

## NEW JERSEY MARINE FISHERIES COUNCIL

**Richard Stockton College of New Jersey  
West Quad Building  
Pomona, New Jersey  
July 9, 2009**

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

Absent: Councilman John Maxwell  
Councilman Barney Hollinger

Also in attendance representing the Division of Fish and Wildlife:

Thomas W. McCloy, Administrator, Marine Fisheries Adm. (MFA)  
Brandon Muffley, Chief, Bureau of Marine Fisheries  
Mark Chicketano, Captain, Bureau of Law Enforcement  
Linda Barry, Assistant Biologist, MFA  
Jen Resciniti, Technician II, 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 24, 2009.

Minutes from the May 2009 meeting were approved.

### **Law Enforcement Report**

Captain Chicketano presented the Law Enforcement Report.

#### **District 7 Highlights: April – May 2009**

Recently tautog have moved inshore with fishermen catching many fish. On 4/25/09 a CO was patrolling Barnegat Light State Park when he observed two fisherman near the end of the jetty which is approximately one mile from the lighthouse, making it very difficult to remain unnoticed. The CO concealed his uniform with a long jacket and proceeded to walk to the fishermen to conduct an inspection. One of the fisherman was in possession of two legal-sized tautog. The CO then began searching the jetty rocks for evidence of other fish when he discovered a black bag hidden in the rocks. This bag contained 18 tautog measuring less than 14 inches. The fishermen with the two legal

tautog admitted to catching all of the fish. A summons was issued to the individual for possession of 18 sub legal tautog and a mandatory court date is set next month.

A CO has been receiving some complaints of summer flounder being kept during the closed season at the Keansburg Fishing pier. These complaints occurred on his regular days off. On 5/13/09, while responding to complaints of illegal crabbing along the Arthur Kill in Carteret, the CO inspected some fishermen. Upon inspecting one fisherman's cooler, the CO observed a 17 inch summer flounder. The fisherman caught it at the Keansburg Pier and then decided to try a little fishing in the Arthur Kill. A summons was issued for possession out of season.

A CO inspected the FV Sea Tractor, a scallop dredge vessel in Point Pleasant. This vessel has a federal general category scallop permit which allows up to 400 pounds of shucked scallops per day. After the crew finished off loading its catch of 400 pounds, the CO asked the captain if there were any more fish or scallops on board. The captain said there was not. The CO boarded the vessel and inspected all the fish holds and containers. He discovered a bag of shucked scallops in a covered fish tote. The bag weighed 21 pounds and was seized. The scallops were donated to the Food Bank of Monmouth and Ocean Counties. A case package is submitted to the NMFS office in Wall. A summary settlement will be issued for the scallop overage of 21 pounds.

While patrolling the Manasquan Inlet in Manasquan a CO observed a diver's flag on the Point Pleasant side. The CO thought it peculiar that the flag did not move for approximately 15-20 minutes. Normally, the flag is attached to the diver and moves with them. The CO proceeded to the Point Pleasant side of the inlet. When he arrived a spear fisherman had emerged from the water near the flag. The flag was not attached to the fisherman. The CO asked the individual if he had any fish. The fisherman replied that he caught a tautog, however his friend who was still in the water had it in his possession. The CO asked why he did not have the flag attached to him and the fisherman said that it was too much of a bother. The CO instructed this fisherman to sit and wait for his diving buddy up on the sea wall and away from the water. The CO hid in the rocks waiting for the buddy. Approximately 10 minutes later, the buddy surfaced near the sea wall and the CO immediately approached him and instructed him to raise his bag. This fisherman's bag contained one tautog and one sub legal striped bass. The CO instructed him to stay above water and retrieve the dive flag. Attached to the flag was a bag containing three tautog and one sub legal striped bass. The season was currently closed for tautog. These individuals were both issued summonses for each tautog possessed out of season and for sub legal striped bass. The CO had apprehended the same two individuals who are Pennsylvania residents, in November 2007 for similar violations. Their "M.O." is to tie off their fish to the dive flag and exit the water and go to their vehicles to change clothes. If the coast is clear they then retrieve the flag with attached fish bags.

On 5/14/09, a CO received a call from one of his many informants in reference to individuals keeping tautog in the Point Pleasant Canal. The season is presently closed. The CO found two individuals fishing under the Route 88 Bridge and set up surveillance. He observed one individual catch four tautog and place them in a bucket hidden nearby in

weeds. The CO then proceeded with an inspection and asked the fishermen if they had caught anything. One fisherman replied they caught some, but they were all small and were thrown back. The CO then retrieved the bucket which contained nine tautog. The one fisherman caught all nine fish and was issued a summons for all fish and mandatory court date is pending.

### **District 7 Highlights May – June 2009**

On 5/15/09 CO set up a surveillance of the FV Jamie Mae, a commercial otter trawl vessel, as it offloaded its catch at the Point Pleasant Fishermen's Cooperative. For ten minutes the offload was uneventful until the CO observed the captain emerge from the vessel's cabin with a fish basket and place it on the co-op dock. He then observed one of the mates also exit the cabin carrying a plastic shopping bag and a zip lock bag. The plastic bag was transferred to a non-crewmember standing on the dock. This individual momentarily disappeared into the co-op building and then reappeared empty-handed. The zip lock bag, which seemingly contained fillets, was handed to another individual on the dock. The CO then proceeded to the loading dock at the co-op and found the plastic shopping bag inside the building in a box containing ice. The bag contained 12 lobster tails and claws. All of the tails were undersized. This shopping bag also contained another zip lock bag with winter flounder fillets. The fish basket (from the captain) contained whole winter flounder. The other zip lock bag that was handed off at the dock was missing, along with the individual. The captain, who is also the owner, was charged with possession of mutilated lobster parts, undersized lobster tails and possession of winter flounder during closed commercial season. It should be noted that this vessel has an extensive past violation history and this is the second time this year the vessel has been caught in violation by a CO.

On 5/16/09, CO's inspected the FV Theresa, a commercial lobster pot vessel in Point Pleasant. The CO inspected the vessel's fishing vessel trip report and found it to be blank, a federal violation. The CO also discovered 10 black sea bass fillets on board the vessel. A summons was issued for possession of mutilated fish, and a warning was issued for failing to complete the fishing trip report.

During a patrol of the Barnegat Light commercial fishing docks a CO inspected the FV Top Dog, a day scallop fishing vessel. The crew of the vessel off loaded the vessel limit of 400 pounds shucked scallops. The CO then boarded the vessel and discovered an additional 19 pounds iced down in a fish tote. The 19 pounds were abandoned by the captain, seized and donated to the Lacey food bank. A case package is to be submitted to NMFS for prosecution.

On 6/6/09 and 6/14/09 CO's conducted boat patrols in the Raritan and Sandy Hook Bays. On 6/6/09 five summonses were issued for possession of undersized summer flounder for a total of 15 fish and 6 summonses and 7 written warnings were issued for clamming violations. On 6/14/09 the CO's issued 7 summonses for undersized summer flounder that included 21 illegally possessed fish. The boats inspected possessed 14 shorts. Another vessel was inspected earlier in the day with no violations and the two fishermen were handed a copy of the marine fish regulations. The fishermen were also verbally

reminded of the fluke size limit. Prior to departing, CO said “We may be back to check you later”. Later on, the same vessel was encountered and the fishermen were asked if they caught any fish and one of the fishermen replied, “Just sea robins”, and held up a sea robin. A quick inspection of their cooler revealed 3 undersized summer flounder measuring no larger than 13.5 inches that were concealed under sea robins. The regulation cards were buried in the cooler along with the fish.

FV Paramount, a party boat out of Brielle was inspected on two occasions this month. During the first inspection as the vessel moored to the dock, a CO observed an individual holding a tautog on the far side of the vessel. Tautog season is presently closed. The CO ordered the individual not to throw the fish, but was ignored. Also, a total of 19 sub legal black sea bass were recovered from other fishermen and a total of six summonses issued. At the later inspection it was almost déjà vu when a CO ordered an individual on the far side of the vessel, not to throw any fish over board. The individual ignored the command and dumped the entire contents of his cooler overboard which included 10 black sea bass and 11 ling. This individual was written a summons for interference and wanton waste of 21 fish.

On 6/13/09 a CO was conducting a paper work investigation at the J T White hard clam depuration plant in Highlands. He observed a clammer landing clams and who had been on his radar for several months. The CO approached the clammer as he was leaving the dock and summoned him to stop. The CO asked the clammer if he had off loaded all of his clams. The clammer stated, “Yes”. The CO observed a stack of 4 fish baskets nested inside each other in the bow of the vessel. The CO also saw something black in between the bottom two baskets. On further inspection the CO found 381 hard clams sandwiched in the bottom two baskets. The clammer claimed that he was going to dump the clams back into the water because the plant refuses to buy the very small clams, referred to as “little, little necks”. The CO sorted the clams in the plant and was advised by the plant manager that 195 of those clams would have been purchased by the plant. Only 3 out of the 381 clams were of sub legal size. This particular clammer had been caught numerous times in the last 20 plus years for similar bootlegging violations and has also served jail time as well. The appropriate summonses were issued and the clammer’s depuration permit was suspended indefinitely, with a permanent revocation being sought.

A CO was watching a sport boat fishermen in the Shark River on 6/13/09. He observed a fisherman in a vessel catch and keep what appeared to be a “questionable” sized summer flounder and made a mental note of the incident. Later in the day at the Belmar Municipal Ramp, this vessel having three occupants came to the ramp. The fishermen had their summer flounder in a cooler and all of the fish were of legal size. This boat had large rubber mats covering its floor. The CO lifted a corner of one of the mats and observed a summer flounder tail sticking out. The fish measured 17.5 inches. The CO continued lifting the remainder of the mats and found 10 sub legal summer flounder in total. The owner of the boat was written summonses for possession of 10 undersized summer flounder.

Although not a serious violation, a CO wrote a summons to an individual for possession of a 16 inch summer flounder in Sandy Hook. What made the case odd is that the fisherman caught the fluke while fly fishing for bluefish. The fisherman placed the fish in his stripping basket and then walked across the road to his vehicle. The CO observed the fisherman remove a lunch cooler from his vehicle and place the fish in it along with a fillet knife. He began walking back to the water when he was stopped by the CO. The fisherman stated he was going back to release the fish. Maybe the fisherman viewed the fluke as a “trophy” since he caught it on a fly. Must have been using sinking fly line.

### **MONTHLY HIGHLIGHTS DISTRICT 8 -MAY 09**

A CO presented a lecture on wildlife law enforcement for a Wildlife Management Class at Stockton College. The lecture included the role law enforcement in the management of wildlife, specifically NJ Fish and Wildlife Bureau of Law Enforcement’s mission and activities protecting the State’s resources. The CO’s presentation included information on the Division of Fish and Wildlife’s Marine Enforcement Unit and it’s Participation in the National Marine Fisheries Service Cooperative Enforcement Agreement; aka JEA Program.

On March 27<sup>th</sup> a CO apprehended a Delaware Bay commercial gill net fisherman for the use of more nets than he was licensed for. The CO observed the fisherman tend the three additional nets he had set illegally in Mannington Meadows area of Salem County. In addition, the fisherman didn’t have his nets properly marked as required by regulations. The CO issued the appropriate charges.

On Sunday April 26<sup>th</sup> a CO responded to a complaint about individuals taking clams from a leased clam lot without the leaseholder’s permission. Upon arrival, the CO observed two men harvesting clams from the lot at the end of Radio Rd in Great Bay in Little Egg Harbor Twp. After briefly video taping the harvest activity, the CO ordered the men to come ashore for inspection. The individuals discarded their illegally harvested clams on their way in. The CO obtained a driver’s license from one man but the other man was without valid ID. As the CO attempted to confirm the identity of the second individual, he fled into the adjacent marsh. With one individual secured, the CO contacted Little Egg Harbor Police for assistance. He was able to positively ID the individual who fled with help from LEH PD. The second individual remained hidden on the marsh for over an hour due to several outstanding arrest warrants. Following the brief manhunt, Little Egg Harbor Police took the second individual into custody as he walked along Radio Rd in only his underwear. The CO issued both individuals summons for harvesting clams on Sunday, harvesting clams without a shellfish license, invasion of leased shellfish grounds, and interference with Conservation Officer. In addition, the CO filed the appropriate criminal charges for eluding an officer and obstructing administration of law to the second individual who was held for a \$5000.00 warrant issued out of Trenton; which was the reason for his flight from the CO.

On April 27<sup>th</sup> CO’s set up surveillance of “day” scallop vessels docked at Cold Spring Fish and Supply CO. in Cape May. A CO observed a man place several bags of shucked scallops taken from vessels docked there into a cooler in the trunk of his Honda Accord.

As the individual put the last of four bags of scallops into the cooler, the CO's moved in for inspection. The CO's determined that two vessels; FV Lucky Star and FV Capt Alec, landed the scallops. All of the scallops had been landed in shell, unshucked and had not been counted as part of either vessels landing. The unshucked scallops were placed on a third vessel, FV Ruby S, which had not sailed. The scallops placed on the FV Ruby S were subsequently shucked by the owner of the Honda Accord, who is normally a crewman on the FV Ruby S. Both the FV Lucky Star and the FV Capt Alec had landed and already sold their daily trip limit of 400lbs to Cold Spring Fish and Supply. The additional scallops recovered from the cooler in the Honda Accord put both vessels over their limit and in violation of Federal Regulations. In addition, both vessels had falsified their Fishing Vessel Trip Reports to conceal the overages landed. The FV Capt Alec was found to have landed 21 lb. over their trip limit. Officers seized and auctioned off their overage. The FV Lucky Star was found to have landed 55lbs over their trip limit. Officer's seized and auctioned off their entire landing of 455lbs. The CO's are completing the case packages documenting both vessel's violations for the submission to and prosecution by NMFS.

On May 1<sup>st</sup> CO's responded to a complaint received by Trenton Dispatch regarding the illegal harvest of striped bass from the "T" jetty in Atlantic City. After making observations of the areas near the boardwalk, officers observed the suspect vehicle as it left the area. Based on the information received, officers believed the vehicle was headed to a local establishment such as a market or restaurant where the fish were to be sold. At 0100hrs officers eventually stopped the 1995 Mercedes Benz at the 7mile mark on the Atlantic City Expressway as it was actually returning to Philadelphia. Upon inspection of the vehicle, officers recovered 14 striped bass in a cooler in the trunk of the vehicle. The driver took responsibility for all of the fish. 10 of the fish measured less than 28 inches and 12 were possessed in excess of the legal possession limit. The appropriate summonses were issued for the violations. On 5/15/09 the defendant plead guilty and agreed to pay a penalty of \$1000.00.

On April 28<sup>th</sup> a CO boarded and apprehended recreational fishing vessel "Sushi Bar" illegally harvesting tautog from Cape May Inlet. Based on information he received in 2008, the CO conducted surveillance of the vessels activity and boarded it on its return to Breezee Lee Marina in Cape May. The owner and his wife were each issued two summonses for the possession of 5 tautog over the possession limit and 3 undersize tautog.

On May 11<sup>th</sup>, a CO conducted an inspection of the party/charter vessel Miss Avalon as it returned from an offshore black sea bass trip. The CO apprehended three patrons total and issued 4 summonses for violations of the black sea bass size limit and the tautog size and possession limit. A fourth patron slipped away from the vessel abandoning his cooler containing 20 undersized black sea bass, eight tautog which were undersized and possessed during the closed season. In addition, the cooler contained a 2009 issue of the Marine Digest detailing the current marine regulations. Fortunately the individual wrote his name and address on the top of the cooler. The CO was able to obtain the full

identification for this patron and will be issuing him four summonses for the documented violations.

While on boat patrol in Clam Creek in Atlantic City, a CO observed the Charter Vessel Miss Atlantic City return from an offshore black sea bass trip. When the vessel docked the CO tied up his patrol vessel along side the charter boat and conducted an inspection of its patrons. Despite the chaos, the CO was able to apprehend two individuals for violating the black sea bass size and possession limits.

### **MONTHLY HIGHLIGHTS DISTRICT 8 -JUNE 09**

On May 10<sup>th</sup> CO's boarded the FV Nordic Viking at Lund's Fisheries Dock in Lower Twp. The vessel had landed and offloaded a mixed trip of conch, dogfish, and skate along with a by-catch of summer flounder. Since the target species for the trip was skate and over 6,000 lb was landed, federal regulations required the vessel to be declared into either monkfish fishery, fulltime scallop fishery or the northeast multi-species fishery. Unfortunately the captain of the vessel failed to use a "day-at-sea" for one of these fisheries and had declared the vessel "out of fishery" which put the vessel in violation. The CO documented the captain's oversight and the vessel's landing and issued the owner and the operator federal written warnings for the violation.

On June 1<sup>st</sup>, NMFS contacted the Marine Enforcement Office about a Limited Access General Category permitted sea scallop vessel which had entered the closed Elephant Trunk Sea Scallop Access Area (ETAA). Through their Vessel Monitoring System on board, the vessel was ordered to terminate their trip and immediately return to port. Under direction of a SA from NMFS Office of Law Enforcement, a CO boarded the vessel upon its return to Atlantic Capes Fisheries in Lower Twp. The CO seized the sea scallops landed due to the incursion and obtained all documentation required for processing the federal violation. As part of the seizure process, the CO auctioned off the sea scallops taken from the vessel.

On June 1<sup>st</sup>, CO's Charles Burke III was served with a Notice of Permit Sanction issued by NOAA's Office of General Counsel for repeated violations of federal sea scallop regulations. The notice initiates a three year permit suspension under the Magnuson-Stevens Fishery Conservation Act of Mr. Burke's NMFS operators permit and the FV Two Brothers scallop permits. NOAA General Counsel required that this notice be hand delivered due to Mr. Burke's repeated refusal to accept delivery by mail or FedEx.

On June 12<sup>th</sup>, a CO responded to request for assistance from NMFS. Agents from the New Jersey Field office received a report of a great white shark landed by a vessel participating in a Shark tournament in Cape May. The shark was caught offshore and misidentified as a Mako. When the captain and crew landed the shark at South Jersey Marina, the tournament's weigh master pointed out the fisherman's mistake. The captain of the vessel immediately reported his error to NMFS and turned himself in for his illegal harvest. The CO met with Cape May Coast Guard officers who had escorted the vessel to their station in Cape May Harbor. The CO interviewed the captain and crew of the FV Miss Ellie, double checked the accuracy of shark's identification, and seized the 83 inch

300lb specimen. The CO also made arrangements for the cold storage of the shark at Cold Spring Fish and Supply CO. until NMFS biologists could be contacted for retrieval.

During his regular day off on 5/12/09, a CO observed three individuals illegally hunting turkeys. Shots were fired within close proximity of the CO location and two of the individuals killed three birds. In addition to ruining a local farmer's legal pursuit of a turkey, the two hunters' did not possess a permit for the zone that they harvested the turkey in. The CO with the help of another CO was able to apprehend the individuals for their violation. The appropriate summonses were issued.

On May 27<sup>th</sup>, a CO investigated the illegal possession of horseshoe crabs by a commercial fisherman. The individual was fishing 17 miniature fyke pots he set in Roundabout Creek in Little Egg Harbor Twp. The individual did not possess a valid 2009 license for the gear and subsequently did not have his gear properly marked with a gear identification number. The fisherman could not produce written documentation of his legal source of the horseshoe crabs he possessed for bait. Without a valid mini-fyke license and bona fide documentation of the legal purchase of the horseshoe crabs, the fisherman could not legally possess the crabs. The CO issued the individual summonses for failing to possess a mini-fyke license, and for illegally possessing horseshoe crabs without a license and the receipt of purchase. The CO issued a warning for the failure to mark his gear. The individual plead guilty to both violations in Little Egg Harbor Municipal court and was sentenced to a penalty of \$600.00 plus court costs.

A CO continues to document high violation rates on the Charter/Party Vessels Miss Atlantic City and Capt Collet. The vessels are based out of the same dock located on Maryland Ave in Atlantic City and are owned by a husband and wife who operate the vessels for hire. On three separate occasions this month alone, a CO has boarded one of the vessels as it returned from offshore recreation charter trips. The CO is documenting a near 75% violation rate of patrons on these vessels. On June 3<sup>rd</sup>, the CO inspected the patrons leaving the Miss Atlantic City. He issued 8 summonses for the violation of the black sea bass size and bag limits. He seized and subsequently donated to the Atlantic City Rescue Mission, 200 illegal black sea bass harvested on that trip.

On 6/13/09 a CO responded to a complaint involving the illegal harvest of tautog on the 8<sup>th</sup> St. jetty in Avalon. When he arrived, the CO observed two fish in a vehicle and proceeded to inspect fishermen on the jetty. The CO located the responsible party on the jetty and returned to the vehicle to inspect the fish. In the vehicle, the CO located a cooler which contained an additional 8 fish. In all, 10 fish were possessed illegally. The CO issued summonses for 9 undersized tautog and 10 possessed during the closed season. During his investigation one individual was unwilling to provide the CO with identification. When facing arrest he eventually complied and was issued an additional summons from the CO for interference.

CO's responded to an early morning complaint of illegal harvest of striped bass from a bridge on Avalon Blvd. in Middle Twp. On June 2<sup>nd</sup> at 0200hrs a CO made covert observations of the activity and directed a CO based on his observations. The CO

contacted the suspected individuals and conducted a routine inspection at their vehicle. The individuals admitted to catching a sub legal striped bass but claimed they returned it to the water. The CO didn't locate any fish in the vehicle during his inspection and was almost convinced that the fish had been thrown back. As he was about to end the inspection, the CO did one final check and located a freshly caught striped bass underneath their car. Initially the occupants of the car denied knowledge of the fish but eventually realized that the CO wasn't buying it. The CO issued the appropriate summonses.

On 5/29/09, CO's conducted surveillance of the "T" Jetty along the Absecon Inlet in Atlantic City. Officers observed as a group of three individuals illegally harvested tautog, placed them in red onion bags and hid them deep in the crevices between the rocks that make up the jetty. Even with knowledge of where the fish were hidden, officers had a very hard time retrieving the stash of fish. The CO's apprehended the individuals and issued 5 summonses for taking tautog during the closed season and the possession of 23 undersized tautog.

Dr. Donnelly asked if the USCG lets enforcement know when they will be in area, out in the EEZ, doing patrols? Capt Chicketano stated the USCG does not inform enforcement when they are out on patrol.

Dr. Donnelly asked about recent violations for the "fluke filet for bait" provision? Capt. Chicketano stated that there were no violations in the last two months.

Mr. Goldman commented that it would be nice to hear a summary of the final resolutions of the various cases, along with what type of fines are imposed.

Capt. Chicketano stated that he could give more detailed information on a specific case if the Council would like more information. However, Enforcement does not have access to the system that could allow a secretary/com-operator to summarize all violations.

### **Legislative Report**

Mr. McCloy brought Council's attention to A4039, which was introduced by Assemblyman Albano. This bill, will authorize clamming on Sunday. The bill is a little different than previous ones, in that it will open harvest to anyone for any amount of clams on Sunday. The previous bills (that never passed) would have limited harvest on Sundays to 150 clams per licensee.

### **Atlantic States Marine Fisheries Commission (ASMFC) Report**

Mr. McCloy had nothing new to report since the last meeting when he brought Council's attention to the highlights from the ASMFC meeting held in May. Mr. McCloy brought Councils attention to Handout #2, which details the 2009 Spring Meeting Summary.

Mr. McCloy pointed out that Assemblyman Albano replaced Assemblyman Fisher as NJ Legislative Commissioner to ASMFC and that Chairman Ewing will be Assemblyman Albano's proxy.

Mr. McCloy stated that after the Winter Flounder Committee Report he would report on NJ's plan for the winter flounder fishery which is being submitted to ASMFC.

Mr. Berg stated that in regards to the winter flounder, the drop chain provision, has been removed from Addendum 16 document until more research is done.

### **Mid-Atlantic Fishery Management Council (MAFMC)**

Mr. Goldman presented the MAFMC report. Mr. Goldman commented that Handout #3 can be found on the MAFMC website. The MAFMC met in early June and adopted its recommendations regarding the 2010 fishery management measures for Atlantic mackerel, *Loligo* and *Illex* squids, butterfish, surfclam and ocean quahog fisheries. The MAFMC supported maintaining the 2009 quota levels for all six species reviewed at this meeting.

Dr. James Balsiger, NOAA Assistant Administrator for fisheries provided the MAFMC an update on the agency's recent announcement to establish a NOAA Catch Share Task Force for purposes of facilitating the adoption of catch shares as a management strategy.

The MAFMC also took action to submit the Draft Environmental Impact Statement (DEIS) and public hearing document for Amendment 11 to the Squid, Mackerel, and Butterfish (SMB) Fishery Management Plan to the National Marine Fisheries Service. The MAFMC also requested the Department of Commerce increase observer coverage to monitor river herring bycatch in small mesh fisheries.

The MAFMC agreed to accept the Monkfish Oversight Committee's recommendations to develop measures for the preparation of a Draft Environmental Impact Statement and initiate a public hearing document for Amendment 5 to the Monkfish FMP. Amendment 5 would bring the Monkfish FMP into compliance.

The MAFMC is seeking nominations for its annual Fishery Achievement Award. Anyone can submit a nomination and any person or organization can be nominated. The MAFMC will accept nominations for the 2009 award through August 31, 2009.

Mr. Goldman indicated that the Secretary of Commerce announced MAFMC appointments. Christopher J. Zeman, of River Vale, will fill the obligatory seat for the State of New Jersey, which will be vacated by Edward Goldman.

Chairman Ewing thanked Mr. Goldman for all of his time and service on the MAFMC. He will be missed.

### **Shellfish Council Reports**

Mr. McCloy updated Council on the Oyster Direct Market Program in Mr. Hollinger's absence. The Program in the Delaware Bay has been ongoing since April. The target harvest is 85,000 bushels and to date the harvest is at 30,000 bushels.

### **Committee Reports**

#### **Winter Flounder**

Dr. Donnelly presented the Winter Flounder Committee Report, Handout #4a.

The Winter Flounder Committee met to discuss possible management strategies under Addendum 1 to Amendment 1 of the ASMFC Winter Flounder FMP. The meeting began by stating that the Addendum established specific management measures for the Southern New England/Mid-Atlantic stock, with no explicit provisions for conservation equivalency. As such, any attempts to get alternative management strategies approved by the ASMFC are likely to fail. Regardless, committee members and industry representatives felt there was nothing to lose by trying.

The recreational measures under Addendum 1 consist of a 12" minimum size and a 2 fish bag limit during the existing season of March 23 to May 21. These measures result in a harvest savings of approximately 50%. Larger bag limits requested by the recreational industry would require a shorter season in order to achieve a similar reduction in harvest. Several options were presented and discussed. Since approximately 99% of NJ recreational harvest occurs during March and April, little benefit was achieved by shortening the end of the season. Delaying the season opening provided the longest possible season, resulting in greater fishing opportunities.

Commercial measures under Addendum 1 consist of a 50 pound daily possession limit. Commercial representatives in attendance were concerned that this might encourage unsafe fishing practices, such as fishing during severe weather. Alternatives suggested included a 350 pound weekly possession limit to allow harvesters more flexibility in when the harvest was made.

A range of alternative management options for both commercial and recreational fisheries will be submitted to the ASMFC for consideration, with the caveat that the NJ MFC will select the most appropriate management strategy based on stakeholder input.

Mr. Goldman questioned why the Georges Bank stock was in good condition while the Southern New England stock wasn't.

Mr. McCloy brought Council's attention to Handout #4b, on the proposed alternative winter flounder management strategies in NJ. On the recreational, considering the mandatory 2 fish possession limit as the base, options were developed on a methodology based on a conservation equivalency to have a larger bag limit, the same minimum size limit and a shorter season. On the commercial side, instead of the 50 lb per day limit, the proposal is for a weekly trip limit or a 3 day trip limit equivalent. This proposal was sent to the Commission. The intent of the Board at this time is not to develop a directed

fishery on winter flounder. However, the Technical Committee did acknowledge that the methodology used on the recreational side is the conservation equivalent of the 2 fish possession limit. On the commercial side of things the Technical Committee was not as comfortable with the 50 lb/day being spread out. NJ will need to show that fyke netters are taking the reduction and so far only one fisherman has provided harvest records. Mr. McCloy indicated he would keep Council informed as more information becomes available.

### **Summer Flounder**

Mr. Goldman presented the Summer Flounder Committee Report, Handout #5. The Summer Flounder Committee met to discuss the potential changes to the summer flounder permit system to address concerns with latent permit holders. .

Staff began the meeting by providing general background on the development of the summer flounder permit system and eligibility criteria. Industry advisors who requested potential changes to the summer flounder permit system were not in attendance. Therefore, no specific ideas or suggestions for changing the system were discussed. Those advisors in attendance were reluctant to change or modify the current permit system and were not sure how best to address the latent license issue without forcing more effort into the summer flounder fishery.

Based on comments received at the meeting, the lack of attendance by those requesting possible changes, and therefore the lack of specific ideas, the Summer Flounder Committee recommends leaving the commercial summer flounder permit system as currently in place.

### **Black Sea Bass/Scup**

Dr. Donnelly presented the Scup and Black Sea Bass Committee Report, Handout #6.

The Scup and Black Sea Bass Committee met to discuss various changes to commercial trip limits, seasons and quota in the respective fisheries.

There were no commercial scup advisors present to discuss any issues or possible changes in the commercial scup fishery. Therefore, the Committee agreed to leave commercial scup regulations as they are.

Staff began the black sea bass portion of the meeting by reviewing the original season consolidation proposal first discussed at the May 2009 Council meeting. The original proposal was to consolidate seasons 2, 3 and 4 into one season and quota, while maintaining the existing trip limits for those seasons. By the time the committee meeting was held, season 2 has already been closed (the directed fishery closed on May 21, 2009), therefore the new proposal was to consolidate season 3 and 4 for the 2009 fishing season only. Staff also informed the group that it had spoken with the Department's Office of Legal Affairs legal staff to determine the approach required to change the seasons for 2009 and if changed, the process to revert back to the current four season set-up. It was

determined by the legal staff that any of these changes could be done by Notice of Administrative Change.

All industry advisors present represented the pot fishery and all are in support of moving forward with consolidating seasons 3 and 4 for 2009 only (season 3 is set to begin July 1, 2009). At this point, they were not in favor of continuing the consolidated seasons beyond 2009, but would re-evaluate with other advisors later in the years once the 2010 black sea bass quotas were established.

After meeting with advisors, the Black Sea Bass Committee supported the revised season consolidation proposal and recommend combining seasons 3 and 4, which will run from July 1 through December 31, 2009 only and retain the current trip limits.

Mr. Muffley presented Council with a letter Director Chanda received on July 8, 2009, from Garden State Seafood Association (GSSA). At this time GSSA cannot support the change potters have requested in regards to black sea bass. GSSA believe the combining of the 3<sup>rd</sup> and 4<sup>th</sup> quotas is unfair to the trawl sector and not necessary for the 2009 season.

Mr. McCloy brought Council's attention to a couple of tables that were presented to Council today that lists the landings by month over a three-year period by trawl and pot.

### **Regulatory Updates**

Mr. Muffley presented Council with a draft Notice of Administrative Change regarding black sea bass, (Handout #7). The NAC proposes to combine the quota from seasons 3 and 4.

Chairman Ewing stated that it is the Council's decision to decide on the changes for black sea bass.

Dr. Donnelly made a motion to recommend combining the quotas for Seasons 3 and 4 for black sea bass, which will run from July 1 through December 31, 2009 only and retain the current trip limits.

Chairman Ewing asked for a second on motion. Seeing no second on the motion, the motion failed and the current regulations for black sea bass will remain the same.

Mr. Rizzo asked to hear discussion from both sides. Chairman Ewing said he could entertain that during the public comment period, but felt it was unnecessary since there is no motion on the table.

### **Update on 2009 Regulatory Proposal**

Mr. Muffley updated Council on the 2009 Regulatory Proposal in that some progress has been made with some language revisions, but it is still in legal review and not ready for publishing.

Mr. Muffley updated the Council on river herring. The Bureau of Freshwater Fisheries is moving forward with their rule proposal to change the recreational river herring possession limit to 10 fish (currently a 35 fish possession limit). If this proposal passes it will go into effect January 1, 2010. This will then be inconsistent with NJ Marine regulations, in that the marine regulation is a 35 fish possession limit, which will create an enforcement issue. The ASMFC just passed an Addendum that will result in a moratorium in NJ for river herring in 2012. Mr. Muffley wanted to bring Council's attention to this in case Council would like to propose a change to the NJ marine regulations on river herring to at least be consistent with freshwater regulations for the next two years. Mr. Muffley stated this change would be done through a Notice of Administration Change.

Chairman Ewing asked for any questions from the Council.

Mr. Berg made a motion for NJ marine regulations to comply (35 fish limit to 10 fish possession limit) with the freshwater regulations, when it goes into effect, on recreational river herring limits. Mr. Herb seconded.

Chairman Ewing asked for any questions on the motion from the Council.

Mr. Rizzo asked for clarification of the 2012 moratorium. Mr. Muffley stated that if your state could not prove river herring runs in your state were sustainable then your fishery will be closed by default.

Mr. Rizzo asked how we would prove sustainable river herring fisheries and the time frame. Mr. Muffley stated that the State of NJ would have to prove it by doing studies and would need to show at least 4 to 5 years worth of data on the river herring fishery in NJ.

Mr. McCloy indicated the one exception to the river herring moratorium would be on land-locked populations.

The motion passed.

Mr. McCloy commented that Division will prepare a Notice of Administration Change for river herring. When the time comes for the new regulations to become active after the Bureau of Freshwater Fisheries passes their proposal, the Council will provide opportunity for public comment.

### **Old Business**

Mr. Muffley presented Council with an update on the stainless steel subway cars deployed on the reefs, Handout #8. A high resolution side scan sonar survey was performed on the 49 stainless steel subway cars deployed on the Atlantic City Reef last April. Survey results indicated that of the 48 stainless steel cars surveyed, 46 were completely destroyed and only 2 were upright and intact. In addition to our survey, Delaware, Maryland and South Carolina have observed similar damage via scuba dives. The NJ Reef Program will no longer accept the currently available stainless steel subway cars for deployment since they do not meet our standards for deployed reef material.

Ms. Puskas asked if the low profile the cars created on the reef is beneficial. Mr. Muffley responded that although the remnants of the damaged subway cars do provide some degree of low profile habitat, this is not the type of ocean reef structure NJ DEP would like to create. NJ DEP is interested in creating higher profile structure reefs that are more beneficial.

Ms. Puskas asked if there are any other alternatives for the reef program. Mr. Muffley responded that the reef program is currently investigating other alternatives. (current deployment materials include dredge rock, concrete reef habitats and ships).

Mr. McCloy brought Council's attention to Handout #9 on the Federal Registry Program. The Federal Registry Program is due to go into effect on January 1, 2010. Anglers from states with a registry in place will not have to register with the federal government. Anglers from states without a registry will have to register with the Federal Government. This fall the Federal Government will be holding outreach programs to help transition to this program beginning in January.

Mr. Berg asked if NJ has made any progress on establishing NJ regulations for this program. Mr. McCloy responded that there is a bill for a free registry and there has been discussion for making it a "low fee" registry. Council will be kept informed as more develops on this program. New Hampshire and New York already have a saltwater license program in place and Connecticut is close to having a license program also. Other New England states are still working on a program.

Mr. McCloy brought Councils attention to Handout #10 which is a draft of a new release regarding the Snapper/Grouper Complex of Species in Offshore Marine Waters. Mr. McCloy reminded Council that he brought this up at the last meeting and asked Council to check with their constituents to see if anyone was involved in this fishery. The NJ Marine Fisheries Administration is reaching out to any fisherman that may now be participating in the deepwater snapper/grouper species fishery. Catch statistics are required to document NJ participation in this deepwater fishery that may be in jeopardy. The MAFMC is asking the South Atlantic Fishery Management Council (SAFMC) to allow the MAFMC management authority over the snapper/grouper species in the Mid-Atlantic region as a separate management unit, recognizing that exploitation levels on these same species may differ significantly in the South Atlantic and Mid-Atlantic regions. The MAFMC needs data to support its position on sustaining the

snapper/grouper species in the Mid-Atlantic region. If anyone has knowledge about fisheries any of these species (exception of black sea bass, scup and golden tilefish) they should contact Peter Himchak.

Mr. Goldman reported that the MAFMC asked for the establishment of a Northern Management unit for these species. Mr. Goldman recalls asking for this at the last meeting, is there any more information on this subject.

Mr. Muffley commented that this is why the Administration is seeking information, to justify such a separation.

Ms. Puskas commented if we don't do something then we will no longer have a NJ fishery.

Dr. Donnelly commented at the last meeting about the importance of Committee meetings and the process. Dr. Donnelly was disappointed to have a motion fail without discussion on a committee report. He reiterated the importance of committee meetings, committee reports and the process on how it is presented to Council. Given the work that goes into the committee meetings there should be discussion at Council meetings.

Chairman Ewing so noted Dr. Donnelly's comment. He agreed that Council members and industry representations give up considerable time to attend the Committee meetings.

Mr. Rizzo commented that he was not aware that once a motion was made, if not seconded then the motion could not be discussed. Mr. Rizzo pointed out that the Council was in support of the motion; some were not aware Roberts Rule on how a motion works.

Chairman Ewing stated once a motion is made, the motion then must be seconded to have a discussion on the motion. For the public to have a comment it has to have a motion to be opened up to the public.

Dr. Bochenek commented she too was not aware a discussion could not be made unless the motion is seconded.

Mr. McCloy commented that once a committee report is given he foresees no reasons why the Council could not have discussion on the report. But agrees with the Chairman that once a motion is made and there is no second, then discussion cannot continue.

Mr. Rizzo asked then in the future once a committee report is given the Council should be asked if they have any questions/comments.

Dr. Donnelly asked for clarification on the Roberts Rules to be presented to Council, for future understanding on how motions are made and passed.

### **Public Comment**

Mr. Peter Hughes, (Cape Atlantic Fisheries) was unaware of a Black Sea Bass Committee Meeting and apologies for not being in attendance. He wished there was discussion prior to a vote. However, had he had a chance to comment he would have stated that he felt the proposal would eliminate a user group (trawlers). He noted that the fishery is rebuilding, and Season 4 produces the highest prices during the year.

Mr. Ken Hand, a trawler, supports Mr. Hughes comments.

Mr. Dennis Dowe of Lunds Fishery agrees with Mr. Hughes and Mr. Hand. The proposal would not allow a user group to fish at a very important time of year.

Mr. Tom Sicilano informed Council that Rutgers is starting a program on a way to determine the sex of fish without harming them by using ultrasound. Data such as size and age will also be collected. Dr. Bochenek commented that if the technology does prove to be useful, Rutgers will be looking for longer term use, but currently the study is only for this year.

Mr. Goldman asked is this only was being used on summer flounder or for other fish as well? Dr. Bochenek commented only on summer flounder right now. Chairman Ewing asked Dr. Bochenek to keep Council informed.

Mr. Siciliano asked what NJ was doing regarding the saltwater angler registry. Mr. McCloy commented as of now if NJ is going along with the Federal Registry Program. Nobody in NJ or on the Council will have to do anything. On January 1, 2010 NJ anglers will have to register with the federal government. There is no fee associated with that registry in 2010.

Mr. Adam Norwalsky asked if there wasn't data currently on sub-18" fish. Dr. Bochenek stressed the need for an age-sex structured model, which requires the sex of all the landings and discards. Mr. Muffley commented the need for data from the entire population, kept and discards.

Mr. Norwalsky asked about why the recreational fishermen were not represented in the Black Sea Bass Committee. He understands the reasons behind the proposal but does not agree because combining seasons could impact recreational fishermen. Dr. Donnelly commented that the recreational group was not part of the focus group at the time, and the need to stay on track. Mr. McCloy followed that up with both sides are always invited, and understands the need to stay on track and given the timing of this proposed change it may have been an oversight that recreational groups were not represented at this time and apologies for this oversight.

Ms. Denice Wagner passionately expressed her disappointment on Council's lack of discussion on the black sea bass motion that was made. The motion was made in an

effort to protect the fishery not hurt a fishing group and was for only this year. There is a good chance that the fishery will close come October 1<sup>st</sup> and NJ will loose out on the fishery.

Mr. Jim Lovgren (Pt Pleasant Coop) commented he is used to getting meeting notices earlier. He did not have a problem combing the Seasons 2 and 3 (sea bass) but not the 4<sup>th</sup>. He suggested a way to solve this issue was by dividing the quota 50/50 potters and trawlers. Also pot fishermen should take responsibility to reduce their pots if the quota is reduced.

Mr. Lovegren also requested Council write a letter to Governor about MAFMC appointments in light of the recent appointment of Mr. Zeman.

Mr. Joe Wagner commented on his disappointment on black sea bass and lack of discussion on the motion.

Ms. Joan Berko commented on her disappointment on the black sea bass issue. The purpose was to make a bad situation a little better.

Mr. Carmelia Papa asked if the recommendation can be brought up at the next meeting? Dr. Donnelly commented that it can be discussed again in December for the 2010 fishing year.

Mr. Lovgren, commented on late reporting in the black sea bass fishery has resulted in overages. He advocated taking the dealers' permits. Mr. McCloy noted that 14 notices went out to dealers on late reporting of harvest. Capt. Chicketano commented if we took permits away right away, fishermen would have no where to sell fish since so many dealers were reporting late.

Next Meeting is September 3, 2009.  
Meeting adjourned.