support the rapid implementation of the programmatic approach offered by the General Concurrence procedure for minor and routine activities. We would be more than willing to work in partnership with the Council, NMFS, DMR, IF&W, and ASA to accomplish that. We strongly recommend that the Council utilize existing transportation coordination processes such as those relating to the National Environmental Policy Act (NEPA), Section 404 permitting, the Maine Natural Resources Protection Act, and the Maine Atlantic Salmon Conservation Plan to accomplish coordination in the most cost-effective manner to conserve and manage these resources.

Thank you for bringing the Council's proposal to the attention of the LWRC and for soliciting our comments. As always, we look forward to working with you and your staff in conserving fishery resources as we have done successfully in the past.

Sincerely,



John G. Melrose
Commissioner

JGM:WFR



State of New Jersey

Department of Environmental Protection

Division of Fish, Game and Wildlife

P.O. Box 400

Trenton, New Jersey 08625-0400

Robert McDowell

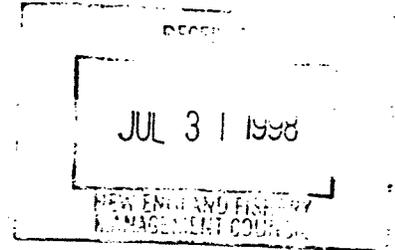
Director

Visit our Division Website: www.state.nj.us/dep/fgw

Christine Todd Whitman
Governor

Robert C. Shinn, Jr.
Commissioner

July 31, 1998



Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906

Dear Mr. Howard:

I am writing on behalf of the New Jersey Marine Fisheries Administration (Administration) to provide comments regarding the New England Fishery Management Council's (NEFMC) proposed Essential Fish Habitat and revised Sea Scallop Fishery Management Plans that were the subject of recent public hearings.

The Atlantic States Marine Fisheries Commission (ASMFC) adopted Amendment #3 to the American Lobster Fishery Management Plan in December 1997. Amendment #3 called for the formation of regional lobster conservation management teams composed of lobster industry representatives to address management measures that provide for an egg production rebuilding schedule. The NJ Marine Fisheries Council has also formed a committee composed of commercial lobster industry and sport diving representatives to address American lobster management measures. One of the major concerns brought forth at the recent hearings and meetings by both lobster pot fishermen and sport divers has been the degradation of juvenile lobster habitat associated with scallop dredging activities. The primary nearshore lobster fishing grounds and shipwrecks in the northern New Jersey (New York Bight Apex) ASMFC Area 4 Lobster Management Zone is the focus of concern.

The Administration intends to form a committee composed of scallop, lobster and sport diving industry representatives to address gear conflicts and identify essential lobster habitat and the impacts associated with scallop dredging on lobster fishing grounds. Once the committee has addressed these issues, the Administration may wish to request that the NEFMC adjust the Scallop and Essential Fish Habitat Plans that are currently under consideration to reflect a resolution that may result in an area closure to scallop dredging.

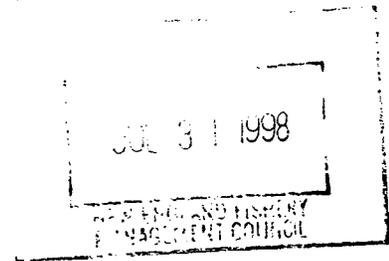
Thank you for the opportunity to provide these comments on your management plans. If you have any questions, please call me or Bill Andrews at 609-748-2020.

Sincerely,

Bruce L. Freeman
Division of Fish, Game and Wildlife

BA:pa
c. T. McCloy

Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906
fax: (617) 565-8937



Re: Comments on Essential Fish Habitat

Dear Executive Director Howard:

I am writing to urge the New England Fishery Management Council to take strong action to identify and protect essential fish habitat in accordance with the 1996 Sustainable Fisheries Act.

I understand the Council has proposed essential fish habitat (EFH) designations for eighteen fish species managed by the Council, including cod, haddock, sea scallops, Atlantic Salmon, winter flounder and others. Please ask the Council to adopt the proposed preferred EFH designations described in the Public Hearing Document (dated June 30, 1998) for for each of these species. As additional scientific information becomes available in the future these designations may be refined and narrowed. In the meantime, the proposed preferred EFH designations represent the best available scientific information and advice. The Council and its staff are to be commended for their diligent work in developing these proposed EFH designations.

I also understand that the Council has proposed designating Habitat Areas of Particular Concern (HAPCs) for juvenile cod on Georges Bank and for Atlantic Salmon along 11 rivers in Maine. The Council has also proposed closing indefinitely to most fishing the two juvenile cod HAPCs. I support strongly these proposed new steps toward protecting essential fish habitat. They don't go far enough, however. Even when combined with the other existing fishery management measures identified in the Public Hearing Document as providing some protection for EFH, these new actions fall well short of fulfilling the mandate of the 1996 Sustainable Fisheries Act to protect EFH.

For example, a scientific basis likely exists now for the Council to identify areas in the Gulf of Maine with cobbled bottom that should be designated as Habitat Areas of Particular Concern for juvenile cod and closed to trawling and other fishing practices that damage rocky structures and bottom-dwelling animals such as sponges which provide refuge from predators for juvenile cod.

The New England Council has made impressive progress toward designating essential fish habitat. But it has fallen far short of fulfilling its legal obligation under the Sustainable Fisheries Act to protect EFH.

I urge the Council, as required by the Sustainable Fisheries Act, to systematically inventory and evaluate the practicability of all possible measures to prevent, mitigate, or minimize any adverse effect on EFH from fishing. All practicable measures should be adopted immediately.

Thank you for considering these views.

Sincerely,

Ingrid Flory
82 Petticoat Hill Road
Williamsburg, MA 01096-

cc:

Senator Edward M. Kennedy
Senator John F. Kerry

Comments on Essential Fish Habitat

Dear Mr Howard,

Human life ultimately depends on healthy seas so I strongly support the Council's proposal to designate Two Habitat Areas of Particular Concern (HAPC) for young cod.

Please see them protected from damaging fishing gear by, at least keeping current closure restrictions in the 2 cod HAPCs

Please see that the Council continue to designate Essential Fish Habitat for remaining species & find ways to minimize adverse impacts on these habitats.

Respectfully

Frances Perlman



Ms. Frances M. Perlman
P.O. Box 293
West Paris, ME 04289-0293

RECEIVED

JUL 31 1998

NEW ENGLAND FISHERY
MANAGEMENT COUNCIL

"Comments on Essential Fish Habitat"

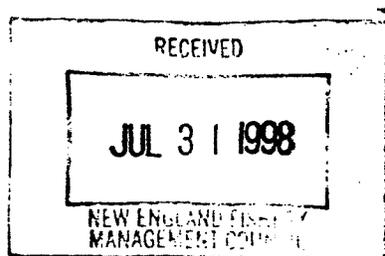
Dear Mr. Howard,

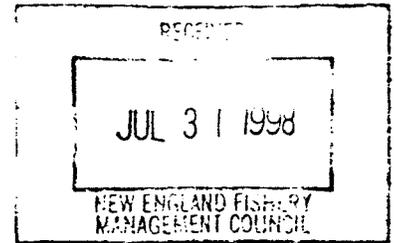
I am asking for your support of the conservation of essential marine fish habitats. I appreciate the New England Fishery Management Council's preferred alternatives for designating essential fish habitat for ocean fish of new england. I also feel the Council's proposal to designate two habitat areas of particular concern would be beneficial to juvenile cod. These areas should be protected from damaging fishing gear. Finally the council should continue designating EFH for remaining species and develop plans to minimize adverse effects from fishing and nonfishing activities.

Sincerely, Leigh Stedman-Riccitelli

PO Box 607
West Kingston, RI

02892-0607





July 29, 1998

Paul J. Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1036

Re: Comments on Public Hearing Document
for Essential Fish Habitat

Dear Mr. Howard:

On behalf of the Cape Cod Commercial Hook Fishermen's Association, Inc. ("CCCHFA"), we submit the following comments on the Public Hearing Document ("PHD") for Essential Fish Habitat ("EFH").

HABITAT AREAS OF PARTICULAR CONCERN

Where did this concept come from? The Fishery Conservation and Management Act ("FCMA") defines "essential fish habitat" as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." 16 U.S.C. 1802(10).

Fishery management plans are required to "describe and identify essential fish habitat for the fishery." 16 U.S.C. 1853(a)(7). Nowhere in the FCMA does it say that Councils can determine that some EFH is "more essential" than any other. Attempts to do that are contrary to the law. Habitat is either essential or it is not.

EFH DESIGNATIONS

The Preferred Alternatives for designation of EFH encompass large areas. Unfortunately, there is no indication anywhere in the PHD that describes how NEFMC and NMFS are going to use these designations for conservation and management purposes.

FISHING RELATED THREATS AND IMPACTS

This discussion repeatedly recognizes that "bottom-tending mobile gears" and "static" gear types have significantly different impacts on physical habitat. The discussion also states that "the

Mr. Howard
July 29, 1998
Page Two

severity of the gear impact can be correlated to the weight of the gear that is in contact with the bottom. The heavier the gear in contact with the bottom, the greater the impact." PHD at 169. The discussion also recognizes that "[i]t is clear that current scientific knowledge can predict the direction and impacts from high levels of fishing effort with mobile gear types which would allow managers to take precautionary approaches." Id.

The Mitigation of Adverse Impacts section of the PHD considers "restricting the use of bottom-tending mobile gears" and "restricting the use of particular gear types" as management tools that are available to minimize the effects of fishing on EFH. Id. at 170.

Despite these clearly stated (and intuitively obvious) principles, the Proposed Management Measures section still fails to recommend rational action based on differences in gears as required by law.

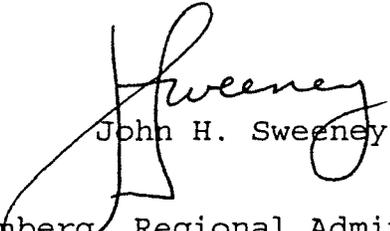
CONCLUSION

This PHD is yet another in a long line of half-baked attempts by NEFMC to do the absolute minimum necessary under its own short-sighted and misguided interpretations of the law without taking any real action towards conservation or management. Any amendment to an FMP must include rational regulation of gear types consistent with their vastly different impacts on habitat. See 16 U.S.C. § 1851(a)(6). See also Cape Cod Commercial Hook Fishermen's Ass'n, Inc. v. Daley, D. Mass. Civil Action No. 96-11247 (Administrative and Litigation Records).

Once again, NEFMC is attempting to promulgate fishing regulations driven solely by the dragger interests on the NEFMC, without regard to conservation or the law.

Very truly yours,

CONNORS & FARRELL


John H. Sweeney

cc. Andrew A. Rosenberg, Regional Administrator
National Marine Fisheries Service

Joseph M. Brancalone, Chairman
New England Fishery Management Council

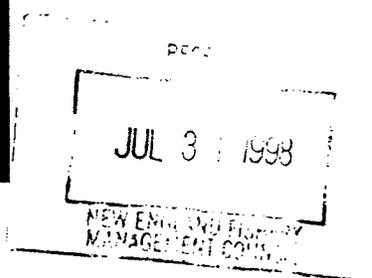
Mark Leach, President
Cape Cod Commercial Hook Fishermen's Association, Inc.

Paul Parker, Executive Director
Cape Cod Commercial Hook Fishermen's Association, Inc.

Lyn Jacobs, Esquire
U.S. Department of Justice



July 30, 1998



Fax (202) 305-0275 and Mail
Lyn Jacobs, Esquire
U.S. DEPARTMENT OF JUSTICE
Environmental and Natural Resources Division
Benjamin Franklin Station
Washington, D.C. 20044-7369

Re: CCCHFA, Inc. v. Daley
D. Mass. Civil Action No. 96-11247-RGS

Dear Ms. Jacobs:

We are aware that the so-called Fisheries Survival Fund has petitioned for rulemaking that would allow scalloping inside the areas of Georges Bank that are currently closed to all gears capable of catching groundfish ("groundfish closed areas"). See "Fisheries of the Northeastern United States: Petition for Rulemaking for Rotational Opening of Georges Bank Closed Areas for Scallop Fishing," 63 Fed. Reg. 35,560 (June 30, 1998). Comments are due August 31, 1998.

We also understand that defendants Rosenberg, Schmitt, and Daley may approve the Fisheries Survival Fund's authorization "immediately to conduct, at their expense, systematic transect-based sampling, using commercial scallop gear, of the scallop stocks in the Georges Bank closed areas." See, e.g., Petition for Rulemaking filed by the Fisheries Survival Fund at 6 (emphasis in original); Janice M. Plante, "Scallopers Seek Access to Georges Bank," Commercial Fisheries News, July 1998, at 1A, 8A.

Any such opening would defy Judge Stearns' December 11, 1996 Order of Reference and April 13, 1998 Order on Parties' Status Reports.

Any such opening would also defy the Fishery Conservation and Management Act's requirements to minimize the impacts of fishing on fish habitat. The Preferred Alternative in NEFMC's Public Hearing Document for Essential Fish Habitat ("EFH PHD") designates the ocean bottom of almost the entire area of Closed Areas I and II as Essential Fish Habitat for adult cod, EFH PHD at 23, and designates the entire area of Closed Areas I, II, and the Nantucket Lightship Closed Area as Essential Fish Habitat for adult haddock, id. at 33. The EFH PHD also states that scallop dredges are among the gear "most likely to be associated with adverse impacts to habitat." Id. at 169.

Lyn Jacobs, Esquire
July 30, 1998
Page Two

We are also concerned that the Fisheries Survival Fund's purported need for immediate sampling is a thinly veiled attempt to maximize profit, rather than to satisfy any real scientific need.

Because any renewed scalloping (whether termed "sampling," "emergency," "experimental," or otherwise) in groundfish closed areas invokes issues central to our lawsuit, see, e.g., Complaint for Review of Agency Action and for Declaratory and Injunctive Relief at ¶ 8.0, please provide LR 26.2 Automatic Disclosure on the opening of groundfish closed areas to scalloping.

Preliminary to our moving for injunctive relief, and pursuant to LR. 7.1, please contact me immediately so that we might confer in a good faith effort to resolve our apparent dispute over the opening of closed groundfish areas to any scalloping. For instance, it is not inconceivable that plaintiffs would consent to limited scallop sampling provided that impartial scientific oversight and stringent evidence preservation requirements be imposed, including video-taping and photography of bottom habitat contrasting its condition before and after contact with towed dredges.

I look forward to hearing from you.

Very truly yours,

CONNORS & FARRELL



David Farrell, Jr.

cc. Gene S. Martin, Esquire

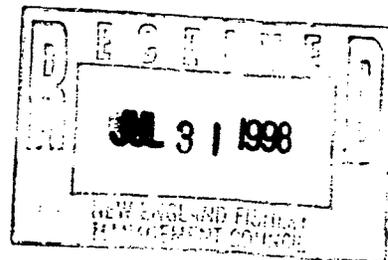
Paul J. Howard, NEFMC Executive Director

Mark Leach, CCCHFA, Inc. President

Paul Parker, CCCHFA, Inc. Executive Director

Gary C. Matlock, Ph.D., Director
Office of Sustainable Fisheries, NMFS
"Rotational Opening of Scallop Closed Areas"

David E. Frulla, Esquire



July 30, 1998

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. Paul J. Howard
Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1036

Re: Northeast Groundfish Multispecies Essential Fish Habitat

Dear Mr. Howard:

We submit this letter on behalf of the Fisheries Survival Fund ("FSF"), a coalition of fifty-plus scallop vessel owners and operators from the Greater New Bedford-Fairhaven, Massachusetts area. We respectfully submit the following comments on Northeast multispecies groundfish habitat issues currently pending before the New England Fishery Management Council.

FSF members appreciate the need for habitat protection for Northeast groundfish and other species. We also recognize that the Sustainable Fisheries Act requires that the Councils take steps to take habitat into account. See 16 U.S.C. § 1855(b). As fishermen ourselves, we can fully understand and appreciate the need to protect fish habitat.

That said, such habitat issues must be subject to careful study, as must be the consequences of any habitat protection measure. Any such identification is subject to the Magnuson-Stevens Fishery Conservation and Management Act, including its National Standard 2 (requiring the use of the "best scientific information available"); National Standard 8 (requiring the protection of fishing communities and the consideration and development, if possible, of alternatives to ameliorate the economic consequences of fishery conservation measures); and the overall requirement that fishery management measures treat differing types of fishermen fairly and equitably (16 U.S.C. § 1853(a)(14)). Taken together, these and other statutory provisions require that the consideration of habitat issues transcend reliance on anecdotal information and allegations.

Mr. Paul J. Howard
July 30, 1998
Page 2

Careful attention must be paid to habitat designations because they can have far-reaching and unintended consequences. In 1994, over 6,500 square miles of Georges Bank were closed to scallop and other fishing based on claims of "significant" yellowtail founder bycatch by scallop dredges and "reports that scallop dredge gear disturbs the bottom and disrupts spawning activity." The magnitude of such bycatch and the impact on the bottom never appears to have been determined, but the Georges Bank closed areas have remained closed. The Georges Bank closed areas historically accounted for 60% of Georges Bank scallop landings (the primary area for U.S. Atlantic sea scallop fishing).

The massive Georges Bank closure has had adverse unintended consequences for scallop stocks and the scallop fishery. For instance, continued closure of these broad, productive scallop areas of Georges Bank has resulted in, among other things, unbalanced scallop fishing effort, a decline in yield per recruit in the open areas, and reduced ability for scallop fishermen to avoid areas of significant populations of small scallops. Collectively, these effects have contributed in large part to what has been determined to be overfishing in the currently open areas and to closures in the mid-Atlantic region. The FSF detailed the history and impacts of the Georges Bank closures in its June 11, 1998, Petition for Rulemaking, which seeks the rotational re-opening of the Georges Bank closed areas to the extent that these areas can support such re-opening. Copies of the Petition have previously been provided to the Council and the National Marine Fisheries Service's Northeast Region office. They should be included in this record.

As set forth above, the wide-ranging and often unintended impacts of habitat protection measures counsel strongly in favor of the study of issues relating to actual groundfish bycatch by scallop dredges and the effect of scallop dredging on the ocean bottom before actual steps are taken as to habitat. Regarding the first issue, important and seemingly successful scientific and development work is underway to design scallop dredges that minimize groundfish bycatch. FSF's Petition details the pioneering work being conducted by Messrs. Smolowitz, *et al.* Use of these new dredge designs are minimizing bycatch and counsel against the continuation or creation of large closed areas. Such new dredge designs also need to be factored into consideration regarding habitat.

In addition, the actual impact of scallop dredging on the ocean bottom should be carefully considered. For instance, measures are being considered to identify at least one cobblestone ocean bottom area in the Georges Bank closed areas as a habitat area of particular concern for juvenile Atlantic cod. At least one of these cobbled bottom areas is within the so-called "Northeast Peak," which has historically been a prime scallop fishing area. This area may have experienced explosive scallop recruitment and growth since the 1994 closures. Upcoming sampling efforts can help resolve this

Mr. Paul J. Howard
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question. The question remains unanswered, however, whether a cobbled bottom overlaid with considerable amounts of scallops is as hospitable to small cod as a cobbled bottom area after the scallops have been dredged. Also unanswered is whether scallop dredging actually tills and cultivates the ocean bottom as a plow tills and cultivates terrestrial farmland, thereby promoting the growth of flora and fauna alike. Finally, closing large areas to scallop fishing for a long period may have impacts on the habitat in open areas that could be avoided with a rotational fishing regime. These important and legitimate questions must be addressed during the habitat process.

Accordingly, FSF has filed a Freedom of Information Act request to NMFS seeking information relating to the agency's study of the impact of scallop dredging on groundfish habitat. Such information – or potentially the absence of it – may be important to the Council's decision-making.

Finally, FSF urges the Council to consider the broad range of habitat impacts to which our oceans and their bounty are subject, from environmental changes and effects such as hurricanes, to industrial pollution and activities, to recreational activities, to commercial fishing. All of these impacts should be assessed and accorded their proper weight when designing appropriate and commensurate habitat protection measures. The Magnuson-Stevens Act was designed, in part, to promote U.S. commercial fishing. Its habitat protection measures should not be employed to unfairly scapegoat or disadvantage all or some U.S. fishermen.

We thank the Council for the opportunity to submit comments on this important issue and urge the Council to reach a reasonable, well-founded, and equitable accommodation of these issues.

Respectfully submitted,

FISHERIES SURVIVAL FUND

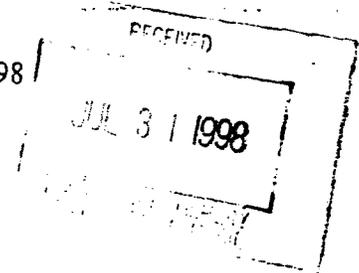
By: 

Enclosures

**Georgia Pacific Corporation**

3 Wade Street
Augusta, Maine 04330
Telephone (207) 623-2772
Fax (207) 622-1427

July 31, 1998



Mr. Paul J. Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1097

RE: Comments on Essential Fish Habitat Public Hearing Document

Dear Mr. Howard:

Georgia-Pacific Corporation owns and operates three major manufacturing facilities in Woodland, Maine on the Saint Croix River; an integrated pulp and paper mill, an oriented strand board plant (OSB) and a dimension lumber sawmill. Our manufacturing operations rely in part upon power generation from two hydropower dams on the Saint Croix River, at Woodland and Grand Falls, as well as seven other adjunct storage facilities. In addition, our forest resources department in Princeton, Maine maintains in excess of 800,000 acres of forest land in Maine and New Brunswick.

Georgia-Pacific Corporation agrees with the points brought for in comments submitted by the Maine Pulp and Paper Association on July 27, 1998.

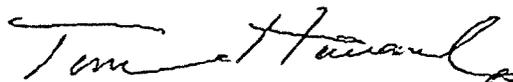
In addition, we take exception with the inclusion of the Saint Croix River essential fish habitat for species including Atlantic salmon. The Saint Croix River is unique inasmuch as the river forms the international boundary between the United States and Canada. Irrespective of ongoing efforts to preserve, protect and enhance fish habitat in those international waters, we question the authority of Service and Council to include the river.

The Saint Croix River is already subject to oversight and control by Maine, New Brunswick, the United States and Canada, as well as the International Joint Commission. While we question such broad designation of essential fish habitat as is proposed in the rulemaking, it seems particularly unwarranted to include the Saint Croix River, given the high level of attention this important waterway already receives.

Mr. Paul J. Howard
July 31, 1998
Page Two

We appreciate the opportunity to provide these comments to the Council. If you have any questions, please do not hesitate to call me.

Sincerely,



Thomas S. Howard, Jr.
Northeast Regional Manager
Government Affairs

TSH/rl

- cc: Honorable Olympia J. Snowe
- Honorable Susan M. Collins
- Honorable John E. Baldacci
- Honorable Thomas Allen
- Honorable Angus S. King, Jr.
- Elizabeth R. Butler, Esq.
- Louis Flagg, Acting Commissioner, Maine DMR
- John Rittgers, Acting Regional Administrator, NMFS

CLF Conservation Law Foundation

BY TELEFAX AND FIRST CLASS MAIL

31 July 1998

Paul J. Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906

RE: COMMENTS ON ESSENTIAL FISH HABITAT

Dear Mr. Howard:

The Conservation Law Foundation (CLF) would like to make the following comments on the proposed essential fish habitat (EFH) management measures contained in the public hearing document.

In general, we support the proposed measures contained in the public hearing document, including the preferred EFH designation alternatives, yet would like to call attention to three issues concerning the adverse impacts of fishing related activities and two concerns related to the EFH process itself.

1. First, CLF believes that the growing body of scientific and anecdotal evidence on the impacts of fishing on the sea floor creates a clear cause for alarm and an urgent need for appropriate action to ensure the long-term productivity of New England's ocean habitats. Although the public hearing document does rely on at least one strong review of the scientific evidence of these impacts, it falls short in its consideration of measures needed to prevent, mitigate, or minimize these effects. CLF understands that this document was prepared under a timeline that hindered consideration of measures to comprehensively address these issues, yet we fully expect in the coming year that a thorough analysis and decisive implementation of necessary measures will take place for each life stage of each species.

By recognizing the challenges this limited time frame presents CLF is not, however, suggesting that we support the Council's cursory adoption of existing effort control measures as a suitable management response to the effects of fishing activities on EFH. CLF believes that at the very least the public hearing document should contain a description of the criteria that the Council will use to evaluate what constitutes adequate protection of known habitat types. Existing area closures and days at sea were established to meet the objectives of effort reduction, not habitat protection. To determine whether they currently can and will continue to meet habitat objectives, this document

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62 Summer Street, Boston, Massachusetts 02110-1016 • (617) 350-0990 • FAX (617) 350-4030
27 North Main Street, Concord, New Hampshire 03301-4930 • (603) 225-3060 • FAX (603) 225-3059
21 East State Street, Montpelier, Vermont 05602-3010 • (802) 223-5982 • FAX (802) 223-0060

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needs to describe the Council's EFH protection objectives. In particular, criteria should be completed with respect to the prevention, minimization or mitigation of the better known adverse impacts, such as those from high levels of mobile gear fishing on more complex habitat types, such as cobble, shell or rock.

2. Second, the public hearing document contains no consideration of research closures or other measures to evaluate the impact of fishing activity as required in section 600.15(a)(3)(ii) of the interim final rule. The use of research closures, especially in New England, is critical to understanding the actual effect of different types and applications of fishing gear. CLF strongly supports the use of such closures and urges the Council to identify appropriate areas.

3. Third, CLF supports the designation of both "habitat areas of particular concern" to address the survival needs of post settlement juvenile Atlantic cod. Although we recognize that less site specific information is available to support the designation of the HAPC within closed area I, we believe that the precautionary spirit of the EFH provisions requires the HAPC designation of this area. We understand that within the year there will be direct scientific evidence concerning this area. At that time the Council can review this designation if necessary.

In addition, due to the important ecological function these areas are thought to serve, CLF believes that it is critical that they receive full protection from all potential adverse fishing impacts. To accomplish this protection, CLF suggests that the Council close these areas to all types of fishing activity except those gear and/or practices that can reasonably demonstrate that their cumulative and non-cumulative impacts do not diminish or otherwise impede the ecological functions these areas were created to protect.

4. Fourth, CLF believes that significant improvements can be made to the identification and designation of EFH and HAPC's. We suggest that the Council consider creating a mechanism within the coming year to enable and encourage greater public input into this entire process. This mechanism would be either an ongoing or annual formal nomination process that would enable any member of the general public who has sufficient information about New England's marine habitat to request EFH or HAPC designation and management for a specific area. This process would enable the Council to call on a much greater store of knowledge about the ocean habitats of New England than that contained in the current body of scientific evidence. It would also provide the public its first meaningful opportunity to begin to directly participate in and contribute to the conservation of New England's ocean resources.

5. Finally, CLF would like to express its concern about the limitations inherent in the EFH and HAPC designation in state waters. Without active state involvement in and support for these designations (beyond representation on the Council) meaningful protection of these areas will likely be compromised. To build the support of the states for these designations we urge the Council to immediately begin to work with the relevant state agencies and the Atlantic States Marine Fisheries Commission to ensure

that each jurisdiction has the capacity and will necessary to effectively coordinate real state and federal action on this shared fishery issue.

Thank you for your consideration of these comments.

Sincerely yours,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Jennifer Atkinson
Staff Attorney

Post-it® Fax Note	7671	Date	7/31	# of pages	2
To	Paul Howard	From	John Phillips		
Co./Dept.	NEFMC	Co.	DFWELE		
Phone #	781-231-8422	Phone #	617-727-1614 x350		
Fax #	617-565-8937			Hard Copy to Follow	

Commonwealth of Massachusetts



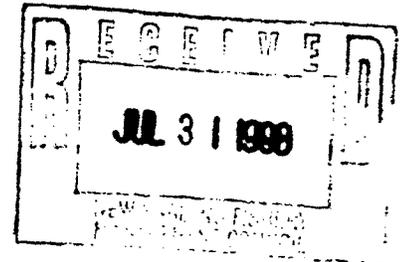
Department of Fisheries, Wildlife & Environmental Law Enforcement

John C. Phillips, *Commissioner*

July 30, 1998

Comments on Essential Fish Habitat

Mr. Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-8937



Dear Mr. Howard:

This letter is in response to the request for comments on the Essential Fish Habitat designations in Massachusetts. We support the designation of habitat as "essential" and agree that some habitat areas should receive special attention through HAPC designations.

The Department acts as the steward and conservator of the Commonwealth's living resources. As guardian of these resources, the Department is charged with the duty to preserve, conserve, manage, and restore all native wildlife, plant, and marine and freshwater fish species, as well as all habitats in which these species live. This mandate is accomplished through our divisions of Marine Fisheries, Fisheries and Wildlife, Environmental Law Enforcement, the Public Access Board and our Riverways Program.

After reviewing the public hearing document, we offer the following comments:

(1) Management Objectives:

As stated in the Management Objectives section in the public hearing document, the Council will assume responsibility in three areas regarding EFH: (1) Identification and description of all essential fish habitat; (2) Identification of all major threats (fishing and non-fishing related) to the essential fish habitat; and (3) Identification of existing and potential mechanisms to protect, conserve and enhance the essential fish habitat. The Council and Council staff have done an excellent job satisfying the first management objective.

However, Objectives 2 and 3 need to be more fully addressed in the Amendment. The document fails to identify the major threats to Essential Fish Habitat and does not address how the Council is proposing to mitigate these threats. In our opinion, a substantial part of the amendment should focus on satisfying these objectives for both marine and anadromous species.

100 Cambridge Street · Room 1901 · Boston, MA 02202 (617) 727-1614 FAX 727-2566

An Agency of the Executive Office of Environmental Affairs
Trudy Coxe, *Secretary*

(II) Atlantic Salmon Habitat:

Atlantic salmon habitat has decreased to a small fraction of what it once was. Dams, pollution, commercial fishing and habitat destruction have caused salmon populations to dwindle or disappear in New England rivers. Without proper access to their historic habitat, managements effort to restore the great salmon runs will be difficult if not impossible to achieve.

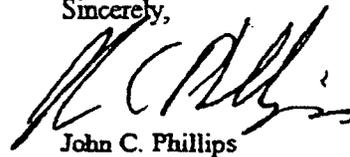
Areas that are "essential" habitat for Atlantic salmon should be comprised of historic habitat. On Page 97, Paragraph 7, you state that "Atlantic salmon EFH includes all aquatic habitats in the watersheds of the identified rivers, including all tributaries, to the extent that the rivers are accessible for salmon migration." Does this mean currently or historically accessible? We believe that this sentence should be edited to read "Atlantic salmon EFH includes all aquatic habitats in the watersheds of the identified rivers, including all tributaries, to the extent that the rivers are *historically* accessible for salmon migration."

Additionally, we ask why the Connecticut and Merrimack Rivers have not been designated as Habitat Areas of Particular Concern. Both of these river systems satisfy all four criteria established for HAPC designation on page five (5) of the public hearing document.

Furthermore, we are concerned that the designation of habitat as "essential" does not go far enough to protect species, such as Atlantic salmon, that have very specific spawning and rearing requirements. Without a strategy to implement this initiative, we are concerned that this very important program will be unable to achieve its goals. It is very unclear to most stakeholders and regulatory agencies how this designation will affect the way we manage fisheries and protect their associated habitat. We suggest the Amendment specifically address how these designations will be implemented and how they can be used by other regulatory agencies in their efforts to protect habitat.

With these points in mind, we want to extend our thanks for a job well done. Please let me know how my department can be of further assistance in developing and or implementing the ideas embodied in the habitat section of the Sustainable Fisheries Act. If you have any further questions, please feel free to contact Leslie-Ann Shropshire of my staff at (617) 727-1614 x 351.

Sincerely,

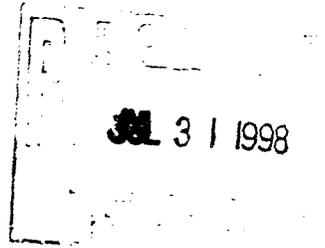


John C. Phillips

cc: Phil Coates, DMF
David Pierce, DMF
Wayne MacCallum, DFW
Mark Tisa, DFW

**Massachusetts Audubon Society**

North Shore Conservation Advocacy
William B. Endicott Wildlife Sanctuary
346 Grapevine Road • Wenham, Massachusetts 01984
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endicott@massaudubon.org



July 30, 1998

Mr. Paul Howard, Executive Director
New England Fisheries Management Council
5 Broadway, Route 1
Saugus, MA 01906-1097

Dear Mr. Howard,

The Massachusetts Audubon Society offers the following comments on the Public Hearing Document for Essential Fish Habitat (EFH) drafted by the New England Fisheries Management Council ("the Council"). We have been participants in the process of producing the EFH amendments to Fisheries Management Plans through our participation in the Council's EFH Technical Team. The Society was also a strong supporter of the inclusion of EFH provisions in the Magnuson-Stevens Fisheries Conservation and Management Act.

Massachusetts Audubon applauds the Council for developing the EFH amendments in a timely manner, particularly since Congress mandated a rather short time frame for completing the task. Council staff and Habitat Committee members should be commended for their efforts. We support the provisions of the EFH amendments as represented in the public hearing document and urge the Council to adopt it.

Delineations of EFH

The Society agrees with the process the Council has chosen for delineating EFH and supports the preferred alternatives that the Council has chosen for the individual managed species. The division of the region into ten minute squares and the designation of alternatives based on levels of catch per unit effort (CPUE) are the best way to incorporate existing data into EFH delineations. By selecting in most cases the preferred alternative as that set of squares that encompasses the top 90 % of CPUE, the Council has kept within the Interim Final Rule Guidelines of being conservative and inclusive when faced with uncertainty in the data.

We suggest that the Council consistently clarify that the percent of the range of the species included in EFH is usually based on selecting (typically) the top 90 percent of the CPUE that the squares represent. As an example, in the description of Designation Alternatives for Atlantic cod eggs and juveniles (page 15), it is stated that these represent 90% of the observed range of these life stages. The maps that follow on pages 17 and 19, however, indicate that the recommended EFH encompasses 60% of the observed range and is based on the 90% alternative. It would be useful in all the verbal descriptions of Designation Alternatives to state clearly the top CPUE percentage that is being used as the preferred alternative and the % of the range encompassed by this CPUE percentage.

We applaud the Council for incorporating information from fishers and other non NMFS sources into the EFH designations. To clarify where this was done and how extensive it was, it would be useful if those EFH squares designated from such sources were coded with a different symbol than those based on the MARMAP information.

The use of the Estuarine Living Marine Resources data is justified, however the ELMR project did not survey the smaller estuaries. For each species, the amendments should include as EFH those smaller estuaries that are similar in habitat structure and geography to those designated as EFH based on the ELMR project. As an example, juvenile winter flounder are likely to be as abundant per unit area in Waquoit Bay and Plum Island Sound as in some of the larger estuaries included the ELMR surveys.

The description of EFH for juvenile winter flounder (page 136) should include a statement that habitats with submerged aquatic vegetation are important to this species. This is based on the published reports of Susan Saucerman and Linda Deegan and observations of Fred Short and a number of eelgrass biologists.

Habitat Areas of Particular Concern

The Society supports the designation of the Habitat Areas of Particular Concern (HAPC) within the two closed areas of Georges Bank as well as the salmon rivers (pages 6 and 7). There are other areas of gravel/cobble within the region that have similar habitat value (e.g. on Stellwagen Bank), and the document should state that additional areas are likely to be designated as HAPC in the future.

Fishing Threats and Impacts

The amendment does an good job of summarizing what is known about fishing related impacts to habitat, but is short on management actions other than the proposed HAPC. While we agree that this is a difficult issue with potentially large economic impacts, the Council should lay out in this document what the next steps are to determine whether future management actions will be necessary.

Non Fishing Related Threats and Impacts

On page 175, it is stated that the major threat to marine and aquatic habitats are related to increasing human population and human-generated pollution loads. While generally true, it should be noted that in nearshore areas and rivers, increased population does not always lead to more pollution if the development replaces uncontrolled heavily-polluting industries, such as farming or tanneries. We also suggest that physical damage to habitats is at least equally as threatening to nearshore and river habitats as pollution and is certainly less reversible.

The document indicates on page 176 that no attempt was made to prioritize threats against each other. The Society urges the Council to give some sense of which threats to fish habitat are more important than others. It seems implicit from Table 5 that nutrients, acid deposition, channel dredging, dredge and fill, marina and dock construction, vessel activity, dam construction and operation, water withdrawal, deforestation are higher priority threats since those were the only ones that were listed as "high".

Research Needs

We agree that the topics presented are all of importance. The one research subject we suggest be included is an understanding of the connection between inshore habitats and offshore fisheries. What are the connections, if any, between estuaries and managed fish species?

We thank you for this opportunity to comment.

Sincerely,



Robert Buchsbaum, Ph.D.
Coastal Ecologist

PERKINS COIE LLP

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TELEPHONE: 202 628-6600 · FACSIMILE: 202 434-1690

July 31, 1998

JUL 31 1998

VIA FACSIMILE (617-565-8937) AND OVERNIGHT EXPRESS

Mr. Paul J. Howard
Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906

Re: Comments on Proposed Essential Fish Habitat Amendments

Dear Mr. Howard:

This letter is written on behalf of a wide range of nonfishing regulated entities, including agriculture, forest products, hydropower, livestock, mining, real estate, and water supply interests and responds to the Council's request for comments on proposed amendments to several Fishery Management Plans ("FMPs") so as to identify and describe Essential Fish Habitat ("EFH").

While we support the goal of conserving and enhancing essential fish habitat, we object to the scope and reach of proposed amendments before the Council. We strongly believe that NMFS's guidelines, recommendations as well as the public discussion document before the Council represent a clear departure from the letter of the Magnuson-Stevens Fishery Conservation and Management Act ("MSFCMA") and the intent of Congress in adopting the "essential fish habitat" amendments. The following comments expand on our concerns.

1. The Draft Amendments and Recommendations Are Overly Broad and Exceed Congressional Intent

At the outset, it should be understood that the 1996 Amendments to the MSFCMA do not authorize the promulgation of standards or regulations that affect nonfishing entities. By its terms, the EFH provision is limited to "the description and identification of essential fish habitat in fishery management plans." 16 U.S.C. § 1855(b)(1)(A). This limitation makes it clear that NMFS' authority applies only to "fisheries." There is no basis in the MSFCMA for the Councils to address, through plans, nonfishing activities. Hence, the Councils' definition of EFH goes beyond the underlying statutory authority and is invalid.

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Mr. Paul J. Howard
July 31, 1998
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Further, the Sustainable Fisheries Act provides that:

The term "essential fish habitat" means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.

16 U.S.C. § 1802(10) ((emphasis added). The Public Hearing Document before the Council would, as we understand it, describe EFH, through text and maps, to include marine and estuarine waters, and rivers, where a managed species is found or may have been found historically. For example, with regard to "Non-Fishing Related Threats and Impacts", the definition of "riverine areas" includes forests, wetlands and riparian areas. New England Fishery Management Council, Essential Fish Habitat Public Hearing Document at 174 (June 30, 1998).

This concern is underscored by the Council's broadly worded description of EFH for Atlantic salmon which includes not only current rivers supporting salmon populations but also

all those streams, rivers, lakes, ponds, wetlands, and other water bodies currently or historically accessible to Atlantic salmon in the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut.

Id. at 97. This description is well outside the scope of the EFH definition and will result in a redundant and burdensome process with few tangible benefits.

We urge the Council to carefully review and revise the Public Hearing Document in light of the EFH definition and Congress's historic approach of limiting and constraining the Council and NMFS authority when dealing with fishing interests, as opposed to inland industries, and in dealing deferring to individual states when it comes to matters taking place in state waters, particularly inland waters. E.g. 16 U.S.C. § 1852(a)(1) (the Councils are limited to the management of fisheries "seaward" of the states comprising each Council); 16 U.S.C. § 1801(b)(1) (the purpose of the Act is "to take immediate action to conserve and manage the fishery resources found off the coasts of the United States"); 16 U.S.C. § 1856(a)(1) (carefully delineating federal and state jurisdiction). Moreover, the Council should focus its efforts on habitat that is truly "essential" and "necessary."

Mr. Paul J. Howard
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2. The Purpose of the EFH Description Appears to Be Management of Coastal and Inland Activity on An "Ecosystem" Basis

According to the Council's Public Hearing Draft Document, the purpose of the amendment is to identify and describe EFH for species managed by the Council. New England Fishery Management Council, Essential Fish Habitat Public Hearing Document at 1 (June 30, 1998). However, elsewhere in the document it would appear that the Council's intention is to manage coastal and inland development on an "ecosystem function" basis:

The main goal for the identification of non-fishing adverse effects is to promote "healthy" riverine, inshore and offshore ecosystems for the sustainability of ecological productive capacity, diversity of flora and fauna, and the ability of the environment to regulate itself. A healthy ecosystem should be similar to comparable, undisturbed ecosystems with regard to standing crop, productivity, nutrient dynamics, trophic structure, species richness, stability, resilience, contamination levels, and frequency of diseased organisms.

Id. at 174.

We are very concerned with this "definition" and approach because it is not subject to standard meaning. A "healthy ecosystem" will mean only what NMFS and the Councils choose it to mean. The purpose of the EFH descriptions should not be an exercise in creeping jurisdiction or a grab by NMFS and the Councils to control or regulate coastal and upland development under the guise of "ecosystem management."

Our concern over the NMFS and Councils focus on "ecosystem management" is underscored by the suggestion that for the non-fishing industry, a good ecosystem is one that is pristine or undisturbed. Id. However, for the fishing industry, such impacts are "inevitable" and acceptable. Infra.

Mr. Paul J. Howard
July 31, 1998
Page 4

3. Disparate Treatment of Non-Fishing Industry Relative to Fishing Industry

We are also concerned with the Council's disparate and unfair treatment of the non-fishing industry. For example, for the fishing industry, impacts to EFH are necessary and inevitable and implicitly, such impacts will not be regulated:

The disturbance and alteration of natural seafloor and pelagic communities, even at small scales is inevitable when fishing with any gear type. There is always a noticeable effect, since simply removing an organism has an effect at some level.

Id. at 165. On the other hand, activities carried out by the nonfishing industry are considered "threats to habitat". Id. at 175. For example, few, if any, substantive recommendations are made to alter or change fishing methods in order to mitigate the continual and chronic impact on fish populations by the fishing industry. However, for the nonfishing industry, a hierarchy of mitigation measures are suggested for the nonfishing industry beginning with avoiding any impacts at all by simply prohibiting the activity and ending with compensating for any impact that may occur:

The definition [EFH?] focuses on mitigation as a means of sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts, and provide five types of categories of mitigation.

Id. at 179.

It would appear that the "business as usual" approach is acceptable for the fishing industry while the Council will focus attention on the non-fishing industry as the cause of declining New England fish stocks. This result is indicative of a process that has lacked meaningful involvement by the nonfishing industry.

5. Need For Clarification on "Habitat Areas of Particular Concern ("HAPC")"

The Council apparently will use HAPC to apply "additional levels of protection from adverse impacts." Id. The Council identifies four factors to designate HAPC:

Mr. Paul J. Howard
July 31, 1998
Page 5

(1) the importance of the ecological function provided by the habitat, (2) the extent to which the habitat is sensitive to human-induced environmental degradation, (3) whether, and to what extent, "development activities" are, or will be, stressing to the habitat type, and (4) the rarity of the habitat type. Id. at 5.

It is unclear how some of these factors relate to "essential fish habitat." For example, a rare habitat, may have important aesthetic, scientific and other values, it may or may not be important or "essential" for fish stocks managed under an FMP. In fact, none of these factors appear to relate to the "essential" or "necessary" basis of fish habitat. In addition, these factors are very subjective and fail to provide guidance to non-fishing development interests as to when EFH consultation is likely. Finally, this provision underscores NMFS and the Councils apparent desire to begin managing for "ecosystem functions" rather than fish populations and to focus its attention on "development" activity rather than the fishing industry. As you can imagine, the non-fishing industry is concerned over lack of any representation on the Councils and generally lack of meaningful participation throughout this process.

6. Inferring "Essential" Fish Habitat With No Data From Species or Life History Stage

The Council also appears to have exceeded the NMFS published "guidelines" by simply inferring EFH with no real data in some cases. Id. at 4 ("In some cases, the Council used a proxy to determine the most appropriate EFH designation for certain life history stages."). We are concerned about efforts to infer and define EFH without any actual data on a species' particular life history distribution. Again, we believe the EFH descriptions contemplated by NMFS and the Council exceed the letter of the law and should be scaled back. We believe that basing EFH on guesswork is not what Congress had in mind. We do, however, commend the Council and NMFS for identifying the large amount of research needed to better identify and understand fish habitat. Id. at 184.

7. Need for Clarification On the EFH Document

In many instances the Public Discussion Document is in need of clarification. We elaborate on some of the areas in need of clarification below.

Mr. Paul J. Howard

July 31, 1998

Page 6

- The Council includes on page 176, a table (Table 6) of threats to EFH posed by the non-fishing industry. This table needs clarification and explanation. For example, for non-point sources, it is not clear as to how gravel/mineral mining relates to industrial shipping or to nuisance and toxic algae, particular in the New England region. An explanation of this table in general would be helpful to the non-fishing industry in understanding the likely future direction and intent of NMFS and the Council.

- The Council should clarify its intentions by elaborating on a future list of recommended mitigation measures. Id. at 180. We are concerned about mitigation recommendations that are on a "one size fits all" basis. For example, the Council states that it may recommend natural vegetation buffers on all streams of some 30 meters. The non-fishing industry has considerable experience in developing Habitat Conservation Plans under the ESA and prescriptive guidelines or regulations are rarely desirable or effective. As an alternative, we encourage the Councils, through NMFS, to focus its efforts on site-specific measures through existing laws, such as NEPA, the Fish and Wildlife Coordination Act, to name but a few.

- We are interested in receiving more elaboration and details on how the Council defines "deforestation." Id. at 177. The Council identifies deforestation as a "high" threat to riverine EFH. We point out that careful timber harvest and management is not "deforestation" and request clarification as to the Council's intention in this regard.

- We also believe that publication of a map, integrating the numerous species-by-species EFH maps and descriptions would be helpful as a guide to notify the non-fishing industry as to when consultation might be expected. Without such a map, determination of EFH is left to piecemeal interpretation.

- Finally, we wish to see the Councils list of recommended mitigation techniques that will be used as the basis of recommendations to state and federal agencies. The EFH document is incomplete until such time as these recommendations are included.

7. Consultation Process

With regard to the EFH consultation process, the Council states that federal agencies will be required to "complete this consultation process." Id. at 181. We

Mr. Paul J. Howard
July 31, 1998
Page 7

believe the Council should clarify what it means when it makes this statement. Moreover, we believe the Council has exceeded its authority in attempting to make any statement as to the obligation of any federal agency. The duty of the Councils, if any, was to describe EFH, not elaborate on federal agency duties of consultation.

8. Conclusions

We believe that the Council's EFH Public Discussion document is flawed, in need of clarification and, if adopted, will result in an impractical and burdensome process that will yield few benefits. We believe that the draft recommendations and amendments, if adopted, will violate the spirit and intent of Congress in adopting the EFH amendments. The proposed amendments go beyond the overly broad, complex, and burdensome approach to EFH articulated in the NMFS proposed and interim final EFH regulations. We incorporate by reference our July 8, 1997, and March 19, 1998 comments on the regulations, which have already been submitted to NMFS and are attached hereto.

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

Sincerely,



Guy Martin

Enclosures

(July 8, 1997 and March 19, 1998 comments to NMFS)

New England Fishery Management Council

5 Broadway, Saugus, MA 01906-1036
Tel (781) 231-0422 • Fax (617) 565-8937

Chairman
Joseph M. Brancaleone

Executive Director
Paul J. Howard

Essential Fish Habitat

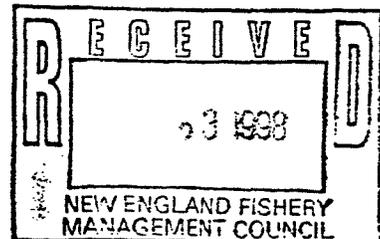
Written Comments

July 14, 1998 – July 23, 1998

THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS
MASSACHUSETTS 02557
(508) 693-3453
FAX (508) 693-7894

Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906



Re: Comments on Essential Fish Habitat

July 20, 1998

Dear Mr. Howard,

I would like to endorse the Council's proposal to designate two Habitat Areas of Particular Concern (HAPC) for juvenile cod, and to urge the Council to protect these sensitive areas by maintaining the current closure restrictions within the two cod HAPCs. Cod is a species that is particularly important to the cultural identity of the fishing communities of Martha's Vineyard. Cod has been, and hopefully will again be an important economic resource here.

The Martha's Vineyard Commission is a regional land use planning and regulatory agency that has adopted policies to promote commercial fishing as an important part of the economic and cultural life of the Vineyard.

Thank you.

Sincerely,

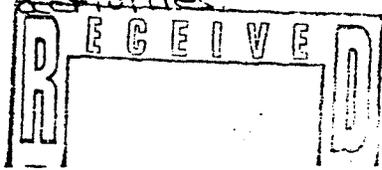
A handwritten signature in cursive script that reads "Jo-Ann Taylor".

Jo-Ann Taylor
Coastal Planner

cc: Congressman William Delahunt

Comments on Essential Fish Habitat

1. I support your preferred alternatives
 - strongly support designating 2 Habitat Areas of particular concern for juvenile cod.
3. At the very least please maintain the current closure restrictions within the 2 cod HAPCs
4. I encourage you to continue to designate EFH for remaining species, (such as halibut) and to devise strategies to minimize adverse impacts on EFH from fishing as well as non-fishing activities.



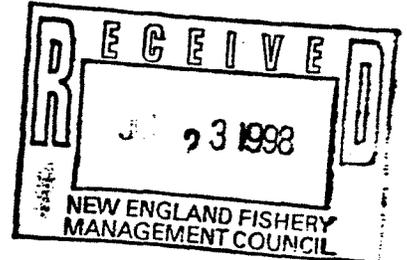
Thank you,
Eleanor MacLellan
55 Lee Rd.
Chestnut Hill, MA.
02467

MARINE POLLUTION BULLETIN

North American Editor: Dr John Pearce

20 Feb 98

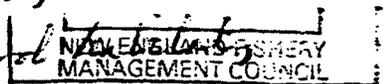
Mr. Paul Howard, Executive Director
New England Fishery Management Council
5 Broadway (Rte 1)
Saugus, MA 01906



Dear Mr. Howard,

I have been involved with research and the compilation of research results on marine fish habitat for three plus decades. I originally was concerned about effects due to ocean dumping and sewage discharges, later sediment mining, trawl gear effects, etc.

I urge Council, based on my experiences in the U.S. and ICES, to take steps now to carry on with preferred alternatives, and especially in relation to juvenile Cod habitat as Case Studies. You should start by continuing to maintain current closures, then focusing on Essential Fish Habitat areas or zones for other species. Questions? Please call me.



Buzzards Bay Marine Lab
54 Upland Road
Falmouth, MA 02540, USA
Tel: (+1) 508 495 2261 Fax: (+1) 508 495 2258
E-mail: Jack.Pearce@NOAA.Gov
or: K.Murray@WHSUN1.WH.WHOI.edu

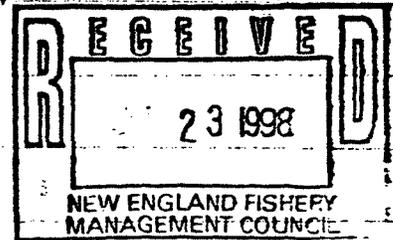
Sincerely,
John D. Pearce

cc: W. Delahant
E. Kennedy

Comments on Essential
Habitat

July 26, 1998
301 Winchester Dr.
Wakefield, R.I.
02879

Executive Director
New England Fishery Management Council
5 Broadway (Rte 1)
Saugus, Mass 01906



Dear Mr. Howard,

I strongly support the Council's preferred alternatives for designating Essential Fish Habitat for the Ocean fish of New England, as well as designating two areas for juvenile Cod. Please maintain the current closure restrictions within the two Cod HAPC & devise strategies to minimize adverse impacts E.F.H. (from fishing &/non-fishing activities).

Thank you for your time.

Sincerely,

Janette Samuels

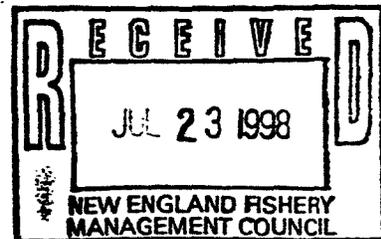
JUDITH GLEYSTEN MCENTYRE

RR 1, Box 355T
Cityside Drive, No. 74
Montpelier, VT 05602-9727

Phone 802-229-5154
Email: jgmexpos@aol.com

July 20, 1998

Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906



RE: Support of Essential Marine Fish Habitat

Dear Mr. Howard:

I believe that the health of the world's oceans and their wildlife is important for the well-being of all living plants and animals on this planet. Thus, I wish to express my support for the Council's *preferred alternatives* for designating Essential Fish Habitat (EFH) for ocean fish of New England. I strongly support the Council's proposal to designate two Habitat Areas of Particular Concern (HAPC) for juvenile cod. The Council should protect these sensitive areas from damaging fishing gear by, at the very least, maintaining the current closure restrictions within the two cod-HAPCs. The Council should continue to designate EFH for remaining species (such as halibut) and create ways to minimize adverse impacts on EFH from both fishing and non-fishing activities of human beings.

The loss of fish populations by overfishing and other human activities will impact this planet in a distressing manner. The waters and substrate necessary to fish species for spawning, breeding, feeding and growth to maturity must be protected. Please work to accomplish these goals.

Sincerely yours,


Judith Gleysten McEntyre

cc: Howard Dean
Patrick Leahy
James Jeffords
Bernard Sanders

Comments on Essential Fish Habitat

Dear Sir,

As a member of the
Center for Marine Conservation,
I am writing you about the
fishery management plans your
Council is now forming.

I support the Council's
preferred alternatives for designating
Essential Fish Habitat.

I also strongly
support the Council's proposed
two Habitat Areas of Particular
Concern for Juvenile Cod.

Please urge the
Council to protect these sensitive
areas from damaging fishing
gear by, at the very least,
maintaining the current
closure restrictions within
the two cod H.A.P.C.'s.

Also please encourage
the Council to continue to designate

E.F.H. for remaining species
such as halibut. Please try to
devise strategies to minimize
adverse impacts on E.F.H. from
fishing and non fishing
activities.

Thank You

Sincerely

Elizabeth Wardman

(NO address given)

M H O'CONNOR
53 WOODMONT RD
NORTHAMPTON MA 01060

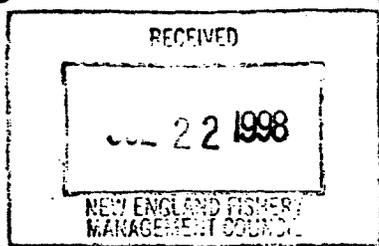
Dear Mr Howard

N. England Fishery Management

Comments on Essential Fish ^{Habitat}

I am writing to express my concern regarding the condition of Oceanfish of N. England.

I am asking for support of your Councils 'preferred attention' for identifying Essential Fish Habitat. Also I am concerned about the condition of Juvenile Cod and ask that improvements be made for the Cod protected areas. Please continue to protect and expand protection for fish species.



Sincerely,

Maurice Hope O'Connor

July 19, 98



MR. & MRS. PAUL W. NEAL
700 RIVER RD
COS COB CT 06807-1907

7/14/98

Mr. Paul Howard
Executive Director
New England Fishery Management Council

Comments on Essential Fish Habitat

Dear Director

We support conservation of essential marine fish habitat, particularly:

- Supporting the Council's preferred alternatives for designating EFH for ocean fish of New England
- Strongly supporting council's proposal to designate 2 Habitat Areas of Particular Concern for juvenile COD.
- At the very least maintain current closure restrictions within the 2 COD HAPC's.
- Continue to designate EFH for remaining species within habitat

Thank you for helping to
Protect Georges Bank & New England
Fish Habitat

Paul Neal
Jane Neal

cc Gov. Rowland
Sen. Dodd

7/20/98

Paul Howard

Comments of Essential Fish Habitat

I am strongly in favor of strong measures to support essential marine fish habitat.

I hope the council will designate to HABC's for juvenile cod, designate EFH for other species, such as sharks & halibut and continue to ban dredging and trawling in closed areas.

Sincerely yours

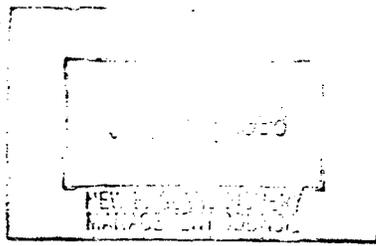
Ron Smith

18 Powderhouse Ct

Comerbury Ma

01913

cc. Pres. Clinton
Sen E. Kennedy
Sen J. Kerry
Rep J. Tierney



7/18/98

Mr Howard,

I Take This Time to write to the Council to express my gratitude for your efforts to help our oceans. Your preferred alternatives for EHT are so important. Please look further into damage caused by fishing gear to these vital spots. Please expand your good efforts to protect all Habitat areas for juvenile cod and other species such as halibut. Without people like yourselves people like me will not be enjoying fish within the next 20 to 30 years. Our future Oceans and their fish are your responsibility today. Thank You for trying to save them.



Sincerely,

John Guerrero



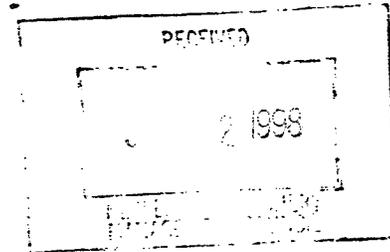
Mr. John Guerrero
7 Orlando St.
Oakville, CT 06779



New Hampshire Wildlife Federation
Affiliate of the National Wildlife Federation
Post Office Box 239, Concord, N.H. 03302

(603) 224-5953

Fax: (603) 228-0423



Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906

COMMENTS ON ESSENTIAL FISH HABITAT-

July 20, 1998

The New Hampshire Wildlife Federation strongly supports the conservation of marine habitat in New England. This includes the marine habitat of Georges Bank. We support The New England Council's preferred alternatives for designating Essential Fish Habitat (EFH) for the ocean fish of New England. We also support the Council's proposal to designate two Habitat Areas of Particular Concern (HAPC) for juvenile cod.

We urge you to protect these sensitive areas from damaging fishing gear by, at the very least, maintaining the current closure restrictions within the two cod HAPCs. We encourage you to continue to designate EFH for remaining species (such as halibut) and devise strategies to minimize adverse impacts on EFH (from fishing as well as non-fishing activities).

In closing, we thank you for your attention to this matter, as well as your continued attention to protecting and preserving New England's fisheries.

Sincerely,

A handwritten signature in cursive script that reads "Mary Shriver".

Mary Shriver
Executive Director

"COMMENTS ON ESSENTIAL
FISH HABITAT"

Paul Howard, executive director
New England Fishery Management
Council
5 Broadway (Route 1)
Saugus, Mass. 01906

P.O. Box 160
Union, N.H. 03887
July 20, 1998

Dear Mr. Howard:

I want you to know that I support the Council's preferred alternatives for designating Essential Fish Habitat (EFH) for ocean fish of New England.

I strongly support the Council's proposal to designate two Habitat Areas of Particular Concern (HAPC) for juvenile cod.

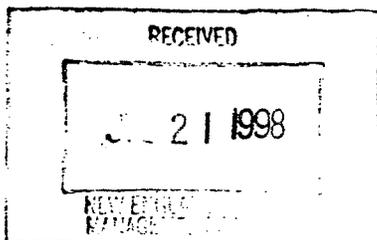
I urge the council to protect these sensitive areas from damaging the current closure restrictions within the two cod HAPCs.

I encourage the Council to continue to designate EFH for remaining species (such as halibut) and devise strategies to minimize adverse impacts on EFH (from fishing as well as non-fishing activities)

I thank you for taking the time to read my letter and hope you agree!

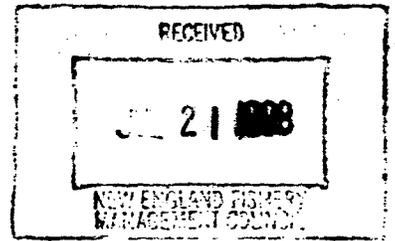
Yours truly,

Mr. Silwood Gamm



81 Bromfield St.
Quincy, MA 02170
July 20, 1998

Paul Howard
Executive Director
New England Fishery Management Council
5 Broadway (Route 1)
Saugus, MA 01906



Re: Comments on Essential Fish Habitat

Dear Mr. Howard:

I am very concerned that we must protect our fish resources. I was pleased to hear of the Council's proposals to designate two Habitat Areas of Particular Concern for juvenile cod. I also wish to support the Council's preferred alternatives for designating Essential Fish Habitat for our fish of New England. I urge the Council to protect these sensitive areas from damaging fishing gear by, among other things, maintaining the existing closures within the 2 cod HAPCs. Please continue to designate Essential Fish Habitat for halibut & the remaining species and devise strategies to minimize adverse impacts on EFH from fishing & non-fishing activities.

Thank you.

Sincerely,
Sally Owen

cc: Paul Cellucci, Governor
Sen. Edward Kennedy
Sen. John Kerry
Rep. William Delahunt



2 Howell Lane • P.O. Box 310 • Eliot, Maine 03903
(207) 439-2719 • Fax (207) 439-7643

July 16, 1998

Mr. Paul J. Howard, Exec. Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906

Re: Essential Fish Habitat

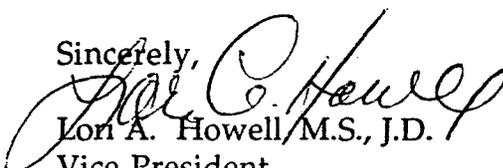
Dear Mr. Howard,

Please be advised that I have reviewed the *Public Hearing Document for Essential Fish Habitat* and attended one of the public hearings. I wish to comment on two specific areas of concern. I am concerned that there is a paper on aquaculture and its effects that was not included in the EFH process. Your staff has agreed to send this to me, however, without its availability prior to the close of the EFH comment period, it is of little value.

The Non-Fisheries Activities Assessment has been completed but has not been made available to the public. I also understand that the Conservation and Enhancement Measures Recommendations have not yet been completed, and that further, this will not be made available to the public and there will be no opportunity for comment. I am disturbed that these two critical aspects of EFH were not included in the public hearing document and hearings. With respect to the Conservation recommendations, your staff has stated that these are "just" recommendations to other agencies. Recommendations by the New England Fisheries Management Council, at the requirement of the Magnuson-Stevens Act will be viewed as more than mere recommendations by other agencies. These recommendations will impact other businesses and livelihoods, and likely will be viewed as mandates. They must be a part of the public process in order to have the hearing process be meaningful. As it stands, it is incomplete and meaningless. I suggest that you incorporate these areas into the hearing documents and hold another round of hearings.

I look forward to your response and action.

Sincerely,


Lori A. Howell, M.S., J.D.
Vice President

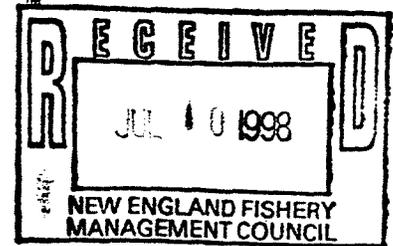
cc: CBEK, MWP (7/20)



Gloucester Fishermen's Union Association

July 10, 1998

Paul Howard, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906



Dear Capt. Howard:

We greatly appreciate the time you have taken to respond personally to our letter of June 4, 1998. We understand that you receive considerable correspondence and that your staff is constantly called upon to answer concerns and objections.

In this situation, however, we feel that you are being ill-advised based on an incomplete review of the facts at hand. We would like to reiterate that we are not opposed to area closures which are absolutely necessary to the health and survival of the fish stocks. We believe that these determinations should be made based on the best available science in consultation with the fishermen. Further, we believe that closures must be applied fairly and in a manner which does not violate common sense. Simply put, there comes a time when the best available data is just not good enough to justify regulatory action.

A case in point is the new HAPC recommendation in Closed Area I. Officially, this recommendation is based on the occurrence of juvenile cod over a "cobble" substrate. We are in complete agreement with the concept and it would be desirable if we could simply endorse this recommendation.

Unfortunately, a closer look at the available science casts serious doubts on how this concept is being applied. The substrate map, which is referenced, was published by Poppe and others in 1989. It contains a compilation by Hathaway (1971) of more than 3500 bottom samples collected sometime before 1971 by Dr. K. O. Emory and others for the Atlantic Continental Margin Study. The date of these samples is a cause for concern since the habitat could certainly have changed since that time.

Another concern is the sample itself. Specifically, the symbol shown on the map for "gravel" could contain gravel, pebbles, or cobbles of any composition and size from 2 mm-256 mm (0.07 - 10 inches). This is an extremely broad size range especially when you consider that the sample might also contain up to 50 % sand or up to 80% silt and clay and still be classified as "gravel".

The HAPC is based on one, possibly anomalous, sample. The next nearest sample is approximately 5 nautical miles away and was collected sometime before 1961. It consists of gravelly sand which means it merely contains more than 10% "gravel" with the rest consisting of sand, silt and clay

Gloucester Fishermen & Wives Associations
July 10, 1998 - Page 2

What we are left with is a level of scientific data that could easily be exceeded by a fisherman with a rope and a bucket. Yet, on this basis alone, the Committee is recommending that the area be closed indefinitely to all fishing activities.

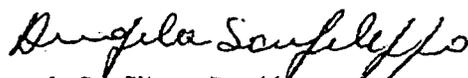
The GFWA would like to support a recommendation for HAPC closure that makes sense and can be defended to our members on the basis of hard scientific realities. The Area I HAPC is not such an area.

As for the Area Closure II recommendations, we note that the southern 10 minute square in Area II has been withdrawn "because it is not part of the juvenile cod EFH designation". This does not preclude the possibility that it might be designated at some future time for another species which utilizes "cobble" substrate. Perhaps you were not informed that the subsequent detailed mapping by Valentine et al (1993) no longer shows this area to contain any "cobble."

For the northern part of Area Closure II, (still recommended as HAPC) you should be aware that while the 30 year composite map for cod does show juveniles in this area, the more recent trawl surveys for Spring 1979-1982 and Spring 1993-1996 do not show a concentration of juvenile cod within the proposed HAPC.

Given the poor state of recent knowledge in these areas, we find that the only reasonable course of action for NMFS to take is to survey the bottom and conduct a census in and around the proposed HAPC areas. This could be done while the areas are still closed for other reasons and before a decision is made to extend the timeframe and close them for all fishing activities.

Sincerely,


Angela Sanfilippo, President
Gloucester Fishermen's Wives Assn.


Gaetano G. Brancalone, President
Gloucester Fishermen's Assn.

