



## New England Fishery Management Council

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### Habitat/MPA/Ecosystems Committee

June 5, 2007

Mystic, CT

#### DRAFT Meeting Summary

**Committee Members:** Ms. Sally McGee (Chair), Mr. David Goethel, Mr. John Nelson, Mr. Preble, Mr. Jim Salisbury, Mr. David Simpson and Mr. Dennis Spitsbergen

**Council Staff:** Ms. Leslie-Ann McGee (PDT Chair)

**NMFS Staff:** Mr. Lou Chiarella and Dr. David Stevenson

**Others:** Approximately 10 audience members.

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The Habitat/MPA/Ecosystems Committee met in Mystic, CT on June 5, 2007 to review the public comment on Draft Supplemental Environmental Impact Statement (DSEIS) for Phase 1 of the Essential Fish Habitat (EFH) Omnibus Amendment 2 and to recommend final decisions to the Council.

Staff briefed the Committee on the timeline of the EFH Omnibus Amendment #2 Phase 1 and Phase 2.

#### **Public comments**

Staff described the public comments received during the Phase 1 DSEIS comment period that ran from April 6, 2007 to May 21, 2007 which were mostly focused on the HAPC designation alternatives.

#### **Ecosystems**

Dr. Michael Fogarty of the NMFS NEFSC gave the Committee a presentation provided the Committee with a presentation on the Center's work to develop coherent ecological sub-communities of the northeast continental shelf. The Center is working on a

definition of a space-based approach that moves away from single species management. The Committee was able to ask questions and will await the white paper on this issue.

### **Habitat Advisory Panel**

The Advisory Panel met on June 5, 2007 (AM) in Mystic, CT to review the public comment received and develop recommendations on final actions to the Committee for consideration. The Habitat AP meeting summary was provided by Dave Wallace (Chair) including the motion passed by the AP listed below.

#### *Motion 1*

*Smolowitz/DiDominico*

*The Habitat Advisory Panel recommends that NEFMC postpone action on any HAPC designations until Phase 2 when the Council can deliver HAPC alternatives that are based on sound scientific documentation and a research strategy to assess the ongoing benefits of any HAPC designations, and options for management measures to protect HAPCs, including a full NEPA analysis of the cumulative impacts of HAPC designations and the associated impacts of fishing restrictions that may shift effort onto other important habitat areas, and the impacts on fishing communities of such restrictions.*

*Motion passed 5/3/1*

*In Favor: (5) – Frierman, DiDominico, Raymond, Taylor, Smolowitz*

*Opposed: (3) – Williamson, Brogan, Cowie-Haskell*

*Abstain: (1) - Marohn*

A minority report that outlines a dissenting opinion on the motion was filed by AP members that stated the following:

- 1. The Habitat Advisory Panel, Habitat Committee and the NEFMC have been developing the Omnibus EFH Amendment formally since 2004. After a great deal of deliberation, the Council voted to split the Amendment into two phases to deal first with the best available science supporting HAPCs and then to consider management actions appropriate to dealing with adverse effects on EFH. In making this decision the Council made it clear that the consideration of HAPCs in Phase I was to be based on how well the HAPC proposals met the four criteria described in the EFH final rule. In Sept. 2004 the Council approved the issuance of a RFP for HAPC proposals that was broadly advertised.*
- 2. The Council received many proposals that were all based on the best available science, some to a greater degree than others. With few exceptions the science supporting these HAPC proposals has not appreciably advanced since the proposals were drafted. In other words, the science is as good as it's going to get and the motion is unrealistic in its requirement for better science as a prerequisite to designating HAPCs.*

3. *We believe that the two-phase deliberative process that was voted on by the Council, and that the public is now expecting, is the appropriate way to deal with this potentially controversial issue.*

### **PDT Report**

The PDT met on May 31, 2007 in Wood Hole, MA to review the public comment received and develop recommendations on final actions to the Committee for consideration. The PDT offered the Committee a short list of technical corrections that will be made to the DSEIS that were omissions, errors or misinterpretations. Additionally, the PDT offered the Committee other issues to be considered on both EFH designations and HAPC designations. See the PDT memo to the Committee dated June 4, 2007. The Committee discussed the technical corrections and issues presented by the PDT.

### **Essential Fish Habitat Designations**

#### **Motion 1**

**Preble/Goethel**

**Recommend that the Council select Atlantic salmon Alternative 2A, Option 2 with the addition of the areas adjacent to the Connecticut and Pawcatuck Rivers out to the three-mile state limit.**

#### **Friendly Amendment to Main Motion**

**Recommend that the Council select Atlantic salmon Alternative 2A, Option 2 with the addition of the areas adjacent to the Connecticut and Pawcatuck Rivers out to the three-mile state limit and the explicit exclusion of the Lamprey and Cacheco Rivers from the Atlantic salmon designation.**

**Perfected Motion ruled out of order by the Committee chair.**

#### **Main Motion 1**

**Preble/Goethel**

**Recommend that the Council select Atlantic salmon Alternative 2A, Option 2 with the addition of the areas adjacent to the Connecticut and Pawcatuck Rivers out to the three-mile state limit.**

#### **Friendly Amendment**

**Recommend that the Council select Atlantic salmon Alternative 2A, Option 2 with the addition of the areas adjacent to the Connecticut and Pawcatuck Rivers within a three mile radius seaward of the mouth of these two rivers.**

**Motion passed (5/1).**

**Motion 2**  
**Goethel/Nelson**

**Move that Alternative 3E for winter flounder adult text description minimum depth be changed from 2m to 0.3m and the maximum depth is 72 meters (requires new map).**

**Motion passed unanimously.**

**Motion 3**  
**Goethel/Preble**

**Move to include the ten-minute-squares as EFH as outlined in the un-surveyed squares table in the PDT meeting memo with the addition of blocks 6 and 7 for silver hake juvenile and adults.**

<b>Species</b>	<b>Life Stage</b>	<b>DSEIS Map Number(s)</b>	<b>Blank ten min squares</b>
American plaice	Juvs/Adults	295/299	1,2
Haddock	Juvs/Adults	333/338	1,3
Little skate	Juvs/Adults	343/346	1,2,4-7
Monkfish	Juvs	351	1,3
Pollock	Juvs	374	1,2
Red hake	Juvs/Adults	381/386	1,2, 4-7
Silver hake	Juvs/Adults	401/405	1-3, 6,7
Silver hake	Eggs/Larvae	224	1-3
Smooth skate	Juvs	410	3
Thorny skate	Juvs/Adults	417/422	3
White hake	Juvs/Adults	426/430	1-3
Witch flounder	Juvs	465	1-3
Witch flounder	Adults	469	3

**Motion passed unanimously.**

**Motion 4**  
**Nelson/Simpson**

**Move the amended preferred alternatives to the Council as the recommendations for EFH designations for all species under management by the Council.**

**Motion passed unanimously.**

**Prey Species Evaluation & Non-fishing impacts evaluation**

**Motion 5**  
**Goethel/Nelson**

**Move the prey species evaluation and the non-fishing impacts evaluation sections of the document forward to the Council for approval.**

**Motion passed unanimously.**

**Habitat Areas of Particular Concern**

**Motion 6**

**Goethel/Nelson**

**Move to the Council the implementation Alternative 1A, Alternative 1B, Alternative 2A with identifiable EFH, Alternative 3A, Alternative 3E, Alternative 3F, Alternative 3G, Alternative 3H, Alternative 3J, Alternative 3K, Alternative 3L, Alternative 3M, Alternative 3N and Alternative 3O, Alternative 4 as modified to be the current Cashes Ledge Habitat Closed Area, Alternative 6A current Western Gulf of Maine Habitat Closed Area and Alternative 7B (0 to 20m).**

**Motion carries unanimously.**

Justification: The motion is based on the lengthy discussion and evaluation contained within the deliberations and DSEIS analysis of Amendment 13 to the Northeast Multispecies FMP. It specifically takes into consideration the Amendment 13 Habitat Closed Area analysis. The Council is not seeking to capture the entire important habitat but a portion of it as HAPC. Under the rare criteria, capturing a lot of area isn't necessary if you can capture a smaller area. With regards to the Georges Bank/Northern Edge HAPC alternative, it would be helpful to have the cobble/boulder habitat identified and have this be the HAPC. With regards to the inshore juvenile cod HAPC alternative, the 0-20 meter curve covers juvenile cod which are less than 2 years old and are real shallow water and are associated with complex bottom. With regards to the Stellwagen Bank National Marine Sanctuary, the Sanctuary supports market and scrod sizes of cod when caught (scrod are 3=5 lbs gutted and markets are 5-10lbs gutted). These are cod that are generally 3-6 years old which are not the fish and associated habitats we are targeting for recognition. The WGOM Habitat Closed Area, which contains 22% of the SBNMS includes the most complex habitats found within SBNMS and the other parts of SBNMS are largely more mobile (sand or mud that is rearranged often by storms and tends to be colonized by opportunistic invertebrates) habitats that do not warrant recognition as an HAPC. The Great South Channel HAPC alternative was not included due to the lack of science available to refine the designation.

**Audience:**

Mr. Williamson - The motion eliminates the alternatives that address juvenile cod such as Alternative 6C, Great South Channel. The large area included in the area offers an opportunity to develop a research program to study and enhance juvenile cod. This

goes against the Council-stated preferences to see HAPCs with juvenile cod EFH. It would be good to include Alternative 6C SBNMS as it dovetails nicely with the evaluation of the SBNMS's ecological integrity. He is disappointed with the selection of alternatives in the motion.

Mr. Frulla – He and his clients support the motion. The Northern Edge/Georges Bank area was recognized by the PDT as having little structure outside the current HAPC and that it should be excluded from further consideration. The PDT noted that the SMAST survey is limited to the after comparisons that were possible after the access area was opened and re-closed. He and his clients are in favor of retaining the current Georges Bank cod HAPC as it is based on science. He noted that the discussion of management restrictions will occur at a later time. Alternative 8 is far too broad. He urges the Committee to support the motion but with a specific reference to the Alternative 5 and 8 exclusion.

Ms. Raymond – Associated Fishery of Maine supports the motion. It does address the comments the AFM made with respect to Cashes Ledge and Great South Channel HAPC alternatives and she concurs with Mr. Frulla's recommendation to follow up this motion with a motion to reject HAPC alternative 5, 8 and 9.

Mr. Brogan – Alternative 8 still contains the individual areas that were identified by the fishermen and the Habitat Tech Team as particularly valuable. Alternative 8 is a good step and should be refined in Phase 2 after the gear effects workshop and has no impacts to the fishing communities. The science is clear on this area and is based on new science as well from SMAST. The SMAST report describes "natural breaks" of habitat than can be used in Phase 2 to refine it.

Mr. Smolowitz – Overall he supports the motion but would like to see no HAPCs designated right now. However, he recognized that this motion attempts to define the areas based on the science the Council has. The inter-canyon spaces are more important than the canyons themselves. With regards to Alternative 8, the PDT advice is correct that there is no site specific data and these data will come in soon from SMAST and WHOI. Supports the 0-20 meter HAPC for juvenile codfish and is a major step forward. There is no science to support the expansion of the existing Georges Bank cod HAPC. Phase 2 should include an analysis of what impacts the HAPC has had over the years. It is not clear that this habitat is important for juvenile cod (gravel) but that the interstitial spaces, vertical epifauna, other types of areas may be more important or even the schooling places on the sandy environment. He supports the motion and research areas should be pursued in some of the areas.

Mr. Taylor – He referenced his library of images from the existing cod HAPC on Georges Bank which are available on his website. The amount of data is overwhelming and the website allows you to see the data every 10min along the track line (less than 1

mile). He believes that we do need to protect things for future generations and the science is just coming along to support doing this. Please look at the data within the existing HAPC as compared to the other areas and urges the Council that if we are to nominate areas and treat them special, the Council should plan for follow-on research to evaluate the importance of the area.

Mr. Cowie-Haskell – He asked the Committee to consider re-thinking the motion in terms of Alternative 6C and the inclusion of all or most of the Sanctuary as HAPC. One of the chief purposes of HAPC is clearly spelled out in the public hearing document: *The intent of the habitat areas of particular concern designation is to identify those areas that are known to be important to species which are in need of additional levels of protection from adverse impacts.* If the SBNMS does not meet the HAPC criteria, then not sure what area would. The PDT supported the Sanctuary’s comments and found them useful for further supporting the criteria. Regarding the current importance, SBNMS stands out for species richness, abundance of prey spp (herring and sand lance) and MA Bay including the Sanctuary is “cod central” for the GOM due to the productivity and prey spp in SBNMS. Within the SBNMS, there is lots of research ongoing in the “sliver” that overlaps with the HCA (22%) and is showing positive effects of the habitat closed area. With regards to Phase 2, the Sanctuary is not advocating for complete closure of SBNMS but does have a process within the Zoning Working Group and deliberations are underway and these discussions should be integrated with the Phase 2 NEFMC process. Establishing SBNMS as HAPC will further the discussion on what is necessary to protect this nationally significant area. The SBNMS draft management plan to be released in July has a great deal of background and supporting information with respect to the HAPC designation.

## **EFH Omnibus Amendment Phase 2**

The Chair, after prompting from an audience member, agreed to consider a method for soliciting public ideas on the topics contained within Phase 2 since scoping occurred three years ago (2004).