

NEW JERSEY MARINE FISHERIES COUNCIL
Galloway Township Library
Galloway, New Jersey
July 11, 2013

In Attendance were: Acting Chairman Richard Herb
Councilman Erling Berg
Councilwoman Eleanor Bochenek
Councilman Barney Hollinger
Councilman Walter L. Johnson III
Councilman Sergio Radossi
Councilman Joseph Rizzo
Councilman Robert Rush
Councilman Joseph Zaborowski

Absent: Councilwoman Frances Puskas

Also in attendance representing the Division of Fish and Wildlife:

Brandon Muffley, Chief, Bureau of Marine Fisheries (BMF)
Russ Babb, Acting Chief, Bureau of Shellfisheries
Jeffrey Brust, Research Scientist, Marine Fisheries Administration (MFA)
Peter Himchak, Supervising Biologist, MFA
Captain Dominick Fresco, Bureau of Law Enforcement
Russ Allen, Supervising Biologist, BMF
Mike Celestino, Research Scientist, MFA
Sherry Bennett, Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of the meeting was filed with the Secretary of State on June 12, 2013. Meeting Minutes from the May 2, 2013 Council Meeting were approved.

Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Audience Conduct

Acting Chairman Herb reminded the audience to take conversations outside or wait until the end of the meeting and to turn off all cell phones. Individuals wishing to make a public comment will need to sign up.

Law Enforcement Report

Captain Fresco presented Council with the Law Enforcement Report for April to June 2013. A detailed report was provided in Handout #1.

On May 12th, CO's received an anonymous Operation Game Thief complaint about three individuals out on the Navesink River, Monmouth County, keeping out of season summer

flounder. The inspection resulted in five summonses being issued, four for possession of summer flounder during the closed season and one for possession of parts of one mutilated fish.

On May 18th - opening day of the summer flounder season, CO's were inspecting fishing vessels at the Leonardo State Marina boat ramp. During routine inspections, the CO's issued a few individuals summonses for undersized summer flounder, out of season black sea bass, possession of undersized striped bass and possession of mutilated parts of a marine fish.

Over the course of two weekends in late April and early May, CO's conducted a couple of low profile boat patrols in effort to monitor any pre-season recreational fluke fishing activity. This year's recreational summer flounder season opens on May 18. The patrol effort resulted in a total of 6 fishermen in violation and the issuance of 13 summonses for possession of summer flounder during the closed season, wanton waste, possession of flounder parts without a carcass, and interference.

While conducting a vessel patrol in the Great Egg Harbor Bay, CO's inspected a commercial fisherman tending conch pots. A summons was issued for possessing horseshoe crabs without a valid fish pot license.

On 5-31-13, a CO responded to a complaint received regarding a commercial menhaden fishing vessel harvesting menhaden within 0.6 miles off of Island Beach State Park in Ocean County. It was later determined that this was not a commercial menhaden vessel but a commercial gill net vessel. Gill net vessels have no shoreline distance restrictions. A summons was issued for setting a net within 300 feet of individuals currently angling. Court mandatory appearance is required with a penalty range of \$300.00 to \$3,000.00.

CO's received information and observed these individuals harvesting horseshoe crabs during evening hours along the bay shore of Raritan Bay in Sayreville, Middlesex County. In New Jersey the collection of horseshoe crabs is illegal and carries penalties as high as \$10,000. Once the violators observed the CO's they immediately leaped into their vessel. The subjects then took off at full speed heading in the direction of the middle of the Raritan Bay. The investigation is ongoing.

On 4/8/13 a CO conducted an inspection of an individual in Barnegat Light in possession of approximately 100 pounds of mussels and oysters. Summonses were issued for failing to possess a shellfish license and possession of over the daily recreational limit of shellfish. On 6/10/13 the individual plead guilty in court and paid \$533.00 in penalties, and received a 3 year revocation of his shellfish license.

In the early evening hours of June 3rd, CO's observed two fishermen paddle a small plastic boat out to an icebreaker underneath the Ocean City Causeway. Upon inspection the two fishermen possessed six undersize striped bass. Each fisherman was issued summonses for the undersize and over the limit striped bass.

On June 19th, a CO observed a vehicle launching a vessel containing numerous miniature fykes at Amasas Landing in New Gretna. The CO determined that the individuals were a father-son team that had commercially harvested minnows and sold to bait shops for the last few years. When the father was confronted with all the CO's observations, the individual admitted to not purchasing a miniature fyke license the last few years, failing to send in reports to the Division, and failing to keep accurate records. A summons was issued for not possessing a 2013 miniature fyke license.

Legislative Report

Mr. Muffley presented Council with the legislative report, bringing Council's attention to Handouts #2, #3a and #3b.

Handout #3a and #3b are the current adoptions found in the New Jersey Register for the recreational summer flounder and commercial black sea bass trip limits as well as modification of recreational black sea bass season and possession limit and commercial winter flounder harvest.

Handout #2 is S2726 establishes directed bait and human food fishery for menhaden, and clarifies existing law regarding taking of menhaden. Since this bill was recently signed into law, effective June 27, and will have various impacts and effects for many license holders, Mr. Muffley recommended to Council to hold a Menhaden Committee Meeting. At the meeting, the committee and advisors, which should include the Gill Net Committee advisors, can discuss some of their issues and determine if any suggested modifications need to be made. Acting Chairman Herb agreed to hold a menhaden committee meeting sometime in mid-August.

Mr. Zaborowski made a comment to use latitude and longitude over Loran C since Loran C is no longer in use.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. Himchak presented Council with an update on the spring ASMFC Board meeting week, Handout #4a and #4b.

Tautog Management Board

The Tautog Management Board met to discuss progress being made on the benchmark stock assessment which will assess the tautog response more on a state by state basis and not a coastwise basis. Moving in this direction may provide for increased management flexibility and the potential to evaluate the tautog resource on a state-by-state or regional basis.

Horseshoe Crab Management Board

The Horseshoe Crab Management Board reviewed the 2012 Fishery Management Plan (FMP) review document and all states were found to be in compliance. Also, there is a lack of funding available which jeopardizes the Virginia Tech Trawl Survey this fall.

Atlantic Menhaden Management Board

The Atlantic Menhaden Management Board approved an episodic event pilot program for 2013 for use of the 1% total allowable catch set aside for the New England states (ME, NH, MA, RI, CT). If the episodic event does not occur by September, the 1% will be redistributed back to all states for use. The Atlantic Menhaden Board also approved state implementation plans for Amendment 2.

Spiny Dogfish and Coastal Sharks Management Board

The ASMFC Spiny Dogfish and Coastal Sharks Management Board approved Addendum II to the Atlantic Coastal Shark Fishery Management Plan. The Addendum allocates states shares of smoothhound sharks and changes the maximum fin-to-carcass ratio for smoothhound shark processing-at-sea to 12%. Also, Draft Addendum III was initiated to ensure consistency between the state and federal plans. NOAA Fisheries' Amendment 5a to the Highly Migratory Species Fishery Management Plan changes coastal shark species groupings and the recreational size limit for hammerhead sharks.

Mr. Himchak brought to the council's attention that MD and NY have passed laws stating that one cannot sell shark fins within their states even if caught legally and removed dock side. However, NMFS interpretation of these state laws prohibiting the sale of shark fins caught in federal waters is pre-empting the federal Magnuson-Stevens Act and would be illegal for the state to prohibit the sale of fins, unless the law applies to shark caught in state waters. Mr. Himchak will keep Council informed as to the language of the law in these two states on shark fining.

Mr. Allen concluded the rest of the ASMFC report.

Striped Bass Management Board

In next couple of weeks the striped bass stock assessment will be peer reviewed. At the October board meeting, an Addendum or an Amendment will likely be proposed to decrease harvest coast wide. Mr. Allen will keep Council informed as to exactly what the proposed changes may be and if there are any scheduled public hearings on the issue.

Black Drum Management Board

The Black Drum Fishery Management Plan was approved. The plan now requires states to implement maximum possession and minimum size limits. NJ regulations on black drum are already in compliance with the FMP and therefore no black drum regulatory changes are needed at this time.

Winter Flounder Management Board

ASMFC approved Addendum III to Amendment 1 to the Interstate Fishery Management Plan for the Inshore Stocks of Winter Flounder. The Addendum establishes an annual specification process to set commercial and recreational fisheries allowing for adjustments such as trip limits and size limits. At this time the ASMFC is maintaining existing management measures for the 2013 fishing season.

Atlantic Sturgeon Management Board

The Northeast Fisheries Science Center (NEFSC) has released a draft Biological Opinion (BiOp) for the seven major Northeast federal fisheries that encounter Atlantic sturgeon as required through the Section 7 of Endangered Species Act (ESA). The draft BiOp concludes that while the proposed action, i.e. fishing, may adversely affect Atlantic sturgeon, it is not likely to jeopardize the continued existence of any Atlantic sturgeon Distinct Population Segment. Public comment on the draft BiOp is being accepted through July 19, 2013.

American Eel Management Board

ASMFC considered Draft Addendum III for final approval. However, after lengthy deliberations, the Board decided to postpone any management action. In an effort to advance management action at the next meeting, the Board established a sub-committee of the Board including the Technical Committee (TC) and Advisory Panel (AP) chairs. This sub-committee will further review the management options in the draft addendum and develop recommendations for the next meeting in August. Mr. Allen will keep Council informed as these issues are worked out.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Berg presented Council with the MAFMC report; Handouts #5.

A more detailed summary of the meeting can be found by visiting the website at <http://www.mafmc.org>.

Omnibus Recreational Amendment

The MAFMC voted on final measures to include in the Omnibus Recreational Accountability Measure Amendment and approved the amendment for submission to the Secretary of Commerce. The Council's recommendations would result in several major changes to the way the Council identifies and responds to estimated recreation overages.

Atlantic Surfclams and Ocean Quahogs

The MAFMC recommended specifications for Atlantic surfclams and Ocean quahogs for 2014 to 2016 are status quo.

Strategic Plan

The MAFMC reviewed the draft 5-year strategic plan developed by a working group of MAFMC members and stakeholders and approved the plan for public comment. Comments from the public will be accepted through July 19, 2013.

Atlantic Mackerel, Squid and Butterfish

For 2014, mackerel, longfin squid, and *Illex* squid will continue to operate under status-quo, multi-year specifications. The MAFMC approved a new incidental catch of river herring and shad in the Atlantic mackerel fishery – the cap is set at 236 metric tons for 2014. The MAFMC also asked NMFS to establish a new control date for *Illex* squid. The new date is likely to be published in July 2013 and could be used to determine current and historical participation if consideration of additional access controls, such as

a permit re-qualification, becomes warranted in the future. The MAFMC also recommended allowing vessels fishing for *Illex* to retain up to 15,000 pounds of longfin squid during longfin squid closures in Trimester 2.

Mr. Berg commented that this will be his last report as he was not reappointed to the MAFMC. Mr. Jeffrey Kaelin will be his replacement beginning at the August 2013 meeting.

Mr. Rush asked if the Regional Administrator (R.A.) has the authority implement in season closures. Mr. Himchak responded that the R.A. no longer as the authority for in season closures.

Shellfish Council Reports

Delaware Bay

Mr. Hollinger presented Council with the Shellfish Council Report for Delaware Bay.

2013 Direct Market Program

The direct market oyster fishery opened on April 8, 2013. Eighty-four vessels are participating in the 2013 season, which will run through mid-November. To date, the Shellrock and Ship John seed beds have provided approximately 80% of the total harvest thus far (with a total of just over 34,000 bushels). Through Wednesday, July 10th, the industry has fished a total of 613 vessel days harvesting a nearly 43,000 bushels. The large and small boats are catching an average of 70 bushels per trip.

The Council's license consolidation committee held two meetings to discuss the option of increasing the total number of license and quota that can be fished on a single vessel. It is currently up to three quotas to a single harvest vessel. After much deliberation, the committee recommended an increase from three to six licenses per harvest vessel and to remove the minimum catch level requirements for new vessels as written in the existing rule proposal. The Council voted to support this recommendation and will await the Department's review. Ideally, the Department can come up with some short-term solutions as well as getting the ball rolling on rule amendments, which can take quite a bit of time.

Atlantic Coast

Mr. Johnson presented Council with Shellfish Council Report of Atlantic Coast.

New Aquaculture Rules

Mr. Johnson thanked the Department and the Division for all the effort they put in to streamlining the aquaculture permitting rules. New Jersey has been lagging behind neighboring states for 20 years with a really stagnant view of aquaculture and how to deal with it rather than how to grow the industry. The new rules are real positive step in the right direction and we know firsthand how heavy a lift this was since we initiated the process 15 years ago. Industry believes could really open up some opportunities for

growers to experiment with new grow out methods and could really be a boost to the industry financially.

Mr. Babb presented Council with an update on Bureau of Shellfisheries activities.

Barnegat Bay Shellfish Restoration

Bureau staff completed a hard clam enhancement effort at a large site in Barnegat Bay (Northwest of Clam Island).

Surf Clam Inventory

Bureau staff had met with the Surf Clam Advisory Committee, which is a subcommittee of the Atlantic Coast Section of the Shellfisheries Council. The meeting was held to discuss future surf clam surveys. Federal funding through the Inter-jurisdictional Fisheries Act (IJ) was cut for Fiscal Year '13, so essentially the survey was in jeopardy. This survey allows the Bureau to calculate the surf clam standing stock and to set the industry quota. Ironically, later that same exact day, the Bureau was informed that partial IJ federal funding was being restored for FY-14. Due to funding issues and a detailed survey design analysis conducted by staff, the Bureau will be starting a smaller scale survey within the next few weeks.

Estuarine Inventory - Barnegat Bay

Staff continues working on the inventory report for hard clam and SAV data collected in 2012 Barnegat Bay survey. Staff will also be starting a re-survey of Barnegat and Little Egg Harbor bays in August.

Delaware Bay Shell Planting

Staff out of the Delaware Bay office are out in the Bay coordinating the large scale shell planting program. Approximately 125-150,000 bushels of shell will be loaded onto barges and water cannons are used to place the shell onto specific beds that are surveyed in the hopes of increasing recruitment on the State's natural seed beds, which is used by the oyster fishery. With proper funding this program has a good track record of success with this program.

Committee Reports

Mr. Radossi presented Council with the **Summer Flounder Committee Report**, Handout #6.

A meeting of the NJ Marine Fisheries Council's Summer Flounder Committee was held at the Nacote Creek Enforcement Office. In attendance were Division of Fish & Wildlife staff, Summer Flounder Committee Council members as well as advisors representing several recreational fishing organizations. The purpose of the meeting was to discuss an available 11 day increase to the 2013 summer flounder season.

In February 2013, the ASMFC's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) met to discuss recreational summer flounder measures for the 2013 season. The Board approved Addendum XXIII and initiated Addendum XXIV to the Fishery Management Plan. Addendum XXIII established the 2013 coastwide Recreational Harvest Limits (RHL) for 2013 and the subsequent State specific fishery management strategy. The New Jersey options for summer flounder were approved and ultimately the New Jersey Marine Fishery Council approved a 2013 recreational summer flounder season from May 18 – September 16.

In April 2013, the Board approved Addendum XXIV establishing a mechanism to allow States access to the 2013 summer flounder RHL that is projected not to be harvested. The Board approved proposals from two States, New York and New Jersey, allowing New York to decrease its size limit from 20 inches to 19.5 inches and allowing New Jersey to expand its current season from May 18 to September 16 by up to 11 days. This addendum only applies to the 2013 fishery.

Discussion from the Committee and Advisors focused on over harvesting NJ's RHL target for the 2014 projection if the full 11 days were used and the practicality of using the fish that would be harvested during the 11 day period as a buffer to the 2013 target if the season was not extended at all. Ultimately the Summer Flounder Committee decided to move forward with three options with the preferred option (**in bold #2.**) and Committee motion of increasing the current 2013 season by an additional 6 days, with a season from May 18 to September 22.

New Jersey Options for 2013 Summer Flounder Season Liberalization

- 1.) No liberalization to the 2013 season
- 2.) A 6 day liberalization to the 2013 season
- 3.) An 11 day liberalization to the 2013 season.

Acting Chairman Herb commented the committee reports stands as a motion and asks for questions from the Council.

After some Council discussion Mr. Muffley explained to the Council that ASMFC Board gave NJ approximately an additional 88,000 fish, to be utilized for the 2013 season only. These additional fish equate to an additional 11 days of harvest Council has the option to use no extra days leaving room if the originally allocated quota is overharvested, use some of the days or all of the extra days. Mr. Muffley reminded council that the 2014 summer flounder quota is going down so even if NJ harvests the exact 2013 quota (i.e. NJ does not go over), NJ will face a reduction in 2014. So if there are overages in 2013 there will be additional reductions in 2014. The Council has historically taken a conservative approach and never liberalized to the full potential which has led to fairly consistent regulations to the benefit of New Jersey's fishermen; hence, the Committee has proposed six day liberalization to the 2013 summer flounder season.

Acting Chairman Herb asked for any questions from the Public.

Out of the 14 people who gave public comment, seven gave heartfelt support for option #3, which was to use the entire 11 day liberalization for the 2013 season. The main reasons are due to lack of boats in water, cold water and rain, the slow economy, and most of all to help those businesses still recouping from the damage done by Hurricane Sandy. Although the southern part of NJ is faring better, the northern part of NJ is struggling to rebuild. Three people from the public were in support of the proposed option of a 6-day liberalization, due to the uncertainty of the future. The rest made comments on waiting to see until next meeting(September), splitting the state in half, suggestions of 8 or 9 day liberalization, and most importantly the need to develop a better recreational reporting system to benefit all.

Acting Chairman Herb commented that it is too bad that some advisors of the Committee are not here to share their side as to why they chose the 6-day liberalization.

Mr. Radossi commented that even though he would love to amend the motion to allow for 11 day liberalization, his duty is to support the whole state and the long term ramifications if the quota is overharvested by using all 11 days. Mr. Rush commented that he agreed with Mr. Radossi. Both men were torn because of the unfortunate impact Hurricane Sandy has left on this state.

Dr. Bochenek commented that she understands the science part of staying liberal due to the uncertainty of the future. However, so many could benefit from 11-days now, as the fisherman may not even be here next year.

Dr. Bochenek made a motion to amend the motion of 6-days to 8-day liberalization to the 2013 season. Mr. Johnson seconded.

Acting Chairman Herb asked for comments on the amended motion, seeing none. The amended motion carries (5 in favor, 4 opposed).

Acting Chairman Herb commented the main motion is now to allow for 8 day liberalization to the 2013 summer flounder season with the season now ending on Tuesday, September 24, 2013. Motion carries (5 in favor, 4 opposed).

Regulatory Actions

Groundfish

Mr. Allen presented Council with a review of federal action for the commercial minimum size limit changes for ground fish species. The primary reason for this change is to make it economical for New England ground fish fisherman by eliminating dead discards and therefore allowing fishermen to land them instead. The proposed changes enable NJ to be consistent with the federal changes within State waters.

Mr. Berg made motion to change the commercial minimum size limits for haddock (21 inches to 16 inches) and Atlantic cod (21 inches to 19 inches). Dr. Bochenek seconded. All public comment (one commenter) was in support of the motion. Motion carries (1 abstained).

Tautog

Mr. Muffley presented Council with a review of the commercial tautog season issue. In 2012, due to a delay in season opening in June, the lost of days were added onto November 2012 season. However, these additional days in November were to be in place for the 2012 season only. To remain in compliance for 2013 the November season has to be changed back with the season opening on November 9th instead of November 1st.

Dr. Bochenek made a motion to reset the tautog November season from November 1 to 9th, 2013. Mr. Johnson seconded. No public comment. Motion passes.

Draft Notice of Administrative Change

Mr. Allen presented Council with a Draft Notice of Administrative Change (NOAC), Handout #7. The draft NOAC modifies the recreational season for summer flounder, the commercial minimum size limits for Atlantic cod and haddock and the commercial season for tautog. Mr. Allen did note that the recreational season for summer flounder will reflect the new change made by Council tonight to allow for 8 additional days onto the season.

Mr. Hollinger made a motion to approve the Draft NOAC as presented by Mr. Allen. Mr. Johnson seconded. Motion passes.

Old Business

No old business at this time.

New Business

NMFS Port Meeting

Mr. Allen presented Council with Handout #8 in regards to a NMFS Port Meeting to be held July 23, 6:00pm to 8:30pm at the Jersey Coast Shark Anglers Club in Brick. The Port Meeting will help anglers improve our marine fisheries, by discussing best handling practices when releasing fish, and learning about how anglers on the other coasts are improving survival of angler released fish.

Marine Fisheries Update

Mr. Allen presented Council with Marine Fisheries Update:

On April 9, 2013, 18 acoustic receivers were set in the Delaware Bay from Egg Island Point to Cape May for the DE Bay Atlantic Sturgeon Acoustics Survey. The survey, thus far, has lost 3 of the 18 receivers for unknown reasons. Information includes nearly 9,000 hits from 182 individual contacts (i.e. tagged animals) including 145 Atlantic sturgeon. Other species include sandtiger sharks, a spiny dogfish tagged off Cape Cod in 2011, an

American shad that was tagged in the Hudson River in 2012, a black drum that was tagged in FL in 2011 and a green turtle tagged in FL in 2012.

The Ocean Trawl Survey finished its June survey with major catches of sea robins and sting rays, as well as 5 Atlantic sturgeon.

The Bureau initiated the Delaware River Young of Year Survey for striped bass in mid-June. So far the striped bass index is slightly above average but the American shad index is the 2nd highest for time series. River herring numbers were low but this may be due to a late spawn. Menhaden numbers were above average with over 30,000 caught in one haul.

Committee Meetings

The Council then discussed and prioritized upcoming committee meetings Blue Crab and Menhaden should meet sometime in August.

A Reef Committee meeting is already scheduled for August 19 with the Commissioner's office.

The Eel Committee will likely meet in the fall pending the results of the ASMFC meeting.

Public Comment

Mr. Kaelin and Mr. Nowalsky thanked Mr. Berg for all his effort while sitting on the MAMFC.

Mr. and Mrs. Wagner requested to increase the trip limits for the 2013 commercial sea bass so as to not allow any unused quota left on the table. The Council should consider revising the daily trip limits to weekly trip limits and the need for better quota monitoring.

Mr. Wagner and Mr. Conti and a few others brought up the menhaden issue and how the gill netters were overlooked in the new law. Reporting requirements have to be better and easier.

Mr. Keilmeyer requested an update on the landing permit for Mr. Carmen Conti Sr. that was addressed at November 2012 meeting.

Mr. Blaine supports needing to change the menhaden issue, but also reminded public that the gill netters need to represent themselves at the meetings.

Mr. Rush asked what Council's power is to see changes are made for menhaden. Mr. Muffley commented to change the current law would need additional legislation which would take time. In the meantime, the intention is to follow up with some policy

guidance development to address some issues and then implement with regulations at a later date. Mr. Muffley recommends, and Council agreed, to hold a Menhaden Committee meeting and include Gill Net Committee advisors to work through language of the bill.

Meeting adjourned.

Next Meeting September 5, 2013, Galloway Township Library.