

NEW JERSEY MARINE FISHERIES COUNCIL

July 12, 2007

Galloway Township Public Library
Jimmies Leeds Road
Absecon, New Jersey

In Attendance were: Chairman Gilbert H. Ewing, Jr.
Councilman Erling Berg
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.
James W. Joseph, Chief, Bureau of Shellfisheries
Joe Meyer, Captain, Law Enforcement
Peter Himchak, Acting Chief, Bureau of Marine Fisheries
Brandon Muffley, Research Scientist
Paulette Nelson, Legislative Liaison
Michael Celestino, Senior Biologist
Kathy Smallwood, Principal Clerk Typist

Ms. Smallwood read the compliance with the Sunshine Law. Notice of the meeting was filed with the Secretary of State on June 6, 2007.

The May minutes were corrected to indicate that Mary Anne Lyons was present and the corrected minutes were unanimously approved.

Law Enforcement Report

Captain Mayer presented the Law Enforcement Report.

On May 5th, 2007 two Conservation Officers (COs) were conducting a boat patrol in Great Bay. They inspected a fisherman that had 15 bluefish and 2 summer flounder during the closed season. A summons was issued for possessing summer flounder during the closed season and he was advised that he had his limit of bluefish. Later that day Central Region Officers were patrolling the Delaware River in the Trenton area and

noticed a few fishermen that had fresh bluefish in their possession. When these fishermen were questioned on where they obtained the bluefish they said they bought them off of another fisherman for five dollars. A description of the fisherman was obtained and two COs located him not too far away. The fisherman was questioned and admitted to selling the bluefish. This same fisherman was the same fisherman with summer flounder that the COs apprehended earlier in the day. Additional summonses were issued for selling bluefish during the closed season and without a permit.

On May 14th, 2007 a CO responded to a complaint of a local hook and line recreational fisherman selling bluefish to diners in the Wildwood area. The CO located the recreational fishing vessel fishing in the Richardson and Grassy Sound areas behind Wildwood. On board the fishing vessel were two fishermen actively catching bluefish. The CO observed the fishermen for a few hours until they returned to their dock in West Wildwood. The CO observed the fisherman fillet several bluefish, place the bluefish in plastic bags and put them into a cooler. The cooler was loaded into the back of the fisherman's vehicle and left the dock. The CO followed the vehicle to a local diner in Wildwood where he observed the fisherman unload the cooler and take it in the back door of the diner. A few minutes later the fisherman returned to his vehicle and left. The CO followed the vehicle back to the fisherman's residence in Wildwood. The CO questioned the fisherman on the whereabouts of the bluefish fillets. The fisherman admitted that he gives the diner bluefish fillets in return for free meals. The CO returned to the diner and verified the fisherman's story with the diner's owner. The fisherman was charged for selling bluefish during the closed season and without a permit. The diner was issued a warning for accepting bluefish without a Dealers Permit.

On May 19th, 2007 a CO received a complaint through Trenton Dispatch concerning the party boats Miss Atlantic City and Captain Collett of retaining undersized marine fish. On May 20th the CO noticed that both party boats were not at their dock in Atlantic City and were out fishing. The CO organized Conservation Officers and personnel from the United States Coast Guard out of Atlantic City to do a simultaneous boarding of both party boats as they entered Atlantic City Inlet. The CO boarded a 47-foot Coast Guard vessel and went approximately 2.5 miles offshore while other officers remained in the vicinity of the party boats dock. Shortly after 3:00 P.M. the CO identified the Miss Atlantic City heading from offshore towards Atlantic City Inlet. Approximately 15 minutes later the CO identified the Captain Collett heading from offshore toward Atlantic City Inlet. The CO let the Miss Atlantic City enter the inlet and followed the Captain Collett at a safe distance behind. When COs at the dock notified the CO that they were going to board the Miss Atlantic City, he instructed the Coast Guard to stop and board the Captain Collett who was located inside Atlantic City harbor. The Captain Collett was then escorted to their dock where COs had already boarded the Miss Atlantic City. Over the next 2 hours each patron was inspected for compliance of size limits and bag limits for tautog and black sea bass. A total of 28 patrons from both party boats were apprehended and 37 summonses were issued for violations of black sea bass and tautog size limits and bag limits. A total of 400 black sea bass and 26 tautog were seized and all fish were donated to the Atlantic City Rescue Mission. The amount of illegal fish seized was approximately equal to the amount of legal fish retained by the patrons. Federal

violations may be pursued since neither the Miss Atlantic City nor the Captain Collett possessed a federal party/charter vessel permit. This permit is required for all vessels carrying passengers for hire in the EEZ that target federally regulated species.

A CO was patrolling the Pews Creek Inlet in Port Monmouth, N.J. He began watching an individual who was fishing and observed this individual catch and hide what appeared to be a sublegal striped bass in the jetty rocks. When approached, the individual denied having caught any fish. When advised that CO personally observed him catch a fish and hide it, the individual feigned cooperation, only to then attempt dumping the fish when he went to retrieve it at the COs request. The CO prevented the individual from destroying the evidence and subsequently issued the individual a summons for two sublegal striped bass.

A CO apprehended two brothers who hid a total of 8 sublegal striped bass in a backpack while fishing at Morgan Creek, Sayreville Boro. Both individuals denied possessing any fish until advised that they had been observed hiding them. Each was issued one summons for possessing four sublegal striped bass. All of these fish were between 15” and 19”.

A CO was again patrolling Pews Creek Inlet, Port Monmouth, when he observed an individual hide what appeared to be a sublegal striped bass between two garbage bags. The individual then loaded the top bag with clam meats. When approached, the individual denied having caught any fish and then subsequently, at the COs insistence, opened the top “decoy” bag revealing only clam meats. After taking the bags from the individual, the short bass was found between the two bags. The CO issued this individual a summons for possession of a sublegal striped bass.

On 5/24/07, the MRO received a complaint from the Atlantic Highlands Municipal Marina that several subjects in a boat had returned with fluke during the closed season and were showing them off. Two COs responded and apprehended the individuals with 4 fluke all of which were over 17” in length. The captain of the vessel was issued a summons for possessing 4 fluke during the closed season.

On June 16, 2007, while on routine vehicle patrol, a CO began watching vessels fishing off of the coast of Long Branch through his 60X spotting scope. One vessel in particular, the “Seven Seize”, was filleting fluke as they were caught and then using the parts for bait. At this time, a CO contacted another CO and together they proceeded to the area aboard the Marine Region’s Sea Ox from the Manasquan Inlet. Arriving on scene an hour and a half later, a brief search found the violator’s vessel in approximately the same area as when it was observed. The CO boarded the vessel and found no fillets or strips aboard until each individual aboard was told to retrieve their lines. At this time, each rod was found to be baited with fluke parts in violation of regulation. A summons was issued to the captain of the vessel for possession of marine fish parts.

On Sunday June 24th a CO was patrolling the southern end of Fortescue Beach and observed three individuals treading in shallow water. He observed the individuals for

several minutes and noticed that they were collecting horseshoe crabs and covertly storing them in their vehicle. When the CO approached them they dumped several horseshoe crabs back into the water. The CO then checked their vehicle and found 40 live horseshoe crabs. The individuals stated they were going to use the crabs as fertilizer for their garden. Summonses were issued to all three individuals for harvesting horseshoe crabs without a permit, closed season and harvesting within 1,000 feet of the mean high water line. All 40 horseshoe crabs were returned to the water unharmed.

On 6/27/07, while on routine patrol, a CO apprehended a diver in the borough of Deal with 2 tog over the daily bag limit. An individual who he was with appeared familiar to the CO, so he requested a Summonstrack check through the Central Regional Office. The CO discovered that he had issued this individual a prior summons for a past fisheries violation back in 1991 and that there was still an active warrant for this individual. The CO contacted Deal PD who subsequently transported the individual to their headquarters for processing and posting of his bail.

On 7/1/07, a CO was on routine patrol in the borough of Belmar when he inspected a vessel returning to the Belmar Municipal Ramp with 4 persons aboard. The individuals were evasive when asked about their fish and a subsequent inspection revealed a total of 17 fluke aboard, 13 of which were between 12" and 16 ½" in length. Three summonses were issued to three of the persons aboard thus accounting for all 13 sublegal fish.

Mr. Herb commented that the Coast Guard and National Marine Fisheries Service are increasing efforts to enforce the prohibition of striped bass possession in the EEZ with substantial fines for violations.

Ms. Puskas inquired who gets the ticket on the vessel using fluke belly for bait and Captain Meyer indicated it was the captain of the boat.

Ms. Puskas asked if someone is in violation and fish are confiscated is it the whole catch. Captain Meyer indicated that only the fish in violation are confiscated.

Legislative Report

Ms. Nelson presented the Legislative Report. She informed Council that the Assembly Natural Resource Committee had released A3986 (Prohibits fish pots on reefs). In addition she informed Council about A3275 which would change the composition of the Fish and Game Council. Director Chanda indicated that the composition of the Fish and Game Council has been challenged many times in it's' 60 years of existence and the Supreme Court has always upheld the Council composition and mission. Mr. Rizzo made a motion seconded by Dr. Donnelly to send a letter in opposition to A3275. Motion passed unanimously.

Atlantic States Marine Fisheries Commission Report (ASMFC)

Mr. Herb and Mr. Berg presented the ASMFC report. Mr. Herb updated the Council on the recreational issues while Mr. Berg updated Council on those of commercial.

Weakfish Management Board

The Board approved Addendum III to Amendment 4 for Weakfish. The Addendum modifies Attachment 4's bycatch reduction device (BRD) requirements for the penaeid shrimp trawl fishery to be consistent with those contained in the South Atlantic Fishery Management Council's Shrimp Amendment 6. The Board also reviewed and approved the states' 2007 biological sampling and the implementation plans for Addendum II (recreational creel limit, bycatch allowance, management triggers).

Summer Flounder, Scup and Black Sea Bass Management Board

The Board approved releasing Draft Addendum XIX for public review and comment. The Draft Addendum addresses black sea bass commercial management strategy for 2008, the summer flounder recreational allocation strategy, and the stock status determination criteria for summer flounder, scup and black sea bass. New Jersey held a public hearing on the Addendum on July 2, 1007. The big issue for the recreational fishermen is the summer flounder allocation between the states.

Tautog Management Board

The Board has initiated development of Draft Addendum V for Tautog. The Draft Addendum proposes to allow states to attain their necessary reductions through adjustments to their recreational and/or commercial fisheries. The Draft Addendum will also include an option to exclude North Carolina from the tautog management unit since the state has an insignificant tautog fishery.

Mr. Himchak indicated that New Jersey would not be hosting a hearing on the Addendum but copies were available on the back table. The comment period closes July 28, 2007.

American Lobster Management Board

The Board approved Addendum XI to Amendment 3 for American Lobster. The Addendum establishes a 15-year rebuilding timeline for the Southern New England (SNE) stock with a provision to end overfishing immediately.

The Addendum includes the following management measures for all SNE lobster fisheries (commercial trap, non-trap, as well as recreational harvesters):

- Minimum 3 3/8" for all SNE areas (3 1/2" in 2008 for Area 3).
- Maximum size for males and females of 5 1/4" for all SNE.

- Delay the Area 3 vent size increase that coincides with the minimum gauge increase of 3 ½” to 2010.
- V-notch definition would be changed.
- V-notching by fishermen of legal egg-bearing lobsters would be voluntary.
- Area 3 active trap reductions shall be 2 ½ percent per year in 2009 and 2010.

Atlantic Menhaden Management Board

The Board heard the Plan Review Team’s annual report on state compliance and all jurisdictions were found in compliance of the management plan.

The Board asked the Technical Committee (TC) to report back on progress of ongoing research that is being conducted to address the question of localized depletion of menhaden in Chesapeake Bay.

Horseshoe Crab Management Board

The Board was presented with annual reports on state compliance and all jurisdictions were found in compliance of the management plan. Total coastwide harvest for bait in 2006 was 833,103 crabs. Harvest in Delaware Bay was down while effort has appeared to shift to Virginia and from New York through Massachusetts.

Spiny Dogfish and Coastal Sharks Management Board

The Board met to provide guidance on issues to be included in the Draft Plan for Coastal Sharks and discuss spiny dogfish quota overages from 2006/2007 fishing season.

The Board reviewed the 2006/2007 spiny dogfish season to discuss the 384,737 pound overage. The Board agreed that overages are to be subtracted from the following year’s quota and should come from the period in which the overage was removed.

Atlantic States Marine Fisheries Commission Report

Council members and the public were notified that the ASMFC had released Draft Addendum V to the Interstate Fishery Management Plan for Tautog for public comment. While New Jersey was not having a public hearing on Draft Addendum V, a brief synopsis of the major elements of Addendum V was presented by Division staff, who also notified those in attendance that the public commenting period on Addendum V closed on July 28, 2007 and there were 30 copies of Draft Addendum V on the table in the rear of the room for the public’s convenience.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. Goldman presented the MAFMC Report.

The MAFMC adopted a motion for review and implementation of the preferred alternatives contained in the Standardized Bycatch Reporting Methodology (SBRM) Omnibus Amendment. The purpose of the amendment is to: explain the methods and processes by which bycatch is currently monitored and assessed; determine whether these methods and processes need to be modified and/or supplemented; establish standards of precision for bycatch estimation for all Council fisheries.

Amendment 1 to the Tilefish FMP was approved for purposes of soliciting public comments. The Amendment's principal management issue for consideration is the establishment (or not) of an Individual Fishery Quota (IFQ) system for the tilefish fishery.

The MAFMC also reviewed actions taken by the Atlantic States Marine Fisheries Commission (ASMFC) regarding Amendment 15 to the Summer Flounder, Scup and Black Sea Bass FMP. The Council and ASMFC will meet in August to address, and to the extent practicable, reconcile the difference in number of issues to be addressed by Amendment 15.

Ms. Puskas added that at the August meeting the Committee will be developing the tilefish quota distribution.

Mr. McCloy answered that Mr. Berg would be replacing Ms. Puskas on the MAFMC. Council thanked Ms. Puskas for her efforts for New Jersey fishermen.

Shellfish Council Reports

Delaware Bay Shellfish Council Report

Delaware Bay Council report was presented by Mr. Hollinger.

2007 Direct Market Oyster Program Update

The natural oyster seed beds in Delaware Bay were officially opened to direct market harvest on April 9, 2007. Bureau staff continues to coordinate and monitor the harvest program. Seventy-six vessels are expected to participate in this year's harvest. The total allowable catch for the industry has been initially set at approximately 79,000 bushels. Individual harvest quotas have been initially set at 1,040 bushels per vessel. Through nearly three months of harvesting, approximately 26,183 bushels have been landed, with the majority of the harvest coming from the Shell Rock and Cohansey seed beds. The 2007 harvest season is scheduled to run through mid-November.

Delaware Bay Oyster Restoration Program

Bureau staff is nearing completion of the \$2 million federally funded 2007 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. For the third consecutive year, the DRBA provided the critical cash contribution (i.e., \$134,000) to the USACE.

Through July 10, 2007, a combined total of 310,000 bushels of sea clam shell has been deployed on over 10 sites throughout Delaware and New Jersey waters in the Delaware Bay. When completed, the program is expected to have planted approximately 600,000 bushels baywide.

The restoration program, now in its third year, is designed specifically to address the recruitment problem that has plagued the resource over the last seven years. The 2005 and 2006 oyster reef enhancement programs involved the planting of approximately 750,000 bushels of shell throughout the Bay. Native shell in NJ naturally attracted only 21 spat per bushel, baywide. In contrast, shell planted in the lower bay high recruitment zones attracted approximately 2,213 spat per bushel, over 105 times more spat than native shell. Specific restoration sites from 2005 are projected to open for limited harvest as early as 2008. Multiple year harvest projections, while often tenuous due to the vagaries of nature, have the potential to significantly increase future commercial harvests.

Atlantic Coast Shellfish Council Report

No report presented

Committee Reports

Black Drum Committee

Mr. Goldman presented the Black Drum report.

A meeting of the Black Drum Committee was held at the Nacote Creek Research Facility on June 19, 2007 to discuss potential modifications of the recreational and commercial fisheries. In attendance were Council members, industry advisors and Division staff.

Newly elected chairman Ed Goldman informed the Committee that concerns raised by the fishing community regarding the increase in fishing effort on black drum were the

driving force behind the meeting. The Committee first reviewed the current black drum regulations which are:

Recreational: 3 fish at 16 inches or greater

Commercial: 16 inch minimum size with a trip limit of 10,000 pounds and an annual quota of 65,000 pounds

Division staff led a discussion of black drum life history including maturity schedules, migration and estimates of New Jersey's landings. The discussion was opened to advisors for comment on the current regulations and their thoughts on any potential changes to improve New Jersey's black drum population. After much discussion, the consensus of the advisors was that the Council should adopt the following regulations for black drum:

Recreational: 2 fish at 32 inches or greater

Commercial: 32 inch minimum size with a trip limit of 5,000 pounds and an annual quota of 50,000 pounds

The proposed minimum size was based on studies that show that most female black drum have spawned at least once by the time they reach age five. The approximate average size of a five year old fish would be 32" in length and 20 pounds.

Another major discussion point was the sale of black drum and other non-permitted finfish by hook and line recreational anglers. An additional recommendation of this Committee was for the Council to pursue a regulation making the sale of black drum by hook and line illegal and further expand this concept to state that a person angling with a hand line or with rod and reel or spearfishing shall not sell any species unless the angler is in possession of a species specific permit that allows for sale.

Dr. Donnelly asked about the previous fishery on "puppy" drum and said he was under the impression that this fishery was important for the Delaware Bay. Chairman Ewing indicated that the fishery Dr. Donnelly referred to was the reason for implementing the current regulations. Mr. Goldman added that previously the belief was that fish matured at an earlier age (smaller size). The information now indicates that sexual maturity is around 5 years (32"), thus the reason for the Committee recommendation.

Artificial Reef Committee

Dr. Donnelly presented the Artificial Reef report.

The Artificial Reef Committee met with recreational, for hire and commercial advisors on May 15, 2007 to further discuss the numerous request to prohibit fish/lobster pots on reefs in the EEZ and inshore reefs by pursuing Special Management Zone (SMZ) status and/or enacting state regulations respectively. Handouts included excerpts from the "Artificial Reef Management Plan for New Jersey 2005" regarding the objectives and

goals of the Reef Program and a letter prepared by Atlantic Capes Fisheries summarizing a May 14, 2007 meeting with Deputy Commissioner Watson, Assemblyman Van Drew and representatives from the recreational and commercial fishing sectors. A representative from Garden State Seafood Association (GSSA) presented the highlights of the letter. The letter summarized various proposals for surveys to assess and characterize artificial reef utilization by the recreational and commercial sectors and conflict resolution methods. After much discussion, commercial advisors indicated that they would next develop a proposal/compromise for resolving gear conflicts on reefs.

As a result of a special request by GSSA, a meeting of the Artificial Reef Committee was scheduled on June 6, 2007 for commercial advisors to present their proposal/compromise for resolving gear conflicts. Due to the meetings short notice, several recreational advisors were unable to attend. The proposal called for the use of sinking ground runner lines between all pots set on reefs; an intricate high flyer marking system; additional reporting requirements; and an educational outreach component. The proposal was discussed by the Committee and advisors and deemed as inadequate measures to resolve conflicts. No other resolutions were discussed.

Dr. Donnelly further added that there has been a lot of information exchange but the Committee has not moved forward. He requested another Committee meeting be scheduled. Director Chanda indicated that the Department had testified against A3986 because the management of reefs should be the Council's responsibility. It is therefore important the Council make some recommendation. Director Chanda has directed staff to develop proposed regulations on the reefs in state waters that specify gear marking and deployment provisions as well as a closure to commercial gear from May 1 to October 31. Staff will also prepare a request to MAFMC for the same provisions for New Jersey reefs in the EEZ. This proposal will provide an opportunity for the Council's Reef Committee to work on some specifics if they choose to do so.

Dr. Donnelly indicated it was better to keep the discussions with the Council (as opposed to the Legislature) and thanked Director Chanda for a "Plan" the Council can work on.

Mr. Herb questioned if we knew what guidelines NMFS would accept for reefs in federal waters.

Director Chanda responded that we will not get that answer until New Jersey applies. He stressed the importance for consistency for sites both in state and federal waters.

Mr. Goldman indicated he had spoken to NMFS representations and they had stressed the importance of consistency and meeting National Standards.

Ms. Puskas asserted that this process was going to allocate parts of the ocean to specific user groups and recommended the Council get legal advice.

Director Chanda commented that getting a legal review could be time consuming (as part of the regulatory process there is extensive legal review).

Regulatory Update

Mr. Himchak gave Council and update on regulatory actions.

Division staff presented Council with an update on the marine fisheries multi-species regulatory Draft adoption document that was sent to Department and Division of Law attorneys for their review immediately following the May Council meeting. The legal review of the Draft adoption document has finally risen to the top of the attorneys' priority list after many other Department regulatory actions that had expiration dates were addressed. Division staff commented that what started out as a 2006 multi-species regulatory proposal in June 2006 has now taken over a year to reach Draft adoption document status and hopefully will be finalized prior to the Council's September 2007 meeting which would mean a 15 month process to develop and adopt fisheries regulations.

Division staff had provided Council with a handout of bulleted items for consideration in a 2007 regulatory proposal. One item for the 2007 proposal was re-considered at the Council meeting and deleted, specifically, the provision to allow for the transferability of American shad permits to individuals other than immediate family members. The Draft adoption document for 2007 will allow for the transfer of American shad permits to immediate family members only and since the transfer to immediate family members has not been evaluated in terms of potentially increasing commercial fishing effort and harvest on American shad in the Delaware Bay, the Division thought it prudent to assess the immediate family member transfer provision before opening up the transferability of American shad permits to individuals outside the immediate family. Another proposed regulatory amendment for 2007 on the bulleted handout, adding language to allow the use of summer flounder "ribbons" from a previous day's catch as bait was not supported by the Division's Bureau of Law Enforcement and may not move forward in the 2007 regulatory proposal.

Council members were notified that as a result of a motion passed at the ASMFC American Lobster Board at their May meeting approving Addendum XI to the Interstate Fishery Management Plan for American Lobster (FMP), New Jersey must implement regulatory changes to remain in compliance to the American lobster FMP, specifically including male lobsters under maximum size limits and changing the definition of the v-shaped notch for female lobsters. These regulatory changes will be done by Notice of Administrative Change for implementation in January 2008.

Mr. Goldman and Mr. Herb expressed some concern if the proposed requirement at NJAC 7:25-18.12 to require completion of the vessel trip reports prior to entering port applied to party and charter vessels. Mr. Berg questioned how a vessel would record the weight of its catch before entering port. The weight to be recorded is an estimate.

Mr. McCloy addressed Council regarding the shad transfer provision (18.12) and indicated it should be removed from the proposal.

Old Business

Horseshoe Crabs

Mr. Himchak updated Council on lawsuits in New Jersey and Delaware.

Council members were informed that the two year horseshoe crab moratorium implemented in the State of Delaware for 2007 and 2008 had been overturned by the Delaware Superior Court on June 8, 2007. As a result of this legal ruling, the State of Delaware will implement a 100,000 male only horseshoe crab harvest starting on their next harvesting date of June 11, 2007. The legal challenge to the implementation of a two year moratorium on the harvesting of horseshoe crabs in New Jersey during 2006 and 2007 has yet to be resolved. Oral arguments are scheduled to be heard soon on the appellants' challenge to the Department's rule making that established the two year moratorium on harvesting horseshoe crabs in New Jersey.

New Business

Subway Cars

Chairman Ewing told Council that the Artificial Reef Committee had sent a letter to the Commissioner requesting she accept subway cars from New York Transit to deploy on New Jersey reef sites. He asked if the entire Council would like to also send a letter of support which the Council agreed to on a motion by Dr. Donnelly, seconded by Mr. Herb. Ms. Puskas asked how much the State would have to pay for the cars and Chairman Ewing responded they were free.

Chinese Mitten Crab

Mr. Muffley provided an update to the Council on the recent findings of the invasive Chinese Mitten Crab by commercial crabbers in the Delaware Bay/River, the Chesapeake Bay and the Hudson River. Mitten crabs are native to Asia but have invaded portions of northern Europe and also California and are listed as an invasive species. The Marine Fisheries Administration is working with the Smithsonian Environmental Research Center (SERC), who is leading the mitten crab investigation, to help document sightings in New Jersey and provide specimens for genetic testing and analysis. All of New Jersey's licensed commercial crab potters were sent a packet of information providing details on the proper identification of a mitten crab, what to do if they caught a mitten crab and other general information on the biology of the crab. Councilman Hollinger recommended that the same packet of information be sent to the Delaware Bay commercial oystermen since they are on the Bay everyday right now. Information was also asked to be provided to the general public for their participation and knowledge.

Dr. Donnelly asked if the problem was the burrowing of the crabs. Mr. Muffley indicated that burrowing is one reported problem but there is also concern about competition with other species.

Fluke Ribbons

Captain Meyer addressed Council on the issue of allowing “fluke ribbons” from a previous trip to be used as bait. He indicated that the current regulation (use of one fluke/trip for bait) has not had an opportunity to be tested to see if it is enforceable. Allowing “ribbons” from a previous trip is much harder to enforce and enforcement cannot support this provision at this time.

Red Knot Status

Director Chanda introduced Dr. Dey with the Endangered and Non-Game Species Program to provide an update on red knot population.

The red knot makes about a 10,000 mile northward flight from wintering areas in Tierra del Fuego to the Canadian Arctic to breed. The most critical stop during its northbound migration is the Delaware Bay for two reasons: 1) The eggs of spawning horseshoe crabs are quickly assimilated into fat allowing shorebirds to nearly double their body weight in a very brief period; 2) Delaware Bay is the last stop before shorebirds arrive in early June on still-frozen arctic breeding grounds where it can take 1 to 3 weeks for insect food to become available. If birds arrive in frozen conditions without sufficient fat, the consequences are loss of reproduction for that year, or worse, mortality.

Conditions on the Delaware Bay have deteriorated because of the decline of horseshoe crabs and severely reduced egg densities available as food for migrant shorebirds. From the early 1990’s to the present:

- Adult survival of red knots, linked to weight gains on Delaware Bay, declined from 86% (1994-1998) to 56% (1999-2001) (Baker et al. 2004);
- horseshoe crab egg densities declined by 90 percent;
- the red knot population declined by ≥ 70 percent;
- numbers of other shorebirds using the stop over declined by approximately 64 percent;
- none of these measure shows signs of improvement, despite reductions in horseshoe crab harvest.

Division and US Geological Survey shorebird and horseshoe crab biologists are working on recovery measures and population targets for shorebird and horseshoe crab eggs. These metrics will help inform the Atlantic States Marine Fisheries Commission’s Horseshoe Crab Management Board about shorebird and crab egg recovery.

Literature Cited:

Baker, AJ, González PM, Piersma, T, Niles LJ, do Nascimento ILS, Atkinson PW, Clark NA, Minton CDT, Peck MK, Aarts G. 2004. Rapid population decline in red knot: fitness

consequences of decreased refueling rates and late arrival in Delaware Bay. Proceedings of the Royal Society B 25:125-129.

Public Comment

Mr. Figley commended the Division for putting forth a proposal to resolve the reef/pots issue.

Ms. Knox (RFA) asserted that the 2005 Reef Plan said the reefs were for rod and reel fish only and RFA's position is that all commercial gear should be removed from the reef.

Mr. Scott (fish potter) said the recreational fishermen don't want to compromise on the reef issue.

Ms. Berko (fish potter) recommended "cutting" the reefs in half

Mr. Celeste, lobsterman, indicated he has been fishing the reefs for 17 years without any conflicts. He needs the reef in the summer to catch lobster.

Ms. Wagner suggested that the Division should check out the National Standards regarding excluding commercial gear from the reefs. He does not support deployment of subway cars as reef material.

Mr. Celmer, Fish Hawks, support use of subway cars and removal of pots from reefs.

Mr. DiDomenico requested a Bluefish Committee meeting. He also questioned if the data requested in Commissioner Campbell's Directive (subway cars) has been collected. Director Chanda indicated the data was compiled and presented to Commissioner Jackson.

Mr. DiDomenico said the GSSA would continue to work with everyone on the issue of commercial gear on the reefs but they will not support removal of lobster pots.

Mr. Toth, JCAA, asserted the reefs are being monopolized by commercial gear.

Mr. Koch, potter, indicated that public money was used to build the reefs and the public (recreational and commercial) should be entitled to fish them.

Mr. Rush (Cape May Party/Charter Boat Assoc.) encouraged the Committee to work toward a compromise.

Mr. Nowalsky (Charter Boat) supported subway cars, higher penalties for tog and removing pots from the reef.

Mr. Hollenbach, lobstermen, asserted the seasonal closure on the reef will put him out of business.

Mr. Layton showed Council a “puck” of artificial bait. He indicated it didn’t work for minnows. He requested the Council convene a Horseshoe Crab Committee meeting.

Mr. Givens addressed the Council regarding the Department letter talking about compensation for horseshoe crab fishermen. Mr. Givens asserted that the compensation was supposedly coming from the Conserve Wildlife Foundation but was not forthcoming due to the pending lawsuit. He indicated that Director Chanda and Mr. Jenkins (ENSP) serve as board members of Conserve Wildlife Foundation and in his opinion this was a conflict of interest. Mr. Givens further implied that Conserve Wildlife Foundation offered the money to settle the lawsuit.

Director Chanda took exception to Mr. Givens accusations. He clarified that Commissioner Jackson committed to trying to find funds to compensate the fishermen. Once the lawsuit was filed it was not possible for the Department to move forward with compensation.

Mr. Layton continued the discussion on the compensation issue. In addition to discussing what organization was potentially going to fund the compensation package he questioned how the amount of potential compensation (according to him \$80,000) was determined. Mr. Layton asserted that the lawsuit litigants were not horseshoe crab harvesters and the compensation package should not have been affected because of the lawsuit.

Mr. MacKey (GSSA) commented that they could not support removal of the lobsterman from reefs. He also requested the Attorney General’s Office review the proposal as to applicability for federal waters. He requested a list of names and addresses of New Jersey potters.

Mr. Siciliano supported use of subway cars and encouraged Council to move forward on the reef proposal.

Mr. Arthur (NJ Council of Dive Groups) supported subway cars and referred everyone’s attention to a website where recent photos of the “redbirds” (subway cars previously deployed) could be viewed.

Mr. Grimbali (Reef Rescue) supported the subway cars and encouraged Council to move the reef proposal forward.

Mr. Keilmeirer (commercial fisherman) requested a Horseshoe Crab Committee meeting.

Mr. Wark (commercial gill netter) offered his services for the Bluefish and Gill Net Committee meetings.

Mr. Rizzo informed Council of federal (HR21) legislation and asked staff to supply Council with a copy. Mr. Goldman indicated HR21 removes authority from the federal regional councils.

The next meeting is set for September 6, 2007.

Meeting adjourned.