

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

In Attendance were: Chairman Gilbert H. Ewing, Jr.  
Councilman Erling Berg  
Councilwoman Eleanor Bochenek  
Councilman Patrick Donnelly  
Councilman Richard Herb  
Councilman Walter L. Johnson III  
Councilwoman Frances Puskas  
Councilman Sergio Radossi  
Councilman Joseph Rizzo

Absent: Councilman Scott Bailey

Also in attendance representing the Division of Fish and Wildlife:

Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)  
Brandon Muffley, Chief, Bureau of Marine Fisheries  
Russ Babb, Acting Chief, Bureau of Shellfisheries  
Jeffrey Brust, Research Scientist, MFA  
Peter Himchak, Supervising Biologist, (MFA)  
Captain Dominick Fresco, Bureau of Law Enforcement  
Russ Allen, Principal Biologist, Bureau of Marine Fisheries  
Sherry Bennett, Recording Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of the meeting was filed with the Secretary of State on October 3, 2011. A correction was made to the July 20<sup>th</sup>, 2011 meeting minutes to add "th" after July 18, under the registry update after how many people have registered for free registry- should read July 18<sup>th</sup>. Both the July and August meeting minutes were then approved.

Chairman Ewing began the meeting with the Pledge of Allegiance.

**Audience Conduct**

Chairman Ewing 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. Please make sure your car is parked on the side of the building and not out in front of building.

**Law Enforcement Report**

Captain Fresco presented the Enforcement Report. The Marine Law Enforcement unit recently purchased three new 22 foot, Ribcraft patrol vessels. These vessels were purchased with a federal grant under the joint enforcement agreement between NJ Law Enforcement and National Marine Fisheries Service.

Captain Fresco reported on the chronic violations of undersize/out of season harvest of black sea bass, fluke and tautog by recreational anglers fishing from shore and on private and party boats.

In one particular egregious incident recreational fisherman were apprehended selling numerous species to an Asbury Park seafood market. They included 36 tautog (12 undersize), 93 black sea bass (season closed; 83 undersize), 30 weakfish (29 undersize), 5 striped bass (1 undersize), 9 scup (2 undersize) and 3 fluke (out of season, all undersize). The individuals do not possess any commercial permits. The investigation continues and charges are pending.

On patrol to verify compliance with the Large Whale requirements of weaklinks on lobster gear several lobster pots were found not to be marked with identification as required.

In separate incidents recreational crabbers were apprehended fishing more than two commercial style crab pots. In one case, the crab pots belonged to a commercial crabber.

### **Legislative Report**

Chairman Ewing commented there is no Legislative Report at this time.

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

Mr. Himchak presented Council with the ASMFC Report. The annual meeting will be held in Boston on November 7<sup>th</sup> thru the 12<sup>th</sup>.

### **American Lobster Management Board**

Director Chanda has written a letter to the Chairman of the Lobster Board saying that NJ data has not been adequately assessed by the Lobster Technical Committee and currently NJ will support nothing other than status quo for NJ lobster fisherman. If the Board does not approve status quo (no reduction) for NJ or delay action, then the Marine Fisheries Council will have to convene a Lobster Committee meeting to determine if they want to comply with the 10% reduction and how to accomplish it.

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

For the 2013 fishing year the Scientific and Statistical Committee suggested an increase in spiny dogfish quota to 35.6 million pounds. However, NMFS indicated they may not be able to support such an increase in the quota, but have not yet indicated why. If NMFS does reduce the quota to 30 million pounds, this turns into a potential loss in income of approximately \$11,000.00 loss to each NJ spiny dogfish fisherman.

### **Horseshoe Crab Management Board**

An addendum may be approved for public hearing at the ASMFC meeting. Council will be informed in the event a public hearing on the Horseshoe Crab Addendum is scheduled before the January Council meeting.

Mr. Himchak also let Council know that a possible public hearing is coming for smooth dogfish.

Mr. Rizzo asked about the status of winter flounder and eels. Mr. Allen indicated the ASMFC will meet next week on winter flounder. Eels are in the middle of stock assessment which is scheduled for completion in March of 2012.

Mr. Allen continued the report with other ASMFC activities.

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

The Delaware Shad Sustainability Plan developed by the Delaware River Basin states (N.Y., N.J., P.A., D.E.) was presented to the ASMFC Technical Committee. The only concern being addressed at this moment is with the lower Delaware Bay fishery, which is a mixed stock (other rivers) fishery. There have been minimal landings but other states have concerns. There is a potential for a closure of this fishery in 2013. (It should be noted that if approved, the Delaware Sustainability Plan only applies to the Delaware Estuary and all the other areas of the State will need to be closed to shad fishing in 2013).

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

Addendum III proposes coastwide cuts of 40% in the striped bass fishery. This Addendum was postponed until the stock assessment was completed. This stock assessment is now complete and the Addendum may go to public hearing. To give an update on the stock assessment: striped bass is not overfished and overfishing is not occurring, the biomass is 9% higher than target and 37% higher than threshold. Abundance peaked in 2004 and will continue to decrease through 2017, because most of the year classes coming out of the Chesapeake Bay have been average or below average since 2003. The 2011 year class is the 7<sup>th</sup> highest since the 1950's. NJ has been seining the Delaware River since 1980 and this past year marked the 9<sup>th</sup> highest year, which gives the Delaware stock four top ten years in the last nine.

Dr. Donnelly asked who wanted to see a 40% cut? Mr. Allen stated it started with the northern region, (ME – MA). The Chesapeake stock is the main stock of fish that migrate that far north; according to tagging data, the Delaware stock does not normally migrate to ME/NH waters.

Mr. Radossi asked if there was any information on the Hudson River Stock. Mr. Allen indicated they had a peak year in 2007 and they also don't migrate that much to the north. He didn't have information on the latest year's sampling.

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

Mr. Berg presented Council with the MAFMC report. Handout #1. Amendment 14 for Atlantic Mackerel, Squid and Butterfish will move forward with public hearings in December 2011/January 2012. One important focus is the bycatch of shad and river herring in these fisheries. The MAFMC continues to work on Amendment

17 which concerns a regional approach to black sea bass recreational management. The MAFMC recommended a spiny dog fish quota for the coming year of 35.6 million pounds and a trip limit increase to 4,000 pounds.

Mr. Himchak brought Council's attention to Handout #1. The MAFMC is looking for feedback from fisherman on charting a course for the future through its Visioning Program. There will be meetings held throughout New Jersey and all other Mid-Atlantic States for this outreach program. Mr. Himchak commented that you can also fill out questionnaires that are species specific.

Mr. Himchak also advised Council of a possible change in the summer flounder quota for 2012. The MAFMC/ASMFC set the 2012 quota in August 2011. Apparently, the Scientific and Statistical Committee did not have all the updated, necessary data from the NMFS regarding the overfishing level and acceptable biological catch for 2012. It appears that overfishing may be occurring in 2011, which could result in a substantial reduction of the original quota selected. This will be discussed in December at the joint MAFMC/ASMFC meeting.

Mr. Berg commented that the MAFMC/ASMFC used the best data available at the time (August meeting). Mr. Berg commented he will not be supporting a decrease in the summer flounder quota at this time.

## **Shellfish Council Reports**

### **Delaware Bay**

Mr. Babb presented Council with the Delaware Bay Report in Mr. Bailey's absence.

#### **2011 Delaware Bay Oyster Harvest Season**

The Delaware Bay Direct Market Oyster Season, which opened in early April, experienced a nearly a 40 day closure due to water quality impacts from Hurricane Irene and Tropical Storm Lee. In an effort to allow for the harvesting of the remaining 40,000+ harvest quota, the Division preemptively extended the season from November 18 to November 30 and allowed for Saturday harvesting. In addition, if water temperatures are holding above 50° F as of the end of November, a partial extension into December may be possible. Through November 1<sup>st</sup>, the 83 participating vessels have harvested over 72,000 bushels of oysters of the 96,000+ bushel quota and only the high mortality beds south of Ben Davis Point remain open to harvest.

### **Atlantic Coast**

Mr. Johnson presented Council the Atlantic Coast Report.

#### **2011 Fall Mullica River Oyster Season**

A limited three-day fall oyster harvest season is set to begin on Thursday, November 3<sup>rd</sup> and conclude on Saturday November 5<sup>th</sup>. The season was opened by the Department with the recommendation of the Council at the October 17, 2011 meeting. The Mullica River oyster harvest is open to all commercial and recreational shellfish license holders. Recreational shellfish license holders are limited to 150 oysters per day. Harvest is

limited to hand tongs only. The season was shortened this fall from six days due to lower bed conditions found on Fitney Bit. The Reef Bed, which had been closed for harvest for five years as a stipulation of a grant received from the Fish America Foundation to plant that bed with seed oysters in 2006, was now opened for harvest.

A presentation was given by Mr. Calvo on the status of Aquaculture Development Zones (ADZ) in Delaware Bay. The ADZ's are for the purpose of structural aquaculture activities. The Bureau will be announcing the acceptance of lease applications beginning December 12, 2011.

## **Committee Reports**

### **Menhaden Committee**

Ms. Puskas presented the Atlantic Menhaden Committee Report. The purpose of this meeting was to discuss numerous issues with the commercial bait fishery in NJ that have arisen over the last couple of years. Some topics discussed were: type and scope of transferability of purse seine licenses, reporting and landing requirements for all gear types, EEZ versus State water landings and reporting, potential need for a landing license, current reporting discrepancies, potential for weighing of menhaden at point of landing, potential need for further clarification on the use of fish pumps and miscellaneous regulation issues due to the recent legislation. Before specifics or details could be developed on some of these issues, the Committee and advisors felt it would be beneficial to obtain more information on the bait fishery in NJ. The Committee recommends Division staff begin to compile this information and support convening another Menhaden Committee meeting in the future to begin discussing some of the details of these issues.

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

Dr. Donnelly presented the Committee Report on Summer Flounder, Scup and Black Sea Bass, Handout #3. The purpose of this meeting was to review the current 2011 commercial landings, the potential 2012 commercial quotas, and to discuss trip limits for the 2012 commercial seasons.

The first agenda item discussed was the 2012 scup quota and trip limits. Due to continued improvements to the coastwise scup resource, the preliminary coastwise commercial quota has increased 66% from 2011 quota. The ASMFC and MAFMC agreed to change the Winter I trip limits from two landings per week with landings not to exceed 30,000 pounds per week to a daily 50,000 pound trip limit. The Council Committee supported the ASMFC and MAFMC recommendation for changing the Winter I trip limits.

The next agenda item was black sea bass. The 2011 quota is 342,216 lbs while the 2012 quota will be 296,587 lbs – a 13% decrease. There was a great deal of discussion of the 2011 season in which each season so far was under harvested leaving a surplus of poundage for each subsequent season, the need for increased flexibility to manipulate trips limits within season, and the need for larger quotas. However, given the current low

quotas and the limited flexibility options currently available through regulation, the advisors and Council Committee recommend keeping the existing trip limits in place for the 2012 season.

The final agenda items discussed concerned summer flounder. The 2011 NJ summer flounder commercial quota is 2,859,244 pounds while the 2012 quota for NJ will be 3,073,980 – a 7.5% increase. For the first time in several years, the 2011 summer flounder fishery remained opened for the entirety of each directed season during the Seasons 2 through 5. Some of the under harvest 2011 likely occurred due to trips limits not being high enough, so the group discussed altering some Season trip limits in an effort to harvest the available quota. After input from the advisors, the Council Committee recommends the following: Season I remain the same for 2012; Season 2 would change from 1,500 lbs. three times a week in 2011 to 2,000 lbs twice a week or 3,000 lbs. once a week for 2012; Seasons three and four would remain the same in 2012; Season 5 would change from 750 lbs. four times a week or 3,000 lbs once a week in 2011 to 1,000 lbs. four times a week or 4,000 lbs once a week in 2012; Season 6 would change from 1,000 lbs four times a week or 3,500 lbs once a week in 2011 to 1,000 lbs five times a week or 4,500 lbs once a week for 2012.

The group also discussed the likely scenario for both black sea bass and summer flounder in which there will be excess quota available by December 1<sup>st</sup>. The Commissioner has the authority to modify trip limits in an effort to harvest the remaining quota. The Council Committee asked the Division to continue keeping track of the available quotas as the December 1<sup>st</sup> deadline approaches and reach out industry to determine the appropriate action for any trip limit changes.

Chairman Ewing commented that the Committee Report serves as a motion for the Committee, he asked for questions from Council.

Mr. Rizzo would like to refrain from making trip limits until after the joint meeting in December on summer flounder.

Chairman Ewing suggested that Mr. Rizzo make a friendly amendment to table the summer flounder trip limits portion until the January 2012 meeting.

Mr. Rizzo made a motion to table the summer flounder portion until the January 5, 2012 meeting. Motion was approved.

Dr. Donnelly said the remaining portion of the original motion is on scup and black sea bass.

Chairman Ewing asked for questions from Council and then comments from the public. No one had any comments.

Motion passed.

### **Regulatory Updates**

Mr. Muffley presented Council with a Draft Notice Administrative Change: 2012 Commercial Trip Limits for Summer Flounder & Scup. Handout #4. The draft does include the summer flounder trip limits, but those can be removed to reflect Council's earlier action.

Mr. Muffley reminded Council that a couple years ago ASMFC required the states to close their Scup Winter I season on April 28. The ASMFC no longer requires this, so Mr. Muffley recommended that Council approve a motion to let the Winter I season extend through April 30<sup>th</sup>.

A motion was made and approved to include an extension of Scup Winter I season through April 30<sup>th</sup> and to include it in the NAC.

Mr. Muffley also volunteered to provide Council with regular updates (at meetings) on the commercial harvest of quota managed fisheries so Council could make in season adjustments to optimize the harvest. Chairman Ewing thanked Mr. Muffley for his effort and indicated the Council looks forward to this information.

Mr. Muffley updated Council on the Bureau's regulatory proposal. This proposal will include provisions on the saltwater registry program. The process needs to now be restarted by sending various briefing memorandums on the particulars of the proposal. This proposal has been ranked as a #2 priority for the Department.

Mr. Muffley also reminded Council of the ASMFC mandated closure of the river herring fishery in 2012. A Notice of Administrative Change will be prepared for the Council's action at the January 5, 2012 meeting.

### **Old Business**

Mr. McCloy brought Council to attention Handout #5 on the USFWS Endangered Species Act and the process for listing a species. This information was a follow up to the joint meeting held in July which discussed this process.

Mr. Muffley updated Council on the Barnegat Bay Conservation Zones. The Department will be holding a meeting next Wednesday in Toms River. It is a stakeholder meeting, not a public meeting so you need to be invited. Council has been invited to attend this meeting.

### **New Business**

Mr. McCloy brought Councils attention to Handout #6, a State of Delaware Legislative Resolution to urge NJ to eliminate 'once-through' cooling systems in the Delaware Estuary.

Mr. Rizzo had been contacted by individuals from Rider University and Stockton College regarding crab research and ghost gear removal, respectively. He asked Mr. Muffley how the Department is involved in these efforts. Mr. Muffley indicated that he had reviewed and suggested modifications to the crab research being conducted by Rider. In the case of Stockton, the Department was facilitating their contact with fishermen.

Mr. Rizzo, then asked how the colleges obtained the fishermen's addresses. Mr. McCloy commented that the agency does not give out addresses. However, the agency will facilitate contact with the fishermen by having the organization provide letters in stamped envelopes, that the agency then adds the mailing label to and mails. The agency only does this in cases that may benefit fishermen through their involvement.

Mr. Herb asked about reports that the Radford had broken apart. Mr. Muffley commented that divers reported the Radford has broken in to three pieces. The reason is unclear, but was probably due to the way it settled on the bottom and impacts of Hurricane Irene.

Mr. Himchak reminded Council that the ASMFC Tautog Management Board will meet next week. The Council should be prepared to hold a Tautog Committee meeting to discuss ASMFC mandated measures. Originally there was to be a 53% reduction coastwide, but if the NJ model is accepted then the NJ reduction may be more on the order of 27%.

### **Public Comment**

Mr. Acres commented that he is concerned with the crashing of forage fish populations and the closing of these fisheries. He stressed the need to continue to work to protect these species from collapse since they form the bottom of the food chain.

Mr. Nowalsky encourages all recreational and commercial fishermen to fill out the MAFMC visionary survey. He announced there will be a recreational committee workshop on December 2<sup>nd</sup> and 3<sup>rd</sup> in Baltimore. This meeting is open to the public.

Mr. Berg mentioned that the MAFMC have scheduled meetings on the "Vision" for November 15<sup>th</sup> at the Barnegat Light Firehouse and November 16<sup>th</sup> at the Rutgers facility in Cape May.

**Meeting adjourned.**

**Next Meeting is Thursday January 5, 2011 Galloway Township Library.**