



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL OCEAN SERVICE**  
**Office of National Marine Sanctuaries**  
**Stellwagen Bank National Marine Sanctuary**  
175 Edward Foster Road  
Scituate, Massachusetts 02066  
Tel: 781.545.8026 Fax: 781.545.8036

**56<sup>th</sup> SANCTUARY ADVISORY COUNCIL (SAC)**  
**May 22<sup>nd</sup>, 2019 9:30 am - 3 pm**  
**Hilton Doubletree, Rockland MA**  
**MINUTES of MEETING**

**Present:**

Bill Adler	Primary: Fixed Gear Commercial Fishing
Aurora Avallone	Primary: Youth
Terri Birkeland	Alternate: At Large
Kevin Blinkoff	Primary: Recreational Fishing
Jeanine Boyle	Alternate: At Large
Tim Brady	Alternate: Recreational Fishing
Shelley Brown	Alternate: At Large
Todd Callaghan	State: Coastal Zone Management
Deborah Cramer	Primary: At Large
Tim Donovan	Federal: NOAA Office of Law Enforcement
Susan Farady	Primary: Education
SGT A.J. Ford	State: MA Environmental Police
John Galluzzo	Primary: Maritime Heritage
Laura Howes	Primary: Whale Watch
Capt Kevin King	Federal: First US Coast Guard District
Martin Klein	Alternate: Maritime Heritage
Heather Knowles	Primary: Diving (Chair)
Chris McGuire	Primary: Conservation
Conor McManus	Alternate: Research
Eric Meschino	Alternate: Fixed Gear Commercial Fishing
Frank Mirarchi	Alternate: Mobile Gear Commercial Fishing
Monica Pepe	Alternate: Education
David Pierce	State: Mass Division of Marine Fisheries
Kevin Powers	Primary: At Large
Jeff Rosen	Primary: Business Industry
Allison Rosner	Federal: NOAA Fisheries GARFO
Rory Simpson-Brown	Alternate: Youth
Tom Nies	Federal: New England Fishery Management Council
John Williamson	Primary: At Large

**SBNMS Staff:**

Pete DeCola	Anne-Marie Runfola	Alice Stratton
Ben Haskell	Elizabeth Stokes	Clea Harrelson (Summer Intern)



*Audio recording of SAC Minutes is available on request (contact Elizabeth.Stokes@noaa.gov)*

**I. Welcome, Review and Approval of 55th SAC Minutes and Review of 56<sup>th</sup> SAC Agenda**  
(H. Knowles)

The 55<sup>th</sup> SAC Minutes were approved with one abstention (Jeff Rosen).

**II. Sanctuary Business** (A.M. Runfola)

i. New SAC Member Introductions

- Conor McManus, Research Alternate
- Eric Meschino, Fixed Gear Commercial Fishing Alternate

View SAC member biographies at <https://stellwagen.noaa.gov/management/sac/member.html>.

ii. SAC Recruitment

The results from 30 November 2018 SAC Recruitment were announced:

- Bill Adler – Fixed Gear Commercial Fishing Primary
- Rich Delaney – Education Primary
- Susan Farady – Education Primary
- Laura Howes – Whale Watch Primary
- Marissa Marcoux – Diving Alternate
- Conor McManus – Alternate Research
- Eric Meschino – Fixed Gear Commercial Alternate
- Heather Knowles – Diving Primary
- Kevin Powers – At Large Primary

Thank you to those who previously served:

- William Bartlett – Fixed Gear Commercial Fishing
- Lt Phil Desroches – Massachusetts Environmental Police
- Joe Levine – Research Alternate

Following are the seats that will be recruited during June 1-30, 2019:

- At Large Alternate
- Mobile Gear Commercial Fishing Alternate
- Recreational Fishing Alternate
- Research Alternate
- Whale Watch Alternate
- Youth Primary
- Youth Alternate

iii. Election of SAC Executive Committee Secretary

SAC members nominated John Galluzzo (incumbent) and Laura Howes as candidates for the SAC Executive Committee Secretary. Result: John Galluzzo was re-elected for a third 1-year term by majority vote.

### III. Sanctuary Updates

#### i. Maritime Heritage Management and Policy (B. Haskell and NOAA Counsel J. Rolleri and J. Hoyt)

This agenda item was in response to the SAC's request at the February meeting for more information on maritime heritage resource management.

Ben began the session with a 45-minute presentation on the status of the SBNMS' Maritime Heritage Program (MHP). Some highlights from his presentation:

- He took over the job of Maritime Heritage coordinator after Matt Lawrence moved to the Florida Keys National Marine Sanctuary two years ago.
- 15% of the sanctuary has been mapped with side-scan sonar technology that is used to distinguish shipwrecks from other bottom features. The entire Sanctuary has been mapped with multi-beam sonar. However, multi-beam sonar is less effective for locating shipwrecks.
- As a federal program, the Sanctuary is a part of the Federal Archaeological Program and must comply with the National Historic Preservation Act (NHPA) and other federal laws.
- Seven historic shipwrecks (six sites) have been listed on the National Register of Historic Places (work accomplished by Matt Lawrence and Deborah Marx). An additional 40 historic wrecks have been identified and documented as potentially eligible for listing on the National Register.
- Five years ago the Sanctuary established a Memorandum of Agreement (MOA) with Heather Knowles to disclose historic shipwreck locations to her and her team in exchange for documentation of the wrecks (photo, video, site description). This MOA may be renewed for another 5 years. This vehicle for accessing undisclosed wrecks may be considered for other interested parties.
- SBNMS encourages public access to these heritage resources through the Sanctuary's website and special events such as the 1-hour Discovery channel documentary on the Portland that is available on YouTube (<https://www.youtube.com/watch?v=eP0cXhwma08>) and the upcoming telepresence program. John Galluzzo, Matthew Lawrence, and Deborah Marx also published a book in 2015 titled "Shipwrecks of Stellwagen Bank: Disaster in New England's National Marine Sanctuary" that provides an overview of the Sanctuary's shipwrecks.
- There is a new 3-year funded partnership with Woods Hole Oceanographic Institution on deep shipwreck telepresence. This year's focus will be the steamship Portland and will culminate in a live broadcast on September 17-19, 2019.
- The Portland shipwreck gained huge international attention after confirmation of its location in 2002. This discovery helped kick-start the National Maritime Heritage Program for ONMS.
- Maritime Cultural Landscapes (MCL) is a new framework to connect all aspects of maritime heritage and will be used to help the Sanctuary expand its focus beyond shipwrecks.
- Impacts from mobile fishing gear are the main threat to shipwreck resources in the Stellwagen sanctuary, although fixed gear may also have impacts. Mobile fishing gear is ranked above threats that may occur from recreational dive use of these sites because impacts from fishing gear are likely to be catastrophic whereas impacts from looting can be significant but not catastrophic.

- In 2017 an intensive scallop fishery on the North West (NW) corner of SBNMS prompted Sanctuary staff to work with NOAA Fisheries Greater Atlantic Region (GARFO) to conduct an experiment whereby the location of five historic sites and two non-historic shipwreck sites were disclosed to the Northern Gulf of Maine scallop fleet with voluntary guidance for avoiding the wrecks by a buffer of 360 feet. The Sanctuary is documenting the fleet's compliance with the voluntary buffer using side scan sonar before and after the fishery occurs every April.

Ben's presentation was followed up by a phone presentation by Jackie Rolleri, an attorney-advisor for NOAA's Office of General Counsel, Oceans and Coasts Section. Joe Hoyt, acting director of the ONMS MHP, also participated by phone. Jackie discussed the relevant definitions and sections of the (NHPA). Highlights from her presentation include:

- National Marine Sanctuaries Act (NMSA) authorizes the Secretary of Commerce to designate as national marine sanctuaries areas of special national significance due to their (among other things) historical, cultural, and archeological qualities.
- NOAA's implementing regulations define the terms "historical resources" and "cultural resources." "Historical" under NMSA refers to objects, context, and historic properties as defined by the NHPA. "Cultural resources" includes archeological resources. While not defined in the regulations, the Office of National Marine Sanctuaries (ONMS) sometimes uses the term "maritime heritage resources" as well.
- National Historic Preservation Act (NHPA)
  - Defines "historic property" as "any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object."
  - Section 101 – creates a system whereby historic properties are recognized and can be listed on the National Register of Historic Places (NRHP).
  - Section 106 – requires federal agencies to consider the effects of their undertakings on historic properties. An "undertaking" includes federal actions such as permitting, licensing, funding, or activities conducted by an agency itself. If a proposed undertaking may adversely effect historic properties, the federal agency must consult with the relevant State Historic Preservation Officer, and possibly others, and attempt to avoid, minimize, or mitigate the adverse effects.
  - Section 110 – requires federal agencies to assume responsibility for the preservation of historic properties under their ownership or control.
  - Section 304 – protects, in certain circumstances, particular information about historic properties from public disclosure.
- Section 304 –
  - (a) Authority to withhold from disclosure – The head of a Federal agency or other public official receiving grant assistance pursuant to this division, after consultation with the Secretary, shall withhold from disclosure to the public information about the location, character, or ownership of a historic property if the Secretary and the agency determine that disclosure may--
    - (1) cause a significant invasion of privacy;
    - (2) risk harm to the historic property; or
    - (3) impede the use of a traditional religious site by practitioners.

(b) Access Determination – When the head of a Federal agency or other public official determines that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with the Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this division.

(c) Consultation with Council – When information described in subsection (a) has been developed in the course of an agency's compliance with section [106 or 110] of this title, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).

- So if a Freedom of Information Act (FOIA) request is made, the presumption is that the location will be disclosed unless there is a legal basis not to disclose.
- Anyone can make a nomination to the NRHP but the site needs some proven quality of significance and specific information submitted with the nomination package. Sites must be at least 50 years old to be listed. This package is submitted to the Secretary of the Interior by means of the Office of the Keeper of the National Register of Historic Places.
- If a federal agency previously withheld from public disclosure information under Section 304, the agency must consult with the Secretary of the Interior and the Advisory Council on Historic Preservation before releasing such information to one or more person. The agency must provide justification for the release, specify who the information would be released to, and exactly what type of information would be released (e.g., location, character, or ownership information).
- Under the National Marine Sanctuaries Act, NOAA has authority to undertake various management activities to help protect historic properties and to mitigate any potential risks of harm to such properties. For example, some sanctuaries, such as Thunder Bay, have established a mooring buoy system and educate divers to help reduce the effects that divers may have on historic wrecks.

Jackie provided general feedback on the decision flow chart that the Maritime Heritage Working Group proposed to the SAC in February. Joe pointed out that this flow chart has helped push the envelope and the national guidance that ONMS MHP is working on to help clarify an acceptable approach for assessing when public access to historic properties may be appropriate and not result in a risk of harm to the properties. Joe indicated that ONMS' MHP is developing national policy guidance, which will be finalized after further review by other sanctuaries as well as the Advisory Council on Historic Preservation and the Office of the Keeper of the National Register.

Many questions were asked of the presenters. Tom Nies, Executive Director of the New England Fishery Management Council pointed out that Council's compliance guidance for fishery management plans does not currently list the NHPA as requiring compliance. Jackie responded that she is aware of this and is working with her counterparts in the Fisheries and Protected Resources Section of General Counsel on this matter. She also pointed out that General Counsel has a newer Environmental Review and Coordination Section that works across the agency to ensure NOAA decision makers and programs comply with protected resource statutes and other laws NOAA administers.

ii. Management Plan Update (P. DeCola and A. Stratton)

Superintendent Pete DeCola provided an update from his discussion with ONMS Leadership, which indicated that due to other national priorities, there will be limited staff support available from ONMS

for SBNMS management plan review. This would primarily be a concern related to the staff time required to plan, prepare for, host, and manage input from public meetings. Therefore, Pete presented the SAC with two options for conducting management plan review and sought the sense of the Council on how to proceed.:

1. As currently envisioned, with full public scoping after the condition report is published. This option would provide full public input before drafting the management plan and a public comment period after the draft management plan is completed, This may require perhaps 6 months longer before actually beginning to draft the management plan.
2. Skip scoping and have staff proceed with development of Draft Management Plan, and then get public input during the comment period following release of the draft management plan. This option would allow work on the draft management plan to begin sooner, would be based upon the input already provided by the SAC via MPR Subcommittee, MH Working Group, and Small Boat Working group. Although this is not the traditional process, it follows the model of Gray's Reef NMS, and is consistent with ONMS policy if no major changes (boundary expansion, major regulatory change) are being proposed.

Discussion among the SAC varied. Some members indicated that we have enough information and are ready to start drafting a management plan as soon as possible while others indicated that soliciting public input prior to developing a draft management plan would be a wise investment in time and energy. The Council was very cognizant of having limited staff and financial resources to implement an extensive scoping process. Suggestions to increase input without significant effort included taking advantage of other gatherings (professional meetings, education gatherings, local organizations), utilizing social media and online tools, sharing information and process through press releases, online postings, etc. There was also general agreement that while the management plan does not require major overhaul, there are significant concerns (climate change, emerging issues, addressing MHP conflicts) that should be incorporated into a new plan, and that the SAC supports development of a more concise, directed plan than the existing one. It was the sense of the SAC that without detailed information on budgets, costs, timelines, the SAC is unable to provide precise guidance but that they requested that SBNMS seek public input prior to developing a draft management plan and use best judgment to proceed in an efficient manner..

#### **IV. Lunch Presentation – Whale SENSE Partnership Program (A. Rosner, NOAA GARFO)**

Whale SENSE is a voluntary education and recognition program sponsored by NOAA Fisheries, Whale and Dolphin Conservation, and Stellwagen Bank National Marine Sanctuary. Established in 2009, Whale SENSE is in its 10th year of implementation. The program has expanded throughout the Greater Atlantic region, and as of 2015, has also had a presence in Alaska. Whale SENSE engages companies in a new way to help support responsible viewing and ocean stewardship through education and promoting passengers choices when selecting whale watching tours. This year, Whale SENSE is launching a new program called the "Proud Supporters" program for companies and organizations that support the Whale SENSE mission, but are not directly involved with whale watching activities. Proud Supporters show their support by posting the Proud Supporter logo in storefronts or websites, and direct customers to the Whale SENSE website. In return, Proud Supporters are also recognized on the Whale SENSE website, which receives significant traffic each whale watching season.

If interested in becoming a Whale SENSE whale watch or a Proud Supporter, contact Allison Rosner at [allison.rosner@noaa.gov](mailto:allison.rosner@noaa.gov) or visit our website: [www.whalesense.org](http://www.whalesense.org) to learn more.

## V. Agency/Governmental Reports

### i. MA Coastal Zone Management (T. Callaghan)

The MA Office of Coastal Zone Management (CZM) is working with the NOAA Office for Coastal Management on executing a \$300K comprehensive bathymetry project for the Gulf of Maine. The project covers the waters of MA, NH, and ME from Nantucket Shoals to the ME/Canada border and from high tide to 24 miles from shore (which includes Stellwagen Bank NMS). The data will be used to generate geofoms: the various hills, valleys, and plains of the ocean floor. The goal is to provide one map for all three states to assist them in coordinated review of regional projects such as cables, pipelines, and wind farms.

The MA ocean plan review process is underway and will generate new maps of core whale habitat that may be useful for the SBNMS management plan.

Ocean aquaculture is a concern for many respondents of the recent CZM survey on new uses to be covered in the ocean plan. In response to national policy promoting aquaculture, MIT Seagrant has funded several projects that seek to identify autonomous robots and mathematical routines for assessing offshore aquaculture pens. Given the interest in offshore aquaculture, I encourage the SBNMS to address how aquaculture siting and operations in the management plan update.

There is much research also in the ocean pH field. MIT Seagrant has funded two projects to model ocean pH (including across SBNMS) and another project to gather pH data via a swarm of 100 marine drones.

The offshore wind sector is rapidly developing in Europe, Asia, and the US. In the North Sea, there is a shallow marine area called Dogger Bank where offshore wind development will occur (four wind farms for a total of 4.8 gigawatts of energy) approximately 80-180 miles off of England. There is currently a proposal to build a 6 km<sup>2</sup> artificial island on the bank to serve as a staging, operations, and management base for the wind farm. This area will be called the North Sea Wind Power Hub and is proposed by The Netherlands, Germany, and Denmark. I encourage the SBNMS staff to consider this type of use, and how to address it should it be proposed in SBNMS.

The Massachusetts Water Resources Authority (MWRA) Outfall Monitoring Science Advisory Panel (OMSAP) is considering revamping the long-term monitoring plan for the MWRA outfall to include microplastics, polyfluoroalkyls, and other chemicals related to personal care products and endocrine disruption. CZM has also been working with NOAA National Marine Fisheries Service folks in Gloucester to look at developing an ocean plastics monitoring program. Again, these data may be useful at some point in the future in assessing SBNMS.

The state of MA has received three requests recently from the US Department of Interior for our state's interest in offshore oil and gas development and ways to streamline the federal consistency process for offshore energy siting and permitting. Governor Baker has replied all three times that the Commonwealth is not interested in offshore oil and gas development because it would conflict with other resources and uses (fisheries, recreation, marine mammals, etc.).

The Commonwealth is currently reviewing a project to site a cable that would bring telecommunications from Europe to Lynn, MA. The current siting is north and west of SBNMS.

ii. MA Division of Marine Fisheries (DMF) (D. Pierce)

David Pierce, DMF Director, gave a verbal report for DMF; however, no written summary was provided for the Draft 56<sup>th</sup> SAC Minutes. The audio portion of this report can be accessed at: <https://drive.google.com/drive/folders/16ccJunBVyTq0CALSJf1leUcUXOUvss4B>, time code 4:31:00.

iii. Enforcement Reports

1. NOAA Office of Law Enforcement (OLE) (T. Donovan)

- Certified 2 new boat operators last week: Enforcement Officers (EOs) Berthiaume and Kerr.
- EO Wilmarth will coordinate Marine Mammal Protected Area (MMPA) focused patrols in Sanctuary for June.
- Our news Information Systems Analyst is finalizing some data to provide to the Sanctuary Maritime Heritage Group.
- EO Wilmarth held a meeting with partners from USCG, MEP and Sanctuary management to review MMPA/ESA enforcement priorities in the sanctuary and discussed ideas to enhance compliance levels.
- OLE is looking into drone technologies to support enforcement. This proposal is to conduct surveillance and enforcement of the Stellwagen Bank Sanctuary using an Autonomous Surface Vehicle (ASV). Specifically the ASV will be used to:
  - Monitor Western Gulf of Maine Closure (partly within sanctuary).
  - Locate tuna fleet activity to focus patrols.
  - Deter illegal fishing.
  - Deter and potentially identify whale harassment.
  - Locate offshore surface and bottom tending mobile gear for later inspection.
- June Sanctuary Enforcement Summit, Santa Barbara CA: The general concept is to discuss strategic priorities on a national level, and then break down into regional working groups to discuss site-specific priorities and focus best resources to them (Donovan and DeCola).

2. MA Environmental Police (MEP) (SGT A.J. Ford)

Sergeant Ford spoke about the seasonal fixed gear closure. He also explained MEP's efforts to increase their manpower and where they presently stand in this endeavor. MEP had 5 recruits in their police academy but lost two of those. They presently have five recruits (prior police officers) in the field, training with other officers. These recruits will all be ready to go into the field on their own by the beginning of next year (2020). He also spoke about MEP efforts to increase patrols in and around Stellwagen Bank Sanctuary, and that they continue to make conscientious efforts to maintain these patrols.

3. US Coast Guard (USCG) (CPT K. King)

USCG conducted a number of boat patrols out of Boston and Gloucester, with weekly patrols from the small boats out of Station Point Allerton. There were also 2-3 fixed-wing flights conducted weekly out of Air Station Cape Cod, most recently assisting with locating a detached electronic whale tracker lost during the Stellwagen Bank sanctuary whale tagging mission earlier in the month.

iv. New England Fishery Management Council (NEFMC) (T. Nies)

Aquaculture: The regulatory framework for offshore aquaculture projects is uncertain, While the Regional Fishery Management Councils believe that aquaculture activities are subject to the Magnuson-Stevens Act, one federal district court disagrees. That ruling only applies to the Gulf of Mexico. There has been some interest in addressing aquaculture management through federal legislation but a bill has not yet been passed.

The NEFMC reported on the following activities:

1. The Council recently updated its research priorities. They can be found on the Council web page, <https://www.nefmc.org/library/nefmc-research-priorities-and-data-needs-for-2019-2023>.
2. Amendment 8 to the Atlantic Herring Fishery Management Plan is being reviewed by GARFO. This amendment proposes an ABC control rule that explicitly accounts for the role of herring as a forage fish. It also proposes a near-shore zone where mi-water trawl fishing is prohibited. In most areas this extends to the territorial sea boundary (12 nm), but east of Cape Cod it extends about 20 nm offshore.
3. The Council expects to approve herring catch limits for 2019-2021 at its June meeting. These limits will reflect a large reduction from the limits of 2017. This the result of poor recruitment – few young fish have been seen entering the population. The cause is unknown but could be related to environmental factors such as water temperature.
4. The Council is working on an amendment that may modify the regulations for the Northern Gulf of Maine scallop fishery. Scoping hearings were just completed.

v. NOAA Greater Atlantic Regional Fisheries Office (GARFO) (A. Rosner)

Atlantic Large Whale Take Reduction Plan:

The team met on April 23-26, 2019 in Providence, RI. After many hours of intense discussion over four days, the Atlantic Large Whale Take Reduction Team was able to reach nearly unanimous consensus on a package of measures that would achieve at least a 60 percent serious injury and mortality reduction goal in each of the lobster management areas. Two general risk reduction approaches emerged including general reductions in vertical buoy lines as well as gear modifications to reduce the strength at which lines will break. Reduced breaking strength lines would allow entangled whales to more easily break free of gear. The agency will be conducting scoping meetings this summer, coordinating with states and the Atlantic States Marine Fisheries Commission (ASMFC) on risk reduction measures, and preparing for rulemaking by the end of 2019.

## Sustainable Fisheries:

1. The Groundfish Recreational proposed rule comment period is open until May 28. We are proposing: Gulf of Maine haddock, 17" min size, 15 fish possession limit, and open seasons of May 1 - end of February and April 15 - 30; Gulf of Maine cod, 21" min size, 1 fish possession limit during open seasons of September 15 - 30 and April 15 - 30. We are also proposing to reduce the minimum size of Georges Bank cod to 21", with no other change to current regulations (open all year/10 fish possession limit).
2. We have rescheduled the New England Recreational workshops for October 19 (Plymouth), 22 (Portsmouth), 24 (Narragansett). We will present the results of the workshops to the Council's Recreational Advisory Panel and the Council as a whole.

## VI. New Business:

Jeff Rosen reported that he was recently appointed to the Outfall Monitoring Science Advisory Panel (OMSAP) for the MWRA outfall monitoring plan. SAC members should be aware that OMSAP is evaluating significant changes to their sampling plans. They are in the review process right now and have 20 years worth of data that basically demonstrates there is minimal, if any, effect on the outfall even during the summer months when the water column is stratified. Based on that, OMSAP is considering switching focus of what is being monitored or decreasing monitoring significantly. There is talk about starting to sample for emerging pathogens such as per- and polyfluoroalkyl substances (PFAs) and microplastics. There is some discussion to actually establish a sampling place for these two types of contaminants. (It was noted that this topic was also raised in Todd Callaghan's CZM report above.)

**VII. Public Comment:** None

**VIII. Adjourn:** 3:15 pm.

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