

# Marine Resources Advisory Council

# BULLETIN

Marine Resources Advisory Council

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January 19, 2016

Michael Craig

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Paul Farnham

Thomas Jordan

Joseph Paradiso

John Renaldo

Paul Risi

Christopher Squeri

Charles Witek

Dean Yaxa

The Councilors introduced themselves along with Mr. James Gilmore and Major Huss of the NYSDEC. Mr. Gilmore is Director of the Marine Bureau and Major Huss represents Law Enforcement. Mr. Frisk welcomed everyone and went over the evening's agenda. He reminded everyone of the meeting's format and also informed everyone that since we are operating with a less than full Council, there are still 2 empty commercial seats, the voting requirement for a quorum will be 3 recreational votes and 3 commercial votes thereby enabling the Council to vote at this meeting. This had been decided at a previous meeting as a way to keep business moving.

## Public Comment

Nancy Solomon of LI Traditions had sad news she wanted to share. The fishing community lost three long time fishermen in the month of January: Stuart Vropal, Russell Drumm and Dick Richardson.

Mr. Ron Turbin of the Coastal Conservation Association wanted to clarify something he spoke about during a Council meeting held last year and was recorded in the bulletin of May 21, 2015. At the time, he said he thought the DEC should partner with the Parks Department as a way to create greater fishing access on various shorelines. Councilor Danielson replied that the DEC does not have access to those specific land holdings. Mr. Turbin said he was not implying the DEC usurp any other agencies turf, he was simply suggesting a partnership. He knows of many times the Parks Department was able to partner with another agency to accomplish a goal and that is what he was referring to then, he never intended to suggest for the DEC to usurp any of the powers of the state parks.

## Approval, draft Minutes of September 15, 2015

The Minutes were unanimously accepted as written.

## Update from joint ASMFC/MAFMC December meeting on Summer Flounder, Scup and Black Sea Bass

See attached power point presentation for each fishery.

## Summer Flounder

Mr. Gilmore said that Wave 3 landings had shown we were 150% above the target causing much anxiety. Fall statistics contributed to the belief that New York would be looking at a 43% reduction. However, since that time, landings actually went in the opposite direction. The good news for the recreational fishery is that we will be continuing with regional management. Our allocation (bag & size limit) will be the same as New Jersey and Connecticut. The only difference is timing; New York's season will begin on a Tuesday, not a Saturday. This is to meet the regional

Michael Frisk  
Chairman

Kim Knoll  
Staff Assistant

requirements of having only 45 days in Wave 3. Without that adjustment, we wouldn't be able to start on a Saturday and meet the requirement. There might only be one change coming shortly. The size limit for border water (Delaware Bay) in New Jersey is 18", however, in Delaware it is 16". To combat the discrepancy an Addendum was started which will give Delaware Bay a more manageable fishery. Mr. Gilmore thinks a transition size would make a lot of sense and hopes that what will happen.

Mr. Maniscalco continued; right now we are looking at a 27% reduction for the recreational harvest but because the numbers reported along the coast were exceptionally low, we will be able to continue with business as usual. There will be another set of numbers that will be taken into account in July. Councilor Danielson questioned if we get up to the harvest limit in 2016, will we have to make up the difference between 2015 and 2016? Mr. Maniscalco said there would be a very small change for 2017. Keep in mind that is for *just meeting the RHL*, if we go over, then there will be another adjustment.

Marc Hoffman thought it should be noted that because of the exceptionally cold winter last year the fish that would normally be available earlier, did not show up until the second week in June, that's why the numbers are so low. Councilor Witek wanted clarification – Is it correct to say all of New Jersey's fish will be pulled out of the pool and instead of ~1,000,000 fish being allocated to a 3 state region, we are now going to have ~500,000 allocated to New York and ~600,000 to Connecticut and New Jersey even though most of New Jersey will be fishing under the same limits we are? Mr. Maniscalco replied since we are going with regional management, no one is held to a hard target.

Mr. Gilmore just wants Delaware Bay to be adjusted without any repercussions to New York, he is more concerned about next year because we only have a 1 year extension for recreational management which means we will need to go through this all over again.

Mr. Emerson Hasbrouk of Cornell Cooperative Extension said there was low attendance at the Delaware Bay public meeting that was held here at the DEC several weeks ago. Can the Council give a sense of what their thoughts are and if they support the Delaware Bay option? Mr. Witek said he does have reservations because he believes this could have some repercussions regarding interstate management. Also, the claim that there is effort shift into Delaware appears somewhat tenuous if you look at the MRIP effort data, it has been declining steadily particularly for party boats. The first year in 2013, before there was regional management, the Delaware party boats had 9 - 10,000 directed trips for summer flounder. In 2014, it dropped down to 7,000 trips and last year the number was less than 5,000 trips. The impetus New Jersey has for doing this is because they say they are losing business to Delaware, however, this is not supported by the effort data. The question is do we want to put a regional management plan that works in jeopardy, no matter how small the risk?

Councilor Danielson said he can't dispute what Mr. Witek said, however, he recalls when New York's size limit was 21", New Jersey's was 18" and Connecticut 17", and it caused a lot of resentment. If we can avoid repeating that same scenario, he believes we should. He feels that as long as there isn't significant harm to our region (coast wide), we should perhaps support this for New Jersey. Mr. Witek countered by saying that perhaps he's being a cynic but already the tackle shops a little further north of New Jersey worry that they will be losing business because it's all heading toward the Delaware region. Will New Jersey then decide they no longer want to be part of "regional" management or start looking for compromises? Mr. Danielson worries about a negative impact when this sunsets; perhaps New Jersey will want to pull out then *because we didn't find a compromise with regard to Delaware Bay*. Creeping compromise worries Mr. Witek.

Councilor Dearborn is concerned about the numbers for 2015, she worries that they are underestimating and by opening the fishery up to a 17" size limit, it could possibly put more pressure on the fishery. She sells to shops in New Jersey and was not aware of any decline in fluke related tackle or bait that would indicate such a decline. While she is sympathetic to New Jersey for being in a position New York once was, her thoughts are split because of the validity of the numbers given.

Councilor Paradiso said if the biomass is decreasing, why would we liberalize the regulations? This will affect the RHL, perhaps not significantly, but why would New York take the chance when we don't have a vested interest in what they do in Delaware.

***Motion: Mr. Witek would like the New York delegation support status quo under Addendum XXVII. Second by Mr. Danielson.***

Marc Hoffman there always has been and always will be a problem between states and different sizes and believes NJ just needs to deal with it, he would support the motion as is.

Mr. Gilmore wanted to be clear – this is currently an action before the Commission in which New York through its representatives have one vote. Whichever way the vote comes through, it should be understood that the decision will be considered a recommendation by the Council and not necessarily how they will vote at the meeting. They will be receiving additional input at the meeting which may sway their vote differently.

In favor – 7, Opposed – 0, Abstentions – 3. **Motion passes.**

Mr. Arnold Leo believes he is missing something, if recreational regulations are going to be the same this year as last year yet there is a 25% reduction in landings, isn't this guaranteeing overfishing? Mr. Maniscalco said that in 2015 the states harvest was down, we did not actually hit the RHL, we were severely under. Landings were so low we do not have to take a reduction for 2016 because there is a little left over fish. Mr. Danielson said to keep in mind we're talking about regional management.

Scup

This fishery will remain status quo.

Mr. Rich Reeder stated that he is disappointed that scup is remaining status quo. He thinks there is a problem when scup is closed to recreational anglers; climates change and he thinks they should be able to catch them in the month of January. He believes the fish are plentiful and doesn't believe it's fair.

Black Sea Bass

Mr. Gilmore said because of statistics received, there is a certainty that the fishery will once again see a reduction in harvest. Without having all the numbers in front of them it would be impossible to give specifics, what they can do is talk about the process (concept) they will use for calculations once their information is complete.

As far as making a decision regarding black sea bass options, it was questioned why would we make a decision now, why not wait until ALL the numbers have come in, there is a major stock assessment due in late summer/early Fall? Mr. Maniscalco said because waiting that long would create a rush to get new limits in place. Mr. Gilmore added that the option won't lock anything in; it just prevents having to create an addendum.

Mr. Danielson questioned when the decision has to be made by? Mr. Maniscalco said we won't get wave 6 data until mid-February but it would be good for the board to know what measures the Council prefers and to have a mechanism in place to move forward quickly. When the final numbers come out it will be reviewed before moving forward to ensure that the requirement has been met.

Councilor Paradiso questioned if the numbers being given already include a projection because he worries that the numbers could change considerably given the warm weather we had this past November and December. Mr. Maniscalco said even if we have a HUGE wave 6, they are confident the numbers won't exceed 50,000 lbs. In addition, wave 6 really doesn't count for much (7%) so the figures given have indeed taken a projection for Wave 6 into account.

Mr. Witek said there are a lot of concerns in the recreational sector regarding compliance issues. He knows that large numbers of fish were taken before the season officially opened. He believes stronger enforcement is needed specifically directed toward the weeks just prior to the actual opening date, there seems to be more activity at that time. Major Huss said this is something he and his fellow officers do look for but he will encourage the division to step up their effort.

Councilor Paradiso said he would like to see the same sort of conferencing take place prior to Wave 6 data coming out this year as was done last year. Last year, Mr. Maniscalco was able to gather a group consisting of councilors, stake holders, folks in the industry, and interested parties; through an email loop they actually narrowed it down from approximately 30 options down to about 3 or 4. The general consensus was that this would be a good idea.

Mr. John German, commercial fisherman, wanted assurance that the regulations that were talked about were for recreational sea bass fishery and not commercial, which he received.

#### AP AIS – Access Point Angler Intercept Survey

Beginning in 2016, all coastal states from Maine through Georgia will transition to conducting the Access Point Angler Intercept Survey. It is with the hope of improving MRIP estimates. What will help accuracy significantly is that the data will be collected dockside and on beaches by actual biologists – folks who understand not only the fishery but the statistical design. Phone surveys are not considered reliable any longer because many people have caller ID and simply do not answer their phone. The field samplers will work under the direction of the DEC.

The samplers will be spread out over numerous areas, however, if you feel that your area needs to have a sampler and you have yet to see someone, contact Mr. Maniscalco, he wants to hear from you. He is also interested in hearing if you believe someone is doing either a good job or bad job, it's the only way they will have to judge if this system is working and the success of this endeavor depends on cooperation. Eventually this will move from what was a phone based survey to a mail based survey which will be loosely based on the registry.

Councilor Paradiso believes the most important thing is consistency. The samplers should be sent to equally divided areas. Mr. Maniscalco said their assignments will come from NOAA, however, as stated before, if you believe your area needs a field sampler, let him know because your site can always be added. Councilor Squeri said the samplers should not be sent out to just the "hot spots" because fish move and what might be a busy area one month, might not be the next.

Discussion: Mr. Jamie Queresimo, Captain of the Miss Montauk questioned the procedure and what to expect. Mr. Maniscalco said each field agent will have a badge identifying them as NYSDEC. Mr. Queresimo continued; he feels that the DEC needs to give more credit to the captains who fill out the VTRs. It bothers him that the DEC assumes everyone lies, they fill them out to the best of their knowledge and they should be respected more.

Ms. Nancy Solomon questioned the hiring process for these positions. She wondered if they would be accepting recommendations from people in the industry. Mr. Maniscalco answered that the job postings have all been made public and anyone who meets the requirements are welcome to apply.

#### Striped Bass – review of MRAC's recommendations for permit transfers

Mr. Steve Heins of the DEC gave the following presentation:

#### Workgroup recommendations (2009)

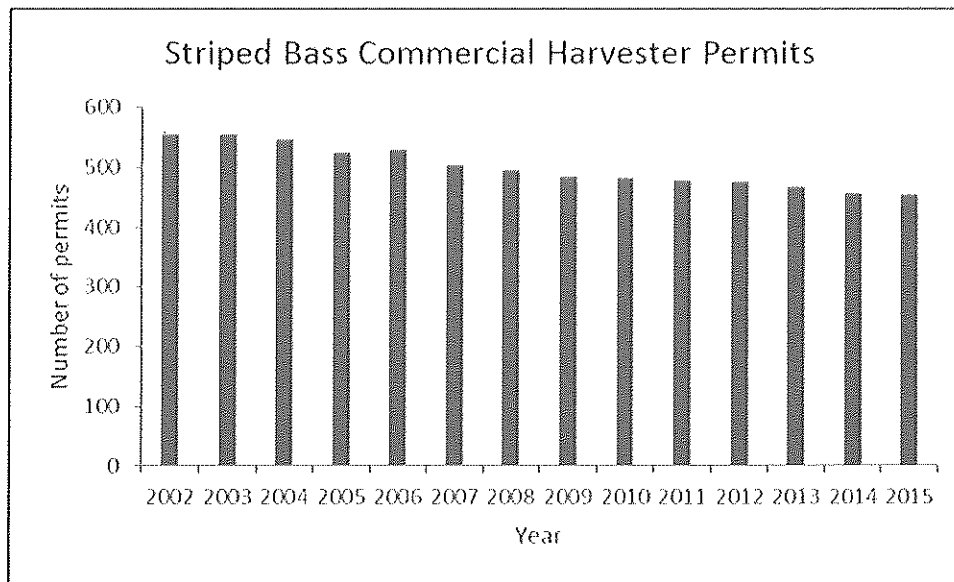
- Cap # of permits at 494
- Allow # of permits to decline by attrition to 250, then maintain at that number
- Make permits transferrable with restriction
- Make tags transferrable

#### SBWG#1: Cap at 494

- 454 FF licenses w/STB permits renewed for 2015
- 433 additional historic permits holders, not renewed but still eligible
  - 128 not renewed within last 15 years
  - 305 not renewed since the late 1990's or 2000

#### SBWG#2: Attrition to 250

- Could take a very long time:



#### SBWG#3: Make Permits Transferrable

- Making permits transferrable now will freeze number at existing (494/454)
- Attrition stops, so never get to 250
- Is 250 the right number?
- How to get there
  - Allow consolidation 2 for 1?
  - Requalification?
  - Other?

#### Full Share/Part Share Requalification (2010)

- NYS Attorney General opposed to use of percent of income, advised (required) DEC to change
- Proposed change to regulations for \$15,000 in fishing income for Full Share
- Opposition in public comment due to impact on older fishermen on fixed income (age discrimination)
- DEC made no change, suspended requalification for 2010
  - Also suspended requalification for 2015

#### SBWG #4: Tags Transferrable

- Increased DEC staff administration workload
- Issues similar as with transfer of permits
  - Attrition slows
  - Little incentive to transfer permits
- Permit and tag “marketplace” could be hosted by DEC, on website, similar to Virginia:  
<http://mrc.state.va.us/rocktags.shtm>

#### Issues for discussion

1. Getting to 250
2. Full share/part share
3. Qualifying
4. Consideration

Councilor Jordan said as far as attrition, because of pre-designation, it almost doesn't exist anymore and feels this will not be an issue any longer.

Mr. Jordan also said that once you start transferability of the permit itself, you can guarantee there will be an increase in effort because part time shares will be bought by people who will, more than likely, move into full time share, thereby completely eliminating part time shares.

#### Council Farnham feels:

1. that the number 250 is not relevant
2. All shares should be full shares
3. Terms of qualifying – if you've already qualified then you're qualified
4. Everyone should be equal moving forward

Carol Hoffman of the DEC said that there are currently 32 part time tags. Mr. Jordan doesn't believe anyone would invest the money purchasing part time tags without the ability to make them full time. Mr. Danielson said maybe those are the tags that should be lost to attrition.

Mr. Witek worries we're overcomplicating things. Rather than add numerous qualifications, should we just be leaning toward fully transferable tags (basically a catch share program) where perhaps it's restricted to food fish permit holders? From then on let the marketplace take care of it and except for a concentration issue, we can agree on what would be too many tags, let people sell their tags, lease their tags to anyone with a food fish license provided there isn't too much concentration. This way you have a fully transferable asset and if someone wants to get out of the fishery they can. From a conservation standpoint, it will be the same quota. If this works for other states, why can't this work for New York?

Mr. German said he only sees two people in the room with commercial tags. He happens to be one of them; he's been with the tag system since its inception and he has no idea when the concept of full time/part time originated. It used to be that you had to qualify every couple of years and he believes the DEC should go back to that. Fish mean money to him and remembers when you would just transfer your tags. Take care of the people who fish for a living, the ones that do it recreationally already have a job.

Arnold Leo agrees with Mr. Witek and believes of the issues, one of the most important that needs to be addressed is that it is impossible for a young fishermen to get a permit today. The way things are written now, when a fisherman gets to a certain age and no longer wishes to fish, he can only transfer it to an immediate blood relation which is absolutely ridiculous. If the permit is allowed to be sold what will happen over time, is that guys who qualify as full time fishermen will buy up permits from the part share because they will be cheaper, the part share will automatically become full. So, the answer is simple – allow the sale of these permits. All that needs to be done is let the DEC know that the transaction took place.

Mr. Jordan wanted to clarify that although it is indeed a blood relative who inherits the permit once that does happen, they can transfer it to anyone on the planet. It is one small window of opportunity for someone to get a tag. He also recalls that the number 250 wasn't just pulled out of the air. At one of the stakeholder meetings, the question was asked, "How many permits do we need to get down to, so that someone with a striped bass permit should make "X" – what should "X" be?" Mr. Vic Vecchio, formerly of the DEC, had created a table that included: number of tags and expected income. By looking at the table, they were able to determine what the number should be for a person who worked their whole life in the fishery and could expect to make as a dollar amount for being a full time participant – that is where that number had come from.

Mr. Mark Decabia is a full time commercial fisherman based out of Shinnecock, NY. He personally has been trying to get tags every year for the past 15 years and can't. He said at least 200 people on the list shouldn't have tags because of lack of participation and ill health but why do they - because they filled out the paperwork correctly years ago? Something needs to be done and done now. He would be very interested in participating in a workgroup that can bring about a change.

Mr. Tom Gariepy concurred with Mr. Decabia, he has had a food fish license since he's 18 and a full time fisherman since he's 15 yet he has never been able to get tags, he agrees that something needs to be done and he, too, is willing to participate in a workgroup.

Mr. Frisk determined that another subcommittee would be in order and asked for volunteers. Mr. Jordan said a "subcommittee" really isn't what's called for; this should just be a refresher of sorts. The group will consist of Councilors Jordan(C), Farnham(C), Danielson (R), and Mr. Frisk will also reach out to Mr. Davi (C). From the audience Messrs. Decabia and Gariepy will also participate.

#### MRAC Annual Report to the Commissioner

Mr. Gilmore said the Council tends to focus on regulations and limits, however, under the statute, the first chapter with regards to the charge to MRAC, is to look at the financial functioning of the bureau. It also states there is to be a report to make to the Commissioner each January. This hasn't been done in a number of years but we haven't been in such bad shape financially – ever. Mr. Gilmore thinks the Council needs to start weighing in. A good guideline to follow would be The Conservation Fund Advisory Board listed in the DEC's website. Their function is similar to that of MRAC and MRAC could follow their example. The budget is in such dire straits that it soon may be impossible even to meet in the near future, never mind get anything accomplished. The Council should try to have something put together by the second quarter especially since we have a new Commissioner who is very interested in marine fisheries.

Councilors Witek and Renaldo had begun work on this previously and agreed to meet again to pull something together. Mr. Gilmore would be happy to receive something by early spring and then just an update the following January. Hopefully, this will be something that can keep to a schedule moving forward.

#### Updates – Brief updates

##### **Jonah crab**

There are a number of problems that have come up and misinformation was given. This will be revisited and the implementation date will be moved back. There will be a Public hearing on the ASMFC amendment for Jonah Crab FMP on April 6<sup>th</sup> at 6:30 p.m. at the DEC offices.

Mr. German thought it would be important to mention at the future meetings that Jonah crabs are sometimes used as bait and this would impact the horseshoe crab industry.

##### **American eel**

Mr. Gilmore stated that New York initially received a very small allocation because it was based on 2010 landings and since New York wasn't really recording their landings at the time, we received a low quota. On the other hand North Carolina was lucky because in 2010, they had a bumper crop which was recorded so they received an extremely large allocation. Because the allocation was so low for New York, we would not

have been able to cover the bait industry needs so New York received assistance from North Carolina with a transfer. While this helped New York temporarily, we need to rectify this because should we exceed the coast wide harvest, New York will face serious repercussions. A way to rectify this is by keeping better landing records.

### ***Menhaden***

Mr. Gilmore continued by saying that the Menhaden situation is very similar to American eel. Based on our recorded data, we only received ~250,000 lbs, whereas we really need between 1-2 million lbs and we actually do have the data to support that belief. Considering that this is essentially 1% of the coast wide harvest, this is not an unreasonable request. In this instance, we could actually survive on transfers because this is a healthy fishery but again, it would just be a band aid, we need to fix this and have our own appropriate quota.

***Omnibus Regulation*** – Initially conch was part of this, however, it has since been separated primarily because we are working together with Connecticut to ensure one set of rules across Long Island Sound.

The package now has 5 pieces:

1. Terrapin Excluder Devices – DEC proposes an amendment to Part 44 that will require crab traps in near shore areas (harbors, creeks, coves, rivers and tributaries) of the marine district to be outfitted with terrapin excluder devices (TEDs) that will reduce the numbers of terrapin trapped in crab traps. The TED is proposed to be 4.75 inches wide by 1.75 inches high. The proposed rule will not be applied to marine and coastal waters north of the Tappan Zee Bridge.
2. Crab endorsement language -DEC Marine Resources proposes to require that a crab permit holder be on board the endorsed vessel at all times the privileges of the permit are being exercised.
3. Horseshoe crab endorsement limit - DEC Marine Resources proposes to allow two HSC permit holders to harvest from a single vessel and transport in a single vehicle; each can possess a single harvest limit.
4. Non-native or non-naturalized marine crustaceans and Asian horseshoe crabs - DEC proposes to prohibit the introduction and release of non-native and non-naturalized marine crustaceans and Asian HSC species into New York's waters. This rule making will also prohibit the possession of Asian horseshoe crabs, which have been used as bait in local whelk and American eel fisheries.
  - Non-native species are species whose native historic range is not the East Coast of the United States.
  - Naturalized species are those non-native species that were intentionally or unintentionally introduced and have adapted to and reproduced successfully in New York marine waters. An example is the green crab, now commonly used as bait for tautog in New York.
5. Whelk reporting – DEC proposes to adopt mandatory whelk catch reporting for whelk permit holders.

***Motion: Councilor Jordan motioned to support the omnibus regulatory package as written (TED, crab endorsement, horseshoe crab harvest limit, Asian horseshoe crab restrictions, whelk reporting). Seconded by Councilor Danielson.***

Discussion – Since this had been discussed many times before, there wasn't any further discussion.

All in favor – 9, Opposed – 0, Abstentions – 1 (Chairman Frisk) **Motion Passes**



### ***Sandy Fishery Disaster-***

Mr. Heins reminded everyone that the application date had been extended with the new date being January 29<sup>th</sup>. They received approximately 280 applications and everyone will be happy to know that they will be receiving a bit more money than originally thought. The handling process may take a little time but folks should expect to receive their money by June.

### ***2016 Meeting Dates***

The following are the meeting dates for the 2016 calendar year. However, everyone should check the Council's webpage prior to a meeting in the event changes have been made.

March 23rd – 6:30 – 9:00 SoMAS \*\*

April 19<sup>th</sup> – 2:00 – 5:00 DEC

May 10<sup>th</sup> – 2:00 – 5:00 DEC

July 12<sup>th</sup> - 2:00 – 5:00 DEC

September 13<sup>th</sup> 2:00 – 5:00 DEC

November 15<sup>th</sup> – 2:00 – 5:00 DEC

### ***Miscellaneous***

Mr. Frisk thought it prudent to write a letter to various legislators regarding the vacant Council seats; the Council thought it would be a good idea.

\*\*Stony Brook University, 120 Endeavour Hall - for driving directions, check MRAC's web page:

<http://you.stonybrook.edu/mrac/meetings/>

For agenda items and any pertinent graphs, charts or data, please check the Council's web page prior to a meeting. <http://you.stonybrook.edu/mrac/meetings/>

For further information about the Marine Resources Advisory Council or items covered in this bulletin, to make arrangements for addressing the Council on an agenda item or submitting written comments on an agenda item, or to suggest an agenda item, contact: Chairman, Michael Frisk, Marine Resources Advisory Council ([michael.frisk@stonybrook.edu](mailto:michael.frisk@stonybrook.edu)); phone 631/632-8656; secretary, [kim.knoll@stonybrook.edu](mailto:kim.knoll@stonybrook.edu)