Sector Operations Plan and Agreement for the Maine Permit Banking Sector December 1, 2010

This Operations Plan and Agreement is entered into as of this 1st day of December, 2010 by and among the permit owners listed on the signature pages hereto and any other permit owners that are admitted pursuant to the terms of this Agreement. This Agreement is submitted in accordance with 50 CFR 648.87(b)(2) and is valid through Fishing Year (FY) 2011 (May 1, 2011 to April 30, 2012).

I: Background

The Maine Department of Marine Resources (ME DMR) will act as the operating agent for the Maine Permit Banking Program (MPBP) as well as for the Maine Permit Banking Sector (MPBS). ME DMR will acquire permits, which will be owned by the State of Maine. The Annual Catch Entitlement (ACE) contribution and/or day-at-sea (DAS) associated with those permits will be distributed to eligible vessels not more than 45 feet in length operating from a community with a population of no more than 30,000 residents. Eligibility will be determined subject to the requirements outlined in the Memorandum of Agreement (MOA) signed between NOAA Fisheries and ME DMR (Appendix 1). ME DMR will also require recipients of permit bank ACE and/or DAS to land their catch in Maine. All permit bank permits owned by the State of Maine will be placed in Confirmation of Permit History Status (CPH). Because there will be no active fishing vessels within the MPBS, many of the required operations plan elements listed in 50 CFR 648.87(b)(2) are not applicable.

One of the MPBP goals is to "to mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine". By distributing fishing opportunities to numerous eligible vessels, it will decrease the risks and/or impacts of consolidation. The primary goal of the MPBP is to restore and preserve access to small rural communities throughout Maine. The MPBP will provide these opportunities to both sectors and common pool vessels.

In order for the MPBP to provide fishing opportunities to sector vessels, it must either place an entire permit within an eligible sector or must form a sector of its own. Forming a permit bank-specific sector, the MPBS, will provide for a more efficient and effective way of distributing fishing opportunities to sector vessels for the following reasons:

- Joining a sector with active fishing vessels would expose the State to joint and several liability issues, even though the State will not engage in any fishing activities. The State does not want to become jointly and severally liable with other sector vessels.
- By forming its own Sector, the State could transfer ACE and/or DAS to eligible sectors rather than being required to place an entire permit within a sector.

II: Disclosure / Confidentiality Concerns

The MPBS, operating under the State of Maine, will protect confidential data to the extent allowable under the laws of the State of Maine, including any data collected under Magnuson-Stevens Fisheries and Conservation Act authority. In addition, this Agreement includes the statement concerning the release of confidential data (see Section IX) as required.

III: Harvesting Rules

1.) The MPBS will operate as a lease-only sector with no active vessels in FY 2011.

2.) The MPBS will have at least three members: the State of Maine and two northeast multispecies permits that are attached to vessels that will not actively fish in FY 2011. The State of Maine has agreed to the terms and conditions of the MOA, which prohibits MPBP permits from being held on active vessels. Permits owned by the State of Maine and held in the MPBS will be used for the transfer of ACE to eligible vessels in eligible sectors and/or the leasing of multispecies DAS to be used concurrently with a monkfish DAS while targeting monkfish. Permits that are not owned by the State of Maine are not required to abide by the MOA, except that those permit holders have agreed that they will not actively fish pursuant to those permits in FY 2011.

3.) Since the MPBS will be a lease-only sector and will not engage in active fishing in FY 2011 there will be zero groundfish caught while participating in other fisheries that have a bycatch of groundfish.

4.) Annual Catch Entitlement (as determined by NMFS)

The MPBS requests an ACE for FY 2011 for those permits placed in the MPBS. The allocations associated with the two northeast multispecies permits not owned by the State of Maine will be transferred back to the originating sector (Port Clyde Community Groundfish Sector) at the start of FY 2011. The MPBS will provide to NMFS by February 1, 2011 (see exemption request #1), a list of all permits acquired through a competitive bidding process. The MPBS will not lease/transfer more than the Sector ACE, as adjusted by transfers, for any allocated groundfish stock.

5.) Quota Management

Sector permits will not be actively fished in FY 2011, as all ACE and DAS will be leased to other sectors/vessels outside of the MPBS. The MPBS will monitor its ACE and/or DAS transfers by means of a software system that tracks ACE and DAS transfers and the Sector Manager will report these transfers to NMFS in the weekly ACE Status Report. Since the sector will not have any active fishing effort, the Sector Manager Detail Report and Sector Manager Trip Issue reports are not applicable to this sector.

6.) Days at Sea

Each permit held by the MPBS will be allocated DAS by the Regional Administrator (RA). The DAS associated with permits owned by the State of Maine may be leased to eligible vessels in eligible sectors to be used concurrently with a monkfish DAS while targeting monkfish. Any DAS associated with the additional two federal multispecies

permit holders will be transferred back to the originating Port Clyde Community Sector at the beginning of FY 2011.

7.) Vessel Logbooks
No MPBS permits will be actively fished in FY 2011. All permits purchased by the ME DMR through the RFP process will be placed in CPH Status, therefore Vessel Trip Reports (VTRs) will not be necessary for these permits. The two northeast multispecies permit holder members that are not actively fishing will comply with all applicable reporting requirements including submission of VTRs stating that they did not fish.

8.) Data Reconciliation
The MPBS will verify that ACE and/or DAS transfers are reconciled with the sectors that have participated with the Sector for consistency. If a discrepancy is detected, the Sector Manager will notify the other sector(s) and NMFS of the discrepancy.

9.) Data Management
The MPBS will monitor its ACE and DAS by means of a software system that tracks ACE and DAS transfers.

IV: Consolidation and Redistribution of ACE
As previously stated, one of the MPBP goals is to "to mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine". By distributing fishing opportunities to numerous eligible vessels, through the MPBS, the MPBP will decrease the risks and/or impacts of consolidation. A more detailed description of potential consolidation will be provided in the final version of this operations plan once the State of Maine has completed its permit bidding process and a final roster is submitted to NMFS. Since the MPBS permits will not be actively fishing, there will be no redistribution of effort to other fisheries.

V: Sector Reporting
1.) Dockside and At-Sea Monitoring
The MPBS will be a lease-only sector and will not engage in active fishing. All dockside and at-sea monitoring requirements, including the requirement to identify an independent third-party monitoring provider, will be met by the sectors to which ACE and/or DAS are distributed.

2.) Weekly Reports
The Sector Manager will submit a Weekly ACE Status Report to NMFS, as required. The Sector will submit the required report using the format and procedures prescribed by NMFS. The Sector will continue to work with NMFS to improve the weekly reporting system and requirements.

> 2.1.) Reporting Thresholds That Trigger Daily Reporting: Because there will be no active fishing to catch groundfish, there is no threshold and no increased reporting frequency is required

3.) Sector Manager Detail Reports
Due to the lease-only nature of the MPBS with no active effort, this requirement is not applicable.

4.) Sector Manager Trip Issue Reports
Due to the lease-only nature of the MPBS with no active effort, this requirement is not applicable.

5.) Annual Report
Within sixty (60) days of the end of the fishing year the Sector Manager will submit an annual report to NMFS and the Council that summarizes ACE and DAS transfers and any other relevant information required to evaluate the performance of the Sector. The Sector will submit required reports using the format and procedure prescribed by NMFS.

VI: Proof of Sector Membership
For FY 2011, no permits in the MPBS will be held on active vessels. All MPBS ACE and DAS will be leased to other sectors. Therefore, no Letters of Authorization (LOA) will be issued.

VII: Sector Understanding and Acknowledgements
The State of Maine and all additional northeast multispecies permits owned by the State of Maine agree to abide by the terms and conditions of the MOA as well as all Federal regulations required to operate in FY 2011.

VIII: Sector Manager and Designated Agent for the Service of Process
The MPBS shall appoint a manager who will have the authority to manage the day-to-day business of the Sector and will submit all sector reports required by the NMFS. For FY 2011, Terry Stockwell shall serve as the designated agent for service of process.

Trisha De DeGraaf
Maine Department of Marine Resources
21 SHS
Augusta, ME 04333-0021
(207) 624-6554

IX: Release of Confidential Data
Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C §1881a(b)(1)(F), the undersigned hereby authorizes the release to the MPBS of information that is considered to be confidential or privileged by the Magnuson-Stevens Act or other federal law regarding the catch of various species of fish associated with the limited access northeast multispecies permit with the Moratorium Right Identifiers (MRIs) submitted to the NMFS in compliance with 50 CFR 648.7 and §648.87 that the undersigned has authority to access. This information includes data required to be submitted or collected by NMFS, including but not limited to DAS allocation and usage, vessel trip reports, dealer reports, northeast Fishery Observer Program data, catch and landings history data, Sector dockside and at-sea monitoring

data, enforcement data, and all other information associated with the vessel, MRI #, and/or permit records.

X. Membership

1). Rule of Three Requirement

Amendment 16 to the NE multispecies FMP defines a sector as a group of three or more persons, none of whom have an ownership interest in the other two persons in the sector. This criterion has been fulfilled with permit #149638 under the distinct ownership of Gerald Cushman; permit # 150323 under the distinct ownership of Bryan Bichrest; and the permit #148879 under the distinct ownership of the State of Maine. The ME DMR enters into this agreement pursuant to its authority under 12 M.R.S. § 6051, which authorizes the Department to conduct programs for the development of commercial marine resources of the State, including economic development, in cooperation with private organizations or persons.

2). Voluntary Membership

The two northeast multispecies permit holder members joining this sector acknowledge and affirm that they do so voluntarily and that, while a member of this sector, they will not engage in any fishing activity under their permit, identified above.

3). Scope of Membership Obligations

The obligations of the northeast multispecies permit holder members set for in this Agreement shall only apply to the permits enrolled in the Sector, and not extend to any other permits or vessels owned by the northeast multispecies permit holder member that are not enrolled in the Sector pursuant to the terms of this Agreement.

3.1). The northeast multispecies permit holder members shall not be considered employees or agents of the State.

3.2). Nothing in this agreement should be construed as a waiver by the State of Maine of its sovereign immunity.

3.3). The northeast multispecies permit holder members hereby agree to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description incurred under this Agreement (hereinafter referred to as “claims”), including but not limited to any claims resulting from or arising out of any violations associated with the use of their permits identified in section X.1 above.

3.4) The northeast multispecies permit holder members shall cooperate and use their best efforts to ensure Sector compliance with all applicable laws and rules.

3.5) The northeast multispecies permit holder members shall cooperate fully with any Sector inquiry, investigation, hearing or other proceeding to enforce the terms of this Agreement or to ensure compliance with applicable laws and rules.

3.6) The northeast multispecies permit holder members agree to authorize the Sector to obtain records from NMFS concerning the northeast multispecies permit holder member's fishing history and landings, and , but this Agreement, provide the Sector with the authorization for NMFS to record access as outline in Section IX.

4) Length of Commitment
The northeast multispecies permit holder members herby agrees to cause each of it permits to remain enrolled in the Sector for the term of this Agreement (the "Commitment Period").

XI: Enforcement
Because the MPBS will operate as a lease-only sector, the development of an overage penalty schedule is not necessary.

Any sector member found in violation of the sector operations plan and/or sector regulations may be expelled from the sector. If a member commits a violation, ME DMR will determine the proper penalty, which could include a monetary fine or potential expulsion. Since the MPBS will not be providing NMFS with a weekly Sector Manager Detail Report or a Sector Manager Trip Issue Report, the MPBS will notify NMFS promptly after the occurrence of any enforcement issues via email or mail. The MPBS will also notify NMFS by email and mail if a member is expelled.

The MPBS acknowledges that, as explained in §648.87(b)(1)(iv), it is a legal entity and is therefore subject to NMFS enforcement action for violation of sector regulations.

XII: Sector Specific Exemptions
1.) *Exemption from requirement to provide a sector roster by December 1, 2010.*
The MPBP is currently in the process of purchasing permits through a state required Request for Proposal process. Due to the time needed to review proposals, negotiate contracts with potential bidders, work through Agreement issues such as "Rights of First Refusal" and other relevant details and processes, the State of Maine will not be able to meet this deadline. The MPBS requires an exemption from the December 1 requirement in order to be operational for FY 2011.

2.) *Exemption from length and horsepower restrictions of the DAS Leasing Program.*
This exemption was previously approved for sectors in FY 2010. The MPBS will abide by the terms and conditions of the MOA, which establishes a vessel length requirement.

XIII. Non-Appropriation
Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to meet any financial obligations that it may have under this Agreement, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts for the purpose of this Agreement, then the State obligations under this Agreement shall be void.

XIV. Termination

This Agreement may be terminated by the State of Maine in whole, or in part, whenever for any reason the State shall determine that such termination is in its best interest.

Signature:

_____

Terry Stockwell
Maine Department of Marine Resources

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date first written above, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/_____ print/_____

Name/Co: _____

MRI #: _____

Permit #: _____

Exhibit A

Memorandum of Agreement (MOA) between NOAA and ME DMR

[See attached MOA file]

Exhibit B

Sector Membership Fishing Year 2011 (May 1, 2011 to April 30, 2012)

Cushman, Gerald
MRI: 268 (Enrolled in MPBS)
Vessel: Generation (Skiff) (Not Active)
Gear: NA
Other Federal Permit(s): Spiny Dogfish, Summer Flounder, Herring, Lobster Non-Trap, Lobster Trap, Monkfish, Red Crab, Scup, Loligo, Butterfish and Tilefish
State Permit(s): (ME) Lobster, Shrimp

Bichrest, Bryan
MRI: 2204 (Enrolled in MPBS)
Vessel: Haven Lyn (Skiff) (Not Active)
Gear: N/A
Other Federal Permit(s): Bluefish, Spiny Dogfish, Herring, Monkfish, Red Crab, Skate, Squid, Butterfish, Mackerel and Tilefish
State Permit(s): N/A

State of Maine
MRI: 156 (Previously enrolled in PCCGS)
Permit: 230390
Vessel: Persistence (Vessel to be sold and permit enrolled in CPH; Not Active)
Gear: N/A
Other Federal Permit(s): Lobster Trap, Mackerel, Bluefish, Monkfish D, Red Crab, Scallop – LAGC NGOM, Scup, Skate, Spiny Dogfish, Squid and Butterfish.
State Permit(s): N/A

State of Maine
MRI: 1432 (Previously enrolled in CP for FY 2010, NFS XI for FY 2011)
Permit: 212583
Vessel: Lucy J (Vessel to be sold and permit enrolled in CPH; Not Active)
Gear: N/A
Other Federal Permit(s): Mackerel, Bluefish, Herring, Monkfish E, Red Crab, Skate, Spiny Dogfish and Tilefish.
State Permit(s): N/A

State of Maine
MRI: 132 (Enrolled in MPBS)
Permit: 150689
Vessel: Wyatt (Vessel to be sold and permit enrolled in CPH; Not Active)
Gear: N/A
Other Federal Permit(s): Lobster Trap, Black Sea Bass and Monkfish D.
State Permit(s): N/A

State of Maine
MRI: 90 (Previously enrolled in CP)
Permit: 221378
Vessel: Star Dust (Vessel to be sold and permit enrolled in CPH; Not Active)
Gear: N/A
Other Federal Permit(s): Lobster Trap, Mackerel, Bluefish, Herring, Monkfish E, Red Crab, Skate, Spiny Dogfish, Squid, Butterfish and Tilefish.
State Permit(s): N/A

State of Maine
MRI: 377 (Previously enrolled in SHS)
Permit: 250716
Vessel: Nicole Leigh (Vessel to be sold and permit enrolled in CPH; Not Active)
Gear: N/A
Other Federal Permit(s): Lobster Non-Trap, Herring, Monkfish D, Scallop – LAGC - IFQ, Skate, Spiny Dogfish.
State Permit(s): N/A

MEMORANDUM OF AGREEMENT

Between

NOAA's National Marine Fisheries Service
U.S. Department of Commerce

And

Maine Department of Marine Resources

For The

Administration of a Pilot Permit Bank Program

Revised August 2010

I. Parties to the Agreement

This document constitutes an agreement between the Northeast Regional Office (NERO) of NOAA's National Marine Fisheries Service (NMFS), U.S. Department of Commerce, and the Maine Department of Marine Resources (ME DMR).

NMFS is responsible for the management, conservation, and protection of living marine resources within the U.S. Exclusive Economic Zone. NMFS also plays a supportive and advisory role in the management of living marine resources in coastal areas under state jurisdiction, provides scientific and policy leadership in the international arena, and implements international conservation and management measures as appropriate.

The ME DMR was established to conserve and develop marine and estuarine resources; to conduct and sponsor scientific research; to promote and develop the Maine coastal fishing industries; to advise and cooperate with local, state, and Federal officials concerning activities in coastal waters; and to implement, administer, and enforce the laws and regulations necessary for these purposes.

See Attachment A for identification of contact representatives for each party.

II. References and Authorities

NMFS has programmatic authority to participate in this project pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Federal grant award to ME DMR for the purposes of establishing a permit bank is allocated under NOAA's Unallied Management Program, which is authorized under the Fish and Wildlife Coordination Act of 1956, 16 U.S.C. 661; Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.; National Fisheries Research and Development Program, 15 U.S.C. 713c-3(d); and the Department of Commerce Appropriation Act of 1999. Projects under this program provide economic, sociological, public policy, and other information needed by Federal and state natural resource administrators for conserving and managing fishery resources and protected species and their environment in Federal, state, and U.S. territorial waters.

ME DMR has authority to participate in this project pursuant to Title 12 of Maine Revised Statutes, section 6051, which states that DMR, under the direction of the Commissioner, may conduct or sponsor programs for research and development of commercial, marine recreational, and anadromous fishery resources and other marine resources of the State, which may include biological, chemical, technological, hydrological, processing, depuration, marketing, financial, economic, and promotional research and development. ME DMR may carry out these programs within the department, in cooperation with other state agencies, and Federal, regional, and local governmental entities, or with private institutions or persons.

III. Background

The Magnuson-Stevens Act establishes a regime for the management of fishery resources that occur in the U.S. Exclusive Economic Zone and establishes the New England Fishery Management Council (Council) as the body responsible for the development of fishery management plans for fisheries in the Atlantic Ocean seaward of the states of Connecticut through Maine.

The Council developed, and NMFS has implemented, Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP), which expands a catch-share program known as "sectors" for the Northeast multispecies fishery. Catch-share management programs, when designed correctly, may help to prevent overfishing, eliminate the race to fish, reduce overcapacity and bycatch, and improve economic efficiency. However, catch-share programs may also result in the consolidation of fishing effort, reduce community involvement in local fishing, decrease access by small-scale fishermen to local fishery resources, create barriers to entry into the fishery by increasing the demand for capital to participate, and create competition among fishermen for access rights.

The sector management program allows groups of Northeast multispecies permit holders to pool individual potential sector contributions (PSC) to share among the sector members while fishing under quotas limited by the sum of the members' individual PSC. Northeast multispecies permit holders who do not join a sector would fish in the "common pool" under individual allocations of days-at-sea (DAS). With the implementation of Amendment 16, sectors may receive a transfer of additional annual catch entitlement (ACE) from other sectors to supplement the members' contributions, and members of the common pool may lease additional DAS from other common pool members to supplement their individual allocations. Under Amendment 16, members of sectors may also lease additional DAS from other members of sectors (but not from common pool vessels) for the purpose of fishing for monkfish and/or skates.

IV. Purpose

Both the ME DMR and NMFS have an interest in promoting the effective implementation of catch-share programs in New England, while minimizing any potential adverse socio-economic impacts to rural fishing communities and small-scale fishing businesses that are sometimes attributed to catch-share programs. Permit banks may be useful to mitigate some of the adverse impacts associated with catch-share programs. Permit banks can be used to preserve fishing opportunities for small-scale fishermen operating in small, rural fishing ports that may otherwise be disproportionately negatively affected by the consolidation of fishing effort that often follows implementation of catch-share programs. Permit banks may help ease the transition to catch-share programs by:

- Providing options to fishermen with little access to capital;
- Helping fishermen to improve cooperation and operating efficiencies;

- Maintaining small-boat enterprises through the combination of a variety of permit attributes (e.g., DAS, PSC) to meet the needs of fishermen and fishing communities for access to fishery resources; and
- Helping fishing communities achieve stable access to local fishery resources for local fishermen.

NOAA is providing funding to the State of Maine, in the form of a Federal grant award to ME DMR, for the express purpose of establishing a bank of Northeast multispecies fishing vessel permits (Permit Bank). The Federal grant award is intended to facilitate a partnership between the ME DMR and NMFS for the establishment of a pilot permit bank program to inform the potential expansion of permit banking programs to other states and regions. ME DMR and NMFS intend for this Permit Bank to achieve the following objectives:

- To secure continued access to fishery resources for local, small-scale fishermen from small fishing communities throughout Maine;
- To create and protect sustainable local fisheries;
- To supplement existing access rights held by fishermen in small Maine communities; and
- To mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine.

V. Definitions

Annual Catch Entitlement (ACE) means the amount (weight) of each stock that can be harvested by a sector that year. The ACE is derived as the share of the annual total allowable catch (TAC) for a stock that is allocated to a sector, calculated based on the landings history attached to each permit that joins a sector in a given year, multiplied by the available catch. The ACE may be adjusted, if necessary, due to prior overages and/or penalties.

Common Pool means the collection of vessels whose owners did not join a sector, and will fish under the constraints of the DAS system and any other regulations imposed for non-sector vessels.

Days-at-Sea (DAS) are the total days, including steaming time, that a boat spends at sea to fish. Amendment 13 to the Northeast Multispecies FMP categorized DAS for the multispecies fishery into three categories, based on each individual vessel's fishing history during fishing years 1996 through 2001. The three categories are: Category A, which can be used to target any groundfish stock; Category B, which can only be used to target healthy stocks; and Category C, which cannot be used until some point in the future. Category B DAS are further divided equally into Category B-regular and Category B-reserve.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance that provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Potential sector contribution (PSC) means an individual fishing vessel permit's share (proportion) of the annual catch limit for each stock, based upon the fishing history associated with each permit.

Sector means a group of persons (three or more persons, none of whom have an ownership interest in the vessels owned or permits held by the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC in order to achieve objectives consistent with applicable FMP goals and objectives. For the purposes of this Agreement, a Sector is one of the qualifying groups identified in 50 CFR 648.87.

VI. Terms and Conditions

The special award conditions of the Federal grant award require ME DMR and NMFS to agree to a set of terms and conditions for the development, implementation, and operation of the Permit Bank. As such, the parties do hereby agree to the following terms and conditions:

1. That as per Federal regulations at 50 CFR 648.4(n), the NMFS Regional Administrator, Northeast Region, retains the authority to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, obtained by the ME DMR using a Federal grant award for the purposes of this Permit Bank if ME DMR, in the use of said permit and/or the operation of this Permit Bank, violates, or deviates in any way from, the terms and conditions of this Agreement.

2. That upon dissolution of the Permit Bank or termination of this Agreement by either party, the NMFS Regional Administrator, Northeast Region, may suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, obtained by the ME DMR using a Federal grant award for the purposes of this Permit Bank.

3. That the ME DMR may not permanently transfer, sell, or otherwise provide or surrender any of the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award for the purposes of the Permit Bank (including, but not limited to DAS and/or ACE) to any individual, Sector, corporation, non-profit organization, or government entity other than NMFS.

4. That the fishing vessel permits obtained by the ME DMR for the purposes of the Permit Bank may not be held on active vessels, such that no fishing or other on-the-water activities may be engaged by any vessels to which these permits are assigned (e.g., the Permit Bank permits should be held in Confirmation of Permit History).

5. That, in addition to the specific terms and conditions described herein, ME DMR shall operate the Permit Bank such that all transactions regarding leases of DAS and/or transfers of ACE associated with the fishing vessel permits held by ME DMR for use in the Permit Bank fully comply with all applicable Federal regulations.

6. That the ME DMR shall operate the Permit Bank such that all fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award shall only be used for the following purposes: (a) Transfers of ACE to qualifying Sectors; (b) leasing of groundfish DAS to qualifying vessels in qualifying Sectors for the purpose of fishing for monkfish and/or skates; or (c) for fishing year 2010, leasing of DAS to qualifying vessels in the Common Pool, and beginning in fishing year 2011, leasing of DAS to qualifying vessels to be used only while engaged in cooperative research projects, in order to facilitate the completion of the on-the-water cooperative research activities (i.e., DAS leasing may not be used for compensation).

7. That the ME DMR shall prepare, and submit to NERO at least 30 days prior to any Permit Bank transactions, a proposal describing how ME DMR plans to allocate available DAS and/or ACE from the Permit Bank to fishing vessel owners and/or Sectors from among those applicants that qualify for access to said DAS and/or ACE according to the terms and conditions of this Agreement, as well as any additional terms and conditions imposed by ME DMR. Any changes to the allocation proposal must be made in writing and submitted to NERO prior to implementing the revised allocation plan.

8. That the ME DMR shall operate the Permit Bank such that no individual, Sector, corporation, non-profit organization, or government entity may be granted, or have access to, the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award for the purposes of the Permit Bank (including, but not limited to DAS and/or ACE), unless that individual, Sector, corporation, non-profit organization, or government entity meets all of the following criteria:

    a. Owns and materially participates in the operation of a fishing vessel permitted to fish in the Federal limited access Northeast multispecies fishery that is not more than 45 feet in registered length overall, according to the vessel baseline specifications as documented in the NMFS vessel permit database at the time the transaction application is submitted;

    b. Has, for the current fishing year and at least the preceding 3 fishing years, no record of substantial Federal permit sanctions or major violations of any Federal fishing regulations;

    c. Resides in, and/or operates his/her fishing vessel from, a community with a population of no more than 30,000 residents; and

d. Agrees to and signs a contract with ME DMR agreeing to fish in a responsible and sustainable manner.

9. That the ME DMR shall operate the Permit Bank such that no fishing vessel shall be utilized to fish under DAS leased and/or ACE transferred from the Permit Bank in accordance with this Agreement unless that fishing vessel meets all of the following criteria:

   a. Is permitted to participate in the Federal limited access Northeast multispecies fishery;

   b. Is not more than 45 feet in registered length overall, according to the vessel baseline specifications as documented in the NMFS vessel permit database at the time the lease application is submitted; and

   c. The vessel owner resides in, and/or operates the vessel from, a community with a population of no more than 30,000 residents.

10. That the ME DMR shall operate the Permit Bank such that no Sector shall be granted, or have access to, the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award for the purposes of the Permit Bank, unless that Sector meets all of the following criteria:

    a. That the Sector is operated by a community, corporation, non-profit organization, or government entity based principally in Maine; and

    b. That at least 65 percent of the fishing vessels enrolled in the Sector, and the owners of said vessels, individually meet all criteria identified in items 8 and 9 above.

11. That the ME DMR shall obtain, from any qualifying Sector selected to receive ACE transferred from the Permit Bank, an agreement signed by the manager of said Sector identifying the specific fishing vessels enrolled in the Sector that are intended to utilize the transferred ACE, prescribing the amount of ACE, in pounds and by stock, to be assigned to each vessel.

12. That the ME DMR shall ensure that that sub-transfers of ACE and/or sub-leases of DAS initially provided to a qualifying fishing vessel or Sector do not occur, with the following exception: Sub-transfers of ACE by a Sector to another Sector may occur in the last 2 weeks of the fishing year for which the initial transaction was processed, or in the first 2 weeks of the subsequent fishing year.

13. That ME DMR may not use the Permit Bank, or any fishing vessel permits held by the Permit Bank, for the purpose of leasing in additional DAS and/or transferring in additional ACE.

14. That on or before April 1 of each Northeast multispecies fishing year (May 1-April 30), ME DMR shall submit to the NMFS contact representative (see Attachment A) a written declaration for each Federal fishing vessel permit subject to the terms and

conditions of this Agreement identifying whether the fishing access rights associated with that permit are to be used in the coming fishing year for either: (a) DAS leasing to Common Pool vessels; or (b) transferring ACE to qualified vessels in qualified Sectors (including the leasing of DAS to Sectors for the purpose of fishing for monkfish and/or skates). Such declaration shall be binding for the duration of the coming fishing year.

15. That if ME DMR, through either State or external funding, acquires additional fishing vessel permits to be used in the Permit Bank, that terms and conditions of this Agreement shall not apply to the operation of the Permit Bank for those additional permits only. However, if additional fishing vessel permits for the Permit Bank are acquired either wholly or in part with funds from a NOAA grant specifically for that purpose, then all the terms and conditions of this Agreement apply.

16. That changes to either party's contact representative (see Attachment A), or contact information for that representative, shall be made by written notification to each party within 30 days of the change.

VII. Period of Performance

This Agreement shall be effective on the date it is signed by all parties and shall be automatically renewed every 3 years on the first of May of the third year, unless one of the parties terminates the agreement, in writing, prior to the first of January of any year. Furthermore, the Agreement may be terminated in writing at any time by the State or NMFS upon 90 days advance notice.

VIII. Funding, Payments, and Program Revenue

There will be no exchange of funds between the parties unless otherwise agreed in a separate agreement. Each party shall arrange for appropriate funding necessary to discharge its respective responsibilities under this agreement.

The ability of the parties to carry out their responsibilities under this Agreement is subject to their respective funding procedures and the availability of appropriated funds. Should either party encounter budgetary problems in the course of its respective internal procedures that may affect the activities to be carried out under this Agreement, that party will notify and consult with the other party within 45 days.

All revenue generated through the operation of the Permit Bank, either through the leasing of DAS or transferring of ACE, or through other means, shall be considered as program income, as defined in Department of Commerce regulations at 15 CFR 24.25, and shall be retained by ME DMR and used to offset costs incurred by ME DMR in the operation and administration of the Permit Bank program, consistent with the terms of Department of Commerce regulations at 15 CFR 24.25.

IX. Performance Reports

ME DMR shall prepare, and submit to the NMFS contact representative, annual reports documenting the performance of the Permit Bank. Such reports shall be due to NMFS on June 1 of each year following the calendar year in which this Agreement first becomes effective, and shall include, at a minimum, the following information:

a. For each Permit Bank transaction in the preceding fishing year:

    1) The Federal permit number of the permit held by the Permit Bank and whether the fishing access rights associated with the permit were used for (1) DAS leasing or (2) ACE transfers;

    2) The number of DAS leased or amount of ACE transferred (by stock);

    3) The Federal fishing vessel permit number(s) of the fishing vessel(s) that received either the DAS lease or the ACE transfer associated with the subject Permit Bank permit(s);

    4) For ACE transfers or DAS leases to a Sector, the name of the Sector and a copy of the agreement with that Sector (see item 11 under section VI);

    5) The price paid, if any, by the recipient of the transaction (by DAS or, for ACE, by stock);

    6) The effective date of the transaction.

b. Summary information for the preceding fishing year, including:

    1) The total number of transactions;

    2) The total number of DAS leased;

    3) The total amount of ACE transferred, by stock;

    4) The number of unique vessels receiving the transactions;

    5) The total program income generated by ME DMR from the DAS leases and ACE transfers; and

    6) Total costs incurred by ME DMR associated with the operation and administration of the Permit Bank, delineated by type (personnel, documentation, travel, facilities, etc.).

c. An evaluation of the impact of the Permit Bank program, including:

    1) The degree to which the operation of the Permit Bank achieved the purposes and objectives of the Permit Bank identified in section IV above;

    2) Issues, concerns, or problems related to the operation of the Permit Bank; and

    3) Suggestions/recommendations to improve the operation of Permit Bank to more fully achieve the purposes and objectives.

X. Enforcement

During the performance of the NOAA grant to the State of Maine, the NOAA Grants Officer, in consultation with the NERO, shall be authorized to take appropriate actions if ME DMR, as grant recipient, fails to meet its obligations under the terms and conditions of the grant award. Such actions include all those stipulated at 15 CFR 24.43, and include, by extension, those actions stipulated at 50 CFR 648.4(n).

Upon closeout of the grant award, as determined by the NOAA Grants Officer, the Regional Administrator, Northeast Region, NMFS, shall have the authority to take whatever action under 50 CFR 648.4(n) that she deems appropriate for the remaining period of effectiveness of this Agreement, including all subsequent amendments and revisions thereto.

XI. Amendments and Review

This Agreement may be amended in writing at any time by agreement of the parties. All necessary changes will be accomplished in writing, either by an amendment to this Agreement or by entering into a new agreement, whichever is deemed expedient to the interest of both parties. At a minimum, both parties shall review and consult on the terms and conditions of this Agreement once every 3 years.

XII. Other Provisions

This Agreement shall be construed to be consistent with the Magnuson-Stevens Act and other applicable Federal laws and regulations promulgated thereunder.

Nothing herein is intended to conflict with current U.S. Department of Commerce, NOAA/NMFS, or ME DMR directives. If the terms of this Agreement are inconsistent with existing directives of either of the agencies entering into this Agreement, then those portions of this Agreement that are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. Should such an inconsistency be identified, the parties shall, at the first opportunity, amend this Agreement consistent with section XI above.

Should disagreements arise on the interpretation of the provisions of this Agreement, or any amendment and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within 30 days of the latest presentation of a party's position, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

The terms and conditions described in this Agreement regarding the operation of the Permit Bank, particularly as to the qualifying criteria of individual fishing vessels, vessel owners, and Sectors for access to the DAS and/or ACE held by the Permit Bank, are intended to serve as minimum criteria. ME DMR may decide to impose more restrictive

criteria, or additional requirements, on potential participants, but will consult with NERO prior to imposing such additional restrictions.

XIII. Terms of the Agreement

The terms of this agreement shall become effective upon the signature of both the approving officials of the respective agencies entering into this agreement.

The terms of this agreement shall remain in effect until terminated by: Mutual agreement, in writing; 90 days advanced written notice by either party; or the ending date of the period of performance, whichever shall occur first.

For the purposes of this Agreement, all Federal fishing vessel permits obtained by the State of Maine for the purpose of operating the Permit Bank shall be considered "intangible property" under the terms of 15 CFR 24.34(b). Accordingly, such permits shall be used for the originally authorized purpose as long as needed for that purpose (determined as the period of effectiveness of this Agreement) and the State of Maine, or its agents, shall not dispose of or encumber its title or other interests. When no longer needed for the originally intended purpose, and upon mutual agreement by all parties, disposition of such permits shall be made as provided in 15 CFR 24.32(e).

APPROVED:

National Marine Fisheries Service
Northeast Region

By: _____
Patricia A. Kurkul
Regional Administrator

Date: August 16, 2010

Maine Department of Marine Resources

By: _____
George D. Lapointe
Commissioner

Date: 16 August 2010

Attachments
A. Contact Representatives
B. Statement of Work from ME DMR

Attachment A

Contact Representatives

National Marine Fisheries Service
Northeast Regional Office
Contact:

Michael Pentony
Senior Fishery Policy Analyst
55 Great Republic Drive
Gloucester, MA 01930
(978) 281-9283 (phone)
(978) 281-9135 (fax)

Maine Department of Marine Resources
Contact:

Terry Stockwell
Director of External Affairs
21 State House Station
Augusta, ME 04333
(207) 624-6553 (phone)
(207) 624-6024 (fax)

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date written below, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ Bryan Bickford print/ Bryan Bickford

Name/Co: Vessel: Haven Lyn

MRI #: ~~2244~~ 2209

Permit #: 150 323

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date written below, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ Gerald Cushman print/ GERALD CUSHMAN

Name/Co: _____

MRI #: 268

Permit #: 149638

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date first written above, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ _____ print/ ROBERT BRACY

Date: 1/24/2011 Name/Co: ---

MRI #: 132

Permit #: 150689

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date first written above, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ _____ print/ Dan I. Hammond II

Date: 1/27/11 Name/Co:

MRI #: 377

Permit #: 2507116

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date first written above, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ Stephen M Joyce print/ Stephen M. Joyce

Date: 1/24/2011 Name/Co: —

MRI #: 1432

Permit #: 212583

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date first written above, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ Timothy Eddy

Date: 1/31/11

MRI #: 156

Permit #: 230390

print/ Timothy Eddy

Name/Co: Tom Fisheries INC

01/24/2011 11:44 2075246024 MARINE RESOURCES PAGE 09/12

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2010-2011 fishing year, as of the date first written above, for the purpose of cooperating with the ME DMR in creating the Maine Permit Bank Sector.

/s/ Lawrence M Tamilio print/ LAWRENCE M TAMILIO

Date: 1/31/11 Name/Co: F/V STARDUST

MRI #: 90

Permit #: 221378

National Marine Fisheries Service

NMFS vessel/fishery data as of April 6, 2011, 10:12 am

Disclaimer: The information contained on this site does not guarantee that these permits can be renewed or applied for in the future. This information is advisory only and does not represent the baseline information for any vessel, which includes limited access scallop or Northeast multispecies vessel baseline information, used to determine vessel upgrade or replacement eligibility. The National Marine Fisheries Service shall not be held liable for losses caused by use of this information. The National Marine Fisheries Service reserves the right to make a final determination regarding vessel eligibility for any permit.

Most Recent Vessel Data

Vessel: GENERATION
Northeast Federal Fishery Permit: 149638
US Coast Guard Doc #/State Registration # : ME101KL
Primary Owner|Corporation Name: GERALD R CUSHMAN
Address:
P O BOX 381
PORT CLYDE, ME 04855
Phone: (207) 372-6429

Hailing Port: PORT CLYDE, ME.
Principal Port: PORT CLYDE, ME.

Sector: Not in a Sector

Valid Sector LOA? N/A

Most Recent Northeast Federal Fishery Permit Data

Permit Year	Plan	Category	Description	Start Date	End Date
2010	DOG	1	SPINY DOGFISH - COMMERCIAL - 2010	01-MAY-10	30-MAR-11
2010	FLS	1	SUMMER FLOUNDER - COMMERCIAL MORATORIUM - 2010	01-MAY-10	30-MAR-11
2010	HRG	D	HERRING - OPEN ACCESS - POSSESSION	01-MAY-10	30-MAR-11

			LIMIT - 2010		
2010	LO	1	AMERICAN LOBSTER - NON -TRAP - 2010	01-MAY-10	30-MAR-11
2010	LO	A1	AMERICAN LOBSTER - TRAP - AREA 1 - 2010	01-MAY-10	30-MAR-11
2010	MNK	E	MONKFISH - INCIDENTAL CATEGORY E - 2010	01-MAY-10	30-MAR-11
2010	MUL	A	NE MULTISPECIES - INDIVIDUAL DAS - 2010	01-MAY-10	30-MAR-11
2010	RCB	A	RED CRAB - OPEN ACCESS - INCIDENTAL BYCATCH - 2010	31-MAR-10	28-FEB-11
2010	SCP	1	SCUP - COMMERCIAL MORATORIUM - 2010	01-MAY-10	30-MAR-11
2010	SMB	1	LOLIGO/BUTTERFISH - COMMERCIAL MORATORIUM - 2010	01-MAY-10	30-MAR-11
2010	TLF	1	TILEFISH - COMMERCIAL/INCIDENTAL - 2010	01-MAY-10	30-MAR-11

National Marine Fisheries Service

NMFS vessel/fishery data as of April 6, 2011, 10:12 am

Disclaimer: The information contained on this site does not guarantee that these permits can be renewed or applied for in the future. This information is advisory only and does not represent the baseline information for any vessel, which includes limited access scallop or Northeast multispecies vessel baseline information, used to determine vessel upgrade or replacement eligibility. The National Marine Fisheries Service shall not be held liable for losses caused by use of this information. The National Marine Fisheries Service reserves the right to make a final determination regarding vessel eligibility for any permit.

Most Recent Vessel Data

Vessel: HAVEN LYN
Northeast Federal Fishery Permit: 150323
US Coast Guard Doc #/State Registration # : ME003RR
Primary Owner|Corporation Name: BRYAN BICHREST
Address:
3 WINTHROP FARM ROAD
HARPSWELL, ME 04079
Phone: (207) 725-5655

Hailing Port: HARPSWELL, ME.
Principal Port: HARPSWELL, ME.

Sector: Port Clyde Community Groundfish Sector

Valid Sector LOA? Yes

Most Recent Northeast Federal Fishery Permit Data

Permit Year	Plan	Category	Description	Start Date	End Date
2011	BLU	1	BLUEFISH - COMMERCIAL - 2011	01-MAY-11	30-APR-12
2011	DOG	1	SPINY DOGFISH - COMMERCIAL - 2011	01-MAY-11	30-APR-12
2011	HRG	D	HERRING - OPEN ACCESS - POSSESSION LIMIT - 2011	01-MAY-11	30-APR-12

2011	MNK	E	MONKFISH - INCIDENTAL CATEGORY E - 2011	01-MAY-11	30-APR-12
2011	MUL	A	NE MULTISPECIES - INDIVIDUAL DAS - 2011	01-MAY-11	30-APR-12
2011	RCB	A	RED CRAB - OPEN ACCESS - INCIDENTAL BYCATCH - 2011	18-MAR-11	29-FEB-12
2011	SKT	1	SKATE - 2011	01-MAY-11	30-APR-12
2011	SMB	3	SQUID/BUTTERFISH - INCIDENTAL - 2011	01-MAY-11	30-APR-12
2011	SMB	4	ATLANTIC MACKEREL - 2011	01-MAY-11	30-APR-12
2011	TLF	1	TILEFISH - COMMERCIAL/INCIDENTAL - 2011	01-MAY-11	30-APR-12

National Marine Fisheries Service

NMFS vessel/fishery data as of April 6, 2011, 2:15 pm

Disclaimer: The information contained on this site does not guarantee that these permits can be renewed or applied for in the future. This information is advisory only and does not represent the baseline information for any vessel, which includes limited access scallop or Northeast multispecies vessel baseline information, used to determine vessel upgrade or replacement eligibility. The National Marine Fisheries Service shall not be held liable for losses caused by use of this information. The National Marine Fisheries Service reserves the right to make a final determination regarding vessel eligibility for any permit.

Most Recent Vessel Data

Vessel: J-SIX
Northeast Federal Fishery Permit: 148879
US Coast Guard Doc #/State Registration # : ME171ZK
Primary Owner|Corporation Name: STATE OF MAINE
Address:
21 STATE HOUSE STATION
AUGUSTA, ME 04333-0021
Phone: (207) 624-6554

Hailing Port: AUGUSTA, ME.
Principal Port: AUGUSTA, ME.

Sector: Not in a Sector

Valid Sector LOA? N/A

Most Recent Northeast Federal Fishery Permit Data

Permit Year	Plan	Category	Description	Start Date	End Date
2010	BLU	1	BLUEFISH - COMMERCIAL - 2010	09-MAR-11	30-MAR-11
2010	DOG	1	SPINY DOGFISH - COMMERCIAL - 2010	09-MAR-11	30-MAR-11
2010	HRG	D	HERRING - OPEN ACCESS - POSSESSION LIMIT - 2010	09-MAR-11	30-MAR-11

2010	MNK	E	MONKFISH - INCIDENTAL CATEGORY E - 2010	09-MAR-11	30-MAR-11
2010	MUL	C	NE MULTISPECIES - SMALL VESSEL EXEMPTION - 2010	09-MAR-11	30-MAR-11
2010	SKT	1	SKATE - 2010	09-MAR-11	30-MAR-11
2010	SMB	3	SQUID/BUTTERFISH - INCIDENTAL - 2010	09-MAR-11	30-MAR-11
2010	SMB	4	ATLANTIC MACKEREL - 2010	09-MAR-11	30-MAR-11
2010	TLF	1	TILEFISH - COMMERCIAL/INCIDENTAL - 2010	09-MAR-11	30-MAR-11

AMENDMENT 1 TO THE MAINE PERMIT BANK SECTOR OPERATIONS PLAN

APPROVED BY THE NATIONAL MARINE FISHERIES SERVICE APRIL 26, 2011

EFFECTIVE MAY 1, 2011, THROUGH APRIL 30, 2012 - THE 2011 FISHING YEAR

This amendment officially recognizes the FY 2011 exemptions approved for the Maine Permit Bank Sector:

1. Length and Horsepower Restrictions of the Days-at-Sea Leasing Program

AMENDMENT 3 TO THE MAINE PERMIT BANK SECTOR
2011 SECTOR OPERATIONS PLAN

APPROVED BY THE NATIONAL MARINE FISEHRIES SERVICE JUNE 9, 2011

EFFECTIVE MAY 1, 2011, THROUGH APRIL 30, 2012 - THE 2011 FISHING YEAR

This amendment officially recognizes the final fishing year (FY) 2011 Maine State Permit Bank Sector membership based on the final sector roster, submitted on May 1, 2011. The final roster is summarized below:

MRI	Permit	Vessel Name
90	151206	STAR DUST II
132	150689	WYATT
156	151202	
268	149638	GENERATION
351	151209	RED HERRING
377	151212	NICOLE LEIGH II
1432	148879	J-SIX
2204	150323	HAVEN LYN