

NEW JERSEY MARINE FISHERIES COUNCIL

Galloway Township Public Library
Jimmies Leeds Road
Absecon, New Jersey
November 9, 2009

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

Absent: Councilman Erling Berg

Also in attendance representing the Division of Fish and Wildlife:

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

Ms. Bennett read the compliance with the Sunshine Law. Notice of meeting was filed with the Secretary of State on October 5, 2009. Minutes from the September 3, 2009 meeting were unanimously approved.

Audience Conduct

Mr. Ewing asked that we all respect the Library rules when attending the Marine Fisheries Council Meetings. Please do not congregate near doorways and park in the back lot farthest from the front entrance doors.

Law Enforcement Report

Captain Chicketano presented the Law Enforcement Report.

District 7 Highlights August – September 2009

On 8/25/09, CO's inspected the FV Bedrocks at the Hoffman's Marina in Brielle. A CO boarded the vessel to conduct an inspection while another CO interviewed the captain. The CO found 10 blue marlin steaks on ice in a live well located in the stern of the vessel. The captain informed CO that one of the guests caught the marlin at the beginning of

their trip and that it had died during the fight. Instead of discarding the fish, they cut out 19 steaks and threw the carcass over board. The captain also claimed that they did not want to keep the fish in whole form because they were involved in a 24-hour fishing tournament. NMFS was contacted by the CO's and responded by issuing a federal summary settlement for landing blue marlin in a form not allowed by federal regulations (i.e. in whole form).

CO's patrolled the Keansburg fishing pier on 8/30/09 and observed two individuals carrying a fishing pole who were leaving the pier. CO asked them if they had any fish and they replied no; the pole was the only item they were carrying. The CO continued inspections along the pier and was advised by other fishermen that these two fishermen had a cooler full of illegal scup and that they hid this cooler in the port-a-john. The CO tried to catch up to these two fishermen who he now saw carrying the cooler and hustling off the pier. CO contacted another CO who was just arriving in the parking lot and advised him of the situation. The CO's apprehended the two fishermen as they walked by his patrol vehicle. The subsequent inspection revealed 80 scup were contained in the cooler and all 80 were sub-legal. The two fishermen, along with a third member of their party who was still on the pier fishing and watching the rest of their gear, were issued the appropriate summonses. While one CO was dealing with the three fishermen, the other CO apprehended three additional fishermen with a total of 29 undersized scup.

While inspecting inbound recreational fishing vessels at the Keyport municipal ramp at dusk on 8/30/09, a vessel arrived with two fishermen on board. A CO asked one of the fishermen if they possessed any fish. That fisherman replied, "ask the other guy". The CO questioned the second fisherman who replied, "Just bluefish". CO then inspected the vessel's live well, which was packed with 12 large bluefish. The CO asked if there was only bluefish and the fisherman pulled two fish from the live well for the CO and replied again, "just bluefish". The CO had the fisherman remove a few more bluefish from the live well and observed what appeared to be a tail of a summer flounder. The CO recovered four undersized summer flounder from the live well. A summons was issued to the owner of the vessel for four undersized summer flounder.

On 9/5/09 a complaint was received at the MRO in reference to three individuals in a rental boat in the Shark River keeping summer flounder during the closed season. CO's responded to the Belmar Marine Basin and encountered the individuals. These three individuals were also connected to another rental boat with two passengers. Four out of the five individuals were heavily intoxicated and one of the individuals fell into the river twice once off a boat, and once off the dock. The boat with three individuals contained eleven summer flounder, of which ten were undersized. Two of the individuals were written summonses for possessing ten summer flounder out of season.

A CO received a complaint from one of his informants on 9/6/09 in reference to a fisherman at the Manasquan Inlet keeping summer flounder. The CO responded and discovered that the fish were hidden in the fisherman's vehicle. A summons was issued for possession of two summer flounder during closed season.

On 9/7/09, a CO was patrolling the Sandy Hook National Park in plainclothes to observe any illegal activity. The CO observed three individuals fishing from shore in the Shrewsbury River. He observed these individuals catching summer flounder (closed season) and placing them in a bag concealed under water. The CO was able to close in on these fishermen and seize the bag, which contained three undersized summer flounder. The appropriate summons was issued. CO then continued his patrol and observed four individuals clamming in the special restricted waters of Sandy Hook Bay. The CO again was able to approach these individuals without alarming them and seize three, 5 gallon buckets of hard clams. Each of these clammers was issued summonses for not possessing a shellfish license, and clamming in special restricted waters without permit.

CO's received a complaint from Avon by the Sea PD in reference to a call they received from a citizen who witnessed two individuals keeping summer flounder while fishing from a boat in the Shark River during the closed season. The complainant observed one of the fishermen occasionally put the fish into a bucket located on a dock and then resume fishing. The Avon PD responded and found two buckets of summer flounder located on the dock. As the officer was at that location, one of the fishermen returned in his vehicle. He admitted to catching the fish. There were a total of 47 fluke in the buckets. The individual was written summonses for; possessing 47 fluke out of season, 44 undersized fluke and 41 over the daily bag limit. This fisherman is also a seafood dealer with a long history with the Bureau.

On 9/5/09 CO inspected the party boat FV Gambler just as it returned to its dock in Point Pleasant Beach. The officer discovered three bluefin tuna racks. The fish were cut up while the vessel returned to port, however the carcasses were discovered after the patrons had left the area with the meat. Federal law only allows bluefin tuna to be landed in whole form, or eviscerated with only the head removed. The size limits on tuna are based on a measurement termed "curved fork length" that follows the contour of the tuna's body. Aside from that violation, two of the bluefin tuna would have measured between 27"-<47". Recreational vessels are only allowed to land one bluefin tuna in this size category. A case package will be submitted to NMFS for prosecution.

On 9/20/09, a CO received a complaint from a spear fisherman regarding an individual on the Barnegat Light State Park jetty taking many short tautog. The spear fisherman told the CO that the fish were being placed into a blue bag. The CO headed off the suspect fisherman returning to his vehicle parked in an out of the way location. The blue bag was in fact a folding chair bag that was lined with cardboard to conceal the outlines of the fish that were hidden inside. This individual had the bag slung over his shoulder as if he was carrying a chair in the bag. The CO inspected the bag and found thirteen undersized tautog. Summonses were issued for possession of thirteen undersized tautog and twelve over the daily bag limit. The individual also did not possess any identification and gave the CO a fictitious date of birth. When the CO contacted Trenton Dispatch for a driver's license look up, this individual then thought it was a good time to give the officer his correct date of birth. While the CO was involved with this individual, he also apprehended another fisherman walking out with two undersized tautog. Summonses were issued to him as well.

District 7 Highlights September to October 2009

On 9/14/09 CO's conducted an evening patrol in Perth Amboy, Belmar, Avon and Point Pleasant Beach. The result of the patrol netted six summonses for possession of 15 undersized tautog, one summons for undersized crabs and a summons for an undersized striped bass.

While responding to the seemingly endless complaints in Barnegat Light, on 9/26/09 CO's set up a surveillance along a path used by illegal fishermen and their accomplices. CO's observed a female carrying a backpack walking to a vehicle. The CO then observed two male fishermen walking up the path approximately 100 yards behind the female. He inspected the fishermen who possessed one legal tautog. When questioned by the CO, the fishermen initially denied knowing the woman with the backpack. The CO obtained the backpack, which contained 7 undersized tautog. As the CO went back to his vehicle to write a summons, a local resident alerted him that the woman made several trips back and forth to the vehicle during the day. The CO went back to the subject's vehicle and found an additional 9 undersized tautog. All three individuals were issued summonses for possession of undersized tautog, possession of over limit tautog and interference.

On 9/25/09 CO's set up surveillance on the Point Pleasant canal in reference to many ongoing complaints. One individual was observed running fish back to a vehicle and was apprehended with four undersized tautog and one summer flounder out of season. Another individual was also apprehended for running fish back to their vehicle with undersized scup and tautog. Later that day the officers met up with another CO to conduct an inspection of the FV Paramount in Brielle. An individual fishing on that vessel contacted a CO in reference to violations by patrons as well as their descriptions. Two individuals were apprehended with 27 undersized black sea bass.

On 09/25/09 a CO was watching a fisherman on a jetty in Deal. The fisherman eventually packed up his gear and started to come off the jetty. At this time another fisherman arrived and started to walk onto the jetty. The original fisherman gave the new fisherman a wide berth and hid his bucket on the side opposite this fisherman's view so the new fisherman could not see into the bucket. The CO watched the fisherman walk onto the beach and then proceed up the beach passing the normal access location and go to a more remote access location further up. The CO went to the second access site. When the fisherman, who was now climbing stairs towards the parking lot, saw the CO standing at the top of the access, he quickly turned around, ran down a flight of stairs, and threw the bucket over the railing and into the weeds. The CO advised the individual to retrieve the bucket. At this time the fluke season had been closed for 21 days. The CO inspected the contents of the bucket and found five fluke. The fisherman was issued a summons for having five fluke during closed season.

On 09/26/09 a CO walked the Keansburg Pier inspecting fisherman as he went. He encountered a father and teenage son who were attempting to leave. Both men walked past the CO as he tried to inspect them. The CO now had to get in front of both fisherman and stop them so he could conduct the inspection. The father kept his teenage son on the

far side of him away from the CO. The father then showed the CO an empty bucket and said "no fish". The men then tried to walk away. The CO again got in front of both men and asked to see the contents of the soft-bodied cooler which the teenage son had strapped across his shoulder. The teenage son said "it's only drinks". The CO had the teenage son remove the top drink and plastic bag. Underneath the plastic bag the CO observed scup. Upon inspection the CO found the soft-bodied cooler held 40 porgies of which 39 were short. The father took responsibility for all the fish and the appropriate summonses were issued.

On 10/01/09 a CO conducted surveillance of a fisherman fishing along the Arthur Kill in Perth Amboy. The CO observed the individual catch two porgies before the fisherman packed up his gear to leave. The CO arrived at the parking location as the fisherman was approaching his vehicle. Upon seeing the CO the fisherman walked to the passenger side of his vehicle and threw his bag of fish under the vehicle. The CO had the fisherman retrieve his bag of fish and upon inspection found that the bag contained 5 bluefish, and 37 porgies (scup). All 37 porgies were short. The appropriate summonses were issued.

On 10/5/09 CO's set up surveillance on exits used by fishermen fishing on the Barnegat Light jetty. A CO observed two individuals with fishing equipment dragging a cooler to their vehicle. The CO inspected the cooler and it contained 17 undersized tautog. Summonses were issued to both individuals for possession of undersized and over limit tautog. Meanwhile, CO received a call from a local resident on another exit that a male and female were returning to their vehicle. The resident observed the female carry two buckets to their vehicle during the course of the day. The CO's stopped the vehicle as they were leaving the area. When asked if they had caught any fish, the individuals showed the officers two buckets containing approximately 30 bergalls. The CO spotted a backpack in the vehicle and asked to inspect it. The backpack contained 10 undersized tautog. The male admitted to catching all of the fish and received summonses for possession of 10 undersized tautog and 9 over bag limit. That same evening, the CO observed a female walk to a vehicle with a backpack. When she returned to the path the backpack appeared empty. Approximately fifteen minutes later a male carrying a backpack and no apparent fishing equipment, returned to the same vehicle and proceeded to leave the area in his vehicle. The CO's followed the vehicle which then stopped at a gas station. The CO's questioned the male if he had been fishing and he replied that he had. When asked if he possessed any fish he stated, "no". The CO asked if he had a cooler and permission to inspect it, to which the male consented. The cooler contained 40 tautog, which were hidden under a jacket inside the cooler. The backpack he was observed carrying contained another 9 tautog. Out of a total of 49 tautog, 30 were undersized. The male was issued summonses for possessing 48 tautog over the limit and 30 undersized tautog. It turns out that all of these fish were caught utilizing hand lines. As a side note, the woman originally observed going to the vehicle was apparently left behind by the male and was observed by the CO's walking down the main roadway on Long Beach Island. Over the course of that patrol, 84 illegal tautog were seized.

DISTRICT 8 HIGHLIGHTS – DECEMBER 09

On September 3, 2009 a CO Boarded the FV Snoopy at the request of NMFS agents who observed the vessel on the Vessel Monitoring System (VMS), enter the Hudson Canyon Closed (HCCA) sea scallop area. FV Snoopy was documented entering the HCCA five times within 2.5hrs. The CO boarded the vessel as it returned to the dock in Barnegat Light. With the assistance of Barnegat Light Coast Guard boarding crew, the CO documented the violations and seized the vessel's catch of 382lbs of sea scallops. At the request of NMFS agents the CO is completing the case package and all required documentation for submission along with formal charges for the vessel's violations.

While patrolling Atlantic City, CO's apprehended the same individual on three separate days violating New Jersey's Tautog regulations. On August 30th the CO's responded to a complaint as he fished from the boardwalk at Caspian Ave in Atlantic City. They apprehended this individual with twenty one (21) tautog over the limit and twenty two (22) tautog, which measured, less than the 14-inch minimum size limit. They provided the fisherman with copies of the 2009 Marine Digest. On September 2nd, during a routine patrol of Absecon Inlet, a CO observed the same individual fishing in the same area of the boardwalk. The CO noticed additional violations and continued his observations until the fisherman finished fishing. The CO then apprehended him for filleting eight tautog prior to ending his fishing activity; concealing their length, possession of eight (8) tautog over the daily bag limit, and possession of one (1) undersized tautog. On September 7th, the CO's were called back to the boardwalk area at Adriatic Ave in response to another citizen complaint regarding this same fisherman. Officers responded to find the same individual with eight (8) undersize tautog and seven (7) tautog over the limit. After receiving his summonses on this occasion, this fisherman admitted that he had moved his fishing location in an attempt to hide his violations from the Conservation Officers. He also admitted that he thought he would not be checked on a State holiday. Appropriate summonses were issued for all of this fisherman's violations, which are scheduled to be heard in Atlantic City Municipal Court on the same day.

On September 7th, a CO observed several individuals fishing on the Euclid Ave. jetty in Atlantic City. He watched as the fishermen caught and retained undersize tautog. During his observations from a covert position, he also saw the fishermen fillet their catch and wrap the fish fillets in sandwich wrapping paper so that they resembled hoagies. A female from the group took the disguised fillets hid them in a bag she was carrying and left the jetty. The CO continued surveillance as she returned a van and stashed the wrapped fillets in a container along with their lunch. The CO approached the woman at the van and conducted an inspection. She claimed that she didn't bring any fish back to the van with her and presented the CO with a hoagie wrapped in the same paper to prove it. The CO insisted that he knew that she brought fish to the van and located the fillets wrapped in paper. The appropriate summonses were issued for five (5) undersized tautog.

On September 11th and 12th, CO's conducted a course on small motorboat handling for the Becoming an Outdoors Woman Workshop in Cape May, Hosted by New Jersey Fish

and Wildlife. On September 12th, while patrolling Melrose Ave. in Atlantic City, a CO observed a man carrying a white bucket flee from his presence once the CO had been seen. The individual ran out of CO's view and discarded his bucket which contained suspected illegal fish. The man threw the bucket and its contents into the ocean over a bulkheaded area. When the CO caught up with the individual, the bucket and its contents were floating in the water. The CO was able to retrieve two of the fish before the entire lot sank. Initially, the individual stated that he had bought the fish and had not been fishing. The CO recovered his fishing rod from a nearby jetty. Fortunately for the man both fish which were recovered met NJ's minimum size limit. The CO charged the individual with interference, littering, and wanton waste of fish.

On September 19th CO's observed a group of five fishermen taking undersize fish from the jetty at Pacific Ave. in Atlantic City. Two individuals from the group were seen shuttling the small fish to a bucket which was then lowered down into the rocks of the jetty. When the group finished fishing, they packed their gear, and retrieved fish from numerous hiding spaces within the rocks. The officers continued their observations as it took 20 minutes to retrieve the hidden fish. During the retrieval process, some of the individuals acted as lookouts to alert the other fisherman if the Conservation Officers were seen. The CO's were never spotted and were able to apprehend the individuals with 9 tautog over the daily bag limit and 14 undersized fish, which were a combination of tautog and black sea bass. The appropriate summonses were issued.

District 8 HIGHLIGHTS - OCTOBER '09

The National Marine Fisheries Service closed the black sea bass recreational harvest season to federally permitted party and charter vessels, effective October 5th. On October 4th, prior to the federal recreational black sea bass season closure, a CO organized a boarding of the charter vessel Capt Collet in Atlantic City. At 1600 hrs, CO's boarded the vessel as they returned to the dock on Maryland Ave. The Conservation Officers encountered 15 patrons from Maryland and Washington, DC. When the inspection was complete, CO's documented a total of 613 undersize black sea bass, 404 black sea bass possessed over the daily bag limit of 25 fish per person, 5 undersize scup, and 5 undersize fluke which were also possessed during the closed season. Although individual totals varied, violations per patron averaged 40 undersized fish and 26 fish over the limit. Officers issued a total of 32 summonses to the patrons of the CV Capt Collet for their violations. All of the seized fish were donated to the Atlantic City Rescue Mission.

On October 4th, a CO boarded the Party Vessel Capt Robbins as it returned to its dock in Sea Isle City. During his attempt to inspect as many patrons as possible, the CO directed his attention to an abandoned cooler in the stern of the vessel. The abandoned cooler contained several illegal fish, and became his focus during the inspection. With a description of the person, the CO put his efforts into finding the responsible party. When he located the suspect's fishing companions at their vehicle both men denied having any connection with the cooler or its owner. Within a few minutes, the CO was able to locate the owner of the cooler near a building on the adjacent property. The CO apprehended the individual for several violations. He issued summonses for possession of 29 undersize

black sea bass, possession of 5 black sea bass over daily limit, possession of summer flounder during closed season and one summons for interference.

On October 5th, the National Marine Fisheries Service took the unprecedented step of closing the recreational fishery for black sea bass in federal waters. This action also prohibited the possession of any black sea bass by vessels having a federal party and charter/vessel permit for black sea bass regardless of where they were caught. On October 6th, CO conducted a boat patrol to Little Egg Reef approximately 4.5 miles offshore and observed the F/V Sport Cabin fishing on the reef. The CO attempted to make an inspection of the vessel and its patrons but as he approached, prior to yielding for the inspection, the captain fled and discarded two black sea bass. The CO apprehended the Captain and the vessel with an additional six black sea bass on board the vessel and documented the violations of the federal recreational black sea bass regulations. The CO forwarded the case to NMFS for prosecution.

A CO, assisted by a NMFS Special Agent (SA), apprehended the F/V Sonja H with several violations of New Jersey's commercial fishing regulations. On the evening of September 23, the CO observed FV Sonja H enter its dock area in Cape May Harbor. While observing the vessel from an adjacent dock, the CO was seen by the owner of H&H Fisheries LLC, Blair Hansen. H&H Fisheries is the documented owner of the FV Sonja H. Mr. Hansen was able to warn the captain of the vessel, Jasen Hansen, about the CO's presence. Jasen Hansen immediately dumped illegal black sea bass and tautog overboard into the harbor. The CO arrived to find black sea bass and tautog from the FV Sonja H floating in the water. With the assistance of the vessel captain, Jasen Hansen, the CO retrieved most of the discarded fish. The CO documented that the FV Sonja H landed 70lb of black sea bass during the closed commercial season, 35lb of tautog during the closed commercial tautog season, 17 undersize lobsters and the possession of 2 egg bearing lobsters. Additionally, a federal violation for failing to complete a Fishing Vessel Trip Report and a State violation for interference for the attempt to discard the illegal fish were documented. The CO issued 9 summonses: four to the vessel owner and five to the captain. Federal charges for the logbook violation are pending.

Legislative Report

No Legislative Report at this time.

Atlantic States Marine Fisheries Commission (ASMFC) Report

Mr. McCloy presented the ASMFC Report. Mr. McCloy summarized several Amendments/Addendums that were up for ASMFC approval.

Summer Flounder, Scup and Black Sea Bass Management Board

ASMFC Summer Flounder, Scup and Black Sea Bass Board approved Addendum XX to allow commercial quota transfers for black sea bass and scup between states. These transfers require a donor state (state giving quota) and a receiving state (state accepting additional quota) to agree to the transfer. There is no limit on the amount of quota that

can be transferred by this mechanism, and the terms and conditions of the transfer are to be identified solely by the parties involved in the transfer.

The Summer Flounder, Scup and Black Sea Bass Board reviewed the preliminary harvest estimates for the recreational fishery through wave 4 (January 1 to end of August 2009). Preliminary data estimates indicate that the black sea bass fishery has already exceeded the target by about 800,000 pounds. The scup fishery has exceeded the coastwide target by 242,000 pounds. The majority of the states are under their summer flounder target except for NJ, DE, and MD. Mr. McCloy presented Council with a recreational harvest table for these three species.

Ms. Puskas asked why those three states were over their quota? Mr. McCloy responded the data was compiled by the NMFS (through the Marine Recreational Fisheries Statistical Survey).

Shad & River Herring Management Board

The Shad and River Herring Management Board reviewed public, technical committee and advisory panel comments on Draft Amendment 3. Due to time constraints, the Board deferred completion of discussions on Draft Amendment 3 to the ASMFC Winter Meeting in February 2010.

Atlantic Menhaden Management Board

The Atlantic Menhaden Management Board approved Addendum IV. Addendum IV extends the Chesapeake Bay reduction fishery harvest cap, established through Addendum III, for an additional three years (2011 – 2013).

Atlantic Striped Bass Management Board

The Board met to consider approval of Draft Addendum II, which proposed options to allow unused coastal commercial quota to be rolled over to the subsequent year. The Board voted in favor of status quo management; unused coastal commercial quota cannot be rolled over to the subsequent year.

Weakfish Management Board

The Weakfish Management Board approved measures to reduce exploitation by over 50 percent in both the recreational and commercial sectors. Addendum IV requires states to implement a one fish recreational creel limit, 100 pound commercial trip limit and a 100 pound commercial bycatch limit during closed seasons. All other management measures previously adopted to conserve the stock and reduce bycatch remain in effect. In addition there is a continuation of the mandate for each state to collect biological samples.

By the May 1, 2010 compliance date states must implement Addendum IV through their approved management programs.

Spiny Dogfish & Coastal Shark Management Board

New Jersey needs to be in compliance with the requirements of the coastal sharks plan by January 1, 2010. These measures are contained in New Jersey's draft regulatory proposal

which has yet to be published in the New Jersey Register. New Jersey will likely be found out of compliance at the February ASMFC meeting which could result in the closure of New Jersey's shark fisheries.

Tom Fote suggested that the NJ Marine Fisheries Council write a letter to the MAFMC to have the black sea bass quota issue placed on the agenda for the December 2009 meeting.

Mr. Fote also suggested the Council write a letter regarding how research set asides are used.

Mid-Atlantic Fishery Management Council (MAFMC)

Mr. McCloy presented Council with MAFMC Report and directed them to Handout #4.

At the recent meeting the public was invited to provide comments regarding the Council's proposed sites for Marine Protected Area (MPA) designations. The following gear restricted areas (GRA) for MPA designations include the Scup Northern GRA; Scup Southern GRA; Tilefish GRA in Oceanographer and Lydonia Canyon; Tilefish GRA in Veatch Canyon; and, Tilefish GRA in Norfolk Canyon. No objections to these nominations were received from the public at this meeting.

The ASMFC and the Scientific and Statistical Committee (SSC), the Executive Committee met to review and address the roles and responsibilities of the SSC and the ASMFC species Monitoring Committees (MC) during the annual specifications setting process for jointly managed species (summer flounder, scup, black sea bass, bluefish and dogfish). A joint memorandum of understanding will be developed to describe how each management authority will be moving forward to implement an agreement.

The MAFMC decided to write a letter to the South Atlantic Fishery Management Council in support of its action regarding Amendment 18 to its Snapper-Grouper FMP.

Shellfish Council Reports

Delaware Bay

Mr. Hollinger presented the Delaware Bay Shellfish Council report. The direct market oyster harvest, which is open from April to November, has a quota of 85,000 bushels. The direct market oyster harvest had 79 participants. As of November 9, 2009 the harvest is 78,000 bushels. Out of 168 days of harvest thus far in 2009, the catch per unit effort is approximately 62 bushels/day. The season will close on November 13, 2009.

Atlantic Coast

Mr. Maxwell presented the Atlantic Coast Shellfish Council report. He indicated that the Great Bay market oyster beds were opened for a one-week harvest from November 9-14, 2009.

Mr. Maxwell indicated that the Atlantic Coast Shellfish Councils Lease Committee completed their report and sent it to the Assistant Commissioner for comment.

Committee Reports

Executive Committee Meeting Report

Dr. Donnelly presented the Executive Committee Meeting Report, Handout #5.

The Executive Committee met with Division staff to discuss a number of issues that were brought to the Council's attention at the September 3, 2009 meeting.

The first item of discussion was the clarification of some aspects of Roberts Rules as it pertains to motions made by Committee. After reviewing Roberts Rules, if a motion is made on behalf of the Committee then the motion does not need a second – it is implied there is second to the motion since a Committee is made up of more than one person. The Council will follow this aspect of Roberts Rules, however the motion maker needs to be clear that the motion is on behalf of the Committee.

The Committee then discussed the details and implications of the recent diversion of over \$850,000 from various dedicated Shellfish accounts to cover deficits in the States general fund. The Committee also discussed ramifications to Shellfish and Law Enforcement programs and the need to commit money in the current fiscal year prior to possible removal of any remaining monies by the Treasury again when budget preparations begin next year.

Lastly, the Committee discussed the pros and cons of the current practices and set-up of the Federal Research Set-Aside (RSA), or compensation fishing, program. The Division, along with the Department, will continue further discussions on how the RSA program may operate or be implemented in the future.

Ms. Puskas asked how much money is left in the Shellfish accounts? Chairman Ewing replied there are some monies left.

Mr. Goldman asked if the subject of RSA was in relationship to "buying up quota". Chairman Ewing responded in the affirmative.

Striped Bass Committee Meeting Report

Mr. Goldman presented the Striped Bass Committee Meeting Report, Handout #6. A meeting of the Striped Bass Committee was held at Nacote Creek on October 15, 2009 to discuss potential changes to New Jersey's current striped bass recreational size limits. In attendance were Council members, industry advisors and Division staff.

Staff discussed the purpose of the meeting and summarized NJ's regulatory process for potential changes to the striped bass limits. Any changes to the current recreational striped bass regulations would need to occur legislatively and not through the MFC.

Staff then gave an overview of seven ASMFC approved options for conservation equivalency and the analysis used to develop the options.

The Committee had a rather long discussion on the pros and cons of changing the regulations at this time. Items such as discard mortality, protection of large breeder females, all anglers having the opportunity to take a fish and options for the Bonus Program were all thoroughly deliberated.

The consensus of the advisors was that the Council should move forward with a recommendation to change the current recreational limit of two fish at 28 inches to the following:

One fish at 24” or greater AND One fish at 32” or greater

The advisors agreed that this option would allow the greatest flexibility for NJ’s anglers throughout the year while also attempting to shift fishing mortality away from older females. Further protection of large females could come with a change to the Bonus Program if necessary. Some advisors will discuss the options with their club membership and report back to the MFC at their November meeting.

Mr. Muffley commented that the advisors supported the Committee Report as is but 2 of the 3 clubs that responded supported status quo the other supported 24”. All three supported the need to protect large breeders.

Mr. Rizzo commented that if protection of a larger breeder is a must, why not have one maximum size limit. Mr. Muffley stated that is the choice of the Council.

Mr. Herb asked the process from here. Mr. Muffley stated that the Council takes action and on how to proceed forward and then it goes back to the ASMFC technical committee for review.

Mr. Goldman asked if the Commission already approved these options for everybody. Mr. Muffley responded that is correct.

Mr. Goldman asked if changes can be made. Mr. Muffley stated that if Council wants to make a change, the change must be presented to the Technical Committee first. It would be nice if the Council presented the Technical Committee with one option. The Technical Committee will then see if it is viable.

Mr. Fote commented that there are three states (PA, DE, NY) coming together to be on the same page with these regulations. Ideally, it will be nice to see NJ, DE, PA, and NY coming up with one package and prove the need to protect the larger fish.

Mr. Herb questioned the possibility of these three states coming together. Mr. Fote commented it is possible with DE and PA, but NY may be a little harder.

Mr. McCloy commented that he has already spoken with the other states, NY has not responded, PA does not want to go through the process again, DE is now changing their minds. If NJ wants to proceed the Council should pick one option and the Division will take it to the Technical Committee.

Mr. Muffley commented that the Striped Bass Board was presented with current striped bass stock information. According to the stock assessment with data up to 2008, the fishing mortality was way below the target and the population well above threshold.

Mr. Goldman made a motion on behalf of the Striped Bass Committee, that the Council support the recommendation on striped bass for one fish at 24" or greater AND one fish at 32" or greater.

Dr. Donnelly commented he would like to delay action for better public representation, due to the fact that this was not the Council's normal meeting night. Dr. Donnelly made a motion to delay vote on the motion until January 7, 2010 meeting, so this issue can be addressed by the public. Ms. Puskas seconded. Motion passed.

Atlantic Menhaden Committee Meeting

Ms. Puskas presented the Atlantic Menhaden Committee Meeting Report, Handout #7. The Atlantic Menhaden Committee (Committee) of the Marine Fisheries Council met with industry advisors to discuss potential management actions that could be taken prior to January 1, 2010 to avert a likely increase in purse seining effort, which would result in significantly higher landings of Atlantic menhaden for bait in 2010.

The Annual Catch Limit (ACL) for Atlantic herring in 2010-2012 has been set at 90,000 metric tons, nearly a 40% reduction in Atlantic herring landings from previous years and there will likely be a critical shortage of Atlantic herring to supply the New England lobster fishery with bait. This shortage will focus attention on harvesting Atlantic menhaden.

New Jersey presently supports one of the two largest Atlantic menhaden bait fisheries along the Atlantic coast, averaging 27 million pounds in landings over the last five years. An influx of additional purse seine vessels and/or carry boats would elevate bait landings substantially. Additional fishing activity would also likely lead to spatial conflicts with other fishing vessels.

It was agreed, considering the tight time constraints, to implement any actions prior to January 1, 2010, that two approaches would be taken. The industry will pursue the legislative approach to have a bill passed immediately to cap effort in the menhaden bait fishery, limiting entry to those vessels currently in the fishery. The Marine Fisheries Administration will attempt to adopt an emergency regulation and concurrent proposal to limit the number of menhaden bait licenses to historic levels and participants.

All agreed that a significant increase in purse seining activity with a resulting substantial increase in Atlantic menhaden landings in 2010 in nearshore waters of the State would

create management problems, especially spatial conflicts between commercial and recreational fishing vessels.

Ms. Puskas asked if the Legislature was approached on this topic. Chairman Ewing commented not as of yet.

Summer Flounder and Black Sea Bass Committee Report

Dr. Donnelly presented the Summer Flounder and Black Sea Bass Committee Report, Handout #8.

On October 21, 2009, a joint meeting of the New Jersey Marine Fisheries Council's Summer Flounder and Black Sea Bass Committees was held at the Nacote Creek Enforcement Office. In attendance were Division of Fish & Wildlife staff, Summer Flounder and Black Sea Bass Committee Council members and several advisors. The purpose of the meeting was to review the current 2009 commercial landings, the potential 2010 commercial quotas, and to discuss trip limits for the 2010 commercial seasons.

The 2009 NJ directed summer flounder commercial quota is 1,641,740 pounds. New Jersey's directed 2010 quota will be 1,938,710 pounds should the proposed 2010 coastwide quota be approved. New Jersey allocates its quota into six, two-month seasons. Staff provided an analysis of the 2009 harvest by seasonal trip limits and how long the seasons stayed open. Trip limit options for 2010 that would lengthen the seasons based on reducing the current trip limits were then presented. The majority of the advisors wanted to keep the current trip limits. Some were dissatisfied with the Season 3 and 4 trip limits of 250 pounds, seven days a week, suggesting it should be reduced to 250 pounds, four days a week. The Committee agreed to maintain the 2009 trip limits for 2010. For the future, the advisors wanted to receive meeting materials in advance of the meeting so they had time to discuss it with others. The issues of investigating permits obtained by falsifying documentation; which permits are currently active, and proposing a two-tier landings approach based on landing history were mentioned as topics of future meetings.

The 2009 NJ directed black sea bass commercial quota is 196,775 pounds. New Jersey's 2010 quota will be 197,298 pounds should the proposed 2010 coastwide quota be approved. New Jersey allocates its quota into four seasons. The overall sentiment expressed by the advisors was that the quota needs to be greater. The majority of the advisors wanted to keep the current trip limits as they are. Some were dissatisfied with the Season 1 trip limit of 500 pounds, seven days a week. They would like to see it reduced to 500 pounds, four days a week. The Committee recommends changing Season 1 trip limit to 500 pounds, four days a week or 1000 pounds, two days a week.

Dr. Donnelly made a motion, on behalf of the Committee, to change the Season 1 trip limit to 500 pounds, four days a week or 1000 pounds, two days a week. Motion passed.

Chairman Ewing introduced Chris Zeman, New Jersey's new representative to the MAFMC. He fills New Jersey's obligatory seat vacated by Ed Goldman.

Regulatory Updates

Mr. Muffley updated the Council on the 2009 Multi-Species Rule Proposal, which still has not been filed. Mr. Muffley indicated that the proposal may not be published until 2010.

Mr. McCloy asked Council for approval of the 2009 Draft Notice of Administration Change (NAC) (Handout #9), changing black sea bass trip limits that the Council just approved.

Dr. Donnelly made a motion to approve the NAC on black sea bass trip limits to read as: Season 1 trip limit to 500 pounds, four days a week or 1000 pounds, two days a week. Motion passed.

Old Business

Mr. McCloy presented Council with Handouts #10 and #11, two letters (one from the Council and one from the Federation of Sportsmen) requesting that funds be restored to the various shellfish dedicated accounts. Council has not received any responses to these letters. Mr. Joseph commented that there are four dedicated accounts involved in these reductions. The Shellfish Law Enforcement lost \$100,000, Shellfish Leasing lost \$150,000, the Shellfish Management Fund lost \$100,000 and the Shellfish Habitat Mitigation Fund lost \$500,000.

Chairman Ewing thought he heard enforcement was getting their money back? Mr. Joseph could not confirm and Mr. Chicketano had left the meeting.

Chairman Ewing thought that this was the case because Enforcement has to conduct a certain number of patrols in protected shellfish waters. Mr. Joseph replied that NJ is borderline on not meeting federal requirements for patrol frequency of shellfish beds. Anything that takes funding from that program could jeopardize NJ certification by the federal government which allows NJ to ship shellfish out of the state.

Mr. Maxwell asked how much is left in the habitat mitigation account. Mr. Joseph commented it was \$750,000.

Mr. Chanda commented that this occurred when NJ was closing out the accounts for fiscal year 2009 on June 30. In addition to the above funds, the marine law enforcement unit was facing a \$250,000 shortage to cover their work and ended up taking this money from the marine net license accounts. The question then becomes what are we going to do for 2010?

New Business

Mr. McCloy brought Council's attention to Handouts #12a and #12b, in regards to NMFS prohibiting the possession or retention of black sea bass in Federal waters, effective October 5, 2009. Acting DEP Commissioner Mauriello, sent a letter to US Commerce

Secretary, Gary Locke, expressing concern about the black sea bass mid-season closure of the recreational fishery and requesting a review and additional consideration of the black sea bass quota-setting process for the 2010 fishing season. Mr. Goldman indicated a lawsuit has been filed against the NMFS by the Recreational Fishing Alliance in regards to the closure of the black sea bass fishery.

Mr. Muffley brought Council's attention to Handout #13, which is a synopsis of New Jersey's Atlantic Coastal Cooperative Statistics Program Competitive grant (ACCSP). Since 2005 NJ has received ~\$1.2million in ACCSP funding. ASMFC employs two staff members stationed at Nacote Creek Research Station. ACCSP funds are intended to assist partners in starting up data collection programs after which the partner will be responsible for finding a permanent source of funding. After reviewing the FY2010 proposals, the ACCSP Operations Committee recommended that: future proposals should be more regional in nature and should define an end point for a future funding source to maintain its program. The Operations Committee commented on the shortcomings of NJ's ACCSP proposal's justification for continuance, failure to secure alternate sources of funding, mandatory reporting of all species (specifically shellfish). NJ has been approved for the FY2010, but the funding is getting harder to receive because the ACCSP is looking for new projects. Continued funding for ACCSP for NJ is uncertain.

Dr. Bochenek thought the ACCSP was in support of maintenance programs. Mr. Muffley stated it was, but this is the first year where the ACCSP stated that funding goes toward 80% maintenance and 20% new projects. It is likely that a decline in the maintenance percentage will occur annually.

Mr. Rizzo asked what would be considered a new project. Mr. Muffley responded that a new data collection research project where data is not annually collected. As an example he cited summer flounder or Atlantic herring observer programs.

Dr. Bochenek suggested something for shellfish as a new project. Mr. McCloy indicated it was not a problem to come up with a new program. The problem would be continuing the existing programs such as the current quota (summer flounder, sea bass) monitoring programs. If NJ losses funding to monitor quotas, the current quota management programs will have to be streamlined.

Chairman Ewing commented that by the next Council meeting there would be an update on the Committee assignments. Handout #14 lists the 2010 Council meeting dates and Handout #15 lists the current Marine Fisheries Council Committee assignments.

Dr. Donnelly submitted a letter he drafted concerning the research-set-aside discussed at the last meeting. The research-set-aside (RSA) for black sea bass is up to three percent of the annual quota. Dr. Donnelly referenced the mid-season closure of the recreational fishery and indicated his position that the quota should not be removed for the RSA until the respective fisheries are operating without season closures.

Dr. Donnelly made a motion that Council notify NMFS, NOAA, MAFMC and ASMFC of the Council's displeasure regarding how the RSA has operated in 2009. Mr. Herb seconded.

Ms. Puskas and Mr. Rizzo asked for more specific issues to be addressed in this letter. Dr. Donnelly expressed his concern with the direction the RSA is going and related to the discussion the Council has already had at the September meeting and at the recent Executive Committee Meeting.

Ms. Puskas asked for an explanation of how RSA works. Dr. Bochenek, who acts as coordinator for the National Fisheries Institute (NFI), explained how various commercial operations bid to catch the RSA quota and how the funds generated supported research.

Chairman Ewing accepted public comment on the RSA issue brought forward.

Captain Adam Nowalsky, stated that he did not think it was a RSA issue, but how the auction was conducted.

Mr. Fote commented the problem is with the process on how you get to the auction.

Mr. Mackey commented that the RSA is the only way to get money to do research.

Dr. Donnelly commented that the focus of his letter is on black sea bass and how the quota dedicated to RSA could be responsible for the early shut down of the 2009 black sea bass fishing season. He supports research but doesn't believe it should be at the expense of the fisheries.

Chairman Ewing asked for vote on the motion to write a letter on displeasure of the way the RSA is being used.

Dr. Bochenek wanted to know what is written in this letter before voting on motion.

Mr. Maxwell asked for clarification on the issues that were presented at the last meeting in regards to RSA.

Chairman Ewing stated that up to 3% was taken off the commercial species-specific quota. And this percentage was given to the NFI for research.

Dr. Bochenek stated that is has never been species specific. The NFI is to raise money for RSA by auctioning the RSA quota off to the commercial fishery.

Chairman Ewing said this letter would be a DRAFT letter that would be available at the next meeting. Motion passed: five in favor, three opposed.

Public Comment

Mr. Mackey asked the Council to write a letter of support for the 2010 menhaden license moratorium addressed earlier by Ms. Puskas.

Ms. Puskas asked if he has approached the Legislature. Mr. Mackey has not approached anyone but the intent is to have draft legislation shortly.

Captain Nowalsky asked the Council to address the 2010 season on menhaden so legislation can be in place for 2011. He inquired if there was going to be a modification to the summer flounder seasons since sea bass are going to see closures and there is not any other fishery open at that time. He also requested a Tautog Committee meeting to see how various fishery seasons could be structured so fishermen had an open season for something.

Mr. Chew provided the Council with a several page document that he read. He criticized the Division and the Council for not following the law and mismanaging the commercial black sea bass fishery.

Ms. Puskas addressed the Menhaden Committee Report and asked the status of emergency regulations. Mr. McCloy responded that it did not appear that emergency regulations would be successful given the time constraints.

Ms. Puskas made a motion, on behalf of Menhaden Committee, asking the Council to support the Menhaden Committee recommendations. Motion passed.

Meeting adjourned.

Next Meeting is January 7, 2010.