

## NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Township Public Library  
Jimmies Leeds Road  
Galloway, New Jersey  
March 6, 2008

In Attendance were: Acting Chairman Patrick Donnelly  
Councilman Erling Berg  
Councilman Edward Goldman  
Councilman Richard Herb  
Councilman Barney Hollinger  
Councilman John Maxwell  
Councilwoman Frances Puskas  
Councilman Joseph Rizzo

Absent: Chairman Gilbert Ewing

Also in attendance representing the Division of Fish and Wildlife:

Thomas W. McCloy, Administrator, Marine Fisheries  
James W. Joseph, Chief, Bureau of Shellfisheries  
Peter Himchak, Acting Chief, Bureau of Marine Fisheries  
Paulette Nelson, Legislative Liaison  
Mark Chicketano, Captain, Law Enforcement  
Kathy Smallwood, Council Secretary  
Brandon Muffley, Research Scientist  
Jeffrey Brust, Research Scientist  
Mike Celestino, Senior Biologist  
Linda Barry, Technician I  
Sherry Bennett, Hourly Biologist

Ms. Smallwood read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on February 14, 2008. Chairman Donnelly reminded everyone of proper conduct to the meeting.

Minutes for the November 2007 meeting were approved.

### **Law Enforcement Report**

Captain Chicketano presented the Law Enforcement Report.

A case was settled against a fisherman charged with the sale of 93 striped bass fillets (47 whole fish) to the Seville Diner in East Brunswick. In addition to the sale of striped bass, this individual was also charged with filleting prior to preparation, possession of 45 striped bass over legal limit, and possession of 47 striped bass measuring less than 28

inches. On 1/8/08 the defendant appeared in East Brunswick Municipal Court, entered into a plea agreement and paid \$6,000.00 in penalties plus court costs. The Seville Diner separately paid a penalty of \$800.00 plus costs.

On 1/13/08 Conservation Officers inspected the scallop dredge vessel F/V Nautilus, in Point Pleasant. Under a Federal General Category Scallop Permit, this vessel was allowed to land a maximum of 400 pounds of shucked scallops per trip. The inspection uncovered a total of 484 pounds of scallops. The vessel also possessed 111 pounds of monkfish tails, in violation of allowable maximum by-catch for that species (100 pounds). The captain failed to complete a fishing vessel trip report, also a violation of the federal permit. The entire catch valued at \$3404.00, was seized by the officers and sold to a seafood dealer. The maximum fine for these violations is \$180,000.00. The case file will be turned over to the general counsel of NMFS for prosecution.

A Conservation Officer has completed an investigation of the F/V Skimmer, a state licensed bait clam vessel. The owner of the vessel was contacted many weeks ago by Shellfisheries for failing to submit the weekly bait clam harvest report and landing fee, as required by regulations. The owner continued to neglect the warning and 26 summonses were issued for failing to file reports for 26 weeks. Penalty is \$300 - \$3,000 for each summons.

On 1/5/08 a Conservation Officer (CO) received a call from the captain of a Cape May Charter Boat, Adam Bomb. The captain told the CO that he was landing a tautog which was close to world record size. The CO met the vessel at the dock and inspected the 33 inch tautog. The fish was initially weighed at 23.3 lbs., 1.5 lbs. shy of the world record. The CO facilitated the transfer of the fish to Division biologist Peter Himchak for aging and other data collection.

On 1/6/08 New Jersey's commercial summer flounder season opened with a daily trip limit of 7500 lbs. A Conservation Officer boarded the F/V Little Sammie as it offloaded its catch at Cold Spring dock in Cape May. The CO observed the vessel offload 8200 lbs. of summer flounder, 700 lbs. over their landing limit. The CO issued one summons each to the Captain of the vessel and the owner of the vessel for violations of New Jersey's commercial summer flounder regulations.

A Conservation Officer prosecuted the F/V Jessica J I for its violation of New Jersey's commercial summer flounder regulations. The vessel's owner plead guilty in Lower Twp. Municipal Court to landing 100 lbs. of summer flounder during New Jersey's closed season. To settle the state violations, the owner accepted a penalty of \$1000.00 and 60 day suspension of the vessel's privilege for a NJ Landing Permit. Federal violations issued by the CO for violation of the sea scallop regulations and for failing to accurately complete a vessel trip report encountered during the boarding of this vessel are still pending.

On 1/12/08 a Conservation Officer conducted an inspection of 10 patrons of the party boat Capt. Robbins as they left the vessel. The CO apprehended two individuals who

were in violation of New Jersey's recreational tautog regulations. The CO issued two summonses and a warning.

CO's continued their inspections of seafood retailers in Essex, Somerset, Middlesex, Monmouth and Ocean counties. To date, 30 businesses have been inspected. While most of these businesses were in compliance, 4 written warnings were given and two seafood markets were in violation. CO's inspected Woolley's Seafood Market in Howell Township and discovered hard clams that were purchased directly from a clammer. Neither the clammer nor the market possessed a Shellfish Dealers' Certificate, which is a violation of New Jersey State health regulations. The State Health Department was contacted and five bags of hard clams were embargoed and eventually destroyed. Three summonses each were written to the clammer and seafood market. On another inspection of the Great Wall Supermarket in Franklin Township, Somerset County, CO's encountered striped bass offered for sale. The striped bass had jaw tags showing they were legally caught in Virginia and sold to this supermarket's seafood buyers in New York. The store did not have any written documentation on the premises. There were also hard clams in a display case and no shellfish tags for these clams or written documentation of their origin. The store was ordered not to sell the striped bass and a summons was issued for failing to keep accurate records for the shellfish and striped bass. Another summons was issued for failing to have shellfish tags in possession. This same supermarket was cited for similar violations in the summer of 2007.

Two CO's conducted inspections of LaMonica's Fine foods located in Millville, NJ and Surfside Packing located in Bivalve, NJ. The purpose of these inspections was to track Surf Clams which had been shipped from New York. The records relating to a Long Island interstate shellfish shipper, who in addition owns and operates the two suspect Commercial Surf Clam vessels, were seized and transferred to Federal Agents from The National Marine Fisheries Service. NMFS is assisting New York DEC Officers with a Lacy Act investigation and violations stemming from the shipment of food clams commingled with bait clams. These clams taken from condemned waters off of Long Island, NY were suspected to have been shipped to various out of state processors. NMFS requested assistance from New Jersey CO's to secure the records involving the two vessels apprehended by NY Conservation Officers. The investigation of the records is an important safeguard in the protection of New Jersey's shellfish industry as well as a protection of the food supply. All of the shellfish records obtained are required to be kept as part of FDA regulations.

On 2/4/08 a CO observed two vessels engaged in the harvest of oysters inside of a condemned area within the Maurice River Cove in the Delaware Bay. From his surveillance position, the CO observed three individuals in the two vessels actively tonging for oysters at a location which he plotted the previous day using a GPS unit. While maintaining his observations, the CO contacted Bivalve State Police Station and requested their assistance. While personnel for NJSP marine unit responded in their patrol vessel, the CO observed individuals, who were on the vessels but not engaged in harvesting oysters, use binoculars to scan horizon in an attempt to detect law enforcement patrols. As personnel from the State Police Marine unit attempted to make contact with

the suspect vessels, the CO observed the two vessels flee into approved areas of the cove. State Police personnel made contact with the violators outside of the condemned area and escorted them back to the docks in Maurice River. The two CO's interviewed the three individuals and obtained statements from them regarding their violations. In addition CO's seized all of the oysters which the suspects possessed since they were taken from condemned areas. Appropriate summons to the three harvesters will be issued for taking shellfish from condemned waters and for forfeiture of the violators' equipment: boat, motor and tongs.

On 2/8/08 two CO's with assistance from a Lt. apprehended an individual harvesting oysters from condemned waters of the Maurice River Cove in the Delaware Bay. The CO conducted surveillance of the cove area from the shore and observed vessel with one harvester tong oysters for 30mins within condemned waters; approximately the same location individuals were observed on 2/4/08. A CO contacted another CO who was waiting along with NJSP marine unit personnel to respond by boat. The CO with assistance of NJSP marine personnel boarded and apprehended the individual who was already in possession of 3 bushels of oysters harvested in 30 min. from the condemned area. Appropriate summons will be issued for taking shellfish from condemned waters and for forfeiture of the violators' equipment: boat, motor and tongs.

On 2/15/08 a CO observed another individual who was harvesting oysters in the condemned area of Maurice River Cove. On this occasion, the CO only observed the individual for a short time and was unable to mobilize assistance. The CO attempted to contact the individual at the dock but due to the distance between his observation point and the dock, he was too late. The CO was able to locate and track the oysters and the harvester to a local dealer. The CO located the oysters at the dealer and discovered that the illegal oysters had been commingled with oysters taken from approved waters. Based on his knowledge that the load of 12 bushels of oysters had been mixed with oysters taken from condemned waters the CO seized the entire load in the interest of protection of the public food supply. An interview of the suspect by the CO yielded a confession. Appropriate summons will be issued for taking shellfish from condemned waters and for forfeiture of the violators' equipment: boat, motor and tongs.

On 2/4/08 a CO located recently dumped trash in South River WMA. After some digging he located a bank statement in the pile belonging to a local resident. The CO forwarded the information to another CO who found a recent address for the individual. The CO with assistance from another CO apprehend the responsible person on 2/10/08.

### **Legislative Report**

Ms. Nelson presented the Legislative Report.

The new Legislative session has begun. Bills introduced so far include:

A 1699: Requires assessment of bay scallop resource, and authorizes DEP to establish a bay scallop fishery.

A 1808: Authorizes DEP and NJ Marine Fisheries Council to regulate taking and management of striped bass.

A 1851: Authorizes special Recreational Fishing Alliance license plate.

A 2260 and S1331: Imposes moratorium on harvest and possession of horseshoe crabs.

Assembly and Senate Joint Resolution (AJR-77): Establishes the Saltwater Fisheries and Aquaculture Task Force.

Senate Resolution (SR-41): Urges Congress to approve and President to sign into law “Flexibility in Rebuilding American Fisheries Act of 2008.”

S-336: Prohibits the use of certain fishing gear on artificial reefs.

Most notable is the Horseshoe Crab Bill that was heard on February 28, 2008 by the Assembly Aquaculture and Natural Resource Committee. The Senate Environmental Committee will meet on Monday, March 10, 2008. This bill along with Resolution (SR41) which urges congress to approve and President to sign into law “Flexibility in Rebuilding American Fisheries Act of 2008” will be presented in the same committee. Division has not seen the federal version of this bill as of yet.

### **Atlantic States Marine Fisheries Commission Report (ASMFC)**

Mr. Berg presented the ASMFC Report.

### **Striped Bass Management Board**

Scientific advice presented to the Commission’s Atlantic Striped Bass Management Board indicates that striped bass management under Amendment 6 to the Interstate Plan continues to be a success. The benchmark stock assessment, recently endorsed by an independent panel of fishery scientists, concluded that striped bass are not overfished and overfishing is not occurring. Based on advice of the Technical Committee, the Board maintained the states’ management programs at status quo. Copies of the stock assessment will be available on the Commission website.

### **Lobster Management Board**

The Commission’s American Lobster Board approved the release of two draft addenda to Amendment 3 to the Interstate Fishery Management Plan for American Lobster for public comment. Draft Addendum XII proposed the establishment of protocols for the consistent application of trap transferability programs for the plan’s lobster conservation management areas (LCMAs), while Draft Addendum XIII proposes the formalization of the Outer Cape Cod’s effort control plan as adopted and implemented by the Commonwealth of Massachusetts.

### **Summer Flounder, Scup, and Black Sea Bass Board**

The Commission's Summer Flounder, Scup, and Black Sea Bass Management Board approved state management proposals for the 2008 recreational fishery for summer flounder. Once again Board members from NY and DE attempted to change the state-by-state management approach to a coast wide or regional approach. Mr. Berg expressed his concern that there is growing support for this and it may ultimately prevail. This would be detrimental to New Jersey's fishery and the State's past conservative management efforts.

### **Horseshoe Crab Management Board**

With management measures under Addendum IV to the Interstate Fishery Management Plan for Horseshoe Crabs due to expire on September 30, 2008, the Commission's Horseshoe Crab Management Board has approved the initiation of Draft Addendum V. The Draft Addendum will include all the current provisions of Addendum IV as well as an option for a harvest moratorium in New Jersey and Delaware.

### **Tautog Management Board**

The Tautog Management Board and the Atlantic States Marine Fisheries Commission has found the State of New Jersey out of compliance with the mandatory management measures contained in Addenda IV and V of the Interstate Fishery Management Plan for Tautog.

Mr. McCloy updated Council on activities related to the Tautog non-compliance determination. He referenced five letters in the Handouts. As of this time, the National Marine Fisheries Service is evaluating whether they will concur with the ASMFC finding of non-compliance.

Mr. Rizzo asked if there would be any decision before the Council's May meeting? Mr. McCloy responded that NMFS has to respond by March 11, 2008.

Ms. Puskas asked about opening a shad fishery, and how it could provide another means of lively hood for fisherman. Mr. McCloy responded that the ocean fishery for shad was closed by recent ASMFC addendum. There has been no discussion about reopening that fishery though the ASMFC. He reminded Council that NJ and VA were the only two states that did not support the position to close the fishery. Since the recent shad stock assessment is not very positive that ASMFC will probably not be able to entertain any kind of proposals to reverse that action.

## **Mid-Atlantic Fishery Management Council (MAFMC)**

Mr. Goldman presented the MAFMC Report.

The Council decided to increase the maximum number of Scientific and Statistical Committee (SSC) members from 12 to “up to 20” members. The Council also selected by unanimous vote three new SSC members: Brian J. Rothschild, Rob Latour and Martin Smith.

In June 2007, the Council recommended 2008 specification and management measures for the Atlantic mackerel, squid and butterfish (MSB) fishery. In the National Marine Fishery Services’ (NMFS) proposed rule December 28, 2007 to implement the Council’s recommendations, the agency included a provision to restrict incidental catch permit holders to 250 pounds of butterfish per trip (year round) and asked the Council to comment on this proposed change since the Council had not recommended any changes to the incidental permit holder possession limit. The Council passed a motion recommending that NMFS modify its current proposal so that a butterfish incidental trip limit of 600 pounds per day be established.

The Research Set-Aside (RSA) Committee met and discussed potential policies regarding the review and communication of cooperative research results prior to their use in the management process.

The Ecosystem Committee met and received a presentation on the National Coastal Condition Report II which identifies the Northeast US Coastal waters as being in as bad as any of our country’s waters.

The Surf Clam and Ocean Quahog Committee met and decided to initiate Amendment 14.

## **Shellfish Council Reports**

### **Delaware Bay Shellfish Council Report**

Delaware Bay Council report was presented by Mr. Hollinger.

#### **2008 Oyster Stock Assessment Report – Council Harvest Recommendations**

The Delaware Bay Shell Fisheries Council met recently (February 18, 2008) to review the 10<sup>th</sup> annual Stock Assessment Workshop (SAW) committee report for the Delaware Bay oyster resource and industry. Many issues related to the status, health and management of the oyster stock were addressed. The status of the stock is considered mixed, with trends in abundance, recruitment, biomass, disease prevalence, and other metrics variously up or down in different regions of the Bay. The Council reviewed the final SAW report, which contained a number of harvest allocation recommendations. For the third consecutive year, the "exploitation-based reference point," which in essence, uses past levels of fishing effort to set the current year's harvest allocation, was used to

set the 2008 harvest allocations. Based on these reference points, the Council elected to recommend a harvest allocation for the 2008 oyster season that is 76,106 bushels (by comparison, approximately 81,000 bushels were reported as harvested in 2007). A tentative season opening date of April 7, 2008 was recommended. The Council's recommendations were approved by the Commissioner.

### **Atlantic Coast Shellfish Council Report**

The Atlantic Coast Shellfish report was presented by Mr. Maxwell

At the January 18, 2008 meeting of the Aquaculture Advisory Council's Leasing Committee meeting and at the February 25, 2008 meeting of the Atlantic Coast Shellfisheries Council (Council), the issue of existing and proposed lease fees for traditional shellfish leases as well fees for Aquaculture Development Zones (ADZ) was discussed. Bureau staff discussed proposed increases to traditional lease fees as well those proposed for the newly-created ADZs. Shellfisheries Council members and industry members at both meetings generally opposed the fee increases. Department staff, the Shellfisheries Council and members of the shellfish industry will continue to discuss the existing fees and proposed increases in the months ahead.

Mr. Joseph noted that with respect to the 2008 Delaware Bay harvest quota, as in recent years the quota could be increased somewhat based on a scheduled intermediate transplant of oysters from the under-utilized seed beds of the upper bay to the market beds in the central/lower bay. With respect to lease fees, Mr. Joseph stated that lease fees have been discussed since 2000 when the Aquaculture Advisory Council's (AAC) Leasing Committee (LC) met regularly. While the LC's 2003 report did not include the specific recommendations discussed, it noted that the committee members generally supported fee increases if the fees were used to enhance aquaculture. Mr. Joseph noted that the current lease fees of \$0.50/acre in Delaware Bay and \$2.00/acre along the Atlantic coast were essentially the same as they were 100 years ago. A review of the lease fees in 1907 (\$0.32/acre in Delaware Bay, \$2.08/acre in Atlantic County) in comparison to the average annual inflation rate between 1913 and 2006 (3.43%) revealed that the current fees would be over \$9.00/acre in Delaware Bay and over \$60.00 if they had increased at the rate of inflation. The lease fees being discussed in New Jersey are \$5.00/acre in Delaware Bay and \$50/acre along the Atlantic coast. Mr. Joseph indicated that no decisions have been made on this issue and the Department will continue discussions with the Shellfisheries Council, the AAC and industry members and that he would keep the Council apprised of any new developments.

### **Executive Committee Report**

The Executive Committee Report was presented by Mr. Berg. The Executive Committee met with staff to discuss the proposed federal registration system for saltwater anglers that must be implemented by January 1, 2009.

Mr. McCloy reviewed the provisions of the federal program, as known at this time (a federal rule is currently under development). The purpose of the federal saltwater angler



registration program is to account for every person that goes saltwater fishing which will be used to improve the quality of recreational catch and effort information. Federal registration will be required of any angler fishing in federal waters or fishing for anadromous species. If a state has a registration or licensing program that meets the federal criteria then anglers from those states will be exempt from the federal registration. New Jersey has no such system so New Jersey anglers will have to register federally.

The committee also discussed potential deficiencies with the federal program. If an angler does not fish in federal waters or for anadromous species they would not have to register and would not be included in the angler database. This could represent a large number of New Jersey anglers and could adversely impact the quality of recreational data collected in New Jersey.

Staff will keep the Committee apprised of new developments.

Mr. Maxwell asked if this meant registration would be necessary by this time next year, 2009?

Mr. Berg indicated yes. Mr. McCloy elaborated that the law has a very firm date of January 1, 2009 that the federal program has to be implemented. The proposed specific federal provisions are supposed to come out soon.

### **Regulatory Updates**

#### **Regulatory Adoption/Proposals**

Mr. Himchak informed Council that marine fisheries multi-species regulations adopted and published in the January 7, 2008 New Jersey Register were reflected in the publication, Commercial Regulations – February 1, 2008 (Handout #11). Mr. Goldman, asked Mr. Himchak to explain the change in recreational regulatory adoption and how it effects the fisherman and use of summer flounder. The only recreational regulatory adoption for 2008 that needed to be highlighted to Council was that in 2008, recreational fishermen would now be allowed to use a part of one legal sized summer flounder, as bait, during the course of their fishing trip. The carcass of that fish had to be retained by the fisherman and it counted as part of the fisherman's daily possession limit for summer flounder.

Council was also apprised of the Notice of Administrative Change, also published in the January 7, 2008 New Jersey Register, wherein the black sea bass and summer flounder commercial trip limits were modified for 2008.

Mr. Himchak updated Council on the progress of the marine fisheries multi-species regulatory proposal under development, wherein staff members were finalizing summary and impact statements on proposed amendments to bluefish, black drum, reef, gill net and spiny dogfish regulations. Once completed, the proposal document would be sent to the DEP Office of Legal Affairs for review.

Of immediate concern, the Council was referred to Draft Notice of Administrative Change (Handout #12) on summer flounder, scup, and tautog. It was decided earlier in the meeting that summer flounder recreational management measures would be resolved later in the meeting, so the scup and tautog management measure were presented to Council. The Council approved the scup commercial season compliance requirements but did not support implementing the tautog recreational and commercial measures.

### **Old Business**

Acting Chairman Donnelly drew Council's attention to a letter from the Non-Game Endangered Species Advisory Committee concerning the effectiveness of current regulations aimed at preventing diamondback terrapin mortality in recreational crab pots. He suggested the Blue Crab Committee have a discussion at the committee level and present a recommendation to Council.

Mr. Rizzo commented on horseshoe crabs. Council was put in bad position by the Commissioner. He asserted that Council was agreeable to a year moratorium of harvest of crabs. However, the Commissioner wanted an unlimited moratorium. He did not think this was feasible. New Jersey is out of compliance with the ASMFC Horseshoe Crab Plan.

Mr. Himchak further explained the ASMFC requirements. New Jersey's two-year moratorium expired December 31, 2007. At that point, the regulations reverted back to the regulations that were in place in 2005. Those regulations allowed an annual quota of 150,000 of horseshoe crabs of either sex with a seasonal closure and a Tuesday and Thursday harvest. At this time, NJ is out of compliance with the ASMFC Addendum IV (requires a quota of 100,000 male crabs only). At the same time, there are a number of movements on the legislative front that may resolve this. Mr. Himchak has advised the ASMFC Horseshoe Crab Management Board on where NJ is in the process pending legislation.

Mr. Rizzo expressed the desire of getting into compliance. Mr. Rizzo feels it is in the best interest for everybody, in lieu of the word moratorium that a zero harvest be recommended. Mr. McCloy responded that replacing the 150,000 with zero harvest will work in the regulations.

Mr. Rizzo made a motion to come into compliance with the ASMFC management plan by implementing a 100,000 male harvest after June 8<sup>th</sup>. Motion was seconded by Mr. Berg.

Mr. Herb questioned the previous comments about a moratorium for 2008 and the apparent change to a 100,000 male only harvest. He inquired which was it.

Mr. Rizzo expressed his opinion on getting into compliance with a motion and then making a second motion that the harvest for 2008 be zero. Mr. Herb suggested putting

these into one motion. Mr. Rizzo referenced the pending lawsuit and suggested two motions were necessary in the event the lawsuit was successful.

Mr. Himchak commented on Mr. Rizzo's motion that Addendum IV reads that the season would open June 8<sup>th</sup>. So the closure extends through June 7<sup>th</sup>. Mr. Rizzo, responded that the date was important to make it clear that the season starts June 8<sup>th</sup> not April 1.

Mr. McCloy commented that a motion to make the harvest zero would put NJ into compliance with ASMFC. It would be more restrictive than what ASMFC requires.

Mr. Hollinger made a motion to amend Mr. Rizzo's motion to include zero harvest for the year 2008. Mr. Herb seconded.

Acting Chairman Donnelly asked for discussion on the motion to amend. Mr. Berg asked if the intent was to slow down the legislation and give the Council back control? Mr. Rizzo responded that there is going to be a lot of new science coming out in this next year, so it would be good to hold off for one year and get the good science. He added that it takes a lot of heat off the Legislature to put together something real quick, that is not satisfactory.

Ms. Puskas asked if the ASMFC was good for one year? Mr. Himchak responded that Addendum V is currently under development and will be finalized by August 2008. Mr. Himchak suggested that Mr. Rizzo was attempting to set up a situation like the previous regulations in which regulations revert back to the original provisions after the moratorium expired. Mr. Rizzo indicated that was his intent.

Ms. Puskas asked if this action would stop the legislation.

Mr. Rizzo indicated it was a good faith effort and that the Council was interested in doing the right thing.

Mr. McCloy requested clarification as to the intent of the motions. He summarized, Mr. Rizzo made a motion to come into compliance with the ASMFC plan which was seconded by Mr. Berg and had a 100,000 male harvest. Mr. Hollinger then made a motion to amend that motion seconded by Mr. Herb, to include a zero harvest for 2008. The Council should first act on the motion to amend which would be to have a zero harvest in 2008. If the amended motion passes, then the main motion would be to become zero harvest in 2008, but thereafter 100,000 male crabs only. Mr. McCloy asked if that was everybody's understanding. Several members responded yes.

Mr. Hollinger supported this approach. He reminded everyone that the fines established in the legislation were significant (\$10,000.00) and that horseshoe crabs are taken as by-catch in other fisheries. This action by Council would give the Legislature more time to consider all the issues.

Mr. Goldman, agreed with Mr. Hollinger concerning the fines and indicated he was in favor of the motion. He asked if the Commissioner will have to agree with this? Mr. McCloy responded that the Commissioner would have to sign off on the Notice of Administrative Change. She does not have to sign off on the legislative change.

Acting Chairman Donnelly asked if this should be included with scup, summer flounder and tautog. Mr. McCloy recommended against that approach.

Acting Chairman Donnelly recognized Mr. Givens to make comments. He referred to a citizen petition in the handouts that was published in the New Jersey register February 19, to bring NJ into compliance. He suggested that the petition be incorporated into the Council action.

Acting Chairman Donnelly asked for a vote on the amended motion, which is for a zero harvest in the year 2008 and the motion unanimously passed.

Acting Chairman Donnelly requested a vote on the new main motion; "Move to get NJ into compliance with the ASMFC Horseshoe Crab Management Plan by implementing a zero harvest for 2008 and a harvest of 100,000 male crabs on an annual basis, thereafter".

Motion passed unanimously with the Chairman not voting.

### **New Business**

Mr. McCloy called Council's attention to (Handout #10) correspondence from a fisherman recommending changes in striped bass management. The response indicated that striped bass management measures are done by Legislation as opposed to the Council and the Division.

### **Summer Flounder**

The Summer Flounder Committee Report was presented by Mr. Goldman.

A meeting of the New Jersey Marine Fisheries Council's Summer Flounder Committee was held at the Nacote Creek Enforcement office on February 26, 2008. In attendance were Division of Fish and Wildlife staff, summer flounder committee Council members and advisors representing several recreational fishing sectors and organizations.

The purpose of the meeting was to discuss the 2008 options for the New Jersey's summer flounder recreational fishery. NJ is required to take a 42% reduction from its 2007 recreational harvest. As restrictive as this sounds, NJ's reduction is less than half of that of other states. This is due to the fact that NJ has been conservative in its management of summer flounder. The 2008 recreational target is the lowest target ever. At its February meeting, the ASMFC Summer Flounder Management Board approved several of the fishery options submitted by New Jersey. The Committee discussed these options.

Those in attendance voiced several concerns. One of these concerns deals with increasing the size limit, which will increase the average weight of fish harvested, resulting in a significant increase of the overall weight of the harvest. Several attendees stated that a longer season would result in a considerable increase in harvest, thus exceeding the target. There was discussion that the larger minimum sizes would result in mostly females being harvested. The effect of this on the stock rebuilding is unknown at this time. However, this unfortunately has no bearing on our present options. It was expressed that the restrictive options combined with the forecasted price of fuel spells economic disaster for recreational fishing businesses (Party & Charter Boats and Bait & Tackle shops).

The Committee preferred the option of an 18-inch size limit, 8 fish possession limit and an open season of May 24 – September 7. Reducing the bag limit to 2 fish would have very minimal conservation savings. The season associated with the 17.5 –inch size limit option was to short (4<sup>th</sup> of July through Labor Day) and the extended season from an 18.5-inch size limit would certainly result in an overage of the target. Possible consequences for 2009 of exceeding the 2008 target will include even stricter measures, a closure of the EEZ or implementation of coast wide measures.

The five options the Council asked for public comment on included:

NJ SUMMER FLOUNDER RECREATIONAL FISHERY OPTIONS: 2008			
OPTION	SIZE LIMIT (inches)	BAG LIMIT	OPEN SEASON
A	17.5	2 fish	June 28-September 8
B	17.5	8 fish	July 4-September 2
C	18	2 fish	May 24-September 8
D	18	8 fish	May 24-September 7
E	18.5	8 fish	May 17-October 6

Acting Chairman Donnelly opened the meeting for public comment specifically on the summer flounder options.

Mr. Ray Bogan commented that the best of the bad options available for summer flounder is Option D: 8 fish, 18”, with a May 24 to September 7 season.

Mr. Toth indicated that the Jersey Coast Anglers Association is split down center between Option D and E.

Mr. Teise, recreational fisherman favored Option D.

Mr. Verdier, charter boat owner, supported Option D.

Mr. Dwyer, recreational fisherman, would like to lower bag limit and have a longer season.

Mr. Brickman supported Option E.

Mr. A. Bogan, United Boatmen and RFA, supported Option D.

Mr. Yates, Charter Boat Hunter, recommends Option D.

Mr. Showell, Absecon Bay Sports Center, criticized the science behind the options. Stressed the need to do a better job.

Mr. Koeneke, Duke of Fluke, favors Option D.

Mr. Seabrook asked how long a 17" fish in 2007 would be in 2008?

Mr. Brust responded that 17" fish is probably 3 to 4 years old, within a year it would be around 17.5 to 18".

Mr. Rush, Cape May County Party Boat Association, supports Option D.

Mr. Szalczsky, charter operation, supports Option D.

Mr. Hand, Seafood, B&T, in Cape May supports Option D.

Mr. Jackson suggested to keep fighting for a smaller bag limit. He suggested a 15 to 15.5" with a 4 or 3 fish limit and a longer season is a better alternative. (These options do not meet the required reduction).

Mr. Artell, Berkley Stripper Club favored Option E.

Mr. Siciliano stressed the need for better science. NMFS should use all available science, not just best available science.

Mr. R. Bogan, Gambler in Pt Pleasant, supports Option D.

Mr. Pasquale, Somers Point fisherman, said research looking into the idea of food chain depletion in our state waters is necessary. He feels small flounder may have been consumed by other species of fish as well as there own.

Mr. Buban, Atlantic Star party boat, supports Option D.

Mr. Fumo, FishFinder, supports Option D.

Mr. Givens, commercial fisherman, supports Option D.

Mr. Casper suggested closing fishing 1 day a week and apply these days at the end of the season.

Acting Chairman Donnelly, responded that it was looked at in previous years, it is considered to be a delay in mortality, not a reduction in mortality.

Mr. DiDominico, Garden State Seafood Association, commended Jeff Brust for his hard work.

Mr. Soden, Homestead Fishing Association, Senior Group wants to make sure there is a continuation of the sport for future generations and supported Option D.

Mr. Goldman referenced HR5425 (Federal) and SR41 (NJ) which are designed to provide flexibility in fisheries management and made a motion that the Council send a letter in support. Mr. Rizzo suggested the letter for SR41 be sent to Senator Cody and Assemblyman Roberts. (Council has not seen HR5425). Mr. R. Bogan gave Council an overview of HR5425 as he has been involved in its development. Council agreed to send letters of support.

Mr. Goldman then made a motion seconded by Mr. Herb to approve Option D for the summer flounder recreational fishery. Option D included the following provisions: 18" minimum size limit, 8 fish possession limit and an open season of May 24 through September 7. The motion passed unanimously.

Mr. Himchak reviewed the commercial scup proposal.

The Council needs to make a motion for the scup season to close the Winter I period on April 28, with the understanding that no landings or possession of scup would occur until May 1<sup>st</sup>, the beginning of the summer period. The provision is required by the ASMFC plan and is designed to improve recording of the harvest between the Winter I and Summer seasons. Mr. Hollinger made the motion. Mr. Goldman seconded. Motion passed unanimously.

Acting Chairman Donnelly requested a motion to approve a Notice of Administrative Change including the provisions first approved by the Council for scup and summer flounder. Mr. Goldman made a motion, seconded by Mr. Herb. Motion passed unanimously.

### **General Public Comment**

Mr. Norwalsky, charter boat, requests Council to take action to insure that there will be a fall season for tautog.

Mr. Wagner, commercial fisherman, expressed concern there wouldn't be enough time to get tautog provisions in place to have a spring season.

Mr. Chew noted the Council spent a lot of time looking at the scientific data and making decisions based on scientific data (referring to summer flounder). However when it came

to horseshoe crabs, their decision was based totally on politics. He asserted it was a bad precedent to manage a fishery based on politics.

Mr. Taylor referenced the draft legislation to prohibit use of gear on artificial reefs. He suggested setting up a study.

Ms. Berko, commercial fisherman recommended coming into compliance quickly (with the tautog plan).

Mr. Jackson addressed the illegal tautog fishery and suggested enforcement look into the various marinas. Acting Chairman Donnelly commented that Enforcement does report monthly and 40% of report is on illegal tautog fishing.

Mr. DiDominico asked Council to vote to come into compliance with the tautog Plan.

Mr. Givens addressed Council regarding horseshoe crabs, the Councils' action at the February 11<sup>th</sup> meeting and one of the biomedical companies utilizing horseshoe crabs. He also advised how he saw the Council's responsibilities regarding fisheries management. He asked about how Council reviewed the public comments on a rule.

Mr. McCloy explained the process of how public comments are handled and passed down to Council.

Mr. Layton thanked members of the Council who did not approve the Department's horseshoe crab regulations. He criticized the Legislature taking this issue out of the Council's control.

Mr. R. Bogan requested Council not to take action on black fish (tautog).

Next Meeting, May 1<sup>st</sup>.

Meeting adjourned.