



Marine
Resources
**Advisory
Council**

BULLETIN

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Paul Farnham

Thomas Jordan

John Renaldo

Paul Risi

Karen Rivara

Christopher Squeri

Charles Witek

Dean Yaxa

William Wise
Chairman

Kim Knoll
Staff Assistant

17 January 2012

Meeting of the Marine Resources Advisory Council

Volume XXII, No. 1

Chairman Wise began the meeting at 7:15 p.m., welcoming everyone to the Council's first meeting in 2012. Although MRAC meetings are generally held in the afternoons, today's meeting was held in the evening in an effort to gather the entire Council with the hope of reaching a quorum (we were successful.) The meeting began with introductions by the Council members present and DEC's Director of Marine Resources, Mr. Jim Gilmore. Chairman Wise then went over the evening's agenda.

Draft Minutes, 20 September 2011 and 15 November 2011 Council Meetings

Pursuant to the changes noted at the November meeting and incorporated since, Councilor Karen Rivara made a motion to accept the minutes of the Council's 20 September 2011 meeting; councilor Melissa Dearborn seconded. The motion was unanimously approved.

Mr. Gilmore noted that on page 4, paragraph 4, of the draft 15 November 2011 meeting minutes, acronym "MRAP" should be changed to "MRIP" (Marine Recreational Information Program.)

Mr. John Schoenig asked that his remarks contained in the November meeting minutes be revised. His statement had been that he, as well as the two fishing clubs he represents, favored a minimum size on (recreational) fluke no greater than 19," with the same season as in 2011. He clarified that he was questioning the auction date because in 2010 many for hire boats bought into the RSA and were able to use it; however, in 2011 they again bought into it but because of the way the season was, they were unable to use them. Knowing the fluke regulations earlier, it would be beneficial to know that prior to the auction. Councilor Robert Danielson made a motion to accept the November minutes with these changes; Chairman Wise seconded. The motion was unanimously approved.

Public Comment Period

Mr. John Mihale said that the open season dates for the 2012 recreational fisheries for fluke and black sea bass should be set so that at least one of these species was always in season (i.e., the closed seasons should not overlap). He suggested that the Council's Tautog Management

Subcommittee look into the issue of the State foodfish landing license. Now that the word is out that this license entitles the holder to catch blackfish beyond 3 miles from shore (there are no tautog regulations in the Exclusive Economic Zone) and land them for sale, there will be a gold-rush for this license. Mr. Mihale voiced concern that, if this is left unchecked, harvests of tautog will soar so quickly that a moratorium on the commercial harvest of blackfish won't be far behind.

Audience member Mr. Tom O'Dwyer questioned where the Assembly bill regarding allowing spearfishermen to commercially harvest striped bass now stands. Since this is not on today's agenda, Chairman Wise explained where those who are interested in this would be able to find information on this bill. The web page is: <http://assembly.state.ny.us/leg/>

Mr. O'Dwyer also asked for clarification on the definition of the word "spear." DEC's definition excludes spearguns, making it illegal to use them to commercially harvest regulated species. Councilor John Renaldo thinks there is enough public interest in this topic to include it as an agenda item at a future Council meeting. Chairman Wise reminded the Council that, some time ago it adopted a position supporting the inclusion of spearguns among the legal gear to commercially harvest striped bass. This will be discussed further at the Council's April 2012 meeting which will be devoted to all current legislative proposals affecting marine resources.

2012 Fluke and Black Sea Bass Recreational Fishery Regulations

Fluke

Mr. Gilmore reminded the Council of the recent history of this topic. In September 2011, DEC advised the Council that it was anticipating a healthy liberalization for recreational fluke regulations in 2012, based on data regarding the 2011 harvest of this species that had been presented by the National Marine Fisheries Service. Most of the Council's September 2011 meeting was spent finding an approach to the prospective 2012 liberalization that was agreeable to most. At the Council's November 2011 meeting, it was revealed that the liberalization would not be as generous as first anticipated. Again, a lengthy discussion took place regarding an optimal mix of minimum size, open season & possession limit options. Now, Mr. Gilmore indicated that this picture had evolved further since November.

At the December 2012 Atlantic States Marine Fisheries Commission (ASMFC) meeting, New York attempted to get coast wide measures established for recreational fluke fishing in 2012. However, this attempt failed and state-by-state conservation equivalency measures will again be used in 2012. Final harvest estimates reveal that New York anglers apparently caught significantly less than the State's recreational fluke target for 2011, so there will be room for some liberalization in 2012, up to 71% compared to 2011. DEC has assembled options to achieve this liberalization:

2012 Recreational Fluke Options

According to the ASMFC, New York may liberalize its regulations by as much as 71%

Option	Season	Min. Size Inches	Bag Limit	May Days Lost	Sept. Days Lost	% Lib	Comment
0	Tues 5/1- Sun 9/30	20.5	3	none	None	0%	2011*
1	Tues 5/1 - Sun 9/30	19.5	3	none	None	37%	
2	Sat 5/12 - Sun 9/16	19	3	11	14	54%	
3	Mon 5/14 - Sun 9/23	19	3	13	7	52%	
4	Fri 5/11 - Mon 9/3	19	3	10	27	53%	
5	Tues 5/15 - Sun 9/30	19	3	14	none	52%	
6	Tues 5/1 - Sun 9/30	19.5	4	none	none	51%	
*These options have not yet been approved by the ASMFC and may be subject to change							
Note: Memorial Day is May 28 th and Labor Day is September 3 rd							

Mr. Gilmore mentioned that fluke harvest estimates for Wave 6 in 2011 has not come in yet so that could not be taken into account. Chairman Wise questioned how conservative should we be?

Capt. Neal Delanoy supported the maximum liberalization allowed - 71%. He believes that being conservative hurts New York. Last year, a conservative approach deprived New Yorkers from taking over 321,000 fluke. DEC staff person John Maniscalco questioned whether ASMFC would accept an option that consumed the full 71% expansion. Mr. Gilmore expressed caution that adopting an option that would allow the full 71% raises the likelihood that the actual catch would be greater than is allowed. Should this occur, the overage would be directly deducted from the State's 2013 allowance.

The most desirable mix of minimum size limit, possession limit and open season time and duration attracted a lot of comment from the recreational fishery representatives on the Council. Councilor John Renaldo urged that any liberalization be achieved primarily by lowering the minimum size limit. Councilor Charles Witek suggested that any liberalization be undertaken in stages over a period of time. He recommended a 19.5" minimum size limit for recreationally harvested fluke with perhaps a raised bag limit. Mr. Witek reiterated that the new accountability measures that have been put in place would trigger a give-back of allocation in 2013 if we exceed the 2012 allocation.

Chairman Wise commented that experience has shown that our ability to predict future recreational fish catches given a certain combination of minimum size and bag limits and open season is pretty poor. What the tables predict will happen, usually doesn't happen. Councilor Tom Jordan agreed with Mr. Witek that the bag limit does need to change. He supported Option 6, above. Councilor Robert Danielson was uneasy with a bag limit above 3 fish because of shortcomings of the Marine Recreational Fisheries Statistics Survey (MRFSS); he proposed Option 1 in the above table. Councilor Melissa Dearborn wanted to have a continuous open season for fluke, which allows the most opportunity for anglers to fish. She, also, was worried about making too large a jump and then exceeding the 2012 limit. She supported Option 6.

Councilor Chris Squeri spoke against Options 2 & 4 as offering too few fishing days for those on western Long Island. Mr. Jordan stated that New York's historic conservatism in setting fishing limits has hurt us considerably. We have never come close to the edge because we're so afraid to "pay a little back" - we need to expand. Ms. Dearborn and Mr. Jordan said that raising the bag limit to 4 fish in 2012 would provide something to "give back" if New York was required to do so in 2013. Mr. Danielson disagreed, saying that lowering the current 20.5" minimum size to 19.5" might alone result in New York exceeding its recreational fluke allowance. Mr. Witek offered that even going to a 51%

liberalization might be too risky, especially given that there were few fluke caught in late August through September in 2011.

Mr. Marc Hoffman argued a precautionary approach because we don't understand how the transition from MRFSS to MRIP, the new marine recreational fishing statistics survey program, will affect New York. He supported Option 1 on the above table.

The consensus of the audience was to not be so conservative and if we go over, so be it. John Mihale questioned what was the allowable limit for harvesting? Chairman Wise replied 491,000 fish. Mr. Mihale agreed with Option 1, saying we need to be a little prudent. An audience member wondered how accurate the reported catch data is. Could the fishing community be advised when the estimated harvest in a year got within 10% of the target? Another audience member spoke on behalf of a 60% liberalization, leave a 10% window for misjudgment in the predicted harvest. Mr. Jim Hutchinson is not optimistic that the new MRIP system is going to work immediately; improvements might not really be achieved until 2013. Mr. Gilmore agreed. Mr. Hutchinson asked the feasibility of starting the season with a 19" minimum size for fluke and changing it on September 1st to 19.5" for the remainder of the season. Mr. Maniscalco doesn't think this is the way to go because the quality of the harvest data drops off towards the latter part of the fluke season. A graduated minimum size limit would probably not be approved by the ASMFC fluke technical committee.

Mr. Pat Augustine, one of New York's ASMFC Commissioners, suggested retaining the current fluke open season of 01 May – 30 September. This, in combination with a minimum size limit lowered to 19.5" would keep the bag limit at 3 fish. A 19.5" fluke weighs approximately 3.5 lbs. Does the recreational angler really need to take home more than 9 lbs of fish? Is the 4th fish in option 6 really necessary? Mr. Jordan raised the possibility of treating the 4th fish as a trophy fish. Would that be even possible? Mr. Augustine said the first three fish would be "slot-sized" and the 4th could be a greater number and thought it was a good idea. Others thought catching a 4th fish that large would be exceedingly unlikely.

Councilor Witek made a motion that the Council recommend Option 1 on the above table to DEC; Councilor Danielson second. Mr. Danielson wanted to find out more about making a 4th fish a trophy fish and how ASMFC might react to such a proposal. Mr. Gilmore wasn't supportive of the idea on the grounds that the regulation would be complicated and, thus, difficult to enforce. Mr. Squeri supported the idea of the 4th fish being a trophy fish because he believes that New York is always getting the short end of the stick and if there is a way to help ourselves, we should take it. Mr. Renaldo agreed with that idea. Mr. Witek had reservations about the likely high discard mortality that allowing a 4th, very large fish would cause, a view echoed by several in the audience. Councilor Dearborn asked Mr. Witek if he would like to amend his motion to include something about a trophy fish. Mr. Witek declined. **Mr. Witek's motion was defeated by a vote of 2 in favor; 7 opposed and 2 abstentions.**

Mr. Squeri moved that the Council recommend Option 1 but with a bag limit of 4 fish, the 4th fish being a trophy fish being 25" or larger. His motion did not get a second.

Mr. Delanoy spoke on behalf of Option 6 because it would be less restrictive than stipulating a size for the 4th fish.

Councilor Jordan made a motion that the Council recommend Option 6 to DEC; Councilor Dearborn second. In a straw poll, the majority of the audience members supported this motion. Mr. Jordan's motion was carried. **The vote was 6 in favor; 2 opposed and 3 abstentions.**

Black Sea Bass

Mr. Gilmore said this topic will have a 2-fold purpose because it will also be considered a public meeting to talk about Draft Addendum XXII to the fluke, scup and black sea bass interstate fishery management plan. Those wishing to review the entire addendum should go to the ASMFC website (www.asmfc.org), under "Managed Species" click on "black sea bass" and look for Addendum 22. Mr. Gilmore then turned this topic over to John Maniscalco for the overview.

Mr. Maniscalco reminded the Council that from 1996 through 2010, the recreational black sea bass fishery operated under uniform coast wide size, season and bag limits (25 fish, 12 -1/2", 22 May – 11 October & 01 November – 31 December open season). However, coastwide regulations do not affect each state equally; many feel that they disproportionately impact some states within the management unit. Consequently, Addendum XXI to the FMP was created to allow more precision for individual areas. This gave New York the ability to develop its own state regulations, which last year (2011) were 10-fish possession limit, 13" minimum size limit, and a split open season of 13 June – 01 October & 01 November – 31 December. Addendum XXI only focused on 2011. Addendum XXII has been initiated for 2012.

Estimated 2011 harvest of recreationally-caught blackfish indicates that the coastwide catch was about 800,000 lbs. less than the target. However, catches during Wave 6 in 2011 have not come in yet. Mr. Maniscalco noted that, last year, the waters were warm and calm and the fish were close to shore, which could change the estimate quite a bit as well. According to the 2011 stock assessment update, black sea bass are not overfished but the new benchmark stock assessment has not been completed because of a few glitches that have been encountered.

Mr. Maniscalco informed the Council that the Mid-Atlantic Fishery Management Council has recommended the following regulations for the recreational fishery for black sea bass in **federal** waters for 2012: 25-fish possession limit, 12.5" minimum size limit and an open season of 19 May – 14 October & 01 November – 31 December.

The four options being considered under Addendum XXII are:

Option 1:

- status quo
- state-by-state regulations
- same regulations in New York as in 2011 (10 fish @ 13"; 6/13-10/1 & 11/1-12/31)

Option 2:

- state-by-state regulations
- northern states (MA – NJ) liberalize
- New York would be able to liberalize its regulations by as much as 72%

Option 3:

- regional management
- northern region (MA-NJ) liberalizes regulations by 57%
- while not mandatory, states in region will work to develop as consistent regulations as possible

Option 4:

- regional management
- northern region (MA-NY) liberalizes regulations by 44% with New Jersey have independent regulations
- While not mandatory, states in region will work to develop as consistent regulations as possible
- Proposed 2012 MA-NY measures:
 - 12-fish bag limit
 - 13" minimum size (14" in MA)
 - Open season 7/1-12/31 (5/12-10/27 in MA)

Mr. Gilmore asked for the Council's preferred option. This needs to be voted on at the February 2012 ASMFC meeting and would like to have the Council's opinion.

Mr. Witek liked Option 4. He thinks it makes for a good argument that you have the same states working together again that, in the past, put together a working scup plan for a number of years. In addition, a tag study done a couple years ago suggests that the black sea bass in the summer between Massachusetts and the Long Island South Shore may constitute one stock that migrates down from central New Jersey during the winter so that you will have one biological unit that may be managed under Option 4.

Ms. Dearborn questioned what states had higher numbers; New York gets to liberalize by as much as 72% in the state-by-state approach but only by 41% under a regional approach. Who went up? Mr. Maniscalco replied that, in the regional approach, New Jersey stood to liberalize a great deal.

Mr. Jordan agreed with Ms. Dearborn. Going it alone (state-by-state approach) benefits New York. Ms. Danielson worried about being voted into a regional approach. Mr. Gilmore said that if Option 3 or 4 were voted in, New York would be required to be part of the regional approach. He stated that regional management would not necessarily hurt New York, citing the current approach to managing scup as an example.

Councilor Renaldo asked when black sea bass management might be undertaken in something other than a year-to-year fashion? Mr. Gilmore responded says that a year-to-year approach is actually requested by the technical committee.

Capt. Delanoy spoke in favor of Option 2, above. He noted that there are federal regulations governing black sea bass fishing in the EEZ, beyond three miles. Why isn't there an option that would have state regulation in inshore waters mirror the federal regulations? Mr. Maniscalco said that southern states do have state regulations that are identical to those in federal waters. However, this would not work for states in the northeast because it would blow the state quotas wide open. Marc Hoffman advocated lowering the black sea bass recreational minimum size limit to save on the mortality rate.

Councilor Danielson made a motion to recommend option 4 to the Department; Councilor Witek second. Chairman Wise informally polled the audience; most were for Option 4. **The motion was adopted by a vote of 6 in favor; 1 opposed; 4 abstentions.**

Neal Delanoy suggested that the Council identify its next preferred alternative should Option 4 not be adopted by the ASMFC/MAFMC. Councilor Dearborn made a motion that DEC support Option 2 if Option 4 is not adopted; Councilor Squeri second. **The Council adopted Ms. Dearborn's motion. The vote was 7 in favor; 0 opposed; 4 abstentions.**

Scup

Mr. Gilmore said that, originally, New York's 2012 recreational scup target was going to be liberalized by as much as 88%. However, this now needs adjusting. The intent is to keep the current 4-state regional management unit of which New York is a part (NY, CT, RI, MA) intact. Mr. Gilmore is setting up a meeting with these states to come up specific limits and recommendations. They are going to try and have an open season of 01 May – 31 December. No other information is available on this right now.

Instituting a Control Date for Striped Bass/Fluke Commercial Permits

Chairman Wise reminded the Council that this topic had been introduced at its November 2011 meeting. The Council is on record from discussions held a number of years ago suggesting that a control date should be established for both striped bass and fluke commercial harvest permits. There is a current legislative proposal to set a control date of 01 June for the striped bass permit. There was a discussion at the last Council meeting as to whether or not it's legal to set a *retroactive* control date. Mr. Jordan questioned if there is an actual sponsor in the Legislature for this? No one knew. He believes that this came about because, last year, he and Councilor Paul Risi approached Steve Heins at DEC and asked if this (a control date) was something that could be handled within the Department. Mr. Heins replied that it could not and instructed them to approach the State Legislature. They tried to do that but unfortunately time ran out in last year's session. Should the Council feel this is a necessary measure, they will need to get in touch with the legislator to begin again.

Councilor John Davi feels wording needs to be developed that would protect the commercial fisherman from losing any of his/her licenses because of a control date. He stated that many commercial fishermen hold licenses for a variety of species even though they might not use them all the time. Mr. Davi expressed opposition to any move to take licenses away from fishermen because of non-use. Mr. Wise said that there isn't a clear agreement on what the control date will be used for. Mr. Jordan agreed that this appeared to be a very rough cut and thinks that the wording needs to be rewritten by the Council and submitted to the sponsor before moving forward. Mr. Farnham agreed with Mr. Davi and worries that this proposal would have too much power to hurt commercial fishermen. Mr. Wise said he believes there is an issue where fishermen hold onto a license only in order to sell it somewhere down the road when it becomes marketable. By not freeing up unused licenses, you are essentially locking out people who have been trying for years to obtain certain licenses.

Mr. Squeri questioned why someone should be able to hold onto a license when they don't use it. Mr. Davi asked what happens if you normally fish for fluke commercially but, one year, the fluke aren't available? You still have to pay bills and put food on the table, so you then use one of your other licenses and fish for something else. Mr. Jordan said that he has spoken to Mr. Davi about this and realizes that this bill needs to be written in a way so it won't hurt the fisherman who solely makes his living by commercial fishing. Mr. Wise said that he and Mr. Jordan will rewrite this bill and bring it back to the Council for review and approval before it moves forward.

Update on Hard Clam Restoration Effort in Great South Bay

Mr. Carl LoBue of The Nature Conservancy give a presentation to the Council on the effort to restore stocks of hard clams to the Great South Bay, where there abundance has declined by 99% since the mid-1970's. In 2002 & 2004 The Nature Conservancy acquired the submerged lands in Great South Bay previously owned by the Bluepoints Company - approximately 13,000 acres in the center of the Bay. The Nature Conservancy put together The Bluepoints Bottomlands Council with Mr. Wise as Chairman. The Council created a vision and focused on developing a plan to restore hard clams and seagrass to the Bay. The presence of abundant hard clams had a big influence on the entire food web of the Bay's ecosystem, connecting plankton, seagrass meadow, small invertebrates, fishes, waterfowl and people. Mr. LoBue gave a power point presentation on the restoration effort but he recommended that anyone wishing to visualize the true scope of the work being done should visit The Great South Bay website which is: <http://www.gsbclams.org/> and click on reports.

Most of the work to date has been on attempts to artificially restore the abundance of hard clams to the Bay. More recently, Mr. LoBue stated, Suffolk County created a Harvest Management Working Group to develop recommendations affecting the harvesting of hard clams. The Working Group called for the development and implantation of a modern, adaptive, management plan for clams that doesn't really exist right now. Areal and bay-wide harvest targets have been developed. These targets would be periodically scientifically reviewed. The recommendations also call for the collection of timely and standardized harvest statistics (Mr. LoBue noted that DEC is currently 13 months behind on the 2010 clam harvest statistics) and reciprocity in clamming regulations between the three towns on Great South Bay. Mr. LoBue commented that the main onus falls on the towns to do a better job of managing this renewable resource. The current Great South Bay endorsement on town digger permits should be retained and extended. Any rules that are put in place concerning hard clams in the Great South Bay would have no effect on other shell species in other bays. There should be a cap on the number of new licensees allowed into this fishery, in the event that the population begins to recover. The towns should honor vessel endorsements issued by the state and endorsement holders should provide harvest information.

Mr. Augustine questioned if it might not be better to just try and flush out the entire region as was done with Pike's inlet? Mr. LoBue responded that this would involve a long time lag, possibly 20 years and it could have negative impacts on many different areas. Mr. Augustine argued that Mr. LoBue's group has been working on this for the past four years and each year the result is the same – drastic measures might be needed to reach a significant improvement. Mr. LoBue said that the group did look at more drastic measures but the repercussions they might cause outweighed the benefits.

Dr. Nancy Solomon of Long Island Traditions said that she has been an active member of the meetings regarding this and she encouraged everyone to read the report of the harvest Management Working Group on line. She questioned the necessity/desirability of attempting to limit the number of clambers and licenses at this time, when there are more serious issues that need to be addressed. Councilor Davi concurred.

Chairman Wise said that this restoration effort is a long term proposition. It is difficult to sustain the effort in terms of funding and political/community support. However, the management of this resource needs to be brought into the 21st century and better founded on scientific principles. The hard clam resource of Great South Bay was once New York's most important living marine resource, economically, socially and culturally. It is a long way from that at present.

Council's Tautog Management Subcommittee

Chairman Wise handed out what previous Council work groups have felt were the most important aspects of of tautog management in New York. This will be background for a discussion of what the current subcommittee should focus on. He asked Councilors to contact the current Chair of this Subcommittee, Councilor Risi, should they have any comments or ideas they would like to add. The topic will be added to March's Council meeting.

Recent Unusual Marine Animal Mortality Events

Although this had been placed on the agenda, it was determined there was nothing notable to report since the last Council meeting. Mr. Witek asked that it be put on the agenda for a future date because he is interested in discussing this; several other audience members agreed.

Mid-Atlantic Fisheries Management Council Vacancies

Mr. Gilmore led this discussion. New York currently has four seats on the Mid-Atlantic Fishery Management Council. The seats are held by Jim Gilmore, Steve Schafer, Laurie Nolan and John McMurray. The seat held by Steve Schafer is an "at large" seat and he is going to be stepping down. Because this is an "at large" seat, another state could step in and take it. Mr. Gilmore commented that it is vital that it be filled by a good candidate from New York. DEC will submit three or more names to Governor Cuomo who will then make a recommendation to Eric Schwab, Assistant Administrator for Fisheries at NOAA. The Secretary of Commerce, John Bryson, will make the decision and the appointment. Mr. Schafer is seeking to be re-elected, but there are other candidates: Pat Augustine; Tony Delernia; Dan Farhnam; Emerson Hasbrouck; Hank Lackner and Paul Risi. Mr. Gilmore invited other recommendations and/or comments on the above candidates. He needs this input by 15 March 2012. Councilor Farnham wanted to know if the process could be more transparent. Traditionally that had been a commercial seat and he worries about stacking the council from the top down. Commercial fishermen feel they are not being properly represented.

Council Meeting Dates in Calendar 2012

The meeting dates for the Marine Resources Advisory Council in calendar 2012 are noted below. All meetings will take place at the DEC Offices located at 205 Belle Mead Road, East Setauket, NY 11733. The meetings generally take place at 2:00 p.m.; however, July's meeting will be at 7:00 p.m.

March 13

April 17 – primarily for the discussion of legislative bills

May 8

July 17

September 18

November 13

Council's 13 March 2012 Meeting

Tentative agenda items for the Council's 13 March 2012 meeting include:

- Draft Minutes, 17 January Council meeting
- 2012 Scup and Black Sea Bass Recreational Fishery Regulations
- State Commercial Landing License Issues
- Issues for the Council's Tautog Management Subcommittee
- Town of Hempstead Clamming Closure

Check the Council's web page, <http://www.somas.stonybrook.edu/MRAC> for further agenda items. 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 to suggest an agenda item, contact: William Wise, Chairman, Marine Resources Advisory Council; PHONE: 631/632-8656 FAX: 631/632-9441; wwise@notes.cc.sunysb.edu.