ADDITIONAL CORRESPONDENCE
June 6, 2018

Dr. John Quinn  
New England Fisheries Management Council  
219 Smith Neck Rd  
Dartmouth, Ma 02748

I am requesting that the mussel and urchin fishing exemption instituted under 50 CFR 648.80(a)(12) and 50 CFR 648.80(b)(8) continue to apply in the area of the Great South Channel HMA. In a world where cod is king I am asking the Council, as it pursues the goal of sustainable fisheries, to step outside the box of regulated species and consider the voice of the lowly blue mussel.

The policy objectives of the Habitat committee speak to the need to maintain, enhance, restore, rehabilitate, create, and develop habitats supporting harvested species. There are some people who believe that mussels are the habitat. There are others who believe that mussels are a fisheries resource unto themselves. I believe they are both.

At the Habitat committee meeting of May 18, 2018 images of mussels on the bottom, as seen by drop cameras, were presented. These densities would not support a fishery and these mussels would remain in the habitat. Commercial quantities do occur in the HMA and they can comprise several square miles. Annual settlements of mussels occur on these beds and in some instances the mussel beds can be a few feet thick with multiple age classes.

Objective four of the Habitat committee imagines a world where incentives have created “modified fishing methods to harvest fishery resources that reduce the impacts on habitat”. I would argue that the fishery imagined in this objective is the mussel fishery. A skillful mussel Captain has modified a shellfish dredge to be smaller, lighter and designed to skim the top of the mussel bed removing the younger, better quality mussels on the top of the bed. This minimizes the impact to the bottom. The 7-foot-wide mussel dredge is towed at 1 to 2 knots for 30 to 90 seconds covering an area the length of a football field. The Captains move off the area when the tows become less productive leaving most of the mussels on the bed.

Captain Santoro of Chatham Light Seafood in a letter dated May 17, 208 to the Habitat committee pointed out that two boats working a mussel bed in Cape Cod Bay over the last seven years have worked an area less than 4 square miles producing 500,000 bushels per year. If I have done my math correctly 4 square miles would be .004% of the area of the Great Round Shoal HMA. Even if this area were fished a majority of the mussels would remain in the habitat.
Objective 3 of the Habitat committee goals speaks to “fisheries resources that will benefit society”. If one measures “societal benefit” as dollars landed with minimal environmental impact it is important to hold up the mussel fishery in Cape Cod Bay. The Habitat committee report presented at the May 18th meeting pointed out that the MADMF reported that mussel landings between 2013 and 2015 were $5.9, $10.3 and $11.6 million dollars respectively. Most of these landings came from two boats working in Cape Cod Bay. The report also valued the 40 permitted clam boats working in the HMA had an average annual value of $6.5 million dollars.

If your yardstick for measuring “societal value” is tasty, wholesome seafood protein then consider the average retail price of fresh mussels is about a dollar a pound. It is important to point out that people in think tanks who contemplate the environmental impacts of feeding the world in 2050 put mussels at the top of the list of candidate species for affordable animal protein. It should also be noted that the Marine Stewardship Council has certified a mussel fishery in Ireland as “sustainable” and the Monterey Bay Aquarium has designated mussel dredging as a “good” choice.

In a world where Cod is King I am asking the council to keep the mussel fishing exemption in place for the Great Round Shoal HMA. The Council could require that the vessels make their ship’s log available to researchers, report landings and have tracking devices onboard. The knowledge gained will better inform the Council when making future decisions regarding the mussel fishery.

Thank you for your consideration of this request.

Sincerely,

Bill Silkes, President
American Mussel Harvesters, Inc.

CC:
Janice Plante
Michelle Bachman
Domenic Santoro

165 Tidal Drive, North Kingstown, RI 02852  tel: (401)294-8999  fax: (401)294-0449
www.americanmussel.com
June 6, 2018

Dr. John F. Quinn
Chairmen NEFMC

I am writing today in support of a mussel dredge exemption within the Great South Channel HMA. In the last six months I have come to appreciate how much time and effort was put into the Omnibus Habitat Amendment and The Great South Channel HMA. Unfortunately throughout this entire process no consideration was given to the mussel resource which lies within the boundaries of GSC HMA. Although the mussel fishery is not managed by the NEFMC the restriction of no bottom tending mobile gear in effect prevents harvest of mussels by traditional methods. In 2017 I was able to identify several large beds of harvestable mussels within the GSC HMA. Some of these beds I identified with my own vessel, others were identified in cooperation with other fishermen both fixed gear and mobile gear. Over the last few weeks I have made several trips just outside the GSC HMA along the northern and western borders. As of today I have not been able to find any harvestable mussel beds. In my continued discussions with fixed gear fisherman all have pointed to areas within the GSC HMA as the areas where they have come across mussels beds as opposed to a few clumps of mussels.

The domestic mussel fishery supplies live fresh mussels to the consumer. To grow and continue to support the market we have built in the last seven years we need a steady supply of mussels. Our success inshore has enabled us to once again fish the area of Nantucket shoals which supported a healthy domestic mussel fishery in the 1990’s. If we are not able fish these areas, the forward momentum of this fishery will be lost!

Domenic Santoro
Chatham Light Seafood
202 Commerce park
South Chatham Ma 02659
508 738 0189
June 4, 2018

Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Road (VAM-OREP)
Sterling, Virginia 20166

Dear Sir/Madam,

Please accept these comments from the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council) and the New England Fishery Management Council (New England Council) on the “Call for Information” for the New York Bight Call Area, which includes four large areas totaling approximately 1.8 million acres within the New York Bight that could potentially be identified as wind energy areas for future development.

The Mid-Atlantic Council manages more than 64 marine species with 7 fishery management plans (FMPs) in federal waters and is composed of members from the coastal states of New York to North Carolina (including Pennsylvania). Fourteen species are managed with specific FMPs, and over 50 forage species are managed as “ecosystem components” within the Council’s FMPs. The New England Council has primary management jurisdiction over 28 marine fishery species under 9 FMPs in federal waters and is composed of members from Connecticut to Maine. In addition to managing their primary fisheries, the Councils have enacted measures to conserve fish habitat, protect deep sea corals, and manage forage fisheries sustainably. The marine fisheries managed by the Councils are profoundly important to the social and economic well-being of communities in the Northeast U.S. and provide numerous benefits to the nation, including domestic food security.

The Councils support policies for U.S. wind energy development and operations that will sustain the health of marine ecosystems and fisheries resources. While the Councils recognize the importance of domestic energy development to U.S. economic security, they also note that the proposed New York Call Area is important in social, economic, and cultural currency to the fishing communities of the region. As such, the Councils recommend that areas that are identified as critically important to these fisheries and the communities they support should be removed from consideration for further offshore wind development. Specifically, the commercial fisheries for butterfish, Atlantic mackerel, Atlantic sea scallop, Atlantic surfclam and ocean quahog, longfin and Illex squid, and summer flounder, scup, and black sea bass appear to be highly impacted commercial fisheries across parts of the Call Area. Further, there are numerous recreational fisheries that operate within the proposed Call Areas, including recreational tuna and marlin tournaments.

As you are aware, under the Magnuson-Stevens Fishery Conservation and Management Act the Councils identify essential fish habitat for managed fisheries resources. Some sensitive habitats that may occur in the proposed Call Area include sand waves, cobble/gravel, or other unique bathymetric
features, as well as areas of high spawning activity for some species. Further site-specific evaluations are needed within the Call Area to determine potential locations of sensitive habitats or high spawning activity that also may not be suitable for further wind development. The potential Call Areas also overlap with high populations of surfclam, ocean quahog, and scallops; sessile species with limited mobility may be more susceptible to habitat impacts from wind development.

The National Marine Fisheries Service (NMFS) is providing detailed comments and analytical products that describe our fisheries, essential fish habitat, endangered and protected resources, and other considerations related to the marine environment for the Call Areas. The Councils support these comments and they should be referenced in concurrence with this letter.

We are pleased that BOEM has extended the comment period through the end of July. This will allow the Councils, stakeholders, and state and federal fisheries agencies time to provide additional information on the site conditions, fishery resources, and fishery activities that are in proximity to or within the call area.

The Councils look forward to working with Bureau of Ocean Energy Management to ensure that any wind development in our region minimizes impacts on the marine environment and can be developed in a manner that ensures coexistence of our fisheries with future wind development activities.

Please contact us if you have any questions.

Sincerely,

[Signature]

Dr. Christopher M. Moore
Executive Director, Mid-Atlantic Fishery Management Council

[Signature]

Mr. Thomas A. Nies
Executive Director, New England Fishery Management Council

June 4, 2018

Mr. Jeffrey Browning
Office of Renewable Energy
Bureau of Ocean Energy Management
45600 Woodland Road, Mailstop VAM-OREP
Sterling, VA 20166

Dear Mr. Browning:

Please accept these comments from the New England Fishery Management Council (Council) regarding the Atlantic Wind Lease Sale 4A (ATLW-4A) Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Massachusetts – Proposed Sale Notice.

The Council has sole or primary management jurisdiction over 28 marine fishery species\(^1\). Commercial and recreational fisheries are important sources of economic benefits along the entire Atlantic coast. These industries provide significant benefits to the nation, including contributions to our nation’s food security. As the world’s population continues to increase these renewable food resources and the employment opportunities they provide will grow in importance. If future benefits of these activities are to be realized, energy development must minimize risks to marine species and existing human uses.

We ask that BOEM provide additional time for stakeholders to develop comments on this issue. We recognize that the Massachusetts WEA has been leased previously and that there is existing analysis of the fishery resources, habitats, and commercial fishing activity in a June 2014 Environmental Assessment (EA). However, the Council could provide more detailed and recent fishery data to BOEM, given additional time, that would greatly add to these analyses. While a 60-day comment should be sufficient for such a task, it has been challenging to find the resources to provide meaningful feedback given the large number of concurrent requests for comment related to offshore wind development. As a result, we request that BOEM consider longer comment periods, and/or stagger the publication of notices. We appreciate the May 18 and 22 announcements extending the comment periods on the Path Forward and NY Bight solicitations.

Specific to the Massachusetts WEA, the description of fishery species in the 2014 EA is overly general. BOEM should examine species-specific distribution data from federal bottom trawl, scallop dredge, and clam dredge surveys, all of which overlap the WEA. In terms of essential fish habitat, or EFH, for these species, the Council has updated designations for all managed species since publication of the EA. An initial review shows that barnyard skate and Atlantic cod are missing from the list of species with designated EFH within the WEA. In addition, inshore of the WEA in waters where export cables for windfarms would be laid there is a habitat area of

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\(^1\) Atlantic cod, haddock, pollock, white hake, Acadian redfish, Atlantic wolfish, ocean pout, Atlantic halibut, winter flounder, American plaice, witch flounder, windowpane flounder, yellowtail flounder, monkfish, winter skate, little skate, smooth skate, thorny skate, barnyard skate, rosette skate, clearnose skate, silver hake, red hake, offshore hake, Atlantic herring, Atlantic sea scallop, Atlantic salmon, Atlantic deep-sea red crab
particular concern (HAPC) for Atlantic cod. This HAPC includes all coastal waters off Massachusetts out to 20 meters depth. Atlantic cod is a species of particular focus and concern for the Council, given its commercial importance and current stock status, and therefore the effects of wind development on cod and its habitat should be carefully considered.

The description of recreational and commercial fisheries in section 4.2.3.5 of the EA is very general (i.e. at the state level) and could be improved substantially given additional data. Overall, it is very difficult from the information provided in the 2014 EA to determine which species are harvested from within the WEA. We recommend a more detailed evaluation using spatially explicit data products derived from Vessel Trip Reports. These data have been provided to BOEM by the NMFS Northeast Fishery Science Center and have been used by BOEM in other analyses. Beyond using these data to summarize revenue and landings within a specific area such as the MA WEA, it is possible to relate landings from the WEA to specific ports and communities. This would allow BOEM to identify which communities might be affected by leasing and future wind energy development and conduct appropriate outreach during the leasing process. Beyond Northeast Fishery Science Center datasets based on Vessel Trip Reports, other spatially specific resources including heat maps based on Vessel Monitoring System data are available on the Northeast Ocean Data Portal. In addition, Rhode Island has compiled detailed fishery information by WEA\(^1\) using a combination of Vessel Monitoring System, Vessel Trip Report, and dealer data. These data should be referenced in the EA as appropriate. As BOEM is aware, the ability to transit the WEA is also important to fishermen, and individuals who do not fish in the area may steam through it on their way to other fishing grounds.

Given the large number of potential wind developments off the Atlantic coast, it is important for BOEM to reach out to commercial and recreational fishermen as these additional lease areas are being considered. Many members of the fishing community are highly engaged in the offshore wind development process, but others may not be tracking this issue as closely. The onus should be on BOEM to identify affected fisheries and their communities, and early and frequent communication may help to alleviate future conflicts between the wind and fishing industries. A more detailed evaluation of fishery resources, habitats, and fishing activity with respect to the final sections of the MA WEA to be leased would help BOEM consult with these stakeholders in a more meaningful way.

Thank you for considering our comments, and please contact us if you have questions or need additional information. We look forward to working with BOEM to ensure responsible development of domestic renewable energy resources on the Atlantic OCS.

Sincerely,

[Signature]

Dr. John Quinn
Chairman

Michael Pentony, NMFS Greater Atlantic Regional Fisheries Office
Jon Hare, NMFS Northeast Fisheries Science Center
Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council

\(^1\) Rhode Island Department of Environmental Management Division of Marine Fisheries. 2017. Spatiotemporal and economic analysis of Vessel Monitoring System data within wind energy areas in the greater North Atlantic. 298p.
June 1, 2018

Governor Charlie Baker
Commonwealth of Massachusetts
Office of the Governor
Massachusetts State House, #280
Boston, Massachusetts 02133

Dear Governor Baker:

I hope this letter finds you well. I am writing to you on behalf of multiple Atlantic surfclam fishermen in a matter involving the fishing grounds in the Great South Channel, which is within Nantucket Shoals and in federal waters. I write to inform you of recent actions taken by the New England Fishery Management Council’s (NEFMC) Habitat Committee regarding this fishery and also to reaffirm the importance of this fishery to the Commonwealth of Massachusetts and its fishing ports.

The Atlantic surf clam industry is a mainstay industry for our state’s fishing industry. Below are some facts and information about the surf clam industry that demonstrate its importance to the Commonwealth:

- The Atlantic surfclam fishery is estimated to be worth $40 million, not including on-shore, ancillary businesses.

- In 2016, Atlantic surfclams was the 3rd most valuable fishery for the City of New Bedford (the Number 1 fishing Port in Revenue in the United States since 1999) at $13 million (the Sea Scallop fishery was first and the Groundfish fishery was second).

- Several fishermen who harvest Atlantic surfclams from the Great South Channel fish out of Massachusetts ports, including New Bedford, Fairhaven, and Hyannis.
• These fishermen sell their harvest to on-shore businesses in Massachusetts.

• Atlantic surfclams are harvested by non-destructive hydraulic dredging.

• Harvesting of Atlantic surfclams in the Great South Channel Area has little environmental impact because it is done at a slow speed (1-2MPH), for a short period of time (15-30 minute tows), in confined areas, and vessels do not complete multiple tows over the same area. As a result, sediment settles back onto the ocean floor in a similar place following the dredging.

• Ocean current can move the equivalent or more sediment on the ocean floor as the Atlantic surfclam dredges.

On May 22, 2018, the Habitat Committee held a public meeting in Providence, Rhode Island and took up the matter of whether or not to close a portion of the Great South Channel Area to hydraulic dredging of the Atlantic surf clams, because the area is essential fish habitat. At the meeting, Council Staff, Michelle Bachman and Dr. Rachel Feeney, presented the Habitat Committee with the Plan Development Team’s (“PDT”) report, which was based upon multiple scientific studies. Most notably, the PDT report and/or Council Staff found the following:

• The estimated Atlantic surfclam annual revenue from the portion of the Great South Channel Area under review is worth upwards of $8 million, not including on-shore, ancillary businesses;

• The fishing communities that would be most affected by the proposed restriction would be primarily those located in Massachusetts (New Bedford, Barnstable County, and Fairhaven);

• The Massachusetts fishing communities comprise approximately 99.9% of the revenue derived from the portion of the Great South Channel Area under review;

• The scientific studies were inconclusive as to whether surf clamming has any impact on essential fish habitat in the Great South Channel Area; and

• There is no scientific evidence of detrimental impact on the habitat and there is socio-economic evidence to show substantial detrimental impact on the economy of ports which are home to the surf clam fishermen.

After public comments, the Habitat Committee voted to:

1. Take no action at this time;

2. Permit the surfclam fishermen to harvest Atlantic surfclams from the Great South Channel Area for the next two and one half years; and

3. Conduct a collaborative study of the Nantucket Shoals Area with the Atlantic surfclam fishermen in order to determine whether surf clamming has any habitat impact and if any, the extent of such impact and what the remedy should be.
I commend the Habitat Committee for basing its decision upon the best available science and the economic impacts to the fishing industry and finding that due to the lack of scientific evidence regarding the impact these fishermen have on the habitat, that the economic impact to a $40+ million industry outweighed any unproven theory of possible habitat impact.

The Habitat Committee’s vote will now go before the full New England Fishery Management Council on June 14, 2018. The full NEFMC will again vote on the matter of whether or not to close the portion of the Great South Channel to Atlantic surfclam fishermen. I am optimistic that the Commonwealth’s representatives on the NEFMC will adopt the PDTs and Habitat Committee’s recommendations regarding the Great South Channel, take no action at this time, and collaborate with the fishing industry to conduct further scientific studies on the matter. Hopefully this model of cooperation between the NEFMC scientists and the Atlantic surfclam industry will be adopted for producing the “best available science” in the scallop and groundfish industries as well.

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

Sincerely,

Scott W. Lang, Esq.
SWL/chk

CC: New England Fishery Management Council, via email to comments@nefmc.org
Dr. John F. Quinn, Chairman
Dr. David E. Pierce, Director for Massachusetts Division of Marine Fisheries
Randall G. Hintz  
Chief, Operations Support Branch  
U.S. Army Corps of Engineers  
New York District  
26 Federal Plaza  
New York, NY 10278

Dear Mr. Hintz:

We have reviewed the essential fish habitat (EFH) assessment for the maintenance dredging of the Sandy Hook Federal Navigation Channel and the placement of material dredged from the channel within the U.S. Army Corps of Engineers’ (ACOE) Sea Bright Offshore Borrow Area (SBOBA) located in the Atlantic Ocean offshore of Monmouth County, NJ. According to Public Notice issued on April 10, 2018, the ACOE plans to remove approximately 200,000 cubic yards (CY) of sand from a shoal within the Sandy Hook Channel using a clamshell dredge and place the material within a 128-acre area of the SBOBA. This material will later be used as a source of sand for the ACOE’s beach nourishment project at Union Beach.

This year’s action is essentially the same as the project undertaken in 2017. For the 2017 project, we had initially raised a number of concerns regarding the placement of dredged material at the SBOBA, the subsequent removal of the material and the effects of these actions on EFH. Through coordination with your staff, our concerns have been addressed. From the information provided by your staff with this year’s request for consultation, the dredging of the shoal within the Sandy Hook Channel and the placement and reuse of material at the SBOBA will be an annual activity. In the supplemental information provided, it is estimated that approximately 200,000 CY of sand will be dredged from the Sandy Hook channel annually with placement at the SBOBA. The schedule for removal of material from the SBOBA is less defined, but it will be based upon the beach replenishment needs of the ACOE projects that use sand from the site. EFH consultations have already been completed in the past for those beach nourishment activities using the SBOBA as a sand source.

From our past consultations on this project we agreed that the dredging of the shoal at the Sandy Hook Channel and the placement of the material at the SBOBA will adversely affect 128 acres of EFH within the SBOBA and the additional acreage of the shoal area in the federal navigation channel. These adverse effects are the result of the disturbance of the sediments and removal of benthic organisms that serve as prey species during the dredging, the smothering of benthic organisms at the placement site, and increases in turbidity during both the dredging and placement activities. Water quality impacts are expected to be temporary and minor. The effects on the benthic community will also be temporary, but the recovery may not occur fully while the channel is activity maintained or while the borrow area remains in use. Since the effects to EFH are unlikely to change from year to year, annual consultation is not necessary.
Although adverse effects to EFH will result from this project, the ACOE has avoided and minimized them to the maximum extent practicable through the use of best management practices (BMPs) during dredging and sand placement and through the management of the sand resources at the SBOBA. The placement and reuse of sand from the 128-acre area within the SBOBA also will help to minimize impacts to the remaining areas within the 1100-acre borrow site. As discussed in our previous letters, we recommend that the ACOE continue to consider options for the direct placement of sand on beaches covered under the ACOE’s storm damage reduction projects in the area or on the National Park Service’s Sandy Hook Unit of the Gateway National Recreation Area as an alternate to placement at the SBOBA when practicable.

**EFH Conservation Recommendations:**

Pursuant to Section 305 (b) (4) (A) of the MSA, we recommend the following conservation recommendation:

In order for us to ensure that the cumulative effects of the dredging and sand placement are no more than minimal, and the basis for our EFH determination remains unchanged, reporting of the dredging and placement activities associated with the maintenance dredging and sand placement and removal should be provided to us on an annual basis. To accomplish this, the ACOE should notify us prior to each new dredging event. This notification should include the following information:

**Within Sandy Hook Channel:**
- Anticipated schedule for dredging and placement at SBOBA
- Cubic yardage to be removed and placed
- Areal extent of the shoal to be dredged

**At the SBOBA:**
- Amount of material removed
- Areal extent of dredging
- When the material was removed
- Where the material was placed

Please note that Section 305 (b)(4)(B) of the Magnuson Steven Fishery Conservation and Management Act (MSA) requires you to provide us with a detailed written response to these EFH conservation recommendations, including the measures adopted by you for avoiding, mitigating, or offsetting the impact of the project on EFH. In the case of a response that is inconsistent with our recommendations, Section 305 (b) (4) (B) of the MSA also indicates that you must explain your reasons for not following the recommendations. Included in such reasoning would be the scientific justification for any disagreements with us over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate or offset such effect pursuant to 50 CFR 600.920 (k).

Please also note that a distinct and further EFH consultation must be reinitiated pursuant to 50 CRF 600.920 (j) if new information becomes available, or if the project is revised in such a
manner that affects the basis for the above EFH determination. Revisions to EFH designations, the identification of new Habitat Areas of Particular Concern, or use of a different section of the SBOBA for material placement also trigger the need to reinitiate consultation. After five years, we will work with your staff to will reevaluate the conclusions of this EFH consultation based upon the information provided in the annual reporting to ensure that adverse effects remain unchanged and that EFH conservation recommendations or additional BMPs are not needed. We look forward to continuing to coordinate with you and your staff on this and other federal navigation projects. If you have any questions, please contact Ursula Howson of our Highlands, NJ field office at 732 872-3116 or ursula.howson@noaa.gov.

Sincerely,

Louis A. Chiarella  
Assistant Regional Administrator  
Habitat Conservation Division

cc: M...Murray Brown - GARFO PRD  
S. Dietrick - NJDEP Office of Dredging  
C. Moore – MAFMC  
T. Nies – NEFMC  
L. Haval – ASFMC  
J. Gallo, G. Perlas, M. Oseback, E. Wroczenski - ACOE