

NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Township Public Library
Jimmies Leeds Road
Absecon, New Jersey
July 10, 2008

In Attendance were: Chairman Gilbert H. Ewing, Jr.
Councilman Erling Berg
Councilwoman Eleanor Bochenek
Councilman Patrick Donnelly
Councilman Edward Goldman
Councilman Richard Herb
Councilman Barney Hollinger
Councilwoman Frances Puskas
Councilman Joseph Rizzo

Absent: Councilman John Maxwell

Also in attendance representing the Division of Fish and Wildlife:

David Chanda, Director
Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)
James W. Joseph, Chief, Bureau of Shellfisheries
Brandon Muffley, Chief, Bureau of Marine Fisheries
Mark Chicketano, Captain, Bureau of Law Enforcement
Jeffrey Brust, Research Scientist, MFA
Mike Celestino, Senior Biologist, Bureau of Shellfisheries
Linda Barry, Technician I, Bureau of Marine Fisheries
Sherry Bennett, Council Secretary

Ms. Bennett read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on June 9, 2008. Chairman Ewing reminded everyone of proper conduct for the meeting.

Chairman Ewing welcomed aboard the newest member to the Council, Councilwoman Eleanor Bochenek. He thanked her for volunteering her time and expertise.

Minutes for the May 1, 2008 meeting were approved.

Law Enforcement Report

Captain Chicketano presented the Law Enforcement Report.

Conservation Officers (CO) received information from New York State Environmental Conservation Officers (ECO's) in reference to four New Jersey depuration clammers working in New York State waters. The New York ECO's apprehended these clammers

approximately 0.5 mile inside New York. New Jersey depurators are required to work in New Jersey and in areas approved by NJDEP, Bureau of Water Monitoring. This is a violation of their depuration permit along with a complete disregard of a letter originally sent with their permits from the Captain. A CO issued each clammer a summons for clamming outside of approved areas while in the depuration program. If convicted each clammer faces a fine of \$0-500, 0-30 days in jail and a three-year permit suspension. Additionally, the New York ECO's issued these clammers a total of 14 summonses which included; taking shellfish in New York waters without a permit, taking shellfish from uncertified waters and possessing untagged clams.

CO's have received several complaints regarding an individual taking summer flounder from a rental boat in the Shark River during the closed recreational season. After several attempts the CO apprehended the individual, who happened to be a juvenile, along with an adult partner with four summer flounder possessed out of season. The juvenile was issued a written warning, and the adult was issued a summons for the four fluke.

On May 4th a CO received a complaint in reference to an individual who was illegally retaining tautog during the recreational closed season on Nummy Island in Middle Twp, Cape May County. Upon arrival the CO observed the fisherman catch and retain two tautog. The CO made contact with the individual on the bridge and discovered the man's wife was waiting at the base of the bridge in their car. The CO directed the man to meet him at his car. There the CO recovered an additional five tautog which were also taken in violation of the closure. Five of the seven fish measured less than the legal size limit of 14". The CO issued the appropriate summons for the possession of tautog during the closed season and possession of undersized tautog. A check of summons track revealed that this same individual had been apprehended, charged and convicted with the same violations in May 2000 in Egg Harbor Twp. by another CO.

A CO attended a Cooperative Enforcement Program Meeting hosted by NOAA/NMFS Office for Law Enforcement in San Diego, CA. The two-day meeting was a national meeting attended by all participating states involved in the Joint Enforcement Agreement (JEA) Program. The meeting is a semi-annual event to coordinate the direction of the program and discuss the effectiveness of its administration.

On May 21st CO's apprehended the commercial fishing vessel Capt. Alec as it docked at Cold Spring Fish and Supply Co. in Cape May. Conservation Officers boarded the vessel and discovered it had landed six hundred and seventy pounds of shucked sea scallops. Under the permit that they were issued their daily trip limit is only 400 lbs; therefore they landed two hundred and seventy lbs. over their limit. In addition, their federal logbook was falsified in an attempt to hide the overage. The CO completed the case package and filed the appropriate federal violations with the National Marine Fisheries Service.

Howard T Birchmeier was prosecuted for his activities involving the illegal sale of black sea bass to entities which do not possess a New Jersey permit to purchase black sea bass directly from a harvester. His charges stem from a District 8 investigation in March of 2008 which spanned three counties involved five jurisdictions, six defendants and

included federal charges issued to the party vessel involved. Mr. Birchmeier was the main element in the case and had created a network of personal relationships to further his dealings. On May 20th in Washington Twp., Gloucester County a plea agreement was reached with Mr. Birchmeier, He plead guilty to one charge of illegal sale of black sea bass and received a penalty of \$1000.00; part of the plea bargain included \$500.00 suspended for a period of thirty six months without any further violations of New Jersey's commercial fishing regulations. On June 9th in Cherry Hill, Camden County, a similar plea agreement was reached. Mr. Birchmeier again plead guilty and received a \$3,000.00 penalty for the illegal sale of black sea bass; \$2,000.00 was suspended for thirty six months without any further violations of New Jersey's commercial fishing regulations. In total he was sentenced to \$4,000.00 penalty, ordered to pay \$1,500.00 immediately and had \$2,500.00 suspended for a thirty-six months of "probationary" period to stay violation free. If caught in any future violations within that period would require payment of the suspended amount as well as any other penalties ordered.

On 6/1/08 the National Marine Fisheries Service (NMFS) reopened a limited access area known as the Elephant Trunk off of the coast of southern New Jersey normally closed to sea scallop fishing. The area had been open earlier in the year and had been the source of several violations by General Category scallop vessels aka. "day" boats. District 8 CO's knew that the timing of this opening was going to create a large number of problems mostly due to a control date set for 7/1/08 to limit participation in the "day" scallop fishery. A large number of vessels were due to lose their license for the fishery on that date based on their entry into the fishery, i.e. they had nothing else to lose. During this time District 8 CO's assisted by District 7 CO's made numerous inspections of vessels landing from this limited access area. Below are several cases made during this opening involving overages:

1. On June 2nd at 0600hrs CO's boarded the FV Ocean One as it entered it's dock in Gardner's Basin in Atlantic City. Conservation Officer's documented and seized a 50 lb. overage which was subsequently donated to the Atlantic City Rescue Mission. A CO issued the vessel's owner/operator violations for the overage as well as for failure to accurately complete their Fishing Vessel Trip Report. The case has been referred to NMFS for prosecution.
2. On June 7th at 1930 hrs. CO's were conducting boarding of vessels at Cold Spring Fish and Supply in Cape May. They encountered the F/V Apache which had landed earlier in the day. As a mate on the vessel was leaving officers inquired about speaking to the Captain. The mate told the officers that he would have the captain return to the vessel. Instead, after several minutes an unidentified individual informed the officers that it appeared the captain and the crew were avoiding returning to the vessel and would most likely flee. The CO tracked the Captain down in the parking lot of dock. The Captain of the vessel was intoxicated and provided verbal resistance which bordered on the escalation to physical resistance. Although the vessel offloaded their 400 lb. limit earlier in the day CO discovered a sixty pound overage in the galley of the vessel. The CO's seized and secured the overage. The CO's completed the investigation in the following days contacting the owner and subsequently seizing the entire trip from

the vessel. The appropriate federal charges were filed for landing over the daily trip limit. The case has been referred to NMFS for prosecution.

3. On June 8th at 1730 hrs. CO's boarded the F/V EMERALD STAR at Cold Spring Fish and Supply in Cape May. The vessel had landed 563lbs of shucked sea scallops, one hundred and sixty three pound over the daily trip limit. In addition the Captain of the vessel failed to complete the Fishing Vessel Trip Report as required. Officers seized the entire catch from the vessel. The CO completed the case package and filed the charges which will be forwarded to NMFS for prosecution.
4. On June 11th CO's boarded the F/V Sonja H at a dock on Mill Creek in Cape May. The officers discovered a 39.5 lb. scallop overage and an incomplete federal log book. The log book was missing information from several days' worth of trips and Fishing Vessel Trip Reports which were incomplete including a blank page for the day's inspection. The officer's seized the scallop overage and documented federal charges for landing over the daily trip limit and failing to complete their trip report. In addition, copies of the incomplete trip reports for previous days were retained as evidence for future investigation. The CO completed the case report which will be forwarded to NMFS for prosecution.
5. On June 19th CO was referred to the dock at Cold Spring Fish and Supply in Cape May by an NMFS Agent to "educate" the operator and crew on the FV King.Com in reference to minor infraction documented by the Vessel Monitoring System . Upon boarding the vessel for an "educational" contact, the CO discovered a sea scallop overage. The vessel was over their daily trip limit of 400lbs. The CO was directed to document the violation and process the case. Appropriate federal charges are pending.

Now that the summer flounder season is under way, District 7 CO's have been busy enforcing the fluke recreational size and bag limits. The ratio for anglers seems to be approximately 1 keeper to 10 throwbacks. However, a group of four individuals who came to the Atlantic Highlands Municipal Ramp wasn't too eager to throw back all of the short fluke. The CO's inspected these fishermen at the ramp and discovered forty-seven fluke in their boat. Only six measured at least 18 inches. Each fisherman in the group was issued summonses for possession of the undersized fluke and three fluke over the daily bag limit.

CO's inspected the commercial F/V Wabo at Viking Village Dock in Barnegat Light. Under the federal fishing permits, the vessel was allowed 50 pounds of monkfish, however, the vessel offloaded 71 pounds. Under the advice of a NMFS special agent, a federal warning was issued for the overage. A warning issued in this case acts as a first offense in the eyes of the federal government, with subsequent violations demanding higher fines.

While CO was inspecting the commercial docks at Viking Village, they apprehended two vessels violating federal fisheries laws. The F/V Eliza returned from two days at sea monkfish trip. The vessel offloaded the two-day limit of 2988 pounds of monkfish. After the vessel completed offloading its catch, the CO boarded the vessel and discovered

additional monkfish covered by tarps. These fish were hidden prior to the vessel coming to the dock. The overage totaled 404 pounds. A federal case has been initiated and sent to the General Counsel. The second case involved the F/V Pretty Lady which offloaded its catch of 395 pounds of shucked scallops. Under its federal fisheries permit they can land up to 400 pounds. The captain claimed that was all of their catch. The CO boarded the vessel and discovered a 38 pound bag of scallops in a fish box. This brought the total catch to 433 pounds, a 33 pound overage. This vessel had been warned for the same violation in the past. A summary settlement for this violation will be issued.

Lastly spent a lot of time assisting NMFS with the dolphins in Shrewsbury River. Primarily taking special agents on our patrol boats and conducting traffic control in the area. We have logged almost 50 hours of patrol, 3 summons for wake and speed control in and around the area of the dolphins. In addition the NMSF have issued 12 enforcement actions for boaters coming to close to the dolphins in the water.

Dr. Donnelly asked if more out of state boats have been seen since the opening of the scallop fishery?

Captain Chicketano responded yes, more than on a regular basis.

Dr. Donnelly asked if filleting of one fluke for strip baits have been an issue for CO's?

Captain Chicketano indicated they are seeing plain fillets, without the rack. Some indicated these fillets are from last year. In some cases it is obvious that it was last years, and others are not. So far there haven't been any problems specifically with the filleting of legal size fluke for strip baits.

Dr. Donnelly asked as a follow up to that to above question, in terms of people keeping that strip of bait, from the previous trip, do you find that to be a problem for conversation to have that as an amendment to that rule.

Captain Chicketano said it would be a major problem for CO's, especially considering these cases have to go to municipal courts. It would create a giant loophole.

Legislative Report

Mr. McCloy brought Council's attention regarding bill S-2080.

By January 1, 2009, the Commissioner, in consultation with the Marine Fisheries Council, shall establish and implement a registry program for saltwater recreational anglers. It describes the federal program and established fees for residents and non-residents for saltwater fishing. It also dedicates the money to marine fisheries management.

Mr. Berg asked if this bill would conform to the federal registry program and Mr. McCloy responded in the affirmative.

Mr. Herb asked for clarification that there was no provision for party and charter boats (a license for the boat as opposed to all their customers individually) and Mr. McCloy acknowledged this was the case.

Mr. Herb indicated that this would not comply with the federal program because they have party and charter boats licenses and exempt their customers from licensing.

Mr. McCloy agreed with Mr. Herb's assessment of the federal program regarding party and charter boat licensing, but indicated Senator Bateman's bill was more encompassing than the Federal program. In Mr. McCloy's opinion the Senator's bill could fulfill the federal program objectives as currently proposed (see discussion later in meeting).

Dr. Donnelly inquired if the bill was passed that recreational and commercial fishermen could be licensed but non-residents that landed in NJ wouldn't?

Mr. McCloy indicated both residents and non-residents would have to be recreationally licensed if fishing in NJ. Although S2080 does not apply to commercial fishermen, those currently fishing in NJ waters are required to have various licenses. Commercial fishermen that fish outside of NJ but land their catch in NJ are not required to be licensed. The Council has discussed this issue over numerous years and at various times have advocated the establishment of a landing license for commercial fishermen.

Mr. Goldman asked about the bill's reference to the "Marine Fisheries Management and Commercial Fisheries Act".

Mr. McCloy responded that this was the original Act that established the Marine Fisheries program back in 1979.

Mr. Goldman suggested the Council discuss the licensing of private boats. He commented that Virginia and Delaware have boat licenses and it is important to know what these anglers are catching.

Mr. McCloy indicated that the federal proposal does not allow an exemption for anglers fishing from a private boat if the boat is licensed.

Mr. Herb asked if S2080 addressed licensing in Delaware Bay (reciprocity) and Mr. McCloy indicated there were no provisions in the bill on that issue.

Ms. Puskas indicated the need to add party and charter boat licensing in the bill.

Mr. McCloy indicated that the Department has a process to comment on proposed legislation. He suggested Council may wish to comment to Senator Bateman.

Mr. Ewing expressed the concern of states not following federal program. It could result in anglers needing to be registered (licensed) by both state and federal governments.

Atlantic States Marine Fisheries Council

Mr. Berg presented the ASMFC Report.

American Lobster Management Board

The American Lobster Management Board (Board) reviewed public comment on Draft Addendum XII. Addendum XII identifies issues associated with history-based fishing rights and transfer programs. The transferability subcommittee will present a final document for Board approval at the August Board meeting.

The Board approved Addendum XIII, which codifies language previously adopted by the Commonwealth of Massachusetts for the Outer Cape Cod Lobster Conservation Management Area (LCMA) effort control program.

Due to delays in data gathering, the next lobster stock assessment and peer review report will be presented to the Board by the Commission's Winter Meeting in February 2009.

Atlantic Striped Bass Management Board

The Atlantic Striped Bass Management Board met to discuss reports from the Striped Bass Advisory Panel and Technical Committee, to review a list of potential management action issues.

The Technical Committee provided a report of their progress to update the biological reference points for striped bass. The Committee determined that several aspects of the approach should be further analyzed and that other approaches and reference point definitions should be considered for use and recommended that the Board allow it more time to complete additional analyses to which the Board agreed.

The Board determined that it would be premature to consider any potential management action until the reference point update was complete.

Summer Flounder, Scup and Black Sea Bass Management Board

The Summer Flounder, Scup, and Black Sea Bass Management Board (Board) discussed issues to be included in Draft Amendment 15. The Board discussed and considered the issues the Council (MAFMC) had rejected and agreed to move forward with the same eight issues in Draft Amendment 15.

The Board was presented each state's summer flounder, scup, and black sea bass recreational management measures for the 2008 fishery. All states have implemented, or are in the process of implementing, regulations that are consistent with the fishery management plan.

Shad & River Herring Management Board

The Shad and River Herring Management Board (Board) reviewed the draft Public Information Document for Amendment 3 (American shad). The Management Board approved the document for public comment.

South Atlantic State/Federal Fisheries Management Board

The South Atlantic State/Federal Fisheries Management Board (Board) met to receive reports on SEAMAP funding for fiscal year 2008.

American Eel Management Board

The American Eel Management Board (Board) reviewed and approved the draft of a Memorandum of Understanding (MOU) with the Great Lakes Fishery Commission. The draft MOU outlines how both Commissions will work together to enhance the abundance of American eel throughout its North American range.

The Board also reviewed Draft Addendum II and elected to modify the document by including an option to raise the minimum size limit and to include comments on non-hydropower dams and dam removal in the comments relating to the FERC relicensing process. The Board will review the document at the Summer Meeting and consider approval at that time.

Spiny Dogfish & Coastal Sharks Management Board

The Spiny Dogfish & Coastal Sharks Management Board approved the initiation of two addenda to address the distribution of spiny dogfish annual quota among the states. This action responds to the concern of some states that the current seasonal allocation program is not providing their commercial fishermen the opportunity to harvest the available quota as was intended. Currently, the interstate spiny dogfish management program allocates the annual commercial quota both seasonally and regionally. The seasonal allocation system divides the quota into two periods, with 57.9% of the quota harvested from May 1 to October 31 and 42.1% harvested from November 1 to April 30. The regional allocation system divides the quota between two regions, with 58% allocated to the northern states (ME-CT) and 42% allocated to the southern states (NY – NC). Both allocation schemes were established to allow all states the opportunity to access and land available quota based on historical landings percentages. In recent years, however, the seasonal allocation strategy, which is influenced by dogfish migratory patterns, has resulted in overages of the northern quota share and reduced access to the resource by the southern states. The first addendum will propose the elimination of the current seasonal allocation system, while maintaining the standing regional allocation system. The second addendum (Draft Addendum III) will provide options for the establishment of a state-by-state allocation system, including a provision that would allow quota transfers between states.

The Board met and selected options for the final version of the Fishery Management Plan for Atlantic Coastal Sharks (FMP). Staff will revise the draft to reflect Board selected options and present the final version for Board approval at the Commission's Summer Meeting.

Horseshoe Crab Management Board

The Board has approved Draft Addendum V for public comment and review. Addendum IV is due to expire on September 30, 2008. Draft Addendum V was initiated to continue horseshoe crab management in Delaware Bay.

The Draft Addendum will contain all the current provision of Addendum IV as options.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Goldman presented the MAFMC Report, the full report can be viewed on line.

The Mid-Atlantic Fishery Management Council met in Atlantic City, New Jersey from June 9 to June 12. The MAFMC adopted recommendations regarding fishery managements measures for the 2009 Atlantic mackerel, *Loligo* and *Illex* squids and butterfish fisheries and for the surf clam and ocean quahog fisheries for 2009 and 2010. But for a small increase of quota for the *Loligo* fishery, the MAFMC supported perpetuating the current quota levels for the 2009 fishing year in the six species reviewed. Specific specifications can be found in the MAFMC press release, Handout Number 4a.

The MAFMC voted to postpone work on Amendment 15 to the Summer Flounder, Scup, and Black Sea Bass FMP so as to address required actions relating to Annual Catch Limits (ACL) and Accountability Measures (AM). They also voted to move forward with Framework 2 to the Spiny Dogfish FMP which is intended to improve the administrative process for adjusting biological reference points.

A public hearing was held for Amendment 10 to the Squid, Mackerel and Butterfish FMP. The Amendment is intended to rebuild the overfished butterfish and to do so it addresses four possible management alternatives: 1) Develop a butterfish mortality cap program for the *Loligo* fishery; 2) Increase the *Loligo* minimum codend mesh size; 3) Eliminate exemptions for *Illex* vessels from *Loligo* fishery minimum codend mesh requirements, and, 4) Establish seasonal gear restricted areas (GRAs). There are two more hearings to be held. One meeting will be on June 17 in Warwick, RI and the other on June 18 in Riverhead, NY. There was also a Scoping meeting held for Amendment 4 to the New England Council's Atlantic Herring FMP.

The MAFMC is currently seeking nominations for the Annual Fishing Achievement reward. Nominations will be accepted until August 31, 2008.

Shellfish Council Reports

Delaware Bay Shellfish Council Report

Mr. Hollinger presented the Shellfish Council Report.

2008 Direct Market Oyster Program Update

The natural oyster seed beds in Delaware Bay were officially opened to direct market harvest on April 7, 2008. Bureau personnel continue to coordinate and monitor the harvest program. Seventy-seven vessels (the most since the direct market inception 12 years ago) are expected to participate in this year's harvest. The total allowable catch for the industry has been initially set at approximately 76,106 bushels. Individual harvest quotas have been initially set at 988 bushels per vessel. Through three months of harvesting, approximately 27,462 bushels have been landed (26,183 bushels at this time in 2007), with the majority of the harvest coming from the Shell Rock and Ship John seed beds (this constitutes over 67 percent of the Bay's harvest to date (18,395 bu). The 2008 harvest season is scheduled to run through mid-November.

Delaware Bay Oyster Restoration Program

Bureau staff is nearing completion of the federally funded 2008 oyster reef enhancement program. Project funding is shared equally by the states of New Jersey and Delaware in its respective, ongoing shell planting programs. This funding came largely through the efforts of the Delaware Bay Oyster Task Force (Task Force), which consists of staff from the NJDEP, DNREC, Delaware River and Bay Authority (DRBA), Rutgers University, U.S. Army Corps of Engineers (USACE), DRBC, the Delaware Estuary Program and the Partnership for the Delaware Estuary. Costs for this project are shared between the federal government (75%) and the non-federal sponsor (25%). The latter is collectively provided by the combined efforts of the Task Force. The continuation of the program was contingent upon the Task Force's ability to provide this 25 percent cost share, 20 percent of which must be provided as a cash contribution. The Township of Commercial (Cumberland Co.) provided the critical cash contribution to the USACE on behalf of the State of New Jersey.

Through July 10, 2008, approximately 374,000 bushels of sea clam shell have been deployed on approximately 10 sites throughout Delaware and New Jersey waters in the Delaware Bay. The program is projected to end on July 15.

The restoration program, now in its fourth year, is designed specifically to address the recruitment problem that has plagued the resource over the last seven years. The 2005, 2006 and 2007 oyster reef enhancement programs involved the planting of over 1,000,000 bushels of shell throughout the Bay (with 18 restoration sites in the NJ alone). Multiple year harvest projections, while often tenuous due to the vagaries of nature, have the potential to significantly increase future commercial harvests.

Intermediate Transplant Program

As part of the 2008 intermediate transplant program, approximately 18,000 bushels of seed oysters were transplanted from the underutilized seed beds of the upper bay (Upper Middle, Middle and Arnold's seed beds) to the direct market beds (Cohansey and Bennies Sand), which undergo much of the industry harvest. An additional 14,498 bushels are projected to be available for industry harvest as a result of this transplant. Based on 77 participating vessels, individual quotas are expected to be increased by approximately bushels.

Maurice River Oyster Program

Each year since 2004, the Division has coordinated a small transplant of seed oysters (typically 4-5,000 bushels each year) from the Maurice River proper beds (in Special Restricted waters) to the approved waters of the Tongers' Bed at the mouth of the Maurice River. During the latter half of June, staff coordinated the movement of approximately 4,500 bushels.

The program has proved to be a success by providing watermen with the opportunity to work during a period of the year when work can be difficult to find. It appears likely that a harvest of approximately 10-15,000+ bushels has occurred each winter over the past 4 years. Given the ex-vessel value (paid directly to harvesters), this harvest level would have an estimated value of approximately \$475,000 annually, with a net contribution to the local economy of \$2.8 million dollars.

Atlantic Coast Shellfish Council

Atlantic Coast Shellfish Council chairman John Maxwell was not in attendance. Chairman Ewing asked Mr. Joseph if he had anything to report.

Mr. Joseph indicated that aquaculture discussions between DEP, NJDA, the Shellfisheries Council, the Aquaculture Advisory Council and industry members continue, with the current focus being lease fees and permitting issues. Mr. Joseph noted that shellfish lease fees had remained virtually unchanged for the last 100 years and that the Department, as it is doing with other programs, is looking at the costs to administer the leasing program versus fees paid by lease holders. He noted that there is a significant disparity between program costs and revenue and that Department staff would be continuing to discuss this issue with its various advisory groups and industry members.

With respect to permitting issues, Mr. Joseph indicated that the current focus was triggered by a change in U.S. Army Corps of Engineers (USACE) regulations relevant to both commercial aquaculture and shellfish restoration. In regard to commercial aquaculture, Mr. Joseph noted that rather than having hundreds of existing shellfish lease holders apply for individual state and federal permits, the Bureau of Shellfisheries had applied for those permits on behalf of all lease holders, thereby relieving them of this responsibility and allowing them to continue their aquaculture activities and be in compliance with the new regulatory requirements.

Mr. Joseph also noted that Bureau personnel had made a presentation to the Tidelands Resource Council (TRC), which also has a role in permitting issues, and that the TRC had generally given the Bureau “the green light” to precede with the permit process for traditional shellfish aquaculture and its shellfish restoration work. The TRC had not yet determined, however, its final position with respect to the Aquaculture Development Zones in Delaware Bay, where permit-requiring structures will be used for various shellfish culture practices.

Councilman Rizzo asked Mr. Joseph why the Division of Land Use Regulation (Land Use) was involved in shellfish aquaculture and by what authority had they become involved. Furthermore, Mr. Rizzo inquired if Land Use might get involved in issues farther offshore, such as reefs in the ocean.

Mr. Joseph indicated that the Waterfront Development Law and Federal consistency determinations relevant to the Federal Coastal Zone Management Act were the basis for Land Use’s involvement. The adoption of new federal regulations by the USACE on March 12, 2007 brought these traditional shellfish aquaculture practices to the forefront while prior to that time such permitting issues were never raised. Mr. Joseph reiterated that the Bureau wanted to make compliance with these new permitting requirements “as painless as possible” by the Bureau applying for the permits on behalf of the lease holders. Mr. Joseph added that during its shellfish restoration work in late 2007, the Bureau was informed that the planting of small clam or oyster seed did not require a permit. However, if the Bureau wanted to plant a base of oyster or clam shell upon which to subsequently plant oyster seed, the Bureau would need permits since the placement of shell was considered “fill material” by the permitting agencies.

Ms. Puskas asked Mr. Joseph who was going to “shoulder the lost” of these new permits.

Mr. Joseph indicated that nothing had been finalized yet, but that he had been working with Land Use staff and hoped that there would be little or no permitting costs passed on to lease holders.

Regulatory Updates

Mr. Ewing congratulated Mr. Muffley on his promotion to Bureau Chief of Marine Fisheries.

Mr. Muffley provided an update on the current status of the 2008 Multispecies Regulatory Proposal. The current draft of the regulatory proposal and all impact statements have been entered into the NJDEP Rule Tracking Database, the first step in the regulatory process. The next step is to have a ‘Launch Meeting’ in which the review process by OLA’s lawyers and other DEP staff begins and a designated lawyer is assigned to review and work on this regulatory package. Also, Mr. Muffley indicated

regulations pertaining to coastal sharks were recently included in the proposal due to the recent management options approved by the ASMFC Coastal Shark Management Board.

Mr. Muffley apprised the Council of a handout in their packet that provides the 2008 recreational summer flounder regulations for each state along the East coast.

Old Business

Mr. McCloy brought Councils attention to a couple of letters in their handouts. Handout #6 is a series of three letters regarding the issue to remove fish pots on reefs. Handout #7 is in response to a letter from 5th graders regarding Council's action on Horseshoe crabs, from February.

Mr. Rizzo asked about the original letter sent on Horseshoe Crab and if Council had received a copy too?

Mr. McCloy responded that the Council previously received the letter but it is not in the handout at this time.

Chairmen Ewing asked Mr. Joseph to provide the Council with an overview on the issue of offshore windfarms.

Mr. Joseph provided a timeline on the issue in New Jersey beginning with issuance of a report in 2006 by a blue ribbon panel on offshore wind turbines, which recommended that New Jersey proceed with a limited test project not to exceed 350 megawatts. On April 19, 2007 DEP issued an RFP for ecological baseline studies related to offshore wind turbines. A contract for these studies was subsequently awarded, with field work to occur from January 2008 – June 2009. A final report on this work is expected at the end of 2009. On October 5, 2007 the Board of Public Utilities (BPU) issued an RFP for offshore wind projects. Five proposals were received with two being deemed deficient. The remaining three proposals are currently being reviewed by a DEP technical committee, BPU and other entities, which are expected to submit their comments and recommendations to the BPU by August 20, 2008. The BPU will then make a determination as to which project will be permitted to proceed.

Mr. Berg asked which of the five proposals received had been determined to be deficient and in what way.

Mr. Joseph indicated that the only information he had was that five proposals had been received and that two were woefully deficient in addressing the various criteria prescribed in the RFP.

Chairman Ewing noted that one of the entities that had submitted a windfarm proposal had intended to give a presentation at the July Council meeting, but that a conflict arose which prevented their attendance. Chairman Ewing speculated that the presentation may occur at a future meeting.

Mitten Crabs

Mr. Muffley updated the Council on the latest developments on mitten crab sightings. In June, the first confirmed sightings of mitten crabs in New Jersey were documented by the Smithsonian Environmental Research Center and New Jersey Marine Fisheries. Mitten crabs were found in Toms River (June 1, 2008) and Raritan Bay (June 17, 2008). The Toms River crab is the first confirmed record in the State of New Jersey. The male crab, measuring 50mm, was found crawling on a crab holding pen (peeler pot). The second crab caught in New Jersey was collected by a commercial waterman in the Raritan Bay near Keyport, NJ on June 17, 2008; it has been identified through pictures as an adult mitten crab, sex still unconfirmed. This crab apparently was not the waterman's first catch, as the species was reportedly observed in the same area at least weekly for the three weeks prior to this catch.

Blue Crab Pot Licenses

Mr. Muffley provided an update to the Council on the recent availability of three commercial blue crab pot licenses. Letters indicating the availability of these licenses and instructions on how to obtain them were sent to the first three applicants remaining from the 1994 lottery list. Two licenses have already been purchased; while the third license had not been obtained. If that license is not purchased by the current lottery applicant it will be made available to the next applicant on the lottery list.

Mr. Berg asked if these names were off from the original list and Mr. Muffley responded yes, the original 1994 lottery list.

Mr. Herb updated the Council on the MRFFS data collection workshop that was held in Washington, on May 5 and 6th. Dockside interviews need to be improved. For example, most of us agree that most fluke are caught from boats. But according to MRFFS data, people fishing from beach, docks and the shoreline in the off season out fish the entire party/charter boat fleet by a very wide margin. The discussion then went into how to correct this problem.

The last thing discussed was the licensing of party/charter boats under the federal registry program. The new regulations go into effect in 2009. Some of the comments Mr. Herb has received is that it is too bad NJ doesn't have their own license in place because now fisherman will all have to register under the federal program. Many other states do not comply with the federal program and some are in worse shape than NJ. VA was generous enough, sometime ago, to give out a lifetime saltwater license and they don't even know the whereabouts of these people. Now these licenses have to be replaced.

The federal government will not issue blank licenses to party boats unless they are in compliance with everything.

New Business

Mr. McCloy brought Council's attention to several Handouts in the Council packet. Handout #9, is an update on the new Marine Recreational Information Program (MRIP). Mr. Herb just mentioned how this new system will replace the MRFSS.

Handout #10 talks about the Federal Saltwater Angler Registry. NOAA's Fisheries Service is seeking comment on a proposed rule that requires anglers and spearfishers who fish recreationally in federal ocean waters to be registered before fishing in 2009. Mr. McCloy reviewed some highlights of the proposed rule. NOAA is looking for public comment by August 11, 2008.

Handout #11 mentions the 2009 potential meeting dates for the Marine Fisheries Council. For two of these months, 2 different dates are listed and Council was asked for some feedback regarding these two months. July 9 and November 5, 2009 were agreed upon. Mr. Rizzo asked about making the September meeting on the 10th. Dr. Donnelly requested to keep it the 3rd. September 3, 2009 will be the meeting date.

Mr. McCloy asked Council to think about changing the meeting location for the March meeting. Mr. McCloy stated that Council does not have to respond tonight, but if he didn't hear differently by September then he would go ahead and secure our present meeting location. Hopefully, one day we will have our own facility.

Mr. Ewing reiterated to Council that if they have any suggestions as to where to hold the March meeting to please submit their suggestions to Mr. McCloy by September.

Mr. Ewing also asked the Council to take a look at the Council Roster and Committee Assignments. Any changes please contact Mr. McCloy and himself as soon as possible.

Mr. McCloy brought Council's attention to a copy of the 2008 Marine Edition of the Fish and Wildlife Digest in their Handouts.

Dr. Donnelly asked what kind of delay would be involved to make changes to the 2008 Multispecies proposal at this time?

Mr. McCloy indicated the earliest Council would have something available for their 'final' consideration would be January.

In regards to changing things while in adoption, Director Chanda replied it would be a long delay, especially in light of the retirements forthcoming and being short staffed at this moment.

Mr. Goldman asked about the purpose of the volunteer angler survey that appeared in on the Division website last week.

Mr. Brust responded. Last week the MFA launched an online voluntary recreational survey. It has been under development for about a year now. There have been about 300 to 400 responses on it thus far. The main focus for this survey is for length information,

because MRFFS does not collect any length on discarded fish. This survey asks for length on both caught and discarded fish. So it provides an idea of the size of throw backs. Right now the assumption (for stock assessment purposes) is that the throwbacks are the same length as those kept. This will help give us a better idea as to what is being thrown back. It also gives us information on caught to throwback ratio. Right now, the most important part of this is the length data being collected. Hopefully, this will be helpful for the future and added flexibility.

Mr. Goldman stated that there are problems associated with volunteer data.

Mr. Brust, commented that there are known biases, but MRFSS is a biased program also.

Ms. Puskas asked about the possibility of higher mortality for taking time to measure and throw back fish.

Mr. Brust, responded that it is hopeful people will use care in collection of the data, so as to minimize increased mortality. He further indicated that if people were concerned about this issue they do not need to participate in the survey.

Mr. Goldman asked to go back to Committee Reports. He indicated that the Coast Guard was looking for comments from commercial fisherman on a proposal concerning maritime safety.

Director Chanda updated Council on the Division's position on the fish pots on artificial reef issue. He reviewed the process and the events of the previous Reef Committee and Council action. He indicated that the Division's position was to support the position proposed in the legislation (i.e. prohibit fish and lobster pots on the reefs). He further indicated that an additional member was added to the Marine Fisheries Council and he fully expected the Council to be at full membership before the issue would come to the Council for a vote.

Public Comment

Mr. Sciliano thanked Mr. Brust and Mr. Muffley for getting the recreational survey online. He has been an advocate for more data for many years. Mr. Sciliano attended the same meeting as Mr. Herb regarding the MRFSS and he was disappointed how bad the information was.

Mr. Chew addressed the Council regarding permit transfers, in regards to limited entry programs and permits. He asserted that transfer to only a family member was a violation of statute against discrimination in NJ. He asked the Council to ask DEP to address this issue, and make permits transferable without restrictions.

Mr. Mackey asked if the proposed regulations on artificial reefs were in line with items proposed to Council previously or the legislation. Director Chanda responded in line with what the legislation proposes.

Mr. Mackey reiterated Director Chanda's comments and suggested there should be discussion on reef donations made by the commercial sector.

Director Chanda responded that it is going to be a long process and there will be many factors that will be addressed.

Next Meeting, September 4, 2008.

Meeting adjourned.