

September 14, 2023

Via Electronic Mail

Mr. Peter Hughes, Chair, Atlantic Surfclam & Ocean Quahog Committee
Members of the Atlantic Surfclam & Ocean Quahog Committee
c/o Ms. Jessica Coakley
Mid-Atlantic Fisheries Management Council
800 North State Street, Suite 201
Dover, DE 19901

Dear Chairman Hughes and Advisory Panel Members:

The Atlantic Surfclam & Ocean Quahog (SCOQ) Advisory Panel has repeatedly raised concerns about increasing loss of access to traditional surfclam fishing grounds, and exploitable surfclam biomass within, that have gone unheeded. The fishery is losing access due to wind farms, aquaculture, historic monuments, and, most especially, areas closed by federal management actions to protect other stocks' essential fish habitat or conserve other fisheries. Meanwhile, and not unrelatedly, the surfclam industry struggles to harvest allowable catch. The percentage of the surfclam quota landed has steadily declined, decreasing from 62% in 2018 to 45% in 2022.

The Mid-Atlantic Council is failing in its most important responsibility under the Magnuson-Stevens Act; that is, to achieve optimum yield on an ongoing basis for this healthy fishery.

One issue the SCOQ Advisory Panel has focused on over the past five years or so is the loss of access to the surfclam resource in the Great South Channel Habitat Management Area (GSC HMA). Despite vocal support from the Council's Habitat Committee and Plan Development Team for research that the New England Council has said is necessary before it will consider allowing access to traditional surfclam fishing grounds within the GSC HMA, this has yet to translate into any meaningful action. The Greater Atlantic Regional Fisheries Office (GARFO) has rejected the three applications by the industry and experienced researchers for exempted fishing permits to conduct research the New England Council claims is required.

The main basis for rejecting these applications has been the supposed unacceptable level of "damage" compensation fishing will have on essential fish habitat (EFH). For perspective, the total area swept by compensation fishing in each of these proposals was no more than 3.2 square kilometers, or about 0.12% of the 2,566 sq. km within the GSC HMA. Considering that, by necessity, such fishing occurs in areas with predominantly sandy substrate—because those are the areas surfclams inhabit—the "threats" to complex habitat GARFO envisions are, to be charitable, over-blown.

This also ignores the fact that Nantucket Shoals is a high energy area characterized by mobile sands dunes. All recent research has shown little to no epibiont coverage on cobble and small rocks. Rather, they show signs of significant scour that would be expected in this area.

Under such conditions, it would seem impossible to find that temporary displacement of cobble by a clam dredge could have any meaningful impact on their utility or function as EFH.

The industry and its research partner, the Coonamessett Farm Foundation, are planning on soon submitting a new EFP application that focuses solely on research GARFO has indicated would be useful and important in its latest rejection letter. The only way this study can and will be conducted is if GARFO approves compensation fishing. Thus, the only basis on which GARFO might reject the application would be because of concerns about the very small amount of compensation fishing on EFH.

We are therefore asking the SCOQ Advisory Panel and the Committee to support this application. More broadly, we believe the Mid-Atlantic Council as a whole should re-assert its primary role in managing the Atlantic surfclam fishery by initiating an action to create a pathway to restoring fishing access within the HMA. Because authority over EFH in that region and management responsibility are split between two different councils, perhaps the best course is for the Council to request that the National Marine Fisheries Service take a lead in developing measures that would restore limited surfclam fishing access to areas such as the Rose and Crown and Davis Bank East, coupled with a research component that will help refine our understanding of the areas in which the fishery's impact on EFH is minimal and temporary.

The current situation is simply untenable. The duty to minimize adverse impacts on EFH is a limited one, subject to the limitations that any measures designed to achieve this goal be "practicable." By contrast, the main responsibility of the fishery management council is to assist the fishing industry in achieving optimum yield from fisheries that are not overfished or subject to overfishing. Yet, the surfclam fishery is consistently falling far short of this goal in large part due to concerns about impacts on EFH that are, to say the least, very unlikely to meet the definition of "adverse." As more wind energy projects begin development, this problem is going to get worse.

We urgently need the Mid-Atlantic Council's help to reverse this trend. Thank you for your attention to this vitally important matter.

Sincerely,

Monte Rome