Rhode Island Shellfisherman's Association
P.O.Box 1802
East Greenwich, RI 02818-1802

September 6, 2023

Coastal Resources Management Council
Stedman Government Center
4808 Tower Hill Road
Wakefield, RI 02879

Re: Troiano - 2017-05-006

Dear Chairman Coia and Council Members,

The RI Shellfisherman's Association (RISA) understands that the Council will be reconsidering at a public hearing scheduled for September 12, 2023 an application by Edward Troiano for a one-half acre aquaculture lease located in Upper Narragansett Bay (Area A) off the shores of Nyatt Point in Barrington. The Troiano application (2017-05-006) was considered and correctly denied by the Council at a public hearing on February 13, 2018. Troiano appealed the Council's decision to Superior Court and Judge Keough issued his decision (PC-2018-2792) remanding the matter back to the Council for a *de novo* hearing. Further, the Superior Court decision requires the Council to provide the applicant with "an opportunity for reasonable cross-examination" of objectors to his application. We note that having applicants cross examine objectors is unprecedented in the history of the CRMC public hearing process or any state agency regulatory body decision making process. We hope that the Council will carefully oversee and control Mr. Troiano and his attorney's cross examination.

The RISA strongly opposes Troiano's application, both now and when it was first reviewed by the Council in 2018. Approval of an aquaculture lease in Upper Narragansett Bay will interfere with commercial shellfish harvesting, a free and common fishery of the State. In addition, approval of Troiano's application will establish a terrible precedent that could see more and more aquaculture leases being approved in Area A, one of the most productive and important commercial shellfish harvesting areas of the entire Bay. Within just the last three years, the Department of Environmental Management (DEM) has opened shellfish harvesting Area E, an additional 1800 acres, immediately north of Nyatt Point and Conimicut Point. We are now seeing evidence that the abundant shellfish resource in Area E is starting to seed the upper Bay, which would promote new commercial and recreational shellfish harvesting opportunities all along the Barrington shoreline. Accordingly, approving an aquaculture lease in this area will interfere with and limit commercial shellfish harvesting.

Since the Troiano application will be reviewed *de novo*, the Council should be aware of new information that is very relevant to the Troiano matter. First, the Council recently embarked on a new Narragansett Bay Special Area Management Plan (Bay SAMP) to address user conflicts within the Bay, especially those conflicts arising from the siting of aquaculture leases. In particular, with input from the shellfish industry, one of the exclusionary factors used in determining the siting of any new aquaculture leases was to preclude aquaculture within any DEM conditional shellfish harvesting areas. These are area subject to rainfall closures. The proposed Troiano lease is located within conditional Area A, which is subject to shellfish harvesting restrictions for 7 days following 1.2 inches of rainfall within a 24-hour period. We have attached to this letter a screenshot from the Bay SAMP "Screening Criteria for Siting Aquaculture Lease Locations" (See: https://web.uri.edu/crc/narragansett-bay-samp/) depicting

with added annotation the proposed Troiano lease located within a conditional shellfish harvesting area. Thus far in 2023 there have been 67 days of rainfall closures through August 31 in Area A where the proposed Troiano lease is located. This means that Troiano will not be able to harvest any oysters from his lease during these rainfall closures, which recently have average approximately 100 days per year.

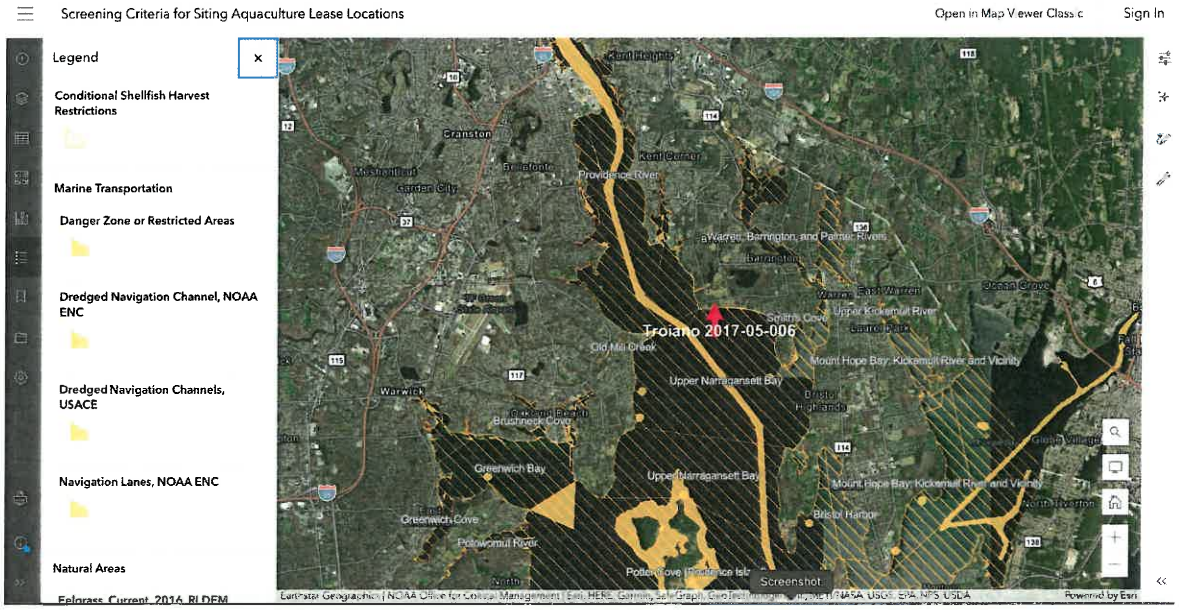
A second issue of importance pertains to the matter of shellfish density within the proposed lease area. At the time of Troiano's application in 2017, a shellfish density study was conducted in review of the application that showed a relatively low numbers of quahogs at the site. Since that time, however, commercial shellfishermen have observed greater abundance of new seed quahogs along the Barrington shoreline, which we assume is a result of the quahog biomass immediately adjacent in Area E. Therefore, since a shellfish study has not been conducted by CRM at the proposed lease site in the last 6 years, it begs the question as to whether a new study would show a higher density of quahogs at the site given recent developments. It certainly would seem so.

In addition to the above issues, the CRMC now has new aquaculture public notice and administrative procedures that were developed from the Bay SAMp process, which was a response to vehement objections from residents along the Sakonnet River for proposed lease sites off the shores of Tiverton. In addition, the CRMC established the RI Aquaculture Listserv that provides for more robust and transparent noticing of new aquaculture applications. The Troiano application did not go through these new procedures and likely would have received far more scrutiny that it did back in 2018 when first considered by the Council. In recent years RISA has supported aquaculture leases in less productive commercial shellfish areas, such as Dutch Harbor off Jamestown and the waters south of Fox Island off North Kingstown. Mr. Troiano has other options for establishing an aquaculture lease, such as the preceding areas, rather than in the Upper Bay.

In conclusion, we note that the Bay SAMP Screening Criteria for Siting Aquaculture Lease Locations would preclude the Troiano lease from being approved in its current location. In addition, there may now be sufficient quahog density at the site that could result in the Marine Fisheries Council finding that a proposed lease would not be "consistent with competing uses engaged in the exploitation of the marine fisheries" pursuant to R.I. Gen. Laws § 20-10-5. Furthermore, we argue that the Troiano application is not consistent with R.I. Gen. Laws § 20-10-1, which states in part "the process of aquaculture should only be conducted within the waters of the state in a manner consistent with the best public interest, with particular consideration given to the effect of aquaculture on other uses of the free and common fishery and navigation." Given all of the above and the collective experience of our members, it is our opinion that the proposed Troiano lease is not in the best public interest. Accordingly, we respectfully request the Council to deny the Troiano application.

Sincerely,

Michael McGiveney, President
RI Shellfisherman's Association


Screening Criteria for Siting Aquaculture Lease Locations
Open in Map Viewer Classic
Sign In
Legend
Conditional Shellfish Harvest Restrictions
Marine Transportation
Danger Zone or Restricted Areas
Dredged Navigation Channel, NOAA ENC
Dredged Navigation Channels, USACE
Navigation Lanes, NOAA ENC
Natural Areas
Eelgrass, Current, 2016, RI DEM
Troiano 2017-05-006
Cranston
Providence River
Warwick
Upper Narragansett Bay
Greenwich Bay
Greenwich Cove
Potowomut River
Mount Hope Bay, Kickemuit River and Vicinity
Bristol Harbor
Screenshot
Powered by Esri

Shellfish Advisory Panel
July 26, 2017, 4:30PM
URI Bay Campus, Coastal Institute Building, Hazard Room
218 S Ferry Road, Narragansett, RI 02874

MEETING SUMMARY

RIMFC members: J. Grant (SAP Chair)

DEM: C. McManus; D. Erkan; P. Duhamel; C. Hannus (Water Resources)

SAP members: K. Eagan; M. McGiveney; R. Tellier; G. Schey; D. Ghigliotty, B. Bercaw, D. Pastore, J. Gardner (B. Blank and B. Smith absent)

CRMC: D. Beutel

Public: J. King, O. Kelley, Troiano

1. **Review of Aquaculture Applications:**

   a. Application # 2017-05-006, Troiano, Upper Narragansett Bay (Conditional Area A):

   D. Beutel provided a brief overview of the proposal. He offered that his site survey revealed a low density of quahaugs, and also that several public objections were received. He offered that one objection in particular offered concern about precedent if this lease were approved. A great deal of discussion amongst the panel members and audience ensued regarding concern of leases in this area (Conditional Area A) and in all areas of Narragansett Bay which have historically supported commercial and recreational shellfish harvest. **Motion made by *M. McGiveney* to recommend objection to the application; 2nd by *G. Schey*. The motion passed 7-0-1 (*J. Gardner* abstained).**

   b. Application # 2017-01-007, Roebuck, Pt. Judith Pond:

   D. Beutel provided a brief overview of the proposal. He offered that the site survey revealed no eelgrass present and a quahaug density of 0.88 quahaugs/sq. meter. He offered that if this lease were to be activated, aquaculture in this pond would exceed 4.8%, or approaching 5% maximum allowed in a coastal pond. **Motion made by *M. McGiveney* to recommend not to object to the application; 2nd by *B. Bercaw*. The motion passed 8 – 0.**

2. **Discussion of future aquaculture Management in Conditional Areas:** *C. McManus* offered that individuals had been expressing concern about aquaculture lease sites in the northern parts of Narragansett Bay (e.g., conditional areas A & B), and if regulations should be adopted to prohibit aquaculture in this area in light of competing uses, most notably commercial shellfish harvest. *J. Gardner* expressed concern about the use of the conditional areas for oysters and food shellfish, due to the water quality issues and higher potential for harvest of contaminated shellfish. He offered support for non-food aquaculture (e.g., rib mussels) as a means to help clean the water. *M. McGiveney,* as a

member of the RI Shellfishermen's Association (RISAA), requested SAP support to request that CRMC begin a process to identify and protect *"critical shellfish grounds"* and prohibit aquaculture in these areas. He offered that the CMRC's shellfish density survey as a review criteria is not a complete measure of the sites suitability for a lease site due to the variable nature of shellfish sets. He offered concern that applications are not automatically rejected even when strongly opposed, which poses undue angst among commercial shellfishermen that leases may be approved and the lease site lost to wild harvest. He offered, which was echoed by other members of the panel and members of the audience, that the lease site currently in place in Conditional Area A should not have been approved, but was "missed" by RISA during the approval process due to inexperience of the process at the time of approval. *D. Beutel* offered that mapping of areas for aquaculture suitability began in 2014, to which others in attendance offered that this process was initiated several years sooner, but that no maps have been produced. **Motion made by *M. McGiveney* to recommend to the RIMFC that CRMC begin this process; 2nd by *R. Pastore.*** *R. Pastore* offered support for the proposal due to use conflicts. Discussion ensued regarding the areas to be looked at. *D. Erkan* offered that spatial planning is needed to address this issue. *D. Pastore* offered that better planning is needed. *J. King* offered that the entirety of Narragansett Bay needs to be looked at. **The motion passed 8 – 0.**

Future Action: Council agenda item for further discussion

3. **Preliminary discussions on Shellfish Management in the Providence River Shellfish Management Area:** *C. McManus* provided a presentation on the following items:

    - Revamp the current quahog assessment with more sophisticated frame work;
    - Evaluate the significance of the PR SMA quahogs in supporting larvae and recruits for the rest of Narragansett Bay;
    - Evaluate 2017 abundance and size distribution data in the PR SMA using the RI DEM Dredge Survey;
    - Assess and utilize data and information from the quahog study fleet to update data for the stock assessment.

    Upon conclusion of a robust discussion regarding management and opening of the area, no further actions are needed at this time.

4. **Discussions on Winter Harvest Schedule for Greenwich Bay Shellfish Management Areas:** No proposals were offered to amend the current default schedule. *M. McGiveney* offered that he would inquire to his constituents if any change was desired. No further action is needed at this time.

Prepared by: P. Duhamel/C. McManus

Shellfish Advisory Panel
July 26, 2017, 4:30PM
URI Bay Campus, Corless Auditorium
215 S Ferry Road, Narragansett, RI 02882

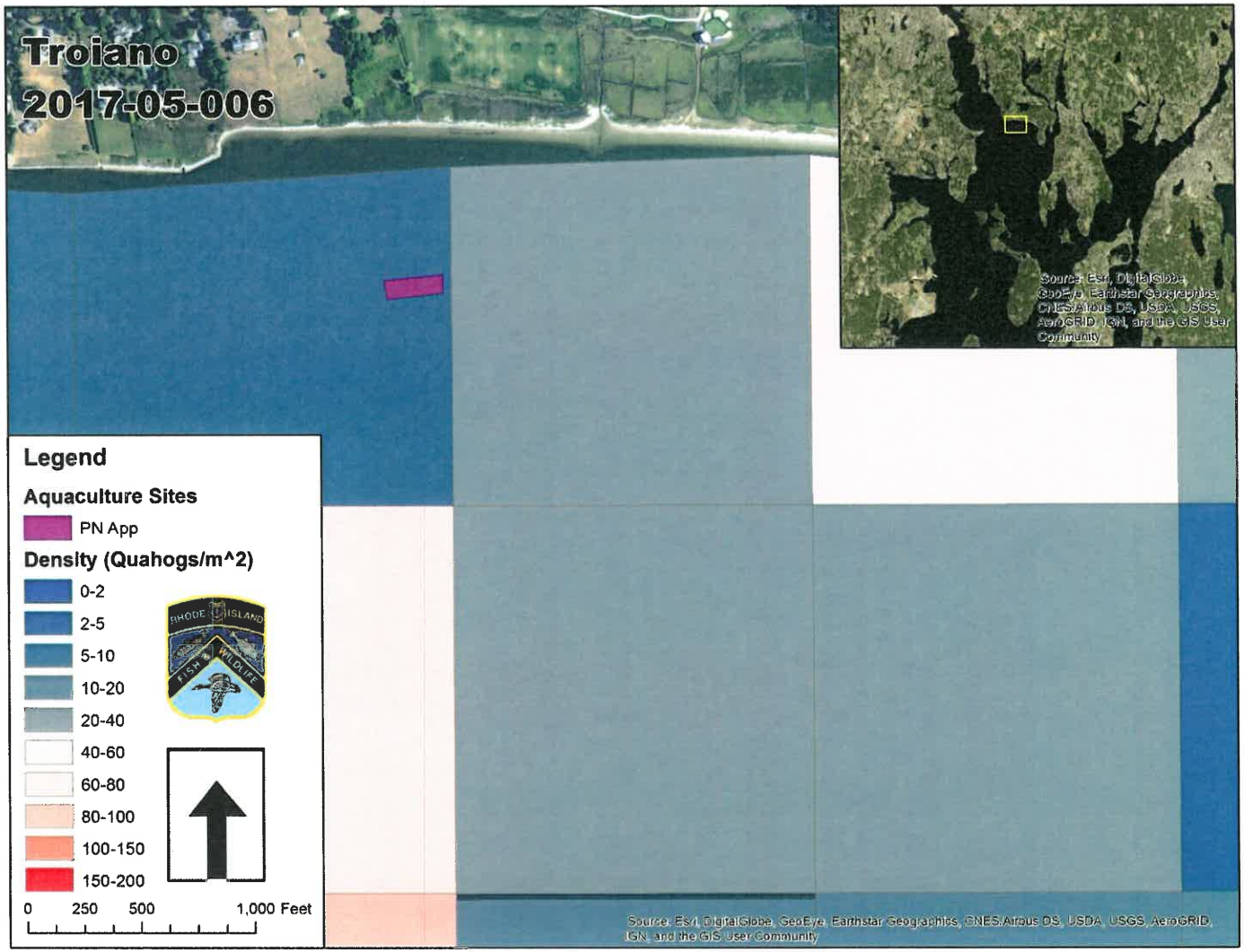
AGENDA

1. Review of Aquaculture Applications sent to Public Notice
   a. 2017-05-006, Troiano, Upper Narragansett Bay (Conditional A)
   b. 2017-01-007, Roebuck, Pt. Judith Pond
2. Future Aquaculture Management in Conditional Areas
3. Preliminary Discussions on Shellfish Management in the Providence River Shellfish Management Area
4. Discussions on Winter Harvest Schedule for Shellfish Management Areas

1. Aquaculture Leases

2017-05-006, Troiano - Upper Narragansett Bay

- 0.5 acre lease for oysters
- In Conditional Area A
- Submerged longline system



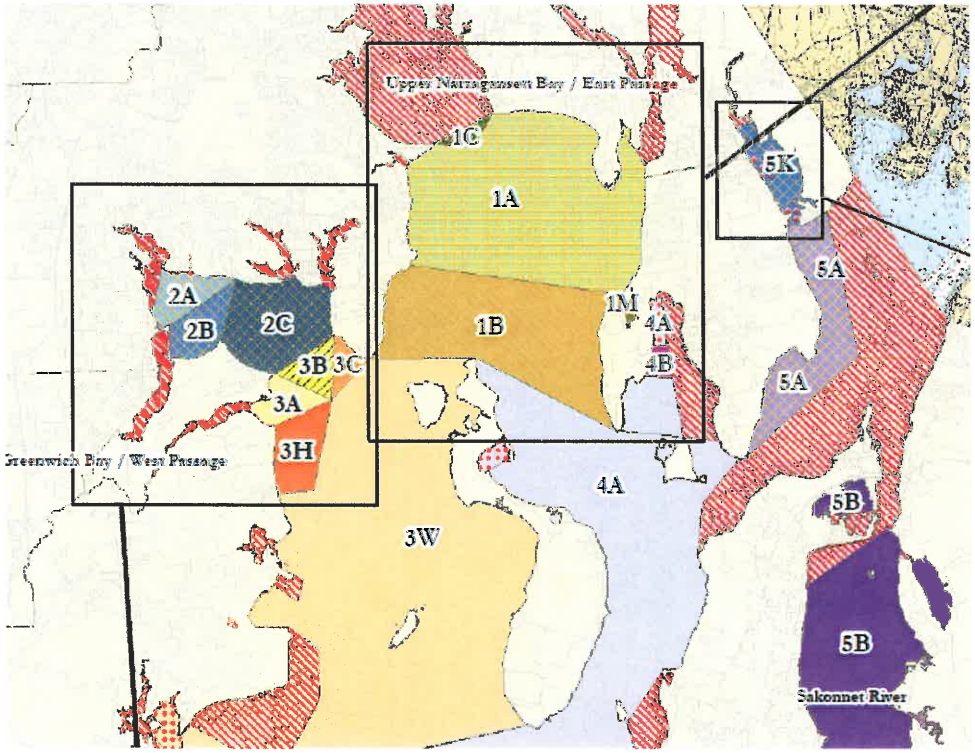
1. Aquaculture Leases

2017-01-007, Roebuck - Pt. Judith Pond

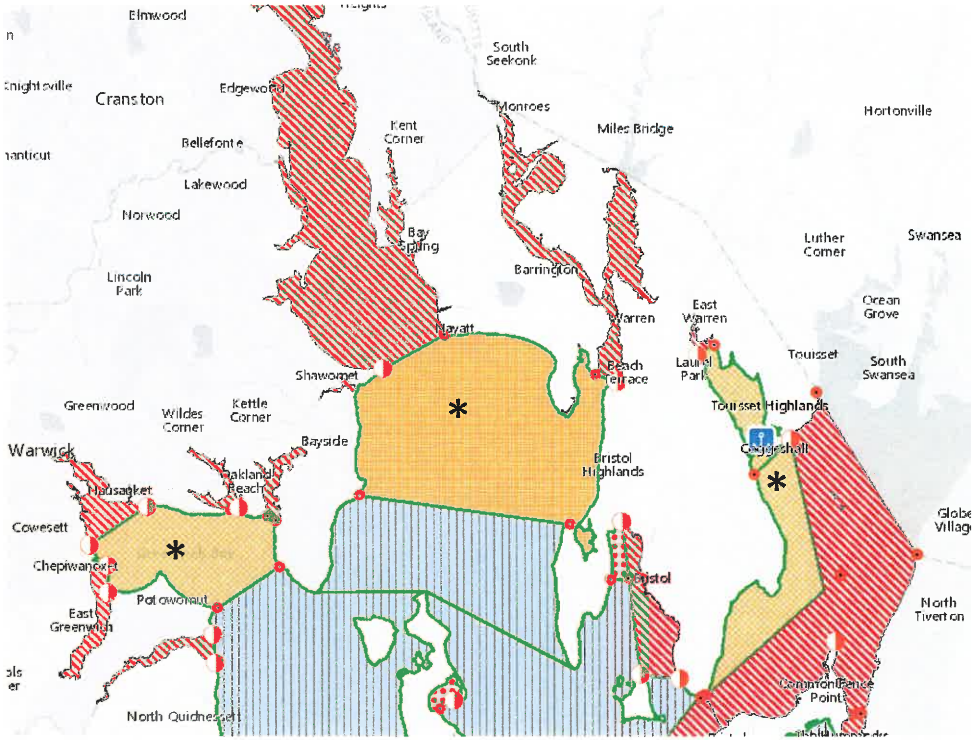
- 9.75 acre lease for bottom plant oysters
- 2.24 acre lease for bottom cages
- Species: oysters, soft-shell clams, hard clams, bay scallops, and mussels

2. Future Aquaculture Management in Conditional Areas

Tagging Areas

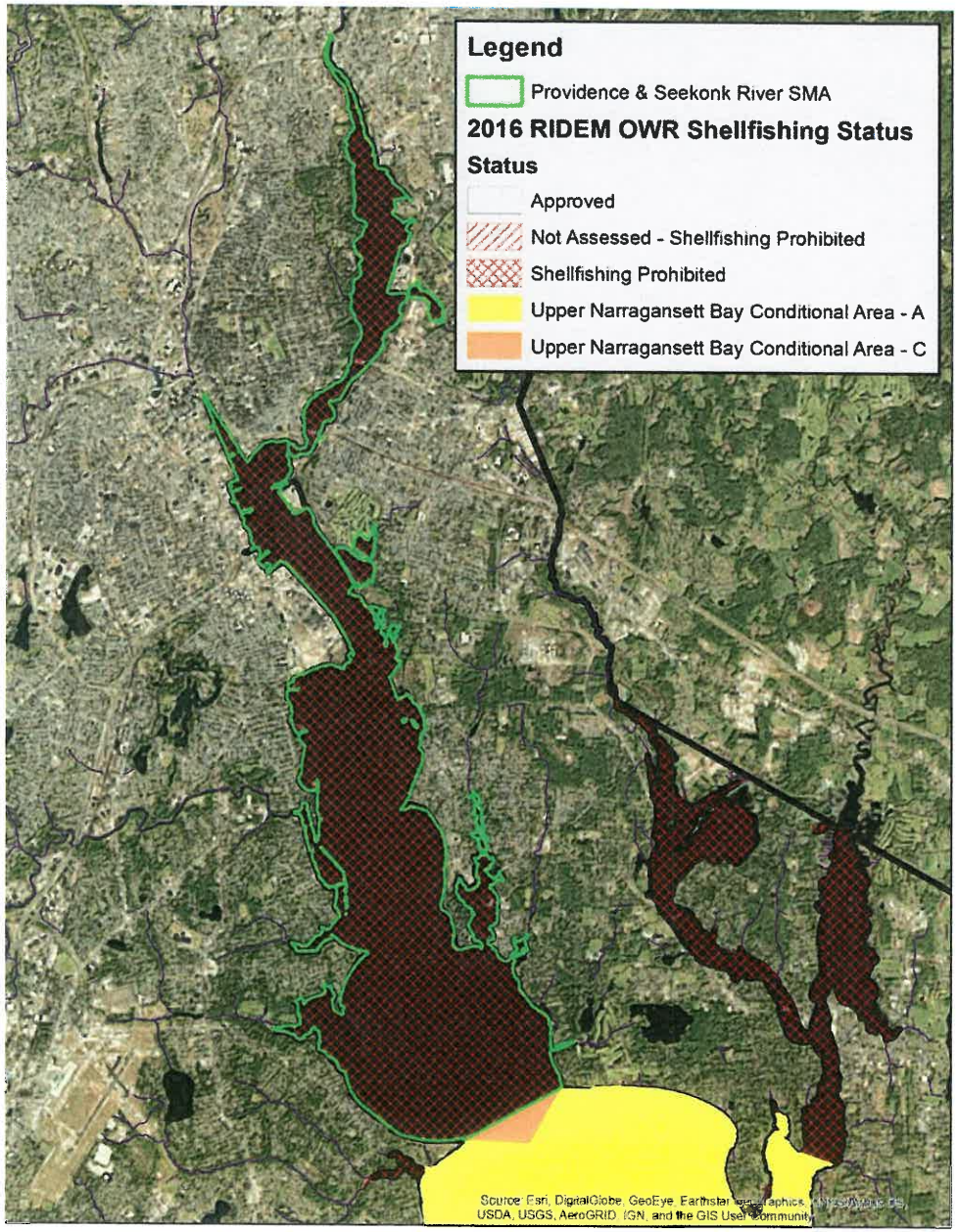


Conditional Closures*



Extensive commercial fishing in the Upper Bay: should certain areas in the northern Bay be prohibitive to aquaculture to preserve commercial fishing grounds and avoid future industry-aquaculture use conflicts?

3. Preliminary Discussions on Shellfish Management in the Providence River Shellfish Management Area (PR SMA)



<u>Purpose of the Management Area:</u>
Facilitate potential future shellfish/oyster restoration & habitat restoration/enhancement work; allow for management of brood stock.

<u>RI DEM OWR Shellfishing Status:</u>
Classified as Prohibited.

Initiation of the Shellfish Management Area established a zero bushel possession limit.

If/when portions of the waters are approved for shellfishing, what should the management strategy be for the PR SMA?

3. Preliminary Discussions on Shellfish Management in the Providence River Shellfish Management Area (PR SMA)

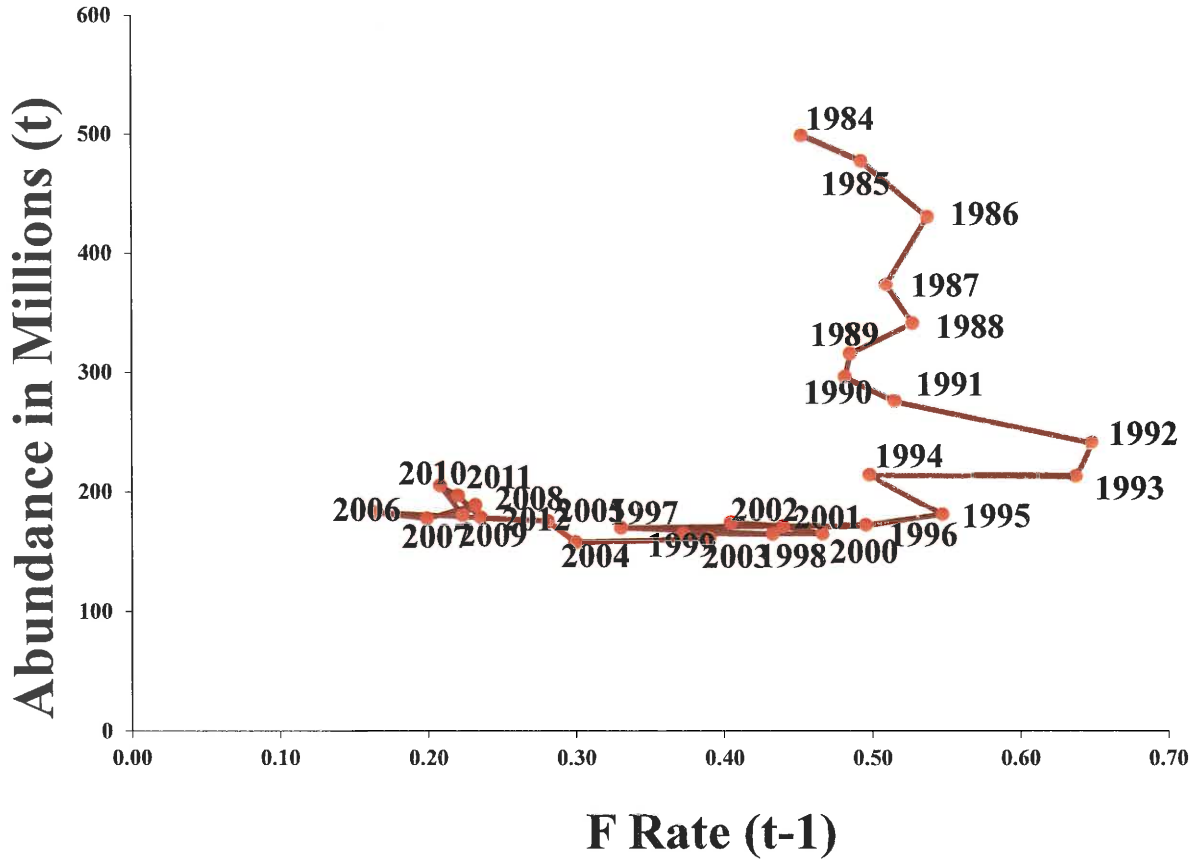
Biological data and research to be evaluated/conducted prior to establishing a management plan for the PR SMA:

A. Revamp the current quahog assessment with more sophisticated frame work.
B. Evaluate the significance of the PR SMA quahogs in supporting larvae and recruits for the rest of Narragansett Bay
C. Evaluate 2017 abundance and size distribution data in the PR SMA using the RI DEM Dredge Survey.
D. Assess and utilize data and information from the quahog study fleet to update data for the stock assessment.

3a. Revamp the current quahog assessment with more sophisticated frame work.

Gibson (2010) – Size-structured population model

- Uses landings by market class
- Similar to biomass-dynamics model framework



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Gibson (2010) – Size-structured population model

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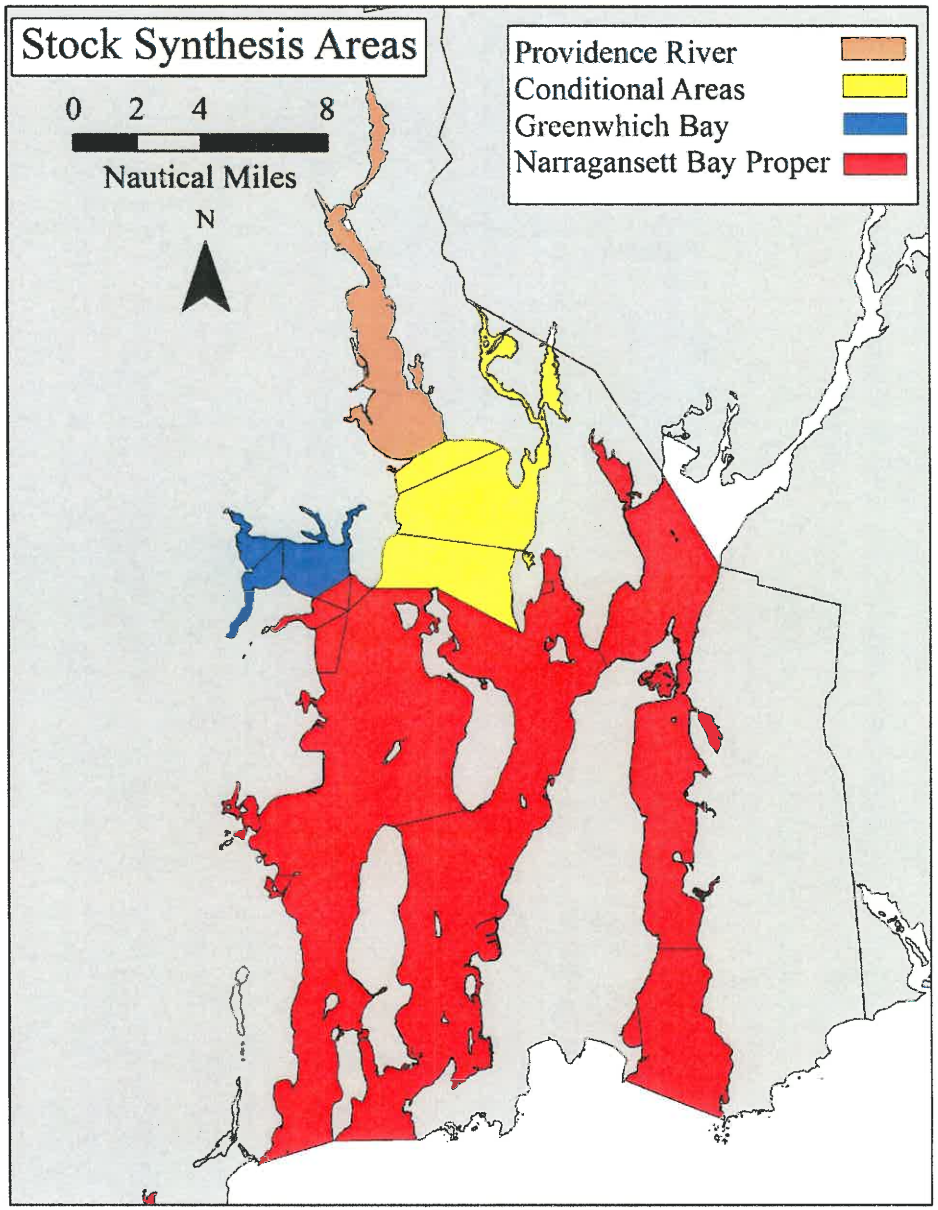
Stock Synthesis

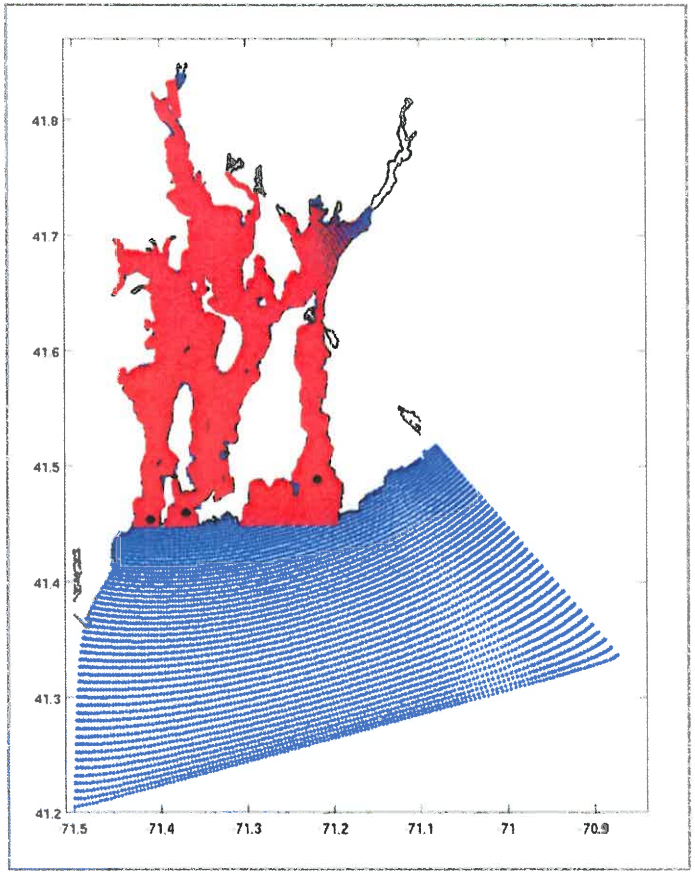
- Statistical age or market-structured population modeling framework
- Uses more sophisticated statistics in model predictions
- Can incorporate time series of varying sources and frequencies simultaneously
- Spatial framework to allow distinct units across the Bay (e.g. tagging areas)



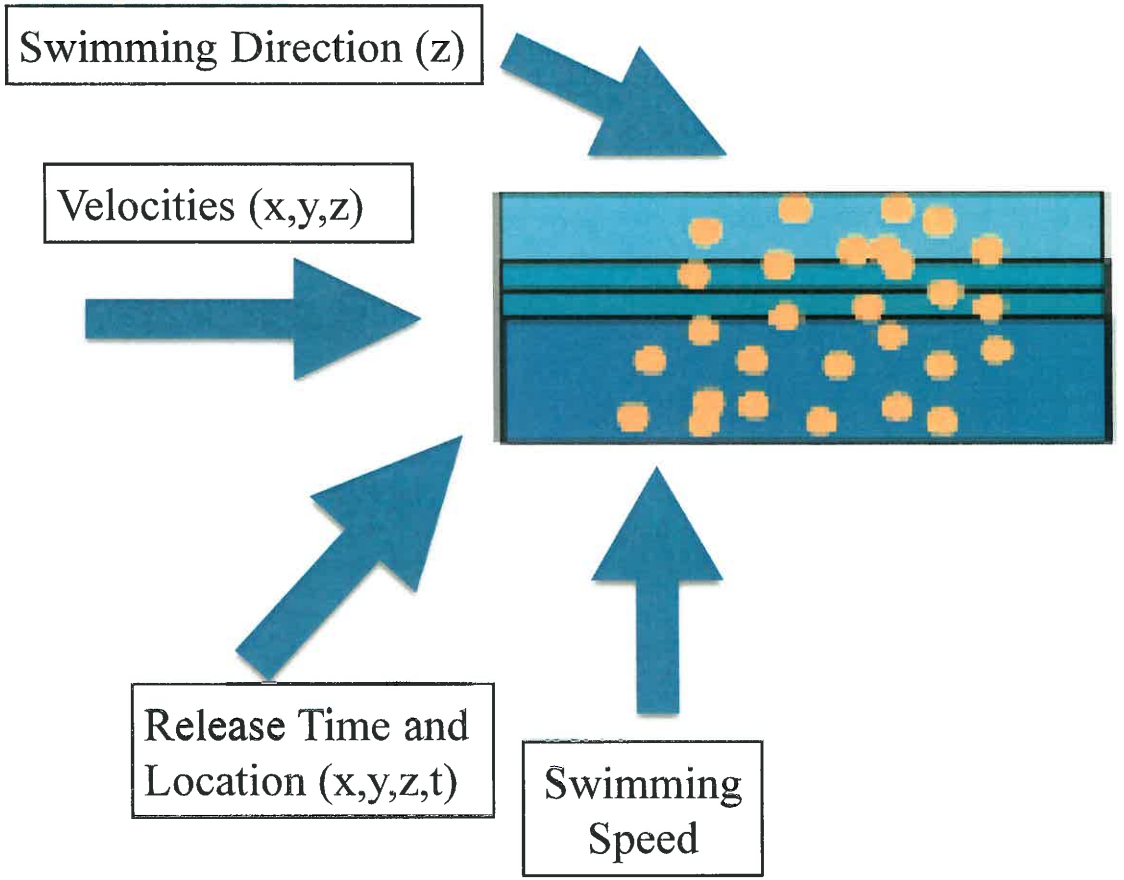
3b. Evaluate the significance of the PR SMA quahogs in supporting larvae and recruits for the rest of the Bay

Quahog Larval Transport: Recruitment Proxy for Areas?

ROMS



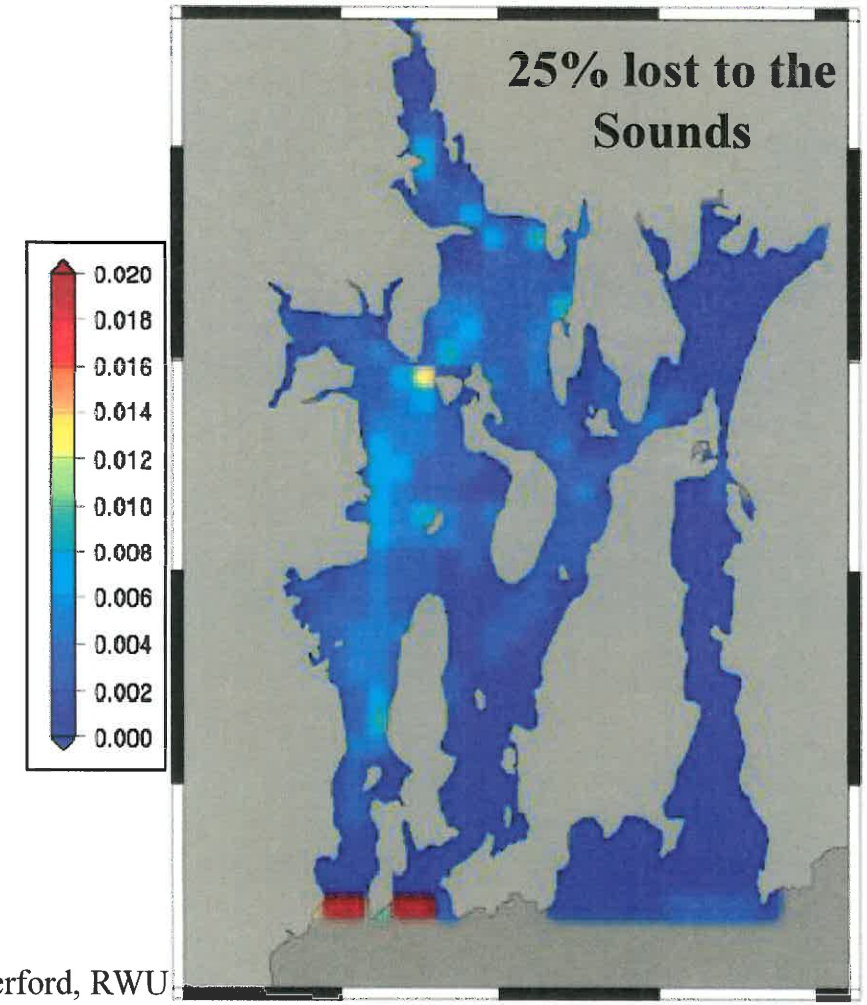
Larval TRANSport (LTRANS)



3b. Evaluate the significance of the PR SMA quahogs in supporting larvae and recruits for the rest of the Bay

Quahog Larval Transport: Recruitment Proxy for Areas?

Ex: 'Larvae spawned' from Conditional B

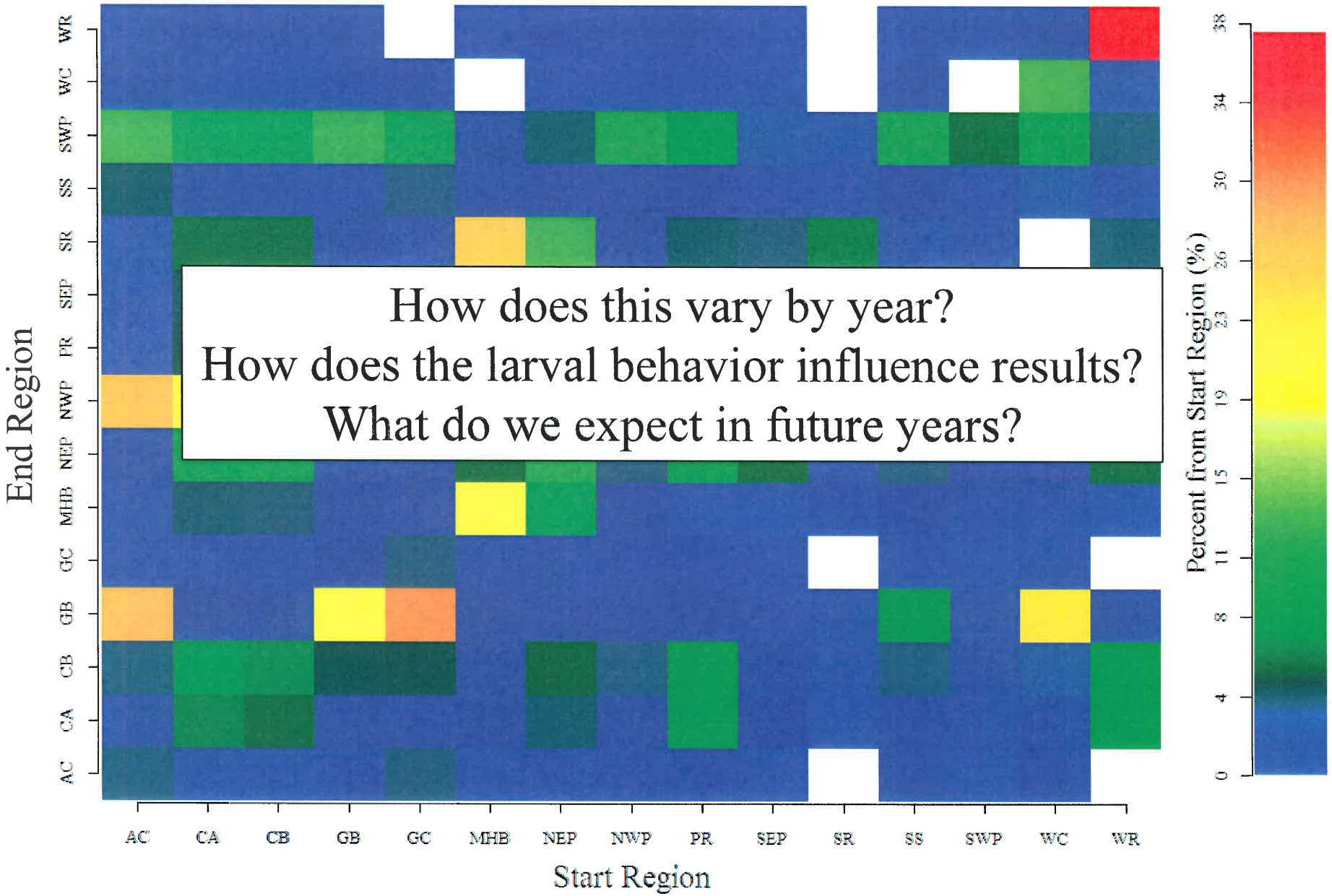


Understand population connectivity between areas through larval sources/sinks.

Do certain areas (e.g. closed areas) support population bay-wide?

Scott Rutherford, RWU

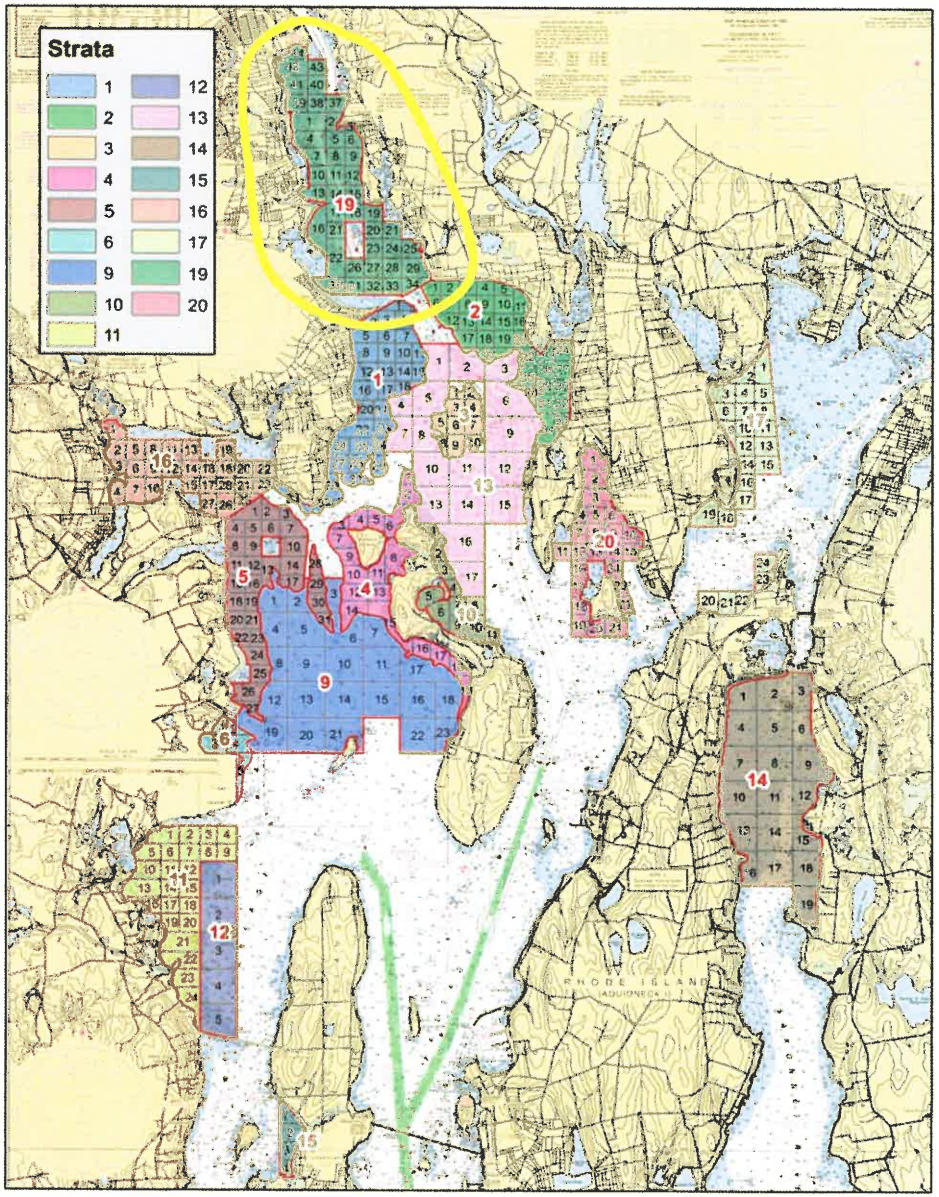
3b. Evaluate the significance of the PR SMA quahogs in supporting larvae and recruits for the rest of the Bay 2006



3c. Evaluate 2017 abundance and size distribution data in the PR SMA using the RI DEM Dredge Survey.

RI DEM Quahog Dredge Survey 1993-2016

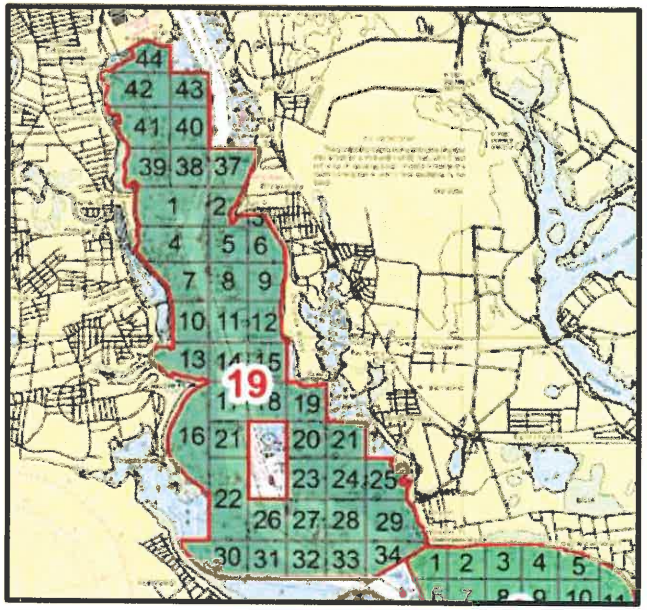
- Use hydraulic dredge to sample legal population
- Sampling at discrete stations in northern NB

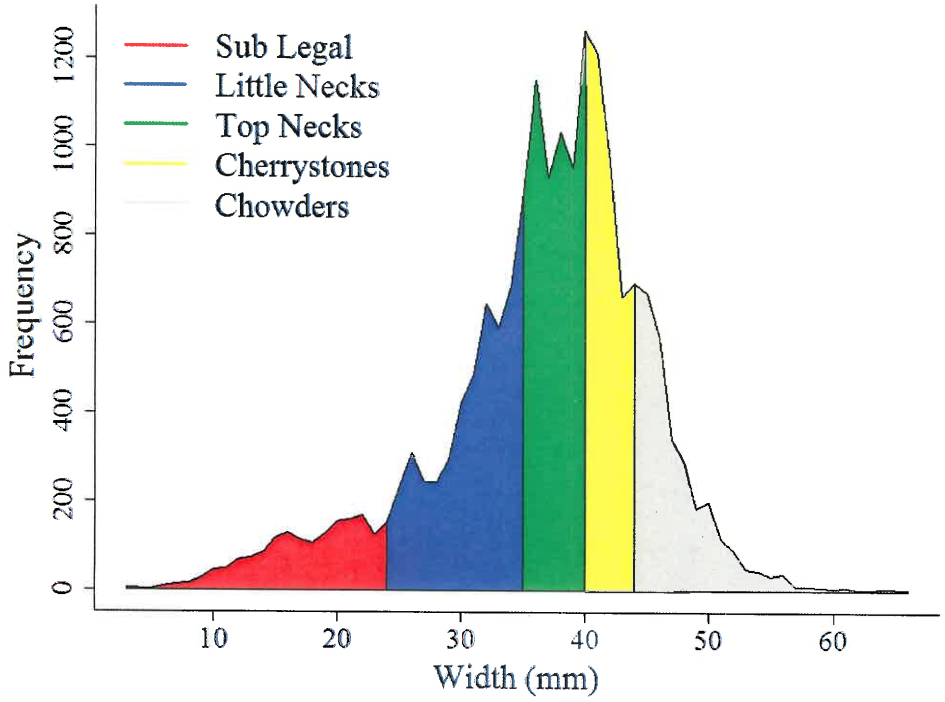


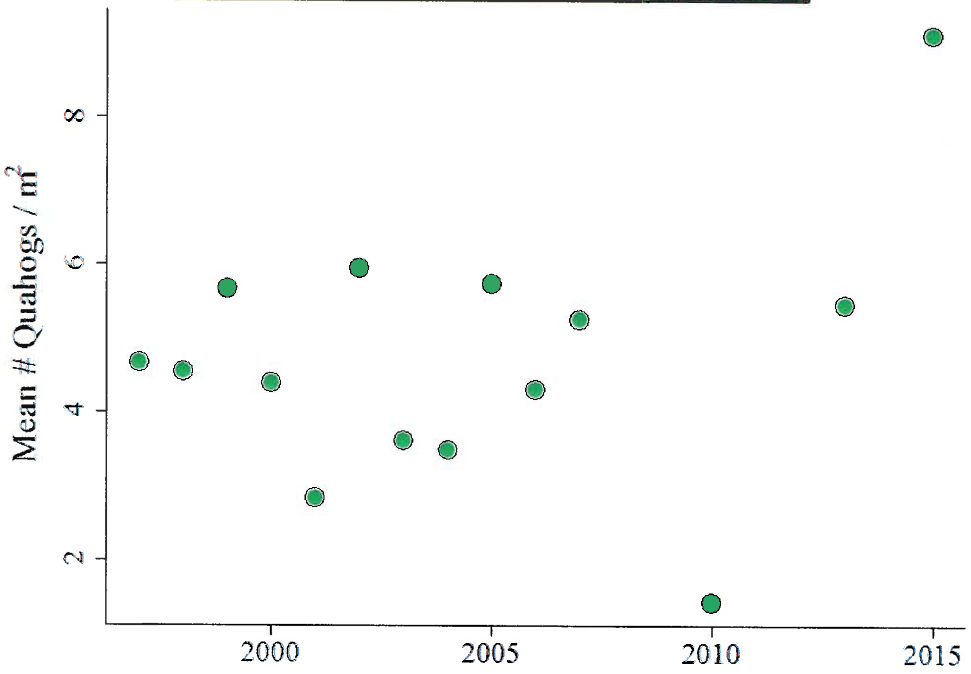
3c. Evaluate 2017 abundance and size distribution data in the PR SMA using the RI DEM Dredge Survey.

Evaluate changes in abundance and size distribution through time.

How does 2017 differ from other years?







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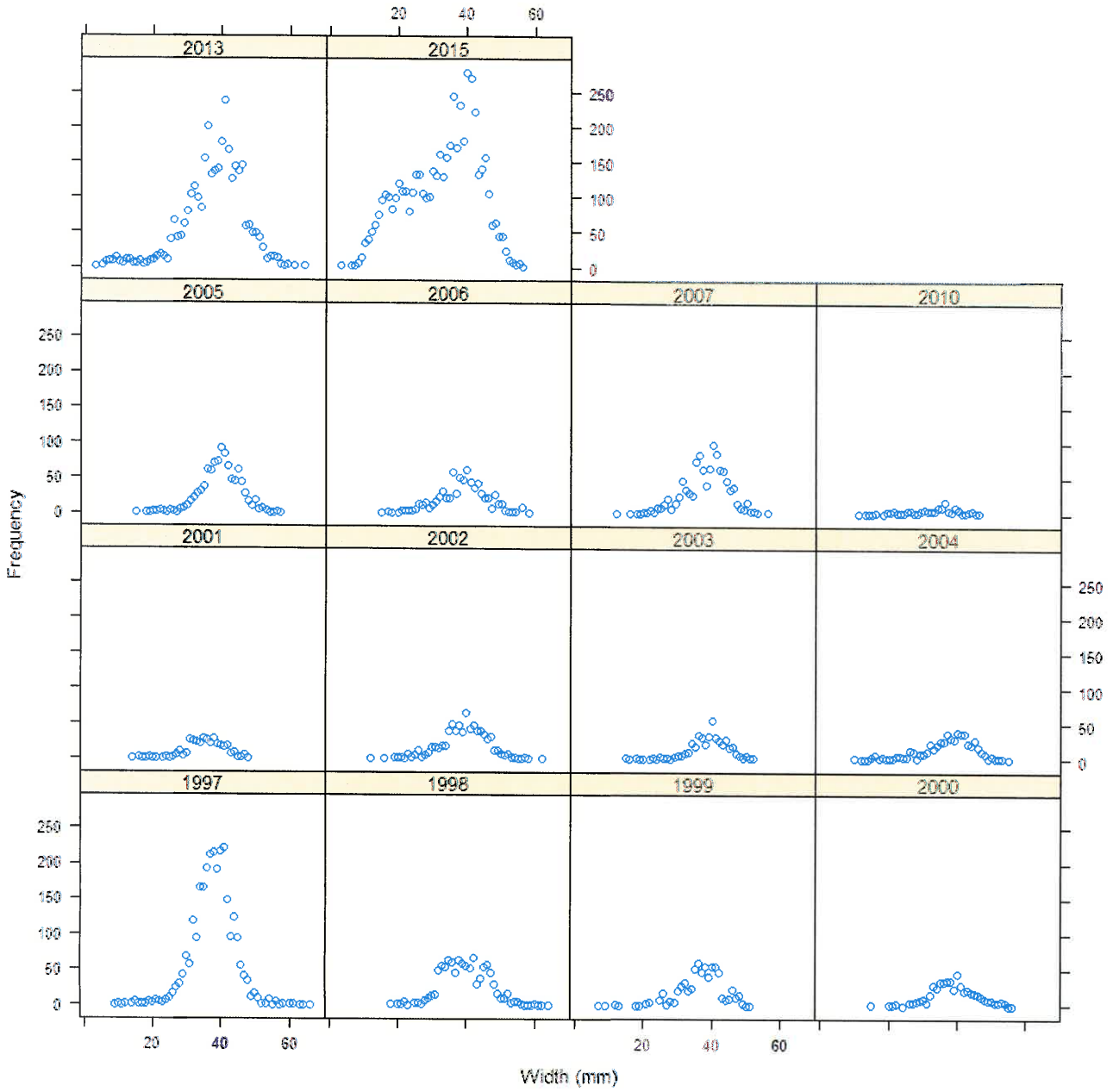
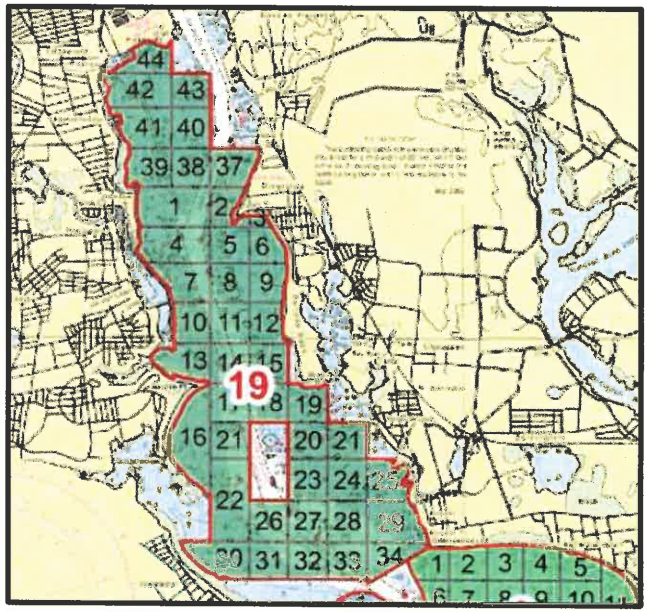




Evaluate changes in abundance and size distribution through time.

How does 2017 differ from other years?

3d. Assess and utilize data and information from the quahog study fleet to update data for the stock assessment

CFRF, RWU, DEM, RISA

Industry fleet sampling quahogs during harvest

- Tablet system measures transect length for abundance estimates
- Market class information
- Covariates to understand drivers in abundance
- Stations both sampled by the DEM Dredge survey and chosen by fishermen

3d. Assess and utilize data and information from the quahog study fleet to update data for the stock assessment

CFRF, RWU, DEM, RISA

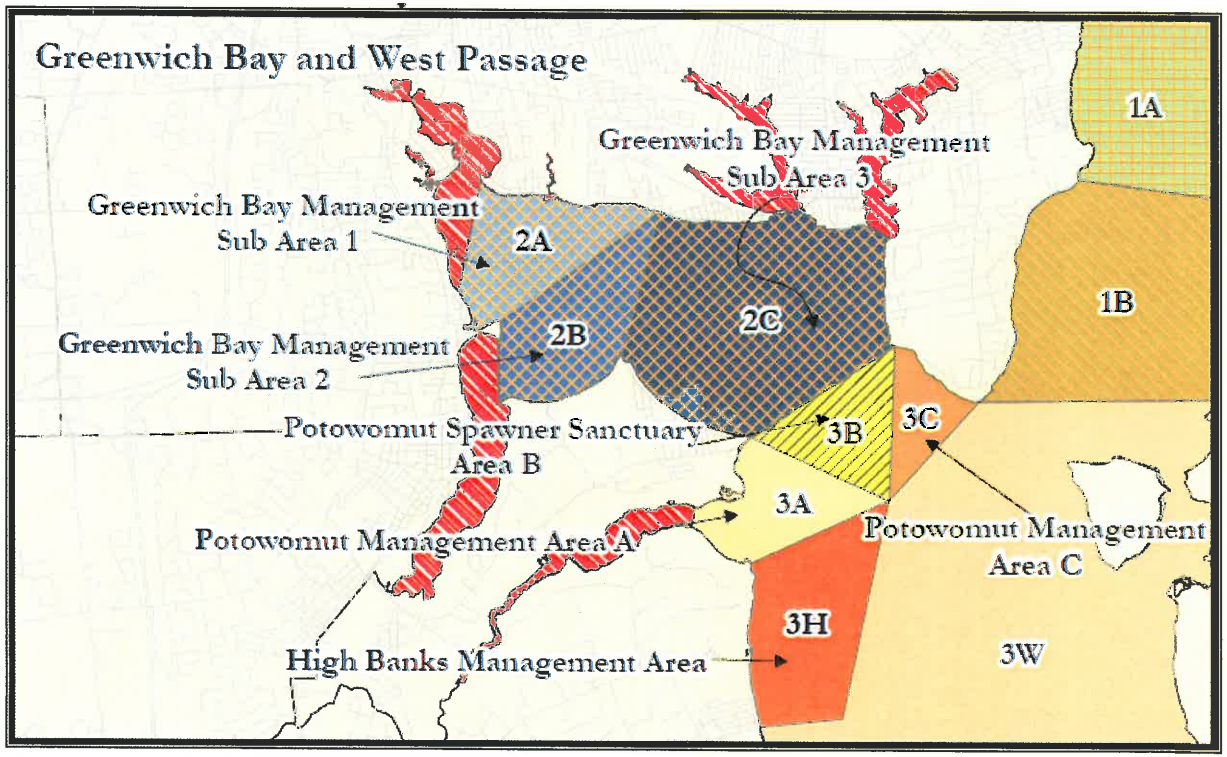
Calibration

Compare efficiency of surveying methods across different substrates

- DEM Dredge
- Bullrake
- Quadrats on SCUBA

Information will be used to standardize dredge survey data to reduce catchability concerns

4a. Discussions on Winter Harvest Schedule for Shellfish Management Areas: Greenwich Bay Areas 1 and 2



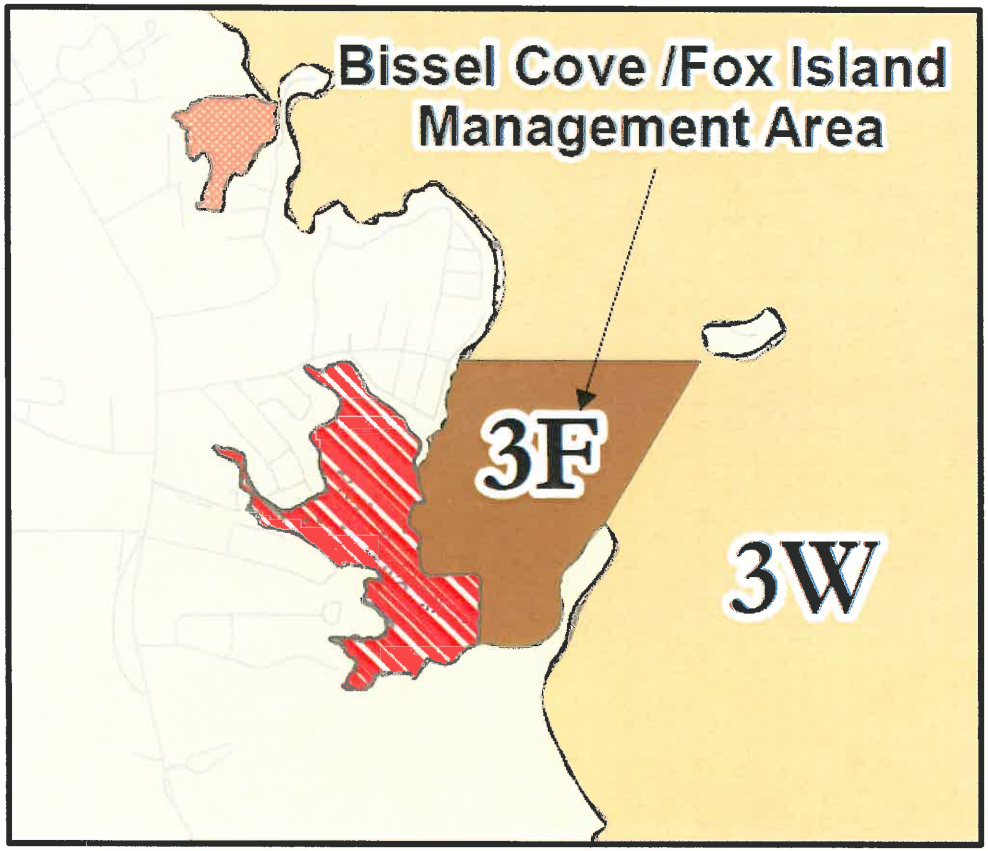
Provisions for Proposal

The schedule for the month of December may include up to 48 hours of permitted shellfishing, spread over any number of days during the month, excluding December 25.

Default

Open 8:00A.M. to 12:00P.M. noon on Mondays, Wednesdays, and Fridays, beginning on the second Wednesday of December and continuing through the last Friday in April, excluding December 25 and January 1 annually.

4b. Discussions on Winter Harvest Schedule for Shellfish Management Areas: Bissel Cove



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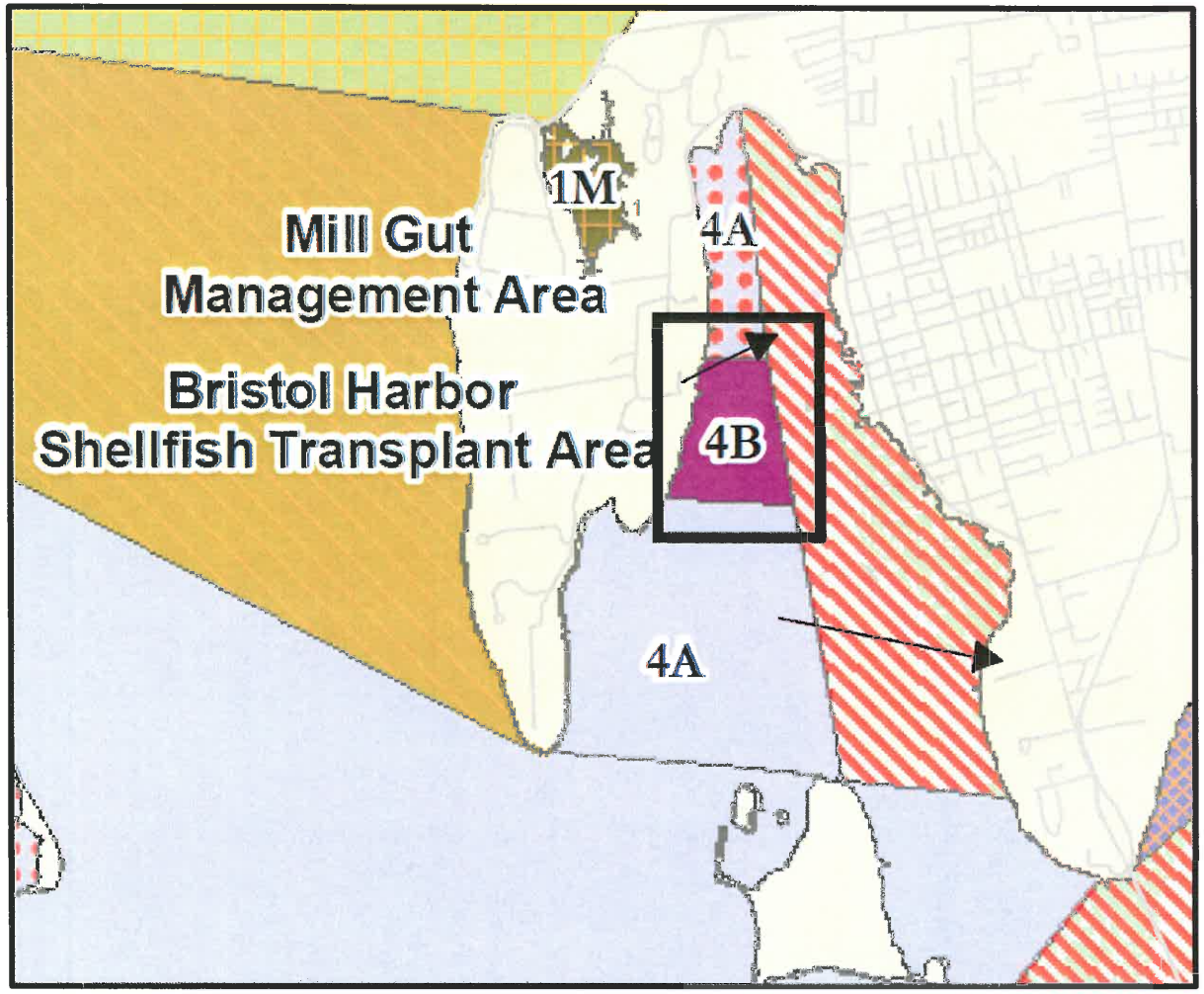
4c. Discussions on Winter Harvest Schedule for Shellfish Management Areas: Bristol Harbor



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