

New England Fishery Management Council
Omnibus Essential Fish Habitat Amendment 2
Public hearing summaries

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Between November 24, 2014 and January 7, 2015, the Council held twelve public hearings on Omnibus Essential Fish Habitat Amendment 2. These hearings were moderated by the Habitat Committee chairman and staffed by Council analysts. At each hearing, staff provided a brief presentation of the alternatives under consideration. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

The purpose of this document is to summarize the public comments made at each hearing. Comments are mostly in the speaker’s own words, but are not an exact transcript, and may have been edited for clarity and brevity. Many of the speakers also provided written comments to the Council. These written comments are presented in a separate document.

The attendance estimates for each hearing are based on the attendance sheets signed by audience members, which are available upon request. Based on the attendance sheets, over 532 people attended the hearings, although some individuals attended more than one hearing, and additional people may have attended but did not sign in. Testimony was given by 174 unique individuals, with some people commenting at multiple hearings (see index).

Portsmouth, New Hampshire

Sheraton Harborside · 250 Market Street

November 24, 2014

Hearing officer: David Preble

Other Council members: Doug Grout

Council staff: Michelle Bachman, Fiona Hogan, Maria Jacob, Chris Kellogg, Tom Nies, Andy Applegate

Attendance: Approximately 33 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Ms. Bachman briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

David Goethel, F/V Ellen Diane: Although I have served on the Council's habitat committee for 9 years, I am speaking today as a private citizen, concerned that the focus of the amendment has shifted from small, discrete areas of high biodiversity to much larger areas. Enhanced productivity should be the priority, and habitat protection should be the secondary goal. Closures for productivity enhancement are not appropriate in temperate New England waters. Productivity depends on bottom water temperature, food, and sex, with substrate as a secondary consideration. Closures may enhance diversity, but do not enhance fish productivity. From Brown et al. 2010¹: "After controlling for substratum, location, and sampling season, eight groundfish species exhibited higher mean proportional abundance inside than outside the WGMCA while two were proportionally more abundant on average outside of the closure. Four species had higher mean proportional biomasses on average inside the closure and three outside. We conclude that the WGMCA may (commenter emphasized this word) be achieving its goal of rebuilding abundance and biomass for some commercially targeted groundfishes but not all." Another study, Link et al. 2005², also says that closed areas do not enhance productivity: "Our results suggest few differences between the inside–outside paired stations in both closed areas for nekton and benthic species composition and species richness. Fish abundance and biomass were similar inside and outside the closed areas... Additionally, habitat type was important in determining the distribution, abundance, biomass, size, and feeding ecology..." This means that whether area is closed or open does not matter; what is on the bottom seems to determine what is occurring, dispelling myths about habitat. The paper also stated "only 23% of the species studied exhibited even a marginally significant difference inside versus outside the closed area; habitat (i.e., zone) appeared to be a relatively more important factor than inside–outside the closure for

¹ Brown, B. K., E. Soule, et al. (2010). "Effects of excluding bottom-disturbing mobile fishing gear on abundance and biomass of groundfishes in the Stellwagen Bank National Marine Sanctuary, USA." *Current Zoology* 56(1): 134-143.

² Link, J., F. Almeida, et al. (2005). The Effects of Area Closures on Georges Bank. *Benthic Habitats and the Effects of Fishing: American Fisheries Society Symposium* 41. P. W. Barnes and J. P. Thomas. Bethesda, MD, American Fisheries Society: 345-368.

affecting species abundance and biomass.” And in terms of fish lengths, “We did not detect a difference in the mean length (and length distributions) for 11 of 15 species we examined.”

Many studies indicate that there is inherent value to closed areas for coral reef and kelp, but I do not think that this applies to dynamic habitats. Regarding the productivity of closed areas, they promote biodiversity, not fish productivity; in the three large ecosystem areas in the GOM (i.e. eastern, central, western), only a representative sample of these areas need to be closed. We are attempting to protect species at maximum sustainable yield for which we use habitat protection and aquaculture efforts to enhance biodiversity without concern for food productivity, but we should focus on maximizing food productivity.

I support Option 6 (southern 2/3 of the existing closure in the western Gulf of Maine, large Stellwagen HMA) to promote high biodiversity, protect some of Stellwagen). I also support creating DHRAs, but only with the sunset provision (i.e. DHRA Alternative 5). Based on Council’s preferred alternative, I support Alternative 1(status quo) combined with Alternative 7A (trawl roller gear limited to 12” in diameter) and Alternative 8 (WGOM shrimp trawl exemption area). I fully support roller gear restrictions to enhance productivity and protect substrate long-term; should cap roller gear at 12” to protect areas that would no longer be accessible to mobile gear. I support spawning Alternative 2 (MA Bay Spawning Area, Whaleback Area, seasonal closed areas) without rolling closures and I support the proposal in Framework 53 (i.e. whaleback and MA area closure to all gears capable of catching groundfish). I vehemently oppose any Bigelow Bight area closure because it would result in the largest loss of bottom gear revenue (over \$2 million; cited revenue estimates in a presentation prepared by Dr. Geret DePiper, the economist for the PDT), would not achieve its stated goals, and because most juvenile fish exist in state waters in that area, for which the Council does not have jurisdiction. If this alternative is approved, lobstermen will move into the area and groundfish vessels will not be able to access the area again.

Richard Pramas, Peabody MA, private citizen: I do not support any hook/line recreational restriction. On recreational trips, 90% of fish swim away from the boat, and the gear cannot harm the bottom habitat. Mr. Preble and Ms. Bachman clarified that a hook and line recreational gear restriction is for the Stellwagen DHRA reference areas only.

Lester Eastman, Eastman’s Fishing Fleet: Agreed with Richard Pramas’ comments.

Erik Anderson, NH private citizen: I was also a Council member over 20 years ago, when the rationale for the western GOM closure was to reduce catch per unit effort. I support Dave Goethel’s comment for Western GOM Alternative 1 with the shrimp exemption (Alternative 8). I do not support the Bigelow Bight habitat management area, i.e. Alternatives 3 or 4.

Bill Monte, Bounty Hunter Charter Vessel: Agreed with Richard Pramas’ comments.

Frank Loude: Agreed with Bill Monte and Rich Pramas’ comments.

Jim Ford, F/V Lisa Ann: I agree with David Goethel’s comments. [Stellwagen DHRA] Reference Area 2 is mostly in deep waters (50 fathoms) and would not affect recreational

fishermen, compared to Reference Area 1, so if one area must be chosen, I would think Reference Area 2 would be preferred.

Jud Crawford, Pew Charitable Trust: To put things into context, the ecosystem is in trouble, stock assessments show fish productivity is decreasing, fish growth is decreasing, and according to the NEFSC in 2009, ecosystem overfishing signs are apparent. We need to have good habitat protection as a core tool in ecosystem management. We should make EFH (essential fish habitat) mean something; there needs to be a robust set of diverse areas for fish and habitat protection for all life history stages, and not just on the benthic habitat, but throughout the water column. HAPCs (Habitat Areas of Particular Concern) are designed without any protection, as they do not give guidance as to how to protect these designated areas. I think it is a big mistake not to manage these HAPCs. Also, the new coral area in Eastern Maine (i.e., the areas identified in 2014 surveys) should be protected.

This omnibus applies to all plans, but the Amendment references Groundfish plan to deal with further improvements to spawning closure; what about other management plans? Georges Bank does not offer any reasonable [habitat management] alternatives, so I support status quo or Alternative 8 (Northern Georges Bank closed to mobile bottom tending gear), which is the closest thing to status quo. It is important to keep mobile gear out of this area, and clam dredges should not be exempt. Generally for the HMAs (Habitat Management Areas), I support Option 2 (no mobile bottom tending gear), as the preferred alternative. For the eastern GOM, I support the no action alternative. For the western GOM, I support no action. For Georges Bank, I support the no action alternative, or Alternative 8. For the Great South Channel sub-region, I support Alternative 3 (Great South Channel East and Cox Ledge). I support DHRAs in all sub-regions, and I think the sunset provision is unreasonable given the time it takes to prepare and fund a proposal.

Carl Bouchard, retired inshore GOM trawl fisherman: Opposed to any additional inshore western GOM restrictions. Jeffreys Bank (perhaps he intended to say Jeffreys Ledge?) habitat closure still remains closed today despite its sunset provision. I think that the ability to return to these areas after additional closure is slim, and the area is extremely saturated by lobster gear. I agree with Dave Goethel's comments.

Drew Minkiewicz, Fisheries Survival Fund: Noted that Habitat Areas of Particular Concern (HAPCs) were created pre-SASI (Swept Area Seabed Impact) model information; concerned about the disassociation between HAPCs and habitat management areas. Too much focus on groundfish - what about scallops? The scallop fishery is robust and the stock is managed well. I agree with David Goethel's comments, that these closed areas are ill-conceived habitat measures, and that these habitat areas would not lead to increased fish productivity. Science does not support habitat closures in high disturbance temperate habitats; there is no link between habitat and productivity, even though productivity is listed as the rationale for the closures. According to SASI model information, decreasing Z (adverse effect on habitat) is the best way to protect habitat. But, you need an increase in catch per unit effort to do this – thus, these habitat areas are counter to what our science is saying. I support the Georges Bank Alternative 7 (Georges Shoal 2 and EFH South HMAs closed to mobile bottom-tending gear); it is the only alternative that provides habitat and economic benefit; the law says economic considerations matter. For the

Great South Channel, Alternative 4 (Great South Channel and Cox Ledge area) is preferred because it covers SASI information and has more neutral impacts. I do not believe GSC Alternative 3 (Great South Channel East and Cox Ledge) is practicable. For the spawning closures, scallop vessels should be exempt, since the industry has been managing itself to protect spawning areas (i.e., in Closed Area II, scallopers cannot fish from September to November).

David Wallace, Surfclam/Ocean Quahog fishery representative: The Surfclam/Ocean Quahog fishery is not overfished and overfishing is not occurring, and does not harm other fisheries or habitat types. We fish in high-energy sand areas in a total of 277 km² fishing area, which is less than the lobster fishery. If there is structure on the ground, the hydraulic clam dredge does not work there, and the clams are not there. This is a \$300 million fishery, close in value to scallop and lobster. I support exemption of this fishery (management Option 2) in all proposed closed areas that will be closed to mobile gear.

David Borden, Atlantic Offshore Lobstermen's Association: Regarding any changes to Closed Area II closure, I support no action. While there is an existing agreement between the lobster and groundfish industries in Closed Area II, there is no agreement with the scallop industry, and thus the impacts of opening these areas are unknown. Lacking this type of agreement, we oppose the scallop industry gaining access to this area. The DEIS states that 80% of lobsters moving in these areas are eggers and/or v-notched females and should be protected, and these agreements do that [by excluding trawling in the summer months]. Opening these areas could also increase juvenile lobster mortality. Finally, the forthcoming lobster stock assessment notes links between offshore and inshore stocks. [Offshore] we have about 30 vessels, fishing about 30,000 lobster pots in these areas for over 20 years. The inshore Gulf of Maine lobster fishery is worth \$400 million and employs 6,000 to 7,000 lobstermen.

Plymouth, Massachusetts

**Radisson Hotel · 180 Water Street
November 25, 2014**

Hearing officer: David Preble

Other Council members: None

Council staff: Fiona Hogan, Maria Jacob

Attendance: Approximately 90 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Dr. Hogan briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Joy Marzoff, New England Aquarium Dive Club and New England Scuba Divers: We are opposed to reducing the size of Cashes Ledge protected area; it is critical to protect these areas that currently exist. Marine protected areas in the U.S. and around the world are a proven method for increasing fish stocks in the surrounding areas. We've seen devastating effects of lost fishing gear on the ocean bottom; from lost lines and ghost nets entangling sea life, to the devastating effects on ecosystems and corals by trawl gear on the bottom. While we understand the need for sustainable fishing, it's important to preserve key habitat areas for future fish. It's not the time to reduce the size of protected areas, when we continue to see smaller fish over time becoming the standard due to overfishing.

Mike Pierdinock, Charter fisherman and Massachusetts Chairman of Recreational Fishermen Alliance: I want to thank the Council for keeping the cod closed areas open to recreational fishing [assume he is referring to previous week's decision on Northeast Multispecies Framework 53]. The rationale for these closures is flawed and is no longer supported by research. Basic foundation for the selection of the DHRA area is the fact that cod are resident to that area. We saw that according to a recent Massachusetts Division of Marine Fisheries [acoustic tagging] study they could identify that cod had left these areas. Cod remaining [in the area] were the result of dead cod, or cases where the pingers had fallen off. We heard this and went back to DMF and requested basic research details that concluded cod are resident to DHRA's and then we proposed the question to DMF that in their opinion the cod were dead or pingers were shed and not residents. It's a key technical flaw in the selection of the DHRA. Implementation of dedicated habitat research areas would put recreational fishermen out of business. Supports Alternative 1 (No Action) for dedicated habitat research areas in any of the proposed areas. I hope that these dedicated habitat research areas could be moved further offshore. Also submitted written comments to the Council (see attachment).

Johnny Johnson, owner of the Gloucester Charter Connection and tuna fisherman: Agreed with Mike Pierdinock's comments. [The Council] is taking away my ability to provide for my family, and I'm very upset about it. If [the Council] closes the fishing grounds to druggers, commercial, and recreational fishermen, the entire fishing community (i.e. Gloucester) will

collapse. The habitat document should be presented in laymen's terms as well; I am an Auburn graduate and cannot understand this document. We need to know what areas you plan to close and for how long, so that we can plan accordingly.

David Waldrip, member of the Stellwagen Bank Charter Boat Association and charter vessel fisherman: Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. This is a historical fishing area for these recreational anglers. Implementing a 55-nautical mile dedicated habitat research area³ would also force south shore recreational vessels to steam further offshore, up to forty nautical miles to fishing grounds. Recreational vessels are not required to be equipped with emergency position-indicating radio beacons, life rafts, or survival suits, creating safety concerns. There is also a 10-knot speed restriction for Plymouth charter vessels in the spring to prevent right whale strikes; therefore, it would take at least four hours to steam to fishing grounds. In the 2010 Stellwagen Bank Final Management Plan⁴, Chapter 7: *Action Plans* states intentions to acquire a year-round enforcement boat to perform routine sanctuary patrols; this measure would justify these high priority officers to patrol the area, and would also justify their purchase of additional enforcement vessel, similar to the Florida Keys National Marine Sanctuary. The implementation of the dedicated habitat research areas would also have a devastating domino effect in loss of revenue to local marinas, tackle shops, hotels, and boat dealers.

Charlie Wade, President of the Stellwagen Bank Charter Boat Association: Does not support Alternative 3, the western Gulf of Maine dedicated habitat research area. However, this does not mean that we do not support research (we are involved in many multi-species tagging programs); we are against measures that would put us out of business. As David Waldrip stated, there are safety concerns for these smaller vessels in the fleet to travel farther offshore; however, the [Stellwagen Bank National Marine] Sanctuary's research vessel is capable of traveling further east in a safe manner. In addition, dedicated habitat research areas are chosen based on vessel trip report information, which is not an accurate representation of where these vessels fish. I do not agree with this data being used by the Sanctuary managers in choosing these areas. I urge NMFS and the Council to move research areas away from recreational fishing activity. Supports Alternative 1 (No Action), but I am amenable to selecting alternate research areas.

Richard Flannery, Secretary of the Stellwagen Bank Charter Boat Association and charter vessel owner: Agreed with David Waldrip's and Charlie Wade's comments. Emphasized the hardship and safety concerns for small recreational vessels fishing offshore.

Curtis Maxon, member of the Stellwagen Bank Charter Boat Association: Supports Alternative 1 (No Action) for all dedicated habitat research areas in western Gulf of Maine area (Stellwagen Bank). I've worked with the School of Marine Science and Technology [at the University of Massachusetts], and I am not against research. Let us work together.

Peter Murphy, charter vessel captain, Vice President of Stellwagen Bank Charter Boat Association: Agreed with Charlie Wade's comments. I believe there is skewed data, and that

³ This size is for the reference area portion

⁴ Note that this is a management plan for the Stellwagen Bank National Marine Sanctuary, and is not a New England Fishery Management Council fishery management plan

safety concerns and economic impacts (under Magnuson-Stevens Act requirement) should be considered. We are losing Plymouth, Green Harbor, and Scituate charter boat businesses and we will provide data on this issue at a later time. Supports Alternative 1 (No Action) for the dedicated habitat research areas.

Rich Ruais, American Bluefin Tuna Association: We do not want to see dedicated habitat research area used as a management tool right now. The science should be done first, and then the fishery management systems should be applied. We have a fishery disaster declaration in New England, yet some think that we have the luxury to take chances to close areas unnecessarily. We cannot use fishermen as guinea pigs, which is what has happened to us in the tuna fishery. [Assessment of] equity the between commercial and recreational user who have a 70/30 quota split is lacking. If managers do not know exactly how the dedicated habitat research areas would affect each user group, this may cause one user group to be over-penalized. If you were successful in [implementing dedicated habitat research areas], the near-shore areas would be particularly effective in increasing productivity. If implemented on a permanent basis, [managers] would be discriminating against fishermen that only have access to the inshore areas and cannot travel offshore.

David Dow, Head of the Marine and Coastal Community for the Massachusetts Chapter of the Sierra Club: My concern about this issue was raised at the Council meeting in Hyannis (September 2014), where managers stated that mortality has doubled. A number of fishermen, and I agree with them, pointed out a lot of the problems with cod that go beyond fishing mortality. Climate change and nutrient enrichment (eutrophication) are also factors affecting cod mortality. The Sierra Club favors an adaptive ecosystem-based fisheries management approach, along with our sustainable fisheries policy. Regarding inshore essential fish habitat, Cape Cod has lost eel grass beds and shellfish beds; salt marshes have eroded due to climate change and excess nutrients (i.e. nitrogen and phosphorous). We'll spend \$2 to \$4 billion in the next 20 or 30 years to reduce nutrient enrichment, to help improve the impacts of ocean acidification⁵. It would be useful for the Habitat Committee, and groups that work on inshore habitat restoration, to work to provide input on how this habitat restoration challenge can be fixed in a practical and cost-effective manner. We support Alternative 1 (No Action) for the Western Gulf of Maine [groundfish? habitat?] closed area, because it is an important groundfish habitat. We support the western Gulf of Maine dedicated habitat research area (reference area) at Stellwagen Bank, to quantify the effects of climate change in these areas. NEFSC Environmental Monitoring and Assessment Program's [EPA] modelling project states that the pelagic food chain has two components: (1) grazing food chain, related to spring diatom bloom; and (2) microbial food web, which dominates in the summer. One of the consequences of earlier spring and later fall is that the summer becomes increasingly important for the yield of living marine resources, and the same would occur in the benthic food chain, which the EFH measures aim to protect. Stock assessments considers natural mortality as a major component to determine allocations; therefore, the EFH's productive capacity should be used to inform stock assessment modelers when they try to determine why there had been a doubling in cod mortality.

Kevin Johnson, Recreational fishermen (Plymouth): I bought a nice boat five years ago, and love to fish on Stellwagen [Bank]. Although I do not make a living fishing, I incur the same

⁵ Weis, Judith S. *Ocean Acidification - The Other CO2 Problem*. White Paper. 5 Dec. 2014.

expenses as other fishermen do [when fishing]. I do not want to travel an additional 30 to 40 miles to take a kid out fishing. I support Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank).

Bill Adler, Massachusetts Lobstermen's Association, Massachusetts Governor's Appointee for the Atlantic States Marine Fisheries Commission Lobster Board, and Marshfield fisherman: Supports Alternative 1 (No Action) or Alternative 5 (sunset provision) if dedicated habitat research areas are implemented. I suggest that the existing closed areas should be used for habitat research versus open areas being closed through this action, and research could still be done in the open areas. Opposed to the Central Gulf of Maine closure of Ammen Rock, if this measure is to be applied to lobster fishermen⁶; opposed any closure to lobster fishing. Supports no gear restrictions for habitat areas of particular concern⁷. Massachusetts Bay [cod spawning closures] is mentioned, but the Amendment states that it only applies to Federal waters only; not sure if the Council can change alternatives if in state waters. Agreed with members of the Stellwagen Charter Boat Association, opposed all hook and line restrictions. The Atlantic Offshore Lobstermen's Association has an agreement with the groundfish industry to protect eggerys in Closed Area II; this does not include the scallop industry. If scallop fishermen were allowed in the area, lobster eggerys would be devastated.

Craig McDonald, Superintendent of NOAA's Stellwagen Bank National Marine Sanctuary: Sanctuary supports work of Council to move habitat protection from concept to action. Supports Alternative 3, Option B for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area (reference area 2; preferred alternative). This would allow scientists and fishery managers to perform a controlled study, to better understand fishing gear impacts and impacts of groundfish removal on the essential fish habitat relative to ecological changes occurring in Massachusetts Bay and the Gulf of Maine, to better guide resource management in the Gulf of Maine. The proposed reference area 2 would be an ideal location for research, serving several very pertinent issues: (1) what are the impacts of bottom fishing gear on different seafloor habitats, and the removal of groundfish from different seafloor habitats; (2) what are the differences between natural disturbances and fishing gear impacts; (3) what are the recovery rates of diverse habitats from different types of disturbances; and (4) what are the rates of productivity from different habitat types. In addition, the proposed research area is ideal because there is no other similarly protected research area with a reference site in the Gulf of Maine. The design would allow scientists to compare the impacts of all types of removals on all major habitat types in the Gulf of Maine. The entire proposed dedicated habitat research area has already been closed to groundfish fishing since 1998 when the western Gulf of Maine closure area was implemented; therefore, no new areas would be closed to commercial groundfish fishermen. Researchers have a database of 16 years that is focused on seafloor habitat recovery from this area to leverage future funding support to provide strong foundation for new studies. The Sanctuary's 2010 Final Management Plan calls for the establishment of this sort of research area. According to the Sanctuary's review of vessel trip report data, this action would have minimal impact on recreational fishing vessels. Sanctuary analysis of vessel trip report information shows that up to 30 vessels at most fished in the northern reference area annually, from 1996-2012. [Of those 30 vessels], four vessels accounted for 42 to 96 percent of all trips in

⁶ Note: Ammen Rock closure not intended to apply to lobster fishermen

⁷ Note: No gear restrictions associated with HAPC designations

the reference area during each of those years. Estimates reported in the draft environmental impact statement indicate that on average, 31 boats fished the northern reference area during that same time period; five of those boats accounted for the most of the revenue from the reference area in 2010-2012. In 2010 and 2012, Massachusetts recreational boater surveys indicated no private recreational fishermen completing the survey were fishing in the reference area 2. The [Habitat Omnibus Amendment 2] draft environmental impact statement indicates that the implementation of the northern reference area for dedicated habitat research is expected to generate a net positive benefit compared to Alternative 1 (no action) in the long term. Therefore, the impact of the northern reference area would fall primarily on four to five party/charter boats and very few private recreational fishermen. Pelagic recreational vessels would still be allowed to fish in the reference area. In offering these comments I realize that confusion could arise from several different actions the Council has had to take in recent months to protect declining cod stocks. I believe it is important to draw a distinction between the proposed Stellwagen DHRA and reference area and the recent emergency closures, for example, which are much broader in geographic scope and impact.

Jay Berggren, charter boat captain, member of Stellwagen Bank Charter Boat Association:
Agreed with Dave Waldrip's comments.

Rob Green, charter boat captain, member of Stellwagen Bank Charter Boat Association:
Agreed with comments made by other members of Stellwagen Bank Charter Boat Association.

Michem Patrick Curney [name may be spelled incorrectly, speaking on behalf of Sam Jarvis], Founder of the Massachusetts Maritime Academy Sport Fishing Club: [Area] closures would affect my summer employment as a mate on charter boats, which helps to pay for my college tuition. Area closures would also affect my friends, whom are also mates on charter boats. Closures would affect charter boats and surrounding businesses, and the tax base for municipalities and the Federal government; spending cuts would occur, and public servants (i.e. police officers, fire fighters, and teachers) would be adversely affected. Supports Alternative 1 (No Action) for all dedicated habitat research areas.

Allen Rencurrel, member of Massachusetts Shellfish Advisory Council, owner of three boats in Hyannis and New Bedford: Regarding the Great South Channel/Southern New England (Nantucket Shoal) closed areas; impacts to surf clam fisherman would be significant. Supports forthcoming comments by Dave Borden and Tom Slaughter.

Mike Costa: Agreed with Allen Rencurrel's comments. Economic impacts would be devastating.

Sharon Young, Marine Issues Field Director for the Humane Society and NMFS-Appointed member of the Marine Mammal and Harbor Porpoise Take Reduction Team: Alternatives to re-open areas currently closed areas to gillnet fisheries pose huge risks; better analysis within current environmental impact statement is needed on this issue. Every alternative other than status quo has a negative impact on marine mammals, and gillnets pose the greatest risk to marine mammals. The environmental impact statement for take reduction plans is designed to reduce risks [to marine mammals] and assumes status quo for habitat and groundfish

closed areas. Action to open areas currently closed to gillnet vessels would change the baseline for environmental impact statements and any biological opinions that were issued on the various gillnet fisheries. Action to re-open these areas would require updates take reduction plans for these species, which will be inadequate in protection of the areas of seasonal high use, particularly in and around the western Gulf of Maine. We support Alternative 1 (No Action) for all management areas under consideration, in order to protect groundfish recovery and marine mammals. Supports a prohibition of gillnet use on the existing year-round groundfish closures (Western Gulf of Maine, Jeffreys Bank⁸, Cashes Ledge, Nantucket Lightship, and Closed Area I and II).

Charles Cooper, recreational fisherman for over 40 years: Comments made on the draft environmental impact statement can lead to additional alternatives for consideration in the final environmental impact statement. I am suggesting an additional alternative to designate a part of the Massachusetts Bay Spawning Area, where there is a large spawning cod population, as a study area for dedicated habitat research area. I encourage work with fishermen to get the data that is useful to managers to determine the level of fishing that should occur, when and where.

Scott Nolan, Orleans, MA clam fisherman: Great South Channel area closure (Nantucket Shoal) keeps moving further west, and I'm not sure why. I've fished in that area for approximately 30 years; the area has been productive for us, and vessels continue to fish there. We do not have bycatch in the area which has soft, sandy bottom, and I am not sure why it is being considered [as a habitat closure]. The area south of Nantucket Shoal, the Nantucket Lightship habitat closure area, was closed to clam fisherman eight or nine years ago and has not been used for experimental research. I am against any further closures, especially in the Great South Channel area (Nantucket Shoal). Our environmental impact is minimal, and approximately ten boats fish there and catch 90 percent of the overall quota. Mr. Preble clarified that one of the alternatives includes an exemption for hydraulic clam dredge (Option 2). Mr. Nolan expressed concern that the public hearing document is difficult to understand, unable to determine if clam dredges would be exempt from closure, despite his college education.

Tom Slaughter, clam fisherman: The surf clam/ocean quahog fishery is almost as profitable as the scallop fishery. I have worked on this shoal and have never caught cod. The clam dredge has little to no impacts to the bottom habitat, other fisheries, and does not have marine mammal entanglements. The [Northeast Fisheries Science Center's] Delaware II clam research data shows little bycatch. We fish in less than 100 square miles of area; lobstermen fish three times that fishing area, and clam vessels do not have damage, despite large equipment since fishing on soft sand. Supports Alternative 1 (no action) for all management area alternatives under consideration.

John Richardson, member of Stellwagen Bank Charter Boat Association: Agreed with Mike Pierdinock, Dave Waldrip, Charlie Wade, and all other comments made by members of the Stellwagen Bank Charter Boat Association. While he has heard that [the] Stellwagen [Bank National Marine Sanctuary Advisory Council] had unanimous support for these alternatives; he noted that two members of their advisory council spoke up against these alternatives at the

⁸ Note: Jeffreys Bank is not closed to gillnets currently; it is a habitat closure area closed to mobile bottom-tending gears

hearing. Management measures such as allowable catch reductions, a five-month [recreational] closures for cod, and the catch shares sector program's failed experiment on Stellwagen Bank have all have forced fishermen east into the Western Gulf of Maine closure area. Now, that area is being proposed for closure [to recreational vessels]. This industry is struggling under current regulations; additional closures would be the eighth nail to the coffin and would devastate the group. Supports Alternative 1, for western Gulf of Maine (Stellwagen Bank) dedicated habitat research area (i.e. no reference area closures). The same science and impact study which was used to justify hook and line exemption for closed areas in the past is the same science being used to completely close the area to hook and line today.

David Borden, Wallace Associates for Surfclam/Ocean Quahog and Atlantic Offshore

Lobstermen's Association: Supports Mike Pierdinock's and Tom Slaughter's comments. Most of Nantucket Shoals is composed of high energy habitat with very little habitat for juvenile fishes and little complex habitat, as stated in the draft environment impact statement. Most of Nantucket Shoal is [an important] surf clam fishing area. The area east of Nantucket Shoal has complex habitat and contains boulders (according to the DEIS) with a high number of juvenile groundfish, and is a very actively fished scallop area. That is where the problem exists; advocates for closing the shoals are simply trying to close an area in Southern New England, while avoiding closing the area with the most complex habitat. New Bedford alone has 600 to 700 jobs relying on the clam fishery. It makes sense to open the sandy area of the rest of Great South Channel (Nantucket Shoal), which would increase jobs and economic activity. It would also include an expansion to the existing opening because it is high energy sand with few juvenile fish, so the existing regulations should be maintained while expanding the openings to allow surf clam fishery to harvest clam resource in this area. It makes sense to close the Northeast corner of the habitat area for the Great South Channel (Nantucket Shoal), and we would work with Council staff to identify these areas, provided these other proposed areas were left open.

The Atlantic Offshore Lobstermen's Association does not support opening Closed Area II unless arrangements are made to prohibit scallop fishing in the area from June 15th to October 31st, the same timeline that the groundfish industry has agreed to stop trawling in that area because up to 80 percent of lobsters are eggers or v-notched females in this area, and dredge damage is catastrophic towards the reproductive success of the lobsters.

Henry McCarthy, former commercial fisherman in Gulf of Maine: Supports Alternative 1 (No Action) for all dedicated habitat research areas. Habitat Amendment 2 funds should be redirected to train the Council to manage the Gulf of Maine and spawning biomass. It is painfully clear that managers do not know what they're doing.

Ed Barrett, commercial fisherman; served as mobile gear representative on the Stellwagen Bank National Marine Sanctuary Advisory Council: Supports Alternative 1 (No Action) for all dedicated habitat research areas. I do not believe goals stated in the environmental impact statement would be met. The SBNMS SAC zoning working group met for over four years and could never reach a consensus on whether dedicated habitat research areas would work. Regarding the proposed Gulf of Maine (Massachusetts Bay) spawning closure, Amendment 16 is

to blame for the cod disaster. This measure should be implemented through a groundfish framework, where I would support reasonable trip limits.

Rich Antonino, charter boat captain, F/V Black Rose, Green Harbor, MA, and member of Stellwagen Bank Charter Boat Association: Agreed with comments made by other members of Stellwagen Bank Charter Boat Association. Supports Alternative 1 (No Action) for all dedicated habitat research areas in western Gulf of Maine (Stellwagen Bank). Managers don't have an understanding of what our customers are seeking when they recommend that we target dogfish when customers are paying \$1,200 per day; there is a reason dogfish are going for \$0.08 per pound at the market. Implementation of dedicated habitat research areas would increase the recreational fishing vessel cancellations due to safety concerns for vessels. Trips in April and May (when weather is an issue and variable) would have to be cancelled if weather is a concern and vessels have to travel 30 or more miles to catch fish. This action would remove customers if they are expected to wear a life jacket to take trips where safety concerns exist. Spring season customers would make the choice to travel south to fish in the Gulf of Mexico, if trips north are expected to take two to three hours each way to the fishing grounds. They would not return in the summer if they did not return in the spring. Economic impact is a lot more than most realize. We spent so much time building our customer base to lose it arbitrarily.

Jeff DePersia, Chasin' Tail charter fisherman: Supports Alternative 1 (No Action) for all dedicated habitat research areas. We've already dealt with other closures, this is too much.

Stephen Welch, commercial fisherman in Plymouth, MA: Agreed with Mike Pierdinock's comments. I am the last federally permitted groundfish boat in Plymouth, where there used to be 34 boats. Supports Alternative 1 for dedicated habitat research areas. Back in April 2014, we attended the Council meeting and asked for spawning rolling closures to protect fish and to do something about the destruction that catch shares caused our community. We gave up everything, lost jobs and boats. I do not support any more government regulations.

Kevin Scola, commercial fisherman for Sector X, member of the Marshfield Commercial Fishermen's Association, member of the Massachusetts Lobstermen Association, and member of the Stellwagen Bank Charter Boat Association: I have been fishing commercially since I was 18 years old. At some point, we have to do what is right; there is disconnect between right and wrong; this is wrong for a lot of reasons. [Craig McDonald] mentioned four to five boats will be impacted [by the dedicated habitat research area closure for the western Gulf of Maine], but the hearing room is filled. The human value for food consumption is not being considered. The circle of life does not apply to humans; we cannot teach our kids how to fish. The closure on Duxbury and Plymouth beach for flounder harvest did not lead to a recovered flounder population after 15 years with no fishing disturbance. In the past, we fished at Duxbury beach for 4,000 or 5,000 pounds of flounders in one night; today, Cormorant birds are to blame for the low flounder stock. I sat and watched one cormorant eat 25 juvenile flounders in 45 minutes. We do not consider other factors that remove fish. Humans have equal right as other species; why is it that other species can use these resources, but we can't. When the Stellwagen Bank Sanctuary was established, [fishermen] were never supposed to have been closed out of the areas. Supports Alternative 1 (No Action) for dedicated habitat research areas. Existing closures should be used for research.

Dave Marciano, F/V Hard Merchandise: Supports Alternative 1 (No Action) for all dedicated habitat research areas. It is a resource grab for a handful of researchers to ensure job security. The research effort and taxpayers' dollars should focus on the catch share disaster. We should start holding people accountable for implementing catch shares.

Michael Cleary, Pembroke recreational fisherman and member of the Stellwagen Bank Charter Boat Association: Supports Alternative 1 (No Action) for all dedicated habitat research areas. Catch shares have devastated Stellwagen Bank Sanctuary, which was highly productive. The area was never meant to be harvested commercially with large boats. It would be difficult for customers to pay to recreationally fish with the majority of the time being spent steaming (six hours minimum). I enjoy fishing and I do not want to see fishing taken away.

Tom DePersia, Marshfield charter boat fisherman: I have been fishing for groundfish on Stellwagen Bank for over 40 years; for 22 of those years, I have been fighting Craig McDonald. Supports Alternative 1 (No Action) for dedicated habitat research areas in the western Gulf of Maine (Stellwagen Bank). The Gulf of Maine closures by the NOAA's emergency action from September 1st to May 1st and its likely continuation after May 1, 2015 makes this proposal totally inappropriate. The proposed 55-mile reference area is where we fish.

Prior to sector management, we had 15 to 21 miles steam one-way to fishing grounds, and we fished in 100 feet of water, and caught our limits most days; it was great. Sector management led to large dragger vessels catching all of the fish on Stellwagen Bank. I caught zero pounds of fish after fishing the first three days under the catch share program; this is after fishing in the area for 40 years. We had to steam 35-40 miles to fishing grounds in 200 to 400 feet of water, and we caught fewer and smaller fish. NMFS allowed large dragger vessels to ruin cod on Stellwagen Bank.

This proposal will have a devastating effect on all recreational fishermen and its supporting businesses. The type of research the sanctuary is proposing to do is unnecessary; other sanctuaries have already done this research and this effort will be duplicative. I asked Craig McDonald how long he intends to have this research area; his response was for perpetuity. Sanctuary managers promised that they would not affect the fishery. The justification for closure area location by vessel trip report data only provide discrete fishing locations and does not represent entire fishing area. Vessel trip report guidance requires fishermen to report a single area in between the area they fish. We fish in statistical area 514; why do we need a more-specific reference area? Craig McDonald said that two to four charter boats are fishing in the area; I want to see a show of hands from this room for the number of fishermen that fish in this area [approximately 20 hands were raised]. The 2010 Massachusetts recreational boating survey shows no-one fishing in the area from May through October 2010; this survey only accounts for 44.7 percent of individuals involved in fishing in the area. Therefore, this data to support closure area location is not accurate; they include fishermen from Boston Harbor or Cape Cod Bay, and do not include any boats leaving from Gloucester to go cod fishing. Craig McDonald says we have other alternatives (i.e. tuna, shark, striped bass), which is untrue because we cannot fish for striper outside state waters (i.e. 3 nautical miles). Alternatives based on customer demand; therefore, we do not have other alternatives; they do not want striper, tuna (other than tuna

charter vessels), so we don't have other [target] species. Cod, haddock, and pollock migrate, so we cannot choose only one area to fish. All data from the Sanctuary is really flawed; this should be taken into consideration. Do not restrict us any further.

Brad White, White Cap charters, Northeast Charter Association member, and Stellwagen Bank Charter Boat Association member, North American Charter Boat Operations

Association member: Agreed with comments made by Dave Waldrip, Mike Pierdinock, Charlie Wade, Peter Murphy, Rich Murray, Bill Adler, and Patrick Curney. Supports Alternative 1 (no action) for dedicated habitat research areas in the western Gulf of Maine (Stellwagen Bank) for three reasons: congressional, economical, and science. First, Gerry Studds started the Stellwagen Bank [National Marine Sanctuary] with folks in this hearing room back in 1996, where congressional mandate stated that there wouldn't be any area closures when the sanctuary was established, except for gambling, oil exploration, or harvest of gravel. Last year, recreational fishermen produced \$225 million in revenue. There are 300,000 recreational fishermen in the market that pay \$15 for a recreational license, 22,000 tuna fisherman from New Jersey to Maine, and 1.1 billion boardings for whale watching alone; therefore, this action would be economically detrimental to everyone in this room and to the 300,000 stakeholders that purchase this license. Regarding the science, I respectfully disagree with Superintendent Craig McDonald on one point – vessel trip reports data are inaccurate because there is no 'bread trail' for vessel trip reports. As Captain DePersia said, there are more than four to thirty boats that fish in that area. We suggest an alternate area, adjunct to the Stellwagen Bank to be used for research, and would work with scientists on that.

Edward Coshen, recreational fisherman: Agreed with comments made by Brad White, Tom DePersia, Charlie Wade, and Dave Waldrip.

R. Christian Hafler, attorney in Marshfield, MA and Stellwagen Bank Charter Boat

Association member: Raised \$1 million for conservation. There are a number of things that I've heard over the years that do not make sense to me. I strongly recommend Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. There are legal problems if actions go against Congress. Regarding page five of the public hearing document, all spawning cod areas are devastated by seals and cormorants. Cormorants are an imported species. In Vermont, we eradicated all cormorants on Lake Champlain (135 miles long and 12 to 25 miles wide) because cormorants are killing cod prey species like herring. We wouldn't close Dana Farber to study cancer, so why would we want to close the fishing area to study it? If it is cod breeding grounds that need to be studied, there are simpler solutions than an outright closure. The economic impacts that Brad White mentioned would be devastating. The inshore habitats are far more critical to protection because that is where they spawn. There are 10,000 seals in the harbor, and cormorants. In the past, we used \$75 bounty removals of these species.

Paul Malo, Mako Board member and member of the Cape Cod Charter Boat Association:

Dealing with the same issues all over the country. Mike Pierdinock from Recreational Fishing Alliance and Mako has often criticized the individual fishing quotas and catch share system, which was proposed by the Environmental Defense Fund, which helped spearhead its flawed system, which allows large vessels to buy up quota. Poor statistics on fisheries is a major

problem to try to determine the status of the cod fishery, which was sustainable two to four years ago. The proposed dedicated habitat research area closure is one of the last areas accessible to the ‘for-hire’ fishermen. There will continue to be no cod in Stellwagen Bank Sanctuary in the area until the flawed catch share system is modified or eliminated. We support Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area.

Patrick Paquette, charter fisherman and runs a fishery advocacy company: There were approximately 30 individuals in the hallway that were unable to hear the presentation. Considering that this has been a long-standing controversial issue, it is disappointing that the Council booked such a small hearing room. I believe that the impact conclusions stated in the draft environmental impact statement are incorrect for some of the reasons mentioned earlier today. Effort numbers based on the recreational license sales in the commonwealth were not used in the analysis, which are the most accurate for recreational activity in the proposed closures. In addition, many from the recreational community support research done to address management questions to improve the management of our fisheries. Dedicated habitat research areas should be handled by the Council in a manner similar to an experimental fisheries permit – a funded, developed program should be proposed before the Council and vetted by the public if we are to take the extraordinary step to take away a part of our collective natural resources to set aside for one user group. A potentially unfunded, unidentified set of research for the area that may or may not take place for one user group should have its rationale vetted to the public. As it is stated in the draft environmental impact statement, the rationale provided goes against the stated goals, in some cases within the document. For example, the rationale for keeping the area at a natural state is not supported by the exemption to allow recreational divers and lobstermen in the area, and to prohibit groundfish recreational hook and line from the area. In addition, the goals and objectives of the amendment still require some work – I do not see an essential fish habitat designation for Atlantic herring. The recreational fishing community is here arguing against something that is not being made clear by managers, because it will not be a research area that is kept in its natural state.

Bob Briggs, recreational fisherman and member of Stellwagen Bank Charter Boat Association: I support Alternative 1 (No Action) for all dedicated habitat research areas, particularly exempting charter/recreational fishermen from the research area.

Louis Lagace, commercial surfclam fisherman: Agreed with comments from Dave Borden, Tom Slaughter, and members from Wallace Associates. I support Option 2 for a surf clam exemption for the Great South Channel (Nantucket Shoal) because ninety percent of the clams are caught from that area. Clam and ocean quahog vessels should be allowed in the area on the Great South Channel (Nantucket Shoal); there are not many options for these fishermen. Allow us to continue fishing there because we have minimal impact on the habitat.

Alexander Lagace, commercial surfclam fisherman: Agreed with comments from Tom Slaughter, Scott Nolan, and Louis Lagace.

Rick Foley, member of Stellwagen Bank Charter Boat Association: Agreed with comments from other members of the Stellwagen Bank Charter Boat Association.

Don Campbell, charter boat captain and member of the Stellwagen Bank Charter Boat Association: Agreed with Brad White's comments. I support research, but not in that area (western Gulf of Maine reference area); it would put me out of business.

Mike Sawyer, charter boat operator and member of the Stellwagen Bank Charter Boat Association: Agreed with comments from other members of the Stellwagen Bank Charter Boat Association, and oppose the western Gulf of Maine Stellwagen Bank area.

Bruce Tarr, minority leader of the Massachusetts Senate: Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. This proposed action is unwarranted and not justified.

Steve Weber, charter boat owner: Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area.

Doug Brandon, member of the Stellwagen Bank Charter Boat Association: Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. All these funds for disaster relief are going to the larger (commercial) vessels; this is another action that would affect recreational fishermen.

Dennis Pateras, recreational fisherman: Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. I think it is wrong that I can't teach my 7-year old daughter to catch her first cod fish because my boat is too small.

Paul Diggins, charter vessel operator and member of the Stellwagen Bank Charter Boat Association: Agreed with comments made by other members of the Stellwagen Bank Charter Boat Association. Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area.

Mark Carlson, charter boat fisherman: Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area.

Ryan Bibeau: Agreed with Brad White's comments. Supports Alternative 1 (No Action) for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area.

Warwick, Rhode Island

**Radisson Airport Hotel • 2081 Post Road
December 2, 2014**

Hearing officer: David Preble

Other Council members: None

Council staff: Michelle Bachman, Fiona Hogan

Attendance: Approximately 21 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Ms. Bachman briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

David Spencer, Rhode Island offshore lobsterman and member of Atlantic Offshore

Lobstermen's Association: There is not an alternative in this document that aligns with my preference regarding Closed Area II. However, I would support opening Closed Area II to the groundfish fleet, consistent with the existing agreement between all groundfish sectors and the offshore lobster fleet. Since such an agreement does not exist between the scallop fishery and offshore lobster fleet, I cannot support an alternative to open Closed Area II to the scallop fleet. If there were to be a similar agreement with the scallop industry, I would support opening Closed Area II to all mobile bottom-tending gear types. It is important to highlight increased gear conflict that would occur without an agreement between mobile and fixed gear, which we need to avoid. It would be reckless and irresponsible for the Council to take action to open areas without such adequate gear-sharing agreement. The offshore lobster fishery has been fishing there for over 20 years, and they are willing to vacate the area to allow for groundfish and scallop vessels to fish in the area during those times. I support opening Closed Area II to both fisheries, if both fisheries can be prosecuted between November 1st and June 14th.

Jerry Elmer, Senior Attorney at the Conservation Law Foundation: Federal law requires that essential fish habitat be protected so that fish populations have refuges to feed, grow, and spawn. The Council's proposed Amendment is not acceptable because it has the potential to reduce the amount of protected habitat in New England's ocean waters; reductions of protected areas contradict science and law. The proposal has the potential to open as much as 70 percent of Cashes Ledge in the central Gulf of Maine to fishing, which is contrary to the Council's staff recommendations and analysis. We would strongly urge that the Council continues all the protected areas on Cashes Ledge (central Gulf of Maine), which is Alternative 1 (no action). We support Alternative 1 (no action) for the western Gulf of Maine. We would also support the creation of two new management areas downeast, which is Alternative 2, Option 1 for the eastern Gulf of Maine. Regarding Georges Bank, we would support Alternative 8, Option 1 because this alternative would provide the possibility for new protected areas. This Amendment should be viewed as an opportunity to enlarge protected areas and strengthen our marine ecosystem. I respectfully suggest that these criteria be the primary objective in the evaluation of Council alternatives.

Tom Slaughter, member of the clam dredge fishery and Atlantic Capes Fisheries: The Amendment is designed to protect juvenile aggregations and complex habitats such as cobble and boulders. As you know, I am a member of the clam dredge fishery, which does not operate in complex habitat – doing so would damage the dredge. The fishing area covered by the hydraulic clam dredge fishery is 227 km², which is the lowest of any other gear type, compared to lobster and crab trap/pot which is almost double that number at 340 km², and otter trawl at 49,000 km² of fishing area. We do not disturb other fisheries; we do not catch cod or haddock; and we provide bait for charter boat operations. In tonnage, the clam fishery is the largest fishery in New England, and the second largest fishery based on profits. Any option that includes high energy sand should include an exemption for the clam dredge fishery. We support Option 2 for areas that we fish, including the Great South Channel (Nantucket Shoal) and Georges Bank Cultivator and Shoal area. A closure on Nantucket Shoal, Cultivator Shoal, and Georges Shoal was not originally in the Amendment. NMFS spent \$7.5 million to open the Georges Bank area, in addition to \$2 million from industry funds, and now we are proposing to close the area. This is similar to what will take place in the eastern Gulf of Maine area, which is not the traditional fishing location to the surf clam/ocean quahog fishery, but is used in the Maine mahogany clam industry and they would be put out of business by this action. The clam stocks are the healthiest they have ever been. We've been fishing on Georges Bank for 20 years, prior to the area being closed for paralytic shellfish poisoning, and we have been fishing on Nantucket Shoal for 45 years and want to be able to continue fishing there.

Louis Legace, surfclam fishermen: Agreed with Tom Slaughter's comments regarding economic impacts on the clam dredge fishery. I've been one of the few independent operators in the surfclam fishery since 1981. I've been continuously involved in the fishery, where 90 percent of my catch is harvested in Nantucket Shoal area (within the Great South Channel/Southern New England sub-region), and the remainder on Georges Bank and in the Mid-Atlantic [bight]. We're fishing in the exact same area that we fished 35 years ago. The surfclam resource renews itself fairly quickly and is not depleted. In 1999, managers started the essential fish habitat for a section on southern Nantucket Shoal, and there was an exemption for the surfclam fishery during that time⁹. In the early 2000s, the clam fishery was no longer able to fish that productive area, so we concentrated our efforts in other areas on the Nantucket Shoal. Supports [fishing restriction] Option 2 in the Great South Channel/Southern New England (Nantucket Shoal, including the area that is presently closed) and certain parts of Georges Bank, consistent with Mr. Slaughter's comments. I am a first generation fisherman, and I want to be able to pass on this self-sustaining business to my son.

Jeremy Collie, Professor at the University of Rhode Island: I realize that we are here to discuss habitat alternatives, but want to express that when the Council makes habitat decisions regarding the closed areas, that we do not overlook the fact that the areas were closed in an effort to reduce overfishing. The motivation for re-opening one of the closed areas has been that closed areas are less important as a management tool since the implementation of annual catch limits, but the reality is that annual catch limits and stock assessment models are not working for all stocks. An example is that the assessment model for yellowtail flounder is not working. There is

⁹ Assume this refers to the designation of the Nantucket Lightship Closed Area for groundfish, from which clam dredges are exempt. Clam dredges are restricted in the overlapping Nantucket Lightship habitat closure area, which was implemented later via NE Multispecies Amendment 13.

an overlap between habitat decisions and overfishing, and the scientific and statistical committee would be willing to analyze the effects of opening the closed areas on some of the overfished stocks if asked to do so by the Council. For northern Georges Bank, I support Alternative 1 (no action), which includes the habitat area of particular concern. Data from NOAA's NMFS cruises from 1994 to 2008, for which I was a participant, shows that the area most vulnerable to bottom fishing impacts would be the northern edge of Georges Bank, so I support Alternative 3 to protect that particular area. Habitat data exist for Cox Ledge (Great South Channel/Southern New England) through research conducted for the Rhode Island Special Area Management Plan. These data are available through a report submitted by the University of Rhode Island to the Commercial Fisheries Research Foundation, and we would make that data available to the Habitat Committee.

Peter Wickman, Rhode Island offshore lobsterman and member of the Atlantic Offshore Lobstermen's Association: Agreed with Dave Spencer's comments, and followed up that the timing for access in the closed area is crucial for egg-bearing lobsters in that area, which constitute up to 80 percent of the catch during some months.

Mike Marchetti, former offshore lobster fisherman and general category scallop fisherman: I support [Alternative 2 for Georges Bank], giving the scallop fishery access in the Closed Area II, which would relieve Mid-Atlantic near-shore scallop fishermen. Scallops are simply dying off in the closed areas and we should be given access to the area; the lobster and scallop industry can work on an agreement together. [In the Great South Channel region], I do not support Alternatives 3, 4, 5, or 6 for Cox Ledge Area 1 closure. Cox Ledge Area 1 is a high energy area and I do not see any benefits to closing this area; I've seen bottom habitat in this area change due to storms. There are a dozen fishermen from New Bedford that fish in this region, and the small boat fishery has few areas accessible for fishing. The general category scallop fishermen in this area have minimal impacts on the habitat and we try to avoid fishing in cobble and rocks. I support Great South Channel Alternative 6 for other area closures (i.e. not Cox Ledge Area 1), and prefer options 3 and 4 that would allow scallop dredges in the area.

Chad McGuire, scallop fisherman on F/V William Lee: I favor rotational management based on the history of Closed Area I. When scallop vessels were allowed [back into] the area, there was extremely large fish, which left the area to avoid fishing vessels. These fish moved to undisturbed areas; therefore, it would be beneficial to open some parts of existing closed areas for harvest. In the northern edge of Georges Bank, November through April is not an ideal time for scallop vessels to fish in that area (best time is May and June), so scallop vessels could agree to avoid gear conflict with the offshore lobstermen, to set gear at different depths (greater than 50 fathoms for scallop vessels and 35 fathoms or less for lobster vessels), or to set on the Loran line as they do in Southern New England. Same logic applies for Cox Ledge – if you protect areas that are less than 22 fathoms deep (scallopers and draggers fish in depths greater than that), then rotate between the two closed habitat areas and south of Block Island.

Allen Rencurrel, clam fisherman from Westport, MA: Agreed with Tom Slaughter's and Louis Lagace's comments.

Daniel Cohen, Atlantic Capes Fisheries in Cape May, NJ: If the Nantucket Shoal area in the Great South Channel/Southern New England is closed, that fishery would be shut down, including the processing plants. If an exemption is not allowed, or the area is not kept open, these vessels would have no other options for fishing.

Riverhead, New York

**Hotel Indigo · 1830 West Main Street, Route 25
December 4, 2014**

Hearing officer: David Preble

Other Council members: None

Council staff: Fiona Hogan

Attendance: Approximately 7 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Dr. Hogan briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Jamie Pollack, Managing Director at Shark Angels: Shark Angels is a nonprofit organization that empowers people to work to save sharks globally. This past summer, I went diving and saw mako sharks, and I want to be able to see them. I care about these habitat protections so that sharks can feed on prey species.

Robert Hart, surf clam fisherman south of Long Island: The bottom habitat that we fish is sandy and is constantly moving, and we do not catch any groundfish in our clam dredges. I would like the boats in southern Nantucket areas (Great South Channel/Southern New England) to be exempt from the proposed habitat closures because I do not believe they do much damage. I wouldn't want to see them redirect fishing effort here to the Mid-Atlantic. Supports [fishing restriction] Option 2 for the clam dredge exemption.

Stephanie Whiston, Founder of the Marine Education Foundation: We have a project that we call Oceans Matter, and we are trying to educate the community on the importance of conserving our oceans, the importance the ocean plays in the carbon cycle, and that it is home to the majority of all life – the deepest valleys, the highest mountains, and the largest plains all exists in the ocean. We have only explored five percent of the oceans, and we currently protect two percent of the ocean, which is why we are here. The economic importance of the oceans is valued based on the industries that it affects; the oceans are responsible for one-third of the U.S. gross domestic product, while healthcare is only 18 percent of the gross domestic product. Countries around the world recognize the importance of the economic impact of our changing oceans and the need for ecological sustainability. As we try to demonstrate the importance of marine life and their habitats and their need for saving it, it is important to push towards management for spawning area that restrict all commercial and recreational gears capable of catching groundfish, as well as clam dredges and scallop dredges, and including any activity that would disrupt spawning activity in these areas.

Bonnie Brady, Executive Director for the Long Island Commercial Fishing Association: With regard to the Great South Channel habitat management area, we support Alternative 1 (no action) and/or a limited closure based on spawning areas and/or habitat areas. We do not support any alternative that establishes a new closed area in the habitat document. Within the areas in the

Omnibus EFH Amendment 2 Public Hearing Summary

Mid-Atlantic and Southern New England, our stocks are indeed on the rise and any further displacement of fishing effort would close us out of groundfish commercial fishing in these areas. Regarding the spatial management alternatives, I cannot understand the document well enough to comment on it; I am also not clear on the options regarding Georges Bank dedicated habitat research areas, so I will provide written comments at a later date. Regarding spawning areas for protection, Ms. Brady asked staff to clarify Alternative 3.

Cape May, New Jersey

**Grand Hotel of Cape May • 1045 Beach Avenue
December 5, 2014**

Hearing officer: David Preble

Other Council members: None

Council staff: Fiona Hogan

Attendance: Approximately 22 audience members

Mr. Preble introduced Dr. Hogan and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Then, comments were taken regarding winter flounder essential fish habitat alternatives. Following these comments, Dr. Hogan provided a presentation focusing on the remaining alternatives in the amendment and the public hearing document. After an opportunity to ask questions for clarification, additional public comments were taken.

Jeff Kaelin, member of Mid-Atlantic Fisheries Management Council and staff at Lunds Fisheries in Cape May, former member on the Council's Habitat Committee: Reviewing the baseline work used to establish the updated essential fish habitat designation for winter flounder and winter flounder eggs; this is the southernmost extent of the winter flounder range and very few winter flounder are caught in this area. With the new designations, we would need to determine whether an essential fish habitat consultation is needed or if we should wait until the Amendment is approved with the new designations. In this county, we are asking the Council to reconsider earlier decisions that describe this area as an essential fish habitat for winter flounder eggs, which has become a problem for dredging in the marinas in this county, and beach replenishment in the winter months in an area that relies heavily on seasonal revenue. Dr. Eleanor Bochenek and research assistant Sean Martin of Rutgers University have been working on a white paper at the Haskin Shellfish Research Lab to evaluate the determination made for the area designated as essential fish habitat; recognizing that Cape May's inlets are man-made for the most part. Sean Martin will provide a few comments regarding the white paper, which will be provided to the Council before the end of the comment period. The Mid-Atlantic Fishery Management Council will also work to identify its preferred alternatives at its upcoming meetings.

Sean Martin, research assistant for Dr. Bochenek at the Haskin Shellfish Research Lab:

We were approached to look at the winter flounder essential fish habitat. Cape May is currently classified with all of New Jersey's inland bays, which includes 70 miles of coastline from Cape May County to Beach Haven. Many of the winter flounder have moved northward due to global warming. A lot of the data used for essential fish habitat designations are from 1968 to 2005, so we are looking at data from 2008 to 2014, and we looked at National Marine Fisheries Service's North East Area Monitoring and Assessment Program [NEAMAP] data. Based on the [NEAMAP] data for Cape May County, approximately two to four winter flounder are caught per year, with a maximum of twenty winter flounder caught per year. Many of the marinas have [high] sedimentation rates because they are mostly man-made. Some of the sedimentation rates are up to six inches per year, or 3mm per week, which is enough to suffocate winter flounder

eggs if they were present in the area. We will provide the white paper document by January 8th, 2015.

Rick Weber, South Jersey Marina: Jeff Kaelin has been a great asset in dealing with these Mid-Atlantic issues. I am frustrated because I believe that the winter flounder problem has been a false problem since [EFH was first designated for the species in 1999], and I am pleased to learn of this white paper. We do not believe that there is any winter flounder in the area. I do not know how long it would take the Council to reconsider the winter flounder essential fish habitat [designation] in Cape May, but [to help the process along] I propose that the Council group the Cape May County inlets with the Delaware inland bays because they are climatologically and geologically most similar. [I can understand how the designation includes southern New Jersey given that it] was based on the ELMR program zones, [which show that southern New Jersey historically had] a higher number of winter flounder. It makes sense to group Cape May County with Delaware bays, which is 12 miles away, compared to Great Egg [Inlet] which is 70 miles away. There could be legal challenges that could delay [implementation of the amendment]; if science was provided that could help clarify interpretation of the [winter flounder] essential fish habitat [designation], it would be beneficial to us to do so before the implementation of the Amendment. National Marine Fisheries Service will not move forward with this action without the Council's approval. Anything you can do to help us clarify it in the meantime would be of great benefit. It makes no sense not to dredge now when there are no boats or winter flounder.

E. Marie Hayes, Freeholder at Cape May County Legislature: A year ago, I was approached by many of the businesses in Cape May County about the crisis that we have with dredging, so we put together an initiative of white papers for each municipality relating to the concerns. One of major concerns was the lack of winter flounder which the essential fish habitat designation is [intended] to protect. Prior to becoming a freeholder, I was an owner of a marina for 22 years, and I can tell you unequivocally that winter flounder do not exist here. Cape May County is a tourism-driven market, and anything that could be done to help us would be greatly appreciated.

Peter Hughes, Corporate Director of Sustainability at Atlantic Capes Fisheries: Agreed with comments made by Jeff Kailen, Sean Martin, Rick Weber, and E. Marie Hayes. The economic impact from the essential fish habitat designation for winter flounder has been significant.

Stewart Farrell, Director and Founder of the Richard Stockton Coastal Research Center: Our involvement with the coastal communities is to derive sedimentation information prior to permit granting with the New Jersey Department of Environmental Protection. The New Jersey Department of Environmental Protection is in the process of re-writing its manual. We are part of a committee of city officials and others to help the New Jersey Department of Environmental Protection re-write its 1997 dredging manual. One of the issues raised was the upcoming January 1st closure for winter flounder. The data gathered from Rutgers University studies on habitat and fish availability is being presented to the New Jersey Department of Environmental Protection.

Peter Hughes, Corporate Director of Sustainability at Atlantic Capes Fisheries: In regards to the sea scallop fishery, scientific evidence shows no correlation between closures and increased fish productivity, yet the document repeatedly states increased fish productivity is the

rationale for these closures. Scientific studies for existing closures do not provide any evidence for increased productivity from closed areas. The swept area seabed impact model that was used to design these alternatives shows that an increased catch per unit effort is the best way to reduce harm to habitat. Increased catch per unit effort is accomplished by allowing access to the most productive fishing grounds. The document provides no analysis on potential unintended consequences of closures, including effort displacement and changes in bycatch composition. These types of problems have arisen in other fisheries in other regions such as Alaska. Certain alternatives being considered for inclusion in this Amendment would significantly hinder progress made on the scallop rotational management system by limiting access to historic scallop beds in Closed Areas I and II, and the proposed closed areas to scallop vessels in currently abundant scallop beds in the Great South Channel and Georges Shoals to the west of the northern edge.

Most of the options produce too many negative impacts for too few (if any) benefits. The Magnuson-Stevens Act allows action for habitat management only within practicable standards; therefore, the weak scientific data cannot justify the severe economic impacts; we are beyond the point of simply closing areas and hoping something good will happen. I support no closures unless there are scientifically-proven reasons to do so, and that the connection to habitat and productivity is proven. This will minimize gear contact on the seafloor and provide the greatest habitat protection.

However, if closures are selected, I support Alternative 7 for Georges Bank habitat management areas. I strongly oppose any position that includes continued closure of the northern edge of Closed Area II because it lacks practicability and has no scientific basis. Alternative 7 is based on the Swept Area Seabed Impact analysis and includes areas that protect a diverse range of essential fish habitat compared to other alternatives; the area is more suitable to meet the goals of the Amendment for habitat protection and spawning, and it is the only alternative that provides protection within a practicability standard as required by the Magnuson-Stevens Act. The northern edge areas contain the densest beds of scallops in the entire northwest Atlantic; opening the area would allow for increased catch per unit effort, thus decreasing bottom contact time and overall habitat impacts. As identified by the Closed Area Technical Team (CATT), cobble habitats with higher vulnerability also occur in areas adjacent to the proposed northern edge closure. No juvenile cod hotspots were identified in the northern edge of the proposed closure area for Closed Area II. Haddock hotspots are observed in a very small area of the northern edge, in much deeper water. The haddock stock is very abundant and does not require special spawning habitat protection. The 'essential fish habitat south' habitat management area (Alternative 7) will provide comparable research opportunities to a northern edge closure without leading to high levels of effort displacement.

Regarding the Great South Channel, I support Alternative 2 (no closures) because none of the alternatives identified by the Council takes into consideration the extensive clam fishery that takes place in those areas, and rationale in the public hearing document for clam dredge exemption states that: "Habitat Management Option 2 would enact a complete closure to all mobile bottom-tending gears, but allow an exemption for hydraulic clam dredges. The reason for the exemption is that hydraulic dredges can only be used in sands and fine gravels, which are less vulnerable to adverse effects of fishing as compared to cobble- and boulder-dominated habitats,

as long as the sands and fine gravel are located in high energy environments subject to physical disturbance from bottom currents and storm wave action. In places like the shallower portions of Georges Bank and Nantucket Shoals, cobble- and boulder-dominated habitats are patchily distributed among sand- and granule-pebble-dominated areas (according to the SASI habitat map and other substrate maps). The assumption is that hydraulic clam dredges, if exempt from habitat management area restrictions, would operate in the sand and fine gravel patches intermixed between areas dominated by cobble and boulder and, therefore, have a minimal adverse impact on benthic habitats in areas where they can safely be used and where surf clams are more abundant. While it might be possible to define the boundaries of habitat management areas so that they cover cobble-boulder areas and avoid sand and granule-pebble areas, this is difficult due to the patchiness of the substrate distribution. A compromise is to allow the use of gears that can only fish in sand- and granule-pebble-dominated parts of the habitat management area. Although, hydraulic clam dredges are exempted for some year-round groundfish closure areas because they have limited bycatch of groundfish, they are not exempted from any current habitat closure areas.¹⁰

Peter Himchak, Lamonica Fine Foods and Associates: Agreed with Peter Hughes' comments. The Georges Bank and Great South Channel/Southern New England areas currently support extensive clam fishing due to the paralytic shell poisoning protocols developed by the fisheries. I worked on a scallop fishery and clam fishery comparison for each of the 32 alternatives, and I have observed that there were significant gains in the scallop fishery at the expense of the clam fishery with regards to the proposed alternatives. I did this comparison because the two fisheries have common interest in both of these critical fishing areas. I think that the two fisheries can and must choose preferred alternatives that allow for peaceful coexistence of both fisheries, not alternatives that are detrimental to either fishery. I am surprised that there are any management alternatives that have a significant negative impact on surfclam/ocean quahog fisheries in either of these areas, because the public hearing document states that the ocean quahog/surfclam dredge is a mobile bottom-tending gear, it is not considered gear capable of catching groundfish. The other issue is that to rebuild groundfish stocks, spatial management alternatives for mobile bottom-tending gear are deemed necessary to minimize adverse effects on fishing on highly structured seafloor habitats with long recovery periods. Hydraulic clam dredges do not target highly-structured seafloor habitats and the dynamic habitats have a fast recovery period. I recommend that the Mid-Atlantic Fishery Management Council move to reject all alternatives that have negative impacts on the clam fishery in both areas, or move in favor of an exemption for the clam dredge (Option 2) in any of the spawning management or habitat management alternatives.

Peter Baker, PEW Charitable Trust: On Georges Bank, we support Alternative 8, Option 1. I think the public will focus on the climate change and the cod fishery disaster, which means that protecting more of the habitat from destructive fishing gear is important. It is important to protect the right areas – the hard bottom, and to protect large areas for fish to be productive. Attorneys' past talking points stated that productivity does not equal more fish, and it is trying to prove a negative. The fact that a study does not prove something does not mean that it does not exist. I encourage the Council to protect more bottom habitat and leave a legacy for the future rather

¹⁰ New England Fishery Management Council. 2014. *Omnibus Essential Fish Habitat Amendment 2: Public Hearing Document*. Page 51.

than take a short path for short-term economic gain that leads to a race for access to the bottom habitat.

Jim Gutowski, member of Scallop Advisory Panel and Fisheries Survival Fund participant:

Area closures located in areas of historical scallop abundance directly threaten the future success of scallop area management. Rotational area management is vital to the success of the scallop stock and requires access areas. Habitat area closures directly conflict with the ability for scallop rotational management system to work. Accessing the most productive areas increases catch per unit effort, is cost-efficient and safer, and reduces bycatch in these areas. Closure of productive scallop areas will lead to die-offs, as the record shows. The analysis in the document focuses heavily on groundfish, while the scallop fishery is most valuable fishery to the nation. I support the Fisheries Survival Fund's positions for habitat alternatives on Georges Bank and in the Great South Channel, and for the Georges Bank spawning areas. The record in the document is strong to support the use of hydraulic dredges in the areas as well.

Rick Larson, member of Scallop Advisory Panel for 15 years: Agreed with comments made by Jim Gutowski and Peter Hughes.

Jeff Kaelin, member of Mid-Atlantic Fisheries Management Council and staff at Lunds Fisheries in Cape May, former member on the Council's Habitat Committee, member of the Fisheries Survival Fund: Agreed with Peter Hughes' comments for no closures in the Great South Channel and the exemption for hydraulic clam dredges. The confusing nature of Table 1 of the public hearing document implies that the mid-water trawl fishery is a bottom-tending gear capable of catching groundfish¹¹. The scallop, raised footrope whiting, and the mid-water trawl are all exempted fisheries for the year-round closures. The habitat document does not sufficiently analyze impacts of alternatives to the exempted fisheries. Regarding mid-water trawl, commercial fishing regulations at 50 CFR 648.2 define mid-water trawl as "trawl gear that is designed to fish for, is capable of fishing for, or is being used to fish for pelagic species, no portion of which is designed to be or is operated in contact with the bottom at any time. The gear may not include discs, bobbins, or rollers on its footrope, or chafing gear as part of the net." Therefore, if someone is fishing with a mid-water trawl gear on the bottom, it is an opposition of the existing regulations. Mid-water trawls are capable of catching groundfish, which is why there is a haddock catch cap for the herring and mackerel fishery on Georges Bank and the Gulf of Maine. Mid-water trawl vessels are learning how to avoid exceeding the haddock cap in the herring fishery. Bycatch of other groundfish in the herring fishery is minimal, which is why it is an exempted fishery. I noticed that Volume 2 of the Amendment focuses on canyon Habitat Areas of Particular Concern, and I am not sure how the coral protection and the HAPC designations in that area would align. We look forward to working with the New England Fishery Management Council on the coral amendment as well.

Paul Eidman, Anglers Conservation Network: Healthy fisheries start at the bottom and I am in favor of long-term conservation of essential fish habitat. To achieve this goal, you need to preserve the spawning habitat of Atlantic herring and protect diversity of the bottom habitat where juvenile fish would have places to hide, survive, and grow into adulthood. Consider the

¹¹ This table is not as clear as it should be; it includes a combined list of gears capable of catching groundfish and mobile bottom-tending gears; each gear listed does not necessarily meet both criteria.

groundfish prey species that rely on the same habitat to live in, forage, and reproduce. Nothing would make me happier than to watch Atlantic herring populations flourish and recover to historical levels of abundance.

Brent Sunner-Schmell, recreational fisherman: Agreed with Paul Eidman's comments. I'd like to see a primary focus of habitat maintenance and restoration in the alternatives being considered in the sub-regions. Looking at increased habitat restoration would benefit everyone and lead to abundant fish populations overall, not only maximum sustainable yield. We should focus on improving habitat and fishery stocks, and increase what we have now rather than focusing on the short-term economic benefits.

David Frulla, Fisheries Survival Fund: The Swept Area Seabed Impact model shows the best way to protect habitat is to increase catch per unit effort, especially within the scallop fishery. Regarding the alternatives proposed for the Great South Channel and Georges Bank, these are high energy areas where any impacts of fishing gear will be the least noticed and will most-quickly vanish. Regarding Alternative 7 on Georges Bank and Alternatives 4 and 5 in the Great South Channel, there are areas of sand and small gravel that are distinct from the areas of more complex habitat, as seen in the draft environmental impact statement's maps. There are distinct areas for habitat protection. Alternatives 4 and 5 for the Great South Channel create either the Great South Channel or Nantucket Shoal habitat management area. We strongly oppose Alternative 3, which extends [the Great South Channel] area to the east. The Habitat Plan Development Team and Closed Area Technical Team proposed Alternatives 4 and 5 based on a collaborate effort between scientists and industry to maximize biological and economic gain in habitat management. The Council should look for these green-green alternatives where you have green on economics and green on habitat to meet practicability standards. There are court cases that have stated clearly that practicable does not mean 'anything possible' as an alternative. The Habitat Plan Development Team analysis confirm that Alternatives 4 and 5 for the Great South Channel protect the same amount of valuable area compared to the four areas originally proposed to the east. The eastern extension of that area does not include any juvenile fish hotspots and therefore cannot be justifiable for the protection of juvenile fish; there is no other rationale for its implementation. The eastern extension of Alternative 3 would cause economic losses of \$33 million to the fishing industry, 82 percent would impact the scallop fishery, and these losses cannot be recovered through a redistribution of effort to alternate fishing sites. There are millions of dollars in revenue at stake. The clam fishery's economic concerns should also be considered; they have discussed the strength of the analysis that applies to their fishery and how the areas they fish are distinct from areas of complex habitat. The Fisheries Survival Fund supports Alternative 1 (no action) for the Georges Bank spawning area to allow for continued access to the Nantucket Lightship, Closed Area I, and Closed Area II access areas. The Fisheries Survival Fund would also support seasonal closures from February 1st to April 15th in Alternative 2 for Closed Area I and II, or Alternative 3, only if [fishing restriction] Option C is selected to exempt scallop vessels. Scallop fishing is currently restricted from the southern half of Closed Area II from August 15th to November 15th to reduce yellowtail flounder bycatch. Scallop vessels do not target groundfish and are limited by sub-annual catch limits.

Fred Akers, Administrator of the Great Egg Harbor Watershed Association: We are very concerned that ecosystem overfishing in the Northeast U.S. Continental Shelf Large Marine

Ecosystem, combined with the unprecedented threats posed by climate change and shifting ecosystem functions are causing a growing cascade of permanent adverse impacts to the marine ecosystem. The recent collapse of the Atlantic cod population is one of the current examples of marine ecosystem problems that should be motivating stronger protective actions to enhance marine ecosystem protections. In the time series of human resource extraction from the marine environment, no time other than the present has been more critical to increasing marine ecosystems protections, and we need a sense of urgency to do this before it is too late. The time is long past due for fisheries managers to adopt management measures within an ecosystem framework wherein multiple factors are considered, including species interactions, system-level productivity, and habitat protection. The Omnibus Habitat Amendment 2 presents a critically important vehicle for improving the network of essential fish habitat areas at a time when threats to the ocean are increasing and ecosystem states are changing, likely affecting ecological resilience and the potential for recovery of important goods and services. However, Omnibus Habitat Amendment 2 mostly offers a range of alternatives for reducing habitat protection, not enhancing or improving it. In terms of area alone, the Amendment offers no alternatives to status quo that would enhance habitat protection through an expansion of the overall area protected in the region. Given the current state of some of the managed fish populations, protecting more, not less habitat would seem to be an alternative worthy of consideration.

We did not find the arguments for diminished habitat protection in the preferred alternatives either compelling or convincing to respond to the real problems in the marine ecosystem today. Consequently, we addressed as many of the specific management alternatives as we could with the theme of maintaining the status quo, which is not nearly enough protection. On the positive side, we are encouraged to see the opportunity to designate habitat areas of particular concern. We are especially concerned that cold-water corals must be protected now before the corals are lost, and we recommend that all the proposed habitat areas of particular concern be designated now. Likewise, we think that Dedicated Habitat Research Areas are essential, and that as many as possible should be designated now.

Mr. Akers also submitted written comments at hearing, which includes categorical comments for essential fish habitat designations, spatial management alternatives, and habitat management alternatives.

David Wallace, Surfclam/Ocean Quahog fishery representative: Thankful that the Council held more than one public hearing in the mid-Atlantic region because so much of the Amendment [could have] major impacts to the fisheries in this region. The clam industry is the third largest fishery managed in the Northeast region and second largest managed by Greater Atlantic Regional Fisheries Office and the New England Fishery Management Council and Mid-Atlantic Fishery Management Council, next to the scallop and lobster fishery (managed under Atlantic States Marine Fisheries Commission). The clam industry generates large revenues from Virginia to Gloucester, Massachusetts, but our footprint of the area covered is only 277 square kilometers per year, which is less than the lobster trap fishery. There are many clams in dense areas, so we do not need to cover large areas to fish. Since the ocean has been warming, we have seen surf clams from this region migrate very slowly offshore and to the north, which is exactly what we would expect. The clam industry has unique characteristics: we don't have a recreational fishery component or different gear type components. We are a homogenized group

that largely has similar interests. We fish on high energy sand and very small gravel, which are the only places where clams can live. Because our gear moves very slowly and since the water jets makes a lot of noise underwater, all mobile critters retreat. We have very low bycatch, except the lady crab and other small animals, some of which can escape through the gear.

New England represents about half of all surfclam production in the nation, from Nantucket Shoal and Georges Bank. Nantucket Shoal should have never been a habitat closure; the clam industry took a big hit then. A small portion off Nantucket remained open to the clam fishery, forcing small boats to concentrate in that small area. Nantucket Shoal needs to be reopened through this action because there is no scientific justification for the area to be a habitat closures or a groundfish closure. There is no area for fish to hide and no food for the fish to eat in that area. There is no structure to protect, unless you want to protect sand waves which I do not see that as a practical consideration. We do not advocate any new closures in or around Nantucket Shoal (Alternative 2 for Nantucket Shoal) because these closures have no benefit, but these closures do severely restrict the clam fishery, which is the only fishery that operates in the area. I do support opening the existing closure in the Nantucket Shoal area. All new proposed areas cannot be justified because they are based on interesting theories for closures, but there really is no justification. Regarding Georges Bank, it took ten years to re-open the area due to the paralytic shell poisoning closure. NOAA's National Ocean Service spent \$7.5 million on a harmful algal bloom project with: University of Maine, University of New Hampshire UMASS, and Woods Hole Oceanographic Institute; state agencies in Maine, New Hampshire, and Massachusetts; and the clam industry. We worked with them and demonstrated that we could monitor and subsequently develop a protocol to track every pound of meat to determine that the meats are fit for human consumption (i.e. no paralytic shell poisoning). Opening the Georges Bank area to clam fishing allows [access to] hundreds of millions in assets. It would be truly remarkable for another agency of NOAA, National Marine Fisheries Service, to now close the only area where surf clams live on Georges Bank. We strongly suggest that no new closures take place on Georges Bank. We would like to have access to the southern end of Closed Area II, because we do not catch groundfish and do not interfere with groundfish spawning.

Mr. Preble then went over the timeline for submission of Amendment to the Council and the implementation of the habitat management alternatives.

Daniel Cohen, Atlantic Cape Fisheries: Since I will not be at other meetings, I wanted to acknowledge that the Council will receive thousands of comments from people advocating for long-term closures and the largest area closures possible. The issue is not a popularity contest. I hope the Mid-Atlantic Fishery Management Council and New England Fishery Management Council recognize that fishermen have become scientists to the extent that we are now in a risk-averse environment. We are restricted unless we can prove science supports what we are doing, such as the Swept Area Seabed Impact model data on surfclam dredges. The Council [should] look at long-term effects and maintaining a balance of the science and fishery.

Baltimore, Maryland

**Royal Sonesta · 550 Light Street
December 9, 2014**

Hearing officer: David Preble

Other Council members: None

Council staff: Fiona Hogan

Attendance: see attached (approximately 20 audience members)

The hearing was held during the Mid-Atlantic Fishery Management Council's December 2014 meeting. Mr. Preble introduced Dr. Hogan and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Dr. Hogan briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

David Wallace, Surfclam/Ocean Quahog fishery representative: I represent the clam fishery. The Nantucket Shoal area has been closed to clam fishing for about 10 years. The Great South Channel was originally proposed for closure 10 or 12 years ago, but the Council and the Northeast Regional Office decided to move the closure from the Great South Channel (complex habitat) to Nantucket Shoal, which constitutes high energy sand. Essentially, the only commercial product that is available on Nantucket shoals is surfclams. Looking at the [[Nantucket Lightship Habitat Closure Area], there is an angular portion that goes along the Nantucket area; the Great South Channel edge is where the habitat is composed of mostly sand. At least 17 small clam boats in New England fish in this area, which is the only area that is available to them unless they try to go farther offshore to Georges Bank. Clam boats go out light and come back loaded unlike many other fisheries, and the vessel is less seaworthy when it is loaded with clams. There was a proposal to close part of the Great South Channel, so other industries decided they would propose to close the area where the small boat surfclam fishery occupies. We propose that you open the Nantucket Shoal and Nantucket Lightship areas to all gears because there are few fish, no scallops, and significant amounts of clams in the area. In the past, before the area was closed, there was a significant amount of fishing on the west side of the closed area on Nantucket Shoal. If the New England Fishery Management Council and the Northeast Regional Office were to keep the Nantucket Shoal and Nantucket Lightship closures, and implement the proposed closures on the sandy side of the area (which is just west of the island of Nantucket), then we support Option 2, to exempt surf clam dredge gear.

Georges Bank was closed to fishing because of paralytic shellfish poisoning back in 1990. The industry along with NOAA's National Ocean Service, the Federal Drug Administration, Woods Hole Oceanographic Institute, and the states of Maine, New Hampshire, and Massachusetts all worked together to come up with a protocol that would allow fishing on Georges Bank. NOAA's National Ocean Service provided \$7.5 million and the industry provided the rest to get to almost \$10 million to open the Georges Bank area. Regarding the [Georges Shoal 2 Mobile Bottom-Tending Gear area], Cultivator Shoal and Georges Shoal are where 90 percent of surfclams on Georges Bank are located, about 300⁺ square miles. [This area] is proposed to be closed in exchange for opening the habitat area of particular concern at the top of Closed Area II because

there are scallops in that area. Post processing (i.e. pounds of meats sold) for the surf clam fishery in that region is worth about \$40 million, while the scallop industry says there are about \$20 million [worth of scallops] in the habitat area of particular concern and the northeast edge. That would not be annual profits for scallops because the rotational management system would close the area for scallop access some of those years.

We are very concerned with closing that area on Georges Bank; there will be no place to catch significant amounts of surfclams on Georges Bank, which is about 60 percent of the harvest of surfclams. This would redistribute fishing effort (600,000 to 800,000 bushels) back to the Mid-Atlantic. Areas off the coast of New Jersey and Maryland in deep water are being avoided by the clam industry in order to allow the smaller surfclams in the area to grow for future harvest. If the clam industry was shut out of areas on Nantucket Shoal and Georges Bank, the impact would be significant. The clam industry, with the exception of ocean quahog and one clam plant in New England, would no longer exist if these closures are implemented. We do not catch groundfish, and we only fish in high energy sand. This document supports all of those statements, and we very much would appreciate your support. In the eastern Gulf of Maine, there is a proposed closed area that is gigantic; the entire Maine ocean quahog mahogany fishery exists in that area. If that area is closed, Option 2 to exempt hydraulic clam dredges should be implemented. The industry in that area fishes in mud, which has no impact to groundfish, and the fishery should be protected from business closure.

Joseph Gordon, PEW Charitable Trust: We have already submitted detailed comments, so I will focus on the Mid-Atlantic perspective. I see a lot of the analysis shows neutral impacts for stocks that the Council manages. We urge the Council to give further considerations to ecosystem connections that are critical to the Council's managed species, species managed by other bodies, protected species like marine mammals, and species that are not managed, by the Council, but are important to stakeholders. We hope that the Mid-Atlantic Fishery Management Council takes a strong position to continue to protect spawning grounds for Atlantic herring, which are some of the most abundant and important forage fish in Mid-Atlantic waters, providing food for migratory species like bluefish, bluefin tuna, and striped bass. The Omnibus Habitat Amendment 2 proposes alternatives in each of the regions that provide significant benefits to Atlantic herring, particularly those habitat areas that overlap with spawning grounds, such as Alternative 8 on Georges Bank; Alternative 2 in the downeast Maine area of eastern Gulf of Maine, and Alternative 1 (no action) in the Jeffreys Ledge and Stellwagen Bank area in the Western Gulf of Maine. The Council should do more to protect the Great South Channel, including Nantucket Shoal, which is an important spawning area for Atlantic herring. We hope the Mid-Atlantic Fishery Management Council's letter submitted will support these alternatives. The magnitude of the benefit of these closed areas depends on the gear restrictions set in place. Mobile bottom trawl and dredge gear can have significant impacts on seabed and disturb aggregations of spawning herring. Therefore, the use of these gears should be limited in these areas. The New England Fishery Management Council will receive thousands of comments, and we urge council to seriously consider these comments. These thousands of commenters are not in the room today and are not technical experts, but they are relying on the Council to make the right stewardship decisions to protect habitat for the long-term benefit of the nation.

Bonnie Brady, Long Island Commercial Fishing Association: We did have a [public hearing] in Riverhead and unfortunately no fishermen were in attendance. I and four other members of some shark organization attended the meeting. There was no internet in the room, so I could not access Volume 3 of the Amendment to make any effective comments. My comment is regarding the public hearing document. [I was looking for a] cheat sheet for the specific choice of alternatives. This document has a lot of information, but there is nothing there for the public to comment on. No one at that meeting was able to offer comment because the public hearing document is not clear. Everyone was considerate at the meeting, but if industry is going to comment on the document, they need to know how the proposed alternatives will impact them. I ask that if there is some other document that can be prepared to help commenters understand the range of alternatives, that it should be provided.

Peter Himchak, Lamonica Fine Foods and Associates: [Jessica Coakley, MAFMC staff member], I appreciate your comment guide. I testified at the Cape May hearing on the 16 non-preferred alternatives for Georges Bank and on the nine alternatives for the Great South Channel/Southern New England, so I won't reiterate those points. Why are there proposed alternatives that would negatively impact the clam industry in either area, given the information about the gear impacts and the substrate that the clam fishery operates? I support [fishing restriction] Option 2 for any alternative under consideration. Agreed with Dave Wallace's comments.

Brad Sewell, Natural Resources Defense Council: We will submit written comments, but wanted to register our concern about the direction that the Amendment is heading regarding the set of preferred alternatives. This Amendment will have significant implications to Mid-Atlantic-managed species and likely beyond. We are concerned that the set of alternatives would significantly reduce the areal extent of Atlantic Ocean habitat protection. This would be a mistake. We would lose essential nursery and spawning habitat for Atlantic cod for the Gulf of Maine and Georges Bank stocks, and other highly-depleted groundfish stocks. Studies show that larger and older cod are more abundant in the current closed areas, and that fishing is concentrated along the edges of these closure areas because of the "spillover effect". No spawning areas and areas determined to be important for the growth of cod should be open to damaging fishing gear. Therefore, biological information on nursery and spawning habitat areas needs to be overlaid and with results of the Swept Area Seabed Impact model to determine alternatives for implementation. Swept Area Seabed Impact model was an innovative product and of great help to this Amendment, but it should not be the sole basis for selecting areas to forward to the National Marine Fisheries Service for approval, because it relies upon single, structural habitat degradation as the parameter, and does not consider biological information, and is limited by the availability of data in many areas in the New England region where the information on a particular habitat feature may not be adequately available. As a general matter, our view is that the areal extent does matter, especially when there is limited information. The greater the areal extent, the better chances there is to have an adequate mosaic of habitat areas for protection. The greater the habitat area, the more ecosystem services provided to managed fish populations. Large and adequately enforced protected areas increase the health and size of fish populations; for example, age structures are benefitted by closed areas. We need more area protection in the region, not less. This action will help us to recover other fish populations

despite management through annual catch limits, and build in resilience to support more sustained fish populations even as environmental conditions change.

New England is fortunate to have a set of large diverse habitat areas under protection. The Natural Resources Defense Council has been undertaking a study of the implementation of the Magnuson-Stevens Act's essential fish habitat provisions. One thing that we've seen in all regions is that councils have a pattern of protecting areas based on what areas cannot be fished, or areas where there is no interest in fishing. New England has a large diverse set of protected areas, based on different set of paradigms. This is a sobering decision for the Council, but it is vitally important one with permanent consequences. We urge the Council to take the long view, however difficult it may be.

Tom Slaughter, Atlantic Capes Fisheries: The area that was closed on the southern end of Nantucket Shoal for the last eight years [i.e., the Nantucket Lightship Habitat Closure Area] has made no difference whatsoever because fish do not live there. The area being proposed for closure is interesting: on the Far East side, there is some structure, but the shoal is mostly composed of high energy sand. I want to explain what I mean by high energy sand: let's say you're fishing for clams in 90 feet of water and the tide changes suddenly, now you're fishing in 40 feet of water in that same area; fish do not swim through it or live in these high energy areas. It is an area that does not need to be closed. On Georges Bank, you have some of the same happenings. Hydraulic clam dredges only have a small area in New England that they can fish. The fishery is the largest in New England by tonnage and second largest by dollars to the scallop industry, but the area swept by clam dredges is 227 km² compared to lobster/crab pots, which is 340 km². We have the smallest footprint in New England, and are not going to catch cod, haddock, or any groundfish because fish swim away to avoid clam dredges. Clam dredge bycatch is less than 300 pounds annually for all fish; I've caught some skates, and occasionally may catch one flounder. Studies in Europe and the U.S. show that you can dredge an area for weeks at a time, and the area will be restored back to normal if you stopped dredging for 48 hours. It is interesting to me that there is no preferred alternative for clam exemption (Option 2). To think that the Council, in all its wisdom, can shut down one of the most well-managed fisheries by NOAA standards, an industry that has significant recruitment, supporting 700 to 800 families. Supports Option 2 for selected alternatives.

Tom Alspach, Sea Watch International: Sea Watch International is the largest processor of surfclams and ocean quahogs in the U.S., and processes clams harvested on Georges Bank. Sea Watch is opposed to area closures on Nantucket Shoal, Cultivator Shoal, and Georges [Shoal]. Although there is comity between the two Councils, we have a conundrum of jurisdiction in New England. Geographically, this fishery is operates substantially within the New England Fishery Management Council's jurisdiction, but the surfclam/ocean quahog fishery is regulated by the Mid-Atlantic Fishery Management Council. The New England Fishery Management Council should keep in mind that this conundrum works both ways. For example, it would seem that the New England Fishery Management Council would not be particularly happy if the Mid-Atlantic Fishery Management Council closed Elephant Trunk as part of its Habitat Amendment, affecting the scallop fishery which is regulated by the New England Fishery Management Council. Both councils should recognize respective management jurisdictions. The reality is that the closures of these high energy sand areas that have already been described would have very major

implications for the policy decisions made by the Mid-Atlantic Fishery Management Council over a number of years. It has been at least a decade since this Council has expressed concern about moving clam fishing pressure off New Jersey and out onto Georges Bank. Historically, for the past 20 years, the industry was taking 60 to 70 percent of its harvest from a few [ten minute squares] squares off New Jersey; this is not good for the long-term viability of the fishery. Closure of these areas that we depend upon, where half of clam resource exists, will bring us back to fishing off New Jersey. Some of the proposed alternatives (i.e. closures in high energy sand areas) would contradict important policy decision made by the Council. This should not be a difficult decision to make; just follow the science. These areas, on page 384 of the Amendment, which describes the types of areas for juvenile cod protection with gravel and cobble substrate, are the kinds of areas that the Swept Area Seabed Impact model informs the Council to close. But, economic and political pressure wants to close the high sand areas to keep open groundfish and scallop areas. Our clam industry and the Mid-Atlantic Fishery Management Council have a great interest in keeping the areas in Georges [Shoal] and Cultivator Shoal open.

New Bedford, Massachusetts

**Fairfield Inn & Suites · 185 MacArthur Drive
December 16, 2014**

Hearing officer: David Preble

Other Council members: Mark Alexander

Council staff: Michelle Bachman, Fiona Hogan, Maria Jacob, Deirdre Boelke

Attendance: Approximately 77 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Ms. Bachman briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Charlie Wade, President of Stellwagen Bank Charter Boat Association: Opposed to the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. I support Alternative 1 (no action). Our opposition of the western Gulf of Maine dedicated habitat research area is based on what we see as significant economic hardship to the fishermen and shore-side communities that support our fishery. We are also concerned with the increased safety risks for small boats that would have a long commute farther east, particularly in the spring. We also oppose the dedicated habitat research area for its arbitrary use of vessel trip report data to determine the level of fishing activity in the area and the related financial impacts. We do not believe that the value of the proposed research would outweigh the economic losses that will be incurred. Regarding the financial impacts of the preferred Council Alternative 3B, page 576 of the draft environmental impact statement¹² supports our position by stating: “the northern reference area looks to be more intensively fished when compared to the southern reference area. The magnitude of the negative impact of Option B on recreational fishermen is thus expected to be larger than Option A.” Ironically, on page 577 of draft environmental impact statement, it appears that the best-supported preferred alternative should have been Option C, which is no reference area. “Given the expected difficulties in identifying the effect of removals on such a small area...the magnitude of benefits derived from Option C is expected to be larger than Options A and B.” Regarding VTR data, the draft environmental impact statement supports our historical contention on the use of VTR data, “Cautious interpretation of these VTR-reported commercial party and charter boat data should be exercised, however, because many fishermen report one fishing location (average) per trip, vessel trip report data do not represent the full range of a trip’s fishing activity, much less specifically the locations where cod (or another species) were caught.” (558) Regarding value of proposed science, the draft environmental impact statement says: “However, substantial uncertainty exists regarding both the benefits and costs of these options, as they ultimately depend on the quality and quantity of scientific research being generated from the DHRA and the ability of fishermen to change their fishing practices/location.” (577) “Although discounting plays a role in whether the net benefits are ultimately positive or negative, the short-term slightly negative impacts, and long-term slightly positive impacts make clear that the net benefits are likely to be relatively marginal/negligible

¹² Volume 3

regardless of their ultimate sign.” (577) The current dedicated habitat research area impact chart does not reflect the language in the draft environmental impact statement; it was probably done before the Scientific and Statistical Committee’s¹³ work was complete, and should be updated to reflect the conclusion in the draft environmental impact statement¹⁴. Given the net benefits are projected to be marginal at best; we cannot support any alternative other than no action for the western Gulf of Maine (Stellwagen Bank) dedicated habitat research area. We hope the Council takes this opportunity to change its preferred alternative before its submission to the National Marine Fisheries Service.

Eric Hansen, Scallop fisherman: More than half of my income was taken away from me due to Closed Area II’s implementation. I would prefer no closures because closed areas do not work; Atlantic cod have not rebounded despite spawning and habitat protection areas. It takes 20 years to realize that area closures did not work; there is something wrong. I have done work with SMAST using the drop video camera to look at the bottom and scallops, which shows no difference on the habitat inside and outside the closed areas. One cannot see any habitat impact due to fishing gear; tides and storms do more to affect the fishing area on Georges Bank because it is such a dynamic area. If closures are needed, I can support Alternative 7 for Georges Bank because it is based on data from the Swept Area Seabed Impact model; it protects the habitat, and does not impact on the scallop fleet. I vehemently object to Alternative 3 in the Great South Channel – the area has been consistently productive since we’ve moved there following Closed Area II implementation. I can support Alternative 4 or 5, which encompasses Nantucket Shoal, which is also based on critical habitat information from the Swept Area Seabed Impact model and would have very little impact on the scallop fleet.

Gabe Miranda, Scallop fisherman for 39 years: Agreed with Eric Hansen’s comments.

Linda McCann, Manager for Sector 7 and 8 (New Bedford) and the Northeast Seafood Coalition: In the eastern Gulf of Maine, supports a modified Alternative 3 to exclude the Toothaker Ridge habitat management area. In the central Gulf of Maine, supports Alternative 4. In the western Gulf of Maine, we oppose the Council’s preferred alternative, [Alternative 1], which is worse than no action because it attempts to expand the existing habitat portion of the western Gulf of Maine by five miles to the east than the current boundary that stops at 70 degrees longitude; [the Council] should not expand the existing habitat area closure. We support Alternative 6 (Large Stellwagen habitat management area) in the western Gulf of Maine, supporting the statement that this alternative was collaborated, drafted and agreed upon by industry and Stellwagen Sanctuary Advisory Council, and the Stellwagen Sanctuary NOAA leadership. We support as a second option, a modified alternative that would include Small Stellwagen Habitat Management Area and Jeffrey’s Ledge, and excludes any large or small Bigelow Bight options. Supports management Option B¹⁵ for the Gulf of Maine spawning areas. For Georges Bank, we support Alternative 7, which is supported by both the groundfish and scallop industries. Alternative 7 strikes a balance between habitat protection and continued

¹³ Note that the Plan Development Team, and not the Scientific and Statistical Committee, drafted the DEIS.

¹⁴ Economic and social impacts summary scores referenced in this comment and provided in tables in the public hearing document and in Volume 4 of the DEIS consider net impacts across all user groups combined. See, for example, DEIS Volume 3, page 572.

¹⁵ Option B is closure to commercial and recreational gears capable of catching groundfish

access to healthy stocks on Georges Bank, such as winter flounder. Unlike other options, [Alternative 7] provides access to fishing grounds along the Hague line. Prefer management Option 1¹⁶ and oppose Option 2 for universal exemptions for clam dredges. Only a small, discrete area of sand should be allowed for clam exemption. Large portions of Closed Area II would continue to be subjected to the mutually-negotiated Closed Area II lobster and groundfish agreement. Additionally, Closed Area II [would] be subject to Georges Bank spawning period, February through April, [assuming approval of Georges Bank Spawning Alternative 2 or 3]. We support Georges Bank Spawning Alternative 2, spawning period between February 1st and April 15th. Supports Habitat Alternative 5 for the Great South Channel/Southern New England, preferring management Option 1, and opposing Option 2's universal exemption [for clam dredges]. Alternative 5 allows access to the Channel, Southern New England winter flounder stock, while excluding mobile bottom-tending gear from a substantial portion of the areas identified as most important.

Joseph Gilbert, Limited access scallop fisherman from Stonington: I am here to represent the scallop fishery, but also to speak on the ecosystem components. Closures do not work; I am opposed to any more permanent closures unless they are scientifically proven to be effective. Habitat closures directly conflict with scallop rotational management because closed areas cannot be entered into a rotational system and leads to a waste of scallop resource. Rotational management is the key to our success— these actions would set back the scallop rotational management program. Most alternatives create too many negative impacts with too few benefits.

On Georges Bank, I supports Alternative 7. I strongly oppose any option that would continue the closure of the northern edge on Georges Bank or any option to extend the closure. Alternative 7 is based on the analysis of the Swept Area Seabed Impact model and protects a diverse range of essential fish habitat compared to other alternatives. The northern edge of Georges Bank contains some of the most dense scallop beds in the entire northwest Atlantic; if the area was opened, it would increase catch per unit effort, thus reducing bottom contact and protecting habitat.

In the Great South Channel, supports Alternative 4 because it protects habitat areas without impacting fishing activity. I strongly oppose Alternative 3 because it reduces fishing area without protecting the habitat. The Habitat Plan Development Team and Closed Area Technical Team proposed Alternatives 4 and 5 after collaboration with the industry to identify the habitat for protection and minimize fishing impacts. There has been little discussion on the Cox Ledge habitat management area. Although I am not opposed to the proposed closed areas, I want to make sure that this action will not displace fishing effort for minimal habitat protection.

Jonathan F. Mitchell, Mayor of New Bedford: I am the mayor of the most successful fishing port in America – New Bedford, Massachusetts. I have a letter to submit for the record and I appreciate the opportunity to read excerpts of that letter for the record tonight. As the Mayor of New Bedford, I have the responsibility of representing the most valuable fishing port in the country, home to New England's scallop fleet and a significant number of its groundfishermen. We've been able to build a thriving port over the past several years due to the success of a rotational management system that allows our fleet to be both economically successful and environmentally sustainable, with one of our industries, the scallop fishery arguably being one of

¹⁶ Option 1 is closure to all mobile bottom-tending gears

the most valuable fisheries in the nation. As the Council considers additional habitat protections through the Omnibus Amendment, it needs to be mindful of both the economics as well as the environmental impact of the proposals before it. Consistent with its duties under the Magnuson-Stevens Act, the Council needs to balance the needs of habitat protection and restoration with the preservation of access to fishing grounds vital for the future of fishing communities, especially New Bedford. For example, the continued success of the scallop fishery depends on a functional rotational closure system that allows the fleet access to the region's most valuable scallop grounds. When it works, not only is the fleet able to harvest the optimal number of scallops, but it is also able to minimize its time at sea and the interactions between scallop gear and the ocean bottom, leading to the least possible amount of bycatch and environmental disturbance. But many of these habitat proposals would close off some of the densest, most productive scallop grounds in the region, including the Northern Edge of Georges Bank. This would prevent scallop vessels from accessing their traditional fishing grounds, with the scallops in some of the closures ageing and dying off with no net benefit to scallop populations outside of them. The Council should instead consider proposals that would both improve and update existing habitat protections, while not interfering with the scallop fishery's long-term ability to be managed on a rotational basis.

Similarly, the Council needs to consider both the long-term protection of groundfish habitats along with the long-term survival of the groundfish industry. Most available evidence suggests that the best way to reduce the environmental impact of groundfish vessels is to improve the fleet's efficiency and increase catch per unit of effort (CPUE). This minimizes environmental disturbances while allowing fishermen to be as productive as possible. And the best, most proven way of accomplishing this is allowing fishermen access to the most productive fishing grounds, almost sounds too simple for argument. Fortunately, I am pleased to note that the scallop and groundfish industries, as represented by the Fisheries Survival Fund and the Northeast Seafood Coalition, are in agreement on alternatives before the Council that will not only improve on existing habitat protections, but also minimize their negative economic impact. The Fisheries Survival Fund represents much of New England and Mid-Atlantic scallop fleet, while the Northeast Seafood Coalition represents the region's commercial groundfishermen. In Georges Bank, Alternative 7 is the proposal that best strikes this balance. It improves upon current closures by providing protection for a diverse array of essential fish habitats and by allowing the scallop fleet to minimize its ecological footprint by accessing some of the region's densest scallop beds. Crucially, it also allows groundfishermen to access fishing grounds along the Hague Line, in order to better compete with Canadian fishermen, who for years have reaped the benefits of fishing near the closures on the American side of the border. In the Great South Channel, Alternative 5 would provide significant habitat protections while minimally displacing fishing effort. It is the end result of a collaborative effort between the fishing industry and the scientific community, and thus represents a well-rounded proposal that takes into consideration the concerns of both groups.

In sum, I believe these two alternatives provide the best chance for the Council to put both the region's habitats and its fisheries on a sustainable future course. Mr. Chairman, I appreciate the Council attention to the concerns of the New Bedford port. We have emerged in recent years as the seafood capital of America. We are by far the largest fishing port in America by value of annual landings. We have the largest fish processing in America – this is where seafood happens.

This is where the Council's focus should be. We can achieve sustainability from an environmental and socioeconomic perspective. This is a port that understands its role in preserving the fishery. Good science and management is needed to reap the benefits of the sea.

Mike Pierdinock, Massachusetts Chairman of Recreational Fishing Alliance, charter boat captain on Stellwagen Bank, member on the Board of Directors of the Stellwagen Bank Charter Boat Association: Agreed with Charlie Wade's comments. The draft environmental impact statement was released after preferred alternative votes took place. The draft environmental impact statement identifies the economic impact to fishermen and the questionable scientific validity of the proposed area for research on the western Gulf of Maine (Stellwagen Bank). Tonight and at the Plymouth meeting, it was noted by certain individuals that the Stellwagen Bank National Marine Sanctuary had a unanimous support for the proposed dedicated habitat research area. I am a member of the Stellwagen Bank Advisory Council and we have never supported any dedicated habitat research areas or the Sanctuary Ecological Research Area (SERA) when it was initially under consideration, including the lack of support from the recreational fleet. I want to make that clarification because it continues to be a stated publicly at these meetings. We are already subjected to the emergency closure to protect the Gulf of Maine cod and the groundfish closure from September to May 1st. There are only a few months for recreational fleet to fish, so eliminating our access to the area would put the charter fleet out of business and would increase safety concerns for the recreational fleet. Supports Alternative 1 (no action) for the western Gulf of Maine dedicated habitat research area.

Scott Nolan, surfclam vessel owner/operator: Supports no action (Alternative 1) for all proposed habitat areas. We have been dealing with closed areas, quotas, days at sea, individual transferable quotas, for 20 years; we have suffered but we have found a way to survive. I am not against science, but why not do research in existing closure areas? Some of the existing closures are habitat areas that can work for research. The exemption for surfclam in Georges Bank no longer exists; the clam industry was closed out of the area several years ago. If I must choose an option, I would support Option 2 for any proposed closures. I think the existing closed areas are sufficient, and I do not support any new closed areas.

Tom Slaughter, Atlantic Cape Fisheries clam division: Supports Option 2 for all proposed habitat area closures. Clam dredges would not operate in complex habitat because it would damage the dredge and clams can only dig through sand, not cobbles and boulders. I support Alternative 1 (no action) for any new proposed closures. However, if proposed alternatives are chosen in the high energy sand area, it would affect the only area that we can fish. Fish do not live in that area, which is why all the research shows little to no fish in that area. There are about 800 families involved in the New England clam fishery; if you close these areas, you close half of the clam meat available to the country. There are larger clams in New England compared to the Mid-Atlantic, so I would prefer these areas. The Maine Mahogany clam fishing industry fishes with dry clam dredges in the muddy habitat [within the proposed eastern Gulf of Maine management areas] that is also not complex habitat; they would be completely put out of business.

Shane Dolan, Scallop fisherman: Supports Alternative 7 in Georges Bank and Alternative 4 on the Great South Channel. I've recently done a research trip on the northern edge of Georges Bank and we need to harvest [those] scallops before they die of old age.

Louis Legace, Surfclam fisherman for 35 years: Ninety percent of clams are caught from Nantucket Shoal; it is the only place we fish and it is sustainable. Agreed with Tom Slaughter's comment that the area is composed of high energy, dynamic habitat; the nautical charts are not accurate. In stormy conditions, fishing is different, but the clam product is still there. The economic impact would be tremendous. Many of the small and mid-sized vessels cannot work on Georges Bank due to safety concerns with long steam time, vessel capacity (high volume boats), and safety. This action would completely shut down most vessels, with the exception of small inshore boats with state licenses. Supports [fishing restriction] Option 2 for Nantucket Shoal and Georges Bank.

Christopher Wright, captain in New Bedford port for 27 years: Agreed with comments made by Eric Hansen, Mayor Mitchell, and Joseph Gilbert. I have witnessed 20 years of closures for Nantucket lightship, Closed Area I, and Closed Area II, which were originally closed for the protection of juvenile groundfish but there are no additional groundfish in the area. Coincidentally at this time, the scallop population exploded. These closures were supposed to work to solve the groundfish problem. Now we are moving on to more measures and closures without answers on where the fish are.

Vito Giacalone, Northeast Seafood Coalition, representative for Sectors 2, 6, 7, 8, 9, and 13: In the eastern Gulf of Maine, we support Alternative 3 excluding Toothaker Ridge habitat management area. In the central Gulf of Maine, we support Alternative 4 (Council's preferred alternative). Regarding the western Gulf of Maine, I was a member of the Stellwagen Advisory Council, made up of Stellwagen Sanctuary staff, NOAA staff, and industry members, and we agreed on the Large Stellwagen habitat management area (Alternative 6) as our preferred alternative, which includes the dedicated habitat research area. We do not have a preference regarding the north or south dedicated habitat research area since commercial vessels are avoiding this area, and would defer to the recreational fleet's preference. Regarding Gulf of Maine spawning closures, Framework 53 is expected to address the Gulf of Maine spawning cod protection in the Gulf of Maine. We oppose any closure in the Bigelow Bight habitat management area (Alternatives 3, 4, 5) due to insufficient trawl survey data used by the Closed Area Technical Team. The trawl survey data is sparse and outdated, there are too many extrapolations from too little data. In Georges Bank, we strongly support Alternative 7 based on collaborations with the Maine fisheries, scallop (i.e. Fisheries Survival Fund) and groundfish industry. We support clam dredges to be exempt from small, discrete areas within habitat closures due to their minimal impact. We support Alternative 5 in the Great South Channel, which was agreed upon by the groundfish and scallop industry. The groundfish industry strongly opposes Alternative 4, which was stated as a preferred alternative by previous commenter in the scallop fleet.

Peter Bouche, Scallop vessel captain for 25 years: Against any proposed permanent closures because they do not work. It seems that the Council and National Marine Fisheries Service do not know how to manage closed areas.

Grant Moore, Offshore lobsterman for 35 years, member of Atlantic Offshore

Lobstermen's Association: I have been fishing in Closed Area II for 20 years, when the closed area was implemented. The Atlantic Offshore Lobstermen's Association worked with sector vessels to set up a fishing agreement to share the fishing grounds with lobster fleet fishing in the area for four and a half months and the groundfish industry fishing in the area for seven and a half months, due to the high concentration of female lobsters that migrate from inshore and offshore to converge in the area from July to December. Large females with large egg masses are important to the resource because reproductive success increases with larger lobster size. Gear conflicts between mobile and fixed gear will be great if scallop vessels are allowed to access the area, and will result in trap losses. It would be irresponsible to make changes to the Georges Bank Closed Area II without a scallop and lobster fleet agreement. Supports the status quo for fishing in Closed Area II until a gear separation agreement is made with the scallop and lobster fleet. Every alternative in the proposed areas shows a negative impact to the lobster fishery.

Max Nolan, Scallop vessel owner: Agreed with comments made by Scott Nolan, Louis Lagasse, and Tom Slaughter.

Greg Lush, recreational fisherman: At the Plymouth meeting, I did not have the opportunity to speak, so I came here today. A NOAA survey of for-hire vessels from 2010 to 2011 shows that there were nearly 1.6 million passengers fished on these vessels in 2011. It is an important outdoor leisure and the service should be maintained. Economic contribution for the for-hire vessels: \$333 million was spent on material boat services, \$116 million on salaries (not including captains' salaries), and a high number of jobs in field - 1,300 jobs in related fields. Agreed with comments made by Charlie Wade and Mike Pierdinock.

Charlie Quinn, Scallop vessel captain and owner of 30 years: Agreed with comments made by Christopher Wright and all scallop representatives. I have done a lot of research work on the northern edge, and we will lose millions of pounds of scallops because these scallops are getting old. These closed areas have not worked and we need to consider a different management strategy.

Frank Tapper, Owner of Top Quality Seafood and Shellfish: Agreed with comments made by Louis Legace, Scott Nolan, Max Nolan, and Tom Slaughter.

Ron Shrader, captain for 27 years: I recently participated in a survey with Kevin Stokesbury on the [northern] edge and saw so many scallop beds in the area that need to be harvested; this is a waste of a natural resource. Agreed with comments made by Mayor Mitchell and Eric Hansen.

Peter Hughes, Atlantic Cape Fisheries: Science does not show a correlation between area closures and increased fish productivity, yet the document repeatedly states that increased fish productivity is the rationale for these closures. I do not support any closures. Agreed with comments made by Eric Hansen, Linda McCann, Joseph Gilbert, Mayor Mitchell, Scott Nolan, Tom Slaughter, Shane Dolan, Louis Legace, Chris Wright, Vito Giacalone (we will discuss Alternative 4 and 5 and decide on a preferred alternative), Charlie Quinn, and Ron Shrader. At the Mid-Atlantic Fishery Management Council, they made a motion to: "move that the Council

send a letter to the New England Fishery Management Council with a copy to the Regional Administrator requesting with respect to this Amendment that sub-areas comprised predominantly of sand substrate be identified as clam management areas within the broader proposed habitat closure areas encompassing Nantucket Shoals, Georges Shoals, and Cultivator Shoals. The Council requests that if any of these broader areas are selected as preferred alternatives in the final action on the habitat omnibus amendment, then surfclam and ocean quahog dredges would be exempt within the sub-areas.¹⁷ (Mid-Atlantic Fishery Management Council, 2014). The motion carried, and the letter will also encourage the opening of the Northern Edge. Section 6 (page 51) of public hearing document states the rationale that the Mid-Atlantic Fishery Management Council used for the clam exemption.

Ronald Enoksen, Scallop fisherman from New Bedford: Closed areas should be kept as small as possible. Georges Bank closed area is too large, it should be reduced. These closed areas are causing conflict between the different fishing industries. The scallop rotational management is successful because it minimizes bottom contact, minimizes bycatch, vessels spend less time offshore which is safer and saves on the cost of fuel. If closures are to take place in the Great South Channel, they should be small and kept to the west, away from the channel. Regarding spawning closed areas, they should avoid gear conflicts. Regarding the dedicated habitat research area, I support the sunset provision only (Alternative 5). In fact, all closed areas should have a sunset provision. Regarding the 1994 closures for Closed Area I, Closed Area II, and Nantucket Lightship, we do not know if these closed areas have been successful. These closed areas are too rigid and should be flexible to consider adaptive management options.

Drew Minkiewicz, Attorney for the Fisheries Survival Fund: Closed areas have created these havens for fixed gear, who want to continue fishing in these areas exclusively. Regarding Closed Area II, the scallop fleet has an oral agreement with the Atlantic Offshore Lobstermen's Association. Currently, the scallop vessels are allowed to fish in the groundfish management areas, and scallop fleet should be exempt from the proposed spawning closed areas. The agreement with the Atlantic Offshore Lobstermen's Association is contingent upon our exemption from groundfish spawning closed areas. The spawning closed area alternatives are not based on the most-recent data. Research set-aside for scallop has looked at yellowtail and windowpane flounder bycatch to assist the scallop industry to avoid these areas of high bycatch mortality. The draft environmental impact statement focuses on impacts on groundfish, but the action would affect all fisheries – this is unacceptable. This draft environmental impact statement does not consider biological impacts on scallops and there is no information on the effects on rotational management and scallop biomass. In addition, closures do not increase productivity or recruitment. A lot [has been] sacrificed by the scallop fleet to reduce fishing effort and the implementation of rotational management. We need to move forward to better management.

Gib Brogan, Oceana: Georges Bank individual alternatives do not meet the goals and objectives of the Habitat Amendment, so we support a mix and match selection of these alternatives to protect groundfish critical life stages (areas as identified by the Swept Area Seabed Impact model) and advances essential fish habitat management on Georges Bank. We support alternatives in the Great South Channel and Nantucket Shoal that protect juvenile cod habitat.

¹⁷ Mid-Atlantic Fishery Management Council. 2014. *December 8-11, 2014 Council Motion*. Web. <http://static.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/548f5213e4b0b67b0994e8a4/1418678803392/Dec2014+Motions.pdf>

We do not support gear-restricted management [Options 3 and 4] for any closed areas. Study on mud bottom habitat on the Pacific coast has been rejected by the Plan Development Team and has not proven to be an effective management tool on Georges Bank or any of the areas in New England. Therefore, no alternative should rely on gear restricted area approach to management. I will submit written comments.

Tom Riley, Scallop day-boat fisherman: Agreed with comments made by Eric Hansen, Gabe Miranda, Ron Shrader, Charlie Quinn. Opposed to additional habitat closures. We are fishing with the least amount of days on the water, which has many advantages.

Allen Rencurrel, Surfclam fisherman: Agreed with Tom Slaughter's comments. I fish in Nantucket Shoal and I am opposed to any closure in Nantucket Shoal. I hope that the Council considers the economic impact to the surfclam industry.

David Wallace, Surfclam/Ocean Quahog fishery representative: Regarding the proposed habitat management areas and groundfish spawning areas, clam vessels cannot fish in complex habitat areas. Clam vessels only fish in high energy sand areas and do not affect groundfish or groundfish spawning activity. In Georges Bank, storms have a larger impact on habitat than fishing activity. We are the second largest fishery in New England and therefore we do not support closures on Georges Bank or Nantucket Shoal. We also support the opening of both Nantucket Shoal and Nantucket Lightship areas.

Jim Kendall, Massachusetts Fisherman's Partnership and New Bedford Seafood Coalition: The recent Gulf of Maine cod stock assessment peer review meeting raised concerns that were not addressed at that meeting. Regarding climate change and regime shift, does it have an impact on this Amendment? Regime shift could be brought on by climate change. Although the Council cannot regulate non-fishing activities, these activities should be considered. Are any of these factors (i.e. climate change and regime shift) mentioned or considered in the Amendment, which has been in development for ten years? How do managers expect to continue management without addressing these ecosystem-based issues and their impacts on the fishery? The public hearing document should have considered these ecosystem effects.

Paul Lemieux, Scallop fisherman, Fishing Vessel Celtic: Agreed with comments made by Eric Hansen, Charlie Quinn, and all scallop representatives.

Paul O' Donnell, Ocean State Fisheries: Agreed with Eric Hansen, Joseph Gilbert, and Mayor Mitchell, and all others that support Alternative 7 on Georges Bank. The northern edge of Georges Bank should be opened for scallop access to fish the dense scallop beds in the area.

Justin Tennyson: Agreed with comments made by Chris Wright, Eric Hansen, and all scallop representatives.

Crystal Vaughan, Deckhand at Quinn Fisheries: We have done biomass survey work with Virginia Institute of Marine Science and Coonamessett Farm Foundation. Scallop vessels should be able to access the Georges Bank area.

Gloucester, Massachusetts

**Cruiseport Gloucester · 6 Rowe Square
December 17, 2014 and 6:00-8:00pm**

Hearing officer: David Preble

Other Council members: None

Council staff: Michelle Bachman, Fiona Hogan, Tom Nies, Chris Kellogg, Jonathon Peros

Attendance: Approximately 72 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Ms. Bachman briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Paul McGeary, Gloucester City Council President, on behalf of Gloucester Mayor Carolyn Kirk: These past several years have been very hard on our groundfish fleet. A series of recent quota cuts and emergency actions have only exacerbated the region's federally declared economic disaster, and fishermen face a diminishing set of opportunities to make a living. As Mayor of Gloucester, I must confront the consequences of these decisions, and the economic toll they have taken on our storied waterfront, every day. With the Council now considering habitat management areas, it is crucial to remember the responsibility under the Magnuson-Stevens Act to carry out these protections in a way that doesn't further damage the groundfish fleet, and gives fisherman the best opportunity to harvest allocations that remain available to them. Area fishermen need to be able to catch their allocations in the most efficient way possible, a way that minimizes costs and allows them to stay financially viable. Several of the proposals before the Council today do not achieve these objectives. Instead, many of the proposals recommend taking some of the most productive fishing grounds away from the groundfish fleet, which would lead to negative environmental and economic consequences. They would displace fishing effort, forcing fisherman to fish longer in less productive areas which only leads to higher expenses but actually offers less protection for habitat overall.

Protecting habitat and ensuring that the groundfish fleet stays viable does not have to be an either/or proposition. There are proposals before the Council that carefully balance the needs of habitat with the needs of the fishery. The industry is mindful of the potential benefits derived from sound habitat protection, and industry groups, from the Northeast Seafood Coalition representing the groundfish fleet to the Fisheries Survival Fund representing scallopers, have worked with each other and with members of the scientific community to search for a balanced solution for the region. One of the most prominent examples of this is in the Western Gulf of Maine closure. The closure, which has been largely off-limits since 1998 due to a series of mortality and habitat regulations, has restricted access to fishing grounds where Gloucester-area groundfishermen historically caught haddock and pollock. Considering the current state of the fishery and allowing fishermen to once again access parts of these areas, and catch groundfish stocks that they have traditionally fished, would provide a much-needed boost to the groundfish fleet. Establishing an alternative area for the Western Gulf of Maine closure other than status quo as currently recommended by the Council is strongly recommended. The industry and NOAA's

Stellwagen Advisory Committee collaborated to develop Western Gulf of Maine Alternative 6, or “Stellwagen Large”. This alternative provides protection for habitat areas that have been deemed important through the Swept Area Seabed Impact analysis, while also allowing fishermen more flexibility than the current closure to access fish stocks in the Gulf of Maine. For these reasons, the Council should adopt this option. For the Central Gulf of Maine, the Council should also continue to support its preferred alternative for Central Gulf of Maine referred to as Alternative 4 or “Modified Cashes, Modified Jeffreys Bank and Ammen Rock”.

There are other alternatives, which also should be supported and ultimately selected by the Council. For Georges Bank, Alternative 7, which has received support from members of both the groundfish and scallop fisheries, provides essential habitat protection while allowing access to both key scallop grounds and groundfish areas not only along the Hague Line but also in areas where Georges Bank winter flounder is caught. Currently, with the closed area border aligned with the U.S. border, Americans are prevented from fishing along the edge of the closed area, yielding this advantage to the Canadians. For the Great South Channel, Alternative 5 strikes a similar balance. It advances and improves habitat protection while allowing the groundfish and scallop fisheries to successfully operate. Too often the debate over habitat areas has been portrayed as a conflict between science and economics, between conservationists and fishermen. But [the alternatives I have] highlighted demonstrate that this isn’t the case. Fishermen take their responsibility to be good stewards of the environment seriously. Faced with these challenges, these alternatives demonstrate that there can be serious and substantial habitat protections that are not economically ruinous. As Mayor, I am frequently challenged to work in the best interest of all parties in Gloucester, and I take that responsibility seriously. As Council Members, I am sure you do the same. Fortunately, this is a circumstance that provides the opportunity to balance interests for the greatest benefit of habitat and our fisheries.

Bruce Tarr, Massachusetts State Senator: I am deeply concerned with the context in which these alternatives are being considered. I mean that these alternatives come in the context of interim cod regulations and in the context of groundfish Framework 53, both having significant impacts on the inshore fleet. As a result, I am concerned about taking further action without fully understanding the alignment with what is proposed in the Habitat Amendment and the closures that will result under Framework 53, and how these two management actions would interact. We need to be deeply concerned about the interaction between all management options under consideration. Given the severity of the potential impacts on the commercial and recreational fishery, my preference is that we have to act cautiously and deliberately and to do things that are justifiable in terms of habitat and spawning stock protection, and weigh those benefits against the potential impacts on the inshore fleet and recreational fishery that are already facing substantial burdens and significant impacts. While my tendency is to prefer the no action alternative for all management alternatives, I do understand that the Northeast Seafood Coalition will provide their preferred alternatives other than the no action alternative, and I want to reserve the ability to comment on that in the future. I plan to submit written testimony as well.

Leah Colon, State Representative for Peabody: Agreed with comments made by City Council President Paul McGeary, Mayor Carolyn Kirk, and Senator Bruce Tarr. We have to be considerate of the habitat for fish, and we also need to be very considerate of the way many people make their livelihood, which should be the primary consideration.

Jackie Odell, Northeast Seafood Coalition: We will be submitting written comments before the end of the public comment deadline. I plan to reiterate what we have already submitted as a strawman proposal last winter prior to the February 2014 Council meeting. The Council considered the strawman proposals when selecting preferred alternatives for analysis. The Northeast Seafood Coalition worked with the Fisheries Survival Fund and the Associated Fisheries of Maine to put forward the strawman proposal, which is already in the public documents. For a lot of these proposed areas, it is our understanding that these areas will be replacements of existing closures, and additions to existing closures, especially those alternatives for Georges Bank. In the eastern Gulf of Maine, we support a modified Alternative 3 to include Small Eastern Maine and Machias habitat management areas, but excluding Toothaker Ridge habitat management area. In the central Gulf of Maine, we support Alternative 4 (Council's preferred alternative), which includes modified Cashes Ledge, modified Jeffreys Bank, and Ammen Rock.

In the western Gulf of Maine, we support Alternative 6, which includes Stellwagen Large habitat management area; this alternative was collaboratively drafted and agreed on by industry members, the Stellwagen Sanctuary Advisory Council, and the Stellwagen Bank's NOAA leadership. I am concerned about the analysis [for western Gulf of Maine Alternative 1/No Action]. It was my understanding that when the Council was picking [Alternative 1/No Action] as its preferred alternative, that it was the existing habitat area and not the existing habitat area plus the extra five miles [to the border of the Western Gulf of Maine Groundfish Closure Area], so we will have to discuss that. In general, the Northeast Seafood Coalition strongly supports modifications to the Western Gulf of Maine Closure Area. There are other areas currently under consideration for the western Gulf of Maine, like Small Stellwagen or Jeffreys Ledge habitat management areas. However, there should not be any consideration of the Bigelow Bight habitat management area because the economic impacts are far too great.

Regarding the Gulf of Maine cod spawning areas, the industry supports Alternative 1 (No Action) because there will be a subsequent action that will occur under groundfish Framework 53. The Northeast Seafood Coalition supports the Council alternative that was recently selected for the Gulf of Maine cod protection area, which would go with the no action alternative for this Amendment. Last year when we submitted our comments, we were concerned that the existing rolling closures were defined in the document as spawning closures. [These rolling closures] were put in place as mortality closures that coincide with potential spawning activity; they were not originally spawning closures. Hopefully that will be fixed.

On Georges Bank, we support [habitat] Alternative 7. The industry supports Georges Bank spawning Alternative 2. In the Great South Channel/Southern New England, the industry supports Alternative 5, which includes the Nantucket Shoal and Cox Ledge. Lastly, the dedicated habitat research areas should include a sunset provision, which is very important for future evaluations, i.e. are these closed areas having the intended benefit.

Mike Pierdinock, Massachusetts Chairman of the Recreational Fishing Alliance, member of the Board of Directors for the Stellwagen bank charter association, and charter boat captain: I will not repeat what I have already noted as technical flaws associated with the

selection of the proposed dedicated habitat research areas. We have been adamantly against the dedicated habitat research area since the SERA (Sanctuary Ecological Research Area) was developed. On page 44 of the public hearing document, the dedicated habitat research area impacts have not been updated to reflect the analysis within the draft environmental impact statement associated with each alternative¹⁸. Upon review of the alternatives associated with the dedicated habitat research area, the environmental impact statement points out the technical flaws with the selection of that area for research and also identifies the detrimental impact to recreational anglers and the charter boat fleet. We've been stating these impacts for years, and we are happy to see this statement within the draft environmental impact statement. Current closures leave us with few options; therefore, closing the proposed area on Stellwagen Bank will be the final nail for the charter boat fleet and recreational anglers. This is not the time or place to do this when considering the economy and the status of fishery.

Dave Waldrip, charter boat fisherman: I have a couple of concerns, some of which Mike Pierdinock already mentioned. If the Stellwagen Bank dedicated habitat research area is implemented, it will force south shore vessels to travel nearly 40 miles offshore. It would also apply to the private sector boats and smaller boats. These vessels are not required to carry the same safety gear as commercial boats (such as life rafts, Emergency Position Indicating Radio Beacons, and survival suits), so this action would put customers in danger. During the early season in the spring, there are no striped bass or tuna, so we need to access this area and other areas in the western Gulf of Maine. Without having access to these fishing grounds, the businesses will fail and we will lose our customer base because they want to target groundfish. The Stellwagen Sanctuary staff has also stated only four boats fish in the proposed closed area, including no private boats; this does not make any sense to me considering that the 2010 Stellwagen Bank Report stated that every kilometer of the Sanctuary is affected by fishing. I'm afraid this action will result in additional areas of closure that will continue to grow in other sanctuaries. [In other National Marine Sanctuaries], to transit through some of the existing research areas, you have to get a permit from the Sanctuary, and I do not want to see this happen to fishermen [fishing within Stellwagen Bank National Marine Sanctuary]. I strongly support Alternative 1 (No Action) for the dedicated habitat research area in the western Gulf of Maine. I plan to submit comments in writing as well.

Jeff DePersia, fisherman: I strongly oppose any of the dedicated habitat research areas.

Lisa Smith, Wellesley resident: I am a scuba diver and lawyer. I first learned about Cashes Ledge from a Boston globe article, which sparked a conversation with some of my colleagues in the diving community and the legal community. We have been concerned from the onset and continue to be concerned. Some more experienced scuba divers contrasted experiences from the past with current experiences, such as seeing a wolfish, which is no longer a common occurrence. We have also discussed on the dwindling cod population. The status of the cod report showed that the population appears to be in a worse situation than we originally thought when the Boston Globe article came out. We are concerned about the ocean environment, but are not able to understand the draft environmental impact statement. I have been in frequent contact with Council staff to provide me with additional information and resources, and I am thankful for

¹⁸ Note that the summary scores in the table are combined scores across all user groups, and are not intended to reflect recreational fishery impacts only.

that. However, the more I look into this matter, the more puzzled I am by some of the Council's recommendations regarding the Cashes Ledge groundfish closed area. I support Alternative 1 (No Action) for the central Gulf of Maine, to continue to preserve the groundfish closure on Cashes Ledge. Volume 4 of the DEIS shows that the only practicable option of all different alternatives in the central Gulf of Maine is Alternative 1. The Council's preferred alternative is not as practical as Alternative 1, which is puzzling to me. Upon further reading of the document and discussions with my colleagues, it is unclear to us why the Council would be recommending Alternative 4, which provides only short term economic benefits and not long term economic benefits, while Alternative 1 has positive long term economic benefits and neutral social benefits. I am not an environmental lawyer, but, based on what I know about administrative law, the basis for the Council's preferred alternative is not clear in the record. It seems that the Council has done a substantial amount of research, which is provided in the DEIS. The research indicates what a practical solution is and what would provide our area with the best short term and long term benefits, which would be to preserve Cashes Ledge. I care deeply about the Cashes Ledge habitat management area and urge you to reconsider your decision.

Raymond Porter, member of the North Shore Frogmen (Diving Club): Agreed with Lisa Smith's comments in terms of central Gulf of Maine no action (Alternative 1) recommendation. If you can't find adult fish outside the management area, it doesn't make sense that you would go into the nursery and kill the younger fish. I love fish and I respect fishermen, but we need to preserve Cashes Ledge as a nursery to allow fish to grow for harvest. As a member of the dive club, who sees the world from underwater and not simply the surface, I support the no action Alternative 1 for the central Gulf of Maine.

Charlie Wade, President of the Stellwagen Bank Charter Boat Association: I want to acknowledge the work by Ms. Bachman and Mr. Preble. We support Alternative 1 for the Stellwagen Bank dedicated habitat research area in the western Gulf of Maine, using the Hippocratic approach to first do no harm. We see the current proposal as very harmful especially to the ports of Plymouth, Green Harbor, and Scituate. We support research, but not when it puts us out of business. Much of my testimony has already been put into the public record in the Plymouth and New Bedford hearing. We are great supporters of the sunset clause. However, as I read the currently language, it reads like a thinly veiled attempt to placate the fishermen: "even if a research vessel never enters the research area in a 3 year period, as long as the research exists on paper somewhere, the [sunset] clause will not be invoked." Maybe I am misunderstanding it, but I urge the Council to 'put some teeth into it' and make the sunset clause actionable; it seems like a temporary tax that would never be lifted.

Now that the draft environmental impact statement is complete, we feel encouraged to see many of the points we've raised are in the document. We are against the use of vessel trip report data to determine how many boats fish in the Stellwagen Bank area. As Mike Pierdinock pointed out, the Council would want us to believe that only a handful of boats fish here. But, the 150 fisherman in Plymouth and the 200 letters I have here opposing the dedicated habitat research areas would disagree with that. The draft environmental impact statement is clear on this issue regarding the use of vessel trip reports. We oppose this plan on principal, because we don't see the value of the research. I want to also read an excerpt on the matter from page 572 of the draft environmental impact statement: "However, substantial uncertainty exists regarding both the

benefits and costs of these options, as they ultimately depend on the quality and quantity of scientific research being generated from the DHRA and the ability of fishermen to change their fishing practices/location. Although discounting plays a role in whether the net benefits are ultimately positive or negative, the short-term slightly negative impacts, and long-term slightly positive impacts make clear that the net benefits are likely to be relatively marginal/negligible regardless of their ultimate sign.” Therefore, we cannot support any option other than the no action alternative since the net benefits are marginal at best, and we hope the Council agrees with this in its final recommendation.

Deborah Holt, Financial Officer for the Stellwagen Bank Charter Boat Association and Massachusetts instructor for the Massachusetts Division of Wildlife and Fisheries: Craig McDonald tried and failed to bamboozle a crowd with bad statistics derived from flawed data at the South Shore Science Center and at the Plymouth hearing. At the South Shore Science Center meeting, he physically bowed and conceded to the audience that he stood corrected. But, in Plymouth, he was allowed to provide these same statistics. Stellwagen Bank should not be Craig McDonald’s private laboratory. In 1992, Gerry Studd’s agenda was quite clear in Congress – Stellwagen Bank would be closed to gambling, mining, and oil extraction, but never to fishing. I believe the Council needs to review a few financial matters. How much money has been spent on these hearings (travel, venue costs, salaries, technical support, etc.)? The cost is unbelievable. How much would it cost the average charter boat to travel 70 to 100 miles from Scituate or Marshfield? This cost would have to be included in their customers’ prices. How much would it cost to rescue fishing vessels further east of the existing fishing grounds via U.S. Coast Guard vessel, plane or helicopters? Marinas, restaurants, and hotels would also have a loss of revenue. It has never been proven that rod and reel cause harm to the ocean floor habitat. I have never found the bottom of a lake or pond destroyed solely by rod and reel fishing. Almost no one in the charter boat fleet anchors, because they move with the fish. I support Alternative 1 (no action) for the Stellwagen Bank 55-mile dedicated habitat research area closure.

John Richardson, Director of the Stellwagen Bank Charter Boat Association and fisherman: At the beginning of the Sanctuary Ecological Research Area I (SERA I) proposal, I was asked to review the history of what led up to such a proposal and I tried to keep good notes. I provided brief comments in Plymouth due to the large number of commenters. I would like to express to you the way our members feel about how this dedicated habitat research area was developed. Under section 304(a)(5) of the National Marine Sanctuaries Act, the [Fishery Management] Council prepares any draft fishing regulations in the Stellwagen Bank Sanctuary.¹⁹ On June 8, 1990, Council Chairman Warren wrote Marine Estuarine Manager Chief Orawich, telling him that the Council has made the determination that fishing regulations are not necessary to fulfill the goals and objectives of the proposed Stellwagen Bank Sanctuary designation. That happened because Congressman Gerry Studds and the Federal creators of the Stellwagen Bank

¹⁹ “The Secretary [of Commerce] shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed [Sanctuary] designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council’s action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation.” National Marine Sanctuaries Act, Section 304(a)(5). Title 16, Chapter 32, Sections 1431 et seq. United States Code, as amended by Public Law 106-513, November 2000.

National Sanctuary were in the process of promising area fishermen exactly what Jim Warren said - that fishing regulations would not be part of the goals and objectives of the Stellwagen Bank Sanctuary designation.

At a Council Habitat Oversight Committee meeting on April 6, 2012, in the discussion of the Sanctuary Ecological Research Area proposal to close Area C to bottom mobile gear in addition to the western Gulf of Maine existing rolling closures, Sanctuary staff was told that the Sanctuary Ecological Research Area would not be supported because of its importance to draggers. Draggers were well-represented in what turned out to be the development of dedicated habitat research areas. The Sanctuary then changed its proposed area to an area of more importance to party/charter boat fleet. Stellwagen staff members were involved in drafting an alternative, but the recreational fleet, was disadvantaged, with no discernable representation on any Committee. On Feb 25, 2014, the Council met to choose preferred alternatives for the Habitat Amendment, but the draft environmental impact statement was not yet completed²⁰. After a debate, the Council decided not to wait for the only unbiased scientific input they would receive and chose a dedicated habitat research area in the Western Gulf of Maine and a northern reference area (Reference Area 2) as the preferred alternative. More than seven months later, the draft environmental impact statement analysis of the impact of the preferred Alternative 3b (Reference Area 2) dedicated habitat research area in the Western Gulf of Maine, reported substantial loss of income to party/charter vessels. This would create a highly negative impact to the party/charter boat fleet with concentrated costs accruing to a small number of recreational fishermen in the short term, and would also create nebulous positive benefits of improved groundfish management in the long-term. The draft environmental impact statement also states that: “the Council would not need to specify treatment areas within a particular DHRA at the time of DHRA designation, but rather, that the location of study sites and treatments would be determined by researchers using the DHRA²¹.”

Our members are certain that the Council may not lawfully abdicate its responsibility to fulfill the commitment of the Federal government not to restrict fishing in this area. The Council also may not abdicate its requirement to weigh potential gain against negative impact to fishermen. The Council has been right on this issue since the 1990; why would it now attempt to ethically or possibly unlawfully violate two management principles? A dedicated habitat research area is not possible on Stellwagen Bank because such an action abdicates the Council’s required control of restrictions to entities other than itself (i.e. to researchers). The Federal government should keep its promise. In the western Gulf of Maine, we support Alternative 1 (no action) and we ask the Council to please vote “no” on this habitat management alternative.

Roger Brisson, commercial fishermen and charter fisherman: I have been fishing for over 30 years. Area closures/openings are not working, and [the groundfish fishery] was declared a disaster after everything we have tried. How do you rectify a disaster? I can’t fish anymore due to government action, so I have plenty of time to think about this issue. Close some more areas? Let’s not side with the fishermen and side with the fish. How can we do things differently? I am looking for answers. The only thing I can come up with is that we should have managers that

²⁰ The February 2014 draft of the EIS did in fact include the economic impacts analysis related to DHRA Alternative 3. These analyses were not included in the December 2013 draft.

²¹ Draft Environmental Impact Statement, Volume 3 (page 122).

would be directly affected by the decisions that are made for the fishery, not ex-fisherman and retired fisherman. I support no action for all alternatives.

Rob Moir, Ocean River Institute: Agreed with comments made by Lisa Smith and Raymond Porter. I commend the Council for supporting DHRA Alternative 3b (Reference Area 2) as the preferred dedicated habitat research area on a vote of 13-2. I think this is a brave step forward because it would open up two-thirds of western Gulf of Maine area that had been closed to commercial fishing activity and would retain one-third of that closure area for the Stellwagen dedicated habitat research area. Within that dedicated habitat research area, about one-sixth of it will be closed as the northern reference area. Recognizing the importance of the essential fish habitat for groundfish and learning how essential fish habitats function ecologically would help to guide resource managers in decision-making that supports healthy fisheries and better conserves the marine resources.

The Western Gulf of Maine Closure Area has been closed to commercial fishermen since 1998. It is most appropriate to establish the Stellwagen DHRA within that existing closure area to build on the sixteen years of seafloor habitat research and sacrifice by fisherman. The WGOM Closure Area was a responsible stewardship response to the decline of the Gulf of Maine groundfish. Researchers have found that the closure areas prove the immense value of ecological knowledge of the fishermen useful in the fisheries management process. Fishermen's knowledge increases the spatial resolution of data by identifying seasonal migration patterns of pre-spawning fish and behavioral differences between juvenile and adult fish, benefitting stocks and habitats. I urge you to approve DHRA Alternative 3b. Although Option B would limit fishing in recreational and charter vessels, it will foster new ecological knowledge to integrate with the experience of recreational fisherman to create a more informed voice for the responsible stewardship of groundfish.

The Omnibus Essential Fish Habitat Amendment doesn't go far enough to protect the spawning habitat of herring and other forage fish that serve as prey for managed species. The forage fish are an important component of essential fish habitat, and this Amendment does not consider the potential adverse effects that the loss of these forage fish or habitat would have on managed species. Not only are these forage fish commercially valuable, but also are food source for larger managed fish stocks that could include striped bass, bluefish, tuna, seabirds, and whales. Many of the managed fish that prey of herring fish follow the herring migration to maintain a constant food source as they move along the coast. Regarding river herring, the Council recently did a hotspot analysis in [Herring] Amendment 5 that could inform this amendment. Potential loss of these prey fish and the habitat they depend upon should be considered. I request that the Council complete development an alternative to the status quo that would encompass an area along the northern edge of Georges Bank extending from the existing habitat area of particular concern west to the area known as the 'fingers'. This is one of America's most far flung ocean ecosystems; it is relatively pristine compared to ecosystems closer to the shore. Mass schools of herring spawn at different times of year in this habitat area, which provides an important nursery area. Opening this area to clam dredges and bottom and mid-water trawls would be destructive of herring shoals and would likely [negatively impact] the fish stocks harvested closer to the shore.

Finally, I recently attended the Mid-Atlantic Fishery Management Council's presentation on deep sea corals and research was conducted last summer surveying the deep waters from Virginia to Canada. In the Gulf of Maine, researchers have found that deep sea corals were an important part of the ecosystem below 200 meters depth. We know redfish are frequently seen with these deep-water corals, as well as skates and hakes.

Peter Murphy, Vice President and member of the Board of directors for the Stellwagen Bank Charter Boat Association, fishing captain, and participant at QuanTech on Bluefin Tuna research:

I also attended the habitat hearing in Plymouth. I am familiar with biological surveys like removing otoliths from Bluefin tuna with QuanTech. We are not just out there to eliminate fish to support our families, and we do not want to be the ones taking the last buffalo. For many of the fishermen in here tonight and at the Plymouth meeting, all stakeholders were unified - we all stood together to fight the fight. It has become evident at these meetings that our preference is a 'no action' alternative (Alternative 1). I was at a meeting three or four years ago with Steve James who was on fishery advisory panels and is very familiar with this fishery program. We were invited to go to the Northeast Charter Association and we engaged in conversation with Craig McDonald; comment was made by the group to us that regardless what had been said in the past and promised to fisherman, this is a business model and he did not make a promise. We have to realize this is a natural resource and we're all in it together. We all have a right to give you input.

Ralph Brown, Haverhill resident: I have been following New England fisheries as an outsider since the 1970s and have been observing the destruction of the offshore fisheries. Regarding the central Gulf of Maine area and Cashes Ledge, I strongly oppose Alternative 4 and favor Alternative 1 simply because it is one of the few areas that remain populated; destroying that for an advantage lasting a few years does not make sense. I encourage you to follow your own research that shows highly negative impacts for Alternative 4 and positive impacts for Alternative 1 (No Action).

Paul Diggins, Boston charter boat fisherman and member of the Stellwagen Bank Charter Boat Association: Around 20 years ago when the Stellwagen Bank National Marine Sanctuary was being proposed, the Cape Cod Charter Boat Association was asked if a couple of spokesmen from the Sanctuary could come and speak to us. What I remember the most is they said that Stellwagen Bank would never be closed to fishing. But, here we are listening to another proposal to shut down fishing on Stellwagen Bank. The charter boat industry has already given enough. I strongly support Alternative 1 (no action) for the western Gulf of Maine dedicated habitat research area.

Rob Suvino, Boston charter boat operator, tuna fisherman, and member of the Stellwagen Bank Charter Boat Association: Regarding the western Gulf of Maine Stellwagen Bank dedicated habitat research area, I support Alternative 1 (no action). I asked about the process of collecting this data, which is based on ten year old data, which is very old. To make a decision on ten year old data is wrong. The economic impact on closing Stellwagen Bank is absolutely incorrect in stating zero impacts. The recently released economic impact study²² indicates that this action will be quite detrimental to the charter boat fishery.

²² Assume this refers to the DEIS

Brittany McIntyre, third generation tuna fisherman: Regarding the Western Gulf of Maine (Stellwagen habitat management area and Jeffreys Ledge closure), I support Alternative 1 (No Action). I have three questions for the Council to take into consideration. (1) If the Council is concerned about groundfish, specifically cod, then why were the regulations changed for haddock and not for cod last year, from nine keepers to three keepers? (2) If you were to close this area completely, what about tuna fishermen? (3) Spawning has increased and our quota has increased by 20 percent; to close the area completely does not make sense to me.

Greg Cunningham, Conservation Law Foundation: The impetus for this action is a federal legal mandate that essential fish habitat must be protected to extent practicable. That requirement reflects Congress' recognition that the protection of habitat is good for the resource, the communities, the industries, and the country that relies on the resource. Our hopes for this process were that over the ten years of development that this Amendment would result in some meaningful output. I just want to quickly identify some general concerns. Generally, I've observed some good science coming from technical staff on the Council, the Plan Development Team, and the National Marine Fisheries Service, which provided an opportunity to make several good choices and develop several good alternatives for the Council's consideration. What I witnessed was that the science was then taken through a process and was reduced to nothing. This was done without the practicability analysis, which would include an economic analysis. Instead, the economic analysis was done on an ad-hoc basis and we are then left with a series of alternatives. Several of these alternatives are not lawful and several are not practicable in that they would not do the job for which they were designed. There is an alternative in the Amendment that proposes no protected areas, which is inconceivable that this would be an alternative that would be consistent with the laws that prompted this action. There are several combinations of alternatives that would reduce the overall protected areas by 70 percent. How does reducing the protected areas create a protection of the resource that is good for the resource itself, the community, and the industry? At this hearing, we have heard great testimony regarding Cashes Ledge. The only statement I would add regarding Cashes Ledge is that it was an arbitrary decision to propose alternatives with lesser quality, effectiveness, practicability.

I have some specific concerns related to how spawning was addressed in the amendment. The Closed Area Technical Team did high quality work that put forward specific broad areas for spawning protection. This good work was not taken seriously and was rejected altogether. Therefore, this ten year development process yields no new information on spawning and no alternatives that truly follow the science. This Amendment would be held to the standard of using the best available science (Magnuson-Stevens Act National Standard 2). The amendment does not address protections for prey species at all. It is mentioned in the document, but the document does not deal with it. Dr. Rob Moir spoke on the benefits of herring and the need to further protect herring as a key prey species that many commercial fisheries rely on. This is not accounted for in this amendment, and the herring fleet will continue to fish in all these areas, with the exception of Ammen rock, which is problematic.

Practicability analysis for this Amendment indicates that there is an inherent inequitable component to it, in that you are providing an economic measure for the action of opening or closing an area without any tangible corollary on the other side for the ecosystem that is being

affected. Dollar value is easily recognizable, but what about the value of the affected ecosystem? The analysis does not provide a fair comparison between these two components.

Regarding the gear modification proposals, there is good science from the Council's Committees to not use gear modification areas. I urge the Council to pull those out of the Amendment, consistent with the science and the recommendations from the Habitat Committee. Similarly, the alternatives that provide for no closures should be removed because they are not consistent with the law. Regarding the western Gulf of Maine, we support Alternative 1 (No Action). I think it has been suggested that the Stellwagen Advisory Council endorsed an alternative to no action, which is not true; the Stellwagen Advisory Council did not endorse any alternative in this process. Regarding the central Gulf of Maine, we support Alternative 1 (No Action). Regarding the eastern Gulf of Maine, we support Alternative 2 (Machias and Large Eastern Maine areas). Regarding the Great South Channel/Southern New England, we support Alternative 3. We support Alternative 8 for Georges Bank if action is taken for Closed Area II. We strongly support the dedicated habitat research areas because they are the future of our management of habitat, and will help us to better design and utilize closed areas.

Charles Raymond, Gloucester offshore lobster fisherman, F/V Michael & Kristen: I began offshore lobster fishing out of Gloucester in 1970. We have had an active offshore lobster fishery in Closed Area II on Georges Bank for the past 20 years during the summer months, with boats from the continental shelf and the Gulf of Maine. There is discussion of the possibility of Closed Area II being open to mobile gear vessels. The Atlantic Offshore Lobstermen's Association has been proactive in drafting a bottom-sharing agreement between the groundfish and lobster fleet, with lobster boats fishing in the summer and fall months. We are in the process in drafting a similar agreement with the scallop fleet in the event that it may be needed. We hope that the Council could possibly help in not allowing mobile gear vessels to enter that area during the summer and early fall because it would be a big mess. We could avoid the problem by having a bottom sharing agreement. In the event that there is no bottom sharing agreement between the offshore lobstermen and the scallop fleet, we opposed scallop vessels being allowed access to Closed Area II without such an agreement in place.

Vito Giacalone, Northeast Seafood Coalition: Agreed with Jackie Odell's comments. Fully support those options. I have heard some incorrect statements from commenters in the room, so I want to explain the rationale for the proposed Stellwagen Large habitat management area. The original Sanctuary Ecological Research Area I was proposed to be all to the west of 70'15", which would have caused massive disruption to the commercial fishery. We were grateful and encouraged by the Sanctuary staff to work with us to have Stellwagen Large mostly outside the Sanctuary designation. I agree with the recreational fisherman that stated earlier that the Stellwagen Bank Sanctuary designation did not allow fisheries to be regulated in that area. I think the Stellwagen Sanctuary staff made a tenuous move, but they did go in that direction and stated that they will work to develop an area for protection that is not entirely inside the sanctuary and trust that commercial fisherman would support no fishing in the western Gulf of Maine area; we do not fish in that area now, and the big portion of the [research] area would remain closed to mobile commercial fishing gears. It would then be up to the other stakeholders and scientists to determine who would be able to fish in that area. There was no discussion of a control area where no fishing would occur in those negotiations. Once we were at the point

where we had agreed on the SERA II (i.e. Stellwagen DHRA) boundaries, it went to the Habitat Committee and the full Sanctuary Advisory Council, which has a lot of representation from the recreational and party/charter fleet and one mobile gear representative. We made sure to continue that discussion until everyone voted in favor of a proposed measure. At that point, there was no north reference area or south reference area. There were no negotiations where people discussed where recreational fishing would be prohibited. This is why we are indifferent regarding the reference area, and we wanted to make that clear.

We continue to support Alternative 5 for the Great South Channel, which is important for the groundfish fleet, and the scallop fleet is indifferent in the choice between Alternatives 4 and 5. We are involved in the Closed Area II agreement with lobster industry, which is codified in operations plans. We will continue to help the lobster industry. I want to clarify a misstatement that we have 4.5 dedicated months for the offshore lobster fleet in Closed Area II and 7.5 months for the groundfish fleet in the area. [Under the spawning alternatives in this amendment] we [would] get less than 4.5 months in there because every option has Closed Area II designated as a spawning closure for groundfish, so we [will not be able to] access the area between February 1st and May 1st, which was based on the seasonal lobster fishery in that area.

Regarding the Cashes Ledge closure, the area was closed to protect Gulf of Maine cod, and was not designated as a habitat closure. An area of 1,700 square miles was closed, but we do not know if the closure was effective because the trawl survey samples one 20-minute tow in that area on average per year. Some people have said that we need to close more bottom habitat areas, but how would we know if they work? This is why the sunset provision for closed areas is so important. Who is going in to check these closed areas? It has taken eight to ten years for the science to support smaller, discrete areas. We fully support the Fisheries Survival Fund, the Northeast Seafood Coalition, and the Associated Fisheries of Maine [effort to look at] the Swept Area Seabed Impact model and the science. The draft environmental impact statement analysis scoring as far as positive to negative impacts seems counter intuitive, because gear modifications seems to have more better habitat impacts compared to closed areas based on the public hearing document. We picked those areas because they were best supported by the science, and the scallop and groundfish fleet could continue to operate.

Dave Livier, Groundfish Sector 8 manager: Agreed with Jackie Odell's comments.

Brian Curry, Plymouth recreational fisherman and member of the Stellwagen Bank Charter Boat Association: Rod and reel would have to do an awful lot of drops to make a ripple in the sand, so the destruction to the sea floor would not be caused by the recreational fleet who seldom anchor their vessels. To me, it seems that the Council is not looking for the area where the fish might be. When the coast Guard is looking for you, they search in grids then narrow in. Fish move, they see things and they move because they chase bait. With regards to the herring and mackerel, if you take away that forage fish, the larger fish do not return to the area because they do not think the forage fish is there. This Amendment should be more geared towards finding where the fish are located.

Joe Orlando, President of the Northeast Fisheries Sector 2: Agreed with comments made by representatives of the Northeast Seafood Coalition.

Richard Burgess, President of the Fixed Gear Sector 3: Agreed with comments made by representatives of the Northeast Seafood Coalition.

Al Catoni, Sector 2 representative and fisherman: Agreed with comments made by representatives of the Northeast Seafood Coalition.

Russell Sherman, Gloucester Fisherman: Agreed with comments made by representatives of the Northeast Seafood Coalition, especially their support for Alternative 6's Stellwagen Large habitat management area for the western Gulf of Maine.

Monty Rome, hydraulic clam dredge boat operator and owner of a processing plant in Gloucester: I support Alternative 2 for the Great South Channel/Sothern New England. If the Council does not select Alternative 2, I would then support Option 2 for the surf clam exemption.

Patti Page, Gloucester resident: Agreed with comments made by representatives of the Northeast Seafood Coalition and Mayor Kirk. I support the following: Alternative 3 in the eastern Gulf of Maine, Alternative 4 in the central Gulf of Maine, Alternative 6 in the western Gulf of Maine, Alternative 2B for the Gulf of Maine spawning areas, Alternative 7 in Georges Bank, Georges Bank spawning season (Alternative 2), and Alternative 5 in the Great South Channel. I did not read your draft environmental impact statement, but Volume 3 of the document contains information on spatial management impact analysis. I have been closely watching the ocean planning [discussions], and I'd like to state for the record that for any habitat alternative proposed, I hope you have jurisdiction for that area. It is very important to keep our seafood safe for the public. Fish is the last wild harvested protein and would like to keep it safe. I do have some history with NOAA and closures, and I do question the methodology of closures and how these work. These closures are good for the habitat, but I am not sure how these closures are related to the health of the fish resource.

David Wallace, Surfclam/Ocean Quahog fishery representative: Firstly, surfclams and ocean quahogs are not overfished. It has been said that they are the best managed fishery in the U.S. We could be regulated right out of this area through this action because this proposed area (Nantucket Shoal closure) is where half of where all these clams are caught. This is the second largest federally-managed fishery, making \$250 million annually. We have between 700 and 800 employees in Southern Massachusetts and Rhode Island and we have the smallest footprint of any fishery at 227 km², smaller than the lobster fishing areas (340 km²) and the scallop fishing areas (3,000 km²) and trawl gear (49,000 km²). The Mid-Atlantic Fishery Management Council passed a motion to request that the New England Fishery Management Council permit surfclam and ocean quahog fishing in sand habitat in all proposed closure areas, which we strongly support. If the Council does not support this measure, then we strongly support Option 2 for proposed management measure. If not supported by the Council, then we support Alternative 1 for Georges Bank and Alternative 2 for Nantucket shoals in the Great South Channel/Georges Bank.

Valerie Nelson, Gloucester resident: Agreed with comments made by representatives of the Northeast Seafood Coalition. There were a number of points made about how little research has

been done in Cashes Ledge area, with one tow for 20 minutes in 1,700 square miles and comments by Conservation Law Foundation that the process strays from real science. This process has to commit to serious adaptive management going forward, to improve the science, stock assessments, and habitat studies, so that everyone is fully confident in understanding what is going on out there. Going forward, whether it is sunset clauses or commitments to more research, or an adaptive management principle as a foundation to this, you should be committed to deepening the understanding of the science and ocean and habitat. Fisherman should be involved in these stock assessments and ecosystem-based management studies. If not, then the danger is that huge mistakes are being made by closing areas that are not closely related to the health of the fisheries or the ocean. I encourage you to make commitments to engaged research of the fisheries and periodic evaluations of implemented closures.

Tim Brady, charter fisherman and member of the Stellwagen Bank Charter Boat Association and Plymouth Party Boat Association: I strongly support Alternative 1 (No Action) for proposed dedicated habitat research areas. I think Dave Marciano said it best at the Plymouth hearing – it is another ‘resource grab’. In 2011, we observed the collapse of the cod stock with the implementation of catch shares. On the website for the Massachusetts Division of Marine Fisheries’ Governor’s Cup for recreational fishing, there hasn’t been a 35-pound cod weighed in for cod catch since the implementation of catch shares in Massachusetts. This action would take away one of the very few areas for recreational fishing industry in Plymouth for a six- to eight-hour trip.

Newport News, Virginia

**Hilton Garden Inn · 180 Regal Way
December 18, 2014**

Hearing officer: David Preble

Other Council members: None

Council staff: Fiona Hogan

Attendance: Approximately 11 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Dr. Hogan briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Bill Mullis, B and C Seafood: I represent the day-boat scallop fleet. I support Alternative 4 in the Great South Channel, which creates the Great South Channel habitat management area in its un-extended form; or Alternative 5, which creates a Nantucket Shoal habitat management area which is shifted to the west. We remain strongly opposed to Alternative 3, which extends the area east [towards the current Closed Area I boundary]. The Habitat Plan Development Team and the Closed Area Technical Team proposed Alternatives 4 and 5 after collaboration with the scientists and industry to maximize biological and economic gain. The Council should adopt these alternatives to set precedence for future collaboration. The Habitat Plan Development Team analysis confirmed that Alternatives 4 and 5 protect an equivalent amount of valuable habitat as the four areas originally proposed to the east without displacing as much fishing effort. I support Alternative 1 (no action) on the Georges Bank spawning areas, which allows us access to Nantucket Lightship, Closed Area I and II. I also support the seasonal closure (April through June) in Alternative 2; or Alternative 3, only if Option C is chosen, an exemption for scallop dredge gear.

Bill Wells, Wells Scallop Company (seven limited access scallop vessels): We all understand the current closed areas were large when first formed, and based on information that was current at that time (i.e. the 1990s). We understand how we got here. One key element is that in the future, we need to allow for flexibility so that we are not locked into the same situation that we have been locked in for the last 20 years. Well-intentioned people did the best job they could, but with the lack of flexibility, scallop vessels have seen [costly closures in] areas like northern edge. We want to make you aware that the scallop industry is the #1 fishing industry in this state for more than a decade. Rotational scallop management has been a big deal for us and it works. It is a success story fostered in cooperation with New England Fishery Management Council. Any area that we could gain access to that is currently closed would be of great interest to us. We understand that the tradeoff would be that we cannot impact habitat and the management of other fisheries. Agreed with Bill Mullis' support of Alternative 7 (page 18 of public hearing document), the most reasonable alternative for us. It allows us to continue to work in the areas where we currently fish to support ourselves. Regarding the Great South Channel (page 20 of public hearing document), I support Alternative 4 or possibly Alternative 5. We can never support Alternative 3, because it would be a quantifiably negative, dramatic impact on the

scallop industry. When you compare Alternative 3 to Alternative 4, Alternative 3 does not seem to have a great benefit scientifically; this would be a draconian measure. Regarding the dedicated habitat research areas, the sunset provisions make perfect sense. Mr. Preble's point was well made on how long the grants process is. Alaska has had closed areas for crabbing for 25 to 30 years. They do catch scallops on longlines. They will pull up longline gear and have scallops attached to them, so there must be many scallops in that area. Without the sunset provision, we'll never be able to sample the area to determine what fishery can be supported in that area. We appreciate you coming here and your efforts as chairman of the Habitat Committee. I know you've been criticized 10 times for every compliment you've gotten. This was a thankless job; it had to be done under congressional mandate. If we quantify the cost and try to quantify the benefits, then moving forward is something that can be accomplished by this group. Our Regional Administrator has made this topic a priority. He came to Virginia in his first 6 months in office. The scallop industry needs, wants, and feels that we are justified in having access to the northern edge. Again, with the idea that it's easy to calculate what we've lost, tens of millions of dollars for the [questionable] benefit of another fishery. Surveys done in that area show that scallops are dying of old age; this is not successful management.

Michelle Peabody, scallop vessel owner of eight limited access permits: Agreed with comments made by Bill Wells and Bill Mullis. Regarding the Great South Channel habitat management area, I support Alternative 5, which would create the Nantucket Shoal habitat management area. I am strongly against Alternative 3 (Great South Channel East). Regarding the Georges Bank habitat management area, I support Alternative 7, and I am very opposed to any option that would continue to or extend the closure of the northern edge. I continue to encourage collaborative work between science and industry, to maximize biological and economic gains in habitat management. I think we've made great progress with cooperative research, and I hope we continue.

Ed Mullis, B and C Seafood: Agreed with comments made by Bill Mullis, Bill Wells, and Michelle Peabody. I do not feel there should be any closures unless there are scientifically-proven reasons to do so. We have a problem seeing the science to justify the closure. There needs to be more effort and more information regarding the rationale for closures. I strongly oppose any alternative that includes a continued or extended closure of the northern edge, because it is not practical and lacks a scientific basis. Alternative 7 is based within Swept Area Seabed Impact analysis and includes a diverse range of essential fish habitat for protection. The areas are much more suitable to the goals of the Amendment, i.e. habitat and spawning protection and requirements of the law. Alternative 7 is the only alternative that provides protection within practicability standards, as required by the Magnuson-Stevens Act. The northern edge of Georges Bank contains the densest beds of scallops in the entire Northeast Atlantic; opening it would increase catch per unit effort and reduce bottom contact time and overall impacts on habitat. Cobble habitats with higher vulnerability also occur in areas adjacent to the proposed northern edge closure, as identified by Closed Area Technical Team. No juvenile cod hotspots in areas proposed under Alternative 7. Haddock hotspots are a small part of the northern-most area in the deeper waters. Haddock is abundant and does not require special spawning protection.

Tom Hoff, Wallace and associates, former senior ecologist for the Mid-Atlantic Fishery Management Council, and former member of the Habitat Plan Development Team: We represent the surfclam/ocean quahog fishery. I have worked with every staffer on this amendment except for Fiona. I would be the first to say that if you fish a hydraulic clam dredge in a structured habitat (i.e. coral or sponge habitat); it would have significant impacts on habitat. However, clam dredges are not fished on structured habitat; they are fished on high energy sand, as shown in the environmental impact statements and in this Amendment. Impacts of hydraulic clam dredge gear type are temporary and minimal. The reason why clam dredges do not fish in structured habitat is that there are no clams in these areas, and that the damage to the clam dredges from structured habitat would cost \$75,000. I know that you, Mr. Preble, are not a fan of overfishing definitions, but I am, and I believe that the success of the Mid-Atlantic Fishery Management Council is based on that. Both of these resources are not overfished and overfishing is not occurring. The stock assessments are now showing that both of those resources are in New England waters, Nantucket Shoal and Georges Bank. With global climate change and ocean warming, you're going to have more clams. Virginia used to be a hotspot for the clam fishery. Now there is only one processor left. New Bedford is the second largest clam plant and port, and is an industry worth \$250 million after processing. The industry fully supports the Mid-Atlantic Fishery Management Council's unanimous motion from last week that would exempt the hydraulic clam dredges from closures on high energy sand. If the New England Fishery Management Council chooses not to follow the Mid-Atlantic Fishery Management Council's recommendation, then the industry would like to support Option 2 for clam dredge exemption on Nantucket Shoal and Georges Bank. If neither of those preferred options is acceptable, then the third option for industry would be to support Option 2 on Nantucket Shoal and Alternative 1 (no action) on Georges Bank.

Webinar

January 5, 2015

Hearing officer: Michelle Bachman

Council members: Dave Preble

Other Council members: None

Council staff: Fiona Hogan, Michelle Bachman, Maria Jacob, Jonathon Peros, Lou Goodreau, Chris Kellogg, Deirdre Boelke, Joan O’Leary, Jaime Cournane, Tom Nies

Attendance: Approximately 76 audience members

Ms. Bachman briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Ron Huber, Friends of Penobscot Bay: The inshore juvenile cod habitat area of particular concern seems rather large compared to other areas. Are there any fishery restrictions recommendations in that area? There are 10 and 20-meter depth contour proposals²³, and our interest is in the land-based impacts, and wanted to know when that would be discussed. Ms. Bachman clarified that the Council has not developed any specific fishing restriction measures for the HAPC. Although she guessed at the hearing that the HAPC might overlap some of the habitat management areas closer to shore, e.g. the Eastern Maine, Machias, and Bigelow Bight areas, these areas are all deeper than and offshore of the HAPC. Mr. Huber stated that training should be made available for state environmental agency staff members and we would love to understand this habitat area of particular concern.

Cody Gillis, recreational fisherman: I follow these actions closely, fishing on Jeffreys Ledge every weekend. I can see that the Council is putting a squeeze on recreational fishermen; there should be a quasi-ruling for the party boat industry. Charter vessels fall under the same rules as recreational guys but they have 30+ passengers while I have only 2-3 passengers. Cod stocks are gone, yet commercial tuna fisherman on television show *Wicked Tuna* are using market cod as bait and the Council is not doing anything about it.

Rick Bellavance: Asked whether there is going to be a Habitat Advisory Panel meeting prior to the final rule publishing. Ms. Bachman explained that after comment period closes, the Committee will meet to discuss the comments, and the intent is to have the Advisory Panel convene after the Committee has met. These meetings will take place around the same time, February or March. Mr. Bellavance also asked whether future changes to the Amendment be frameworkable, or will they require an Amendment. Ms. Bachman clarified that the Amendment does set up frameworkable items, but ultimately it would depend on whether a particular change is substantial or not; substantial changes would require an Amendment, but many measures in the document are frameworkable.

²³ Note that 0-20 meters is the preferred alternative.

Cathy Buckley, climate activist for the Sierra Club: I want the Council to take the long-term view of actions versus the typical approach for incremental changes, which would keep us from doing what is needed for future generations. Please be as protective as you can be.

Richard Allen, lobster fisherman: Can you say that none of the proposed measures are intended to affect lobster/crab traps? Ms. Bachman clarified that no measures would affect lobster trap fishing based on Council discussions. If the Council were to propose measures affecting lobster trap vessels, it would require additional and substantial analysis. Mr. Allen stated that although lobster gear is not capable of catching groundfish, there have been many discussions regarding Gulf of Maine cod bycatch in lobster traps. If the Council determines lobster gear is capable of catching lobster, would these measures then automatically apply to lobster vessels or would the Council have to take another action for that? Ms. Bachman clarified that lobster traps would have to be a specifically-named exclusion, which would require additional rulemaking, but will look into the issue further to confirm.

Christopher McGuire, The Nature Conservancy: Is there a website where submitted comments can be viewed by the public? Ms. Bachman clarified that we do not use www.regulations.gov for draft environmental impact statements, but after all hearings are complete, the staff will put together a package of written and hearing comments for the Council and post it on the New England Fishery Management Council webpage.

Robin Hodlock Seeley: My interest is in the commercial seaweed harvesting in the intertidal zone. In reference to HAPC designation criterion 2 for sensitivity to anthropogenic stress, the draft environmental impact statement does not include discussions on seaweed harvesting as an upland anthropogenic stress or fishing activity stress. The Council should consider seaweed harvesting under the list of land-based anthropogenic stress, if the habitat area of particular concern starts at mean lower water mark and the tidal zone is considered the upland area.

Rick Bellavance: I recommend that the Cox Ledge area be removed from the Great South Channel/Southern New England management area and treated as a stand-alone area for management purposes. Ms. Bachman clarified that the different alternatives are organized in this manner for analysis of impacts, but that the Council may remove specific areas or combine areas differently, and the draft environmental impact statement will be updated to reflect those changes by the Council, so these comments are useful.

Patrick Paquette, charter fisherman and runs a fishery advocacy company: How the mid-water trawl exempted fishery is handled with the various options in the document? Are they allowed into all closed areas? Is it possible to support the dedicated habitat research area, but not support the prohibition on recreational gear in the dedicated habitat research area? Ms. Bachman clarified that mid-water trawls are considered capable of catching groundfish but are an exempted fishery. However, regarding eastern Gulf of Maine Alternative 2, they would be restricted from these closures if implemented with management option 5 (no gear capable of catching groundfish allowed). In the Western Gulf of Maine and in Closed Areas I and II, existing measures would apply (i.e. if exempted now, they'll continue to be exempted from fishing restrictions). Ms. Bachman also clarified that it is possible to support the dedicated

habitat research area and not support recreational fishing management options, which would be Alternative 3C (DHRA without reference area).

Rachael Miller, The Rozalia Project for a Clean Ocean: We support permanent protection for Cashes Ledge (central Gulf of Maine Alternative 1) and to keep existing closures and prevent trawl gear from these closures, to protect Gulf of Maine kelp forests, especially the kelp forest on Cashes Ledge.

Genevieve Kurilec McDonald, fisherman and downeast representative on the Maine Lobster Advisory Council: I am concerned with Option 5 being applied to the Machias and Eastern Maine areas – if it was to be applied to the lobster fleet, it would be economically and culturally devastating to the state of Maine.

Mark Blesoff: This is a great use of technology. Agreed with Genevieve Kurilec McDonald's comments to maintain existing closures. In general, habitats need more protection, not less. Spawning habitat protection via closed areas is important to have the possibility to continue to fish.

Bob Gerber: Regarding the long term seafood sustainability, I am interested in having protected areas remain completely protected without trawl and dredge fishing in these areas, and to continue and expand spawning protection in these areas.

Brewer, Maine

**Jeff's Catering and Event Center · 15 Littlefield Road
January 6, 2015 and 6:00-8:00pm**

Hearing officer: Dave Preble

Other Council members: Terry Stockwell

Council staff: Michelle Bachman, Maria Jacob

Attendance: Approximately 23 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Ms. Bachman briefed the audience on the public hearing document. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

An audience member asked for clarification on the Platts Bank habitat area. Ms. Bachman noted that it is part of central Gulf of Maine Alternative 3, which is not a preferred alternative.

Terry Stockwell, Director of External Affairs for Maine Department of Marine Resources (DMR): I am reading comments submitted by the Maine Department of Marine Resources. In the past number of years, Maine Department of Marine Resources has worked to help improve juvenile habitat protection and spawning activity protection. The draft environmental impact statement is an extremely complex document and Maine Department of Marine Resources has significant concerns with a number of the proposed alternatives.

Regarding the eastern Gulf of Maine, Maine DMR is opposed to Alternatives 2 and 3. The maritime boundary is in a grey zone between Canada and the U.S. If the proposed closure is approved, Maine scallop fishermen will be prohibited from fishing in the area and Canadian fishermen would be allowed to continue fishing there. This alternative must be rejected as the area is an extremely productive scallop ground. Data from the 2009 and 2012 surveys of Area 1 (similar boundaries to Machias habitat management area) indicate that there were 90,000 pounds of scallops in the area in 2009 and 75,000 pounds in 2012. Vessel trip reports indicate light scallop activity in that area, which may be explained by the prevalence of lobster gear in area, but maintain future harvest opportunities in the area is very important. The deeper waters in the Machias area southwest of Cross and Libby Islands are particularly important for the mahogany quahog fishery.

Also in the eastern Gulf of Maine, DMR prefers the Small Eastern Maine habitat management area, and is opposed to the large area. The Council's preferred alternative is a vast overreach of Council's management powers. Maine Department of Marine Resources also opposes the Toothaker Ridge habitat management area because the small vessel trawl fleet in the area would experience socioeconomic losses. Maine DMR does not support the eastern Maine dedicated habitat research area. If approved as a final alternative, the Council should include a five-year sunset provision.

Regarding the central Gulf of Maine, Maine DMR supports Alternative 3. This alternative balances fishing opportunity and habitat protection. Regarding the western Gulf of Maine, Maine DMR supports the Council's preferred alternative (Alternative 1/No Action), conditional on the shrimp exemption in the area. DMR acknowledges strong industry preference for the Large Stellwagen alternative, the modified existing WGOM closure has provided long term habitat, spawning and juvenile groundfish protection in an area that has remained highly productive. DMR is concerned that reopening much of the northern end of the current Jeffreys Ledge closure area would compromise the NEFMC's groundfish rebuilding goals. On Georges Bank, DMR supports Alternative 7.

DMR strongly supports the year round WGOM Groundfish Closure Area, seasonal Whaleback Area, and seasonal Massachusetts Bay Area closures. DMR does not support inclusion of the rolling closure areas in OHA2 as they are more appropriately included in groundfish management actions.

Bill Anderson, lobster fisherman: When I was a young fisherman, there was a groundfish fishery in the Machias area. However, proposing to close an area where there is currently no groundfish fishing does not make sense if you are trying to protect the habitat. Currently there are some scallop vessels fishing in the area. Over 20 years ago, there were New Bedford scallop vessels in that area. I lobster fished in that area and scallop dragging affected lobster landings in that area. There was an area they dragged in Dark Harbor, and these big boats from Portland did not create gear conflict for me. But, that area also has not been fished, so this area is currently inactive and can be used for habitat protection. No groundfish activity takes place in the eastern Gulf of Maine, only lobstering, which occurs between April and November. There are a few months in the winter that mobile gear can access the area, but some lobster fishermen leave their gear in water. Also, there is a concern with ghost gear. I also have a scallop permit on a small 50-foot boat; most boats are this size or smaller. I represent the small boats that would like to continue day fishing in that area. Dark Harbor used to have groundfish activity, never saw any large amount of fish, it was dragged hard by scalloper vessels, but there are no groundfish in the area. Some of these scallop boats were owned by Maine residents.

Kristan Porter, lobster and ocean quahog fisherman: Regarding the Machias area, I support Alternative 1 (No Action). I fish for lobsters and ocean quahogs and landed the largest number of pounds in that area. Mr. Stockwell identified the area as a grey zone, so Canadians would be allowed to fish in the area, not us. Last month, the groundfish industry pushed for lobster pots to be considered gear capable of catching groundfish. I am wary of closing that area now and having it possibly affect lobster vessels in the future. Washington and Hancock Counties are economically depressed and highly dependent on fishing, and land a large fraction of lobsters in Maine, so there would be a huge economic impact [if the area was someday closed to lobstering]. I have a scallop permit, and most of the vessel trip reports for that area are mine. I fish alongside Canadians in that area. The northwest corner of that area is important for the ocean quahog fishery, and would have impact for those employed in that fishery, both shoreside and on the water. I would hate to be kicked out of an area and watch Canadians fish there.

Genevieve Kurilec McDonald, lobster fisherman and downeast representative for Maine Advisory Panel. I have serious concerns regarding the preferred alternative (Alternative 2) in

Machias. The local economy is highly fishery dependent. The grey zone area is utilized by both the United States and Canada. However, if the Machias habitat management area is implemented, only Maine fishermen will be affected. The Large Eastern Maine area is too large, and I am not willing to gamble that these closures won't affect lobster fishermen [at some future time]. I support Alternative 1 (No Action), but if the council goes forward with [these closures], Option 5, closure to all gears capable of catching groundfish, should not be used.

Mike Sansing, Bar Harbor Foods manager: My company is located in downeast Maine. Our company revived a cannery in 2003 and employ 35+ employees. We purchased lots of ocean quahogs last year and clam juice is a very important product for us.

Dana Rice, DB Rice Fisheries: Agreed with Maine Department of Marine Resources' comments. I appreciate the effort you put into this habitat amendment, I think something good could come out of this. Regarding the Large Eastern Maine Area, Option 5's complete restrictions concern me and it is too broad brush and should be taken out of the Council's consideration. The lobster industry is critically important, as well as the herring fishery. Both would be impacted by Option 5 as herring are used as lobster bait, and the impacts on both fisheries need to be analyzed. Both the herring and lobster industry are very healthy.

Robin Alden, Executive Director for Penobscot East Restoration Center: PERC works to secure sustainable fisheries from Penobscot Bay to the Canadian border. Regarding the eastern Gulf of Maine, we oppose both the Machias and the Large Eastern Maine area. The Machias area should be rejected because of the grey zone issue, in order to remain equitable with Canadian fishermen operating in that area. We oppose Option 5 because it is an overreach and should not be a part of the document. Regarding the Eastern Maine areas, this is a complete reversal of our prior position, but the recent discussions related to lobster gear and groundfish present too great of a downstream risk. Even though we are aware that this action does not close the area to lobster fishing, the context has changed. In lobster zones B and C, only 7 of 365 fishers in that area are non-lobster fishermen, and only 3 have scallop permits. The average annual value of zones B and C is \$128 million, mostly in federal waters (\$64.4 million). In short, these communities are lobster fishery dependent. Rebuilding groundfish would not fix this dependence. Jeopardizing lobster fishing in the area would be a misstep with incalculable consequences.

John Tripp, lobster fisherman: I don't have other permits. My concern is that if lobster gear was ever considered capable of catching groundfish and we were closed out of the eastern Gulf of Maine, we would be devastated. 60 percent of my income comes from that area. Would affect all fishers greatly as most of the landings are from federal waters.

Dwight Rodgers, part owner of DC Seafoods: We own two ocean quahog draggers and we are concerned about the area that you are considering. Supports Alternative 1(No Action) for the eastern Gulf of Maine.

Ira Miller, fishing vessel owner: I have concerns and agree with Maine Department of Marine Resources' position with a few differences for the western Gulf of Maine areas. Regarding the eastern Gulf of Maine and Machias, I support Alternative 1 (No Action) for all reasons previously stated. If lobster gear was ever considered capable of catching groundfish, impacts

would be substantial. There is more offshore lobster fishing activity further west. Regarding Platts Bank, I do not support that closure because I have a northern Gulf of Maine permit and that action would prevent me from fishing in that area. The area outside [the NGOM area boundaries] was fished historically. I think rotational [scallop] management would be good for Platts Bank and Jeffreys Ledge, and I support it for small Maine boats as it would benefit the fleet and the scallop resource. I would fish on Fippennies Ledge if it is reopened, and I am concerned about the Toothaker Ridge area. I think the current Jeffreys Bank closure is a better option for groundfish protection based on what I've seen historically. Any options should be revisited on a regular basis and I support a sunset provision on all alternatives.

Darcie Couture: Agreed with Maine Department of Marine Resources' comments. Offshore surfclam fishery has to deal with red tide closures, so they already struggle to find open fishing areas to fish and maintain a market. Now that they do have a stable market, they should be allowed to fish in that area.

Portland, Maine

Holiday Inn by the Bay · 88 Spring Street

January 7, 2015

Hearing officer: Dave Preble

Other Council members: Terry Stockwell, Terry Alexander, Vincent Balzano

Council staff: Michelle Bachman, Maria Jacob

Attendance: Approximately 80 audience members

Mr. Preble introduced Council staff in attendance and provided some opening comments about the Omnibus Essential Fish Habitat Amendment 2 process. Ms. Bachman briefed the audience on the public hearing document.

Terry Alexander asked if the spawning alternatives adopted in the habitat amendment would replace the spawning rolling closures and closed areas currently in place, or those adopted by Northeast Multispecies Framework Adjustment 53. Ms. Bachman explained that the overlaps between the groundfish framework and the habitat amendment will need to be addressed. The groundfish framework will be finalized first, and could render some of the spawning measures in the habitat amendment moot.

Maggie Raymond asked for clarification as to why the document identifies that the no action/status quo habitat alternatives involve other areas (i.e. groundfish mortality closures) that are not designated as existing habitat management closures. Ms. Bachman explained that because some of the groundfish closures are year-round and provide some habitat protection benefits, the year-round groundfish closure are being considered for analysis with the habitat closures that currently exist. However, the inclusion of these areas for analysis does not mean we want to re-designate those areas as habitat areas. Regarding the portion of the Western Gulf of Maine mortality closure that extends beyond the eastern boundary of the Western Gulf of Maine habitat area, Ms. Raymond asked if this area would be considered a habitat management area once the amendment is adopted, assuming it continues to be the Council's preferred alternative. Ms. Bachman explained that adopting the No Action alternative does not affect the rationale for the existing closures, or the fishing restrictions associated with them. Mr. Preble reminded the group that the Council's preferred alternatives could be modified after testimony.

Ben Martins asked if the general types of data used for essential fish habitat designations were the same for all of the regional fishery management councils. Mr. Preble explained that we have good information on the bottom habitat but not the water column. The swept area seabed impact model includes information of the benthic habitat only. Mr. Preble said no – the information is now becoming available. Ms. Bachman explained that information on the different life stages and the habitat and environmental conditions they prefer was used to designate the essential fish habitat. But when we looked at the impacts, we focused on the benthic habitat.

Terry Alexander asked whether central Gulf of Maine Alternative 3 and Alternative 4 would provide the most protection for essential fish habitat. Ms. Bachman explained that the Plan Development Team discussed that the most vulnerable habitats in the Gulf of Maine are thought to be areas of hard bottom, for example Cashes Ledge, Platts Bank, Jeffreys Ledge, Jeffreys Bank, and Stellwagen Bank. Habitat management areas more narrowly focused on these features would therefore provide the most protection. However, there are also deep basin habitats that are incorporated in the broader Cashes Ledge groundfish closure area, which are also vulnerable, and are not included in Alternatives 3 and 4. Terry asked if Cashes Ledge itself (not the surrounding basin) could be opened to fishing under any of the alternatives. It would be if Alternative 2 (no habitat management areas) was selected for the central Gulf of Maine.

Another audience member asked how long is short term and how long is long-term in terms of the socioeconomic analysis. Ms. Bachman clarified that short term is the first year and a few subsequent years where the biological life is adjusting to the changes, and long term is farther into the future, but it does depend on the biology of the stock (i.e. their reproductive rate).

Public comments

Terry Stockwell, Director of External Affairs for Maine Department of Marine Resources:

Mr. Stockwell read for the record the comments made by the Maine Department of Marine Resources. He acknowledged the significant opposition to at least one of the alternative being supported by Maine Department of Marine Resources, and encouraged people to come forward and express their views on that matter for the record. DMR's comments are summarized in the Brewer hearing report and are also included in the written comments so they are not provided again here.

Togue Brawn, Maine Dayboat Scallops: Agreed with Maine Department of Marine Resources' comments regarding the Machias grey zone area. The Machias area is important to the northern Gulf of Maine scallop industry. The northern Gulf of Maine management area is not very large and Maine fishermen should not lose access to the scallop resource because there are not many areas in that region that are productive. The Machias closure would close down one of the few productive areas on the region, so it doesn't make sense to do that now.

Jim Odlin, commercial fisherman for 45 years: I think there are a lot of unknowns in this document. The amendment is too big and too complex, and has strayed from its original intent. We have lost track of what is going on in the 10 years of its development. The conclusion that larger and more closures are more beneficial is speculative. Our company has made many observed trips under an exempted fishing permit in closed areas, mostly on Georges Bank. Since June 2014, we have made five or six trips in Closed Area II, and we have found no fish. These were self-funded observed trips. We also went in the Closed Area I in June and July, and there were some fish in the area, but there were larger fish outside the closure than inside. There is a large amount of biased data in this document. The Closed Area Technical Team use of data was flawed with some data that go back to the 1930s and no longer have relevance. I was upset that the Council allowed the technical teams to develop policy.

There is a lot of recent information on when and where cod spawning occurs on Georges Bank, but it was done by the Canadians, and states that cod spawn in the area February 15th on eastern Georges Bank, while the Closed Area Technical Team says January 1st. Historically these areas were closed on February 15th for mortality reductions, not spawning protections. The Georges Bank [May] seasonal closure is not a spawning closure, it is a mortality closure. There are no spawning fish in the area of the Georges Bank rolling closure and we do not see cod spawning in that area in May.

I support the following: Eastern Gulf of Maine Alternative 3 excluding Toothaker Ridge and closed to all fishing; central Gulf of Maine Alternative 4; western Gulf of Maine Alternative 6; Georges Bank Alternative 7; Great South Channel Alternative 5. I do not understand how scallop draggers can have less impact on the bottom habitat than modern trawl gear, whose doors no longer touch the bottom.

Patrice McCarron, Director of Maine Lobstermen's Association: We support the notion of protecting habitat and spawning stocks. The lobster industry's measures protect spawning fish and do not harvest juvenile or egg-bearing female lobsters, which contributes to the industry's large landings. The measures in the habitat amendment primarily protect cod and groundfish, and could potentially affect lobster industry by excluding lobster gear from these closed areas in the future. We understand that the amendment does not currently exclude lobster gear, but it is unclear if future action could affect lobster fishing in these areas. Lobster traps are not considered capable of catching groundfish, and the Maine Lobstermen's Association believes that previous research and the broader scientific community would agree that lobster gear does not impact habitat, spawning potential, or mortality of groundfish. But the Maine Lobstermen's Association is not willing to gamble our future, especially given the highly political nature of this recent debate regarding lobster gear's capability in catching groundfish.

The lobster industry in Maine landed 127 million pounds in 2013 and was valued at \$365 million – the lobster fishery is the backbone of Maine fisheries and we want to maintain the opportunity to continue to fish in these areas. We oppose Option 5, closure to all gears capable of catching groundfish, for all alternatives. The Maine Lobstermen's Association encourages the Council to explicitly allow lobster gear to fish in these areas in the future to eliminate our concerns. We need some assurance that lobster gear won't be re-categorized in the future. The Maine Lobstermen's Association is wary of removing any existing closures due to gear conflicts in closed areas. Maine Lobstermen Association is also wary of the size, scope, and location of the proposed closures – current and emerging Maine fisheries needs to have fishing access. Particularly, we are concerned for the scallop industry in the closed areas. We don't know how the fisheries will respond to these actions and the changing environment.

We oppose all the options for eastern Maine as outlined in Maine Department of Marine Resources' comments. Any threat of lobster gear exclusion from this area is devastating for Maine lobstermen that accounts for 60 percent of the Maine lobster landings. We are also opposed to herring purse seine fishing restrictions in the eastern Gulf of Maine, as herring is important bait for the lobster fishery. Proposed closures in the eastern Gulf of Maine would restrict Maine's halibut, lobster, and scallop fisheries. The Machias closure is particularly problematic because it is located in the grey zone and would unfairly restrict Maine fishermen

and not Canadians. We oppose the proposed Toothaker and Platts Bank closures for the small boats that fish in that area and [are concerned about] future access for scallop fishermen. In the western Gulf of Maine, we oppose reconfiguration of these existing closures due to gear conflicts and support Alternative 1 (No Action). We will submit written comments.

Alex Todd, Maine resident: Agreed with Terry Stockwell and Patrice McCarron's comments. Scallops in GOM are patchily distributed and fishing on these small patches will not have adverse impacts on habitat.

Lucy VanHook, Maine Coast Fishermen's Association: We want a pragmatic solution to conserve essential fish habitat throughout the Gulf of Maine that is effective and fair to inshore businesses. Current groundfish closures best protect important habitat, fish stocks (forage fish), and fishing businesses. We support current closures because they are benefiting fishermen and fish, and inshore fishermen have already lost large areas of fishing grounds for habitat protection. In addition, gaining access to these areas that are filled with lobster traps is unlikely to provide economic benefit to groundfish fleet if opened to them, and would have undue harm to key species.

In the eastern Gulf of Maine, we support Alternative 1, due to unknown economic losses in other fisheries. We can't support Alternative 3 for eastern Gulf of Maine, because it would eliminate 40 to 50 percent of the groundfish fleet landings in Port Clyde (Toothaker Ridge area). In the central Gulf of Maine, we support Alternative 1. Perhaps the gillnet fleet would realize short-term benefits if allowed to fish in these areas, but increased fishing pressures would continue to reduce fish stocks in the Gulf of Maine. We see little to no benefit to modifying Jeffreys Bank, so we support status quo. The majority of our members would like to see the status quo maintained for Cashes Ledge closure. Some members see it as beneficial to open the area to fish for pollock, hake and haddock, while scallop vessels see the opportunity to fish on Fippennies Ledge as beneficial. We oppose any closure on Platts Bank. In the western Gulf of Maine, we support Alternative 1 and we support the shrimp exemption (Alternative 8) to maintain access for shrimp fishery.

Tom Manley, New Bedford scallop fisherman: Supports the Fisheries Survival Fund's position (i.e. Georges Bank Alternative 7 and Great South Channel Alternative 5). He has seen negative effects of overfishing and positive impacts of smart conservation plans. We need dynamic and proactive management. Opening the Northern Edge would increase catch per unit effort and reduce fishing pressure elsewhere. To not let the fleet work these beds would be poor planning and a waste.

Dan Amory, Portland resident: We know the Council is required to protect essential fish habitat for all critical life stages of all managed species. The Council must observe that struggling fisheries need more protection, not less. Increasing temperatures and ocean acidification lead to cod, plankton, and herring declines. Habitat protections are needed to buffer these other environmental changes. The Cashes Ledge closure should be maintained. The area includes essential fish habitat for eight important species, including cod. Trawls and dredges should not be allowed in these protected areas. Scallop and clam dredges would damage habitat

in these areas, so the Council should reject these gear exemptions. Habitat for spawning and prey species must be protected, and mid-water trawls should also be restricted from these areas.

Tim Tower, Maine fisherman and restaurant owner: In the eastern Gulf of Maine, I agree with Maine Department of Marine Resources' position and agreed with comments made by Patrice McCarron. I am concerned with opening Cashes Ledge; we have an unprecedented amount of halibut in that area and would it be a shame to lose that resource for angler harvest. Increase in haddock is also unprecedented and I think these fish came from Closed Area I and II on Georges Bank. I favor Alternative 1 (status quo) for all closed areas, including Closed Areas I and II, Cashes Ledge, and inshore cod spawning closures such as Whaleback. I do think that Platts Bank should be left open for small commercial fishermen.

Louis Spear, lobster commercial fisher in Yarmouth, Maine: I have been waiting for the groundfish to come back and it hasn't. Agreed with Patrice McCarron's comments.

Marty Odlin, Atlantic Trawlers: I support Alternative 7 on Georges Bank, Alternatives 3 and 4 in Gulf of Maine, and Alternative 5 in Great South Channel. How do you hope to accomplish the objectives of habitat research areas if you have some removals of fish with pelagic gears and lobster gears? If a reference area is proposed, it should be a true reference area with no fishing allowed.

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