

NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Library

Galloway Township, NJ

July 12, 2018

Council Attendees:

James Alexis
Erling Berg
Eleanor Bochenek
Sergio Radossi
Joseph Rizzo
Joseph Zaborowski
Richard Herb (Acting Chairman)

Council Absentees:

Frances Puskas
Barney Hollinger
John Maxwell
Robert Rush

Division of Fish and Wildlife Attendees:

Joe Cimino, Administrator, Marine Fisheries Administration, (MFA)
Jason Snellbaker, Captain, Bureau of Law Enforcement (BLE)
Jeff Brust, Research Scientist, (MFA)
Jeff Normant, Principal Biologist, Bureau of Shellfisheries (BSF)
Heather Corbett, Principal Biologist, Bureau of Marine Fisheries, (BMF)
Shanna Madsen, Research Scientist, MFA
Mike Celestino, Research Scientist, MFA
Colleen Brust, Research Scientist, MFA
Lindy Barry, Senior Biologist, MFA
Sherry Bennett, Marine Council Secretary

Mr. Bennett read the compliance with the Sunshine Law. Notice of the Marine Fisheries Council (Council) meeting was filed with the Secretary of State on May 29, 2018 and revised June 26, 2018. Acting Chairman Herb began the meeting with the Pledge of Allegiance.

Audience Conduct

Mr. 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.

Meeting minutes

Correction to April 5, 2018 meeting minutes, (Handout #2), – Dr. Bochenek commented that Mr. Rush requested having advisor input on management options prior to the options going to ASMFC or Council for a vote. She requested that that discussion be reflected in the minutes from the April meeting.

MOTION: The April 5, 2018 Council Meeting Minutes were approved, pending the correction requested by Dr. Bochenek. Motion made by Dr. Bochenek, seconded by Mr. Zaborowski. Motion passes, unanimously.

Correction to May 10, 2018 Council Meeting Minutes (Handout #3), under old business, substitute the word “violation” with “conviction” in the motion to substitute regarding advisors’ issue a marine fisheries conviction.

MOTION: The May 10, 2018 Council Meeting Minutes were approved, pending the correction brought to Council’s attention by Acting Chairman Herb. Motion made by Dr. Bochenek, seconded by Mr. Zaborowski. Motion passes, unanimously.

Law Enforcement –

Conservation Police Officer (CPO) Captain Snellbaker presented the Council with an update of the Law Enforcement Report for April, May and June 2018 highlights; A handout with enforcement highlights was distributed to Council members at the meeting.

Highlights include:

- Middle Township, Cape May County: CPOs observed two individuals in a small vessel taking several summer flounder recreationally during the recreationally closed season. Upon inspection, the individuals admitted to discarding the summer flounder after they fled from the CPOs. Both were charged with obstructing the administration of law, wanton waste of marine fish, expired registration, failure to reduce speed in slow no-wake zones and failure to have the required safety equipment on their vessel.
- In mid-April, a detective received a report of stolen fyke nets from a local police department. The suspect was apprehended and admitted to taking the nets. The CPOs were able to recover all stolen property which was returned to the owner who did not wish to press charges.

- In late May and early June, District 7 CPOs performed several dedicated boat patrols aimed at enforcing the regulations involving fixed gear deployed on artificial reefs in state waters. The patrols resulted in one commercial lobsterman in violation of having his gear deployed during the Lobster Management Area 4 (LMA 4) closure and using unapproved materials to secure ghost panels on his traps. Three recreational lobsterman were found with multiple violations: all together 12 summonses were issued with one case referred to National Marine Fisheries Service (NMFS) for Federal enforcement action.
- During a boat patrol focusing on tuna fishing inspections, CPOs inspected a recreational fishing vessel in possession of one bluefin tuna over the daily limit of two. The individuals claimed they thought the fish were big eye tuna, which have no retention limits. The individuals were provided with information on how to identify tuna and the case was referred to NMFS for Federal enforcement action.
- Inspection of an offshore surf clam vessel in Atlantic City revealed 700 pounds of scallop meats hidden in a bathroom shower stall. The vessel did not have the appropriate permits to retain sea scallops. The product was seized and sold to a permitted dealer for fair market value. The ex-vessel value of the scallops was over \$7,000. The case was submitted to NMFS for Federal enforcement action.
- CPOs charged a Cape May headboat owner/operator for landing and selling approximately 500 pounds of bluefish caught by hook and line during the commercial hook and line closed season. In addition, the local dealer who purchased the bluefish was charged with accepting the bluefish caught by hook and line during the closed season.
- The Marine Enforcement Unit took delivery of a new 28' Zodiac patrol boat. The vessel is currently stationed in the Delaware Bay.
- Since humpback whales and other whale species were migrating through the area in May, District 8 officers conducted vessel patrols focused on inspecting fixed commercial gear (fish pots and gill nets) in the Atlantic Ocean for compliance with the Federal Atlantic Large Whale Take Reduction Plan (ALWTRP) requirements. Two southern NJ pot fisherman were found out of compliance with the ALWTRP requirements by not having the appropriate modifications. The violations were referred to the NMFS for enforcement action.
- A Cumberland County commercial fisherman was charged for tending eel pots without a valid license, and charged with possession of horseshoe crab bait without a valid miniature fyke or fish pot license.
- Another Cumberland County commercial crabber, fishing in Fortescue was charged for failure to affix required biodegradable panels on his crab pots.
- Two separate commercial conch pot fisherman in Sea Isle City were issued summonses for: tending conch pots without a license, possession of undersize conch, failure to have proper identification on gear, possession of horseshoe crab

without receipt of legal source, failure to affix identification numbers on a vessel and ‘tend and tamper’ with another fisherman’s gear. One fisherman was charged criminally for attempting to obstruct administration of law.

- CPOs along with NOAA marine mammal disentanglement team and multiple other agencies helped free a humpback whale entangled in fishing gear off of Sandy Hook. Captain Snellbaker commented how proud he was of his officers as well as all the agencies that worked together. The officers directly involved found it to be the most rewarding accomplishment they have experienced thus far.

Legislative/Regulatory Report

Mr. Brust brought Council’s attention to Handouts # 5a and # 5b.

- **S2793 & A4255:** FY2019 supplemental appropriation of \$1.2 million to Shellfish and Marine Fisheries Management for Bureau of Marine Fisheries in DEP.
 - Both bills passed their respective houses and are waiting for Governor’s signature.

MOTION: Council will send a letter to Governor in support of both bills. Motion made by Mr. Radossi, seconded Mr. Alexis. Motion passes, unanimously.

Mr. Brust brought Council’s attention to Handouts # 6a, #6b and #6c.

- The U.S. House of Representatives passed **H.R. 200**, the bipartisan Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act. The bill reauthorizes and modernizes the Magnuson-Stevens Act by implementing regional flexibility, tailored management practices and improved data collection for America’s federal fisheries. The bill passed the House and is awaiting a decision by the Senate.
 - Mr. Brust highlighted a couple of the amendments on the bill:
 1. To create an industry-based pilot trawl survey for the New England and Mid-Atlantic Fishery Management Council regions. Approved.
 2. To provide voting representation for Rhode Island on the Mid-Atlantic Fishery Management Council (MAFMC). Failed.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Cimino presented Council with the MAFMC Meeting report, held on June 5-7, 2018 in Philadelphia, PA (Handout #8).

- **Surfclams and Ocean Quahogs**

The Surfclam and Ocean Quahog Committee met to review the draft recommendations on alternatives for the **Excessive Shares Amendment**. The Fishery Management Action Team (FMAT) continues to develop options.

The MAFMC approved the **2019 Specification Review** and determined that no changes are warranted, remaining status quo with **2018 Specification Review**.

- **Atlantic Mackerel Closure Framework**

The MAFMC met to discuss and take final action on the **Atlantic Mackerel Closure Framework**. The MAFMC voted to recommend that NOAA Fisheries implement a 5,000 pound trip limit when 100% of the commercial quota is reached. This limit appears likely to minimize negative impacts to the Atlantic herring fishery from a zero-possession limit while still avoiding an allowable catch limit (ACL) overage for the Atlantic mackerel fishery.

- **Chub Mackerel Amendment**

The MAFMC received an update on the **Chub Mackerel Amendment** and reviewed a fishery performance report developed by the Mackerel, Squid, Butterfish (MSB) Advisory Panel. MAFMC approved two modifications to the draft goals and objectives recommended by the Committee to be included in public hearing document.

- **Summer Flounder Commercial Issues Amendment**

MAFMC approved a Draft Environmental Impact Statement (DEIS) for the **Summer Flounder Commercial Issues Amendment**. The amendment DEIS will be submitted to NMFS for review, followed by public hearings targeted for September 2018. MAFMC has not included NY requests of additional amendments to the commercial fishery allowing for full-on coastwide management which completely ignores state allocations. Another option would be some form of gentlemen's agreement for states (NC, NJ, to VA) to give up 2% of their state's quota to NY.

- **Presentations**

- Douglas Zemeckis (Rutgers University) presented results of a research project on black sea bass discard mortality. Mr. Brust may be able to arrange for him to come to this Council for a presentation if Council wishes.
- Vincent Saba (NOAA Fisheries Northeast Fisheries Science Center) presented an overview of climate change research within NOAA's Northeast Fisheries Science Center.

Atlantic States Marine Fisheries Commission (ASMFC) Report

- Mr. Cimino presented Council with a preliminary agenda for the ASMFC Meeting to be held August 7-9, 2018 in Arlington, VA (Handout #7). Mr. Cimino highlighted meetings of the following Boards:
 - Atlantic Herring; Atlantic Menhaden; American Eel; Coastal Sharks; Summer Flounder, Scup and Black Sea Bass; Striped Bass, and South Atlantic Management Boards.

- Mr. Rizzo asked which direction the eel committee is leaning. He stated he had gone through the ASMFC document and the multitude of options presented were rather confusing; however, he did not think any of the options were very detrimental to New Jersey. Mr. Cimino agreed that the document for Amendment V with so many options and sub-options was confusing. Mr. Cimino also agreed that overall the options in the Amendment should be more favorable to New Jersey than previous options under Amendment IV's commercial quota. Mr. Rizzo asked where this was going. Mr. Cimino responded that ASMFC meeting materials were not out yet but ASMFC staff was summarizing all public comment and would be presenting it at the ASMFC meeting. Mr. Cimino reminded Council that there was an eel public hearing in this building after the last (May) Council meeting. Mr. Cimino stated any Council members were welcome to contact him once the materials from ASMFC are available and he would discuss it with them. He stated he would contact Mr. Rizzo with more information when it was available.

- Mr. Brust brought Council's attention to Handouts #9a and #9b.
 - The first was the ASMFC/MAFMC announcement for public hearings on the Bluefish Public Information Document (PID) for an upcoming amendment. New Jersey has held two public hearings in response to this PID. Both were well represented by both commercial and recreational sectors. All comments, submitted either through public hearings or in writing, will be presented to the MAFMC and ASMFC. Written comments will be accepted until July 30, 2018.
 - The second was a list of some of the issues ASMFC is hoping to receive input on. Right now we are only in the scoping period of the process, so the hearings are looking to find out what issues the public would like covered in the amendment, such as those on the handout. Following these hearings, MAFMC will develop an amendment based on public comments, and a second round of hearings will be held to get public input on the different management options.

Mr. Rizzo asked if this amendment on bluefish is redirecting the quota. Mr. Brust commented that the commercial industry is hoping that some of the recreational quota will be reallocated to the commercial sector.

Mr. Radossi asked what the market would be for the commercial landings. Mr. Celestino commented according to Mr. Chad Powers the interest in this fishery is trending toward human consumption market.

- Mr. Adam Nowalski has been reappointed to the ASMFC as NJ State representative.
- Mr. Cimino apologized on behalf of Director Herrighty who was not able to be at the Council meeting tonight. The Director looks forward to seeing the Council members at future meetings.

Marine Fisheries Bureau Report

- Mr. Brust updated Council that NMFS has published their determination of **New Jersey artificial reefs in federal waters as Special Management Zones (SMZ)**, and the ruling will take effect on August 8, 2018.
- Mr. Brust reminded Council that New Jersey requested an extension to the public comment period for **offshore wind energy development lease areas** within the New Jersey/New York Bight region. BOEM approved the request and extended the comment period until July 30, 2018 deadline. During the extension, MFA and BOEM have coordinated to hold three stakeholder meetings in NJ and all were very well attended. Stakeholder comments heard during these meetings will be summarized and submitted to BOEM with other DEP comments.

- **Council Discussion**

Dr. Bochenek, Mr. Rizzo and Mr. Radossi expressed concern on the impact these wind farms will have on the reefs, scallops, gill netters, ecological impacts, the overall footprint of these projects, the electromagnetic fields the farms will generate, the length of the lease and security issues and many more.

Mr. Brust commented that BOEM may have designated a larger area to contract out to companies which the companies will then survey to identify the most suitable area to build. When BOEM finds a suitable area, they will have to submit applications, receive approval and acquire permits prior to building.

Acting Chairman Herb asked when is the time to respond on this, because so many unknowns. Mr. Normant commented that now is the time to submit public comment. Acting Chairman Herb commented maybe the Council may wish to hold an Executive Committee meeting to collaborate the concerns and questions.

Shellfish Council Report

- **Shellfisheries Bureau Update-** Mr. Normant

- The 2018 **Delaware Bay Direct Market Harvest** Program started April 2 and ends November 16. The quota increased by 33,257 bushels, allowing for 1,510 bushels per license for the season.
- As of July 11, 2018, there were 55,819 bushels of oysters harvested leaving just under 65,000 bushels available for harvest. Bushel and cage tags for oyster harvest remain open for sale through the remainder of the season.
- The shell plant enhancement project started July 8, 2018 and is expected to be completed this coming weekend.
- The **Delaware Bay Shell Planting Program** initiated for 2018. When concluded approximately 150,000 bushels of sea clam shell will be planted on three state managed natural seed bed, Ship John, Shell Rock, and Hog Shoal. The clean shell provides more cultch material to enhance the setting success of each bed, and subsequently increase spat set. The shell is strategically planted during the peak oyster spawning season to maximize setting success. Shell planting plays a crucial role in maintaining the natural seed beds and Delaware Bay oyster fishery. Once the oysters reach market size, they will provide increased harvest opportunities for the Delaware Bay direct market oyster fishery.
- Atlantic Coast- Mr. Maxwell - none
- Delaware Bay- Mr. Hollinger - none

Committee Reports – none

Regulatory Actions – none

Old Business –

Committee Meetings:

- **Blue Crab meeting** planned July 23, 2018
- **Tautog meeting:** Mr. Brust commented that a Tautog Committee was requested but not held due to the limited number of advisors on the committee and comments from unsatisfied harvesters at the May 2018 MFC meeting regarding recent changes to the commercial season. Council should finalize changes to the advisory process guidelines and appoint additional advisors prior to holding another tautog meeting. ASMFC is excepting to have the commercial tagging program in place by January 1, 2019. However, ASMFC is having issues with the tag applicator and NJ has requested that implementation of the program be pushed back. Tautog is not on the ASMFC agenda for their summer meeting.

- Mr. Celestino presented Council with an overview of the revised **MRIP recreational catch estimates**. Handout #10 is an overview of all species. Mr. Celestino said he received the new information on July 9, 2018. NOAA will be holding 2 webinars for people to ask questions of the new method and estimates: July 13 a morning webinar and July 18 an evening webinar. Information can be found on the NJDEP website under the “What’s New” tab.

Council Discussion: Mr. Radossi and Dr. Bochenek asked several questions on how the new estimation procedure works. Found it interesting in how they used old and new reference points to develop these charts. Questioned how these results will affect the fishery. Mr. Celestino, said he is still reviewing all the documentation himself and we will not know the effect of the new estimates until stock assessments can be done for each species.

- Mr. Brust brought Council’s attention to Handout #11, an update to the excerpt from NJ Marine Fisheries Council regarding administrative guidelines. These are the guidelines the Council approved at the May Council meeting regarding appointments of Committee advisors. Mr. Brust commented he will update this document to reflect the motion made earlier regarding changing the word violation to conviction. Second change that an applicant will have to reapply at the end of every three year term. Council is asked to send any comments regarding this document to Mr. Brust.

New Business-

- Acting Chairman Herb stated the Council wishes to hold a Summer Flounder meeting in September to discuss NJ understanding and where NJ stands in regard to splitting the state and summer flounder guidelines.
- Dr. Bochenek informed the Council that The American Fishery Society will be holding their National Annual Meeting for the first time in Atlantic City to be held on August 19-23, 2018. Stakeholder day will be held on August 21, 2019 and at a reduced registration fee.

Public Comment –

Mr. Dan Lavecchia- from LaMonica Fine Foods Inc. Request to have regulations changed to allow surf clam license holders to keep conch as bycatch in state waters. The permits are very expensive and right now there is no fishery to use the permit because surf clam stocks are so low in state waters.

Mr. Himchak – Attended the May 21, Shellfisheries Council meeting seeking to change regulations on the surf clam licenses. Mr. Himchak thanked Shellfisheries for providing the data from his request for 2 years of raw data from the Independent Surf Clam Survey that had conch as a bycatch. Mr. Himchak requested Council to discuss and explore developing a Conch subcommittee to look at the bycatch data for the purpose of developing a fishery using mobile tended gear. Mr. Rizzo commented that he may be stuck in the middle, as this maybe a Title 50 issue and if so, then the Marine Fisheries Council has no say. Mr. Normant mentioned that surf clam dredge falls under Title 50. Mr. Normant gave an overview of the Title 50 and how the surf clam fishery was developed. However, may need to go about a Title 23 to make a change to use surf clam dredge to allow harvest of whelks only. Due to interest of time and the many working parts, Acting Chairman Herb stopped the discussion and Mr. Normant will follow up with Mr. Himchak on more specifics to help answer further questions Mr. Himchak may have.

Mr. Wagner- Request Council allow some type of endorsement for tautog hook and line harvest to allow permit holders to have access to reefs. Right now hook and line fishing on reef is limited access. Mr. Wagner also spoke against allowing harvest of conch as bycatch in the surf clam fishery, saying it would become a targeted fishery rather than bycatch. Also, the gear used (hydraulic dredge) would have negative impacts on the seafloor and could result in increased loss of pot gear.

Mr. James Corbin – Commented how quickly a bycatch fishery all of a sudden becomes a direct fishery. The bottom of the seabed is slowly coming back and any further dredging will only be harmful.

Mr. Kilmeir – The fisherman are losing the battle as the fisheries become more restrictive. Commented on how one can fish in Federal water, but cannot land in State, because the regulations are restrictive to the state permit holders. Commented how harvesting of horseshoe crab has been non existant for 10 years or more, but now we want a whelk fishery. Commented how he would like help to have someone to run his boat for him, due to his medical limitation.

CLOSED SESSION –

Acting Chairman Herb went through the process of closing the Marine Fisheries Council meeting to the public. Closed session is in regards to finalizing the guidelines for advisor appointments, as well as reviewing the applicants presented by the Executive Committee for approval and to protect the applicant's privacy. (1:55)

MOTION: Mr. Radossi motioned to close the Marine Fisheries Council to hold a meeting void of public. Mr. Zaborowski seconded. Motion passes, unanimously.

OPEN SESSION RESUMED- (public was allowed back when the Marine Fisheries Council Meeting Resumed). (2:31)

MOTION: The Executive Committee submitted five new applications for advisory positions with the following recommendations. The committee report stands as a second.

MOTION: To approve the Executive Committee recommendations of the five new applicants to the advisory panel. Stephen Spinelli (recreational fluke, black sea bass and tautog) and Thomas Daffin (recreational tautog, fluke) both are approved. John Godwin Jr. (commercial lobster, Jonah crab, oyster) no action. Kris Black and Carmen Conti denied. Motion made by Dr. Bochenek and seconded by Mr. Zaborowski, motion carries unanimously.

Mr. Cimino commented that all current advisors and stakeholders will be notified regarding the new executive committee advisory guidelines. The five recent applicants will also be notified of their status, reason if denied and the new guidelines as well. All current advisors (except these three just approved) will also be notified that they will receive a letter about a month or two from July 2019, that their three year term is almost up and they will have to reapply if they wish to remain as an advisor on a committee.

Motion to adjourn: Dr. Bochenek, seconded by Mr. Rizzo.

Meeting adjourned. Next Meeting is scheduled for September 6, 2018, Atlantic County Library, Galloway Township, 306 East Jimmie Leeds Road. **NOTE: Moving forward in 2018 the meeting times have been changed to start at 5:00 pm.**