



# BULLETIN

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Paul Farnham

Thomas Jordan

Joseph Paradiso

John Renaldo

Paul Risi

Christopher Squeri

Charles Witek

Dean Yaxa

William Wise  
Chairman

Kim Knoll  
Staff Assistant

## 16 September 2014 Meeting of the Marine Resources Advisory Council

Volume XXIV, No. 5

Council Chairman William Wise began the meeting at 2:05 p.m. and went over the agenda items.

### News/Announcements

James Gilmore, Director of Marine resources for NYSDEC, informed the Council/audience of a public hearing on draft Addendum IV to the Atlantic States Fisheries Commission's (ASMFC) Interstate Fisheries Management Plan for Striped Bass to be held that evening on Stony Brook University's campus in the Wang Center auditorium. Mr. Gilmore then introduced Kathy Moser, Assistant Commissioner for Natural Resources at NYSDEC. Ms. Moser was visiting from Albany to attend that evening's striped bass meeting and said that she welcomed the opportunity to meet and speak with any councilor or fisherman between the two meetings. Mr. Gilmore reminded everyone that, prompted by concerns surrounding the fluke industry and subsequent discussions last year, the Mid-Atlantic Fishery Management Council (MAFMC) initiated an addendum to the fluke (summer flounder) fishery management plan in December 2013. The Council has scheduled public meetings in Brooklyn, Montauk and East Setauket at which Council staff are soliciting opinions and ideas about this scoping document. This addendum encompasses both the recreational and commercial fluke fisheries and will be a multi-year amendment.

### Other upcoming meetings:

- The annual **ASMFC** fall meeting will be held in Mystic, Connecticut. Mr. Gilmore encourages everyone to attend. For more information, go to: <http://asmfc.org/calendar/10/2014/asmfc-73rd-annual-meeting/405>
- The Commission has decided to develop a management plan for **Cancer crabs** (e.g., Jonah and rock crabs). Those involved in the crab industry will want to stay informed about this because new regulations will be coming out. For the public information document, go to:

[http://www.asmfc.org/files/PublicInput/Crab\\_PID\\_forPublicComment\\_Aug2014.pdf](http://www.asmfc.org/files/PublicInput/Crab_PID_forPublicComment_Aug2014.pdf)

- There will be a **Lobster Conservation Management Team 4** meeting in Fort Wadsworth, NY (Staten Island) concerning the various issues surrounding lobster management, specifically the 10% trap reduction measure that was implemented several years ago. Mr. Gilmore advised that this 10% reduction is not working and must be revisited.

- **American eel** – Addendum IV to the Interstate Fishery Management Plan for American Eel is being finalized by ASMFC. The details regarding yellow eel measures still need to be worked out.

## **Public Comment**

Mr. John German, a commercial fisherman, stated that he received a card from the DEC requesting that he file a harvest report for horseshoe crabs for the month of July. He stated that the season was closed in July so how could he possibly show any harvest for July. He feels that this is another example of wasting the taxpayer's money because someone has to be sending this out, someone has to receive this information and someone has to record it. He complained about DEC's regulatory authority as, in his view, this is the, "... nonsense they come up with." Mr. German is also unhappy that, as a commercial fisherman, he must file a report while recreational fishermen do not.

Mr. John Mihale, commercial hook & line fisherman, said that he had requested that cod be put on the July agenda, which it was. Unfortunately Mr. Mihale was unable to attend the meeting and the item was tabled. He would like to use this opportunity to go over his concerns. On 01 July 2013, the federal government lowered the minimum size limit on cod from 22" to 19" for commercial fishermen. However, New York State's 22" minimum size limit for this species was not changed. Other states have lowered the limit, however, New York has not. The 22" minimum size limit for cod is in State law. Mr. Mihale stated that a way must be found whereby DEC can make adjustments in statutory fisheries measures to keep pace with the changing management climate and then inform the Legislature about what has been done. This would simplify matters greatly.

Mr. Mihale also called for New York to institute a trip limit on commercially harvested cod for those New York State license holders who do not hold a federal permit. He suggested a limit of either 25 lbs or whatever amount of cod is allowed under the federal permit.

Mr. Marc Hoffman gave an update on the recent ASMFC Advisory Board meeting for scup, seabass and fluke. He noted that, largely due to the date of the meeting (01 July), only 6 individuals of the 35-person Board were able to attend. There was a discussion about over-management of scup and seabass. Many anglers believe these species to be so abundant that are practically obliterating (consuming) juvenile lobsters. Unfortunately, due to the way the law is written, it's too late to do anything now. Mr. Hoffman stated that something CAN and SHOULD be done to ease restrictions in fisheries where the target species is clearly having an impact on other, valuable resource species, in this case American lobster.

Ms. Kathy Heinlein reiterated something she had brought up at a previous Council meeting: she would like documents that are to be presented during a Council meeting be available on line beforehand so everyone will be on the same page at the meeting. Chairman Wise indicated that some of the documents distributed to the Council prior to a meeting are in draft and not appropriate for public distribution. However, those that are can and will be posted on the Council's web page.

## **Draft Minutes, 15 April 2014 & July 2014 Council meetings**

Approval of these meeting minutes will be postponed until the 18 November Council meeting, at which there will hopefully be a quorum of councilors present.

## **Suspension of Research Set-Aside (RSA) Program**

Steve Heins, DEC staff, informed the Council that the MAFMC has suspended the RSA for the 2015 fishing season because of information it had received on irregularities in the program. The Southern New England Mid-Atlantic Trawl Survey (NEMAT), which had been funded with monies collected through the RSA program,

will be funded in 2015 (~ \$1M) directly by the National Marine Fisheries Service (NMFS). The MAFMC has received information about possible fraud and conspiracy surrounding the RSA program. Substantial fines and even imprisonment of violators resulted from an investigation in New York that is on-going. Apparently, RSA landings were being disguised and fraud was perpetrated. Also, the quality of some of the research conducted with RSA monies has been questioned and the validity of using it for management purposes. People were concerned at how easily these acts were committed and it was decided to take a step back to look at the program as a whole. Controls over the program will be revisited. Councilor Bob Danielson thought that the money being saved might be earmarked for fishery law enforcement needs but Mr. Heins reminded him that this is federal money and it cannot be used for local law enforcement. Mr. Gilmore also noted that these monies would have to be shared among potentially nine states. Mr. Danielson replied that it would be more money than law enforcement has now.

Mr. Emerson Hasbrouck of Cornell Cooperative Extension's Marine Program stated that he has been involved with the Mid-Atlantic RSA program for many years. He has been successful in having four RSA projects awarded to him, all of which were used for assessment and management purposes for the species being worked on. The action that the MAFMC took in suspending the RSA program will remove approximately \$1million+ worth of fisheries research money per year. Mr. Hasbrouck observed that this funding is not being replaced and it's a lot of money to lose. The money could have been re-directed to improvement assessments by reducing uncertainty by retrieving better and more detailed data. Even the regional administrator said that he agrees there are problems with the program but shutting it down is not the answer. This was the first time that Mr. Hasbrouck can recall the Council voting against the advice of the regional administrator. Mr. Hasbrouck acknowledged that there have been some problems with RSA-funded research projects being completed and providing data useful for management and the oversight of the program was perhaps not what it should have been. But, in his view, the MAFMC recognized these issues some time ago and took steps to deal with them. The Council now has a scientific and statistical committee involved in setting the research priorities and also reviewing proposals submitted for funding. Additional controls and parameters have been put in place as well. Unfortunately, not enough time has been given to see if they're working. Mr. Hasbrouck expressed disappointment that over \$1M in fishery money has been taken off the table but his suggestion is to move the process forward, fix whatever problems there are and let's get the research going again so we can help answer the questions that come up.

Mr. Heins reminded the Council that the federal Department of Justice has not made a final determination on how much fluke was poached under the RSA program. He also noted that New York may have to pay any poached fluke back out of its commercial harvest quota for fluke.

### **Striped Bass Addendum Update**

Ms. Carol Hoffman of DEC made a brief presentation on background and contents of proposed Addendum IV to the Interstate Fishery Management Plan for Striped Bass (see attachment). Most questions and discussion were deferred to the ASMFC meeting on the Addendum scheduled for that evening (see above).

Mr. Hoffman asked how long Addendum IV would be in effect once adopted. Ms. Hoffman stated it would be in effect until such time that it is changed or superseded by another addendum.

Mr. Wise summarized by saying that there are basically 3 different options (see attachment), each one achieving the spawning stock biomass target; the differences among them is in the time it takes to get there. If we're concerned about moving expediently to help the stock, options 2 and 3 can't even be considered. Ms. Hoffman stated that we're looking at a 10-year rebuilding timeframe and Mr. Gilmore said it specifies that when we hit the threshold, we have to remove the management measures stipulated in the addendum. He continued that what is complicating things further is that back in 2007, the stock assessment used separate biological reference points for the Chesapeake Bay area because they fish on a smaller scale. When the stock assessment was done now, the Chesapeake Bay area was included so we are all using the same rules. The

Chesapeake Bay area folks are pushing for the full implementation because they feel they are being unfairly discriminated against.

Mr. German questioned if there would be any compensation to New York for all the years where New York State did not catch in annual harvest quota of striped bass? Ms. Hoffman replied no, but Mr. German might raise this point with ASMFC staff at the evening meeting. Mr. Gilmore suggested that Mr. German include in his comments to ASMFC the reasons why New York under-fished striped bass.

Council John Davi asked how the expanding number of recreational fishermen is factored into the management equation. Making recreational fishery management measures stricter may not accomplish much if the number of striped bass anglers increases. How will this be taken into account? He feels that commercial fishermen are always being held accountable for their harvest and its impact on the target species, but the recreational fishing industry, not so much.

### **Coastal Fisheries Sandy Financial Aid Program**

Mr. Wise reminded the Council that several pots of money have been allocated fishermen and fishing businesses affected by Hurricane Sandy victims. Mr. Gilmore acknowledged the work of Kathy Moser in helping get these relief and loss reimbursement efforts off the ground in New York.

Mr. Heins then briefed the Council on progress. In November of 2012, Congress appropriated \$5M for New York and New Jersey for financial aid to fishermen and fishing businesses through declaring a federal "fisheries disaster" in the two states. New York's share of this came to about \$2.37M because of that year's federal budget sequestration (reduction). It took a little while to determine who would administer the program in New York; the Governor's Office of Storm Recovery ended up doing so. Since then, an additional appropriation of a little over \$3M was given to New York and New Jersey, of which New York's cut was approximately \$1.5M. The strategy moving forward is to use the \$2.37M to address one segment of the industry and the additional \$1.5M be put toward another segment of the industry. This allows both pots of money to be used simultaneously without having to completely spend one pot of money before moving onto the second. The DEC will begin working with the Storm Recovery group beginning west and heading east down Long Island. They will work with small business development centers who will help people apply for grants. There is also money available through the NY Rise Program for small businesses – there are a lot of marinas applying. The DEC hopes to build on these ideas in the future. The ideal situation would be a one-stop shop for folks to walk in and know exactly what they need to do to apply and secure their funds. DEC hopes to have things in place within the next several months.

### **Multi-species Crustacean/Terrapin Rule-making Update**

Mr. Gilmore began by stating that this multi-species package had been broken down into two parts: crab/horseshoe crab and whelk. There are up to 5 separate parts in the crab and horseshoe crab portion. The terrapin excluder device has already been reviewed and there was general agreement on the Council to limit its application to shallower waters. The Asian horseshoe crab importation prohibition was supported by the Council, as was the ban on releasing non-native crustacean species in State waters. Mr. Gilmore indicated that there are two pieces that are still being worked on: vessel endorsements and harvest limits for horseshoe crabs. DEC staffer Kim McKown gave the details. Ms. McKown stated there are two items in the package that really need some work:

- endorsement language in the crab law; currently three State marine fishing licenses allow endorsement of the license/permit to a vessel (the lobster and food fish licenses state that the license-holder must be on board and is liable for any violations). This language is missing from the current crab law. DEC feels that omission is just an oversight but it must be revised in law. Currently there is a widespread problem in the industry because people are using this opportunity to take advantage of this loophole.

- harvest limit in the horseshoe crab regulations; they need to modify the wording to allow two people to be on board a vessel for safety reasons. Currently, only one harvest limit is authorized per vessel; DEC would like to change it to two. Many harvesters go out when it's still dark out and being alone can make for a very dangerous situation.

DEC hopes to have both packages finished and implemented by next fishing season.

Councilor Melissa Dearborn asked Ms. McKown if she could refresh everyone's memory regarding the terrapin excluder device and what was decided. Ms. McKown said that the Council's recommendations were to implement the terrapin excluder device in all marine waters and to use the more restrictive terrapin excluder device. Ms. McKown had a meeting with The Nature Conservancy, several fishermen, researchers and environmentalists to discuss where the most severe terrapin mortality problems exist. She stated that the drowning mortalities are highest in the tributaries and more brackish areas – that's where the terrapins are. DEC would like to move forward to require use of the terrapin excluder device in those waters. Ms. McKown will be working with enforcement to come up with the appropriate language to meet these needs.

### **Draft Report, Marine Bureau Financing Needs and Funding Sources**

Chairman Wise stated that, approximately six months ago, Councilors John Renaldo and Charles Witek (on behalf of the Council) were asked to look at the impending financial problems facing DEC marine resource programs and assess the sources of funding. A major concern is the status of the Marine Resources Account of the State Environmental Conservation Fund. The solvency of this fund has been looked at several times over the years by the Council, as worrying about funding for DEC's marine programs is one of the statutory responsibilities of the Council. Councilors Renaldo and Witek worked together with the DEC and have prepared a draft report reviewing the level and sources of support, relevant programs and their recommendations.

Councilor Witek began by explaining that currently the Bureau of Marine Resources is not adequately funded. It does not have the funds it needs to adequately execute its mission to both manage marine fisheries and to enhance opportunities for recreational and commercial fishing. Because of the limited resources available, the main question is where we can get the necessary money. There are special grants that can be obtained; however, they are usually very specific in their purpose. For general program support, the Department must rely on commercial license fees, revenues from fines, some federal matching grants and General Fund appropriations (which are very limited). Federal matching grants are good but the key word is "matching" which means the Department must secure non-federal money from another source first before the matching monies can be collected. We also have Wallop-Breaux money which is amassed through purchases of fishing tackle. There is an excise tax applied to the purchase of fishing tackle that's distributed among the states, but fishing licenses are part of the formula for obtaining that money. This means that approximately 65% of that money goes upstate where we have records of the numbers of licensed anglers and because they must be paid licenses at this point and not merely the free registration, the number of salt water anglers doesn't count toward the apportionment of Wallop-Breaux funds. Of course, we have also lost the license revenue as well as the matching funds. Mr. Witek stated the DEC is in a pretty tough place right now. The State General Fund is not the most reliable source of money because it's subject to political whims. Increasing commercial licensing fees isn't an option either because it's not realistic. Money from fines is steadily decreasing plus penalties come and go and cannot be counted on as a steady source of funding.

One of the ideas the Councilors came up with is, if there is not to be a license, there should be a stipulation in the budget to give the marine bureau \$10.00 for every registered angler out of the General Fund. If one income source is removed, it should be replaced with another. Councilor Renaldo continued. He believes that there is a catch-22 problem going on because you cannot use grant money to hire staff, however, you need the staff to write up grant proposals. Pretty soon there won't be enough money to get the necessary work done for just the basic requirements for reporting to and participating in the deliberations of the MAFMC, ASMFC, etc. The Council is required to submit an annual report by January 1 of each year and it needs to start doing this.

The report will go to the DEC, which will forward it on to the Governor's office. The Governor will then put it in the hands of the Legislature and other interested people. This, at least this will allow the problems to come out and hopefully be addressed. Mr. Wise feels that the Department's marine resource programs are viewed as a "fund yourself" activity and believes the less money you have, the harder it is to raise more. Councilor Danielson thinks that when the report is viewed in black and white, perhaps it *will* make a difference.

Mr. Mihale questioned what is the magnitude of the disparity between the general funds that are available to the Department and the general funds that are needed to run it effectively? Mr. Gilmore said the Marine Account will most likely be going into the red sometime next year and that's something that hasn't happened in decades. To run the whole Bureau of Marine Resources would run somewhere in the \$8-\$10M range annually. Revenue from the permit office used to generate ~\$1M annually, enforcement revenue was several hundred thousand dollars that they are just not seeing anymore. The numbers are not adding up; Long Island has a population of ~7,800,000 people, while the registry currently shows only 290,000 fishermen. How could New Jersey have 1,200,000 anglers while New York only has 290,000? It just doesn't make sense. A General Fund match up would not only generate more money, it would likely help to bring in more accurate data/numbers, numbers that make sense. Mr. Gilmore commented that this is why the saltwater license was so important. They had anticipated bringing in between \$5 - \$10M and that money would have allowed current programs to continue and to expand with even more initiatives. In addition, it would have added in the enforcement deficiency, expanding the artificial reef program, doing our own data surveys so we wouldn't have to rely on MRIP; overall we could have managed our resources much more efficiently. Councilor Davi asked if the General Fund receives any revenue from boat registration fees and if so, would we be able to ask for a higher percentage? Mr. Gilmore said the distribution amounts are handled by the Division of the Budget; he wasn't sure of the exact percentage.

Mr. John Schoenig said this conversation was déjà vu to him because this same conversation took place years ago, and it was the reason having a saltwater fishing registry initially came up. He reiterated his previous stance that he hasn't met one recreational fisherman who would mind paying \$10.00 a year if it would enhance the marine district – let's go back to creating the marine recreational fishing license, or perhaps a fee-based registry. We have a different Governor right now, one who might be more inclined to go for it. Councilor Danielson disagreed, he said it's on record that Governor Cuomo is the one who specifically said that while he is Governor, there will be no paid registry. Mr. August Ruchedeschel of the Suffolk County Executive Office, believes that he would be able to bring a request made by the Council to County Executive Steve Bellone for consideration because all of the issues being discussed involve Long Island residents and waters. He thinks Mr. Bellone would be willing to bring the Council's cause to the Legislation for support.

Chairman Wise believes that the Council will have a better understanding of what, specifically, is needed toward the spring, at which time they can decide how to proceed.

Mr. Witek would like the Council to review the subcommittee's current draft report, think about what is needed and get back to either him or Mr. Renaldo with their ideas or suggestions. Mr. Gilmore fears that everyone's first thought will be to "cut back" but he cautions people that there are many programs at the Marine Bureau that are legally mandated; this should be kept in mind. Even programs that may not be mandated might be very popular, therefore, almost impossible to remove. Ms. Moser said the Executive Deputy and the new Assistant Commissioner are scheduled to be briefed on this very issue the following day. They will be developing a budget to send up to the Governor's office, however, they are already being told that it will be a flat budget. Meaning that if the Marine Account is out of money, any relief from the General Fund will come at the expense of another program, there are some tough decisions that have to be made. Mr. Hasbrouck posed a question to Ms. Moser in the hopes that she will carry it back to The Commissioner. He wanted to know why a small state, specifically Rhode Island, which has a population smaller than Nassau and Suffolk counties, are able to fund their marine program at a greater level than we are here in New York? Mr. Wise thought that it's because New York doesn't view their marine resources as centrally as many other states do. Mr. Gilmore said that New Jersey is not that far behind New York, they will soon be facing many of the same problems we are facing.

## **Required Reporting During a Closed Season**

Ms. McKown said the DEC is currently in a transition period for reporting. It used to be that each species had its own progress reports but it's been moving toward everyone having to report through vessel trip reports by permit holders. Anyone who has crab, food fish or lobster permit must report at least once a month. They have been stymied into doing overall compliance so they can do a recap several times a year to see if all the permit holders who are supposed to report, have actually been doing it. Whereas, in the horseshoe crab sector, it must be done to monitor progress towards the catch quota. So, during the summer, the DEC did compliance monitoring in anticipation of the fall season to make sure all the reports that should have come in, did. They performed their usual query, with the date ending in August. Since they're cognizant of who has what license, they then checked to see what reports had been filed. Certain names popped up and it was then that the request went out, it wasn't geared to just horseshoe crab license holders. What is strange is that sometimes they do get people who report landings even in a closed season but the DEC keeps in mind that they can harvest up to 5 crabs a day as long as they are not selling them. Mr. Gilmore said that currently everything is being tracked on paper and they are most likely 50 years behind the rest of the world, however, it is their hope that electronic reporting for VTR's, permitting, etc., will soon be available. This will be placed on November's agenda.

## **Schedule of Council Meetings in 2014**

The following are the dates of the remaining, regularly-scheduled meetings of the Marine Resources Advisory Council in Calendar 2014:

18 November.

All regularly-scheduled meetings of the Marine Resources Advisory Council are held at 2:00 pm at the offices of DEC's Bureau of Marine Resources, 205 Belle Mead Road, East Setauket, New York.

### **18 November 2014 Council Meeting**

The following are the tentative agenda items for the Council's 18 November 2014 meeting:

- statutory fishery limits vs. responsiveness in marine fishery management
- update, Marine Resource Programming Work Group
- tracking system for commercial harvests at DEC
- species Management Updates
  - Striped Bass
  - American Eel
  - Black Sea Bass
  - Summer Flounder (Fluke)

Check the Council's web page, <http://www.msrb.sunysb.edu/MRAC/>, for additional agenda items added after this bulletin is distributed. 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: William M. Wise, Chairman, Marine Resources Advisory Council; phone 631/632-8656; FAX 631/632-9441; [wwise@notes.cc.sunysb.edu](mailto:wwise@notes.cc.sunysb.edu)