New England Fishery Management Council
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Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

February 15, 2022

Ruth Ann Brien
US Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

Dear Ms. Brien:

On behalf of the New England Fishery Management Council, please accept these comments in response to the January 25, 2022 Public Notice related to the permit application for the Running Tide Technologies project.

The New England Fishery Management Council (Council) manages 28 marine species and is composed of members from Maine to Connecticut. Fishing activity for many Council-managed commercial and recreational fisheries occurs within the study area for this subsea cable network. Marine fisheries are profoundly important to the social and economic well-being of New England communities and provide numerous benefits to the nation, including domestic food security. The Council has a lengthy record of using area-based restrictions to enhance fishery productivity and protect essential fish habitat. The Council's Aquaculture Policy[1] provides recommendations for siting, environmental review, and communications for aquaculture projects.

This project proposes to grow kelp on 30 vertical lines, with 15 discrete moorings placed along each of two transects on the northwestern portion of Fippennies Ledge. Each line will be attached to a 30 ft chain anchored with a 600-lb concrete block. Having spoken with staff at Running Tide Technologies, our understanding is that this project is a multi-year pilot effort to test environmental sensors and measure kelp growth rates under offshore conditions. Their longer-term plans are to develop and deploy floating kelp growing platforms much farther offshore, which will eventually sink and sequester carbon in the deep-sea. While this longer-term work is not part of this permit application, we think it would help explain the need for the pilot project in relation to Running Tides' long-term objectives. Also, the duration of the project is not specified in the Public Notice. Explaining the nature and duration of the project may help to allay fishing industry concerns.

[1] https://www.nefmc.org/library/nefmc-habitat-policies-for-offshore-energy-aquaculture-submarine-cables

The permit review should explain why the recommended project design is required to accomplish Running Tides' objectives. The applicants have conducted similar experiments in state waters; it would be helpful to understand how the results from those experiments informed the current proposal, and how this project will inform future activities. For instance, 15 moorings on a 7,500 ft transect represents a 500-ft distance between each mooring. If the project footprint could be reduced further by shortening the transects, this would help reduce the chance of fisheries interactions. If there is a rationale for the 500-ft spacing, it should be provided. We understand that the 30 vertical lines will allow for replicate measurements of kelp growth rates and for opportunities to deploy alternative gear designs, but a clear justification for the total number of vertical lines required should also be provided. To the extent that gear design may vary at each of the 30 locations, this should be described clearly as part of the review since different designs might have slightly different environmental impacts.

The Council manages Fippennies Ledge as a habitat closure. Sediments on the ledge consist of a mix of sand, pebble, cobble, and boulder substrates. Epifauna and fish living on and near the seabed will be disturbed by the movement of the gear. It is important that the permitting process accurately considers the magnitude of potential impacts so that NOAA Fisheries has the information required to complete an essential fish habitat consultation. Based on our review of the Public Notice, we are concerned that the estimate of potentially impacted essential fish habitat (0.2 acres) is too low. It would be helpful to clarify how this value was calculated. Given tidal currents, we assume that the chain will sweep around the anchor block and that some of the chain will be in contact with the seabed at least a portion of the time. If the chain was fully extended horizontally this could damage seafloor structures over a footprint of as much as 2,800 ft^2 per vertical line (the area of a circle with a 30-ft radius), or just under two acres for the project overall. While this is a maximum estimate and actual disturbance will depend on the extent to which the chain is in contact with the bottom, we expect that the disturbed area is likely to be higher than the 0.2 acres noted in the project description. Also, the diagram on page 6 indicates a 400-lb block, vs. a 600-lb block. We are uncertain which anchor block dimension was assumed for the 0.2-acre estimate.

In terms of fisheries restrictions, mobile bottom-tending fishing gears are prohibited in the habitat closure and additional commercial groundfish gears are prohibited in the overlapping Cashes Ledge Closure Area (Figure 1). In combination, this means that fishing on Fippennies Ledge is limited to recreational hook and line, lobster pots, and pelagic gears (including large mid-water trawlers and possibly purse seine vessels). We do know that the area is fished by for-hire charter boats targeting both groundfish and highly migratory species, and some of the captains have expressed concerns about the need to avoid the vertical lines. If the permit is issued, it will be important for Running Tide to clearly communicate the location of each mooring and the timing of installation. We suggest requiring a fisheries communications plan as a condition of the permit.

Finally, the Council is a member of the Atlantic Large Whale Take Reduction Team, which develops measures to reduce the risk to right whales from fisheries managed by the Council. This team is currently focused on measures to protect the endangered North Atlantic Right Whale. We look forward to the results of the Endangered Species Act consultation that will be held on this project. Information that would be helpful to understand the risks this project creates includes

knowing how often this gear will be inspected while deployed. While the application mentions the use of South Shore sleeves to reduce the risk of whale entanglement, we note this gear has not been tested in this environment. Should there be unexpected issues with the operation of the gear, inspections would provide an opportunity for the permit holder to assess and ameliorate these issues. The gear should also be marked so that is can be positively identified should it break free or entangle a whale.

Thank you for considering our comments. Please contact me if you have any questions.

Sincerely,

Thomas A. Nies

Thomas A. Nies
Executive Director

Figure 1. Running Tide project location relative to the Cashes Ledge Closure Area and Fippennies Ledge Habitat Management Area boundaries.