



**New England Fishery Management Council
Joint Habitat and Groundfish Oversight Committee Meeting Summary**

**June 11, 2013
Providence, RI**

Committee members: David Preble (Habitat chair), Terry Stockwell (Groundfish chair), Dave Goethel (Habitat vice chair), Tom Dempsey (Groundfish vice chair), Terry Alexander, Lou Chiarella, Mark Gibson, Doug Grout, Peter Kendall, Matthew McKenzie, Sue Murphy, David Pierce, John Quinn, Laura Ramsden. Council chair Rip Cunningham also attended.

Council staff: Michelle Bachman (PDT chair), Andy Applegate (CATT chair), Dave Thomas, Fiona Hogan, Tom Nies, Jaime Cournane, Lou Goodreau, Rachel Feeney

Additional NOAA staff: Mitch MacDonald, William Whitmore, Tim Cardiasmenos, Laurel Smith, Geret DePiper

Additional PDT/CATT: Kathryn Ford

Others: Roughly 30 additional audience members, including various advisory panel members

The Habitat and Groundfish Committees met jointly in Providence, RI to identify a range of spatial management alternatives for inclusion in Essential Fish Habitat Omnibus Amendment 2 (OA2). These alternatives will be put before the Council at their June 18-20 meeting in Portland, ME. The group convened as a committee of the whole, meaning that attendees who were members of both Committees, including the Regional Administrator (represented by his designees), received only one vote. At the beginning of the meeting the Groundfish Committee chairman stepped down as co-chair of the meeting in order to participate directly in the discussion. The Council chairman also participated in the discussion, but both abstained from voting on motions in all cases.

The Habitat Committee chair gave introductory remarks after which Council staff reviewed the draft alternatives developed jointly by the Habitat Plan Development Team and Closed Area Technical Team. Committee members asked clarifying questions about the alternatives proposed.

There was something of a split in the committee with respect to direction. The majority of committee members wanted to establish a sufficient range of alternatives that would meet the objectives of the amendment. Another group wanted to block alternatives that would add new areas not proposed by the Habitat Oversight Committee and that would have a significant short-term impact on a beleaguered fishery. There was discussion of whether the Committee could recommend to the Council revisions to the goals and objectives of the amendment, but the chairman stated that he would rule such a motion out of order as the Council had not requested

that the Committee reevaluate the goals and objectives. He suggested that the Council meeting was the appropriate forum for this discussion. Although some Committee members disagreed, General Counsel suggested that since the topic was not on the notice for either meeting that it could not be considered at either meeting.

Motion 1 (Pierce/Gibson): The Committee recommends to the Council that it include for analysis in the DEIS the following: WGOM Alternative 2, WGOM Alternative 3, and WGOM Alternative 5.

The maker commented that these options are based on work done by the CATT and PDT, based on approaches generally endorsed by the SSC. He felt that Alternatives 4 and 6 which included the extension of the Stellwagen/SERA areas to the southwest went too far and therefore did not include them. He noted that the alternatives vary in terms of whether they included Jeffreys Ledge.

Motion to amend motion 1: (Alexander/Kendall): The Committee recommends to the Council that it include for analysis in the DEIS the following: WGOM Alternative 2, WGOM Alternative 3, and WGOM Alternative 5, but without the Bigelow Bight areas.

The maker referenced earlier discussions about potential economic impacts associated with designation of this area. A Committee member felt that if this area was to be removed, it would need to be replaced in the alternatives with other areas affording similar protections. Another member commented that in some ways a MBTG restriction in Bigelow Bight would extend NH state regulations into federal waters. He also noted reductions in overall swept area and effort in the groundfishery over time, as well as the 12 inch roller gear restriction in effect throughout much of the region under consideration.

Another member felt that their tasking for the day was to develop options to meet objectives, and that removing areas from the packaged alternatives would be problematic in terms of meeting objectives. Another member disagreed, arguing that it was the Committee's job at this stage to identify which of the science-based areas make sense.

Other Committee members spoke for and against the amendment. It was noted a primary reason for the Bigelow Bight area was to protect juvenile GOM cod, that the practicability analysis still needs to be completed, and that optimum yield still needs to be achieved from the fishery.

The motion to amend motion 1 failed 4/7/2.

The main motion 1 carried 7/4/2.

Motion 2 (Goethel/Alexander): The Committee recommends to the Council that it request MA, NH, and ME close state waters from Provincetown to Casco Bay to mobile bottom-tending gear. That the Council would analyze in the DEIS closure of state waters from Provincetown to Casco Bay to federally permitted mobile bottom-tending gear vessels.

The intent was the Council would complete such an analysis regardless of the response from the states, and that the request would apply to gear capable of catching groundfish.

Motion 2 was modified by friendly amendment: That the Council would analyze in the DEIS an option that would close state waters from Provincetown to Casco Bay to federally permitted mobile bottom-tending gear vessels. The analysis would also assess whether closing these waters to state-permitted mobile bottom tending gear vessels would improve the effectiveness of this measure.

While the CATT's hotspot analysis indicated that substantial numbers of juveniles are caught in state waters, there was concern about taking such a broad approach that would include less vulnerable sand habitat areas. There were a number of comments in support of and against the motion.

Motion 2 as amended failed 4/6/2.

Motion 3 (Grout/Goethel): Recommend that the Council include an option for analysis in the DEIS to prohibit rockhopper gear greater than 12 inches in the following areas as a habitat management measure: (1) the existing 12 inch roller gear area in the groundfish FMP¹, (2) within all the CATT/PDT identified areas in the WGOM region, specifically those areas in Alternative 3 plus the extension of the SERA II area into Massachusetts Bay.

Specifically, (2) would include the larger of the two Bigelow Bight areas, Jeffreys Ledge, and the extended version of SERA II. There was general support for the concept but some concerns about the analysis were raised, specifically would it be conclusive and would it add too much time to DEIS development. A Committee member asked whether this alternative would meet the objectives of the amendment. Others felt it was appropriate to include as an option at this time, given that it would likely be more practicable than a closure to mobile bottom-tending gears.

Motion 3 carried 9/1/2.

Motion 4 (T. Alexander/Quinn): It is the intent of the committee that we are looking at new closure and habitat areas to replace the old mortality closures and habitat areas, not to have additional closures on top of what we have now.

Committee members agreed that this was the overall intention of the amendment. However, some felt that this was tying the hands of the Council too much in that it could prevent inclusion of existing management areas within the action alternatives, while others were adamant that they wanted to see existing areas removed and replaced. Staff clarified that during the later development of a preferred or final alternative, the Council could choose a combination of areas included and analyzed as No Action with other new areas proposed by the amendment.

Motion to substitute Motion 4 (Dempsey/Grout): To clarify that the Council would use a possible combination of status quo measures, CATT/PDT alternatives, and SASI-derived

¹ As a No Action alternative, requiring analysis in the amendment of the effectiveness of an existing measure.

areas to achieve the stated goals and objectives of this amendment, but that the proposed management areas are not intended to be additive (to existing year round and habitat closed areas).

There was concern that this substitution differed substantially from the intent of the original motion.

Motion 4 was substituted 6/5/2.

Motion 4 as substituted carried 6/5/2.

Motion 5 (McKenzie, Pierce): The Committee recommends to the Council that the status quo Cashes Ledge habitat and groundfish areas and the status quo Jeffreys Bank habitat area be considered as part of Alternative 1 (No Action) for the western Gulf of Maine.

The rationale was that all of the no action GOM would be considered as a single no action alternative.

Motion 5 failed 4/5/3.

At this point, the Committee adjourned for lunch. Upon returning, Mr. Preble opened the floor to public comments on the development of alternatives for the draft amendment.

Peter Taylor, Chatham MA – Fisherman since 1972 and I thought we were here to talk about habitat protection and I see the documents and I know the channel better than most fishermen. All of these options are not protecting the right areas so throw them all out and start over. Mr. Taylor thought that the areas should be located further east, to protect fishing bottom. He emphasized the need to protect and rejuvenate cod stocks.

Maggie Raymond, Associated Fisheries of Maine – Commented on the draft revenue analysis - if this is 2012 VTR data, in the areas in GSC there would be no revenue for SNE winter flounder since they were prohibited possession since 2012. For bottom trawl revenue you weren't allowed to possess SNE winter flounder in 2012. These numbers are very low for trawl gear in these areas because we don't have the revenue in there.

Mrs. Raymond agreed with Mr. Alexander on whether the Committee and Council as a whole can consider revisiting these goals. It's not on the agenda but neither was the motion to close state waters. That motion didn't prevail but you talked about it. You have to think clearly about what we're doing. We're bringing out all these options and creating anxiety and fear at a time when the groundfish industry is the least stable it's ever been in my memory. Most of this stuff from the CATT is not required by law the habitat stuff is but you're talking about first take all the fish off the table and now all the areas off the table. You voted at the last meeting to take all those out and there was some sense of relief. Now they're all back in. I'm not saying take out the spawning, let's handle that in groundfish, but these juvenile areas are just too much stress on the industry. Stick to what's required by law.

Chris Brown, Brown Comm. Fish. Assoc. – Troubled as to where to start. I'm extremely proud to be able to say that I'm a conservation minded fishermen and you have to limit the kind of gear that can get at them. We're not having a full conversation. I stated earlier at a GAP meeting that we may have exhausted the ability to salvage the pieces that we're playing with or hurt or harm the trawler fleet anymore than we have. The solution does not solely lie in that court. That's not the intent but that's how it's playing out. You have to look elsewhere for solutions. When a council or body like this limits itself to a specific set of options and there's not one around the table?? We need to look at lobster pots but 10, 12 or 14" cod until we understand the relationship in cod sensitive areas I think we're wasting our time beating up the trawler fleet. We have a lot of fish caught off Point Judith up to 1000 lbs some times. 800 pots times 4 or 5 cod each. The good guys throw them overboard the guys who are up against it a little bit throw them in the bait bucket. You have to consider them. You have to revisit the exempted gear status for lobster traps so we can have data instead of sheer speculation. We've done all we can do. I'm at a loss. I see it with my own eyes, I see a ghost lobster trap with cod in it. We have to ask the RA to reconsider to get some hard data and make some good hard decisions instead of beating up the same old bunch of guys.

Is Committee chair asked if there is any data on codfish bycatch in lobster fishery? Staff responded that yes, some in sea sampling but it is an undersampled fleet under Standardized Bycatch Reporting Methodology protocols. Sea sampling data for trips fishing with lobster traps indicates that the groundfish bycatch level is very low, less than 2%.

Ron Smolowitz, Fisheries Survival Fund - In the last 10 years I've said that I'm against this process and taking habitat out of context with fisheries but the council has started to recognize things are tied together we'd be better off getting a data collection program going. We're displacing fishermen and we don't know where we're going to disperse them to. Not to mention that we're in a biological system that's changing rapidly.

I've been in Closed Area I multiple times a year, we saw more seals than ever before. They're supposed to be solitary but they were in packs. We had a lot of immigration into the area. Pure semantics at work. I can list a dozen things impacting the cod population before I get down to the lack of rocks they're hiding behind. The Commercial Fishery news said removing the large spawners impacted the stock more. I see compromise solutions but I don't know how to get there from here. The first thing is we're plagued from lack of data and you have to read [Arnie] Howe's paper on this they're in state water as juveniles that area east of Nantucket is not sampled by the state because it's shoals but when we have tows in there they have big codfish. When I looked at the codfish every single tow had codfish while out in the channel itself we had an order of magnitude more tows but we only had 50% with cod. I think currently I would suggest an area that would be the existing closure north of the lightship area, in the area the industry came up with and extend it west into closed areas and exempt clamming from it. I would put that a monitoring requirement on and basically under catch shares we don't know what fleet is going to fish with what gear so create a system that would allow us to collect that data instead of closing areas. We don't have a way to get to an intelligent solution and I really am very disappointed. He added that the alternatives should exempt hydraulic clam dredges from the closures, since they cannot work in hard bottom.

Steven James – Very concerned about a reference area closed to recreational gear as part of the SERA II research area proposal. That’s the entire area where they make their living. I can’t imagine the thought process that would lead people to believe that it would shut down the recreational industry. The area also has implications for tuna fishing. I look at the SERA program having worked on the west coast where you can’t drop a hook in a sanctuary, and to me the whole thing reeks of control. The entire SERA proposal it seems like we got it backward and cart is in front of the horse. This seems to be an area that’s looking for research not research looking for an area.

Following the public comments, the Committee agreed by consensus to split the alternatives for the Eastern and Central GOM into two sets, considering eastern and central areas separately.

Motion 6 (Stockwell/Alexander): The Committee recommends the Council include for analysis in the DEIS Alternatives 2 and 3 for the Central GOM region, but without the Machias area or the modification of the Eastern Maine Area.

Rationale was to simplify discussion by splitting areas, and that the Toothaker/Jeffreys Bank combination in Alternative 4 was too extensive. A Committee member asked whether the small areas on Platts Bank and Fippennies Ledge were of concern given the comments from the Enforcement Committee, but the maker of the motion argued that these smaller areas were carefully developed by the Habitat Committee to allow for protection of particular seabed types while preserving fishing opportunities nearby. A Committee member who also sits on the Enforcement Committee clarified that these relatively small offshore areas will be hard to enforce via VMS alone, given area size and pinging rate, but he noted that the timing of VMS polls is random within the hour or half hour.

Motion 6 carried 11/0/2.

Motion 7 (Stockwell/Alexander): The Committee recommends the Council include for analysis in the DEIS Alternatives 3 and 4 for the Eastern GOM region, with Alternative 4 modified to exclude the larger version of the Eastern Maine area.

The maker expressed concerns about the potential economic impacts of these areas but felt it was appropriate to analyze them and seek public comment. After the motion was approved, the maker clarified the Toothaker Ridge/Jeffreys Bank area would be analyzed as part of the second Eastern GOM alternative described above, based on the areas included in the CATT/PDT Alternative 4. Answering a staff question, he clarified that Alternative 3 includes the 3 smaller Eastern Maine area option and Alternative 4 includes the larger Eastern Maine area option.

Motion 7 carried 9/0/3.

Motion 8 (Dempsey/McKenzie): The Committee recommends the Council include for analysis in the DEIS Alternatives 1-5 for Georges Bank.

A Committee member was concerned with including the Southeast Parts areas because while they are habitat for juvenile haddock they are high energy sand. Another Committee member agreed with this, but felt that our charge is to protect EFH across species and lifestages. Staff confirmed that the intent was to analyze the Northern Edge and Southeast Parts areas as mobile bottom-tending gear closures, the hatched areas on Georges Shoal as a gear modified area, and the hatched area in Closed Area I as a DHRA.

Motion 8 carried 8/1/2.

A Committee member asked for clarification as to whether or not the motions from the previous meeting were still going to be analyzed. Staff commented that the CATT and PDT reviewed those areas and in many cases determined that the options from the last meeting on their own would not meet the objectives of the Amendment for a particular region (the updated area on Georges Shoal), or that there is uncertainty as to whether they would (the updated area on Nantucket Shoals) due to a lack of data about substrates and fish distribution.

Motion 9 (Dempsey/McKenzie): The Committee recommends the Council include for analysis in the DEIS Alternatives 1-6 for the Great South Channel, and to add an additional extension for Alternatives 2 and 6 that would have an eastern boundary line parallel to the eastern line of the C extension, and a northern boundary of 41° 30', a southern boundary of 40° 58', and extending east to the eastern point of extension B.

The rationale provided was that these eastern areas would provide greater protection for cod, and that the western areas of the proposed area from the May 17, 2013 joint Oversight Committee meeting overlap with the clam fishery and sand habitats.

Motion to amend motion 9 (Pierce/Stockwell): The Committee recommends the Council include for analysis in the DEIS Alternatives 1-5 for the Great South Channel, and to add an additional extension for Alternative 2 that would have an eastern boundary line parallel to the eastern line of the C extension, and a northern boundary of 41° 30', a southern boundary of 40° 58', and extending east to the eastern point of extension B.

Note that the original text of the motion would have added the extension to Alternatives 2 and 5, but it is only really relevant for Alternative 2, since the eastern boundary of the Alternative 5 Nantucket Shoals area is further west.

This amended motion would simplify the analysis by removing Alternative 6, which included just the GSC area without the areas on Cox Ledge.

The motion to amend motion 9 carried 7/3/2.

There was a discussion of splitting the question into consideration of the original alternatives vs. the extension area, but a motion was not seconded.

Motion to amend motion 9 (Grout/Ramsden): The Committee recommends the Council include for analysis in the DEIS Alternatives 1, 2, 3, and 5 for the Great South Channel,

and to add an additional extension for Alternative 2 that would have an eastern boundary line parallel to the eastern line of the C extension, and a northern boundary of 41° 30', a southern boundary of 40° 58', and extending east to the eastern point of extension B.

Note that the original text of the motion would have added the extension to Alternatives 2 and 5, but it is only really relevant for Alternative 2, since the eastern boundary of the Alternative 5 Nantucket Shoals area is further west.

This amendment was put forward as a way to further simplify the analysis by removing alternative 4, since alternatives 3 and 4 were similar, except that 3 included an additional long narrow area on the eastern side.

The motion to amend motion 9 carried 10/0/2.

Motion 9 as amended carried 6/4/2.

Motion 10 (Stockwell/Alexander): The Committee recommends the Council include for analysis in the DEIS: (1) a closure of the core area extended to state waters/ 69° 50', (2) the CAI N habitat closure as a haddock seasonal spawning closure with dates of Feb 1-Apr 30, (3) the CAI S habitat closure as a DHRA, and (4) identify existing and proposed habitat areas for extended monitoring for future gear modification areas.

Motion 10 carried 9/1/2.

A Committee member asked how and when the Council would address the SSC's recommendation to include other analysis and information in the process.

Motion 11 (McKenzie/Pierce): Move that the Committee request that the CATT/PDT team develop two new alternatives per sub-region that include the existing CATT spawning analysis, together with the juvenile and adverse effects areas, so that the amendment objective K to improve spawning protection is met.

The rationale was that consideration of the spawning areas is required by the goals and objectives of the amendment. Another Committee member agreed with this concern, but others agreed that spawning protections were covered with the rolling closures and seasonal implementation of existing year round closed areas. There was agreement among some members that targeted areas such as the Whaleback were the right direction to go in, but there are concerns about our ability to identify such areas during the Omnibus process.

Motion 11 failed 2/7/3.

Next the Committee discussed four motions passed the previous day by the Groundfish Advisory Panel.

Motion 12 (Stockwell/Alexander): For the Georges Shoals and Great South Channel habitat management areas, include an option for modified ground cables that would not

exceed 45 fathoms in length per side and that would be elevated off the seafloor using 20 cm diameter discs at 5 fathom spacing.

A similar gear type is used in the North Pacific. This Enforcement Committee thought this type of option would be more enforceable than a ground cable prohibition. Preliminary sea trials in Ipswich Bay have shown reduced seabed contact along the length of the ground cable between the disks, but have also shown fairly dramatic catch reductions for some flounder species.

Motion 12 carried 9/1/2.

Motion 13 (Stockwell/Alexander): In the no ground cable option that the maximum length of bridles be 30 fathom per side.

Motion 13 carried 10/0/2.

Motion 14 (Stockwell/Alexander): The Committee recommends the Council include for analysis an alternative to exempt the clam fishery from all or some HMAs.

Some Committee members were concerned about the motion. One felt that the more appropriate course of action was to place habitat protections in the right areas, rather than in high energy sand habitats fished by hydraulic dredges. Another wondered whether high energy sand is really the only habitat type fished by the clam industry. The original language of the motion was amended to reflect that the exemption could be applied to some or all of the HMAs in any region.

Motion 14 carried 9/2/2.

Motion 15 (Stockwell/Alexander): The Committee recommends that the Habitat PDT analyze the different substrate impacts between geographically proximate bottom types in open and closed areas to determine actual differences between fished and non-fished areas to better inform decision making.

There was some concern about the time that would be required to do this analysis, but the PDT chair commented that she viewed it as a relatively narrow comparison of habitat attributes inside and outside of existing closures. There are a number of comparative studies already completed. The Groundfish AP vice chair commented that the context for the discussion at the AP meeting was that such an analysis would help the Council to understand tradeoffs between existing and new areas.

Motion 15 carried 10/0/2.

Under other business, Ron Smolowitz stressed the importance of evaluating the alternatives to consider the effects of effort shifts. He thought that relative catch per unit effort and swept area analyses would be informative. He also stressed the importance of seeking input and information from fishermen familiar with each sub-region.

The meeting adjourned at 5:09 p.m.

DRAFT