

## **Online Public Comment Submission - Spring 2015**

The following comments were submitted to the Northeast Regional Planning Body and appear in chronological order from the date they were received:

Re: Ecosystem Based Management Workshop

Dear Northeast Regional Planning Body:

The New England Ocean Action Network (NEOAN) is pleased to provide comments to the Regional Planning Body (RPB) in anticipation of the upcoming ecosystem-based management (EBM) workshop, to discuss the importance of EBM in the development and implementation of a comprehensive and effective Regional Ocean Plan (ROP). NEOAN is a diverse group of ocean users and stakeholders that was created in 2011 to ensure that all ocean user groups have the opportunity to be fully involved in the development of a ROP in New England, something we believe is essential to the successful implementation of the goals and priorities envisioned by the National Ocean Policy and the Final Recommendations of the Interagency Ocean Policy Task Force.

The goal of Regional Ocean Planning is to capitalize on and balance all that the ocean has to offer by way of food, spiritual connection, transportation, clean energy, recreation, and jobs while ensuring the health of New England's ocean ecosystem. Only through the practice of EBM can we truly ensure the success of the ROP in working to maintain the health of New England's ocean and coastal economies.

NEOAN strongly recommends that an outcome of the EBM workshop of April 8, 2015, in Durham, New Hampshire, be the immediate establishment of an interdisciplinary EBM workgroup to provide recommendations and guidance on how to effectively integrate EBM into the ROP, pursuant to the decisions resulting from the November RPB meeting found in the *Summary of Discussions: Northeast Regional Planning Body Meeting, November 13-14, 2014 New Castle, New Hampshire*<sup>1</sup>. This EBM workgroup would present an ongoing opportunity for the RPB to benefit from interdisciplinary, crosscutting regional dialogue about ocean planning through an EBM lens and ensure that the overarching effort is working effectively towards healthy and prosperous ocean and coastal ecosystems and economy. This group would serve to ground-truth the RPB's activities and provide a vehicle to guide and inform the overarching EBM principles of the National Ocean Policy.

NEOAN thanks the RPB for its continued outreach and responsiveness to stakeholder feedback as evidenced by the suite of public and individual meetings, improved outreach tools, and data collection from a variety of sources within New England. NEOAN applauds the RPB for considering ocean planning through an EBM lens, demonstrating its support of and commitment to developing and implementing a comprehensive and effective ROP for New England.

NEOAN looks forward to a reply that speaks to the RPB's intents pursuant to our request that an interdisciplinary and regionally crosscutting EBM workgroup be established as a result of the April 8, 2015, EBM workshop.

Sincerely,

NEOAN

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<sup>1</sup>[http://neoceanplanning.org/wp-content/uploads/2014/12/Nov-2014\\_RPB-Meeting-Summary.pdf](http://neoceanplanning.org/wp-content/uploads/2014/12/Nov-2014_RPB-Meeting-Summary.pdf)

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# ISLAND INSTITUTE

April 7<sup>th</sup>, 2015

Re: EBM Workshop

Dear New England RPB Co-Leads,

The New England Regional Planning Body is uniquely positioned to help advance the principles of Ecosystem Based Management (EBM). The Island Institute strongly encourages you to take some additional, practical, steps towards this end.

The RPB **can integrate EBM into the plan through data layers and contextual information** about **regime shifts in the ecosystem** at the trophic guild level and changes in other ecological indicators such as water temperature, timing of key species biological functions (migration patterns, molting), and shifts in species biogeography. This sort of data and information can help improve decision making for both individuals and the Federal agencies.

Science already exists showing ecosystem shifts on decadal and century scales for the northeast region, but there are only a few select examples of this science being incorporated into management or decision making processes. This data should be accessible and used by potential ocean developers to better inform the various permitting processes. Current development siting only requires a snapshot of what is happening at specific locations in terms of biological or ecological characteristics. With a small snapshot of information, neither the regulators nor the developers receive a complete picture of how the ecosystem is changing – from decadal variability in oceanographic currents to warming waters - a site that appears to have one set of physical, chemical, and biological characteristics today is likely to have a different set of characteristics next year or five years from now.

With a modest additional investment, the RPB could **provide data interpretation tools to summarize key highlights from currently available data sets**. To start addressing these issues, we encourage the RPB to collect or develop contextual products that help identify what used to be happening in parts of the ecosystem, what currently is happening, and what might happen in the future. The RPB should consider developing guidance documents and MOUs about the use of these types of data interpretation products by relevant agencies in order to ensure ocean management operates on the basis of EBM in the future.

Specifically, we recommend RPB consider developing:

- A 100-year historical retrospective of the changes in the ecosystem. We see this being a collection of information drawn from existing resources and research that provides contextual information for the plan. It should be graphically-based (not

text heavy), and provide a clear and compelling view of how the physical, chemical, and biological character of the region has changed over the last 100 years (focusing on decadal variability and long-term change). An example of this is the tracking tool, OceanAdapt, -

[http://www.nmfs.noaa.gov/stories/2014/12/oceanadapt\\_trackingfish.html](http://www.nmfs.noaa.gov/stories/2014/12/oceanadapt_trackingfish.html) jointly created by Jon Hare (NOAA) and Malin Pinsky (Rutgers);

- Projections or future scenarios for the next 50 years. These should be realistic and based on sound science with an understanding that they are projections to provide background information for specific permitting discussions. As with the historical retrospective, these projections should be user-friendly graphics that are visually compelling and tell a clear story. The projections should incorporate available vulnerability assessments, such as the Northeast Fisheries Climate Vulnerability Assessment being conducted by NOAA;
- A set of best practices and examples for RPB agencies around stop-light indicator/decision trigger systems that synthesize and interpret real-time or near-real-time data within a historical context in an easy to digest format of green, yellow, red to inform regulatory and management decision-making. For New England waters, it would be particularly important for this to include a temporal component such as whether we are in a warm or cold decade;

Finally, we encourage the RPB to develop **a component of the regional planning process through which unusual water temperatures trigger a quick review of data collection procedures and decision-making criteria** to ensure that information collected for specific siting process around fish species or protected resources appropriately accounts for shifting temperatures.

These shifts in the ecosystem matter. They impact the fishermen and families who make their living off of the ocean. Making sure that the Regional Planning Body incorporated mechanisms to address or deal with these shifts was an important concern raised by members of the fishing industry in NROC's Commercial Fisheries Spatial Characterization.

To help fishermen look into future in an effort to understand the environmental changes that might be coming, the Island Institute, Maine Lobstermen's Association, Maine Coast Fishermen's Association, and Cape Cod Commercial Fishermen's Alliance hosted a workshop on December 18<sup>th</sup>, 2014, called "*Preparing for an Uncertain Fishing Future: Bringing communities together with climate and marine scientists to understand predictive capabilities and information needs.*" The workshop brought together over 100 climate and marine scientists, fishermen, and other marine stakeholders to provide practical links between current climate projection work and the real world issues facing Maine's fishermen and coastal communities.

The workshop report is available on the Island Institute website – **A Climate of Change Predictive Capabilities Workshop Report** – <http://www.islandinstitute.org/resource/predictive-capabilities-workshop—summary-report> – and this report provides a good starting point on the kinds and types of data that

could be useful for setting the context about the future of the marine ecosystem. It is important to note that the major theme coming out of the workshop was that "***We are going to see surprises, the only certainty is that it is going to be different!***"

We would encourage the RPB to spend its limited funds and time on developing the kind of information outlined in this letter rather than focus on ecosystem modeling. Incorporating these data sets, processes, and contextual information into the plan will help ensure that appropriate ecosystem considerations are incorporated into decision-making processes.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Nick Battista". The signature is written in a cursive, flowing style.

Nick Battista  
Marine Programs Director  
Island Institute, Rockland Maine



April 9, 2015

Re: Ecosystem Based Management Workshop

Dear Northeast Regional Planning Body:

The Maine Coast Fishermen's Association (MCFA) is pleased to provide comments to the Regional Planning Body (RPB) in response to the ecosystem-based management (EBM) workshop that discussed the importance of EBM in the development and implementation of a comprehensive and effective Regional Ocean Plan (ROP).

MCFA strongly encourages incorporating the principles of Ecosystem Based Management (EBM) into the planning process. Approaching the complexities of fisheries management with a broad, ecosystem view can lead to more responsive management plans that improve the health of fisheries. The Regional Planning Body can incorporate EBM into the regional plan through existing fisheries data and oceanographic data. Incorporating existing data streams like water temperature, biological distribution patterns, and species range shifts into regional planning efforts will better inform Federal agencies, organizations and individuals. We strongly encourage using existing ecosystem scale data that informs decision-making.

We hope that as the planning process continues, the RPB will incorporate EBM. Specifically, we think the RPB is in a unique place to create easily useable information for a broad scope of audiences that includes important historical ocean uses, and includes future projections of key productivity. In December of last year, the MCFA co-hosted with the Island Institute, Maine Lobstermen's Association, and the Cape Cod Commercial Fishermen's Alliance a workshop focused on preparing for a changing Gulf of Maine ecosystem called "*Preparing for an Uncertain Fishing Future: Bringing communities together with climate and marine scientists to understand predictive capabilities and information needs.*" Though there is uncertainty around the predictions, the understanding of the importance of a long-term, ecosystem-based view was prevalent throughout the room. With regard to the RPB's actions, we are supportive of the Island Institute's suggestions of creating:

- A 100 year historical retrospective of the changes in the ecosystem and include physical, chemical and biological trends,
- Projections of future scenarios for the next 50 years that are based on sound science and can aid management questions,
- A set of best practices and examples using close to real-time data for RPB agencies to easily inform regulatory and management decision-making.

The need to make decisions within the context of the ecosystem – both historically and moving forward – is strong. Ecosystem interactions are essential to consider, but rather than using the limited time and resources of the RPB to develop ecosystem models, we encourage the RPB to develop tools that facilitate information sharing using existing data streams to include ecosystem considerations throughout the planning and decision-making processes.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Martens", written over a light gray rectangular background.

Ben Martens  
Executive Director

May 12, 2015

Dear RPB Co-Leads,

As the June RPB meeting approaches, I am excited to share this blog post about regional ocean planning with you - <http://www.talkingfish.org/opinion/incorporating-community-into-regional-ocean-planning>. I believe this blog post and the ideas contained in the attached white paper can help you better integrate regions natural resource dependent communities into the planning process.

As you are all aware, the Island Institute is a strong supporter of some of the regions' most remote and smallest coastal communities and I believe that we are at a pivotal moment in the ocean planning process. I want to insure that the Regional Planning Body process engages and supports these communities and leads to better-informed decisions about changing ocean uses.

I believe that taking steps to incorporate these ideas, both the data layers and the provisions in the plan associated with the data layers, will greatly improve the ocean plan. The strong economic and cultural ties that our region's working waterfront communities have to the ocean means that changes in the health of the marine environment and how humans use it, impact these communities. These ideas help ensure that these impacts are considered as part of the plan.

Thank you for taking the time to read through these materials. We look forward to working with you on these ideas. If you want to talk more about these ideas or have any questions, please contact me or Rebecca Clark Uchenna at [rclark@islandinstitute.org](mailto:rclark@islandinstitute.org).

Nick Battista

**Nick Battista** | Marine Programs Director | Island Institute | 386 Main Street | Rockland, ME 04841 | 207.691.3554 cell | [www.islandinstitute.org](http://www.islandinstitute.org) | [www.workingwaterfront.com](http://www.workingwaterfront.com)

# **Incorporating Community into Regional Ocean Planning**

by Nick Battista and Rebecca Clark  
March 3, 2015

# INTRODUCTION

New England's working waterfront communities have strong economic and cultural ties to the ocean. The economic health of these communities relies on a healthy ocean and coastal ecosystem.

The existence of many fishing communities can be tied to the ability to fish in a particular area. The loss of that ability can mean the decline or disappearance of an entire community. The specific places in the ocean that these communities rely on are determined in part by the size of their boats, the species being sought, fishing pressure from other communities, and government regulations. Many fishermen are only able to fish in a relatively small part of the region.

A well-executed ocean planning process will help communities protect their future, improve ocean management, and result in healthier ecosystems. A poor process, on the other hand could cause tangible economic and cultural impacts to these communities, particularly the smaller and more remote communities. The potential for these impacts can create fear and suspicion about ocean planning among those most impacted within these communities.

Addressing the fears and concerns of community members in a concrete fashion will ensure a more cooperative and durable plan. Fortunately, in New England, there is still time to include a few key data layers and provisions in the regional ocean plan that will support these communities and help make better informed decisions about changing ocean uses.

A successful ocean plan should include:

- data layers that include better accounting for current and future environmental shifts, like those caused by climate change
- improved practices for engaging communities in the decision-making and permitting processes for competing ocean uses
- data layers that incorporate community level social, cultural, and economic values
- incorporating fine scale data from fishermen into the process



*The Islesford Co-op, supporting the rural fishing community of Islesford, Maine*

PHOTO: JASON MANN

## Islesford—a Focus on a Small Fishing Community

Islesford is the easternmost year-round island in the United States. It is a small, fishing-dependent community with a year-round population of 70 people, a two-room K–8 school, a seasonal historical museum, a dockside restaurant, and a library. The fishing co-op is the only year-round business. Without prop-

er access to a healthy, thriving ocean, this island community may disappear. It is important to identify these small communities within the Northeast Regional Ocean Planning process in order to preserve and maintain the unique cultures and values of these tight-knit island communities.

## Accounting for Current and Future Changes to the Marine Ecosystems

Fishermen and others in natural resource-dependent communities are seeing shifts in the marine ecosystem from climate change and other human drivers. “The Gulf of Maine is changing at a rapid rate and in ways never seen before by today’s fishermen” (Predictive Capabilities Workshop Report 2015). New species are appearing as bycatch, and changing water temperatures have influenced economically important fisheries. Dr. Rick Wahle, University of Maine, states, “The Gulf of Maine is at the doorstep of one of the largest temperature gradients on the planet. Lobsters are experiencing two sides of the climate story—in southern New England they are declining, and in northern New England the populations are expanding” (Climate of Change Workshop Report 2013). With warm spring waters in 2012, the timing of the lobster shed was disrupted, which caused more lobsters to be caught earlier in the year. “The five million pounds of lobsters early in the season reportedly caused a 50 million dollar decline in revenue, as processors weren’t ready to buy US lobsters and prices dropped significantly” (lobsterman, South Thomaston, ME).

Recent research from the Gulf of Maine Research Institute indicates that the Gulf of Maine is warming more rapidly than 99% of the world’s oceans (Climate of Change Report 2013). Lobstermen in Maine are catching species common in the Mid-Atlantic and southern New England in their traps. In the communities where ocean resources are a key economic driver, shifts in the ecosystem are part of life, but recently the unpredictability of the shifts has increased significantly. According to another fisherman, “we are going to see surprises. The only certainty is that it is going to be different” (Predictive Capabilities Workshop Report 2015). Many Maine fishermen are thinking strategically

about how these potential species shifts will influence their businesses.

Incorporating higher resolution climate models and current predictions into the planning process might help fishermen make better decisions about their business and make the regional ocean plan more resilient. “Higher resolution models are predicting much greater warming for the Gulf of Maine than prior models” (Vincent Saba, NOAA). While these projections will not be able to “predict” future shifts the Gulf of Maine may face, they can provide insights relevant to the business decisions natural resource-dependent communities are making today and into the future.

Across the region, fishermen see changes in the ocean and are concerned about a planning process that does not fully account for them. “In most meetings, participants expressed concern about mapping fishing activity in the face of shifting ecosystems, climate and fisheries” (NROC Report 1 pg 54). The Northeast Regional Ocean Council, NROC, has started to develop data layers that account for some of these changing conditions. For example, NROC is currently developing a data layer of marine mammal densities focused on climate and habitat characteristics (Nick Napoli, NROC). And some data layers such as “an enhanced understanding about habitat and environmental conditions will remain helpful regardless of individual species use” (Stakeholder Forum 2014). While these are positive steps, there is more that can be done in the plan to understand and account for changing environmental conditions in both its data layers and within the plan itself.

## Improved Practices for Interacting with Fishing Communities

Fishermen are increasingly aware of emerging ocean uses such as sand and gravel mining, offshore wind, and offshore aquaculture that will be competing with them for ocean space and resources. These uses can exclude fishermen and other ocean stakeholders from areas of the ocean that they depend on for their livelihoods, threatening the viability of their communities. In this context, a regional process designed to coordinate government agency activity appears threatening and provides an easy opportunity for those opposed to ocean planning to tap into these fears. A plan for New England that does not address these concerns will struggle to gain the political and institutional support necessary for long-term durability.

In project after project, it has become clear that fishermen fear not having a local voice or being able to influence permitting decisions for ocean space near their community. The ocean planning process provides an opportunity to minimize conflicts between uses by starting conversations between fishermen and developers early on in the process. “As wind farms become a reality in the US, communication will be key to making them ‘fishery friendly’ and minimizing disruptions” (Commercial Fish-

eries News 2013). Tracking the different project development and regulatory processes is difficult, and the fact that those processes go on for years makes it even more so. There must be adequate transparency in the planning process to allow community members to actively participate in the process.

Improved communications can help avoid situations like what happened to fishermen from England who fish out of small ports on the Kent Coast. Their offshore wind plan called for 100 turbines several miles offshore from a fishing community. “Unfortunate thing for us was permission had already been granted. So we weren’t involved in any process leading up to the decision of the site” (cod fisherman, UK). As a result, a group of fishermen formed a fishing association before the next farm was permitted and met regularly with developers to push the industry’s interest (MPBN article). “I don’t want someone to pay me not to go fishing... it’s what I do” (Commercial Fisheries News 2013). The new fishing associations found it useful to negotiate with developers for long-term investments in fishing communities, improved working waterfront infrastructure and to hire out fishermen to implement support services related to the wind project.

In Maine, we have seen firsthand why communications are so important during the planning process. When Statoil proposed a small offshore wind farm, they talked to many Maine fishermen early on in the process and hired a lobsterman to be a fisheries liaison. These efforts helped improve communications about the project. With another offshore wind project, the Island Institute is helping Monhegan Island engage with the University of Maine. In this work, we have seen how valuable and productive a conversation between a developer of a new ocean use and a natural resource-dependent community can be. For a developer of ocean space that is important to a nearby community, continuously engaging stakeholders throughout the process is critical.

In the effective decision-making goal, the Regional Planning Body, RPB, has the opportunity to turn these liabilities into a positive “win” for communities by incorporating best practices

for engaging communities about the permitting of ocean uses in waters that those communities depend on. Groups such as the Udall Foundation have done excellent work on collecting these best practices, and recent Bureau of Ocean Energy Management guidance on how offshore wind developers should engage with fishing communities is a step in the right direction. These best practices should be incorporated into the effective decision making portion of the ocean plan. By giving the natural resource-dependent communities information and a seat at the table before and during the decision-making process about uses in their area, the plan would provide a tangible benefit to these communities. Doing so would allow communities to voice their concerns about potential ocean uses that may permit disruptive activities in the waters they rely on. It may also lead to more innovative, practical, and economical mitigations.

## Incorporating Community Level Social, Cultural and Economic Values

Monetary values and biophysical features are dominating spatial planning data, and intangible cultural values are not well represented. This data should be collected as part of the plan. “This could be accomplished such as by making parts of the data open source or adding oral histories” (Stakeholder Forum 2014). The RPB should take advantage of opportunities to collect and utilize data from traditional knowledge sources and incorporate them into the plan. Cultural and historic tribal resources have already been identified as important considerations in the Northeast Regional ocean plan. The RPB has been working with tribal leaders to identify important tribal cultural resources as specified under the National Ocean Policy. This is important and a vital step in preserving tribal resources, howev-

er, the RPB should also recognize and identify a need to engage natural resource-dependent communities who have strong cultural and centuries-old historic ties to the coastal environment they depend on. “The lifeline to these small communities is the ocean and when the ocean is depleted there will be no more small fishing communities... and it will be sad” (fisherman, Port Clyde, Maine).

system Services (CES) are vital to any island and rural coastal community and should be considered in the planning process. CES are “the non-material benefits people obtain from ecosystems through spiritual enrichment, cognitive development, reflection, recreation, and aesthetic experiences” (O'Donnell et al.). Without properly identifying and preserving these services within communities, shifts in ocean uses may result in the depletion of these highly valued cultural ecosystems in fishing communities.

With significant amounts of data being collected on human uses and the ocean environment in the region, little work has been done on how and why natural resource-dependent

**“These places are endangered species, Maine islands. And I think that anytime you lose a community, it doesn't matter whether it's on the mainland or an island, the whole world has lost something.”**

**—Donna Damon  
Chebeague Island, Maine**

er, the RPB should also recognize and identify a need to engage natural resource-dependent communities who have strong cultural and centuries-old historic ties to the coastal environment they depend on. “The lifeline to these small communities is the ocean and when the ocean is depleted there will be no more small fishing communities... and it will be sad” (fisherman, Port Clyde, Maine).

The role of commercial fisheries in communities is often not fully recognized in the planning process. It is difficult to study and quantify intangible values, such as culture and tradition, which fishing brings to a community, even though these are often valued more highly than financial gains. These Cultural Eco-

communities value the ocean. Incorporating the social, cultural, and economic values that communities see in the ocean will help give the ocean plan a heart and soul. By tapping into the strong cultural and historic connections to the ocean found in these communities and acknowledging the importance of these connections, the plan will be less threatening and more accessible. Researchers have found that allowing community members to “describe the importance of intangible values in words and stories may be more effective than ‘quantifying the unquantifiable’” (O'Donnell et al.). If this information is not captured in the plan, there is a risk that the full value of these communities could be greatly underestimated.



*A family fishing business on the coop floats, Islesford*

PHOTO: SCOTT SELL

Fishermen have been working the water for generations, with fishing traditions in many cases passed down from generation to generation, and these stories have helped shape community identity (O'Donnell et al.). For example, navigational place names are an example of such a tradition. Bar Harbor fishermen have used “House in the Notch” for line-of-sight navigation. When fishermen line themselves up with a certain house between two hills, they know they are in the right spot. Fishermen

have nicknamed their fishing grounds over the years and have a sense of ownership and pride in these names. To a developer or somebody from another industry, these names may not appear very important and are frequently not even identified on navigational charts. To fishermen, however, these fishing ground names are a part of their lives and heritage. Capturing these kinds of data in the regional plan will paint a more realistic picture of the importance of nearby ocean space to coastal communities and help make fishermen feel that their data is represented in the process.

Incorporating an understanding of these intangible values into the plan gives communities comfort in knowing that they will be able to use these data layers to explain the basics of these values to a potential new user

of ocean space, as well as to new managers, regulators, politicians and other decision makers who regularly make decisions that impact these communities. This kind of information is useful in both the context of regional ocean planning and in other regulatory processes. By increasing the regional understanding and acknowledgement of these intangible values, communities, agencies, applicants and others all start the conversation on an equal footing.



Important places in the marine environment are often given names. Place names identified represent features on the ocean bottom (Death Trap, New Bank), features on nautical charts (Hot Dog Shoal, Gull Wing), or memorialize something that happened in that spot.

## Incorporating Fine Scale Data from Fishermen

As the NROC Fisheries Characterization recognized, “[o]cean space used for fishing activity in New England is driven by a

complex set of factors that are not all captured or represented in existing data sets” (NROC 1 pg 1). These factors or consider-

ations include: “target species population and habitat requirements, seasonal variations in species distribution, weather, gear type used, management decisions, linkages to fishing ports and communities, and socioeconomic factors.” (NROC Report 1 pg 4) Fishermen whose families have been working on the water for generations are key stakeholders in providing reliable, relevant spatial data. In order for fishermen to actively participate in the planning process a sense of trust must be built. “Fishermen are more likely to trust data that is reputed to be the best available if they contribute to the generation of that data” (Stakeholder Forum 2014). According to the first NROC fisheries characterization “[f]ine scale charts are needed on the maps. Ten fathoms can make a difference for some species. These enhanced images would allow fishermen to identify and discuss local area” and “NROC should allow these groups to submit their data to the ocean portal, making sure the source is appropriately cited” (NROC Report 1 pg 97 and pg 59).

Commenting on regional data sets that are derived from federal government data does not satisfy the urge to share this important knowledge. “Many fishermen viewed the aggregate data as not representing ‘their’ activity” (NROC Report 1 pg 12). Much of the knowledge that fishermen have about specific places is very valuable. “Many fishermen are familiar with sub-regional and local patterns for fisheries in which they participate. Those also involved in the fisheries management process tended to have even greater knowledge about a variety of the region’s fisheries and were able to frame some of their comments in ways that were very helpful to the project team” (NROC Report 1 pg 4). Incorporating better fine scale data from fishermen into the planning process, which includes not just the location of fishing activity but also taps into fishermen’s local ecological knowledge of habitat and ecosystem elements allows the plan

to tap into the valuable insight and contribution from natural resource-dependent community members in a meaningful way that will increase the durability of the plan.

While sharing anecdotal information about how important the ecosystem of the Gulf of Maine is to them as individuals is valuable, community leaders recognize that this value could be significantly leveraged by combining individual stories into a shared vision supported by accurate information, especially maps, that illustrate how important a healthy marine environment is to all of their communities. By adding an additional data layer to the Northeast Ocean Data Portal with this qualitative fine scale data, natural resource-based communities may feel a sense of place within the planning process.

Helping to develop this mechanism and determine the appropriate methods of displaying sensitive, fine scale data will help make fishermen feel more comfortable with the planning process. In particular, being able to contribute their knowledge to the data being used in the effective decision-making process will provide them with an opportunity to enter into discussions with regulators and developers about how to best accommodate new uses or identify key areas for protection. “Higher resolution information in both space and time is needed to determine species’ diversity and numbers, based on location and time of year” (Climate of Change Workshop Report 2013). Incorporating a mechanism for accepting this sort of information ensures that the plan and decisions emanating from the plan are based on the best possible information on human uses, ecological data and traditional knowledge that reflect the way natural resource-dependent community members understand and relate to ocean space.

## Conclusions

The activities above are identified as top priorities for how to incorporate communities into the ocean plan. In developing these ideas, we draw heavily on our experiences and conversations during the development of NROC’s first fisheries characterization with fishermen from around the region, as well as decades of working with these communities. We strongly believe that if we are successful in these endeavors the ocean plan in New England will be more durable and communities will be more willing to stand up for the plan and fight for funding for these activities. We urge you to work with us to refine these ideas and incorporate them into the plan.

## References

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Northeast Regional Planning Body Summaries  
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February 2014

O'Donnell et al., Understanding Values in Canada's North  
Pacific: Capturing Values from Commercial Fisheries  
T. Buck Suzuki Environmental Foundation; Ecotrust Canada

*Warming Waters and Maine Lobster*  
Island Institute  
Fall 2013  
<https://vimeo.com/92687598>

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June 2, 2015

Betsy Nicholson  
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Dear Ms. Nicholson and RPB members:

On behalf of the Fisheries Survival Fund ("FSF"), we submit the following comments on the Northeast Regional Planning Body's ("RPB's") work to develop the Northeast Regional Ocean Plan ("ocean plan") in advance of its upcoming meeting on June 3-4 in Mystic, CT. FSF represents the significant majority of full-time limited access permit holders in the Atlantic scallop fishery. Our members are home-ported along the Atlantic coast from Massachusetts and Connecticut south through New Jersey, Virginia, and North Carolina.

Throughout the past several years, FSF has engaged extensively in the planning process for offshore energy and other ocean projects in the Northeast and Mid-Atlantic. This on-the-ground experience has given us unique insight into the deficiencies of current permitting and environmental review processes. We have learned that there are many ways in which these processes can be improved to increase stakeholder consultation, reduce conflicts, and ultimately improve planning efficiency for multiple uses of our offshore resources. Some of these improvements are well within the purview of the RPB; that is, they are tangible steps the RPB could take and/or recommend that would greatly reduce future use conflicts within the existing management structure, and could be accomplished with minimal investment.

Accordingly, the following is a brief history of our experience and proposed solutions for the RPB to consider as it drafts its ocean plan.

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Problem #1: Public Notice and Consultation Requirements Are Not Met Effectively

As you know, a wide range of offshore projects are at various stages of consideration, proposal, and operation in the Northwest Atlantic Ocean. The projects span multiple uses including wind energy, deepwater port facilities, sand extraction, aquaculture, seismic airgun surveys (for both scientific studies and oil and gas prospecting), and defense activities, among others. The pace of these projects is accelerating; often, multiple projects are announced in a single week or month.

Action agencies are required to consult with other user groups as a matter of law and policy.<sup>1</sup> However, such consultation does not always happen, and we acknowledge it may be burdensome for an agency or a project developer to identify and address the concerns of every single user group that could conceivably have a conflict with a proposal. In the absence of agency-initiated consultation, any fisheries interests or, indeed, any person with any interest in offshore activities, that wish to provide input must monitor each agency's actions individually and either engage the agency ad hoc or participate in the environmental review process.

It would be nearly impossible for a stakeholder to track each and every offshore proposal that may affect his or her industry. From the outset, the Administrative Procedure Act requires any agency proposing to permit an offshore project, or to conduct environmental review on such a project, to publish notification in the Federal Register.<sup>2</sup> However, not all agencies do so. For example, the National Science Foundation ("NSF") recently permitted a Rutgers University-led survey offshore New Jersey that is using seismic airgun blasts similar to those for oil and gas prospecting to measure long-term changes in seabed sedimentation. Despite the seismic blasts following a 4900-km survey line in an area that is heavily commercially and recreationally fished during the busiest fishing months of the year, the only public notice of the project was an Environmental Impact Statement ("EIS") posted on the NSF's website. Similarly, the Bureau of Ocean Energy Management ("BOEM") is considering permits for multiple oil and gas seismic surveys in the Mid-Atlantic and, while the agency is accepting public comment on the applications, it is doing so without publishing official Federal Register notices. Therefore, even simply monitoring the Federal Register would not be an effective way to stay informed

The environmental review process provides another legally-mandated opportunity for public notice and comment. While all federal projects are subject to environmental review,<sup>3</sup> including public participation, the action agencies responsible for each project have differing

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<sup>1</sup> We have described this legal requirement in previous letters and, for the sake of brevity, incorporate those letters by reference.

<sup>2</sup> 5 U.S.C. § 553(b).

<sup>3</sup> 42 U.S.C. § 4332(2)(C).

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approaches to conducting such review. Often the public, including affected stakeholders, is unaware of proposals and developments until far too late in the process to make meaningful engagement or planning efforts, if it is even possible at all. For example, under the “Smart from the Start” initiative for offshore wind farm permitting, BOEM only issues a Call for Information from the public *after* energy companies spend substantial time and money resources developing specific bids for a Wind Energy Area. In New York, for example, three private companies have spent what likely amounts to millions of dollars so far to develop a proposal for an offshore wind facility, and the agency has spent significant resources on its review. Only after the Call for Information did the agency and the corporations learn that the proposed area overlaps prime scallop and other commercial fishery grounds, recreational fishing areas, a proposed liquefied natural gas (“LNG”) terminal, and shipping lanes. This system benefits nobody. The timing of input matters. As we have urged in previous letters to the RPB and many of the action agencies, it is absolutely critical to improve public outreach *before* projects are so far along in the planning phase that they are effectively irrevocable, or revocable only if substantial resources have been wasted.

*Proposed Solutions:*

1. Create a centralized registry or database describing *all* projects under consideration regionally. This simple mechanism would allow interested parties to monitor developments and directly engage with agencies or project representatives in order to streamline the resolution of potential conflicts—saving time and money for those who propose projects as well as existing users.
2. Clarify each action agency’s environmental review process in one easily accessible document. Promote agency commitment to utilize the Federal Register and follow standard practices for public input.

Problem #2: Information in Environmental Reviews Is Often Incorrect or Inadequate

The quality of information is critical to an effective environmental review. However, the action agencies have published EISs that have major flaws, perhaps due to the deep complexities in the management of offshore resources. For example, last December the Coast Guard and Maritime Administration jointly issued a Draft EIS for the Port Ambrose LNG Terminal project that contained wildly erroneous information about the scallop fishery.<sup>4</sup> While we cannot know

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<sup>4</sup> The Draft EIS, among other oddities, presented scallop catch by “shell weight” (a unit that is not and has never been recorded in catch records), included data only through 2008, failed to recognize that the entire area was Essential Fish Habitat (“EFH”) for scallops in its mandatory EFH assessment, and did not include scallops in a list

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what led to the omission of this key information, we do know that this major conflict should have been discovered prior to the development of site plans and massive agency resources spent on developing the 1800 page Draft EIS.

We have seen similar problems with other reviews. New York's draft Ocean Action Plan, for instance, relied upon a faulty study that characterized scallops as a "groundfish" and derived information on their abundance from the National Marine Fisheries Service's Northeast Fisheries Science Center trawl surveys.<sup>5</sup> Scallop biomass is estimated through annual federal and academic institution dredge surveys; scallops are not caught in the groundfish trawl survey. This mistake was overlooked by reviewers, as results were "ground truthed" by ocean users who were selected from a group of individuals and organizations who had previously worked with the NY Department of State.<sup>6</sup> Because, due to harbor conditions, scallops caught offshore New York are regularly landed in New Jersey, no persons with knowledge of the fishery were involved in the process—despite the massive value of scallops located offshore New York. This series of errors highlights the risks involved when ocean planning is not inclusive and collaborative.

The RPB is currently engaged in efforts to characterize ocean uses in the Northeast and to build tools to compile relevant biological and economic data. While we are hopeful that the characterization efforts will reduce the likelihood of these mistakes in the future, there are fundamental problems with their effectiveness. For the scallop fishery, for instance, annual assessments of the resource inform management decisions. The success of rotational management, which has led the Atlantic scallop fishery to become fully sustainable and the most lucrative in the nation, is dependent upon the flexibility to determine what areas to open to fishing each year in response to those assessments. Furthermore, "snapshots" of historical uses cannot describe the fishery's actual footprint, as fishing grounds must shift from year to year. Due to these difficulties with the characterization process, additional backstop measures must be implemented to ensure that agency reviews are complete.

*Proposed Solutions:*

1. Improve public consultation requirements as described above.
2. Identify appropriate personnel within each agency (either pre-existing staff or in new coordinating positions) to serve as the primary reference point for information on each potential use of an area.

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of benthic organisms that would be affected in the proposed project area, despite acknowledging that the project would impact all benthic species.

<sup>5</sup> New York Department of State, *Offshore Atlantic Ocean Study* (July 2013) at 132.

<sup>6</sup> *Id.*

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Problem #3: Action Agencies Are Not Positioned to Determine the Severity of a Conflict

Environmental review processes impose no hard and fast criteria for weighing a proposed project's impact on existing users and the human and natural environment. It is reasonable to expect each agency will base its decision using its own institutional values; that is, the action agency will most likely view its own proposed project as a higher priority than those proposed by others, or than preexisting uses of ocean resources. Accordingly, in a situation where two agencies may be proposing projects in the exact same location, or where one agency proposes a project in the same location as an existing use managed by another agency, which agency should be the one to stand down? Or, more succinctly, how much conflict is too much to proceed?

There are, in fact, sources of law mandating that certain uses are protected. For example, BOEM has a legal obligation under the Outer Continental Shelf Lands Act, as amended by the Energy Policy Act of 2005, to protect existing "reasonable uses," such as commercial fishing, and consider areas for fishing and navigational purposes, in issuing leases for offshore oil and gas development.<sup>7</sup> That law further prescribes that "the character of the waters above the outer continental shelf as high seas and the right to navigation and fishing therein shall not be affected" by BOEM's leasing of OCS submerged lands.<sup>8</sup> Other sources of law also prioritize certain uses over others.

*Proposed Solution:*

1. Review the existing legal framework surrounding offshore resources, and clarify on the record which uses are protected or afforded deference.

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To summarize, we urge the RPB to make tangible progress toward reducing conflicts over competing offshore resources by following the suggestions listed above. As we have stated before, early consultation on permitting and leasing decisions is critical. The RPB, while it lacks authority to amend the law or regulatory processes that prioritize existing resource users, is well-situated to drive adjustments such as these to ensure that activities are well-coordinated and that communication is effective. We appreciate the opportunity to submit these comments, and look forward to continuing to work with the RPB to develop solutions to offshore use conflicts. Please

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<sup>7</sup> 43 U.S.C. §§ 1337(p)(4)(I), (J).

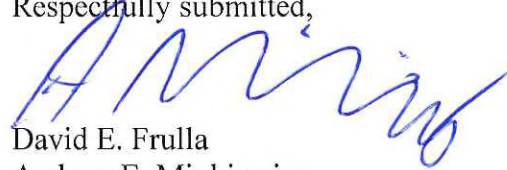
<sup>8</sup> *Id.* § 1332(2).

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do not hesitate to contact us if you have any questions or if we can provide additional information.

Respectfully submitted,



David E. Frulla

Andrew E. Minkiewicz

Anne E. Hawkins

*Counsel for Fisheries Survival Fund*

June 3, 2015 – Day 1 Northeast Regional Planning Body Meeting

As always it's good to see and talk with you all again today. For better or worse, it feels a bit like family now. We've come off a series of meetings in which was presented and summarized a lot of data, assessments, criteria and best practices, and while it's all been a worthwhile effort, I'm left feeling a little confused and concerned. If anything, I'm less sure of where this is all headed than before, and with more of a sense that it is planning without a plan. Is this all to feed a system of leasing and permitting, that unto itself establishes the future of our oceans? I picture us, having arrived in a large truck and with credit card in hand, engaged in a buying spree at The Home Depot, loading up on various sizes and types of building blocks and materials, only to realize halfway through, that we don't know what we're building. We've assembled the knowledgeable contractors, skilled builders and procurers, but as of yet no architect, no blueprint, or drawings that would offer us a hopeful glimpse of our oceans future. Certainly our goals of Ocean Health, Government Coordination, and User Compatibility are accepted and should be self evident, but how do we make the choices that get us there, and what other choices do we need to make, as a region, to establish a collective vision? The further we progress without a process whereby the people of New England, the stakeholders, can participate fully in the creation of that design, establishing that vision, the more disenfranchised they'll become and the less successful ocean planning will be. Why is it such a difficult concept, or realization? People here know a little something of their own ocean, its' restoration priorities, perhaps experienced first hand some of the positive or negative aspects of aquaculture, or witnessed "Best Practices" in action. You've taken us from the homey, feel good concept of using Local and Traditional Place Based Knowledge, to a cleaned up and sterilized use of Synthesized Data. You're scaring me! I don't want to fear for the future, and that's not just a concern for my industry alone, but for the ocean and communities that rely on her. Perhaps beginning working on the plan itself will help, but only if you make a concerted effort to reengage the public in the decision making process and above all, instill in us a hope of being able to plan our own future.

Richard C. Nelson

Captain F/V Pescadero

Friendship, Maine

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June 4, 2015- Day Two Northeast Regional Planning Body Meeting

In reference to day one's discussion on adding aspirational elements to the Ocean Plan, I fully realize that it would be difficult to stop the progress of working on this plan in order to develop an “aspirational” agenda, list, or outline. Perhaps we can work instead to develop a parallel process that, down the road, can be used in conjunction with the Ocean Plan to formally consider stakeholder aspirations as to the use and health of the oceans. This process should be able to allow for proactive input into the ocean uses and practices that benefit the unique aspirations shared by the people of this region. Input should be sought out and collected on all aspects of ocean uses, ocean health, restoration and inclusive of any aspect that the public deems important. Part of that parallel process could include holding symposiums or workshops on regional energy, sand and minerals mining, aquaculture development, ecosystem restoration, MPAs, or what have you. The ideas and input from these endeavors should be spliced together with the Ocean Plan as part of its' implementation. With all the intensity that we're experiencing as we delve into the work on this Ocean Plan, we must still realize that many people in this region, including some critically important ocean users, still do not know this is going on, or what ocean planning entails. They certainly deserve a say in this process, not to mention that people, such as myself, who though well engaged from the beginning, are still are clamoring to have a more direct say in what's going down. Thank you.

Richard C. Nelson

Captain F/V Pescadero

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