

APPENDIX B

LOBSTER RESTORATION PROJECT

## **APPENDIX B**

### **Statement of Work**

#### ***North Cape Lobster Restoration***

##### **Section I. Introduction**

This *North Cape* lobster restoration Statement of Work ("SOW") sets forth a plan for lobster restoration, as required by Section V (Lobster Restoration Project) of the consent decree in United States and State of Rhode Island v. EW Holding Corp. (D.R.I.) ("Consent Decree"). This SOW is incorporated into, and is a requirement of, the Consent Decree.

The Settling Defendants shall restock 1.248 million female legal-size lobsters with v-notches into the waters of Block Island Sound over a period of a minimum of 3 years and a maximum of 5 years beginning in 2000. The purpose of this SOW is to specify a work plan to accomplish this objective.

The Settling Defendants shall purchase lobsters from wholesalers and restock a minimum of 150,000 lobsters and a maximum of 500,000 lobsters per year depending on supply, market conditions, and weather. In year one the project shall begin in the spring of 2000 and may operate through December 1, 2000. In subsequent years, the project shall operate from May 1 through December 1 ("Annual Project Period"), and shall be completed no later than December 31, 2004. The Annual Project Period (May 1 to December 1) may be extended if mutually agreed to by both the Trustees and the Settling Defendants. If the Settling Defendants have not purchased, v-notched and released 1.248 million female lobsters by December 31, 2004, the remaining balance of lobsters to be restocked shall be increased by 3% per year until the project is completed. This 3% increase shall not apply to any changes in the project schedule as a result of lobster disease as described in Section II.

##### **Section II. Lobster Disease Contingency**

Lobsters in Block Island Sound and surrounding waters have been infected with shell disease and lobsters from Long Island Sound are dying apparently as a result of a parasitic amoeboid protozoan. Increases in shell disease or the spread of the parasitic disease to Block Island Sound may affect the availability of Southern New England lobsters for purchase, or may otherwise negatively impact this lobster restoration project. If the Trustees determine that lobster disease is adversely affecting the success of the restocking project, the Trustees shall have the discretion to delay the project until such time that the Trustees determine the disease problem has abated. The Trustees shall notify the Settling Defendants' Project Coordinator in writing of such a decision at which time the Settling Defendants shall cease all operations of the project. After the Trustees determine that the disease problem has abated, they shall notify the Settling Defendants, in writing, when the

project may be reinitiated. A delay implemented pursuant to this section of one Annual Project Period shall result in an extension of the project completion date beyond December 31, 2004 of one additional Annual Project Period. A delay of a portion of a full Annual Project Period (e.g. less than one Annual Project Period or greater than one but less than two annual project periods) shall result in an extension commensurate with the delay unless the Trustees determine that a longer extension is necessary.

If the Trustees require the Settling Defendants to delay the project subject to this Section, and if this delay prevents the Settling Defendants from completing the project by December 31, 2004, then the Settling Defendants may elect, on or before February 1, 2005, via written notice, to provide to the Trustees the necessary funding to complete the project. If the project cannot be completed by December 31, 2006, because of the implementation of a delay pursuant to this Section, then, upon the request of the Trustees, the Settling Defendants shall provide to the Trustees the necessary funding to complete the project. Funding needed to complete the project shall be based on the Settling Defendants' total costs to implement the project through December 31, 2004 (or December 31, 2006) divided by the number of lobsters stocked by December 31, 2004 (or December 31, 2006) to derive a unit cost (\$/lobster) to complete the project. To calculate the funding to be provided to the Trustees, this unit cost shall be multiplied by the remaining number of lobsters to be stocked to complete the project. Total costs shall include the purchase price of lobsters, contract amounts for the operations contractor and purchasing agent(s), lease and operating costs for the lobster distribution facility, boat related expenses, all personnel costs, and any and all other costs borne by the Settling Defendants to implement the project. If the Settling Defendants elect to provide the Trustees with funding in lieu of performing the project, the Settling Defendants shall provide documentation of such expenses to the Trustees by March 1, 2005 for review and approval. This documentation shall include purchase receipts, contractor invoices, copies of contracts and leases and other similar proof of expenditures. If the Trustees elect to receive funding to complete the project, similar documentation shall be provided for the Trustees' review and approval. Within 30 days of the Trustees' approval of the amount of funding, the Settling Defendants shall deposit such funds in the *North Cape* Oil Spill Restoration Account as described in Section VII, Paragraph 14 and Section VIII of the Consent Decree. If the Settling Defendants elect not to provide funding to the Trustees to complete the project, the Settling Defendants shall complete the project pursuant to this SOW, unless the Trustees subsequently elect to receive funding to complete the project.

### **Section III. Methods**

1. The Settling Defendants shall establish a single lobster distribution facility with holding tanks and waterfront dock in the Port of Galilee. This facility will be operated by the representative of the Settling Defendants or contracted for by the Settling Defendants. The Settling Defendants shall purchase lobsters from wholesale suppliers in Rhode Island and southern New England. The lobsters will be held in the facility's tanks, inspected for conformity with agreed upon specifications as noted below, and loaded directly onto the restocking vessel for distribution into Block Island Sound waters after a sufficient quantity of lobsters is acquired.

2. Lobsters purchased by the Settling Defendants for the restocking program shall include the following:

- a. Only legal-sized female lobsters harvested from Nearshore Lobster Management Area 2 as defined in 50 CFR Section 697.18 shall be purchased.
- b. No soft-shell lobsters will be purchased, thus excluding post-molt stages A and B to C1 and the premolt stage. Restoration lobsters will include post molt stages C2, C3, and inter-molt stages C4 to D. (See the attached guide to lobster stage identification.)
- c. Lobsters with obvious visible signs of shell disease will be excluded.
- d. Culls (only single claw missing) may be included but only to the extent found in the natural population, that is, about 15%.
- e. Double culls (no claws) will be excluded.
- f. Lobsters harvested from Long Island Sound will be excluded.

3. The Settling Defendants shall provide documentation to the Trustees that the lobsters purchased were harvested from Nearshore Lobster Management Area 2. The Settling Defendants shall require signed documentation reflecting the location of harvest of the lobsters from lobster harvesters and wholesalers as a condition of purchase. The documentation shall state that lobsters purchased for this project were harvested from Nearshore Lobster Management Area 2 as defined in 50 CFR Section 697.18. Copies of the documentation shall be provided to the Trustees as a part of the weekly reports required pursuant to Section III, Paragraph 7. In addition, the Settling Defendants shall provide to the Trustees, for review and approval pursuant to Section V (Lobster Restoration Project) of the Consent Decree, a list of lobster wholesalers from whom they expect to purchase lobsters. These wholesalers must be capable of and willing to separate and hold Nearshore Lobster Management Area 2 lobsters for purchase by the Settling Defendants. Only after the Trustees have approved this list of wholesalers will the Settling Defendants be able to begin the project. Any subsequent changes to this list will be submitted to the Trustees for review and approval pursuant to Section V (Lobster Restoration Project) of the Consent Decree.

4. Prior to being released, all lobsters will be v-notched by the Settling Defendants and a subset will be tagged by the Trustees. Both the v-notching and tagging shall be conducted on the vessel operated by the Settling Defendants. However, at the Trustees' discretion, the v-notching and tagging may occur within the confines of the lobster distribution facility.

The v-notch cut will be straight-sided, triangular-shaped, tapering to a sharp point, and penetrating at least  $\frac{1}{4}$  inch into the right tail flipper. The Settling Defendants shall use a

disinfectant solution on the v-notching tool after each lobster is v-notched to prevent the direct spread of gaffkemia.

5. The Settling Defendants shall contract a vessel or vessels capable of carrying and distributing 1,500 – 5,000 lobsters per trip into the waters of Block Island Sound. The lobsters will be stored on deck in plastic totes, coolers, or other containers (50 – 100 lobsters per container), and transported so as to keep the lobsters cool and maintain them in a high humidity/moisture environment. The transport system shall maintain the lobsters in healthy and vigorous condition. The vessel will be operated by a US Coast Guard licensed Captain, and crewed by two deck hands. These two individuals will be responsible for de-banding and v-notching the lobsters during the release. The vessel will also be capable of carrying two Trustee observers.

6. Each operating day, the restocking vessel will load lobsters to be restocked in containers at the dock facility. The Settling Defendants shall navigate the vessel out from Pt. Judith Harbor on randomly selected compass headings at 5° intervals between 090° (East) and 270° (West), with the reciprocal courses navigated on the return. The Settling Defendants will use a random number generator or random number table to select compass bearings. Voyage headings will be predetermined and supplied to the Trustees in advance. On each voyage it is anticipated that the restocking vessel shall deliver approximately 2,500 lobsters. The actual number of lobsters may range from 1,500 to 5,000 per voyage. These lobsters shall be released at the following rates: from 0-3 miles from the initial release point 18 percent of the lobster load will be released at a steady rate, and from 3 to 10 miles from the initial release point the remaining 82 percent of the lobster load will be released at a steady rate. The initial release point shall be outside the Harbor of Refuge.

With the vessel cruising at 5 kts, the restocking will be completed in 4 hours with the start and end points outside the Harbor of Refuge and the turn around point located 10 miles offshore. Upon return to the dock facility, the vessel will offload the containers, clean up, refuel and possibly make a second trip if lobsters are available.

7. On a weekly basis the Settling Defendants shall submit reports to the Trustees' Project Coordinator that are accompanied by signed and dated purchase receipts from wholesalers and documentation required pursuant to Section III, Paragraph 3. The weekly reports will document: (1) the number of lobsters purchased from wholesalers; (2) the number of v-notched lobsters released per trip per mile; (3) the number of lobsters that were purchased, but not released due to lack of vigor, mortality, disease, or did not otherwise meet the standards listed in Section III, Paragraph 2; (4) the number of culls purchased, v-notched and released; (5) the daily location of vessel runs including initial release locations, furthest point traveled from initial release location, ending release location and any deviations from the established protocol (the Settling Defendants will use latitude and longitude coordinates to note these locations); and (6) any delays or problems that occurred during the operation of the program and how they were addressed. On or before December 31 of each year, the Settling Defendants shall submit to the Trustees an annual summary report

that will document the activities completed during each release season. This annual report will summarize each of the items described in the weekly reports.

8. The Settling Defendants will provide to the Trustees' Project Coordinator a weekly schedule of planned vessel runs (departure times and compass headings) at least one week (seven days) in advance. The Settling Defendants will notify Trustees within 24 hours of sailing, or as soon as possible of any deviation in the schedule due to the supply of lobsters. The Settling Defendant may rely on the judgement of the Captain of the restocking vessel to cancel any scheduled trip at any time due to adverse weather conditions. The Settling Defendants will notify the Trustees as soon as possible of any adverse weather cancellations.

9. The Settling Defendants have the responsibility to restock healthy, vigorous lobsters within the context and the methods described herein. The Trustees will provide oversight and verification that the Settling Defendants are meeting the specifications of the agreement. The Trustees will provide reasonable notice of any corrective measures deemed required and will work with the Settling Defendants and their representatives to affect reasonable modifications.

#### **Section IV. Trustee Observers and Monitoring**

The restocking vessel will provide space for two technically qualified Trustee observers to conduct the Trustee tagging program and to generally monitor the implementation of the Lobster Restoration Project. The Settling Defendants may allow up to two additional Trustee representatives as space allows. The Trustee observers will be insured, trained, and equipped with survival suits consistent with the National Marine Fisheries Service's Fisheries Observer Program contract or State and Federal government insurance policies. The Trustee tagging program shall not unreasonably hinder or impede the Settling Defendants' restocking schedule. All lobsters tagged by Trustee representatives will be considered part of the total quantity of lobsters to be released by the Settling Defendants. The Settling Defendants are not responsible for any tag-induced mortality and any such mortality will not require further compensatory action by the Settling Defendants.

The Trustees, Trustee observers, and the Trustees' Project Coordinator shall have the authority to determine if the lobsters purchased from wholesalers meet the standards in Section III, Paragraph 2, to determine if Settling Defendants are in compliance with this SOW, and to reject any lobster not in compliance with this SOW.

## Guide to Lobster Stage Identification

### Terminology:

A staging system is used to describe the morphological and physiological changes associated with molting in lobsters. This staging system divides the molt cycle into four periods (A to D) with numerous subdivisions.

Postmolt (or postecdysis) encompasses stages A, B and C<sub>1</sub> through C<sub>3</sub>.  
Intermolt (metaecdysis) usually refers to molt stage C<sub>4</sub>.

### External Criteria (after Waddy *et al.* 1995; Aiken 1980):

Aiken, D.E. 1980. Chapter 2, Molting and Growth. In: The Biology and Management of Lobsters. J.S. Cobb and B.F. Phillips (eds.). Academic Press. p. 91-163.  
Waddy, S.L., D.E. Aiken & D.P.V. DeKleijn. Chapter 10, Control of Growth and Molting. In: Biology of the Lobster, *Homarus americanus*. J.R. Factor (ed). Academic Press. p. 217-265.

### Postmolt

#### Stage A

A newly emerged animal, the carapace is flaccid and wrinkled. The lobster is uniformly soft except for mouth parts, tips of chelipeds and other essential parts.

#### Stage B to C<sub>1</sub>

The lobster is progressively hardening through these stages. A lobster is considered to be in stage B or C<sub>1</sub> if the anteriodorsal region of the carapace can be depressed by light finger pressure. (Area A)

#### Stage C<sub>2</sub>

The anteriodorsal region of the carapace is rigid, but the dorsolateral portion of the posterior carapace can be depressed. (Area B)

#### Stage C<sub>3</sub>

The anteriodorsal and the dorsolateral regions of the carapace are rigid. Only the ventrolateral portion of the carapace can be depressed. (Area C)

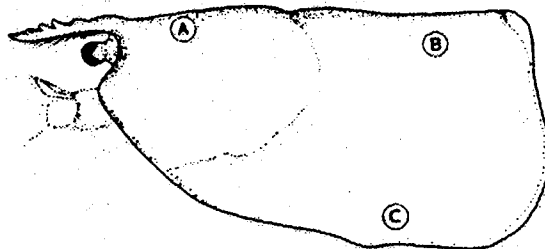
### Intermolt

#### Stage C<sub>4</sub> to D

All areas of the carapace are hard.

### Premolt

Evidence of water absorption, sutures beginning to open, body rupturings.



(Source: Aiken, D.E. 1980)