

## NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Township Public Library  
Jimmies Leeds Road  
Absecon, New Jersey  
September 6, 2007

In Attendance were: Chairman Gilbert H. Ewing, Jr.  
Councilman Erling Berg  
Councilman Patrick Donnelly  
Councilman Edward Goldman  
Councilman Richard Herb  
Councilman Barney Hollinger  
Councilman John Maxwell  
Councilwoman Frances Puskas  
Councilman Joseph Rizzo

Also in attendance representing the DEP and the Division of Fish and Wildlife:

Amy Cradic, Assistant Commissioner (Natural and Historic Resources)  
David Chanda, Director  
Thomas W. McCloy, Administrator, Marine Fisheries Adm.  
James W. Joseph, Chief, Bureau of Shellfisheries  
Joe Meyer, Captain, Law Enforcement  
Peter Himchak, Acting Chief, Bureau of Marine Fisheries  
Brandon Muffley, Research Scientist  
Jeffrey Brust, Research Scientist  
Michael Celestino, Principal Biologist, Bureau of Shellfisheries  
Mary Anne Lyons, Principal Clerk Typist

Ms. Lyons read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on August 10, 2007.

The July 12, 2007 minutes were unanimously approved.

Director Chanda introduced Ms. Cradic, Assistant Commissioner for Natural and Historic Resources.

### **Law Enforcement Report**

Captain Meyer presented the Law Enforcement Report.

He also provided a summary of enforcement actions taken during the first and second quarter of the year.

During the first week in July a commercial crabber who was not actively fishing noticed that 43 crab pots that were never used were stolen from his back yard in Galloway Township, Atlantic County. The crabber notified local police and Conservation Officers of the stolen property and gave a description of the crab pots that were missing. The crab pots were never rigged with any irons, floats, line or biodegradable panels and were made out of uncoated hex wire.

During the second week in July Conservation Officers received an anonymous tip that the crab pots stolen were being fished in the Patcong Creek and Great Egg harbor Bay area. Conservation Officers conducted a boat patrol and found 18 crab pots in Patcong Creek that matched the description of the stolen pots. One crab pot was taken and shown to the commercial crabber who positively identified the crab pot as his. The crab pot was rigged with irons; line and floats with a valid commercial crab pots number, but no biodegradable panels were installed. On July 14<sup>th</sup> Conservation Officers recovered the other 17 crab pots in Patcong Creek but could not locate the other 27 crab pots. On July 15<sup>th</sup> Conservation Officers conducted another boat patrol and found an additional 18 crab pots in the Great Egg Harbor Bay. A total of 35 crab pots of the 43 that were stolen were recovered and stored as evidence. Galloway Township Police Department and a CO interviewed the commercial crabber who was actively fishing the stolen pots and both criminal and Fish and Wildlife summonses were issued.

On Sunday 7/22/07 a CO received a complaint through Trenton Dispatch of 4 fishermen illegally taking tautog on the Cold Spring Inlet jetty. When the CO arrived there were several fishermen on the jetty. After several minutes of observation the CO determined who the fishermen were and waited for them to finish fishing and come off the jetty. When the CO approached the fishermen they showed the CO 4 legal size tautog and some trigger fish. A further inspection led to the CO finding an additional 28 tautog, all of which were undersized. All four fishermen received summonses for over the limit and undersized tautog.

On Tuesday 7/31/07 two CO's were conducting a nighttime condemned water patrol in Atlantic County. In the Beach Thorofare area off Wellington Avenue in Margate the officers observed one clammer treading clams using an inner tube and basket. After about 20 minutes the clammer made his way back to the dock to dump his clams into mesh bags. At this time the officers apprehended the clammer with approximately 300 clams. The clammer possessed no identification and was dropped off by his girlfriend. Using his cell phone the clammer called his girlfriend who returned with his identification. The clammer was issued summonses for clamming at night and condemned waters.

On the evening of August 12, three COs were on a night patrol checking for striped bass fishermen and potential illegal clamming in the Shark River one CO observed 3 clammers at 0115 hrs. working on the bare mudflats of Shark River behind Shark River Island. All of the individuals were observed treading and digging clams in the pitch dark and placing them into both a tote and a bucket. Two COs waited on Shark River Island while one CO continued observing them. At approximately 0230 hrs. all three

individuals slowly worked their way back to the island carrying their load of clams. Two Cos apprehended the individuals as they made their way back onto the island to where their vehicle was parked. All three individuals were issued summonses for clamming in polluted waters, clamming at night and clamming on Sunday. One of the individuals was also issued a summons for not having a clamming license. Approximately 450 cherrystone and chowder sized clams were returned to the Shark River.

While on boat patrol, two COs apprehended three individuals in the Marshelder Channel with 76 sublegal black sea bass. Each individual received summonses for the violation.

On 8/22/07, two COs were patrolling Shark River at approximately 2200 hrs. when they inspected a bait seiner returning to the dock. When the fisherman's truck was inspected, 7 sublegal striped bass were discovered having been caught by the netter earlier in the day. The individual received a summons for 7 sublegal striped bass. Also, at this time, the individual was advised to have running lights installed on his boat. The next evening, this individual was inspected again and unfortunately did not heed the COs warning from the previous night. Therefore, the individual received a summons at this time for operating a power vessel during the hours of darkness without navigational lights.

On 8/25/07, two COs assisted the Marine Region by working in plain clothes at various select violation hotspots along the Arthur Kill and Raritan bayshore. Fishing at the Carteret Public Dock, Morgan Creek and then Pews Creek, one CO made five apprehensions for persons harvesting in excess of 15 bluefish. These apprehensions, and the persons apprehended, could not have been caught through traditional observance methods due to their savvy and the locations where they were fishing. After documenting the violations, one CO contacted two other COs to issue the appropriate summonses. In total, 5 persons received summonses for exceeding the limit on bluefish. One of these 5 persons also received a summons for Interference for hiding the bluefish as they were caught in nearby weeds.

On 8/26/07, two COs were on boat patrol in the Atlantic Ocean 2 miles off of Deal when they stopped to inspect 3 individuals who were fishing for black sea bass. As the officers approached, the owner of the vessel could be seen shuffling something around with his feet along the starboard side of the boat. Upon boarding, one CO discovered 14 sublegal black sea bass which had been kicked to the side of the boat contained in a plastic bag. Additionally, 3 shredded fluke were discovered in the vessel's cooler. The owner was issued a summons for 14 sublegal black sea bass, 3 "parts" of fluke, and for interference.

On 8/29/07 two COs responded to a complaint concerning Schellenger's Restaurant in Wildwood illegally purchasing sea scallops. When the officers arrived at the restaurant they met with the owner who provided them access to the walk in freezers. In the freezer were several packages of sea scallops as well as filleted summer flounder. The owner provided accurate records for the summer flounder but could not produce records for the sea scallops. The scallops were weighed and there was a total of 370 pounds of sea scallops in the freezer. Further interviewing the owner it was revealed that the scallops were purchased directly from fishermen for \$5.00 per pound. Summons will be issued to

the owner and restaurant for inaccurate record keeping which carries a maximum penalty of \$3,000.

On 8/29/07, two COs were patrolling at night in the Point Pleasant Area. At approximately 200 hrs., they apprehended the commercial trawler Lydia J as it docked at the Point Pleasant Co-Op. The vessel was in possession of 118 pounds of monkfish over their landing limit. This case will be prosecuted under National Marine Fisheries Service guidelines. Later in the evening, both officers also apprehended an individual fishing beneath the Route 35 Bridge in Point Pleasant Beach with a 16" Striped Bass.

On Thursday 8/30/07 three COs inspected the F/V Knot Easy in Atlantic City. The F/V Knot Easy is a general category scallop permit holder which is allowed a daily harvest of 400 pounds of shucked sea scallops. On board the F/V Knot Easy were 8 bags of shucked sea scallops. One CO located another 38 pounds hidden under ice and groceries. The CO then weighed the 8 bags which had a total weight of 434 pounds. The combined weight was 472 pounds which resulted in a federal violation and full seizure of all 472 pounds. The 472 pounds of sea scallops was sold to the highest bidder. The F/V Knot Easy logbook was also inaccurate which resulted additional federal changes.

During the weekend before and of Labor Day, District 7 personnel together with a CO, apprehended 15 persons illegally harvesting shellfish from the Special Restricted waters of Sandy Hook Bay. All of these individuals were issued summonses for harvesting shellfish from restricted waters and clamming without licenses.

On 9/2/07, two COs received a tip concerning Shop-Rite in Aberdeen Township selling sublegal lobsters. Upon inspection, 19 American lobsters were found to be in violation of New Jersey's size possession law, having originated from the State of Maine which has a smaller possession size limit. The officers issued a summons to the corporation for a reduced quantity of lobsters and educated the store's seafood management concerning New Jersey's larger size limit.

### **Legislative Report**

Chairman Ewing indicated the Legislature has not been in session and therefore there is no report to present.

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

Mr. Herb reported on activities of the Summer Flounder, Black Sea Bass and Scup, Tautog and Striped Bass Management Boards.

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

The Board approved Addendum XIX. The Addendum extends the current state-by-state black sea bass commercial management strategy indefinitely and maintains the current summer flounder recreational allocation strategy. It also redefines the stock status

determination criteria for summer flounder, scup and black sea bass. The provisions adopted as part of the Addendum regarding the black sea bass commercial quota and summer flounder recreational allocation were the options supported by New Jersey fishermen.

### **Tautog Management Board**

The Board approved Addendum V to the Interstate Fishery Management Plan for Tautog. The Addendum modifies the management program contained in Addendum IV by allowing states flexibility to achieve the necessary 25.6 percent reduction in exploitation through adjustments to their recreational and/or commercial fisheries.

In order to implement the required management measures by January 1, 2008, states submitted reduction proposals for Technical Committee review in July. The Board reviewed the Committee's recommendations and approved proposals for all states. The Board deferred action on a state-specific stock assessment by New Jersey as well as a joint assessment by Massachusetts and Rhode Island documenting fishing mortality rates in comparison with the Coastal VPA stock assessment mortality rates until the Commission's Annual Meeting in October.

### **Atlantic Striped Bass Management Board**

The Board approved proposals from Rhode Island and Maryland for alternative management. The Rhode Island proposal alters the minimum size limit and quota for the state's commercial floating fish trap sector. The Maryland proposal opens a two-week recreational fishery in the Susquehanna Flats.

Mr. Berg reported on activities of the Lobster, Sturgeon, Spiny Dogfish/Shark, Shad/River Herring Management Boards.

### **American Lobster Management Board**

The Board approved the implementation of a conservation-equivalent plan for Long Island Sound in Connecticut and New York, instituting a v-notch lobster stock restoration program in place of the 1/16" minimum length increase approved in May 2007.

### **Sturgeon Management Board**

The Board was presented with the findings of the 2007 Atlantic Sturgeon Bycatch Workshop. The report from the workshop identified anchored gillnets and the monkfish fishery as primary sources of Atlantic Sturgeon bycatch and bycatch mortality.

The National Marine Fisheries (NMFS) provided an update on the NMFS Status Review Team's recommendation to list as threatened Atlantic sturgeon in the New York Bight, Mid-Atlantic, and Carolina District Population Segments. Any proposal of listing would be made by mid-2008.

### **Spiny Dogfish and Coastal Sharks Management Board**

The Board met to review state compliance for the 2006-2007 fishing season and give input on the Draft Interstate Fishery Management Plan for Coastal Sharks.

The Board found all states to be in compliance.

### **Shad and River Herring Management Board**

The Board received presentations on the American shad stock assessment and the peer review reports. The peer review panel approved the benchmark stock assessment for American shad and agreed with the conclusions and recommendations in the report. The Board tasked staff with preparing a summary of the reports' findings and recommendations for potential management actions for consideration at the next Board meeting.

North Carolina proposed that the Board consider taking immediate action to develop an Amendment to reduce mortality on river herring. The Board voted to move forward with the development of a Public Information Document that contains management options to reduce river herring mortality, including a possible moratorium on harvest.

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

Mr. Goldman presented the MAFMC Report.

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup and Black Sea Bass and Bluefish Boards achieved consensus on their recommendations regarding proposed fishing regulations for those species for the upcoming fishing year. For the third year in a row the Council and the Board recommended decreases in the total allowable landing level (TAL) for summer flounder 15.77 million pounds, scup 7.34 million pounds, and black sea bass 4.22 million pounds. The bluefish quota 28.16 million pounds was increased by about half a million pounds.

The Council only has five years to double the spawning stock biomass of summer flounder. Despite the greatest abundance of summer flounder in the past twenty five years, the requirements of law compelled the Council to recommend the lowest quota level in the history of its summer flounder management program.

Amendment 9 to the Atlantic Mackerel, Squid and Butterfish FMP was approved for submission to the Secretary of Commerce. If approved it will allow for multi-year specifications for all four species.

Amendment 15 to the Summer Flounder, Scup and Black Sea Bass FMP was also re-addressed to ensure that the Council and Commission would review and consider the same management issues. The Council agreed to address all 18 management issues that the Commission had previously recommended for consideration.

Ms. Puskas reported on the development of Amendment 1 to the Tilefish FMP. Various systems to collect royalties (including auctions) under a tilefish Individual Fishing Quota (IFQ) system were discussed. The Committee recommended that a system to collect royalties from the tilefish fishery not be implemented at this time. Based on the Committee's recommendation, the Council selected this "no action" alternative for inclusion in the amendment. Ms. Puskas encouraged fishermen to speak up on this issue.

Dr. Donnelly asked why New Jersey's proposal to the ASMFC to give divers an exemption to the maximum size for one male lobster per day was "shot down".

Mr. Himchak indicated that a two-thirds majority of Board membership was required to overturn a previously passed motion and while New Jersey was able to secure support from a majority of Board members present, it was unable to secure a two-thirds majority of Board membership.

A detailed summary of the summer ASMFC meeting was provided to Council members in their handout packet. Chairman Ewing asked that a Tautog Committee meeting be scheduled prior to the next Council meeting.

## **Shellfish Council Reports**

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

Delaware Bay Council report was presented by Mr. Hollinger.

#### **2007 Direct Market Oyster Program Update**

The natural oyster seed beds in Delaware Bay were officially opened to direct market harvest on April 9, 2007. Bureau staff continues to coordinate and monitor the harvest program. Seventy-six vessels (the most since the inception of the direct market program 11 years ago) are expected to participate in this year's harvest. The total allowable catch for the industry had been set at approximately 79,000 bushels. Individual harvest quotas have been initially set at 1,040 bushels per vessel. Through nearly five months of harvesting, approximately 53,744 bushels have been landed; with the majority of the harvest coming from the Shell Rock and Cohansey seed beds (this constitutes over 56 percent of the Bay's harvest to date (30,692 bu.)). The 2007 harvest season is scheduled to run through mid-November.

#### **Delaware Bay Oyster Restoration Program**

Bureau staff is nearing completion of the \$2 million federally funded 2007 oyster reef enhancement program. Project funding is shared equally by the states of New Jersey and

Delaware in its respective, ongoing shell planting programs. This funding came largely through the efforts of the Delaware Bay Oyster Task Force (Task Force), which consists of staff from the NJDEP, DNREC, Delaware River and Bay Authority (DRBA), Rutgers University, U.S. Army Corps of Engineers (USACE), DRBC, the Delaware Estuary Program and the Partnership for the Delaware Estuary. Costs for this project are shared between the federal government (75%) and the non-federal sponsor (25%). The latter is collectively provided by the combined efforts of the Task Force. The continuation of the program was contingent upon the Task Force's ability to provide this 25 percent cost share, 20 percent of which must be provided as a cash contribution. For the third consecutive year, the DRBA provided the critical cash contribution (i.e., \$134,000) to the USACE.

Through September 6, 2007, a combined total 614,716 bushels of sea clam shell has been deployed on over 10 sites throughout Delaware and New Jersey waters in the Delaware Bay.

The restoration program, now in its third year, is designed specifically to address the recruitment problem that has plagued the resource over the last seven years. The 2005 and 2006 oyster reef enhancement programs involved the planting of approximately 750,000 bushels of shell throughout the Bay (with 12 restoration sites in the NJ). Native shell in NJ naturally attracted only 21 spat per bushel, baywide. In contrast, shell planted in the lower bay high recruitment zones attracted approximately 2,213 spat per bushel, over 105 times more spat than native shell. Specific restoration sites from 2005 are projected to open for limited harvest as early as 2008. Multiple year harvest projections, while often tenuous due to the vagaries of nature, have the potential to significantly increase future commercial harvests. The Task Force continues to work to obtain level funding for 2008.

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

Mr. Maxwell reported they have had no meeting for two months. There was nothing to report.

Jim Joseph updated the Council on the following items:

### **NJ Surfclam Harvest Quota for 2007-2008 Season**

The NJ Bureau of Shellfisheries completed sampling for the 2007 NJ surf clam inventory project. The estimated standing stock of surf clams was 3.0 million US standard bushels (1.98 industry bushels). The Bureau met with the Surfclam Advisory Committee on September 6, 2007 to discuss the quota. The Committee agreed to set the quota at 198,000 industry bushels, 10 % of the estimated standing stock. The NJ surf clam harvest season begins on October 1 and ends on May 31 of each year. Pursuant to the surf clam regulations (N.J.A.C. 7:25-12.10(a)), the harvest quota shall be set between 250,000 to 1,000,000 bushels, however, the quota cannot exceed 10% of the estimated standing stock.

## **Update on Barnegat Bay Shellfish Restoration Program (BBSRP)**

### 2006 Seed acquisition and planting

- 1.2 million clam seed (2mm) purchased from various commercial hatcheries and reared first in land-based upwellers and subsequently planted under protective screening within Division leases at Waretown and Sedge Island. During the upweller phase (July to November) there was no mortality and clams attained 8-12mm. Preliminary results during the on-going nursery phase indicate good growth albeit high mortality in various plots. Final assessment will be conducted in conjunction of harvest for broadcast planting within Sedge Island MCZ this fall.
- 250,000 clam seed (15-25mm) purchased as overstock from a commercial hatchery was directly spread over a 5acre restoration area within the Sedge Island Conservation Zone. Preliminary assessments indicate good growth and higher survival for the larger size clams relative to smaller size clams planted.
- 100,000 oyster seed (2mm) purchased from Rutgers HSRL Cape Shore Hatchery raised first in upwellers and subsequently grown in floating cages at Sedge Island and Cedar Bonnet Island. Survival has been virtually 100% and during the upwellers phase oysters attained 25mm. The plan is to plant this oysters this fall within pre-existing oyster habitat with a good shell-base in the area of Oyster Bed Point in the mouth of the Mullica River

### 2007 Seed purchase and plans

- 1.5 million clam seed purchased from various commercial hatcheries has been stocked in upwellers and will be ready for planting this fall following similar procedures as in 2006

375,000 oyster seed oyster seed purchased from Rutgers HSRL Cape Shore Hatchery is being raised in upwellers at this time and will be ready for transferring to cages in fall following similar procedures as in 2006

Mr. Rizzo asked about the mortality of seed clams and Mr. Joseph indicated the mortality was low except on one plot where the protective screens had been moved. Mr. Maxwell inquired about the cause of the low standing stock of surf clams. Mr. Joseph indicated there is a great deal of speculation coastwide but some suggest reasons are lack of food and increased water temperature.

### **Committee Reports**

## **Spiny Dogfish**

Ms. Puskas presented the Spiny Dogfish Committee Report.

The Spiny Dogfish Committee met with commercial advisors on August 1, 2007 to continue discussions on a potential spiny dogfish fishery for spring 2008. Division staff presented data from the April and June cruises of New Jersey's Ocean Trawl Survey that showed that 99% of the spiny dogfish collected consisted of females. These data raised concerns, as the fishing effort for the potential fishery was supposed to target males for resource preservation purposes. A discussion ensued on the skewed male to female sex ratio and if this occurrence was unique to New Jersey State waters. Division staff informed advisors that other Atlantic Coastal States were polled for nearshore trawl data on size distribution by sex and if these data were incorporated in the NMFS stock assessment for spiny dogfish. Preliminary information from Rhode Island, Connecticut, Delaware and North Carolina were presented.

Funding to perform the required monitoring was again addressed as a concern of the Division. The revenue taken in by a potential state license for spiny dogfish fishery (\$400/license) was deemed inadequate to perform all the required monitoring as only 30 or so individuals would be participating in the fishery. A representative from Garden State Seafood Association asked if \$50,000 would be an adequate amount to perform the required monitoring. The Committee requested clarification from the advisors if otter trawl nets would be utilized as a harvest method as tended gill nets were the only method discussed in detail at previous meetings. Additionally, the importance of the advisors to find a legislative sponsor for the Spiny Dogfish License was stressed due to the timetable for the development of new regulations.

## **Gill Net Committee Report**

Ms. Puskas presented the Gill Net Committee Report.

The Gill Net Committee met on August 28, 2007 to discuss a recommendation by the Recreational Fishing Alliance (RFA) to seasonally prohibit the use of staked and anchored gill nets to reduce the bycatch of striped bass. The Committee met with industry advisors from the commercial gill net fleet, a representative from the Jersey Coast Angler's Association and Marine Fisheries staff. No RFA representatives attended the meeting.

The group reviewed the current seasons and associated restrictions currently in effect for both the drift and staked/anchored gill nets and the current status of gill net licenses and license holders. The group then reviewed and discussed current discard mortality estimates of striped bass from the commercial shad gill net fishery and recreational hook and line fishery in New Jersey. Advisors from the commercial gill net industry were in favor of imposing new/different restrictions on the use of staked/anchored gill nets to minimize the encounter and discarding of striped bass, particularly during the fall when striped bass discard mortality tends to be higher.

After listening to input from advisors, the Committee met with staff to review/summarize the meeting and develop recommendations to provide to the Council for consideration. The committee recommends the following regulatory changes:

- In the Atlantic Ocean from September 1st through December 15<sup>th</sup> for a mesh size greater than 4", only one staked/anchored OR drift gill net may be used and it must be tended at all times. Tending will be defined as – operator is no more than half a nautical mile from the nearest portion of the net and the net must be fully brought into the boat within 5 hours of the initial set.
- No changes to the current regulations were recommended for the Atlantic Ocean during the other times of the year and no changes were recommended for the Delaware Bay and its tributaries.

### **Bluefish Committee Report**

Ms. Puskas presented the Bluefish Committee Report

The Bluefish Committee met on August 28, 2007 to discuss the commercial bluefish quota allocation and how to handle quota overages by the various gear types in future years. For the first time in New Jersey, the entire commercial bluefish quota was harvested and the fishery was closed in mid-August 2007. The Committee met with industry advisors representing the various gear types, a representative from the Jersey Coast Angler's Association and Marine Fisheries Staff.

The group reviewed the current quota allocation by gear type, the associated seasons with those gear types and the recent landings in relation to the quota for the various gear types. The group also devised options on how to better utilize the quota since the current structure of the bluefish regulations are likely to leave fish unharvested. For example, the group discussed future usage/possibilities of the current 7.5% quota allocation for the purse seine fishery – which has not landed any bluefish since 1995.

The Committee recommended the following:

- Remove the 7.5% quota allocation for the purse seine fishery and use that portion of the quota for a bycatch provision;
- Allow for a 150 pound, per trip, bycatch allocation during the closed seasons for the bluefish net fisheries (gill net, pound net otter trawl);
- For any gear type that goes over the established quota for that gear type within a given year, the overage will be subtracted off the following years gear specific allocation.

On a motion by Ms. Puskas, seconded by Dr. Donnelly, the Council unanimously approved moving the recommendations of the Gill Net, Bluefish and Spiny Dogfish Committees forward through the regulatory process.

## **Artificial Reef Committee Report**

Dr. Donnelly presented the Artificial Reef Committee Report.

The Artificial Reef Committee met with commercial, recreational and for hire advisors on August 1, 2007 to discuss the Division of Fish and Wildlife's resolution to eliminate gear conflicts between recreational and commercial fishermen on reefs located in State and Federal waters. The resolution was announced by the Division's Director, David Chanda, during the July 12, 2007 Marine Fisheries Council meeting. The resolution is as follows:

### **Inshore Reef Sites Located in State Waters**

- Commercial fishing gear will be prohibited on reef sites May 1<sup>st</sup> through October 31<sup>st</sup>;
- All pot string gear set will be marked by high flyers at both ends;
- All gear will be set in a north to south direction;
- High flyers will be marked by matching trawl numbers;
- A pot string will be limited to a maximum of 23 pots;
- Sinking ground lines must be utilized between all pots on a string; and
- All other rules and gear modifications enacted by the National Marine Fisheries Service under the Marine Mammal Protection Act remain in effect.

### **Reef Sites Located in Federal Waters**

The Marine Fisheries Administration will petition the Mid-Atlantic Fishery Management Council for Special Management Zone status. The petition will include the identical season closure, gear marking and sinking ground line requirements as mentioned above for reefs in state waters.

Following the discussions with the advisors and Division staff, the Artificial Reef

Committee made the following revisions to the resolution:

1. A 300-foot buffer zone established around the perimeter of each reef to make law enforcement easier due to the margin of error discrepancies in GPS;
2. The maximum number of pots allowed per string will be 25 not 23; and
3. The north to south gear setting requirement will be written with language that indicates that gear is to be set from 0 to 180 degrees (Magnetic) and allow for a margin of error of 10 degrees.

Following these refinements and revisions to the Division's proposal, the Artificial Reef Committee unanimously voted that the proposal was a fair and equitable compromise.

Dr. Donnelly recognized suggested revisions by the Garden State Seafood Association (GSSA) that were handed to Council members just prior to the Council meeting. Those suggested revisions included:

1. Changing the prohibition of fish pots to May 1 to October 1;
2. Permitting lobster and conch pots to be fished year round with a 50 pound finfish bycatch allowance;

They further recommended that the Marine Fisheries Administration should not pursue Special Management Zone status for New Jersey reefs in the EEZ.

Dr. Donnelly made a motion, seconded by Mr. Herb to move the Reef Committee recommendation through the regulatory process.

Ms. Puskas inquired if the Committee recommendation considered the impact on the commercial fishery. Dr. Donnelly indicated that the Committee recommendation was the best compromise.

Director Chanda indicated there was a strong consensus at the Committee for the recommendation. He further noted that it was not practical to expect effective enforcement of a fish pot prohibition while allowing lobster or conch pots to be fished.

Mr. Goldman inquired how recreational tog fishermen would react to the change in date (Oct. 1 instead of Oct. 30). Dr. Donnelly said the Committee had discussed this issue and choose to keep the original dates.

Mr. Hollinger asked how regulations on pots were enforced on the reefs now. Captain Meyer indicated that the only restrictions on pots are the escape vent size and this provision is enforced dockside. He further indicated that the only way to enforce the prohibition on one type of pot while allowing another to fish would be to retrieve the pots on the water which is not practical, especially on the deeper sites.

Mr. Hollinger asserted that restrictions shouldn't be developed due to their enforceability or lack thereof. Mr. Hollinger stated that reef sites were placed in traditional commercial fishing areas and now the recreational fishermen want to displace these fishermen. Dr. Donnelly acknowledged that he knows one lobstermen (in his area) where this is the case but he added that additional pressure is being exerted on reef sites by "new" fishermen and considerably more gear.

Mr. McCloy reminded everyone of the legislation that is being considered which would include a permanent prohibition for all pots on all reefs.

Director Chanda indicated that the Division was trying to implement a compromise that allowed fish potting at some time during the year.

Ms. Puskas asked for clarification of the motion. Dr. Donnelly indicated an affirmative vote on the motion would move the Committee recommendation forward into the regulatory process. (The Council would still have an opportunity to exercise their “disapproval” authority should they choose to do so later in the process).

Mr. Berg made a motion to amend Dr. Donnelly’s motion by incorporating the suggested changes by the GSSA. The motion to amend was seconded by Mr. Rizzo.

The motion to amend passed by a vote of 5 in favor, 4 opposed.

Mr. Goldman made a motion, seconded by Mr. Herb to table the amended motion. Motion to table failed, 2 in favor, 6 opposed.

Mr. Herb asked what the Division would do if the amended motion passes.

Director Chanda indicated that the Division cannot support management measures unless they are enforceable.

Chairman Ewing called for the vote on the amended motion (GSSA Recommendation) and it passed 5 in favor, 4 against.

### **Horseshoe Crab Committee Report**

Mr. Goldman presented the Horseshoe Crab Committee Report.

The Horseshoe Crab Committee met to discuss potential management measures for the horseshoe crab commercial bait fishery in 2008. The current regulations for the two year moratorium on this fishery expire December 31, 2007. Council members, advisors of both the commercial horseshoe crab fishery and the Endangered and Non-Game Species Advisory Committee (ENSAC), and Department staff were present.

The ENSAC previously met on July 18, 2007 to review horseshoe crab egg densities, red knot numbers, and the overall status of the Delaware Bay stopover. Based on these data, the ENSAC unanimously moved to request the Marine Fisheries Council to adopt regulations for 2008 that would continue the moratorium on the harvest of horseshoe crabs.

The Department implemented the two year moratorium on the harvest of horseshoe crabs for the commercial bait fishery for 2006 and 2007 to improve conditions for the red knot, as well as other migratory shorebirds whose survival depends upon an abundant supply of horseshoe crab eggs in Delaware Bay. Since conditions have not improved for the red knot and other migratory birds in Delaware Bay, the Department is steadfast in continuing the moratorium on the harvest of horseshoe crabs.

After much discussion among Council members, advisors and Department staff, the majority of the Council members present recommended not supporting the Department’s

position for continuing the moratorium on the harvest of horseshoe crabs for the commercial bait fishery. Instead, Council members on the committee recommended the development of an offshore trawl fishery to supply the horseshoe crab bait market.

Mr. Goldman made a motion to recommend continuance of the horseshoe crab moratorium for another two years with a number of caveats regarding data presentation to the Council and beach restoration efforts. Motion failed for lack of a second.

Ms. Cradic addressed the Council regarding the Department position on this issue. She indicated that factors that caused the Department to support a horseshoe crab moratorium on the red knot before have not changed. The red knot population is still in decline. The Department must take the conservative approach of a moratorium. She requested the Council to seriously consider the plight of the shorebirds.

Dr. Donnelly asked how long a moratorium would need to run. Ms. Cradic indicated that criteria need to be developed to determine when a moratorium could be lifted.

Mr. Goldman made a motion, second by Mr. Herb. The motion was as follows:

- Stipulate that the Council receive from the NJ Bureau of Endangered and Non-Game Species all data and discussion of data relating to the status of Red Knots in Delaware Bay
- These data are to be received by July 15<sup>th</sup> of each year
- Stipulate that the Council receives a report from DEP on beach restoration efforts in Delaware Bay July 15<sup>th</sup> of each year
- Stipulate that the Council be provided with reports from the ASMFC joint Shorebird-Horseshoe Crab Technical Committee as they become available
- Empirical answers to the following questions;
  1. What would the impact of an offshore trawl fishery be on the Delaware HSC egg production?
  2. What would the impact of a male only HSC fishery be on the Delaware HSC egg production and what is the role of the male HSC in the reproductive process in relation to the Red Knot stock in Delaware Bay?
  3. What is the number of eggs needed for 90% of the Red Knot stock to make the weight gain to 180g by 10 days of their arrival?

Mr. Goldman indicated that if a moratorium is the most conservative approach, the Council needs to know what can be done short of a moratorium. He asserted the Council needs to get regular updates on surveys, beach restoration efforts, and any other data.

Director Chanda assured Council that they could be provided with new survey analysis as soon as it is available.

Mr. Hollinger asserted that the beaches on Delaware Bay have been eroding since the 1970's and until this trend is reversed nothing will improve. He chastised the state for not making the commitment to beach restoration.

Mr. Maxwell indicated that the Council deals with this issue every year. He has never seen any information indicating the horseshoe crab resource is in trouble. His responsibility is for fish/shellfish management.

Mr. Berg pointed out that the Delaware Bay and resource is shared by New Jersey and Delaware. The Delaware courts overturned Delaware's moratorium. New Jersey fishermen are at a disadvantage. He believes the moratorium should be allowed to expire.

Ms. Puskas does not support the moratorium. The solution for the shorebirds shouldn't be on the backs of fishermen.

Mr. Rizzo does not support a continued moratorium. He asserted that allowing a harvest would put pressure on the Division to explore an offshore trawl fishery.

Dr. Donnelly expressed his concern about going against a Committee recommendation and an "open ended" moratorium. He reminded everyone that being more restrictive than required by ASMFC has hurt fishermen in the long run.

Mr. Herb cited ASMFC requirement of a 100,000 male crab harvest. He asked what the impact of an all male harvest would be.

Mr. Himchak indicated that no one knows what ramifications may occur from an all male harvest. He reminded Council that the Department is responsible for all wildlife and that the ASMFC plan objectives included both horseshoe crabs and shorebirds.

Mr. Berg asked if there would be additional data at the October Horseshoe Crab Board (ASMFC) meeting.

Mr. Himchak indicated that the Shorebird and Horseshoe Crab Technical Committees were meeting in October to discuss recovery criteria and there would likely be a report to the Board on their discussions but a final analysis of the data from the joint meeting may not be available for the Board meeting later in October.

Chairman Ewing reviewed the motion on the floor for Council consideration and called for the vote. Motion passed 7 in favor, 1 opposed.

Director Chanda said he appreciated the Council's position and hoped the Council appreciates the Division's position. He reviewed the regulatory process for the Council. Although it is good to get the Council's support for proposals, the Council's real

authority is for “disapproval” later in the process. The Department’s position for a moratorium is clear and the Department will move forward to extend the moratorium.

### **Regulatory Update**

Mr. Himchak gave Council an update on regulatory actions.

Mr. Himchak briefed Council on the status of the 2006 multi-species regulatory proposal and 2007 Draft adoption document. Staff has answered all questions and addressed all remarks from the reviewing attorneys and the adoption document should be finalized soon for publication in the NJ Register.

Council was reminded of the developing list of proposed amendments to regulations already presented to Council for adoption later in 2008 that staff will now develop with required summary and impact statements. These proposed amendments will be supplemented by recommendations of recent Council Committee meetings on bluefish, gill nets and spiny dogfish as recommended by Council at this meeting.

Mr. Himchak presented a Draft Notice of Administrative Change for Council’s approval dealing with compliance requirements of the Atlantic States Marine Fisheries Commission on American lobster, weakfish, and scup. The Notice requires the implementation of American lobster recreational and commercial maximum size limits for male lobsters at 5 ¼ inches, modification of the definition of a female lobster bearing a v-shaped notch, modification of the weakfish recreational possession limit from 8 to 6 fish per day, and modification of the scup commercial trip limit for the November 1 through December 31 fishing season from 6,500 pounds to 3,500 pounds.

Dr. Donnelly made a motion, seconded by Mr. Herb, to approve the Notice of Administrative Change for weakfish, lobster and scup.

Motion passed unanimously.

### **Old Business**

#### **Federal Saltwater Angler Registry**

Mr. McCloy updated Council on the progress of the federal government in establishing a saltwater angler registry program. The system has to be in place by January 1, 2009 and is mandated by the Magnuson-Stevens Act reauthorized last year. The information to date is short on details. The federal government anticipates proposed rules by this fall which should address the requirements of the program. The only anglers that will be exempt from the federal program are those that are covered by a state program that meets the federal criteria. Mr. McCloy referred Council attention to Handout No. 12 which lists the particulars of Delaware’s new saltwater license program which was implemented in response to the federal program.

Ms. Puskas asked if the Delaware license covered both fresh and saltwater and Chairman Ewing indicated it was a combination license.

Director Chanda advised Council that fees collected from freshwater and hunting licenses in New Jersey are dedicated to fish and wildlife programs.

Ms. Puskas suggested that saltwater license fees should be dedicated to funding Marine Fisheries.

Mr. Berg asked how secure the funds would be, once collected.

Director Chanda indicated that the fund is subject to audits by both state and federal auditors. He cited a couple of examples where states had misdirected their funds and indicated it resulted in a loss of federal funds until the amount was paid back. He indicated this makes New Jersey's fund relatively secure.

Ms. Puskas asserted that if states don't implement a saltwater license, the federal government will.

Mr. McCloy indicated there would be no fee associated with federal registration until at least 2011 but it was likely that a fee in the range of \$25-35 would be implemented and this money would be deposited into the general treasury of the U.S. Government.

### **New Business**

Due to the procedural confusion making and amending motions at this meeting Chairman Ewing requested the staff arrange for a class for Council members on "Roberts Rules". Mr. Berg advised Council about just such a course provided at an ASMFC meeting earlier this year.

### **Public Comment**

Ms. Wagner asserted that recreational fishermen could be a help with enforcing any regulations on reefs. She also opined that the subway cars as reef material was a mistake. She also supported an opening of the horseshoe crab fishery with the traditional hand harvest.

Ms. Berko did not support restrictions for commercial fishermen on reef sites nor deployment of subway cars.

Mr. Layton indicated he was having good success rearing horseshoe crabs this year. He asserted that the information provided by the Nongame Committee to continue the horseshoe crab moratorium is wrong. He thanked Council for not supporting a moratorium and said he supported a hand harvest of 100,000 crabs.

Mr. DiDomenico requested a Summer Flounder, Black Sea Bass, Scup Committee meeting to discuss commercial quotas for 2008. He also opined that the GSSA proposal for the reefs is enforceable because there is a different vent size for lobster and fish pots.

Mr. Nowalsky commented on the Council taking different positions on the reef issue with the Division and the Reef Committee. He indicated that any regulations implemented would only provide relief to two reef sites (those in State waters).

Mr. Arthur indicated that divers were looking for a compromise on the reef issue and he was disappointed with the Council's action. He indicated New York and Delaware will have more stringent regulations and New Jersey fishermen on the reefs will suffer from an influx of commercial fishermen from these states.

Mr. Siciliano thought the gill net proposal was a good thing. He also spoke to Council about a meeting he attended where a new methodology is being developed to conduct a recreational catch and effort survey.

Ms. Waller from the New Jersey Audubon Society support a continued harvest moratorium on horseshoe crabs.

Mr. Chew addressed the reef conflict and cited sections of Title 23 which mandates equal treatment of commercial and recreational fishermen. He asserted commercial fishermen are constantly persecuted and must "compromise" while the recreational fishermen don't have to give up anything.

Mr. Cohen indicated the whole reef issue can be resolved by the use of sinking line between fish pots. He indicated that the Division's (reef) proposal puts commercial fishermen out of business and doesn't restrict the recreational. He also disagrees with the Division's position that the GSSA proposal is not unenforceable.

Mr. Reichle stated that fisheries management shouldn't be based on unenforceability. He indicated that the commercial fishermen had reached out to recreational groups to meet on this issue but they have refused. He renewed the invitation to meet.

Meeting adjourned.