

**Amendment #5
to the
Atlantic Sea Scallop Fishery Management Plan
Final**

**Prepared by
New England Fishery Management Council
in consultation with
MIT Sea Grant College Program
and the
Conservation Law Foundation**

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Action by NMFS:**

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1.0 Introduction

The New England Fishery Management Council (Council, NEFMC), through the implementation of Amendment #5 to the Sea Scallop Fishery Management Plan (FMP), proposes to establish a temporary experimental use area located approximately twelve miles southwest of the island of Martha's Vineyard. The Council intends to close the area to all fishing activities during the term of this experiment with the exception of those specifically discussed in this document. During the eighteen-month closure period scientists and technical experts, in cooperation with fishermen, will conduct an experiment and demonstration project involving sea scallop research, enhancement and aquaculture.

The experimental use proposal was submitted to the Council by consortium of sea scallop operation owners in consultation with the staff of the MIT Sea Grant Program and the Conservation Law Foundation, Inc. (proponents). The original proposal has been refined and improved to minimize the impact of the temporary closure on existing fishing activities.

2.0 Purpose and Need

2.1 Background

The New England fishing industry is struggling with reduced stocks levels in many commercially valuable species including shellfish resources. All fishermen will be operating at lower levels of production causing a ripple effect on the economy, as well as processors and suppliers.

The value of the sea scallop industry to Southeastern Massachusetts exceeds half a billion dollars annually in good years. The economic impact analysis included with Amendment #4 to the Scallop FMP predicted that economic hardships will be experienced both short-term and three and four years into the plan.

The decline of the scallop resource has been blamed on overfishing, usually thought of in terms of excessive harvest removals. There are, however, other fishing impacts that play significant roles. Frequent towing over the bottom may impact the productivity of the scallops and other species in ways that are not clearly understood. There is also a non-catch mortality to scallops caused by the dredge while on the bottom (i.e., physical damage, sediment suspension effects, etc.). Finally, there is the uncertainty associated with the potential loss of value and spawning potential of juvenile scallop bycatch, depending on the mortality rate of that bycatch.

Existing management options can only address these problems by decreasing fishing effort and harvesting efficiencies, both of which reduce employment opportunities and fleet productivity. Better information on sea scallop enhancement, harvest gear/scallop/habitat interactions, open ocean cage engineering and growth rates of transferred juvenile brood stock in both cage culture and open bottom culture would provide the Council and area fishermen with the potential tools to expand the resource base.

Sea scallop (*Placopecten magellanicus*) aquaculture is one of the most promising commercial opportunities for the Northwest Atlantic, with many of the prerequisites for success already in place. Small scallops are plentiful; the harvesting and processing infrastructure is in place; the unit value for market-sized sea scallops is high; and the sea scallop market is well established. Most importantly, the scallops can be reared on naturally occurring feed without the costs or environmental considerations associated with finfish aquaculture.

2.2 Sea Scallop Culture Outside the U.S.

Scallop culture, as practiced today, was pioneered in the Mutsu Bay region of Japan (Aoyama, 1989). The scallop fishery in that area was subject to significant fluctuations in abundance, a factor common to most scallop fisheries. In 1935, Japanese researchers initiated a program to overcome the fluctuations in scallop abundance. The early scientific efforts concentrated on ways to collect scallop spat (the stage in the scallop's life after the planktonic phase, when it settles to the bottom).

By 1953, local fisheries cooperatives were collecting spat to re-seed fishing grounds. In 1955, they started to hold the spat for short periods of time before re-seeding in order to increase scallop survival. In 1964, a breakthrough occurred in spat collector design that significantly increased the number of spat collected. The increase in availability led to improved ways to hold large numbers of scallops in captivity until fully grown (Ito and Byakuno, 1989). Today seventy percent of Japan's scallop harvest is cultured. The harvest is stable from year to year and is an order of magnitude larger than the previous wild harvest fishery. There are over 1,900 scallop harvesting firms in the Mutsu Bay region alone and many other regions also produce cultured scallops.

Since the 1970's, countries in all parts of the world have begun scallop culture operations based on the Japanese model (Kirk, 1979; Paul et al., 1981; Reyes, 1986; Naidu and Cahill, 1986). Some depend on collecting spat, others use hatcheries to produce the spat. Canada has been working on culturing the sea scallop and is on the verge of establishing a successful culture-based industry. The Canadian Ocean Production Enhancement Network (OPEN) may soon be funded by the federal Networks of Centers of Excellence program in the amount of \$23 million to conduct a three-part program, one of which is scallop enhancement.

2.3 Need for Amendment

While the commercial potential for sea scallop pen culture and natural enhancement is vast, significant applied research and development activity, coupled with fleet education and training, is essential to make sea scallop aquaculture a commercial success in New England. This amendment serves to facilitate essential research aimed at developing techniques and practices that could allow the scallop fishery to evolve from one based exclusively wild-capture to an industry that also incorporates modern husbandry, enhancement and open-ocean cage culture.

This project represents a collaboration among a broad range of experts and organizations and was made possible only through government support. The project proposal was selected for Saltonstall-Kennedy Grant Program funding, in

part, because it addressed an area identified as a 1994 priority. As funded, the activities proposed can occur only if some measure of exclusivity is granted to the participants within the project site.

Although some elements of the planned approach have been proven commercially in other countries, the project is experimental in nature. The objective is to obtain a comprehensive understanding of the issues associated with scallop seeding and grow-out. The proposed activities and required environmental monitoring would require limits on activities within the experimental area. Therefore, most fishing activities would not be allowed. Without restrictions or controls on fishing, expensive grow-out or monitoring equipment could be inadvertently destroyed by towed gear.

This amendment would establish an experimental area pursuant to 50 CFR § 650.29 that would restrict certain fishing and transit activities during the term of the proponents' Sea Scallop Enhancement Project. Although this project is only temporary and does not create any permanent rights or interests at the experimental site, the success of the experiment is dependent on additional restrictions for the region's licensed fishermen. As a result, NOAA General Counsel has advised the NEFMC and the proponents that a full plan amendment is necessary.

3.0 Proposed Action and Rationale

3.1 Preferred Alternative/Sea Scallop Experimental Area

For the purposes of conducting controlled research in sea scallop culture and enhancement, a nine (9) square mile site approximately twelve (12) miles southwest of Martha's Vineyard has been identified as a suitable experimental area by the research team assembled by the proponents. A description of the experimental area and the activities that are planned is presented below. All of these activities are essential parts of the planned research/demonstration project. In addition, these activities are specifically included as tasks in the Saltonstall-Kennedy proposal that has been selected for federal funding by the National Marine Fisheries Service (NMFS).

3.2 Description of Area and Project Buoyage

The experimental area is square, three miles on each side, and is located approximately twelve (12) statutory miles southwest of Martha's Vineyard. The northwest corner of the site is at 41°11.8' N, 70°50' W; the northern boundary runs east to 41°11.8' N, 70°46' W; the eastern boundary runs south to 41°08.8' N, 70°46' W; the southern boundary runs west to 41°10' N, 70°40' W; the western boundary then runs north to 41°08.8' N, 70°50' W, the starting point. The site is indicated on a chart of the area in Figure 1.

An enlarged picture of the site is presented in Figure 2, along with the specified buoyage planned for the duration of the experiment. Each corner of the site will be marked by a picket buoy. They will be lighted and painted yellow to meet Coast Guard requirements and held in place by chain and anchors.

Several factors were weighed in the site selection analysis that ultimately led to the proposed experimental area. Those factors included:

- 1) proximity to hatchery and laboratory facilities;
- 2) ability to monitor and maintain experimental control of the site;
- 3) proximity to shore-side services for participating vessels;
- 4) representative of exposed ocean conditions and commercial bottom;
- 5) availability of NMFS fish landing data;
- 6) locally based fishermen's identification of areas of low mobile gear activity;
- 7) surface traffic;
- 8) water temperature; and
- 9) natural sets of *Placopecten magellanicus* in non-commercial quantities.

Most of the experimental area will be used for bottom seeding and scallop grow-out. The grow-out area will be arranged in eight lanes which run east/west and are 2.5 miles long by 0.25 miles wide. The lanes will be marked by inflatable buoys at each corner and on each edge of their mid-length.

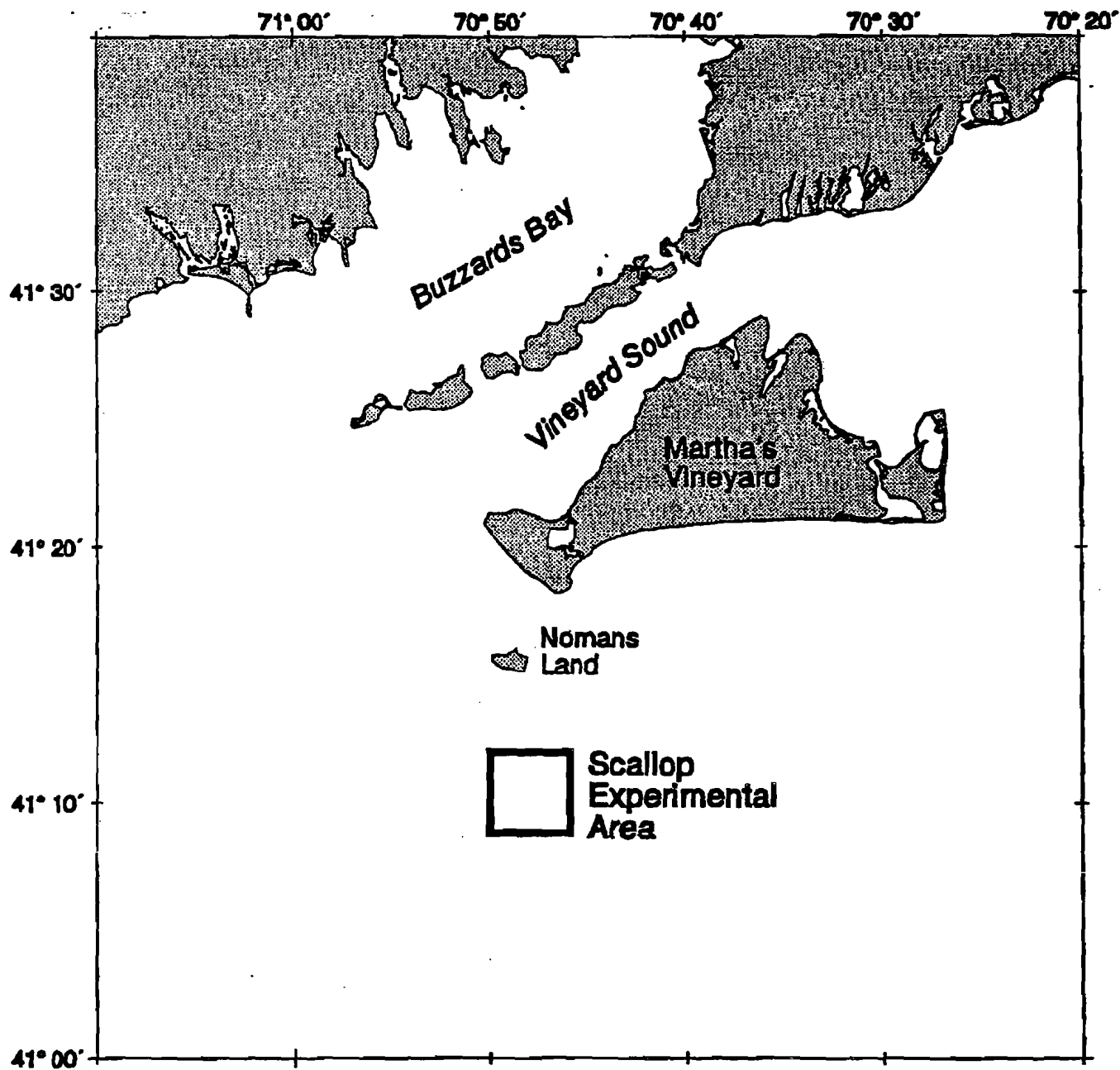


Figure 1. Location of the Sea Scallop Experimental Area

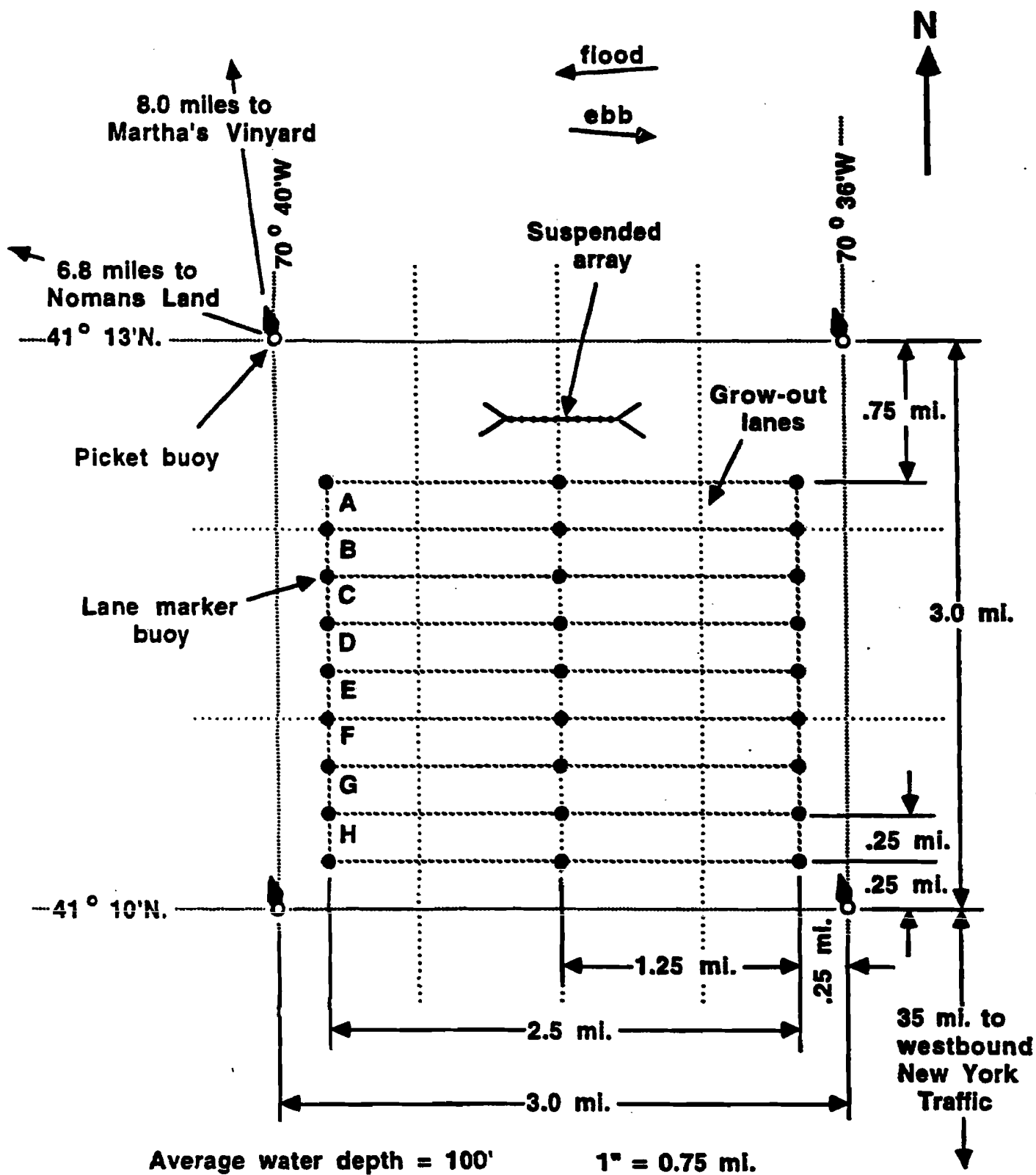


Figure 2. Sea Scallop Experimental Area site plan

The northern portion of the experimental area is set aside for experiments on other methods of scallop culture and grow-out. Two specific methods are planned and anticipated cooperation with other scallop researchers may allow experimentation with additional methods. The first method is aimed at determining the growth rates of sea scallops suspended off-bottom. Large grow-out units, patterned after traditional lantern nets, will be utilized. The severe ocean environment at the site requires measures that will ensure the survival of the suspended grow-out system and minimize the effects of wave motions on the culture process.

Figures 3 and 4 show the plan and side views of the grow-out array. Multiple five-foot-diameter net and hoop grow-out stacks are each suspended below a spar buoy. These buoyed units are connected in a linear array which is anchored at each end. The anchor system is redundant and offers tautness, but with sufficient resiliency to insure survivability. This approach has been designed with the gear handling capability of the region's larger fishing vessels in mind.

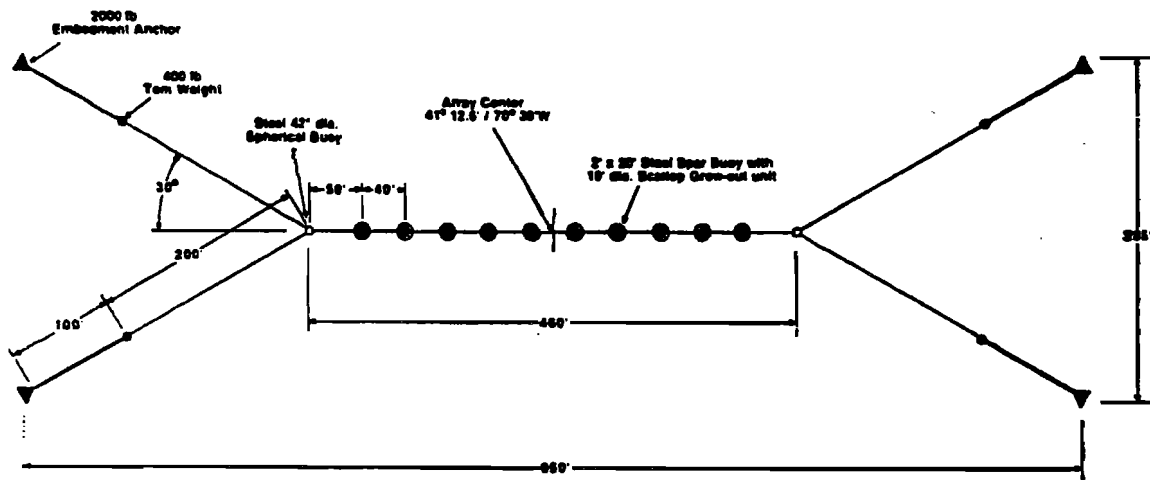


Figure 3. Plan view of suspended sea scallop grow-out array

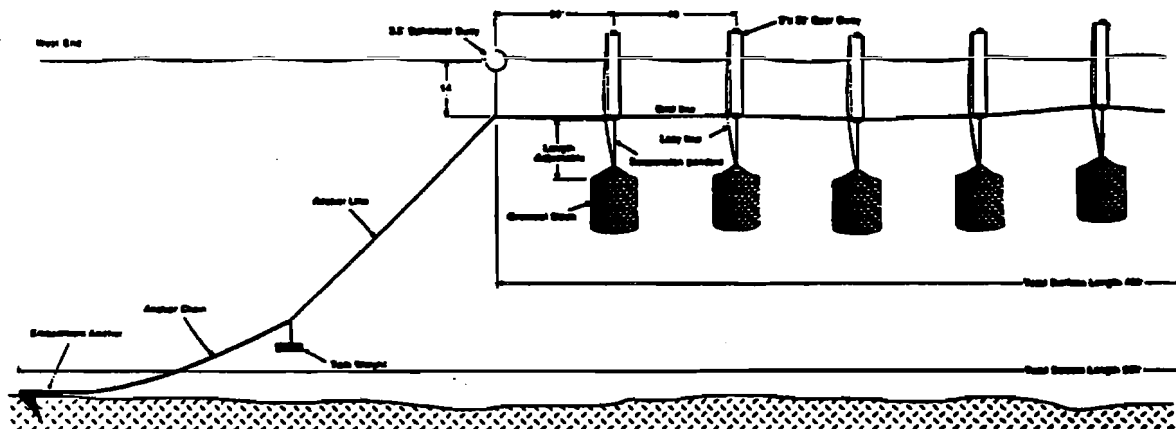


Figure 4. Plan view of suspended sea scallop grow-out array

The second method of culture to be evaluated during the experiment will involve small bottom cages that are similar to lobster traps in shape and method of handling. Figure 5 illustrates one of the planned, three-layer grow-out cages. Each will be buoyed individually with a pot marker. Most of these cages will be located in the vicinity of the suspended array, however some will be located throughout the experimental area. This aspect of the experiment is designed to gather data on a technology that could be adapted to the gear handling capabilities of the region's small lobster or day boat fleet.

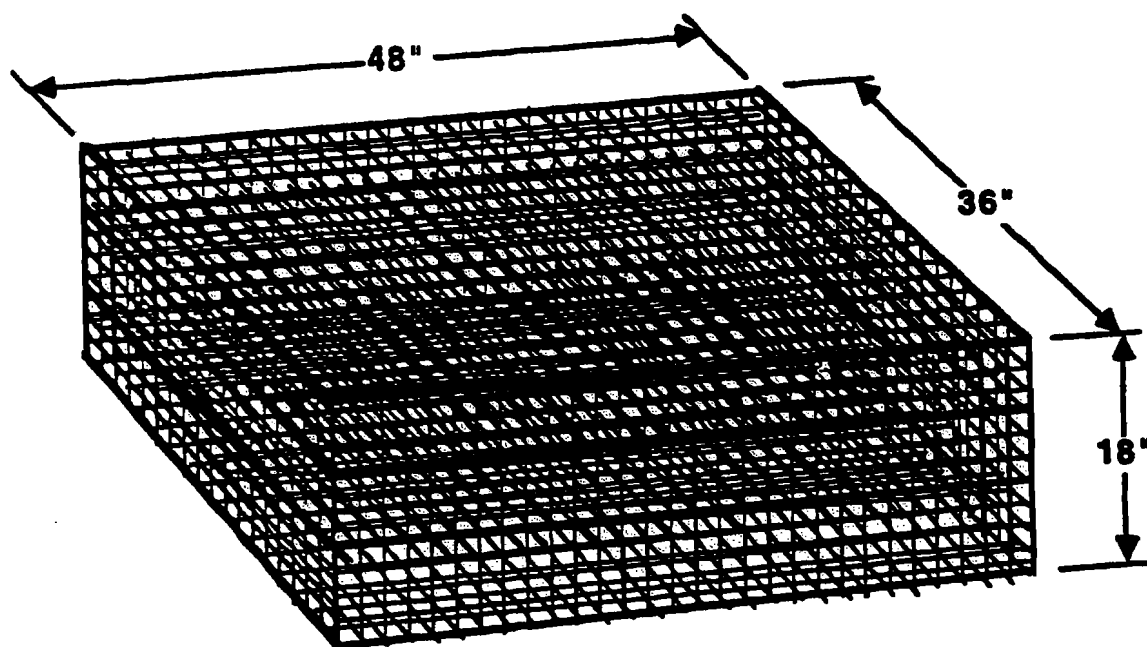


Figure 5. Bottom grow-out cage

3.3 Activity Restrictions in Project Area

Due to the type of experimentation planned at the above site, restrictions are required on the types of activities that can be allowed within the project boundaries. In general, those activities that would not interfere with the conduct of the research or the results of the experiment would be allowed.

- **Allowed Activities:**

- 1) sea scallop culture, growth, research, and monitoring activities as described in this section by project participants;
- 2) scallop seeding, sampling, and harvesting by project participants; and
- 3) vessel transit.

- **Controlled Activities:**

- 1) lobster trapping;
- 2) pot fishing;
- 3) pole fishing and jigging and
- 4) longlining.

- **Prohibited Activities:**

- 1) otter trawling, mid-water trawling and other related mobile gear fishing;
- 2) shellfish dredging;
- 3) gillnetting;
- 4) anchoring, except in emergencies; and
- 5) discharging not in accordance with MARPOL regulations.

3.4 Notification of Controlled Activities

Lobster pot fishing, fishing with handgear and longlining will be allowed within the boundaries of the project area to minimize potential economic impacts on those fisheries. In order to facilitate some project activities, however, restrictions will be necessary. Periodic monitoring, harvesting and predator control activities will require the removal of all fixed gear from portions of the experimental site. Additionally, experimental gear placed within the site could be damaged if fishing gear is placed on top of it. Fishermen, therefore, wishing to operate gear allowed within the project site must apply to the Regional Director for permission.

The Regional Director will issue a letter to authorizing applicants with valid federal permits to deploy gear within the experimental area. The Regional Director will supply the project with a list of all such letter recipients indicating operator name, permit number, boat name and description, gear type, buoy colors and markings, mailing address and telephone number.

The project will notify the Regional Director and each individual fisherman when fixed gear will need to be removed from the area. To the extent possible, the dates and specific locations will be announced well in advance. At least two weeks notice will be provided, however, prior to activities that would require the removal of fishing gear. A minimum of four weeks notice will be provided in the event that more than 25 percent of the closed area is involved. To the extent possible, the project managers will coordinate these required gear removals within the context of the normal seasonal movements or patterns of fishing. A similar notification scheme will be used to inform those who are authorized to fish within the site

about the deployment of experimental gear that would be adversely affected by contact with fixed gear. Such notices would include information about the minimum distances.

To notify fishermen operating within the project site that gear must be removed for brief periods to accommodate project activities,

3.5 Vessel Participation

The following vessels will participate in the research to be conducted at the experimental site and are authorized as specified above:

<u>Vessel Name</u>	<u>LOA</u>	<u>Activity</u>
F/V Westport	98 ft	Gear installation, scallop handling, monitoring, and harvesting
F/V Concordia	116 ft	Gear installation, scallop handling, monitoring, and harvesting
Scallop Vessel #3		Scallop seeding and harvesting
Scallop Vessel #4		Scallop seeding and harvesting
Scallop Vessel #5		Scallop seeding and harvesting
Scallop Vessel #6		Scallop seeding and harvesting
Scallop Vessel #7		Scallop seeding and harvesting
Scallop Vessel #8		Scallop seeding and harvesting
Lobster boat #1		Scallop cage handling and harvesting
Lobster boat #2		Scallop cage handling and harvesting
Lobster boat #3		Scallop cage handling and harvesting
Research vessel #1		Monitoring and sampling
Research vessel #2		Monitoring and scuba work

3.6 Days-at-Sea Accounting Plan

The above vessels hold general category scallop permits and participate in the days-at-sea program established by Amendment #4 to the Sea Scallop Fishery Management Plan. They are currently limited to 180 days of sea scalloping. In order to allow participation in this research project without adversely impacting their ability participate fully in the regular sea scallop fishery, the following procedures will be used to account for days-at-sea during the course of the experiment.

- 1) Trips in which participating vessels engage exclusively in project activity within the experimental area or project activities such as bottom surveying, biological sampling, or use of non-regulation experiment-related gear will be exempt from the days-at-sea program.
- 2) Trips in which participating vessels engage in project activity and normal commercial harvesting will not be exempt from the days-at-sea program.

- 3) Trips in which participating vessels engage in normal commercial harvesting will not be exempt from the days-at-sea program.
- 4) Participating vessels will be allowed up to two additional days-at-sea each year in partial compensation for time spent engaged in project activities during normal commercial harvesting.

The above days-at-sea accounting plan will apply only to the vessels participating in the project. Items 1 through 3 are intended to provide both a simple and accountable method of implementation. For example, there will be no mixing of exempt and non-exempt activities in the same trip. In addition, participants will not incur "double indemnity" by being charged twice for catching the same scallop.

Item 4 is intended to make up for the time spent by participating vessels in seeding scallops within their experimental lanes or transferring seed to other participating vessels intended for the grow-out array or bottom cages. In the above plan, since those activities occur within normal commercial harvesting trips, the project effort will count against their days-at-sea. This seeding and transfer activity will be recorded and credit will be given accordingly, up to the two-day maximum.

3.7 Collection of Scallops

Juvenile and small sea scallops introduced into the experimental site will be obtained from the bycatch associated with normal commercial harvesting by the eight participating vessels listed above. Regulation New Bedford-style scallop dredges will be used for this purpose.

3.8 At-Sea Transfer of Scallops

The F/V Westport, the F/V Concordia, and Research Vessel #1 are the only participating vessels that will engage in setting up, loading, monitoring, sampling, and harvesting sea scallops in the suspended array. To facilitate this process, transfer of small scallops from other participating scallop vessels to these vessels may occur within the experimental site. In addition, transfer of small scallops from the participating scallop vessels to the participating lobster boats also will occur for the purpose of loading the small bottom cages.

3.9 Transportation of Scallops

Transportation of undersized scallops from the fishing grounds to the experimental site will be aboard the harvesting vessel. Storage systems that allow for water circulation and oxygenation will be used to maximize the survivability of the scallops during transit.

3.10 Seeding of Scallops

Each participating vessel will be assigned a grow-out lane. Each vessel will maintain a record of the amount and location of scallop seed that is placed in their respective lane. Seeding will be done manually. Crew members will cast scallops overboard while the vessel transits a predetermined course in the grow-out lane. Seeding densities will be estimated by assuming the scallops land within a swath width equal to the water depth.

3.11 Non-Regulation Gear

Depending on the size and quantities of small scallops that are landed as bycatch, some directed effort by the F/V Concordia may be necessary using scallop sampling gear or commercial gear modified with a small-mesh liner. This directed effort will be limited to ten days and all scallops, regardless of size will be placed in the experimental area. Trips using this non-regulation gear will not involve normal commercial harvesting or landing activities. The Coast Guard and the Northeast Regional Office of NMFS will be notified by the F/V Concordia of the time and location of this seed harvest effort in advance.

3.12 Experimental Area Monitoring and Sampling

The seeded lanes at the project site will be monitored for growth rate, general health and mortality. Specimens from the bottom sites will be taken periodically by divers. These specimens will be transported in circulating tanks to the Laboratory for Marine Animal Health (LMAH) in Woods Hole, Massachusetts. At the LMAH, scallops collected from each treatment group will be necropsied and evaluated histopathologically. Additionally, moribund scallops from each treatment group will be examined for disease.

Additional samples will be taken for biochemical analysis of the adductor muscle in order to determine how the culture environment may affect the scallop meat. This work will be done by the Department of Aquaculture and Fisheries at the Woods Hole Oceanographic Institution. The samples will be analyzed for total lipids, protein, glycogen and ash content. Scallop samples will be analyzed for biochemical composition at time zero (before deployment onto bottom lanes) and quarterly during the first year of the grow-out process. Fifteen scallops will be selected for analysis from each location at each time interval.

Bottom conditions under and surrounding the suspended arrays will be monitored for any changes caused by project activities. In addition to water column sampling, sediment samples will be tested quarterly for organic matter content. Underwater video recordings will be made of specific survey sites over the course of the project.

3.13 Reporting and the Dissemination of Results

The sea scallop enhancement project described in this amendment has been designed by the project participants and consulting team to provide for the maximum public benefits in return for the temporary restrictions associated with the experimental area. The scientific and engineering information accumulated during the term of the experiment is considered to be in the public domain.

To that end, quarterly reports and a detailed final report will be prepared on all facets of the project. The results will be disseminated to the industry, management authorities, and interested general public. The Project Findings and Conclusions will be offered at a regularly scheduled New England Fishery Management Council meeting by the proponents. The NEFMC Sea Scallop Committee will be kept informed of the progress of the experiment. A column will be written for Commercial Fisheries News once the project has been initiated. A second column will be written on the final results.

4.0 Alternatives to the Proposed Action

4.1 No Action Alternative

The No Action Alternative continues the present Sea Scallop FMP. The existing plan does not regulate activities within the specified area. Activities permitted under the status quo, however, could prevent or significantly impair the experiment and potentially result in damage to expensive gear.

4.2 Exclusive Use Alternative

Under this alternative, the Sea Scallop FMP would be amended to protect the Sea Scallop Enhancement Project from possible interference from all other fishing and maritime activities. The amendment would stipulate that no commercial or recreational fishing activities would be allowed within the experimental area for the 18-month duration of the project. This alternative would prohibit surface traffic in the experimental area under all but exigent weather or emergency circumstances.

4.3 Original Site Alternative

Initially, project managers proposed a 9 square-mile site located ten miles south of Martha's Vineyard. The Council discussed this location, as well as the other aspects of the project with fishermen and other interested members of the public at several subcommittee and Council meetings as well as at a hearing in Woods Hole, Massachusetts on January 19, 1996 (Appendix II). Public comments were then reviewed at the February 27, 1996 Council meeting and the amendment was approved.

In April, 1996 project managers notified the Council that members of the fishing community, including lobstermen, scallopers and trawl vessel operators had met again after the final Council decision and reached consensus on an alternative site. All parties agreed that the new location, approximately 3.5 miles southwest of the original location, was preferable.

To accommodate this agreement the Council withdrew the amendment, which already had been submitted to the National Marine Fisheries Service (NMFS), and held an additional hearing on May 17, 1996 to ensure that all interested parties had an opportunity to comment on the new site (Appendix II). This location was approved by the Council at its meeting on June 6, 1996.

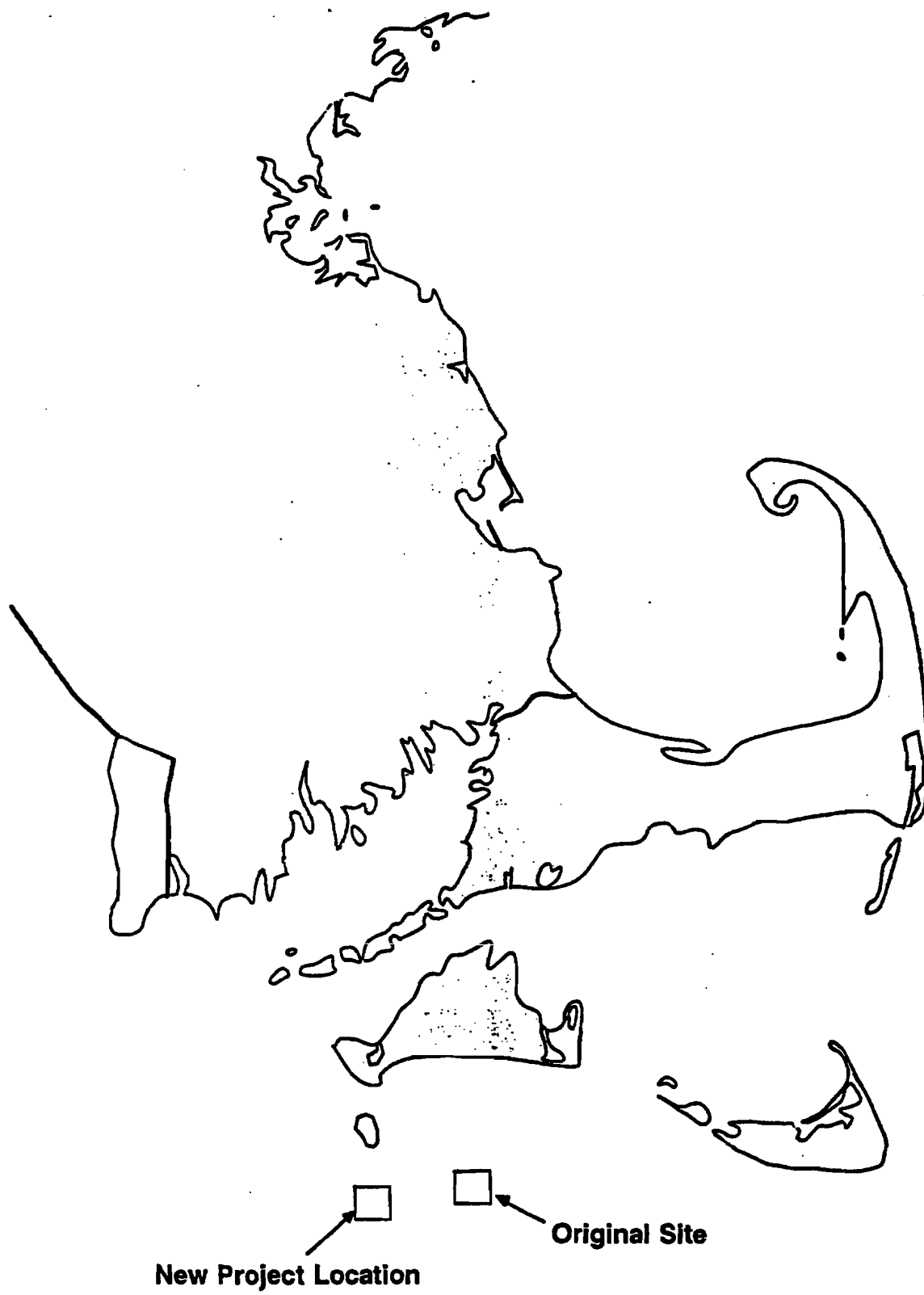


Figure 1. Location of the Sea Scallop Experimental Area

5.0 Environmental Assessment

5.1 Purpose and Need for Proposed Action

See Section 2.0 of this document.

5.2 Description of the Proposed and Alternative Actions

See Section 4.0 of this document.

5.3 Description of the Physical Environment

The sea scallop experimental site has water depths ranging from 14 to 19 fathoms. The site is relatively exposed to ocean waves and swell from all directions except due north. Tidal currents in the area are not expected to exceed one knot. Ocean bottom temperatures at the site have been sampled 14 times since 1981 by NMFS survey cruises and fall within the range of 1.9 (January 1982) to 18.4 (September 1991) degrees Celsius. The substrate is mostly sand bottom with cobbles and boulders present. The western portion of the site may have considerably more rocks present than the southeastern corner.

5.4 Description of the Biological Environment

Eight NMFS survey tows (3 trawl, 3 clam and 2 scallop) indicate the biological environment is typical of sand and rock substrate. Invertebrate species include sea scallops (*Placopecten magellanicus*), clams (*Arctica islandica*, *Spisula solidima*, *Ensis directus*, *Venus borealis*), snails (*Lunatia heros*), sea stars (*Asterias* sp.), crabs (*Cancer borealis*, *Pagurus* Sp.) and lobster (*Homarus americanus*).

Commercial catch data, obtained by NMFS port agent interviews, indicates the presence of the following bottom dwelling finfish species: monkfish (*Lophius americanus*), cod (*Gadus morhua*), winter flounder (*Pseudopleuronectes americanus*), summer flounder (*Paralichthys dentatus*), yellowtail flounder (*Limanda ferruginea*), sand-dab (*Scophthalmus aquosus*), red hake (*Urophycis chuss*), silver hake (*Merluccius bilinearis*), sea raven (*Hemitripterus americanus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristis striata*), dogfish (*Squalus acanthias*), and skates (*Raja* sp.). Pelagic species present include bluefish (*Pomatomus saltatrix*), butterflyfish (*Peprilus triacanthus*), shad (*Alosa sapidissima*), and squid (*Loligo pealei*).

A number of species of endangered and threatened marine mammals under the jurisdiction of the National Marine Fisheries Service may be present at the project site during certain times of the year. These include the northern right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliae*), fin whale (*Balaenoptera physalus*), leatherback sea turtle (*Dermochelys coriacea*), green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), and Kemp's ridley sea turtle (*Lepidochelys kemp*). In addition, the harbor porpoise (*Phocoena phocoena*) is proposed for listing as threatened and may also be present at the project site. All of these species may transit the area at certain times during the year on their migrations to or from more northerly feeding and nursery areas. Based on survey data (CeTAP, 1982), however, this area is not known to be a concentration area for any whale or turtle species.

5.5 Description of the Human Environment

Fishermen using this area are primarily from ports in southeastern Massachusetts and Rhode Island. Scallopers from as far south as Virginia and gillnetters from New Hampshire have been known to fish in the general area. The site is primarily fished by lobstermen from Martha's Vineyard. Small draggers from New Bedford fish for winter flounder during the fall/early winter on the southern edge of the site. A seasonal hook fishery for cod has been conducted in the past in this area by vessels from Cape Cod and the Islands. There have been gear conflicts in this area primarily between Martha's Vineyard lobstermen and large offshore scallopers.

For a thorough description of the human environment associated with groundfish fishing activities that may have occurred in the proposed experimental site, see Amendment 5 - section E.6.4 of the Northeast Multispecies FMP. For an equivalent description of the human environment associated with scalloping activities that may have occurred in the proposed experimental site, see Amendment 4 - section 7.G of the Atlantic Sea Scallop FMP.

5.6 Biological Impacts of the Proposed Action

The alternative site approved by the Council on June 6, 1996 is located approximately 3.5 miles southwest of the original area proposed. Because the new site is within the same ten minute square as the original site, and because data are not available on a scale finer than ten minute squares, the assessment of impacts is essentially unchanged.

5.6.1 Impacts on Sea Scallops

From the available data we conclude that the proposed project at this site will have no negative impacts on the sea scallop fishery. NMFS survey and port interview data indicates that small amounts of scallops have been present at the enhancement site. As reported, between 1983 and 1993 six pounds of scallop meats were landed from the ten minute square in which the site is located, in 1983. Information collected during interviews with fishermen show that the two ten minute squares just south of the site have accounted for scallop catches of 46,647 and 18,825 pounds of meats during the same time period. Annual landings of interviewed trips from these two neighboring squares has fluctuated from zero to 12,059 pounds of meats.

Sea scallops will be harvested from off-site locations and released within the project area, either directly onto the bottom or into cages/nets. These scallops will range in size from 35-65 mm, a size range normally discarded in the fishery. We do not expect the mortality in these scallops to be any higher than if they remained at their original location of capture where they would be exposed to intense harvesting pressure. The potential for disease or pathogen transfer is non-existent as the scallops will be from the same stock native to the area. In addition, the scallops will be routinely monitored and samples taken for testing to determine causes of mortality and general condition.

Stocking density could pose a problem but this is considered unlikely since scallops will be broadcast into water depths of approximately 100 feet and should disperse naturally as they settle to the bottom. Also, scallops are fairly motile and should spread out as necessary. If stocking density did become a problem, it would be

identified during periodic dive or video monitoring.

5.6.2 Impacts on Groundfish

The proposed action will have no negative impacts on groundfish stocks. The site will be closed to towed fishing gear and thus may have positive biological benefits. The effects of this project to the benthic environment should be minimal. Any disturbance to the benthos should be significantly less than if the site were open to towed gear.

5.6.3 Impacts on Lobsters

The proposed action will have no negative impacts on lobsters. The site will be closed to towed fishing gear, except for some limited experimental tows, and thus should provide a refuge for lobsters for the duration of the experimental closure. The effects of lobster predation on small scallops is unclear but should be determined during the experimental period.

5.6.4 Impacts on Endangered and Threatened Species

The proposed site is not known for concentrations of marine mammals or turtles. Whales migrating through the area may be adults with calves heading for the protection and seasonally abundant food resources of Cape Cod Bay. Protecting females with calves during their vulnerable springtime breeding period is particularly important in furthering the recovery of several populations of endangered whales. Juvenile and sub-adult loggerhead, green, and Kemp's Ridley turtles prefer warmer water and are most likely to be in the area from mid-summer through fall.

Whales and turtles are known to become entangled in lobster pot lines, seines and fish weirs. Right whales are particularly vulnerable to entanglement in lines because of their propensity for surface feeding. Leatherback sea turtles are also commonly caught in lobster trap lines because they lack sufficient maneuverability to free themselves.

The threat of entanglement in the buoyed lines used to delineate each lane as well as the lines supporting the suspended cage array is the foremost concern for all species involved. The concentration of scallops within the lanes may attract loggerhead turtles which are known to feed on mollusks and crustaceans. Green, Kemp's Ridley, and leatherback sea turtles are less likely to be attracted to the site since their primary food sources are sea grass and algae, crabs and jellyfish, respectively. The grow-out lanes and the suspended cage array system should pose little risk to the endangered species mentioned above as long as the number of lines to the surface does not exceed what has been proposed.

The off-bottom grow-out array is a substantial arrangement of floating and suspended gear, however, the taut mooring system planned and the weight of the grow-out modules will place all lines in the system under tension. Unlike slack lines which can become entangled on flukes and flippers, this array presents significantly less risk.

The proposed action is not likely to adversely affect endangered species under the

jurisdiction of the NMFS because: 1) the site is not a known concentration area for the species of concern, and 2) the expected impact from the structures associated with the grow-out lanes and the cage array should be minimal in a pilot project of this size and duration.

5.7 Economic Impacts of the Proposed Action

This alternative would close an area to certain types of fishing gear under the Atlantic Sea Scallop FMP for experimental use by the Westport Scallop Corporation. The designation would allow lobster pot fisheries as well as recreational and commercial hook-and-line fisheries to continue operations within the site boundaries and within prescribed distances from both the grow-out array and bottom cages. Towed mobile gear, gillnetting, and any scallop harvesting by non-participating vessels or researchers would be prohibited for the duration of the experiment.

This alternative would have a negligible impact on overall landings. The proposed nine square-mile site constitutes 0.012 percent of the approximately 72,000 square miles of potential commercial fishing area in the Northeast. The amount of fish landed commercially from the site is small compared to total commercial landings in the region. As detailed in other sections, the site is reported to have produced an average of one hundredth of a percent of the cod and three hundredths of a percent of the winter flounder caught between 1985 and 1991.

The low level of fishing activity within the experimental area was one of several selection criteria used by the project team. Analyses were performed on the basis of existing NMFS data and in cooperation with area fishermen. To date, this constitutes the project proponents' best efforts to minimize the impact of the proposed restrictions.

Benefits - The proposed project does not provide a blanket exclusion for activities that might be incompatible with the requirements of the experiment. Instead, the proposal identifies specific activities that are compatible with project operations, allowing for a maximum level of commercial and recreational fishing activity while insuring consistency with the goals and objectives of the experiment. The closure, with some exceptions, strikes a workable balance between the requirements of the experiment and the desire to maintain the maximum permissible fishing effort in the designated area.

Because of the non-proprietary nature of the experiment and its results, the data generated and conclusions drawn from attainment of the project's objectives have the potential to deliver valuable short and long-term returns to fishermen from the region. These returns range from advances in applied technologies and biology to increased economic opportunities for both the small and offshore fleets.

Costs - The conditions necessary to ensure the integrity of the project and confidence in its conclusions are not incompatible with all present users. The ability to specify activities that would compromise the project's scientific integrity minimizes the costs to present users while at the same time allowing research to proceed. Some current uses of the site by mobile gear operators, gillnet fishermen and

scallopers will be affected during the eighteen-month period of the experiment. Estimates of impacts are difficult to project given the large size of the statistical blocks utilized by the National Marine Fisheries Service to calculate landings. Based on discussions with area fishermen, these activities are believed to consist of some scalloping activity on the western side of the experimental area and some groundfish dragging and gillnet activity on the eastern side of the experimental area. In economic terms, estimates in lost revenue due to the loss of groundfish catch from the nine square-mile site is approximately \$6,000 based on 1985 to 1991 NMFS landing statistics for cod and winter flounder. This figure is offset by the benefits accrued by participating vessels that will be compensated for their participation in the program through the harvesting and sale of scallops in their respective grow-out lanes at the conclusion of the experiment. Groundfish will remain vulnerable to towed gear if they leave the experimental site, although hook fishing at the site will continue to yield groundfish revenues.

There are also administrative and enforcement costs associated with an area closure. When full implementation of the Vessel Tracking System (VTS) now required by the FMP occurs, however, enforcement of scallop vessel entry into the site will be simplified.

5.7.1 Economic Impacts of Other Alternatives

No Action Alternative

Benefits - Maintaining the status quo will allow all managed and unmanaged fisheries to continue operations in the proposed experimental area subject only to current reporting requirements, days-at-sea allowances, gear restrictions or other regulatory requirements. Economic benefits derived from fishing at the proposed site would continue. These benefits are modest as shown in Table 1 which presents estimated annual landings from the experimental area as a percentage of overall landings. In this analysis we have assumed the catch from the 9 square-mile experimental area is 9% of the yield from the 100 square mile reporting area that encompasses the experimental site.

year	10 minute block		3 minute block		N.E. total catch		Percent	
	cod (lbs)	winter flounder (lbs)	cod (lbs)	winter flounder (lbs)	cod (1000 lbs)	winter flounder (1000 lbs)	cod	winter flounder
1985	18,181	36,733	1636.3	3306.0	30,203	7,937	0.005	0.042
1986	11,416	11,712	1027.4	1054.1	26,676	3,527	0.004	0.030
1987	35,410	35,898	3186.9	3230.8	22,266	6,834	0.014	0.047
1988	34,362	21,429	3092.6	1928.6	24,251	5,071	0.013	0.038
1989	20,643	4,126	1857.9	371.3	32,187	4,630	0.006	0.008
1990	56,263	5,584	5063.7	502.6	41,226	3,307	0.012	0.015
1991	60,207	6,641	5418.6	597.7	44,753	2,425	0.012	0.025
Avg.	33,783	17,446	3,040	1,570	31,652	4,819	0.009	0.029

Table 1. Cod and winter flounder caught in the experimental area as a percentage of overall catch in the Northeast

Mobile and fixed gear users will have continued opportunities to harvest inside and transit the proposed experimental area. There would be no new benefits to fishermen associated with the No Action Alternative since the Sea Scallop Enhancement Project would not be conducted in the absence of restrictions to protect the scientific integrity of the project. There would be some savings of enforcement and administrative costs under this alternative.

Costs - The proponents are not aware of any methodology or procedure that would allow research and experimentation with commercial-scale sea scallop aquaculture and enhancement without restraining open-access conditions. In order to conduct experiments which could lead to an expanded sea scallop resource base in the region, it is necessary that the proponents have the ability to observe, monitor and record fundamental ecological processes, mortalities, dispersions and growth with as few external variables as possible. The Sea Scallop FMP currently allows activities in the experimental area that would be inconsistent with the purposes of the project.

In order for the Sea Scallop Enhancement Project to occur at any site that might be identified, certain minimum conditions must exist. Foremost among these conditions is protection of the site's suspended grow-out array, the grow-out lanes, spat collectors and bottom cages from interference. Growth trials and monitoring of scallop culture and change would be virtually impossible under the No Action Alternative. One of the critical hypotheses to be tested is that growth rates will increase when the seeded scallops are free from the effects of repeated dredging. Specifically, the No Action Alternative would prevent accurate and reliable data collection to test the carrying capacity of the grow-out lanes as well as sediment sampling, measuring scallop mobility, identifying predators, and maintenance of the apparatus. The presence of unrelated mobile gear and gillnets within the area would compromise nearly all aspects of the experiment.

Due to the fact that bottom cages for sea scallop grow-out, spat collectors, and the suspended mid-column sea scallop grow-out array can not accommodate fishing with towed gear and gillnetting activity, there is a need to minimize the number of potentially detrimental interactions at the site. The high probability of negative interactions would argue against the No Action Alternative.

The No Action Alternative would result in losses to the research team and to the individual vessel operators who choose to explore the opportunities associated with sea scallop enhancement and aquaculture as supplements to their existing wild harvests.

No Action over the long term would discourage or delay the development of both the scientific and engineering aspects of sea scallop husbandry and enhancement. Based on the economic benefits enjoyed by other nations that have adopted scallop culture and enhancement techniques, the potential benefits to the Northeast could be in the hundreds of millions of dollars in landed sea scallops within a decade.

Exclusive Use Alternative

Benefits - The Exclusive Use Alternative would greatly reduce potentially disruptive or harmful interactions and ensure unencumbered access to the site for the researchers and participating vessels. By reducing the number of potentially negative interactions, control conditions could be better approximated. Researchers would be able to better monitor and analyze interactions between other animals in the area and the sea scallop enhancement activities without the complication and distortion of continued commercial harvests of non-target species. This alternative would significantly improve the demonstration project's likelihood of success.

Costs - The Exclusive Use Alternative, while providing the maximum protection for the experiment relative to interactions with existing competing uses, would impose economic costs and disrupt the activities of other users who have traditionally fished in the experimental area. Exclusive use would be unnecessarily broad, overly burdensome on some fisheries and difficult to enforce.

While the ability to access the experimental hardware, conduct tests and monitor results would improve under this alternative, these activities can be conducted adequately under conditions set forth under the Preferred Alternative. An analysis of the ability of wild fisheries and aquaculture to coexist in designated areas is an intended outcome of the proposed experiment. Exclusive use of the proposed site would be inconsistent with that goal.

Given the size of the proposed experimental area, the short duration of the project and the present level of fishing activity at the proposed site, the impacts on existing fisheries operating there would be minimal. Although the economic benefits presently derived from the site are relatively small, there is a need to minimize social and economic impacts on existing fisheries to the maximum degree practicable.

5.7.2 Economic Impacts on Scallopers

No significant impact are expected to affect the commercial scallop fleet landings due to the 18-month closure of this site to commercially towed gear. As stated earlier, insignificant amounts of scallops are currently harvested from the experimental area.

The scallops to be collected from commercial grounds for seeding would very small and likely uneconomical to shuck. As such, they represent no short-term loss to the scallop fleet. Increases in size and value of the seeded scallops will represent increased revenues to the scallopers who originally caught them and placed them in their designated lane.

Long-term gains, based on project results, are incalculable at this time but may be substantial. Each 1/4 mile by 2-1/2 mile lane has 22.5 million square feet. Even a modest stocking density of one scallop every 10 square feet would allow the placement 2.25 million seed scallops per lane. In Japan, a seeding density of two scallops per square foot is not uncommon. If moderate increases in growth rates of the seeded scallops can be coupled with substantial reductions in dredge-related mortalities, significant economic benefits may be realized.

5.7.3 Economic Impacts on Other Fisheries

The proposed action should have few negative economic impact on most fixed gear fisheries since these activities would continue to be allowed in the experimental area. There is some concern on the part of lobstermen fishing near the area that the site may attract large scallop vessels and result in increased gear conflicts. The proponents plan to use peer pressure and public awareness of the project's purpose to minimize, address and possibly even reduce this type of occurrence.

The most significant economic impact may be to trawl vessels fishing for winter flounder or cod. Information gathered through interviews with fishermen (Table 2) confirm at least a moderate catch of these species from the ten-minute square which encompasses the proposed site. Landings are significantly lower at the project site than those attributed to the ten-minute squares directly south of the project.

year	41-15'N x 70-35'W		41-05'N x 70-35'W		41-05'N x 70-45'W	
	cod (lbs)	wf (lbs)	cod (lbs)	wf (lbs)	cod (lbs)	wf (lbs)
1985	18,181	36,733	7,344	51,968	25,824	128,137
1986	11,416	11,712	14,228	26,937	9,904	56,264
1987	35,410	35,898	21,065	13,219	54,665	62,236
1988	34,362	21,429	80,775	44,637	56,705	39,759
1989	20,643	4,126	114,619	28,164	115,337	22,148
1990	56,263	5,584	34,063	15,003	56,850	22,155
1991	60,207	6,641	21,676	27,212	34,183	47,103
1992	28,672	9,251	47,535	55,979	68,875	61,697
1993	5,241	13,226	1,160	13,493	5,857	16,080
Avg.	30,044	16,067	38,052	30,735	47,578	50,620

Table 2. Cod and winter flounder caught in the ten-minute square containing the experimental area and two squares to the south

Since the experimental area is only nine-percent of the ten-minute square reported above, the actual effect of the proposed closure would presumably be proportionally smaller.

5.7.4 Distribution of Economic Impacts

Lobstermen may benefit from the proposed action. Lobsters normally taken by mobile gear at the site would only be available to trap fishermen during the term of the experiment. Small vessels using hooks for cod may also benefit because of their access to the project area.

The enhanced growth and reduced mortality of the scallops placed at the site may increase the revenues of the participating vessels when seeded scallops are harvested at the end of the project. Revenues for these boats may be higher than for non-participating vessels that would have had the opportunity to recapture those animals. This effect is difficult to quantify because of questions about dredge-induced mortality on commercial scallop grounds. Alternatively, revenues to the

participants may not adequately compensate them for their time, fuel and other expenses associated with their involvement in the project. More likely, the proposed action will have a short-term negative economic impact because they are not engaged in commercial fishing while participating in the experiment. In the long-term, all benefits should be equally available to all fishermen due to the non-proprietary nature of the proposed action.

5.7.5 Cost/Benefit Conclusion

In the aftermath of recent reductions in effort in New England's wild fisheries, there is an increasing need to advance understanding and collect data on the viability of commercial-scale sea scallop culture techniques. The ability to conduct sea trials in a relatively low-use area away from the crowded, and possibly-polluted coastal zone will advance our knowledge of the possibilities that exist in an exposed marine environment.

The proposed project is non-proprietary and cooperative in nature and is 18 months in duration. It will have a negligible impact on the site and will advance our understanding of culturing systems and scallop morphology. The benefits of conducting trials under the Sea Scallop Experimental Area Alternative may produce results that could potentially increase sea scallop production and revenues for regional coastal communities.

Other potential long-term benefits from the experiment include increasing the ability to sustain commercial yields during negative fluctuations in wild stocks. The experiment also will test the potential and cost effectiveness of "re-seeding" depleted areas such as George's Bank through seed transfer. Potential long-term benefits would appear to far outweigh any short-term economic impacts resulting from the area closure. There are no anticipated long-term economic costs associated with this alternative.

Under the Sea Scallop Experimental Area Alternative, existing data reporting requirements would remain in place. The adoption of this alternative would not impose any additional reporting requirements on fishermen at the proposed site. Under this alternative, the project team will work cooperatively with fishermen allowed in the area to develop data important to the understanding of potential interspecies interactions and effects.

It should be noted that the proposed project is not a private venture which seeks long-term exclusive use of the site or the introduction of non-native scallop species that may require additional feed or antibiotics. To the contrary, this public domain research project is directed exclusively at the enhancement of a native, planktonic-feeding species. There would be no significant impact on the proposed site after the experiment is terminated.

5.8 Social Impacts of the Proposed Action

The Council does not anticipate any significant negative social impacts in the short term as a result of this experiment. Although the preferred alternative does impose additional restrictions on some gear types for an eighteen-month period, fishing history at the experimental site indicates limited use. The long-term positive social

impacts of the project, on the other hand, could be significant. The Sea Scallop Enhancement Project could break new ground in the understanding of sea scallop culture on a commercial scale and on the ability to re-seed depleted areas with transferred stock. The project has the potential for stabilizing and expanding commercial production, increasing jobs, strengthening the economic base of those communities that depend on the sea scallop and other regional fisheries. This could improve the long-term social welfare of all components of the industry connected to sea scallop production.

The project also provides some social benefits by developing a relationship between the harvesting sector and the scientific community for their mutual benefit. A successful experience could help to promote similar positive working relationships within the fishing community.

5.9 Finding of No Significant Impact (FONSI)

NOAA Administrative Order 216-6 provides guidance for the determination of the significance of the impacts of fishery management plans and amendments. The five criteria to be considered are as follows.

1. *Can the proposed action be reasonably expected to jeopardize the long-term productive capability of any stocks that may be affected by the action?*

The principal objective of this amendment is to enhance sea scallop stocks in both the short term and in the long term. The project seeks to do this by developing sustainable methods of sea scallop production and demonstrate those methods to current participants in the sea scallop fishery. The project will not introduce non-native species, supplemental feed, or medications. The site for the experiment has been selected specifically and the project has been designed to reduce the impacts on any currently important fisheries. The amendment will have a neutral to slightly beneficial impact in the short term and no impact in the long term on other stocks that might be affected by the temporary closure.

2. *Can the proposed activity be reasonably expected to allow substantial damage to the ocean and coastal environments?*

The sustainable techniques that will be developed during the project include reducing the practice of repeatedly harvesting sea scallops during their growth. This will reduce the potentially-damaging impact of scallop dredges on the site and the sea scallops and other biota that dwell there. In the long term, the goal of the project is to impart a conservation and sustainability ethic within the sea scallop industry resulting in a stewardship of the ocean resources.

The project will be deploying equipment and growout cages that, in the event of a failure or unanticipated conditions, might become lost. There is a chance that such gear losses could reach the beaches of Martha's Vineyard, southern Massachusetts or Rhode Island. Such an event would not cause long term impact or damage. The project team has the technical and monitoring capability to respond adequately to these contingencies.

3. *Can the proposed activity be reasonably expected to have an adverse impact on public health or safety?*

A goal of the project is the development of sustainable methods for the production of high-quality sea scallops. Features of this approach include the ability to plan harvests of monitored "crops" of sea scallops with more efficiency and less dependence on long trips. A higher-quality, safer product will result.

4. *Can the proposed action be reasonably expected to have an adverse impact on endangered or threatened species or a marine mammal population?*

The proponents of the project factored in the fact that endangered or threatened species and marine mammals are only seldom sighted in the proposed area, and then only transiting. The proposed area is not a known feeding, breeding, or calving area for these species. In addition, the gear that is proposed for the project is small and discrete, offering little chance for entanglements. These potential for interactions are not different in kind or degree from the existing situation. The National Marine Fisheries Service has reviewed the project and their conclusions are quoted in section 5.4.1.

5. *Can the proposed action be reasonably expected to result in the cumulative adverse effects that could have a substantial effect on the target resource species or any related stocks that may be affected?*

The proposed action is intended to facilitate a project with the goal of increasing the biological productivity of sea scallops through the introduction and demonstration of sustainable practices. As explained in the background section, other countries have seen greatly increased stock strengths through the adoption of some of the practices that will be used in the experimental project. If the project is successful there will be a cumulative benefit to the target resource. Because of the short-term nature of the project, even if it fails it is not expected to have any permanent or cumulative adverse effects.

The guidelines on the determination of significance also identify two other factors to be considered: degree of controversy and socio-economic effects. The socio-economic impacts of the proposed action are discussed above and are not considered significant in the short term. Over the long term, the project is expected to have a positive contribution on the economic and social situation in the region's fisheries.

The location of the proposed special management area has been debated during the presentations to the various Council species committees, to the Council itself, and during public hearing. Some of the specific comments brought up during these debates have resulted in modifications to the project plans to both accommodate other user groups and add to the overall value of the project. On balance, the degree of controversy has been minimal considering the unprecedented nature of the plan. Most fishermen agree that the potential information to be gained from the planned research outweighs any anticipated temporary hardships.

The issue of privatizing the bottom through long-term commercial leasing is controversial and deserving of full Council debate. However, this project is not such an initiative. The public nature of the planned research, the broad and open level of industry participation, and the short-term nature of this action separates it from the larger issue of privatization.

According to NAO 216-6, no action should be deemed significant solely on the basis of its controversial nature, but the degree of controversy should be considered in determining the level of analysis needed to comply with NEPA regulations. Based on this guidance and the evaluation of the preceding criteria, the Council proposes a finding of no significant impact.

FONSI Statement

In view of the analysis presented in this document, it is hereby determined that the proposed action would not significantly affect the quality of the human environment with specific reference to the criteria contained in NDM 02-10 implementing the National Environmental Policy Act. Accordingly, the preparation of a Supplemental Environmental Impact Statement for this proposed action is not necessary.

Assistant Administrator for Fisheries

Date

6.0 Applicable Law

6.1 Magnuson Fishery Conservation and Management Act

Consistency with National Standards

Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

This amendment seeks to implement an experimental area for the purpose of developing sustainable sea scallop fishing methods. As explained in the background section, in Japan, the harvest of sea scallops has become stable from year to year, and is an order of magnitude larger than it was before sustainable practices and culturing techniques were introduced. Currently, the Atlantic sea scallop fishery is in a downward trend which the planned project hopes to reverse through conservation and husbandry.

Conservation and management measures shall be based upon the best scientific information available.

The proponents of the project have based their experimental plans and selected the enhancement area based on the best scientific information available. These include extensive investigations of the scientific literature on sea scallop enhancement and culturing techniques. It also is based on abundance surveys of the site and its neighboring area and on landing data supplied by commercial fishermen.

To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The experimental plans to be carried out during the planned project will determine the suitability of a variety of techniques that could be used to improve the sustainability of sea scalloping. These methods could have applicability throughout the range of Atlantic sea scallops. Some of the techniques have already been demonstrated as successful in the Canadian Maritimes on the same stock of sea scallops.

Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Results of the proposed research will be applicable to all states where sea scallops are found. For the short-term, fishermen from Massachusetts who have traditionally had free access to the proposed site will be affected. They will, however, be in the best position to benefit from the knowledge that is gained from the project. The project results will be disseminated widely and the participants in the project are providing substantial in-kind support to the project in order to be involved. The project is as broad-based as possible within the limits of the scientific requirements. In addition, the project is of short duration.

Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

The proposed action is in support of a project aimed at promoting sustainability and efficiency in the sea scallop fishery. By identifying and demonstrating culturing and enhancement techniques, the productivity of the sea scallop industry will be improved along with its efficiency.

Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The proponents of the planned project have included a range of experimental measures to best identify productivity and sustainability increasing methods. Even if some of the planned approach fail to meet their goals, other aspects of the project will be unaffected. The project plan allows for responding to contingencies to maximize the overall benefit that can be expected from the project given its short-term duration.

The choice of the experimental area was based on scientific data revealing local variations in catch levels and presumably variations in local abundance of resources.

Conservation and management measures shall where practicable, minimize costs and avoid unnecessary duplication.

This proposed action is without precedent and does not duplicate any other regulations or plans. The proposed experimental area was developed and specified in order to maximize the value from the planned program of research. No other research of this nature has been proposed in this region or in the U.S.

6.2 National Environmental Policy Act (NEPA)

There are no economic and social impacts from this action beyond those identified and discussed in the Environment Assessment contained above. The FONSI recommended by this amendment satisfies the obligations set forth by NEPA.

6.3 National Aquaculture Policy, Planning, and Development Act (NAA)

Establishment of a closure under this amendment will further the purposes of the National Aquaculture Act which specifically seeks to extend and encourage these types of activities.

6.4 Regulatory Impact Review

This section provides the information necessary for the Secretary of Commerce to address the requirements of Executive Order 12866, the Regulatory Flexibility Act and the National Environmental Policy Act. The purpose and need for management (statement of the problem) is described earlier in this document. Alternative management measures to the proposed regulatory action are described on page 14. The economic and social impact analysis begins on page 15 and is summarized below. Other elements of the Regulatory Impact Review are included below.

For the purpose of the Regulatory Impact Review the proposed action is compared to the No Action Alternative. The goal of the Council is to allow this project to take place under conditions that would otherwise not exist without the proposed action. The long-term economic and social impacts of the proposed action are positive and the program has been designed and the site selected in a manner than minimizes the potential for short-term negative economic or social impacts.

6.5 Executive Order 12866

The proposed action does not constitute a significant regulatory action under Executive Order 12866. (1) It will not have an annual effect on the economy of more than \$100 million. (2) Because of the limited scope of the action and the finite duration it will not adversely affect in a material way the economy, productivity, competition and jobs. (3) It will not affect competition, jobs, the environment,

public health or safety, or state, local or tribal governments and communities. (4) The proposed action will not create an inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency has indicated that it plans an action that will affect this fishery. (5) The proposed action will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of their recipients. (6) The proposed action does not raise novel legal or policy issues. Area closures have long been used to manage fisheries in the Northeast

6.6 Regulatory Flexibility Act

The sea scallop fishery in the Northeast is composed of small business entities operating primarily out of southern New England ports. There were 245 scallop vessels that were issued full-time permits in 1994. Additionally, 53 vessels were issued part-time permits and 30 were issued permits in the "occasional" category. Approximately 8 vessels would participate in the planned project and the remainder would not be allowed to fish in the enhancement area during the duration of this proposed action. As planned, all other participants in the scallop fishery will have access to the results of the research.

The proposed action will not affect a significant number of small business entities since the proposed enhancement site is not a productive location for scalloping. It will not increase costs for small entities, compared to large entities because all scalloping operations are small entities. The proposed action therefore will not have a significant economic impact on a substantial number of small business entities and a Regulatory Flexibility Analysis is not required.

6.7 Marine Mammal Protection Act and Endangered Species Acts

The proposed site is not a known concentration area for marine mammals or turtles. Whales migrating through the area may be adults with calves heading for the protection and seasonally abundant food resources of Cape Cod Bay. Juvenile and sub-adult loggerhead, green, and Kemp's Ridley sea turtles prefer warmer water and are most likely to be in the area from mid-summer through fall.

The grow-out lanes and the suspended cage array system should pose little risk to the endangered species mentioned above as long as the number of lines to the surface does not exceed what has been proposed.

The proposed action is not likely to adversely affect endangered species under the jurisdiction of the NMFS because: 1) the site is not a known concentration area for the species of concern; and 2) the expected impact from the structures associated with the grow-out lanes and the cage array should be minimal in a pilot project of this size and duration.

6.8 Coastal Zone Management Act (CZMA)

See Volume I of Amendment #4 and Supplemental Environmental Impact Statement to the Sea Scallop FMP, dated July 1993, Section X, page 155 and its

Appendix XI, for consistency statements regarding scallop regulations and coastal zone management plans. This amendment does not change the conclusions of that analysis.

6.9 Paperwork Reduction Act (PRA)

Copies of the PRA analysis for this amendment to the Sea Scallop FMP are available from the NMFS Regional Office, Gloucester, Massachusetts. This amendment does not contain a collection of information requirement for purposes of the PRA.

Appendix I.

References

References

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Appendix II.
Public Comments

Responses to Comments Provided at a Public Hearing Held on January 191, 1996

Comment: Seven organizations and several individuals expressed support for the specific project and the concept of sea scallop enhancement through experimental areas. The appropriateness of the project and its economic potential was cited.

Response: The project was initiated as a broad-based, industry-driven effort. A variety of culture and enhancement techniques are planned with the scallop industry fully involved in the carrying out of the project.

Comment: Several individuals felt that no matter where the project was sited, there would be competing uses that would strongly oppose the project and suggest it be moved. They encouraged the Council to allow the project to proceed as proposed.

Response: The project proponents sought to minimize user conflicts in locating the nine-square-mile site.

Comment: Two individuals stated that the concern over displaced fishing activity is misguided. Both lobstering and hook fishing will be allowed in the experimental area.

Response: The proposed experimental area prohibits only mobile gear and gill nets due to their incompatibility with the planned experimental activity.

Comment: One association expressed the need for compromise and that the project needs to factor in the economic concerns of lobster fishermen before proceeding with any projects.

Response: The proponents have included an element in the project that would fold in lobster fishermen as participants. There are also plans to schedule project activities to minimize impacts on lobster fishermen and hook fishermen. Meetings will be held and communication means will be developed to address these issues.

Comment: The proposed site is in the middle of an existing lobster fishery.

Response: The proposed site is not in the middle of an existing lobster area, but on the eastern edge of an area fished by the local lobster fleet. Lobster fishing takes place in virtually all waters of the continental shelf from New Jersey to Canada, so only from this perspective, the project site is in the middle of the lobster fishery. The public comments indicate that five lobstermen fish 1,500 traps in the general geographic area of the proposed site (not in the site alone). In comparison, there are over three million traps being fished in U.S. waters by more than 10,000 fishermen. One lobsterman who has expressed concern has indicated that most of his traps are to the west of the proposed site.

Lobstering is an allowed activity within the project site. The prohibition of towed gear in the site gives added protection to the lobstermen fishing within the site and may also result in increased catches of lobsters. One key aspect of the proposed project is to demonstrate that wild capture lobster fisheries and aquaculture can coexist side by side.

Comment: The stocking of scallops in the site will attract commercial scallop dredge boats to the area and increase gear conflict.

Response: A 1,500-foot buffer zone is included within the proposed site. This should prevent the migration of scallops into areas where they would be vulnerable to commercial harvest. In addition, the amount of seed to be stocked, the size of the seed, and the location of seed placement within the site will make it highly unlikely that commercial quantities of scallops, ones that can be retained by legal 3.5" ring size gear, would end up outside of the site. It is highly unlikely that scallop vessels would be attracted to the surrounding area, for the purposes of profitably harvesting seeded scallops. The public comment indicates that occasionally scallop vessels are attracted to the area to make "shack" tows for lobster on their way home. If that is the case, this project will not alter that situation outside of the site. In the long-term, if this project demonstrates a passive gear technology to produce scallops, the gear conflict problem that currently exists will be solved.

Comment: Public grounds should not be handed over to private control.

Response: Public grounds are not being handed over to private control. A publicly funded project will be conducted in a specially-designated area as defined by a public Amendment to a Fishery Management Plan for a limited time period. Certain controls will be place on some users of the area in order to maximize the public benefit. No permanent rights or interests are being created. All information collected will be available to the public.

Comment: One individual and one organization expressed concern that the catch statistics were suspect since they indicated increased cod landings in the general area.

Response: The data use for comparing the relative catch is the best data available from NMFS. It is supplied by fishermen and used as a factor in fisheries management. The fact that the data indicates a local increase in cod catch in the face of regional declines is not an indicator that it is invalid.

Comment: This area has had a significant cod fishery.

Response: New England has had a significant cod fishery. The fishery is depressed now and the industry that was dependent on cod may vanish unless we try out new ideas. The best scientific data, as presented in the amendment, indicates that the proposed site was not a significant contributor to the cod fishery. Even so, hook gear will be allowed in the site which should give the small traditional coastal vessels an advantage over large draggers that will not be permitted into the site with towed gear. One commenter indicated that 500,000 pounds of cod were taken from this area

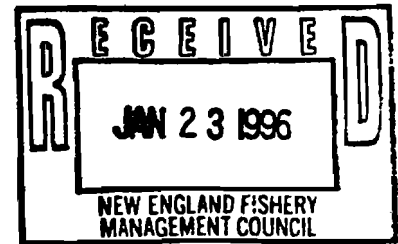
by longline vessels which will remain a permitted activity. The commenter also claimed large numbers of small draggers have also worked the area harvesting illegal sized cod. (13-15 inches).

Comment: The site should be shifted south.

Response: All scientific evidence indicates that there are significantly more vessels harvesting significantly more fish and scallops from the areas south and west of the proposed site. In addition, the further we move the site offshore and into deeper water, the more difficult it would be to conduct the controlled experimental activities. This particular site is of great scientific and practical interest because we know it can support scallops but traditionally does not. The best available scientific data shows that most traditional and historic use patterns of most fisheries are to the south and west of the proposed site.

Appendix III.
Written Comments

SEAREACH



3 1/2 South Main St, P.O. Box 900, Ipswich, Mass 01938, ph 508-356-1785 (x 3534)

MEMORANDUM

January 21, 1996

TO: NEW ENGLAND FISHERIES MANAGEMENT COUNCIL
5 BROADWAY
SAUGUS, MASS 01906-1097
FROM: G.G. CAMPBELL, SEAREACH/CONSENSUS MANAGEMENT, INC.
SUBJECT: EXPERIMENTAL AQUACULTURE SITE, SOUTH OF MARTHA'S VINEYARD

GENTLEMEN AND LADIES;

I am writing to you with respect to the Westport Sea Scallop project. I am urging your support of this effort as an exciting approach to an otherwise untapped industry in the New England area- sea scallop spat collection grow-out. What the New England Fishing Industry needs right now is a shot in the arm to re-invent itself, redirect its efforts, to re-engineer its efforts towards the building of a future, rather than the rethinking and remorse for the past. Sure aquaculture does not provide for a direct replacement of the natural fisheries, or even a necessarily acceptable alternative to the fishing/hunting nature of the natural fisheries, but it does provide for a positive direction in which the industry could go to enhance the existing natural fisheries- whether the fishermen and existing offshore industry chooses to go in this direction or not.

Furthermore, aquaculture provides us all with an opportunity to rethink how we are preparing our natural resource plans within this country, and in particular, the Northeast. The Management Council direction of preparing management plans for individual species, assessing impacts, then bringing the plans before a Management Council Committee, then public and interest groups to review, and then for the full Council to pass on has not entirely worked. By the time the regulations get out, in this manner of Council review and adjustment, the plans get watered down, and in many cases unworkable. What is well needed at this point in the management of our valuable fisheries is more of a bottom-up approach to management where the fishermen, and the industry as a whole, have a direct say, and certain incentive, in making their own management and development plans. I believe that unless they have their own say in structuring their own plans, that there will be absolutely no incentive for them to buy into the final plan.

Aquaculture provides us with just this opportunity to accomplish this in a creative and decisive manner. Unless a final plan is prepared, however, joining development and conservation- the plan will be lopsided. Unless a final plan is prepared with the entire industry, the plan has no chance of succeeding. Unless you know where you are going, how are you going to get there from here !! The BLUEPRINT FOR SEA SCALLOP AQUACULTURE IN MASSACHUSETTS forum this past summer at the Cape Cod Community College provides us with just that kind of foundation or Vision with where we should go with sea scallop development and conservation within the State. This very demonstration project came out of that conference.

Because this was an industry approach to a combined conservation and development plan (with industry, fishermen, community, regulators, legislators, and the general public's input), the plan should have about the most validity it can get- the validity of public/industry CONSENSUS. Because of this, the plan should be approved by the Council.

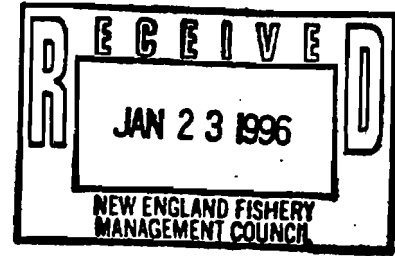
The fact that several fishermen and lobstermen have come forward is good- they can provide a final input into where the final plot is located, and become part of the process rather than act as outsiders. The fact of the matter is that we do now know where we are going, at least within the State of Massachusetts with respect to further sea scallop development and protection. The weight of this direction, and the fact that the decision was bought into by many interest groups and the industry itself, should be the deciding factor for approval of this sea scallop plan. Management plans can no longer have the luxury of piecemeal decision-making- a one step at a time approach- we need the comprehensiveness that this plan presents, as well its long-range benefits.

**NANTUCKET SOUND
FISH WEIRS, INC.**

January 19, 1996

New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1097

TRAP FISH



Re: Experimental aquaculture site south of Martha's Vineyard

Gentlemen and Ladies:

I urge you to approve the proposal to establish an experimental aquaculture site. The Westport sea scallop effort is as near perfect an opportunity for the council as will exist or could be desired.

Why? Because this project:

- *Is of limited duration.
- *Will assist NEFMC in determining their future role in aquaculture.
- *Can lead to establishing a permitting process for federal waters.
- *Includes responsible individuals well known to the industry.
- *Begins the development of an industry with significant economic potential.

At the 1/19/96 public hearing only one of the speakers opposed to the experiment presently lobsters in the area. Others critics included one fishermen who occasionally tows at this site, and a few former fishermen who had knowledge of harvesting activities south of the Vineyard when they were active.

The small collection of opponents acknowledged that a successful informal agreement presently exists among users of the project area. It seems logical that this understanding could include the sea scallop project for the eighteen month duration of the experiment. The applicants state lobstering can continue in the site during the experiment.

Lobster gear is found from the Mid-Atlantic region to Newfoundland and the interests of lobstermen and aquaculture are going to be a consideration in many future proposals. Any experience in addressing this issue will be valuable.

A variety of attitudes exist about the environmental effect of towed gear. This enhancement project will produce information regarding gear impact on the habitat.

Seed source is fundamental to sea scallop aquaculture. Spat collecting and hatcheries are presently being investigated. Using sea scallop "peanut piles" will reveal how transferring small scallops can affect mortality and growth rates. The proposal will evaluate seed collection as a source for enhancement and increase knowledge about scallop biology where densities are very high.

The Westport project provides the first step for the scallop industry to make the transition from traditional practices to sea farming. Please vote for this amendment to the management plan.

Sincerely,

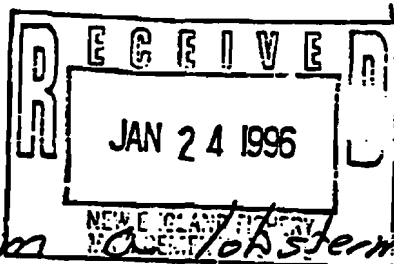
MARK SIMONITSCH

84 Doane Road, Chatham, Massachusetts 02633
Wharf: 508-945-1791 • Fax: 508-945-9730 • Residence: 508-945-2496

J. Larsen
PO. Box 121
Edgartown, MA.
02539

Jan. 21 - 1996

Dear Sir,



I am a lobsterman from
Martha's Vineyard.

I have fished the last
16 years in the area where the
seascope Enhancement projects
proposed site is located.

In the past we have had
gear conflict problems with seascope
making shack tows in that area.

Sometimes losing a hundred
traps or more in one night.

The last two years we've
had NO gear conflict problems
at all.

Over the past year I have and
lobstermen from the vineyard have

attended some of the hearings
to express our concerns of dumping
seascallops loose over this site.

That will most definitely spread
out beyond the boundaries of their
closed area. Thus giving the
seascallops a reason to take test
tows through the areas on
the outskirts of the proposed
site. Where we lobster.

We are mostly small, one
man boats.

This area is the outer most
area we can fish and is quite
productive.

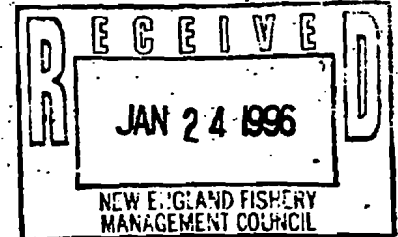
I am opposed to the present
proposed location of their site.
If they would move their site
ten miles to the south I'll support
their project 100%.

Sincerely,
(John A. Larsen) John A. Larsen

RFD Box 201, Franklin Street
Vineyard Haven, MA 02568
(508) 693-4295

January 22, 1996

Douglas G. Marshall
Executive Director
N. E. Fishery Management Council
5 Broadway
Saugus, MA 01906



Dear Mr. Marshall:

I'm writing this letter in regard to the proposed experimental sea scallop propagation program south of Martha's Vineyard. Having just attended the Woods Hole public meeting, I want to re-iterate some points.

I'm a lobsterman who fishes in the proposed site, and also have long lined in the area. My biggest concern with the project is increased scalloper activity in surrounding waters. As stated by many at the meeting, this area is not a hot bed for scallops. Yet we have the occasional "shack tow" and occasional loss of gear as is. This project will undoubtedly increase experimental tows in the area by transiting scallopers. Scallops can and do move, so it only makes sense for them to tow the boundaries, which would be a disaster.

One solution to this would be to buffer the 3-square mile project area with a scallop dredging closure. This area would only need to be large enough to dissuade experimental tows.

With a closure in place I think my fishing operation could be compatible with the project. Lobstering and scalloping don't mix, so without a scallop dredging closure I would very likely have to give up on the entire area.

In short, without a closure I would have to remain opposed to the project, even though I think it's a valid experiment.

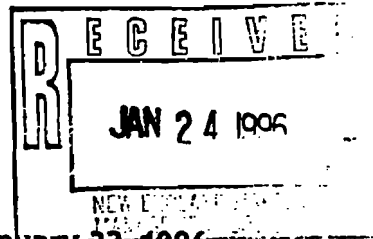
Sincerely,

Scott Stephens

Biotechnology Center of Excellence Corporation

Nine Park Street

Boston, Massachusetts 02108-4807



(617) 727-7430
FAX: (617) 523-4165
E-MAIL: BCEC@DELPHI.COM

January 22, 1996

**Mr. Douglas G. Marshall
Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906-1097**

Dear Mr. Marshall:

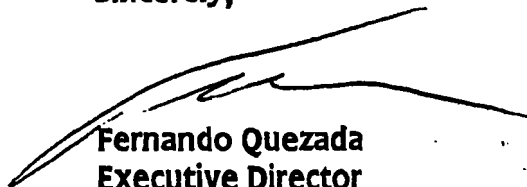
I am writing in support of Amendment #6 to the Atlantic Sea Scallop Fishery Management Plan which allows for the establishment of a 9 square-mile site located 10 miles south of Martha's Vineyard to conduct an 18 month experiment and demonstration project involving sea scallop research and aquaculture.

This proposed demonstration effort can serve to showcase the many opportunities for new technology applications of commercial importance to the region and to Massachusetts. As you know, aquaculture activities throughout the nation have stimulated a rapid growth of instrumentation firms involved in water quality monitoring, pathogen detection, feed distribution and related software for control, record keeping and other applications.

You are aware of the economic development challenges facing Massachusetts. Our Centers of Excellence efforts have traditionally looked to emerging technology areas for continued generation of commercial activities and job creation. Studies we have carried out for the Department of Commerce in the area of marine electronics and aquaculture instrumentation have pointed to significant commercial opportunities which states like Massachusetts can pursue competitively. The proposed demonstration site will be an important resource for all of New England companies with current or potential interest in technology innovation.

The approval of Amendment #6 will be a positive step in this direction.

Sincerely,



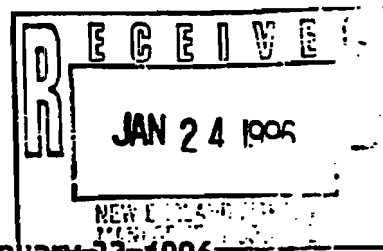
**Fernando Quezada
Executive Director**

FQ/II

Biotechnology Center of Excellence Corporation

Nine Park Street

Boston, Massachusetts 02108-6807



(617) 727-7430
FAX: (617) 523-4165
E-MAIL: BCEC@DELPHI.COM

Mr. Douglas G. Marshall
Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906-1097

Dear Mr. Marshall:

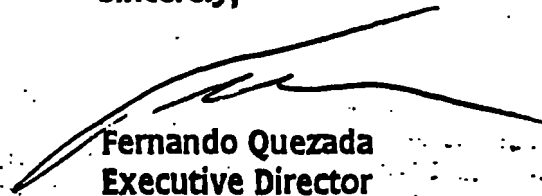
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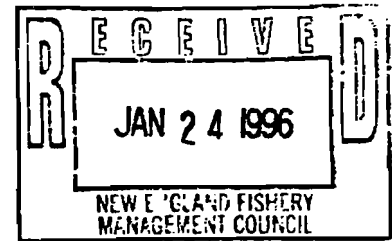
Sincerely,



Fernando Quezada
Executive Director

FQ/II

Roxane Ackerman
Church Street
Gay Head, MA 02535



January 1996

Mr. Douglas G. Marshall, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1097

Greetings Council Members:

I am a fisherman participating in a Fishing Industry Grant through the Martha's Vineyard Shellfish Group. We have supported the sea scallop aquaculture initiative in Massachusetts by hatching and growing thousands of sea scallops this past year.

I attended the hearing at the Woods Hole Oceanographic Institution on January 19, 1996. It is clear that a good sea scallop aquaculture proposal needs to be relocated in the interest of conserving the present fishing grounds which are not necessarily scallop habitat.

Success of the project at the present site would bring in scallop drags that would ruin lobster habitat, this is not necessary. It is clear that there is a good site available on scallop grounds nearby.

It is essential that we cooperate in the interest of preserving and rebuilding our fisheries. Thank you.

Sincerely,

Roxane Ackerman

Old Colony Planning Council

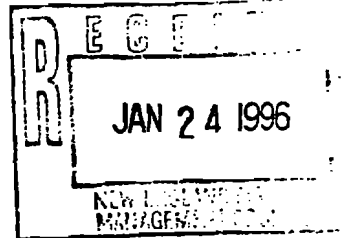


John G. Mather
President

70 School Street, Brockton, MA 02401-4097

Daniel M. Crane
Executive Director

Telephone: (508) 583-1833
Fax: (508) 559-8768



January 22, 1996

Mr. Douglas G. Marshall,
Executive Director
New England Fisheries Management Council
5 Broadway,
Saugus, Mass. 01906-1097

Dear Mr. Marshall:

The Old Colony Planning Council supports the proposed establishment of a 9 square mile site of off Martha's Vineyard for an 18 month sea scallop aquaculture demonstration project.

The Council shares the concerns of our coastal communities about the effects of diminished fish stocks and restricted fishing on the fisheries, and on the opportunities open to the regions's fishermen. For this reason we are working with the Town of Plymouth to explore the feasibility of various aquaculture opportunities in the town and in Southeastern Massachusetts generally. Recent programs by the Sea Scallop Working Group have shown the strong market for scallops and the possibility of raising them below the intertidal zone, thus avoiding conflicts with other shellfish activities and with upland land uses.

Yet labor costs remain high, lessening potential profits. This makes it necessary to develop new, large-scale techniques for Scallop culture. The proposed experiment off of Martha's Vineyard is an important part of this effort. The Council feels that potential benefits outweigh the temporary loss of this area to finfishing, and we endorse the designation.

Sincerely,


Daniel M. Crane
Executive Director

c.c.: Harley O. Halverson



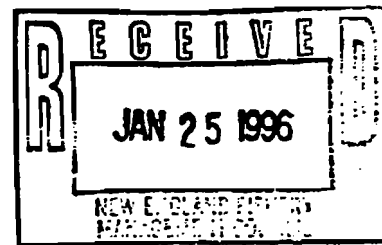
**UNIVERSITY OF MASSACHUSETTS
EXTENSION**

Deeds and Probate Building
P.O. Box 367
Barnstable, MA 02630-0367

Cape Cod
Cooperative Extension
508-362-2511, ext.585
508-362-4518 Fax

January 22, 1996

Douglas G. Marshall, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906-1097



Dear Mr. Marshall:

This letter is written in support of a Sea Scallop proposal submitted by a sea scallop operation owners consortium in consultation with MIT Sea Grant and the Conservation Law Foundation, Inc. The proposal is intended to establish an experimental temporary use area approximately ten miles south of Martha's Vineyard through the implementation of Amendment Six to the Sea Scallop Fishery Management Plan.

The reduced stock levels of sea scallops is well known to most harvest and management members of the northeast fisheries. The economic losses associated with this declining industry are staggering for Southeastern Massachusetts. While over-harvesting is usually thought of as the major component of the declining industry; other aspects, such as gear design, towing frequency, and bottom disruption, may impact spawning success and mortality rates.

The need for more information on how to best enhance this once thriving resource is apparent. Our country remains way behind other nations in culture knowledge of the Sea Scallop (*Placopecten magellanicus*). The proposal before the Council allows for an examination of various culture options, and is directed to develop an understanding of the issues and complexities of scallop seeding and growout. This type of enhancement study is long overdue.

At a recent public hearing on the Amendment six proposal at Woods Hole, concerns were raised about the location of the enhancement project. Conflicting use issues remain very problematic for aquaculture innovation given the nature of Federal waters. The same situation appears in nearshore public trust tidelands of the Commonwealth. It would be prudent on the part of the council to encourage conflict resolution and to allow for some relocation of the site. This modification should be considered without prejudice to ensure no further time delays.

Thank you for the opportunity to comment!

Sincerely,

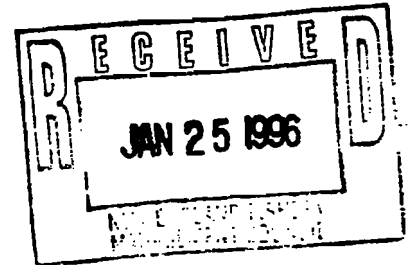


William P. Burt
Marine Resources Specialist

cc: Phil Coates
James Fair
Mark Forest
Cliff Goudey
Harlyn O. Halvorson
Dale Leavitt
John O'Brien
Ron Smolowitz

**Cape Cod Commercial Hook Fishermen's Association
879 Orleans Road Harwich, Ma. 02645
(508) 432-8474**

January 23, 1996



Mr. Douglas Marshall
New England Fisheries Management
5 Broadway
Saugus, Ma.

Dear Mr. Marshall

The CCCHFA fully endorses the proposed scallop aquaculture project south of Martha's Vineyard. The potential of increasing the stocks of any of are fisheries should be considered. This particular proposal will also allow the habitat in the proposed area to rebuild due to the absence of destructive mobile gear types.

In addition the static equipment used to raise the scallops will provide an artificial reef for the sea life in the area. I urge the council to take advantage of this project by conducting surveys of the proposed areas habitat and the areas surrounding the project site to determine the possible advantages of passively fished environments as opposed to aggressively fished ones.

Sincerely

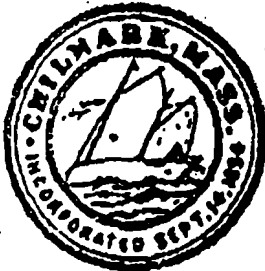
Mark V. Leach
President -CCCHFA

To: Kathy Vandertop

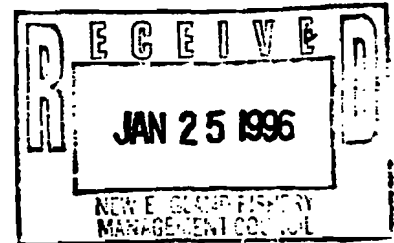
Site Engineering Page 2 of 3 Thursday, January 25, 1996

1-24-1996 4:23PM

FROM CHILMARK TOWN HALL 508 645 2110



TOWN OF CHILMARK
CHILMARK, MASSACHUSETTS



TOWN OFFICE:
P. O. BOX 119
CHILMARK, MASS 01906-1097
TELEPHONE 508-645-2110
FAX 508-645-2556

October 18, 1994

To: New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1097

From: Selectmen, Town of Chilmark

To whom it may concern:

We write today to formally oppose the location of the proposed Sea Scallop Enhancement Project. We have been informed that the project applicants have stated that there is little or no opposition from Martha's Vineyard fishermen to this project. Nothing could be further from the truth.

Menemsha Harbor lies in Chilmark, Massachusetts. The proposed location is five miles south of Chilmark town waters. We presently have a small diverse fishing fleet, all of which at various times of the year use this highly productive piece of bottom that the Westport Scallop Corporation wishes your council to endorse in a takeover from the public domain.

Traditionally, this bottom has been utilized by Vineyard and New Bedford draggers in the winter and spring for codfish, winter flounder, yellowtail, monkfish and windowpane flounder. The northern section has been utilized by red trawl longlining for codfish. In the summer and fall the southern portion is utilized, to a lesser extent, by draggers targeting squid, butterfish, winter flounder and summer flounder (fluke). It is a highly productive lobsterground during this portion of the year. Over the years, these user groups have worked together so as there is little gear conflict between the two.

This has not been the case between lobstering and the scallopers. It is correct to state that this bottom has never been a large producer of scallops. However, what few found there, in conjunction with the lobsters in the area, have attracted scallopers to make what we fishermen believe are "shack" tows, i.e. tows truly targeting lobsters and finfish on the vessel's way home. This has been done in the past with devastating results. The Vineyard lobstermen are unable to know whether or not their season is going to be successful or a bust because losses of over 100 traps in a single night are possible.

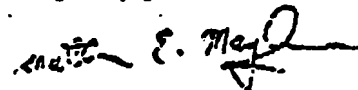
Now comes the Westport Scallop Corporation into the fray. They readily admit they will displace the draggers but they will allow lobstering. The Vineyard draggers have a tradition of

supporting measures that ensure healthy fish stocks, including a ban on night time dragging in state waters, proper targeting of species size to allow spawning to occur before harvesting, etc. but they get penalized by this location. The lobstermen will have in the middle of their grounds a scallop enhancement project that will surely attract other scallopers to try around the periphery with untold devastating results.

This concept may be the wave of the future. We on the Vineyard find it highly ironic that Vineyard fishermen that have long stood for conservation measures and enforcement will be the losers if this project, in this location, goes through. The benefits of this proposed location do not outweigh the detriments.

Thank you for your time.

Very truly yours,



Jonathan E. Mayhew, Chairman


Pamela S. Goff
Herbert R. Hancock

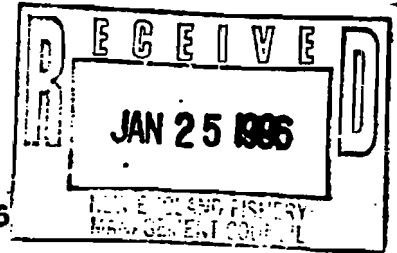
Selectmen of Chilmark

cc: Philip G. Coates, Director of Division of Marine Fisheries
Senator Edward M. Kennedy
Congressman Gerry E. Studds



OFFICE OF
BOARD OF SELECTMEN
RR# 1 • BOX 128
STATE ROAD
GAY HEAD, MASSACHUSETTS 02535

508-645-9915
FAX 508-645-9054



January 25, 1996

To Whom It May Concern,

The Town of Gay Head favors the awarding of a Grant to the Westport Scallop Corporation in the waters south of our town. However, the area being proposed is in the middle of our existing lobster fishery. We believe that an area ten miles to the south would protect our fishery while increasing the chances of success to the grant holders.

The town supports Sea Scallop Enhancement Project but feel strongly that giving private control over an area that currently supports a public fisheries is counter to the intent of your efforts.

Because this is a federal program, input from the local fisheries has been usurped. We have only been made aware of this proposal at the last possible moment. The attached letter from the neighboring town of Chilmark clearly states the situation and is attached. As far as we know no reply from your agency to address this obvious problem has been made. Instead we learned yesterday, that you intent to permit this grant today.

Please delay making a decision on this proposal until you can be made aware of the large negative impact on an existing fishery your efforts will have.

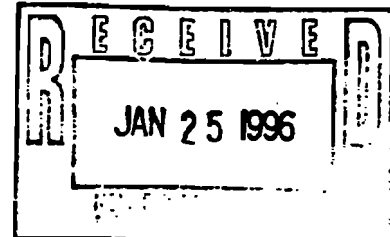
Sincerely,

Russell H. Smith
Russell H. Smith, Chairman
Gay Head Board of Selectmen/
N.Y. Legislative Liason
David E. Vanderhoop
David E. Vanderhoop
Gay Head Board of Selectmen

THE MARTHA'S VINEYARD COMMISSION

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

Mr. Douglas G. Marshall
Executive Director
New England Fishery Management Council
5 Broadway
Saugus, MA 01906-1097



Re: amendment #6 to the Atlantic Sea Scallop Fishery Mgmt. Plan;
proposal to establish a site located 10 mi south of M.V...

January 22, 1996

Dear Mr. Marshall,

Thank you for the opportunity to review the proposed project and site located 10 miles south of Martha's Vineyard. The Martha's Vineyard Commission's response consists of staff review of the proposal and input from the January 19 hearing, with emphasis on consistency with the Martha's Vineyard Commission's Regional Island Plan. The Regional Island Plan contains policies which encourage development of aquaculture, as well as policies which promote traditional fisheries for their economic and cultural impacts.

Upon review of the proposal and after participating in the December 19 hearing, it appears that the proposal is consistent with the Regional Island Plan, so long as every effort is made to minimize impacts to the traditional fisheries of the area. Specifically, there were a number of comments from Martha's Vineyard fishermen who utilize the 9 square mile site proposed. Those fishermen offered suggestions for nearby alternative locations which might be more appropriate. Hopefully, the Council and the proponents will carefully consider the input of those users who have invaluable knowledge of the realities of the existing resources. The first hand knowledge of the captains who have offered their expert opinions is particularly significant when the reliability of the cited catch statistics is considered. According to the statistics cited in Table 1 on page 15 of the proposal, the cod catches for the 10 minute block encompassing the proposal and for New England have increased steadily since 1985, which is not true. It is difficult to place much confidence in those figures. By encouraging the participation of the traditional fishermen and by including them in a meaningful way in the formation of the final plan, the Council will go a long way toward ensuring the success of the project.

For your information, some relevant policies from the Martha's Vineyard Commission's Regional Island Plan are included here and illustrate the Martha's Vineyard Commission's commitment to promoting the development of aquaculture:

POLICIES ON FISHING, FARMING AND ISLAND INDUSTRIES¹

I-15. Fishing and farming are ancient determinants of Island character and land use. Ensure that they remain a visible part of the landscape....

I-16. Create jobs for the skills and working habits of the year-round labor force, in industries which will prudently utilize the Island's natural resources. Encourage the development of small-scale industries (i.e. horticultural, cottage industries, forestry and adjuncts to fishing and farming). ENCOURAGE AQUACULTURE TO SUSTAIN THE COMMERCIAL FISHING ECONOMY {emphasis added}.

I-17. Foster the local fishing and agricultural economies for the benefit of the whole Island economy and character...

BASIC ECONOMIC DEVELOPMENT POLICIES

I-1. Promote more year-round economic activity. Ensure economic vitality while protecting historic integrity.

I-3. Encourage efforts to diversify the Island economy within the quality and character of Martha's Vineyard.

I-4. Give top priority to year-round job opportunities for permanent Island residents and increase the Islands's self-sufficiency, particularly in production of food products. Diversify the economic base, so that the Island will be less reliant on the building and tourist trades.

Sincerely,

Jo-Ann Taylor
Jo-Ann Taylor
Coastal Planner

¹Martha's Vineyard Commission, 1991, Regional Island Plan

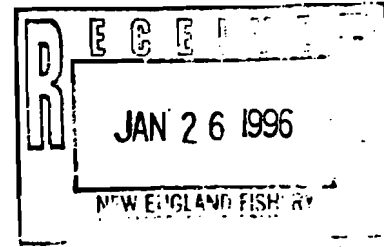
MASSACHUSETTS AQUACULTURE ASSOCIATION

27 Village Landing • Chatham, MA 02633 • (508)945-1733

Fax (508)945-4275

January 23, 1996

New England Fishing Management Council
c/o Mr. Douglas Marshall
Executive Director
5 Broadway
Saugus, MA 01906



Dear Council Members:

In regards to the "Sea Scallop Enhancement and Sustainable Harvesting Project" applied for by the Westport Fishing Corp., the MASSACHUSETTS AQUACULTURE ASSOCIATION wishes to express its support. This will be a demonstration project, which hopefully should provide valuable information available for the general public to make an educated assessment as to the beneficial as well as negative effects of aquaculture in relation to the sea scallop industry. The project is experimental in nature, proposes to establish a temporary use area only, and does not create any permanent rights or interests. Whether or not the impacts on existing fisheries in the area are minimal is really a moot point as they are not being dissolved. There is no long-term privatization of the bottom, which is a whole separate issue.

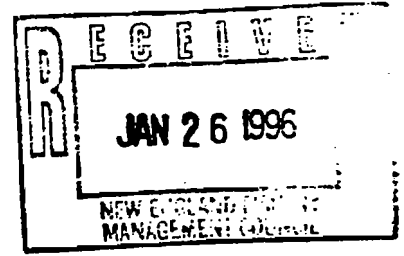
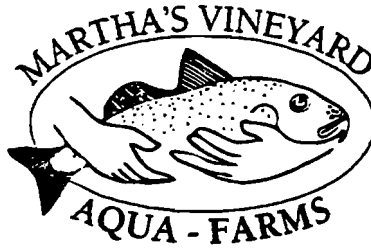
The MAA additionally wishes to express its support for amendment #6 to the Atlantic Sea Scallop Fishery Management Plan (FMP) as presented by the NEFMC. The amendment serves to facilitate research, aquacultural techniques, and is necessary to enable certain restrictions on fishing and lobstering in the area during the term of the Sea Scallop Project. The exclusion of certain fisheries will enhance certain other fisheries thereby making the amendment an effective management tool for further use by the Council. Essentially the Sea Scallop Project is already providing an outline to government for an aspect of fishery conservation.

Having served for nearly a year on Governor Weld's Steering Committee for an "Aquaculture Plan for Mass" together with several other members from the MAA, we have become very familiar with the shortfalls of government in the field of aquaculture. The length of time this project has been on the drawing board should give the council some indication of the hurdles aquaculture faces. If there is a future for aquaculture, it starts with government and the MAA urges you to let it begin.

Sincerely,

John Richards
President

JR/py



January 23, 1996

Joseph M. Brancalone, Chairman
New England Fishery Management Council
5 Broadway
Saugus, Massachusetts 01906-1097

Dear Chairman Brancalone:

This letter is in response to the Public Hearing Summary for Amendment #6 to the Atlantic Sea Scallop Fishery Management Plan January 1996.

As a licensed commercial fisherman, a licensed aqua farmer and a licensed wholesale seafood dealer based on the island of Martha's Vineyard, I am outraged that you would want to take away prime cod fish grounds to establish a sea scallop area which would preclude me or my grandchildren from ever setting hooks in that area. If sea scallops are developed in the proposed area, the increase in scalloping would severely limit (or make impossible) a hook or gillnet fishery.

The data concerning cod landings by ten minute block cited in Amendment #6 is seriously flawed. My F/V Laura records for the years 1985 through 1991 indicate far greater numbers from my boat alone. In November 1989 I became a wholesale seafood dealer utilizing the grandfathered business of Cyrus Norton, license #0422; the following year I founded Martha's Vineyard Seafood Incorporated, license #6932. In the years 1989 through 1991 my dealer records indicate over 500,000 pounds of cod from longline vessels fishing that area in the four- month period from January to April. The winter of 1989 there were large numbers of draggers working the area on turd cod (13" to 15"), and I distinctly recall remarking to my mate Peter Eldredge that the 43 vessels were a record in the eight years we had tub-trawled together for winter cod.

Martha's Vineyard Aqua-Farms Incorporated
106 Pilgrim Road • P.O. Box 1830 • Edgartown, MA 02539-1830
(508) 627-1299 • Fax (508) 627-9797

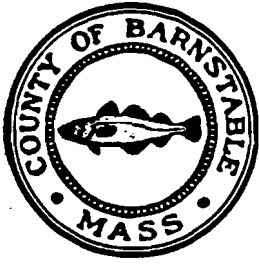
My first application, in 1992, for an aquaculture area came after the destruction of my F/V Laura by Hurricane Bob. As general manager of Martha's Vineyard Aqua - Farms Incorporated, I have to question the wisdom of setting up an aqua farm experiment in a traditional fishing area. Phil Coates of the DMF indicated that to move this experiment would involve a long process. I suggest that to tell the cod to go somewhere else is an impossible process. I urge you and your fellow committee members to support aquaculture but more importantly to have a mechanism to query the fishermen as to where his traditional fishing grounds are so that aqua farmers will have an area of unused water in which to practice their trade. The farmers' greatest quandary today is the siting of their farms. The proper mechanism would enable the farmer to apply for an area not in conflict with the fishermen's traditional rights of use.

We all work on the water, but there is a world of difference between fishing (taking) and farming (putting). If we continue down this path of user conflict, we will have neither. The men and women that live, work and die on the water must get along with one another in order to survive. Once again I urge you to say no to this experiment at this site and to move forward to charting areas that are suitable for aqua farming and this experiment.

Sincerely,

A handwritten signature in cursive script, reading "Michael A. Picciandra".

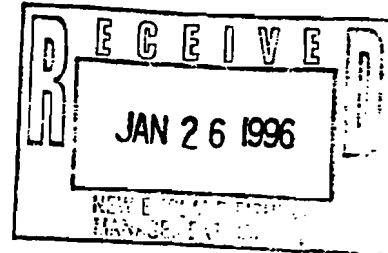
Michael A. Picciandra, Gen. Mgr.
Martha's Vineyard Aqua - Farms Inc.



**CAPE COD
ECONOMIC DEVELOPMENT COUNCIL**

**Barnstable Municipal Airport
480 Barnstable Road
Hyannis, Massachusetts 02601**

JOHN D. O'BRIEN
Executive Director
Phone 508-790-4980
Fax 508-790-1889



January 24, 1996

**Mr. Douglas G. Marshall
Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA. 01906-1097**

Dear Mr. Marshall:

We are writing this letter in support of the Westport Sea Scallop Aquaculture Project. This project will demonstrate the economic viability of bottom and suspended cage culture for sea scallops and involve a number of local fishermen and their vessels in this determination.

This project has enormous potential for the suffering New England fishery. The effort to encourage our local fishermen to understand the economic benefits possible in the shift from strictly harvester technologies to cultivar technologies is critical at this time. The potential for profitable seafood production from these aquaculture efforts is very real, and the successful completion of this project will provide hard evidence to this industry of the viability of these efforts.

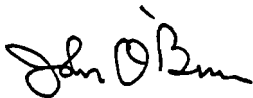
At the public hearing held January 19 in Woods Hole, the project proponents heard a small but vocal and concerned group of fishermen from Martha's Vineyard express concern over the specific siting of this project. They raised the possibility of shifting the site location to an area further south of its present location, and away from traditional and historic use patterns. Although we understand their concerns as reasonable, we would not like to see this project be delayed by further bureaucratic or agency delays.

We would underscore our desire to see this project implemented. At every point in the developmental process of this industry we will face conflicting use scenarios and must make every effort to solve these problems before they arise. We must involve all stakeholders in the development of the siting issues involved in aquaculture in the EEZ. We are satisfied that the attempt has been made to do so in this case. Although problems may remain, we believe that the project managers have demonstrated a willingness to include all parties in the future operations of this project.

We urge the full council to vote to endorse the Westport Sea Scallop amendment to the management plan.

Thank you for your efforts in this issue. The New England Fisheries Management Council will have the opportunity to begin to define their role in the future management of offshore aquaculture in voting on this issue. We hope you will send a clear signal of support for properly designed and conducted projects. This is a unique opportunity to do so. The project has the potential for significant benefit to fishermen, the seafood industry, and society.

Sincerely yours,



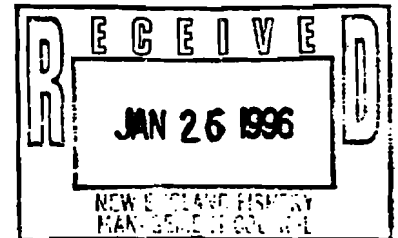
John O'Brien
Executive Director



Michael Collins
Fisheries and Marine Industry Coordinator

Barbara Bragdon
B.T.G. Fisheries
P.O. Box 789
Dennisport, MA 02639

Mr. Douglas Marshall
New England Fishery Management Council
5 Broadway
Saugus, MA 01906



January 26, 1996

Dear Doug,

I am writing to support the Westport Scallop Project. It is one of the few aquaculture projects I have seen which presents an opportunity for the existing scallop fleet to become involved in aquaculture. I strongly feel it is important for the fleet to learn some new methods to help control the cyclic nature of the scallop fishery. I also like the fact that the project uses the natural population rather than "farm raised" spat. I hope the Council will support this project.

Sincerely,

Barbara Bragdon
President, B.T.G. Fisheries



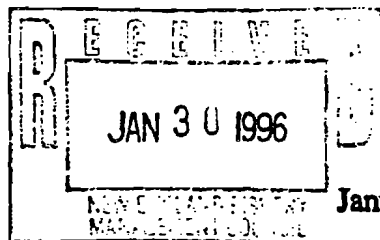
COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

SENATOR HENRI S. RAUSCHENBACH

CAPE & ISLANDS DISTRICT
ROOM 315

TEL. (617) 722-1570

DISTRICT OFFICE
TEL. (508) 362-4556



January 18, 1996

COMMITTEES:

SENATE WAYS AND MEANS
STEERING & POLICY

Douglas G. Marshall, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906-1097

Dear Mr. Marshall:

I am writing in support of the sea scallop aquaculture project proposed by Ron Smolowitz. This 9 square mile site located 10 miles south of Martha's Vineyard will serve as a demonstration project, facilitating aquaculture research.

This is a step in the right direction for the growth of the aquaculture industry. The State of Massachusetts has made an effort under the direction of Governor Weld to find ways to promote this industry. The resulting report "*The Aquaculture Strategic Plan*" proposed several recommendations on this matter. Pilot projects such as this one provide a working example upon which future policy and economic development initiatives may be based.

Considering the present state of the commercial fishing industry, the support of aquaculture projects has an important role in the preservation of the region's maritime economy. I am aware that there may be some conflict between this proposal and the traditional fisheries, over the use of the site. I know you will weigh these issues when making your decision. I hope that this project will be able to move forward with the consideration of the other parties involved. If I can be of any assistance, please do not hesitate to contact my office.

Sincerely,



HENRI S. RAUSCHENBACH

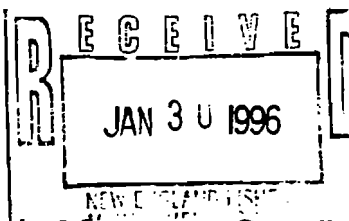
State Senator

Cape & Islands District

HSR/tt

cc: Ron Smolowitz, Coonamessett Farm
Harlyn O. Halvorson, UMass Dartmouth

26 January 1996



to: New England Fisheries Management Council, 5 Broadway, Saugus, Massachusetts 01906-1097
from: Richard Taylor, F/V My Marie, Box 7002, Gloucester, Massachusetts 01930

Subject: Proposed 9-square mile Scallop Project Area, south of Martha's Vineyard.

Councilmembers,

This letter is to express my support for this project and here are the main reasons why:

- 1. This is not just an experiment.** Controlled growout of oysters in the inshore waters of Connecticut is a \$60 million/year business. Current efforts with sea scallops in Canada, New Zealand, and decades of experience in Japan demonstrate that methods of scallop production including bottom seeding, bottom cage growout, lantern nets, and earhanging have not only stabilized typical fluctuations in landings but increased them to many times the highest dredged amounts and held them there every year.
- 2. There is much controversy over the impact of mobile gear on the bottom habitat** that we all depend on, as well as issues of bycatch, including effects on juveniles of all species. Methods of production that do not require repeated dredging of thousands of square miles by the fleet must be developed.
- 3. This project suggests a natural alliance between fixed gear fisherman and sea scallop growers to develop areas closed to mobile gear.** VTS technology is scheduled to come online in the near future. Hook fisheries and trap fishing of all types can coexist in areas of bottom seeding except at time of harvest, which may be only once every 2-3 years, depending on initial size of seed stock. In addition, there is ample evidence that fishing of all types is markedly improved at the margins of closed areas.
- 4. This project also serves to point out the inherent difficulties of our permitting methods and overlapping agency jurisdictions, and the need for evolving necessary simplifications for future development in the EEZ of the Northeast region.** I would hope that we will not need a separate amendment, more than a year of the Council's, the proponent's, and the public's time, for other research or commercial projects. We need to evolve a more systematic approach for this to occur.
- 5. This amendment is the only one to date that looks to build a future beyond letting an overworked fishery recover.** Projected sustainable harvests of fully recovered wild stocks will not feed our large numbers. With the development of suitable areas, hatchery-based shellfish growout is an immediately viable addition to the current industry. Growout areas like this are needed from Cape Hatteras to the Hague line. **We need to demonstrate and develop sound alternate methods of shellfish and finfish production in the EEZ in order to supply the US population now and in the years ahead.**

This project is a good start.

Respectfully,

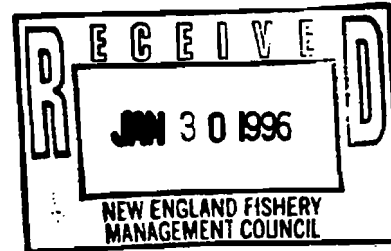
Richard Taylor

**Martha's Vineyard Shellfish Group, Inc.**

Box 1552
Oak Bluffs, Massachusetts 02557
508 693-0391

January 30, 1996

Douglas G. Marshall, Executive Director
New England Fisheries Management Council
5 Broadway
Saugus, MA 01906-1097



Dear Mr. Marshall:

I am writing to register my support to establish an experimental area south of the Vineyard to conduct an 18 month experiment and demonstration project involving sea scallop research and aquaculture. Although I had planned to attend the hearing on January 19, 1996, a death in the family prevented my participation.

I strongly support the establishment of a designated area to carry out the proposed sea scallop aquaculture work. The potential economic rewards and spin offs from this project promise to be nothing less than monumental. This is the historic first step that could revolutionize the way we exploit the area's sea scallop resources. If successful, this project could point the way to replacing the present dredging methods that destroy shellfish seed and habitat with aquaculture technology more kindly to both the species and the environment. Clearly, our present management strategies are not working and the times demand a bold, new approach to managing this very valuable renewable shellfish resource. Clearly, the Japanese, the Chinese, and lately the Canadians are culturing scallops and expanding their share of the market. With only a tiny area of the present fishing grounds dedicated to aquaculture, this country might still play a role in the seafood industry of the future. If we refuse to open our eyes and policies to the promise of the future, we stand to lose further ground to our farsighted competitors. I hope you can see the historic impacts of this project.

We have demonstrated that millions of sea scallop seed can be easily cultured in the hatchery. This project promises to break new ground for leasing off shore areas and develop gear and technologies to allow aquaculture in the open sea. Any development in the aquaculture of this economically most valuable species promises wide ranging economic impacts.

I am aware that there is strong opposition from traditional fishing interests for the proposed project area. This project is far too important to be abandoned. I truly hope that some means of agreement may be established to allow this historic first step in sea scallop aquaculture to be permitted.

Sincerely,

Richard C. Karney
Shellfish Biologist/Director

New England Fishery Management Council

5 Broadway • Saugus, Massachusetts 01906-1097

TEL (617) 231-0422 • FTS 8-617-565-8457

FAX (617) 565-8937 • FTS 8-617-565-8937

Chairman
Joseph M. Brancalone

Executive Director
Douglas G. Marshall

MEMORANDUM

May 23, 1996

TO: Sea Scallop Committee
FROM: Council Staff
SUBJECT: Public Hearing Summary, Sea Scallop Experiment,
Enhancement and Aquaculture Project, May 17, 1996

Shortly before the April Council meeting the proponents of the sea scallop project proposed for federal waters south of Martha's Vineyard notified the staff that members of the fishing community, including lobstermen, scallopers and trawl vessel operators had reached consensus on a new site for the project. All parties agreed that the alternative location, approximately 3 miles southwest of the original location, was preferable to the site initially proposed and included in Amendment 5 to the Sea Scallop Plan.

To accommodate this agreement the Council withdrew the amendment, which already had been submitted to the National Marine Fisheries Service (NMFS), and agreed to hold an additional hearing on May 17 to ensure that all interested parties had an opportunity to comment on the new site.

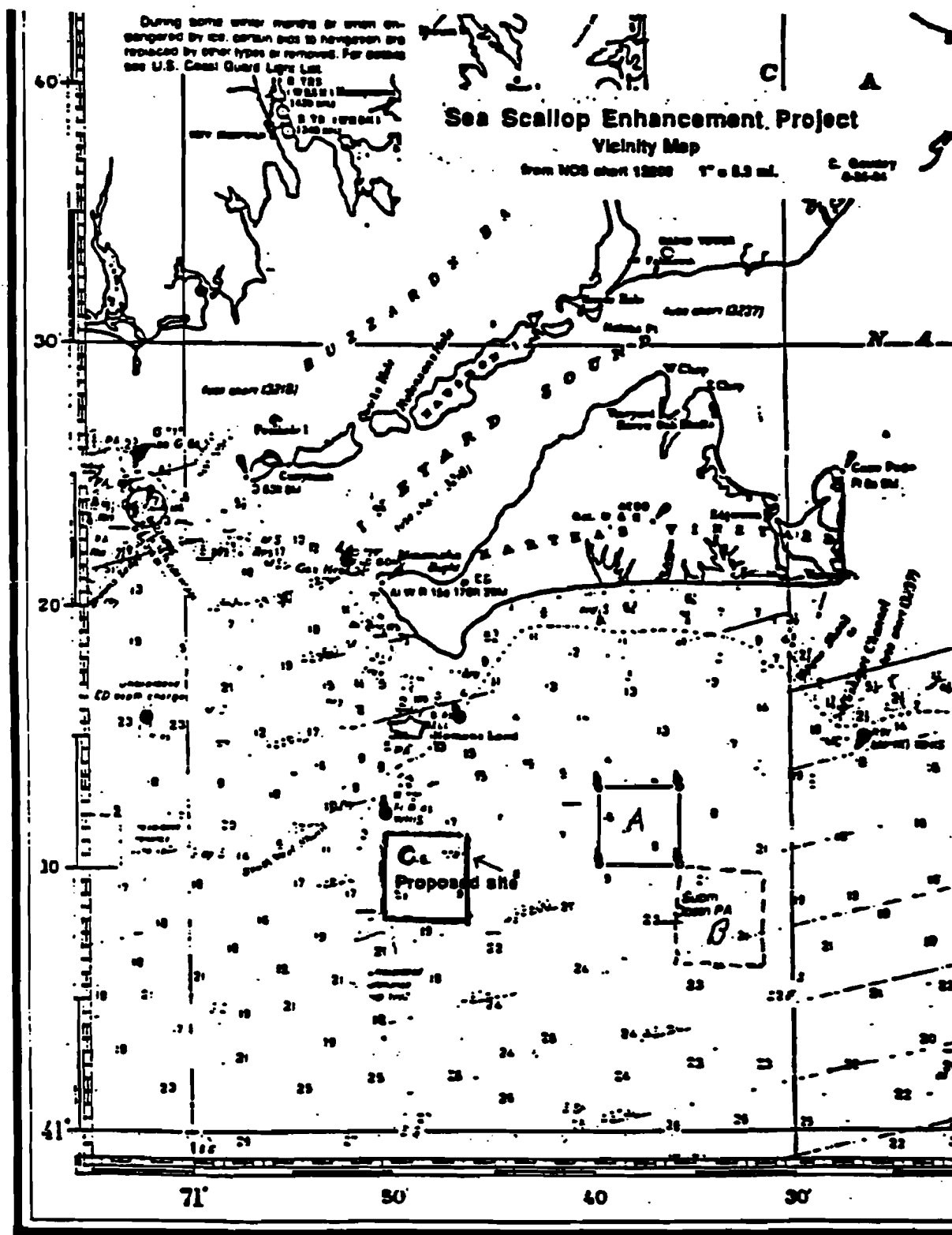
No opposition was voiced at the hearing and support was expressed by the William Adler, Executive Director of the Massachusetts Lobstermen's Association and Jon Larsen, a Martha's Vineyard lobsterman. A NMFS employee inquired about the proponent's intent to monitor possible habitat alterations by various gears used to harvest scallops. Project managers replied that they had agreed to this cover this topic as part of a final report. Mr. Larsen and the project managers agreed they would work out any concerns about the placement of lantern nets in areas where lobster fishing took place. Project managers also expressed a need to further discuss their request to NMFS for an experimental fishery in order collect small scallops for seeding purposes.

PUBLIC ATTENDANCE SHEET

PLEASE PRINT

Telephone

Phil Cates	NEFMC	
Cliff Goudy	MIT Sea Grant	617 253-7079
Dale Leavitt	WHOI-	508 289-2997
John T. Caskey	NMFS	508-281-9118
MARGARET TONER	NMFS	401-847-3115
John A Larsen	Box 121 Edgartown	508-627-3938
RONALD SMOLOWITZ	277 HATCHVILLE RD	508-564-5516
RICHARD TAYLOR	BOX 7002 GLOUCESTER	508-281-3142
Kat Fiench	WEPME Street	



20th Ed. Sept. 11 93 M

13200
LORAN-C OVERPRINTED

A IS SUBMITTED SITE IN AMENDMENT
B WAS PROPOSED FLIP-FLOP SITE
C IS NEW PROPOSED SITE

**MIT Sea Grant College Program
Center for Fisheries Engineering Research**

FAX Message

Page one of two

Date: 11 April 1996

To: Ron Smolowitz
Coonamesset Farm
227 Hatchville Road
East Falmouth, MA 02536

FAX: 508-564-5073
Phone: 564-5516

From: Cliff Goudey
MIT Bldg. E38-272
292 Main Street
Cambridge, MA 02139

Fax: 617-258-5730
Phone: 253-7079
email: cgoudey@mit.edu

Subj. Alternative site coordinates

I have plotted a new location that meets the consensus of today's meeting. The coordinates are

<u>Corner</u>	<u>Lat. N</u>	<u>Long. W</u>	<u>Loran-W</u>	<u>Loran-Y</u>
NW	41° 11.8'	70° 50'	14267	43834
NE	41° 11.8'	70° 46'	14244	43828
SE	41° 08.8'	70° 46'	14255	43807
SW	41° 08.8'	70° 50'	14278	43813

In the attached copy of the 13218 chart, I have included the original and the suggested alternative. I plan to call Johnathan to see if he would like this information.



new england fisheries development association, inc.

451 D Street - Boston, Mass. 02210 (617) 443-9494 Fax: (617) 443-9499
internet - 75501,3402@compuserve.com



Officers

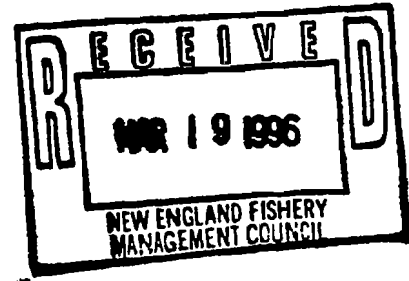
Peter Molisella, President
Ipswich Maritime Products
Marion Kaiser, Vice President
Aquamar Marketing, Inc.
Tom Howell, Treasurer
Spinney Creek Shellfish Co.
Robert Heldenreich, Secretary
Packaging Products Corp.
Bill Silkes, Assistant Clerk
American Mussel Harvesters, Inc.

Directors

Tory Brumante
Atlantic Coast Seafood
Cora Bergson
Atlantic Coast Fisheries
Alan Brown
Ocean Fresh Seafood, Inc.
Jim Chalfant
Great Eastern Mussel Farms, Inc.
Dennis Frappier
Providence Fish Exchange
Josh Goldman
AquaFuture, Inc.
Viki Hopkins
F/V Caitlin
Richard Kraus
Aquacultural Research Corp.
Larry Lindgren
North Atlantic, Inc.
Bob Lupien
Shawmut Bank
Joe Maloney
Maloney Seafood
Ken Marden
Captain Marden's Seafood
Tony Moore
Coldwater Seafood Corp.
J. Link Murray
Blue Gold Mussels, Inc.
Jack Newick
Newick's Lobster House
Evelyn Petania
Ideal Seafood, Inc.
Charles Petri
Millbrook Cold Storage
Saul Phillips
E. Frank Hopkins Co.
John Quilly
Mar-Less Seafood, Inc.
Jack Stanton
Slade Gorton & Co.
Brian Sweeney
Prudence Lobster & Fish Co.
Larry Sylvia
Family Fisheries, Ltd.
Jerry Ward
Cannons Brothers, Inc.

March 19, 1996

Mr. Douglas Marshall, Executive Director
New England Fisheries Management Council
Suntaug Office Park
Saugus, MA 01906



Dear Mr. Marshall:

The New England Fisheries Development Association (NEFDA) supports the sea scallop enhancement project directed by Cliff Goudey and Ron Smolowitz.

NEFDA has also been awarded a NMFS Saltonstall-Kennedy grant to study sea scallop aquaculture. Our project will investigate spat collection and grow-out of sea scallops at sites in Maine, Massachusetts and New Hampshire. NEFDA would like to work in cooperation with other similar projects, such as the Goudey-Smolowitz sea scallop enhancement project. We have spoken to Ron Smolowitz about locating spat collection gear at their site in order to broaden our study area, and we would like to obtain wild caught seed from their study for the grow-out portion of our project. NEFDA supports the Goudey-Smolowitz study since our project will be enhanced by being able to work cooperatively.

Sincerely,

Sue Kuenstner
Sue Kuenstner
Program Director

Benefactors

Atlantic Seafood Inc.
AquaFuture, Inc.
Aquamar Marketing Company
Associated Fisheries of Maine
Atlantic Coast Fisheries Corp.
Blount Seafood Corp.
Blue Gold Mussels Inc.
Canadian Fishery Consultants Limited
Cape Spray Fisheries
Cory Harbor Seafood, Inc.
Condyne Freezers, Inc.
Crocker & Winsor Seafoods, Inc.

E. Frank Hopkins Co.
East Coast Seafood, Inc.
Eastern Clam Corp.
Enviro-San, Inc.
Family Fisheries, Ltd.
Flynn Seafood
Primor U.S.A. Inc.
Globe Fish Co.
Invicta Consulting Group
John Nagle Company
Legal Sea Foods Inc.
M.F. Foley, Inc.

MA Lobstermen's Assn.
Maine Sarding Council
Maloney Seafood Corp.
Mar-Less Seafood, Inc.
North Atlantic, Inc.
North Coast Seafoods Corp.
Ocean Fresh Seafood, Inc.
Packaging Products Corp.
Purdy Judith Fishermen's Group
Prudence Lobster & Fish Co.
Sea-Rich Seafoods, Inc.
Seabird/Noordzee Corp.

Seafood Business
Seafreeze, Ltd.
Shaw's Supermarkets, Inc.
Slade Gorton & Company
Spinney Creek Shellfish Co.
Stevie Seafoods, Inc.
Serra Connolly Seafood Co. Inc.
Stop & Shop Supermarkets, Inc.
Tedi Pak, Inc.
Worldwide Seafoods, Inc.

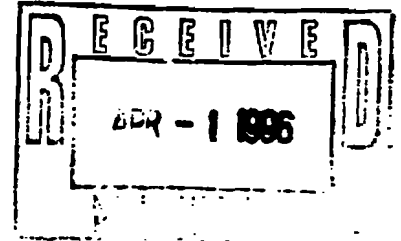


Martha's Vineyard Shellfish Group, Inc.

Box 1552
Oak Bluffs, Massachusetts 02557
508 693-0391

27. March, 1996

Douglas G. Marshall, Executive Director
New England Fishery Management Council
5 Broadway
Saugus, Massachusetts 01906



Dear Mr. Marshall:

I am writing to register my support of the application for a license for an experimental joint aquaculture venture by Martha's Vineyard Aquafarms, Inc. and Blue Gold Technologies, Inc. The applicants have requested a site approximately 20 acres in size in Nantucket Sound in waters the Supreme Court recently ruled to be under Federal jurisdiction. The proposed activities include the culture of bay scallops and blue mussels. The shellfish culture will employ off-bottom rope and lantern net culture and bottom cage culture very similar to the methods recently approved by the Council under Amendment 6 for the Westport Sea Scallop Enhancement Project.

Robert Plante, Vice President of MV Aquafarms, recently completed training under the Martha's Vineyard Shellfish Group Aquaculture Training Program. He is consequently eligible for technical and material assistance for the project under the Martha's Vineyard Private Aquaculture Initiative -- Aquaculture Start-up Assistance (FIG Grant # NA66SK0073) which has recently been funded by the National Marine Fisheries Service. To qualify for this funding opportunity, it is important that all possible efforts be made to expedite the license approval.

Thank you for your time and consideration, and please feel free to call should you have any questions.

Sincerely,

Richard C. Karney
Shellfish Biologist/ Director

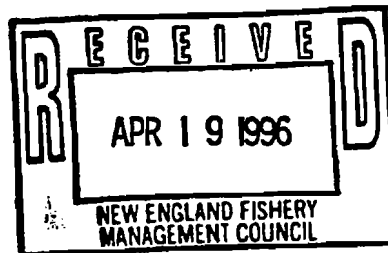
cc/ Robert Plante
Linc Murray



Massachusetts Lobstermen's Association, Inc.

8 OTIS PLACE, P.O. BOX 600
SCITUATE, MA 02066-0006


TEL. (617) 545-6984
FAX (617) 545-7637



MEMO

TO: Pat Fiorelli, NEFMC

April 18, 1997

FROM: Bill Adler, Executive Director
Mass. Lobstermen's Assoc., Inc. 

SUBJECT: Proposed Site Change for Scallop Project

The Massachusetts Lobstermen's Association is in support of the proposed shift in the site of the Scallop Enhancement Project from south of Martha's Vineyard to a site south of Nomans on the coordinates as provided to us by the Project Coordinator. (Site specs enclosed).

We understand that this new site has been approved by the New Bedford area scallop and dragging representatives and by the Project managers as well. We are hereby adding our approval to the proposal. We would therefore request that the NEFMC and NMFS approve this change.

The Massachusetts Lobstermen's Association represents the majority of affected Martha's Vineyard lobster fishermen and most of the lobster fishermen who fish in the new proposed site south of Nomans.

We would ask that the Project managers convene meetings as needed between themselves and other users of the site so all involved can work together in a cooperative fashion. The Project Coordinators have indicated that they would do this with regard to the previously selected site and we believe this would be most welcome on the newly agreed upon site.

May 12, 1996

To The New England Fishery Management Council,

On March 24, 1996 a meeting was held on Martha's Vineyard regarding the location of the Seascallop Projects Site. The Vineyard Fishermen strongly opposed its location.

We recommended to Flip-Flop the site once to the South and once to the East. This made the Southeast Corner of the Original Site the Northwest Corner of the New Site.

The Vineyard Fishermen and Project Managers agreed on this site, but it was later learned that the New Bedford Draggers had a problem with this site.

In April, a meeting took place in New Bedford. At this meeting a third site was worked out South of Nomans.

We, the undersigned Vineyard Fishermen, do not oppose the use of this site for this 18 month experimental project.

- See Attached Sheets -

Name	F/V	Phone
John A. Lane	F/V Summer Dawn	645-3805
Stephen W. Lane	F/V Esters Ride	645-3039
John S. Simpson	F/V ROYAL	693-7295
Matthew A. Soper	F/V Jennifer + Matthew	645-9430
Chris Murphy	F/V Theresa M.	645-2833
Craig Custer	F/V Viking	693-1655
Mark W. Soper	F/V F/V Seaside	645-9150
Amph. Soper	F/V Mark	696-8968
David Chippenfield	F/V Right Stuff	627-5669
Dennis Nord	F/V LINDA D	693-1688
James P. Morgan	F/V Mary + Nina	645-2655
Mike Souda	F/V Room To Move	696-7909
Charles A. Souda	F/V Loyal	693-1211
John R. Souda	F/V Bellini	645-2629
Raymond P. Hale	F/V Maciah	693-6864

Sea Scallop Working Group

c/o Harlyn Halvorson

PCMBT

Univ. Of Mass. Dartmouth

Dartmouth, MA

Douglas Marshall
New England Fishery Management Council
Saugus, MA

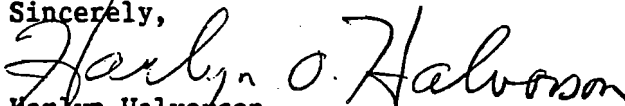
Dear Mr. Marshall:

Please accept this letter as an endorsement to the revised siting plan for the Westport Scallop Corp.'s proposed Sea Scallop Aquaculture Research Site. The process to establish this site has been an iterative discussion between the primary users of the proposed site and the Westport Scallop Corp. The end result has been a site that is acceptable to all.

Using this mediated process to reconcile differences ensures the success of the project as all of the interested parties have been consulted and have accepted the final results of the discussions. The Sea Scallop Working Group encourages the New England Fishery Management Council not only to permit the site as discussed above but to also encourage the coordinated development of off-shore aquaculture. The role of the NEFMC can be influential in the development of a single comprehensive and "user-friendly" permitting process where all relevant regulatory agencies and potential conflicting users are brought into the permit application early and their concerns addressed expeditiously.

Thank you for allowing the Working Group to provide comment on this issue.

Sincerely,



Harlyn Halvorson
representing the Sea Scallop Working Group

UMass Dartmouth

**Policy Center for Marine
Bioscience and Technology**

Director:

Harilyn O. Halvorson
UMass Dartmouth

Steering Committee:

Donald Abt
Marine Biological Laboratory

Harvey Brooks
JFK School of Government

John Burris
Marine Biological Laboratory

James Butler
Harvard University

James Clegg
*Bodega Bay Marine Station
University of California Davis*

Robert C. Dalgleish
U Indiana South Bend

James Ebert
Marine Biological Laboratory

Gary Glenn
*Mass. Foundation for
Excellence
in Marine & Polymer Science*

J. Woodland Hastings
Harvard University

Rollin B. Johnson
Harvard University

Lee Kimball
Washington, D.C.

Victor Mancebo
*N.E. Regional Aquaculture
Center
UMass Dartmouth*

Bradie Metheny
Washington Fax

Henry S. Parker
Office of Aquaculture, USDA

Jack Pearce
*NE Fisheries Science Center,
NOAA*

Fernando Quezada
*Biotechnology Centers of
Excellence Corp.*

Claudine Schneider
ARTIMIS Project

Andrew R. Solow
W. H. Oceanographic Inst.

Gerry Studds
United States Congressman

Larry Susskind
Mass. Institute of Technology

May 21, 1996

Mr. Douglas Marshall, Executive Director
New England Fisheries Management Council
Suntaug Office Park
Saugus, MA 01906

Dear Mr. Marshall;

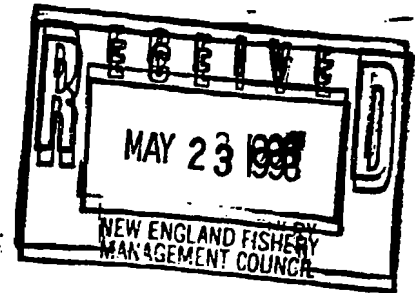
The Sea Scallop Working Group (SSWG) in Massachusetts has followed with interest the Council's deliberation and recent actions with respect to the Westport Sea Scallop Project's application for exclusive use as an experimental area. We applaud the Council's approval of Amendment #6 as a responsible step in advancing sea scallop aquaculture towards its potential role as an engine for economic growth in the region.

As no doubt you, your staff, and the Council members recognize, aquaculture in the EEZ is a complicated issue. Its facilitation under the Magnuson Fisheries Conservation and Management Act presents great challenges.

The SSWG has read William J. Brennan's report "Background Information and Recommendations for New England Fisheries Management Council Development of an Aquaculture Policy and Management Strategy" and we would like to take this opportunity to express both our support and some concerns regarding the process that is now facing the Council.

General - We agree with the report that EEZ aquaculture is an area that the Council has a significant interest. This view is based not only on the legal standing of the Council with respect to EEZ fisheries but also logically, based on the direct implications of aquaculture on commercial fishing and natural stocks.

Definitions - If, as the Brennan report suggests, some aquaculture hardware is fishing gear, then it should also be a candidate for a general exemption from COE permitting. This issue needs to be clarified by both agencies. There are forms of aquaculture, such as bottom-cage culture of sea scallops, that are operationally similar to fixed gear fishing, and arguably more benign. If those forms of grow-out could be exempted, it would provide significant relief for both Council and potential practitioners.



Page two

Legal Role - The Council needs to firmly establish its legal authority to manage EEZ aquaculture and, as suggested in the report, the Council must have a clear aquaculture policy. Further, the SSWG believes that a streamlined application and review process must be developed to ensure timely processing and evaluation.

There is general satisfaction with the current ACOE permitting process and its associated agency reviews. Redundancy with the ACOE should be avoided by focusing the Council's attention on fishing conflicts and impacts on regulated stocks.

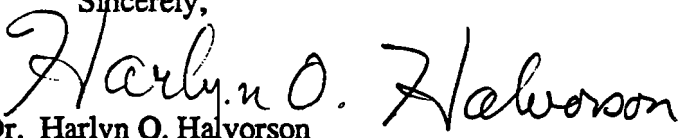
Council Staffing - The Council will need adequate resources to properly carry out its aquaculture-related tasks. Your current staff's responsibilities in the development and refinement of FMP's leave little room for new initiatives. The SSWG feels strongly that the Council must have additional staff to properly carry out its EEZ aquaculture responsibilities.

Evaluation Criteria - The Council needs to develop and publish criteria for evaluating applications. Those criteria must be developed in an open process with advice from a full range of stake holders. We would caution the Council from adopting standards which substantially exceed criteria used in evaluating fishing proposals.

Rents & Royalties - The charging of administrative costs or additional fees to aquaculture applicants should be done equitably with respect to current practices for fisheries management plans. With current fishing permits limits, Council activity is already in support of a finite number of commercial operations.

We reiterate our support of the Council in its efforts to develop and implement an aquaculture policy. The SSWG has labored for over a year, seeking to support and guide industry and institutional efforts towards sustainable sea scallop production. We would be pleased to assist the Council or its Aquaculture Committee in furthering our mutual goals.

Sincerely,



Dr. Harlyn O. Halvorson
Member SSWG

Director Policy Center for Marine Biosciences and Technology
Univ. of Massachusetts Dartmouth

appropriate aeronautical charts thereby enabling pilots to either circumnavigate the area, continue to operate under VFR to and from the airport, or otherwise comply with IFR procedures. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96-ACE-22." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends part 71 of the

Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—AMENDED

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Alliance, NE [Revised]

Alliance Municipal Airport, NE
(lat. 42°03'12" N., long. 102°48'13" W.)
Alliance VOR/DME
(lat. 42°03'20" N., long. 102°48'16" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the Alliance Municipal Airport and within 3 miles each side of the 145° radial of the Alliance VOR/DME extending from the 6.8-mile radius to 10.5 miles southeast of the VOR/DME and within 3 miles each side of the 302° radial of the Alliance VOR/DME extending from the 6.8-mile radius to 8.7 miles northwest of the VOR/DME.

* * * * *

Issued in Kansas City, MO, on December 17, 1996.

Herman J. Lyons, Jr.,
Manager, Air Traffic Division, Central Region.
[FR Doc. 97-847 Filed 1-13-97; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 960910252-6329-02; I.D. 082296B]

RIN 0648-A177

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 5

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

(ii) *Experimental fishing permits.* The Regional Director may issue an EFP under the provisions of § 648.12, if consistent with the provisions of paragraph (a)(4)(iv) of this section, to any vessel participating in the sea scallop aquaculture research project to fish within and transit the Sea Scallop Experimental Area. Such an EFP may exempt such vessel from specific Federal fishing regulations which may inhibit or prevent that vessel from performing any activity necessary for project operations such as regulations prohibiting the use of non-conforming fishing gear or the possession of scallops when not fishing under a DAS allocation. Vessels issued an EFP shall be exempted from DAS requirements as specified in the FMP for any trip in which the vessel engages exclusively in project activities such as bottom surveying, biological sampling, or use of non-regulated hand gear outside the Sea Scallop Experimental Area. The EFP also may allocate and authorize the use of up to 2 additional DAS for project activities relating to scallop seeding. Vessels issued an EFP must comply with all conditions and restrictions specified in the permit.

(iii) A vessel with an AGP or EFP must carry the permit on board the vessel while fishing in the Sea Scallop Experimental Area or participating in the scallop aquaculture project.

(iv) The Regional Director may not issue an AGP or EFP unless he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

(A) Have a detrimental effect on the sea scallop resource and fishery;

(B) Create significant enforcement problems; or

(C) Have a detrimental effect on the scallop project.

(5) *Application.* An application for an AGP or EFP must be in writing to the Regional Director and be submitted at least 30 days before the desired effective date of the permit. The application must include, but is not limited to, the following information:

(i) The date of application.

(ii) The applicant's name, current address, telephone number and fax number if applicable.

(iii) The current vessel name, owner address, and telephone number.

(iv) The vessel's Federal permit number.

(v) The USCG documentation number.

(vi) The species (target and incidental) expected to be harvested.

(vii) The gear type, size, buoy colors, trap identification markings and amount

of gear that will be used; and exact time(s) fishing will take place in the Sea Scallop Experimental Area.

(viii) The signature of the applicant.

(b) [Reserved]

[FR Doc. 97-872 Filed 1-13-97; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice; extension of time to report.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is extending to May 30, 1997, the deadline for submission of quarterly reports pursuant to § 560.603 of the Iranian Transactions Regulations for the quarters ending December 31, 1996, and March 31, 1997.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Loren L. Dohm, Chief, Blocked Assets Division (tel.: 202/622-2440), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the Federal Register. By modem, dial 202/515-1387 and type "/GO FAC," or call 202/512-1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321-3339, and select the appropriate self-expanding file in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = <http://www.fedworld.gov>; FTP = <ftp.fedworld.gov> (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets

Control is available for downloading from the Office's Internet Home Page: <http://www.ustreas.gov/treasury/services/fac/fac.html>, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Notice

On November 15, 1996, the Office of Foreign Assets Control ("OFAC") published an amendment to § 560.603 of the Iranian Transactions Regulations, 31 CFR Part 560 (the "Regulations"), which imposes reporting requirements on United States persons with foreign affiliates (See 61 FR 58480). Any report required to be submitted to OFAC pursuant to § 560.603 of the Iranian Transactions Regulations for the quarter ending December 31, 1996, or for the quarter ending March 31, 1997, may be filed up to but no later than May 30, 1997.

Issued: January 7, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 7, 1997.

James E. Johnson,

Assistant Secretary (Enforcement)

[FR Doc. 97-974 Filed 1-10-97; 12:08 pm]

BILLING CODE 4810-25-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1, 2, 21, 22, 60, 61, 62, 147, 262, 272, 707, 763

[FRL-5674-2]

Technical Amendments to Revise Addresses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: The EPA is revising the address for its Region 5 office, and those of the environmental agencies of the States of Illinois, Michigan and Ohio in 40 CFR Parts, 1, 2, 21, 60, 61, 62, 147, 272, 707, and the appendices to 40 CFR Parts 22, 262, and 763 because of changes in office locations. This document does not change the substantive requirements of the standards.

EFFECTIVE DATE: This action becomes effective January 14, 1997.

FOR FURTHER INFORMATION CONTACT: John Gaitskill, United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604-3590, (312) 886-6795.