

**NEW JERSEY MARINE FISHERIES COUNCIL**  
**Galloway Township Library**  
**Galloway, New Jersey**  
**September 5, 2013**

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

Also in attendance representing the Division of Fish and Wildlife:

David Chanda, Director Division of Fish & Wildlife  
Brandon Muffley, Administrator, Marine Fisheries Administration (MFA)  
Jeffrey Brust, Research Scientist, MFA  
Peter Himchak, Supervising Biologist, MFA  
Captain Dominick Fresco, Bureau of Law Enforcement  
Russ Allen, Supervising Biologist, Bureau of Marine Fisheries  
Mike Celestino, Research Scientist, Marine Fisheries Administration  
Linda Barry, Assistant Biologist, Marine Fisheries Administration

Mr. Muffley read the compliance with the Sunshine Law. Notice of the meeting was filed with the Secretary of State on August 5, 2013. Meeting minutes from the July 11, 2013 Council Meeting were approved.

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

**Audience Conduct**

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

**Law Enforcement Report**

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

Captain Fresco updated Council that since July 9, CO's have been responding and helping the Marine Mammal Stranding with dead and dying dolphins appearing along the coast. As of September 2, 83 dolphins have died, majority are bottlenose dolphins due to a morbillivirus which seems to be the cause of death.

### **June 2013**

From June 16 to June 23, CO's obtained information from informants or conducted surveillance of individuals in the Sandy Hook area. A summons was issued to three individuals at a boat rental livery in Highlands Borough of Monmouth County for catching and retaining undersized summer flounder. Two clambers were found in violation of using their outboard motors to aid in the catching of hard clams in the hard clam depuration program in Sandy Hook Bay. This violation carries a penalty ranging from \$300.00 to \$3000.00 for the first offense. On 7/15/13 the case was settled in the Middletown Municipal Court with a guilty plea and a penalty of \$500.00 imposed. Lastly, five individuals were issued summonses for failure to obtain shellfish licenses as well as interference charges. Warnings were also issued to each individual for harvesting mussels in special restricted waters of Sandy Hook National Park.

Later in June, a CO Moscatiello responded to a call from an informant that several men were catching tautog and hiding them in the rocks on a jetty in Long Branch, Monmouth County. Upon inspection, 23-tautog were located in various bags belonging to the fishermen. A total of six summonses were issued for the possession of tautog during the closed season.

### **July**

On 7/6/13, a CO responded to an Operation Game Thief complaint of illegal fishing with nets in Monmouth County. Upon inspection, it was determined the individuals were legally using a seine net to capture killifish to use as fluke bait. On this same day, the CO observed a group of individuals clamming in condemned waters of Western Raritan Bay. Upon inspection of the individuals, 175 clams were counted in two buckets and only one had a senior recreational shellfish license. The three unlicensed individuals were charged with harvesting shellfish without a recreational shellfish license and all of them were issued written warnings for harvesting shellfish from condemned waters. Approximately one hour later and hid behind the dunes by Whale Creek, the CO observed two of the same individuals that were just charged, harvesting clams in the same location as observed earlier. The two individuals were found in possession of additional 24 clams and charged for harvesting shellfish from the condemned waters of Western Raritan Bay, a disorderly person's offense.

On 7/29/13, CO's received information from an informant that individuals were keeping multiple short summer flounder on a boat in the Shark River, Monmouth County. The vessel was inspected and a total of 28 short summer flounder were found concealed under the floorboards of the vessel. Summonses were issued to all four parties for possession of the short fish as well as being over the daily possession limit.

### **August**

On 8/2/13, a CO conducted a surveillance of clambers participating in the Hard Clam Depuration Program in Monmouth County. The CO noted one clammer of several violations which included: a hard clam depuration placards that were either damaged or missing; interference with a legally set pound net; and the use of a vessel's engine to aid in the catching of shellfish. Warnings were issued for the depuration placards as well as

the interference with the legally set pound net. A summons was issued for the use of vessel's engine to aid in the catching of shellfish which carries a penalty range of \$300.00 to \$3,000.00 plus court costs. Working late into the night of August 2, a CO's received information of trespassing and illegal fishing activity on the Ventnor Fishing Pier. Access to this gated, city-owned pier is gained through paid membership. Inspections of the nearly 20 fishermen resulted in 11 trespass warnings and multiple summonses for undersize and over limit weakfish. A total of 15 fishermen were removed from the fishing pier.

On 8/7/13 Conservation Officers from the Marine and Central Regions conducted a fishing vessel inspection of a party boat vessel at the Atlantic Highlands Marina, in Atlantic Highlands, NJ. The patrons were very concerned that the vessel was violating the summer flounder size/possession limits and fillet permit regulations. The vessel maintains a current valid fillet permit. The inspection revealed only 16 freshly filleted summer flounder carcasses in a bucket next to the fillet table. Twenty four carcasses remained unaccounted for. The vessel's owner, captain and crew were each charged with four separate violations of their fillet permit. The charges included: failure to retain all fish carcasses from the current days trip prior to landing; failure to dispose of fish carcasses from a previous trip, prior to commencing fishing on the vessels subsequent trip; possession of summer flounder fillets less than 8 inches in length; and disposing of fish carcasses while actively fishing. Each charge carries a penalty of \$300.00-\$3,000.00 with a court mandatory appearance required. A violation of the fillet permit regulations carries a 60 day fillet permit suspension.

In the early morning hours of 8/15/13, CO was on Sandy Hook National Park to observe the activities of a commercial gillnet vessel that was believed to be fishing in state waters without the proper license. A fisherman must obtain a NJ gillnet license prior to placing a gillnet in the Atlantic Ocean within three miles of the coastline. The CO measured the vessel at a distance of 1250 yards off of the shoreline, at its closest point. Upon inspection of the vessel which contained over 2600 lbs. of smooth dogfish, a summons was issued for setting and tending a gillnet in state waters without a state gillnet license. The violation carries a penalty of \$300.00 to \$3,000.00 plus court costs. The fish for this trip were sold to the highest bidder in a three bid process. The check for the value of the fish was seized and will remain in the possession of NJ Fish and Wildlife personnel until adjudication of this case.

### **District 8**

District 8 officers continue operations in Atlantic City, routinely inspecting charter/party fishing vessels and shore side fishermen. Approximately 30 summonses have been issued in Atlantic City in the last month. While working into the night in Atlantic City, CO's inspected a party boat and issued a total of 8 summonses for undersize black sea bass. A shoreline patrol also yielded an additional 4 summonses for undersize and over limit Tautog.

### **National Marine Fisheries Service**

Throughout the summer months the National Marine Fisheries Service (NMFS) assisted CO's or in some instances cases were turned over the NMFS for processing. One case involved a recreational charter fishing vessel in possession of a Yellowfin tuna and a dolphin fish. The vessel operator was unable to produce a valid federal Highly Migratory Species permit. The inspection also rendered a summons for an undersized summer flounder carcass on the vessel. Another vessel did have the correct Highly Migratory Species (HMS) permit onboard to possess an Atlantic Bluefin tuna. However the vessel was found to be over the daily possession limit for Atlantic Bluefin tuna. This captain was issued a federal summary settlement for \$1000. Both tuna fillets were abandoned by the captain and donated to the Wildwood Volunteer Fire Department. Two more cases were forwarded to the NMFs for prosecution, one case involved retaining an Atlantic Bluefin tuna without possessing a valid Highly Migratory Species Permit. The other case involved landing a filleted Atlantic Bluefin tuna in violation of federal law which requires Atlantic tunas to be landed with fins intact; or eviscerated with the head removed, but with one pectoral fin and the tail remaining attached.

### **Legislative Report**

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

Senate Resolution #110, (Handout #2) introduced by Senator Beck, urges Congress to enact "Sandy Disaster Fisheries Relief Act", which would provide more financial assistance to the fishing industries of NJ and NY.

Handout #3 is the August 5<sup>th</sup> NJ Register publication that implements the modification to the season for processing smooth dogfish at sea and smooth dogfish commercial trip limit.

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

Mr. Himchak presented Council with an update on the ASMFC Summer Board meetings, (Handout #4).

#### **Atlantic Herring Section**

The Atlantic Herring Section approved Addendum VI after receiving reports from its Technical Committee (TC) and Advisory Panel (AP). The Addendum's measures include (1) seasonal splitting of the annual catch limit sub-components (sub-ACLs) for Areas 1B, 2, and 3; (2) up to 10% carryover of a sub-ACL for all management areas from one year to the following year; (3) the establishment of triggers to initiate the closing of directed fisheries, and (4) using the annual specifications process to set triggers. The AP Chair mentioned the possibility of re-opening Area 2 later in 2013, which is currently closed to harvest when 2013 specifications are implemented. If opened, this would provide an additional quota for the remaining 2013 fishing season. This issue will be addressed at the September meeting of the New England Fishery Management Council. Also noted that fisherman in Area 2 are not interested in seasonal splitting of the annual sub-ACL for Area 2.

### **American Lobster Management Board**

The Commission's American Lobster Management Board approved Addendum XXI to Amendment 3 to the Interstate Fishery Management Plan (IFMP) for American Lobster and moved the issues pertaining to single and aggregate ownership caps in Lobster Conservation Management Area (LCMA) 3 into Draft Addendum XXII for public comment. Addendum XXI implements changes to the transferability program for LCMA's 2 (Southern New England) and 3 (offshore waters). Mr. Himchak suggested a lobster committee meeting to address updating research on tail segment length, scaling down the fishery, and changing the fishing season.

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

The Spiny Dogfish and Coastal Sharks Management Board met to review state implementation plans for Addendum II to the ISFMP for Atlantic Coast Sharks. All state implementation plans were approved. The Board also approved Draft Addendum III for public comment. Draft Addendum III was initiated to address changes in species grouping and recreation size limits that are occurring in the Highly Migratory Species (HMS) Plan. Specifically HMS Amendment 5a changes the coastal shark species groupings for hammerhead and blacknose sharks and establishes a new commercial quota and recreational size limit for hammerhead sharks.

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

The Summer Flounder, Scup and Black Sea Bass Management Board met to review a progress report on retention rates for summer flounder from the TC. The Summer Flounder Recreational Working Group tasked the TC with examining methods to achieve more equity in the recreational summer flounder harvest opportunities along the coast.

Mr. Allen concluded the rest of the ASMFC report, Handout #4.

### **South Atlantic State-Federal Management Board**

The South Atlantic State-Federal Management Board met to review a number of items including Spot & Atlantic Croaker Trigger analyses, state compliance reports and fishery management plan reviews for Atlantic Croaker and Red Drum. The Board asked the TC and the Spot Plan Review (PRT) for analyses to be presented at the February 2014 ASMFC Winter Meeting.

### **Striped Bass Management Board**

The Atlantic Striped Bass Management Board continues to be concerned about relative low levels of recruitment over recent years as well as recent downward trends in recreational landings. Given this information and in anticipation of the final results of the benchmark stock assessment, the Board tasked the Plan Development Team to begin drafting an addendum.

### **American Eel Management Board**

ASMFC American Eel Board approved Addendum III to the IFMP for American Eel and initiated development of Draft Addendum IV. Given the scope of issues addressed in Draft Addendum III and the wide range of input received through public comment, the ASMFC decided to divide the issues between the two addenda, with Draft Addendum IV

primarily focusing on management measures for the glass eel fishery. Addendum III establishes a 9" minimum size limit for recreational and commercial yellow eel fisheries, trip-level reporting for the commercial yellow eel fishery, a seasonal closure of silver eel fisheries, a 25 recreational fish per day creel limit, and measures to restrict the development of fisheries on pigmented eels. States will be required to implement the Addendum's measures by January 1, 2014. Mr. Allen suggested Council hold an eel committee meeting prior to the November Council meeting.

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

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

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

### **Atlantic Surfclams and Ocean Quahogs**

The MAFMC proposed several actions relative to the development of the Cost Recovery Amendment (Amendment 17) for the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP). The MAFMC also voted to include alternatives that would streamline the process for updating stock status determination criteria for both fisheries.

### **Strategic Plan**

The MAFMC approved the final 2014-2018 Strategic Plan. The MAFMC also discussed the next steps for development of an implementation plan.

### **Research Set Aside (RSA) Committee**

The RSA Committee developed draft RSA research priorities for MAFMC consideration. The RSA Committee will meet again in October to incorporate any necessary revisions before finalizing the research priorities.

## **Shellfish Council Reports**

### **Delaware Bay**

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

### **2013 Direct Market Program**

The direct market oyster fishery will run through mid-November. The vibrio season has ended and oystermen can return to harvesting during normal hours (i.e. no shortened hours due to vibrio).

### **Atlantic Coast**

No report was presented at this time.

## **Committee Reports**

### **Reef Committee Report**

Mr. Herb presented Council with the Reef Committee Report, Handout #6b.

The Reef Committee met with Department of Environmental Protection staff on 8/19/2013 to discuss the Christie Administration's compromise between recreational and commercial interests regarding access to artificial reefs in State waters. Locations of the Full Access Zones (defined locations where lobster/fish/conch pot gear will be allowed) within the Sandy Hook and Axel Carson Reefs, the regulatory process and potential locations for a recreational only reef were presented to the Committee. A course of action has been identified that will include additional Reef Committee meetings with advisors of the recreational, commercial and for hire sectors to discuss details of the compromise and determine specific elements of future reef management such as regulatory language and sighting of the new State water reef.

Also discussed was the Department's future intention to petition the MAFMC for Special Management Zone (SMZ) regulations for the 13 reefs located in the Exclusive Economic Zone (EEZ). Specific action on this issue is anticipated to occur once the Administration's compromise is fully developed and regulations on state reefs are finalized.

### **Menhaden Committee**

Mr. Hollinger presented Council with the Atlantic Menhaden Committee Report, Handout #6a.

The Atlantic Menhaden Committee met on August 12, 2013 to discuss eligibility requirements to qualify for the newly established New Jersey Menhaden Landing License. In attendance were members of the Atlantic Menhaden Committee, commercial and recreational industry advisors for the Menhaden Committee and the Gill Net Committee, a legislative aide, and Marine Fisheries and Law Enforcement staff.

Staff provided a review of the requirements under Amendment 2 of the ASMFC Atlantic Menhaden Fishery Management Plan, and an overview of the legislation New Jersey has enacted to remain compliant with the Amendment. In order to comply with the New Jersey's harvest allocation under Amendment 2, effectively monitor the commercial harvest, cap fishing effort, and protect New Jersey fisherman that have been in the menhaden fishery, the State has implemented a limited entry menhaden landing license program. To obtain a menhaden landing license, harvesters must prove eligibility relative to gear specific criteria which were developed by the Menhaden Committee during previous meetings, approved by the full Council, and included in the final legislation. For most gears, the criteria require harvesters to provide documentation of achieving a certain level of landings during at least one year between 2009 and 2012. Acceptable documentation might include weigh-out slips, sales receipts, or state or federal reporting forms.

Unfortunately, during development of the eligibility criteria, a portion of menhaden harvesters were inadvertently overlooked. Many harvesters land menhaden in gill nets for personal use as bait in the crab/conch/lobster pot fisheries. There are no mandatory reporting requirements for most of these participants, and this harvest is not sold to dealers, so there is no way for these harvesters to provide documentation of their landings. The main purpose of this meeting was therefore to develop alternate eligibility criteria for gill net harvesters who land menhaden for personal use and cannot provide adequate documentation.

To address this concern, the committee discussed development of a new license/permit category that would allow harvest but not sale of menhaden, i.e. a no-sale license/permit. It was questioned whether development of this new category could be done administratively, or if it would require additional legislative action.

Advisors also raised concerns about the mandatory electronic reporting requirements associated with the legislation. The Committee felt this was an important issue but there is not a clear understanding of how significant the issue may be until landing licenses are issued. The Division indicated they will be willing to work with whomever this is an issue for; either thorough training, modified/easier reporting forms, or some other acceptable alternative submission method.

The recommendation of the Menhaden Committee is that a no-sale license/permit category be developed for personal use harvesters. Anyone in possession of a no-sale license/permit would be allowed unlimited harvest of menhaden during the open season and 6,000 pounds per trip during the closed season, but could not sell any of their harvest to any entity. Eligibility criteria for the no-sale license/permit would include proof of a valid gill net license, a valid pot fishery license, and proof of landings in the pot fishery of at least 100 bushels (approximately 5,000 pounds) of any combination of species harvested in baited pots (e.g. crab, conch, lobster).

### **Public Comment**

Chairman Herb opened the floor up to public comment regarding the Menhaden Committee report.

The public provided their concerns over the newly established NJ Menhaden Landing License that overlooked gill netters who land menhaden for personal use as bait. The following are the general comments and questions expressed: eligibility of proof of documentation only in the 2009-2012 landing years; recommendation that any active gill netter should be eligible with a limit of 500 pounds; how can permits/criteria be established without reporting requirements; why couldn't an Executive Order be used to halt or enact this law, support was given to Council for working this out to help the bait fisherman, which should be done, however it is federal law to report everything you catch and sell so fishermen should have proof of landings; goal should be to address the issue fairly without creating a new fishery; develop flexibility into any plan, so that a few years

from now when ASMFC makes changes, this plan can be reassessed; consider bait net licenses; and keep permit numbers down as not to impact the fishery along the coast.

Senator Van Drew, sponsor of the menhaden legislation, commented that he understands this is a complicated issue and appreciative of everyone working together to find a solution. The reason he sponsored and supported this legislation was to protect the NJ Menhaden fisherman. The Senator made two points for Council to consider: (1) look at the Delaware Bay historical gill netters who have fished this fishery for years to figure out a way for them to continue fishing and (2) do not impose a new fee on bait and tackle shops.

Chairman Herb asked the Senator if he would consider an amendment to the current legislation to help resolve this issue. The Senator indicated he would support one, if needed, but given the upcoming election and other issues he hoped The Council could resolve.

Chairman Herb requested a consolidation of recommendations of what fisherman want and deem acceptable and to address these matters at another Menhaden Committee meeting with both menhaden and gill net advisors.

### **Regulatory Actions**

Mr. Muffley brought Council's attention to possible action to address commercial black sea bass trip limits, Handout #7. To date, only 54 percent of the NJ commercial black sea bass quota has been harvested, a significant amount of unused quota will likely be rolled over into the final season, which runs from October 1 – December 31. Mr. Muffley presented two options to modify the black sea bass trip limit. The two options provided were:

- a. 1,000 lbs. x 6 trips per week; 2,000 lbs. x 3 trips; or 3,000 lbs. x 2 trips
- b. 2,000 lbs. x 5 trips per week; 2,500 lbs. x 4 trips; or 5,000 lbs. x 2 trips

Mr. Muffley commented after notifying advisors and soliciting their input, they were split on the options but all were in favor of increasing the trip limits.

Mr. Berg made a motion for option #1, which is 1,000 pound trip limits 6 times a week, 2,000 pound trip limit 3 times a week and a 3,000 pound trip limit 2 trips a week. Ms. Puskus seconded motion.

Chairman Herb opened the floor up to comment on the motion.

Ms. Wagner commented in support of option #2, for a 10,000 pound limit per week. The more sea bass we can catch the less fish on the table.

Mr. Barker commented why not get a weekly poundage and a fisherman can catch what they want throughout the week up to the weekly limit. Must report weekly anyway, why does it matter how many trips it takes someone, just as long as you don't exceed the weekly poundage.

Mr. Kaelin commented the larger the trip limit is for one trip is more ideal. He would like to see 1 trip at 6,000 pounds.

Mr. Rush made a motion, seconded by Bochenek, to amend the motion to read as: a 6,000 pound trip limit one time a week, or a 3,000 pound trip limit two times a week, or 1,000 pound trip limit six times a week. Motion to amend the motion was approved. The amended motion becomes the motion and motion passes.

Mr. Johnson made a motion, seconded by Rush, to approve the modifying black sea bass trip limit for Notice of Administrative Change (NOAC), motion approved.

### **Old Business**

Mr. Allen updated Council on a question Dr. Bochenek asked at the July meeting in regards to how the angler registry is doing. In 2011 the registry had 340,328 participants and 1,219 for hire. In 2012 the registry had 340,398 participants and 1,267 for hire. Through August 2013, the registry had 189,487 participants and 827 for hire. The significantly lower numbers for 2013 is most likely due to the impacts of Hurricane Sandy.

Mr. Muffley presented Council with Handout #8 a Power Point presentation the Division put together documenting the impacts and losses sustained to NJ's marine fishing industries due to Hurricane Sandy. These losses were developed by an analysis conducted by the Division using the surveys that were completed by the various fishing sectors. The Division estimates NJ's fishing industries sustained over \$225 million in uninsured losses due to the storm.

### **New Business**

Mr. Muffley presented Council with Handout #9, in regards to the Apollo South Submarine Fiber Optic Telecommunications Cable Project. This letter contains the initial inspection and monitoring report for the project.

Chairman Herb asked Council to move the November date back a week due to a conflict in renting the room in Galloway Library. Tentatively the November meeting will be held November 14, 2013. The Council and public will be notified of the location as soon as it is determined.

The Council then discussed the various committee meetings and their priority:

- Menhaden/gill net – before November meeting
- Blue Crab – already set for September 24
- Commercial Fluke and Black sea bass - before November meeting
- Eel – before November meeting
- Lobster - before November meeting
- Reef – sometime over the winter

**Public Comment**

Mr. Zabrowski commented that the public should contact their senators and assemblymen and let them know how little money NJ Marine Fisheries receives and the need to make this a priority.

Mr. Riechle suggested implementing a mandatory reporting system where anything that is landed must be reported so that accurate records for all fisheries are obtained.

Mr. Aikers, as a bluefish AP member for the MAFMC, commented bluefish are on their way in the south and the population is stable but landings have been down.

Mr. Blaine asked to open the hook and line (commercial) season earlier in the spring which will increase landings and increase safety for vessels.

Meeting adjourned.

Next Meeting November 14, 2013