

December 11, 2013



Ernest F. Stockwell, III, Chair
 New England Fishery Management Council
 50 Water Street - Mill # 2
 Newburyport, MA 01950

RE: Omnibus Habitat Amendment-Preferred Alternatives Selection Process

Dear Terry:

I am writing to express CLF's concern that the New England Fishery Management Council (NEFMC) intends, at its upcoming December 18, 2013 meeting, to undertake a selection of preferred alternatives for the pending Omnibus Habitat Amendment 2 (OHA) based upon an incomplete Draft Environmental Impact Statement (DEIS). Taking action, even if procedural and preliminary, on preferred alternatives based upon a DEIS that lacks critical analyses would be irresponsible and risk compromising the validity of any final amendment.

The Council's selection of preferred alternatives is an important step in a process that is designed to lead to scientifically sound and legally defensible final decisions that benefit the resource and thus the communities that gain sustenance and profit from that resource. It requires the technical staff to harness and organize all of its underlying data and resources and to present that information in a cohesive and coherent manner in the form of a DEIS. The preferred alternatives process forces the Council, as the fact-finder, to delve into and assess the extent and adequacy of the data compiled by its technical advisors and, assuming that it finds sufficient data support, select the management alternatives that have support in the record and that best serve the management need. This selection of preferred alternatives helps give direction to an otherwise diffuse process. It enables technical staff to focus its efforts as it moves on to complete a Final Environmental Impact Statement (FEIS) and the public to provide particular feedback on those management alternatives that the Council signals are most worthy of acting upon.

The compass that the Council must use to guide its selection of preferred alternatives is the completed DEIS. During the nearly ten year process of developing this Amendment, the Council's technical team has attempted to compile the most critical information necessary to ensure that appropriate management actions can be taken based upon reliable data and science. The DEIS is intended to reflect the full breadth of that work at this stage of the process and to provide the information necessary to give direction to the Council in its framing of the best alternatives. It is essential that the DEIS include comprehensive analysis for each and every alternative that includes detailed characterizations and maps of marine habitat, descriptions of the specific habitats that managed species use at each life stage, the functions that the habitat serves and an estimate of its vulnerability to the effects of fishing, a measure of the impacts that

each fishing gear has on the marine environment and an estimate of the economic effect of fishing a proposed habitat area as compared to the value of protecting it.

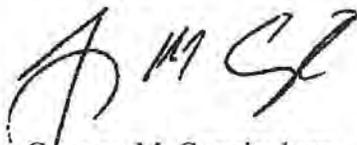
The DEIS is the single most important document developed as part of the OHA process as it will guide the initial decision-making that will give direction to the remainder of the process. A thorough and complete DEIS will also inform the Council and the public as to the pros and cons of the proposed alternatives and allow for a fair and balanced comparison and assessment of their relative merits.

Unfortunately, we do not have a completed DEIS today and the Council will not have the benefit of one for its December meeting. The current DEIS appears to be lacking analyses of the environmental impacts of 14 separate habitat alternatives and an economic impacts analysis of 20 habitat and research alternatives. Importantly, the DEIS does not provide an economic analysis for *any* of the “no action” alternatives that apply to closures that have been in existence for nearly twenty years and that serve as strong alternatives in the Western Gulf of Maine and Central Gulf of Maine sub-regions and the only viable alternative currently available in the Georges Bank sub-region.

Without this fundamental and essential environmental and economic impact information, the Council simply cannot ensure an appropriate and defensible selection of preferred alternatives nor can the public provide meaningful comment on these alternatives when it is receiving only part of the story. For these reasons, we urge the Council to limit the risk of premature and uninformed decisions on preferred alternatives, by postponing consideration of them until its January meeting.

Thank you for considering these comments and please feel free to contact me should you have any questions.

Sincerely,



Gregory M. Cunningham
Senior Attorney

Cc: Tom Nies, NEFMC
David Preble
Frank Blount
John Bullard, NERO