



**New York State Department of Environmental Conservation
DIVISION OF LAW ENFORCEMENT**

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M E M O R A N D U M

TO: Marine Resource Advisory Council
FROM: Major Timothy A. Duffy
RE: SDO MRAC Report – January 2009
DATE: January 30, 2009

MARINE RESOURCES

Shellfish Sanitation (Suffolk County)

On 21 December 2008, Region 1 ECO Joshua Sulkey was conducting seafood shop inspections in the Town of Smithtown. At a seafood shop in St. James, the officer observed a bushel of farm-raised manila clams and Pacific oysters in the lobster tank. When told to present a shellfish water storage permit, the owner of the shop said he did not have one. Upon further inspection of the shop, a bushel of clams was found untagged and filled with sediment. The clams smelled like mold and were confiscated and destroyed. After the inspection was completed, two misdemeanor charges for illegal storage and unsafe sanitary conditions were issued, as well as a violation for possessing untagged shellfish.

Commercial Overage of Summer Flounder (Suffolk County)

On 23 December 2008, MEU ECO's Todd Smith and Brian Farrish, along with Marine Enforcement Unit (MEU) Lt. Joe Billotto, conducted fisheries enforcement in Montauk. At approximately 1900, a vessel was observed entering Montauk Harbor. When the vessel was secured in her berth at the Star Island Town dock, ECO Smith introduced himself to the master. Upon boarding the vessel, Officer Smith noticed several cartons of fish on the rear deck of the vessel. The master then came out of the pilothouse with his Vessel Trip Report Log. He proceeded to complete the VTR in front of ECO Smith. Upon completion of the VTR, the master gave ECO Smith the State copy. ECO Smith then requested to see the master's New York State fisheries permits. As the master went into the pilothouse of the vessel to retrieve the license, ECO Smith noticed some plastic fish totes with lids along the starboard side of the pilothouse. A quick inspection of the totes revealed that they were filled with summer flounder, later determined to be 400 pounds.

ECO Smith then entered the pilothouse of the vessel to see the master's fishing license. The master was unable to locate the license; he went to his truck to see if it was in his wallet. The master returned and advised ECO Smith that he could not find his license and that he had to leave "right now" to bring his crewman home. ECO Smith told the master that he knew about the summer flounder and asked him exactly how much was onboard. The master stated that there was about 300 pounds. ECO Smith checked all of the cartons and totes and found approximately 500 pounds of fluke. The current State trip limit was only 140 pounds. The master quickly owned up to the overage and simply stated, "You caught me red-handed". The overage, a total of 342 pounds of summer flounder, was seized by ECO Smith. The fisherman will be charged with misdemeanor-level illegal commercialization of summer flounder, possession of six untagged containers of summer flounder and falsifying a fishing vessel trip report. The fisherman is also looking at several federal fisheries violations from the National Marine Fisheries Service.

Short Oyster Toadfish (Queens County)

On 04 January 2009, Region 2 ECO's Shea Mathis and Christopher Lattimer patrolled Flushing to check fish markets. While at Zhong Hua Supermarket Inc., ECO Mathis noticed that oyster toadfish in a tank looked undersized. After measuring the toadfish, five out of seven were failed to meet the minimum legal size. The fish were seized as evidence and the corporation was issued a summons for possession of undersized marine species.

Residency Issues (Suffolk County)

On 07 January 2009, MEU Officer Brian Farrish started investigating 2007 and 2008 residency issues for New York marine commercial fishing permits. Individuals have been found claiming New York residency while no longer being New York State residents. Charges will be issued at a later date, followed by revocation of their current permits.

Guilty Pleas in Party Boat Illegal Commercialization Case (Kings County)

On 12 January 2009, two crewmembers from the Sheepshead Bay-based party boat Ocean Eagle V pled guilty to illegal commercialization of fish in Brooklyn Criminal Court. Back in the fall of 2007, Region 2 Lt. John Fitzpatrick organized a detail targeting party boats in Brooklyn who were alleged to be illegally selling fish from their boats. Region 2 ECO Jeffrey Conway made an undercover buy of blackfish from the vessel and the captain and crewmembers were issued summonses for the offense. In the end, the captain received an ACD and the two crewmembers pled guilty to illegal commercialization of fish, each paying a \$750 fine.

Fish Market Checks (Bronx County)

On 19 January 2009, Region 2 ECO's Eric Dowling and Matthew Clemens conducted several fish store checks looking for the illegal sale of fish and shellfish. Several stores were checked, but one store in particular caught their attention. The officers found that the store had several violations including short lobsters, improperly tagged clams and short scup. The

evidence was seized and the store was cited for the violations.

Tidal Wetlands Enforcement (Nassau County)

On 17 December 2008, MEU ECO Sean Reilly and Region 1 ECO Donald Damrath investigated a complaint of illegal placing of fill in a tidal wetland. The officers responded to a house in Island Park and found a pile of concrete blocks in a regulated area. The ECO's noticed a Bobcat excavator behind a house on the other side of the canal and responded to investigate. The officers found a new in-ground pool installation in the adjacent area and some of the excavated material pushed into the wetland to expand the property size. ECO Damrath issued ACATs to both homeowners and referred the cases to Tidal Wetlands for remediation and enforcement.

United States Coast Guard Joint Operation (New York Waters)

On 21 December 21 2008, MEU Officer Jamie Powers teamed up with the United States Coast Guard (USCG) for a joint patrol. The officers patrolled aboard the new USCG 47' vessel in search of commercial fishing vessels in Jamaica Bay, Raritan Bay, New York Harbor and the Atlantic Ocean.

TAD/acp

Cc: Captain Thumm