

**NEW JERSEY MARINE FISHERIES COUNCIL**  
**Galloway Township Library**  
**Galloway, New Jersey**  
**March 3, 2011**

In Attendance were: Councilman Patrick Donnelly  
Councilman Richard Herb  
Councilwoman Frances Puskas  
Councilman Erling Berg  
Councilwoman Eleanor Bochenek  
Councilman Edward Goldman  
Councilman Scott Bailey  
Councilman Joseph Rizzo

Absent: Chairman Gilbert H. Ewing, Jr.  
Councilman Walter L. Johnson III

Also in attendance representing the Division of Fish and Wildlife:

David Chanda, Director  
Brandon Muffley, Chief, Bureau of Marine Fisheries  
Jeff Brust, Research Scientist, Marine Fisheries Administration (MFA)  
Peter Himchak, Supervising Biologist, MFA  
Russ Allen, Principal Biologist, Bureau of Marine Fisheries  
Acting Chief Mark Chicketano, Bureau of Law Enforcement  
Lt. Mark Canale, Bureau of Law Enforcement  
Russ Babb, Supervising Biologist, Bureau of Shellfisheries  
Mike Celestino, Principal Biologist, Bureau of Shellfisheries  
Sherry Bennett, Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on February 1, 2011.

Dr. Donnelly began the meeting with the Pledge of Allegiance.

Mr. Goldman made a motion for approval of January 6, 2011 meeting minutes, Handout # 1. Mr. Herb seconded. Motion passed for approval on meeting minutes.

**Audience Conduct**

Dr. Donnelly reminded audience to take conversations outside or wait until the end of the meeting. Individuals wishing to make a public comment need to sign up.

Dr. Donnelly commented that following this meeting there will be an Atlantic States Marine Fisheries Commission (ASMFC) black sea bass public hearing at 6:30pm.

## **Law Enforcement Report**

Lt. Mark Canale presented Council the Law Enforcement report, Handout #2.

On January 2, 2011 CO's boarded the FV Abracadabra. The FV Abracadabra landed 2740lbs of scup over their 30,000 lb landing limit. The overage was seized and sold at market value with the check held as evidence of the violation. Appropriate summonses were issued to the captain and vessel owner for the overage.

On January 3, 2011, CO adjudicated three cases in Barnegat Light Municipal Court involving illegal possession of recreationally caught tautog. The first defendant was found guilty and assessed a \$720.00 penalty for possessing 24 tautog over the limit and \$690.00 for possession of 23, undersized tautog. The second defendant was also found guilty and assessed a \$1590.00 penalty for possessing 53 tautog over the limit plus \$1480.00 for possession of 46 undersized tautog. A third defendant pleaded guilty to possession of 64 parts of tautog and one undersized tautog. That individual was assessed a total of \$1950.00 in penalties. Including court costs, a total of \$6525.00 was collected from the three defendants.

On January 25, 2011 CO's boarded FV Atlantic Queen which was overdue from fishing trip after 10 days at sea. Although this vessel possesses the appropriate federal fisheries permits for the species it possessed, it does not possess NJ landing licenses for either summer flounder or black sea bass. The FV exceeded the allowable limit for summer flounder by 2397 pounds and black sea bass by 1108 pounds. The illegally possessed fish were seized by the officers and sold. These monies will be held in escrow by the State of New Jersey until the case is adjudicated. The captain and the owner of the vessel were each issued seven summonses, with each summons ranging in penalties of \$300 – 3000.00.

CO observed a surf clam vessel, Northern K docking at the Point Pleasant Packing dock. The CO retrieved what fish were left, which included fluke, black sea bass and lobsters. These species were legal to possess as by-catch. It is unknown what species were kicked through the scupper. The mate and captain were each charged with failing to follow the direction of a CO when boarding a vessel, a penalty of \$300 – 3000.00.

In February, CO apprehended a fisherman who admitted to harvesting oysters without a valid license. In addition to violating the shellfish license statute, the fisherman also violated the Delaware Bay oyster harvest regulations which required him to have purchased and possessed while harvesting harvest tags for each bushel. Ms. Puskas asked who gets the money in the three adjudicated cases in Barnegat Light Municipal Court. Lt. Canale responded that Barnegat Light only receives the court room costs and the rest goes into the Hunter & Angler Account.

Mr. Rizzo asked who pays for the translators in these cases. CO Canale responded Barnegat Light does.

Dr. Donnelly commented that it seems, based upon the sizeable fines, the court is finally starting to realize impact of illegal fishing in NJ.

Ms. Puskas asked if these offenders were repeat offenders. Lt. Canale responded not sure in these cases.

### **Legislative Report**

Mr. Muffley presented Council with an update on any Legislative action. Mr. Muffley informed the Council about the Governor signing the bill, S1122/A823, to create a free NJ angler registry. Handout # # is the Press Release providing the details of the signing.

Mr. Herb asked what is being done to implement a program in NJ, and where the program stands as of now. Mr. Muffley commented that the DEP is working on developing the registry website, and is moving forward on getting it up and running in a timely fashion. The registry program needs to be established and an agreement (MOA) with NOAA needs to be approved before anglers can register under the New Jersey program. As it stands now, since NJ does not have an registry program, those who want to fish will still have to pay and register with the federal program. If you are caught fishing without the federal registration you are in violation.

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

Mr. Himchak informed Council that the next meeting for ASMFC will be held in March. He provided Council with an update on recent public hearings (tautog, spiny dogfish and black sea bass) and Board conference calls (black sea bass and summer flounder).

There will be an ASMFC public hearing after tonight's Council meeting regarding recreational black sea bass measures for 2011. The Summer Flounder Board approved the various states methodology used to develop recreational summer flounder measures. As long as the management measures followed the approved methodology and did not exceed a states maximum liberalization, the measures were approved. The tautog public hearing was to discuss Addendum VI which focused on addressing the illegal live fish harvest of tautog and possibly reducing the target fishing mortality for coastwide stock. The spiny dogfish public hearing was to discuss Addendum III which focused primarily on establishing state-by-state shares of the Southern Region quota.

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

Mr. Berg presented Council with the MAFMC report, held in New Bern, North Carolina on February 8 – 10, 2011. At its February meeting, the Council addressed issues related to Atlantic mackerel, squid, butterfish, surfclam, ocean quahog, shad, river herring, monkfish, ecosystem and ocean planning, and research set-aside.

### **Atlantic Mackerel, Squid, Butterfish**

Progress continues on the development of Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. At the meeting, the Council discussed and adopted a wide range of measures to monitor and reduce the by-catch of river herring and shad in the mackerel and Loligo fisheries, including by-catch caps. The recent

Omnibus Annual Catch Limit Amendment already allows harvest reductions due to forage concerns and concluded that formal set-asides would be better considered after the Council develops ecosystem level goals and objectives that are informed by the ongoing work of the ecosystem subcommittee of the Scientific and Statistical Committee. The independent port-side sampling program will be covered under most mackerel landings.

In another action related to the Loligo fishery, the Council voted to recommend a 21% increase to the 2011 butterfish allowable biological catch (ABC) from 1,500 metric tons to 1,811 metric tons.

### **Monkfish**

The Council voted to approve Framework Adjustment 7 with preferred alternatives which include revised biomass reference points and revised Northern Management Area Annual Catch Target (ACT), as well as days-at-sea and trip limits for the fishing years 2011-2013. These actions are consistent with previous action taken by the New England Fishery Management Council (NEFMC).

The Council held a scoping hearing on Amendment 6 to the Monkfish FMP. Amendment 6 may include catch shares management which could improve economic performance and achieve Optimum Yield, increase business flexibility, reduce regulatory burden on operators, promote safety, and keep catch within specified limits.

### **SARC 51**

Based on a new biomass reference point from the 2010 assessment, the Loligo squid stock is not overfished but overfishing status is unknown and cannot be determined because there was no overfishing threshold recommended.

### **Surfclam/Ocean Quahog**

The Surfclam, Ocean Quahog, and Tilefish Committee discussed development of Amendment 15 to the Surfclam and Ocean Quahog FMP. The purpose of Amendment 15 is to satisfy the requirements of the Regional Office relative to cost recovery, excessive shares, and updated essential fish habitat (EFH).

### **Research Set-Aside**

The Research Set-Aside (RSA) Committee met and received an update of the staff evaluation of the RSA program. The Committee discussed if the program has been successful in meeting its goals and objectives, how effective the administration of the program has been, and how the program can be improved. These issues will continue to be addressed at the next Council meeting in April.

### **Sturgeon**

Mr. Himchak brought Council's attention to Handout #4 on Atlantic Sturgeon. In October 2010 the NMFS published two proposed rules to list the Gulf of Maine Distinct Population Segment of Atlantic sturgeon as threatened and the New York Bight, Chesapeake, Carolina, and South Atlantic DPSs as endangered under the Endangered Species Act of 1973, as amended. This letter lists Council's comments relative to the

proposed listing. Overall, the states have significant concerns relative to the lack of information provided in the proposed rule about trends in the Atlantic sturgeon abundance to support the proposed listing status(s). Another concern is the potential negative effect that this listing will have on ongoing research and restoration programs. The states strongly suggest that the ASMFC retain management authority over the species so that the management needs for river specific populations of sturgeon can be adequately addressed.

Mr. Rizzo asked how this would affect the sturgeon in the Delaware Bay. Would there be a boundary for them?

Mr. Himchak commented that any boundary determination would be determined by their habitat location and use. The fear is more with what type of impacts trawling and dredging could have on sturgeon habitat and therefore the impacts to the population would bring.

### **Shellfish Council Reports**

#### **Delaware Bay**

Mr. Bailey presented Council with the Delaware Bay report.

#### **2011 Oyster Stock Assessment Report – Council Harvest Recommendations**

The Delaware Bay Shell Fisheries Council met on Wednesday, March 2, 2011 to review the 13<sup>th</sup> annual Stock Assessment Workshop (SAW) committee report for the Delaware Bay oyster resource and industry. 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, but for the first time in many years, has shown some positive signs. This is due in no small part to an excellent recruitment event that has occurred throughout much of the Bay.

The Council reviewed the final SAW report, which contained a number of harvest allocation recommendations. For the sixth consecutive year, exploitation-based reference points, which use past levels of fishing effort to set the harvest allocation, were used to set the 2011 harvest allocations.

Based on options recommended in the report, the Council recommended a base harvest allocation for the 2011 oyster season that is approximately 73,321 bushels (up approximately 25,000 bushels from the starting 2010 quota – a 52% increase). This base allocation can be increased to up to 85-90,000+ bushels with a large scale intermediate transplant, which will move smaller oysters from upper bay beds to the primary direct market beds. The intermediate transplant program is expected to commence on April 11, 2011 and run for approximately three weeks. A tentative direct market season opening date of April 4 2011 was recommended. The Bureau of Shellfisheries will forward these recommendations to the Commissioner for final approval.

#### **Atlantic Coast**

Mr. Celestino presented Council with the Atlantic Coast report in Mr. Johnson's absence.

## **2011 Spring Mullica River Oyster Season**

At the February 14, 2011 Atlantic Coast New Jersey Shellfisheries Council meeting, Council had discussed the possibility of holding a limited one-week spring oyster harvest season during the month of April. A spring season will be contingent upon oyster bed conditions at the harvest beds, which are located at the mouth of the Mullica River. If a one week season is recommended by the Council, harvest will be open to all commercial and recreational shellfish license holders and limited to hand tongs only. Council will make a decision on whether to open the beds to harvest at the March 21, 2011 meeting.

## **Committee Reports**

Mr. Berg presented Council with the State/Federal Committee Meeting Report, Handout #5.

The State/Federal Committee (Committee) of the New Jersey Marine Fisheries Council (MFC) met with Marine Fisheries Administration (MFA) staff and industry advisors to discuss conflicting or non-existent fishery management measures for State waters where a federal fishery management plan exists for federally-permitted fishermen.

Using monkfish and skates as examples of fisheries that require a federal permit to monitor quotas through days-at-sea and trip limits, as well as, call in and reporting requirements, there are little or no regulations in State waters when a vessel without a federal permit is fishing for monkfish and/or skates. Without corresponding State regulations on these fisheries, there are no effort controls and no certainty as to the level of harvest that occurs exclusively in State waters. Ultimately, this management uncertainty will impact the species stock assessment and future years' quota specification for federally permitted fisherman.

The Committee agreed that a likely solution to this lack of accountability would be to prohibit the landing of any species that is covered by a federal fishery management plan by fishermen that do not possess a federal permit for that species.

A motion was made by the Committee supporting the last paragraph of the committee report and to support moving forward with establishing regulations to put these requirements into place.

Mr. Bailey asked if there are a lot of people fishing for monkfish and skates. We don't want to shut them out of a fishery. Mr. Himchak commented that monkfish have limited access to fish through a qualified federal program and would not be impacted if we moved forward with regulations to address this issue. Without having a specific license, landing or reporting requirements the Division cannot say for certain how much participation occurs for these fisheries.

Mr. Berg commented landings from federally permitted fishermen need to be reported and can be accounted for.

Mr. Muffley commented that the motion is a little unclear and should state “with no State plan in effect” should be added.

Mr. Nowalsky commented he heard nothing on how this would impact the commercial and recreational fisheries.

Dr. Donnelly reread the Motion: The Committee agreed that a likely solution to this lack of accountability would be to prohibit the landing of any species that is covered by a federal fishery management plan, but not covered by a State/ASMFC plan, by fishermen that do not possess a federal permit for that species, but no state plan is in effect.

Motion was passed.

### **Regulatory Updates**

Director Chanda updated council on the 2008 Regulatory Proposal. After Director Chanda met with the Commissioner, the Commissioner agreed to move the Regulatory Proposal forward but it will move forward without the section pertaining to prohibiting the use of lobster/fish/conch pots on the two artificial reefs in State waters. The Commissioner was concerned about the process and not having a full compliment of Council members to review the proposal.

Mr. Rizzo commented why the package sat there so long and then all of a sudden it can move forward. Director Chanda indicated we are not the only ones trying to get regulations approved to move forward. Regulatory packages will take about 14-months to go through the process. When the Director was asked by the Commissioner what his #1 regulatory priority was, Director Chanda said the 2008 Multispecies Rule Proposal.

Dr. Donnelly commented how distressing this entire process has been with regards to this regulatory proposal and now there will be additional delays in moving forward with the reef issue.

### **Old Business**

Mr. Muffley brought Councils attention to Handout #6 on the Delaware Bay Fishery Management Plan for Black Drum, a Bi-State Fishery Management plan for the States of Delaware and New Jersey.

Mr. Goldman asked when the regulatory plan moves forward and it establishes different regulations than what we have currently, will DE make the same changes NJ must make. Mr. Muffley commented, yes, DE will follow all rule changes that may occur in NJ.

Mr. Muffley brought Council’s attention to Handout #7, a letter from the Endangered and Nongame Species Advisory Committee (ENSAC) and the Fish & Game Council (FGC) regarding funding for the free registry and overall funding concerns.

Mr. Goldman expressed his disappointment with the lack of support from the other Council's for a free registry and their support for only a saltwater license and not the Marine Fisheries Council's other funding options. Nothing was even mentioned about these other options in this letter to the Governor.

Ms. Puskas commented that the Governor did not change anything in terms of funding for the free registry and also expressed concern about where the money is coming from or to whom it goes too.

Director Chanda clarified that the ENSAC and the FGC are in support of the Marine Fisheries Council's endorsement of a saltwater fishing license. They support the Council in their attempts to establish a recreational saltwater fishing license similar to the State's extremely successful freshwater fishing license.

Director Chanda commented that arrangements are being looked into getting all three Councils together in July. This will provide an opportunity for the three Councils to discuss various issues of common interest, such as funding.

Mr. Rizzo agreed to disagree with Director Chanda as he expressed his concerns about the other Council's getting themselves involved in Marine Fisheries Council issues, when they should focus on their own issues.

Mr. Bailey commented that the Delaware Bay Council worries that the money needed to fund the free registry will come out of the shellfisheries accounts.

Dr. Donnelly responded that there is concern from every Council as to where the funding will come from to support the free registry.

Director Chanda brought Council's attention to Handout #8 which deals with the Marine Fisheries Administration Budget for Fiscal Year 2011.

Director Chanda also brought Council's attention to the Planning Document the Council requested at their January meeting. A draft of a Planning Document that Mr. Muffley, and staff, are working on provides information on the current status of the Marine Fisheries Administration (MFA) and all of the associated duties of MFA staff. This is a document that will need Commissioner's review and approval. Then Council can receive the document with the plan to have a series of stakeholder meetings throughout the State. The document evaluates all job responsibilities and determines what is priority, ASMFC mandated and funding driven.

Ms. Puskas asked what the difference was between the two budgets that were presented. Mr. Muffley responded that one includes Fringe and Indirect costs that the MFA currently does have to pay, unlike other Bureaus within Fish & Wildlife funded from license revenue. Each budget table does show the MFA is at least \$250,000 in the red.

Mr. Herb asked what the Nuclear Emergency Response Fund is, since it supports nearly three-quarters of the total budget. Mr. Muffley responded he not sure what the account is or how the funds are obtained; this funding just showed up in FY2011 budget.

Dr. Donnelly commented that we are at a point that any future budget losses will all be through the loss of man power.

Director Chanda commented that is why this planning document is so important. For this FY, the overall goal is to get to June 30<sup>th</sup> and narrow the gap of little more than a quarter of a million dollars in debt.

### **New Business**

Mr. Muffley brought Council's attention to Handout #9, Maryland DNR announces limited re-opening of striped bass gill net fishery. There have been recent issues with the striped bass commercial fisheries in both Maryland and North Carolina.

Mr. Muffley brought Council's attention to Handout #10, a letter to Council in regards to the commercial crab dredge fishery. The letter states they would like to see a prohibition on all commercial crab dredging in NJ.

Mr. Herb asked if a Crab Committee was going to be held. Dr. Donnelly indicated that maybe something could be set up for the future.

Director Chanda updated the Council on the current status of the Scientific Collecting Permit (SCP) for the Research Set-Aside program. The Director indicated that the Commissioner expressed concern about individuals being required to pay a \$250 fee for the opportunity to bid and that very little research on these fish are being conducted under this program. The Commissioner has indicated that the SCP will be issued again in 2011 with the same stipulations provided by Assistant Commissioner Cradic in 2010 – only valid during the species closed season once that species season has already opened (ie. not valid prior to the start of a season).

Mr. Rizzo addressed Law Enforcement on what is being done to address conch pots being left out over the winter, as this causes problems for crab dredgers. Lt. Canale commented that conch is regulated by the gear type and there is no season associated with that gear/license; therefore, the pots can be left out all year. Captain Chicketano commented that if Mr. Rizzo would like a season put into place a regulation would need to be proposed and adopted in order for Enforcement to address conch pots being left out over the winter season. Dr. Donnelly commented this is something for the Lobster/Fish/Conch Committee to look into.

### **Public Comment**

Mr. Laterrio asked Council on the status of commercial crab pot license transferability to individuals other than immediate family members. He also inquired about the process to makes these changes happen.

Mr. Muffley commented that currently the only way new entrants (outside immediate family transfers) can get into the fishery is from the 1994 lottery list, which is currently being utilized. At this point in time, there are no regulatory changes for crab pot license transferability proposed. The Blue Crab Committee would have to meet to discuss ideas and how best to proceed.

Mr. Cicchetti inquired as to when the SCP will be issued for the RSA program.

Captain Chickeno indicated the SCP permits for the RSA program being issued will not be valid ahead of recreational season, even if the permit is issued prior to the start of the season. The SCP will be valid once the season for a specific species closes.

Mr. Rizzo asked if anyone mentioned to the Commissioner that the fishermen who are acquiring RSA permits are recreational fishermen.

Mr. Rush asked why the SCP permits were not being issued before the season and if this was true for both commercial and recreational seasons. Mr. Muffley responded yes, this issue applies to both commercial and recreational however they are not directly comparable. The commercial seasons are very different from the recreational sector (all commercial seasons are already open for the species in question) and the provisions for the commercial vessels are also different (ie. allows for different trip limits). Mr. Muffley also indicated the issuance of the SCP is the same as it was in 2010 as indicated in a letter from Assistant Commissioner Cradic that was provided to the Council last May.

Meeting adjourned.

Next Meeting is April 7, 2011, Galloway Township Library.