



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

RIMFC MEETING NOTICE

February 10, 2014 – 6:00 PM

URI Narragansett Bay Campus, Corless Auditorium
South Ferry Road, Narragansett, RI

REVISED AGENDA

Robert Ballou
Chairman
222-4700 x4420

Richard Hittinger
Vice Chair
739-1875

Richard Bellavance
741-5648

Kenneth Booth
793-0454

Jeff Grant
243-5123

William Mackintosh, III
477-0603

David Monti
480-3444

Christopher Rein
525-4969

Michael Rice, Ph.D.
874-2943

Agenda item	Agenda item detail	Suggested action
1. Approval of Agenda	2-10-2014 RIMFC Agenda	Approval of agenda.
2. Approval of Minutes	RIMFC 12-2-2013 meeting minutes	Approval of minutes.
3. Public Comments	Comments from the public on any items not on agenda	No action; take under consideration.
4. New Business	a. Review of 1-22-2014 public hearing items – <i>B. Ballou</i> : <ul style="list-style-type: none"> • Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs, regarding Area 2 Lobster Trap Effort Control Program and Trap Transferability; <ul style="list-style-type: none"> ○ Lobster Advisory Panel (AP) Report (12/18/13) – <i>J. Grant</i> • Commercial and Recreational Saltwater Fishing Licensing Regulations, to allow for licensing changes relating to the RI Lobster Trap Transferability Program 	<ul style="list-style-type: none"> • Review and discussion of public hearing presentation, public comments received, and proposed regulations. Provide recommendations to Director; • Review and accept AP Report
	b. <u>AP Meeting and Agenda approvals</u> : <ul style="list-style-type: none"> • <u>Groundfish/Federally Managed Species</u>. Consider need for meeting - <i>K. Booth</i> • <u>Tautog</u> – <i>R. Hittinger</i> • <u>Summer Flounder</u> – <i>R. Hittinger</i> • <u>Scup/BSB</u> – <i>W. Macintosh</i> • <u>Menhaden</u> – <i>D. Monti</i> • <u>Whelk Ad Hoc</u>: - <i>J. Grant</i> • <u>Winter Flounder</u>: - <i>J. Lake</i> 	Review and discussion of proposed AP meeting agendas. Approval of meetings and agendas as needed.

4. New Business cont'd	<p>c. <u>Shellfish AP Report and aquaculture applications</u>: – <i>J. Grant</i></p> <ul style="list-style-type: none"> • <u>Shellfish AP report (1/29/14)</u>; • <u>Aquaculture applications</u>: <ul style="list-style-type: none"> ○ 2013-08-013, Brian Pinsky, Ninigret Pond, Charlestown; ○ 2013-11-065, Ian Campbell, Point Judith Pond, S. Kingstown; ○ 2014-01-007, East Beach Farm LLC (James Arnoux) Quonochontaug Pond, Charlestown. 	<ul style="list-style-type: none"> • Review and accept AP Report • Review Aquaculture applications and provide recommendations to CRMC
	d. Council package format and mailing – <i>J. McNamee</i>	Discussion to change from paper copy mailing to electronic (i.e., hyperlink) format.
	e. Appointment of Chair to Bluefish/Weakfish Advisory Panel – <i>B. Ballou</i>	Approval of Appointment
5. FYI	<u>Director Decision Memo</u> re: Nov. 19, 2013 public hearing items – <i>B. Ballou</i>	Discussion only.
6. NEFMC/ ASMFC Reports	<u>Meeting/Report Summaries</u> – <i>M. Gibson, B. Ballou</i>	Discussion only.
7. Adjourn		

All RIMFC Meetings are open to the public



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February 10, 2014

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MEETING MINUTES

Chairperson: B. Ballou

RIMFC Members Present: K. Booth, R. Hittinger, D. Monti, W. Mackintosh, J. Grant, M. Rice, C. Rein

Members absent: R. Bellavance

DEM: L. Mouradjian, M. Gibson, G. Powers, J. McNamee, S. Olszewski, J. Mercer, P. Duhamel, Sgt. Tom Silvia (DLE)

CRMC: Dave Beutel

Public: Approximately 10 persons.

1. **Approval of the Agenda:** *B. Ballou* inquired as to objections to re-ordering the agenda by moving the Aquaculture applications up as item 4a; with the remaining items following as arranged. *D. Monti* asked to add an FYI item regarding a discussion the NOAA recreational fishing working group and re-authorization of the Magnuson-Stevenson Act. *R. Ballou* inquired as to any further comments regarding the agenda; hearing no further comments or objections, the revised agenda was then approved by consent.

2. **Approval of RIMFC meeting minutes from December 2, 2013:** *B. Ballou* inquired as to any modifications to the minutes or any objections to approving the minutes. Hearing none, the minutes were approved by consent.

3. **Public comments regarding other matters not on agenda:** No comments were made.

4. **New business - 11/19/2013 public hearing items:**

4a. - Shellfish AP Report and Aquaculture applications: *J. Grant* provided a summary of the Shellfish AP meeting that occurred on 1/29/14. He offered that the meeting was lightly attended with only three SAP members. The meeting was held solely to discuss and vote on the three aquaculture applications:

1. **Brian Pinsky - Ninigret Pond, Charlestown:** Motion was made to recommend no objection due to no conflict with wild harvest. Vote was one in favor; one against; one abstention.
2. **James Arnoux/East Beach Farms - Quonochontaug Pond, Charlestown:** Motion was made to recommend no objection
3. **Ian Campbell - Pt. Judith Pond, South Kingstown:** Motion was made to recommend no objection.

J. Grant offered that these applications were being brought to the Council due to light attendance at the AP meeting and to provide Council recommendations to CRMC in order to prevent any delay in CRMC review of the applications.

Upon conclusion of the summary of the AP report, *R. Ballou* inquired to any objections to its approval. Hearing none, **the Shellfish AP report was approved.**

Discussion ensued regarding each of the applications:

1. Brian Pinsky: *J. Mercer* provided maps on the overhead screen showing locations of the site and other pertinent information including eelgrass and boatramps. *J. Grant* offered that the site survey conducted by DFW staff resulted in the capture of two Lady Crabs (no shellfish). He offered that there was a single objection received for this application: a letter from Jeff Gardner, which cited several objections. *K. Booth* offered that the lease fee was extremely low. *D. Beutel* offered that RI has some of the highest lease fees in the country. *M. Gibson* offered that a clarification was needed due to an apparent inconsistency in the AP minutes regarding comments from *Mr. Paul Kennedy*; in that there appeared to be an objection due to impacts to recreational harvest, but then later in the minutes, that there was no such activity observed at the site. *J. Grant* offered clarification that his recollection of the discussion was that while there was significant recreational shellfishing occurring at the site, there was minimal success with actual harvest; to which *J. Mercer* concurred. *D. Beutel* offered further clarification based on his recollection of the meeting that it was *Mr. Kennedy's* observation/comment that recreational activity was not necessarily significant in the proposed footprint, but that the activity increased the closer to the shore (north side of the barrier beach). *J. Grant* provided a final comment that a majority of the comments/objections made at the AP were not under the purview of the Council; and offered that he did not believe that the proposed lease presented a conflict with wild harvest shellfishing.

J. Grant offered a motion to **recommend no objection to the Director**; 2nd by *R. Hittinger*. **The motion passed by a vote of 7 – 0.**

2. Ian Campbell: *J. Mercer* provided maps on the overhead screen showing locations of site and other pertinent information including eelgrass, sandbars, boatramps, navigational channels and waterdepths. He showed how the site was located partially on the sandbar and partially in deeper water adjacent to the sandbar; between waterdepths of 1.5 and 8 feet. He offered that the site survey resulted in less than one clam/sq. meter and that shellfishing in this area was limited. *J. Grant* offered that the comments regarding recreational shellfishing at the AP meeting were favorable in that recreational activity was located more so in areas to the north and south, but there was minimal activity in the proposed lease footprint. He offered that he knew *Mr. Campbell* as a commercial shellfisherman and thought he would be aware of suitable areas in this pond to avoid conflicts with wild harvest. *M. Rice* offered that he thought the site was suitable for aquaculture based on his knowledge of water flow patterns in the pond.

M. Rice offered a motion to **recommend no objection to the Director**; 2nd by *D. Monti*. **The motion passed by a vote of 7 – 0.**

3. James Arnoux: *J. Mercer* provided maps on the overhead screen showing locations of site and other pertinent information including eelgrass and boatramps. He offered

that this was the first full aquaculture application in Quonochontaug Pond. He offered that the site survey resulted in less than ½ clams/sq. meter; a very low density. Mr. Arnoux offered that he has had good success growing oysters in the location as part of his existing CRMC Commercial Viability approval. He offered that he was unaware of significant recreational shellfishing in the area, and that the presence of boulders in the water made the area unsuitable for boating activity.

D. Monti offered a motion to **recommend no objection to the Director**; 2nd by *C. Rein*.
The motion passed by a vote of 7 – 0.

4b. - January 22, 2014 public hearing items:

R. Ballou offered a summary of the proposed regulations and their intent. *M. Gibson* offered a summary of ASMFC requirement and the declining status of lobster stocks. *S. Olszewski* offered that the proposed regulations are a result of ASMFC requirements to reduce effort in the Lobster fishery; and that the transferability regulations are designed to allow Lobster fishermen to maintain a current level of fishing effort after the trap reductions are effectuated via a transferability program. He offered that Massachusetts has already adopted a program and that the NOAA Fisheries is in the process of the same. *P. Duhamel* presented the powerpoint that was presented at the public hearing on January 22, including the four options in Part XV.

M. Gibson offered Division perspective on each of the options:

1. Trap Floor option: He offered that option 1 (include a trap floor) was a sensible, common sense option but that it needs to be determined, prior to the Director rendering a decision, if this option is in compliance with ASMFC.
2. Ownership Cap option: He offered that this issue was controversial and determination of which option is acceptable may be an ASMFC compliance issue and needs to further addressed in subsequent ASMFC actions; but that due to ASMFC compliance, the Division presently believed that option 1 (institute an ownership cap per ASMFC Addendum XXI) was the only viable option currently available. He added that the Department may request to the ASMFC in the Spring with another addendum request to modify and ease this restriction.
3. License option: *M. Gibson* offered that the Division was in support of option 1 (provide a new PEL license with purchase of a trap allocation), in that there isn't a need to restrict trap allocations amongst existing license holders. He added that the number of licensees isn't important in terms of impacts to the fishery, that trap reductions will be occurring, and the Division supports license availability to fishermen that acquire trap allocation.
4. Application Deadline option: *M. Gibson* offered that the Division support option 2 (application has a set time to occur during the year) due to administrative purposes; that it would be the least burdensome in terms of program administration; but recognizes that option 1 would be the most flexible for industry.

J. Grant then provided a summary of the Lobster AP meeting that occurred on 12/18/13.

1. Trap Floor option: He offered that the AP voted 4- 1 that this item should go to public hearing but did not support the trap floor option (option 1 as presented at the public hearing).
2. License option: He offered that the AP voted 4 -1 to recommend to the IAC to provide for the issuance of a new PEL license with a lobster endorsement; but that this take effect one year after commencement of the program to allow for current

lobster trap licensees to rebuild their allocations (hold off one year before opening up program to new licenses).

R. Ballou inquired to any objections to **approving the Lobster AP report**. Hearing none, the **report was approved**.

R. Hittinger inquired as to the definitions of traps that had been being discussed recently; to which *S. Olszewski* replied that only lobster traps is relevant for the present discussion and proposed regulations. He offered that a lobster trap is defined as a trap with a properly authorized trap tag on it; to which *W. Macintosh* replied that it was also based on escape vent size. *M. Gibson* offered that it was based on trap tag, dimensions and escape vents. *W. Macintosh* offered that the trap floor option was a reasonable option; to which *M. Gibson* agreed and *S. Olszewski* offered that the sentiment from the AP was that the reductions should be applied equally to all (no trap floor).

R. Ballou asked for votes on the four options:

1. Trap Floor option: *D. Monti* offered a motion to **recommend adoption of option 1 (provide for a trap floor)**; 2nd by *M. Rice*. *J. Grant* offered that he thought option 2 was the most fair in that it applied equally to all fishermen; and also offered that ASMFC compliance should be assured before the Director adopts a trap floor. **The motion passed by a vote of 7 – 0.**
2. Ownership Cap option: *J. Grant* offered a motion to **recommend adoption of option 1 (provide for an ownership cap)**; but that option 2 be further explored; 2nd by *D. Monti*. *P. Duckworth* commented that he was concerned that option 1 would limit the fisherman to only two permits, and that this could prove restrictive in terms of the fisherman trying to rebuild allocation. Discussion ensued that this matter needed clarification from ASMFC and/or subsequent revisions to the addenda that addresses this issue. **The motion passed by a vote of 7 – 0.**
3. License option: *R. Ballou* offered clarification that this option would be available to all currently eligible license holders, including those with a PEL with lobster endorsement; a CFL with lobster endorsement; or a multi-purpose license. He offered that the proposed regulation as currently written would need to be modified to reflect this. *R. Hittinger* commented that he had a concern with option 1, in that this may result in unwanted participation in the fishery, and potentially negate intended reduced involvement in the fishery; to which *R. Ballou* commented that it is the number of traps, rather than the number of licensees, that is the control measure. *K. Booth* offered that he was concerned that providing new licenses may result in these new licensees being offered advanced eligibility for a restricted finfish license ahead of other fisherman currently in the fishery; to which *J. Grant* replied that this would not be the case. He then offered that in order to have a successful trap transfer program that it must be opened to new licenses, and re-emphasized that it is the number of traps rather than the number of licenses that is the management control for the fishery, and that fishermen currently participating in the fishery must be allowed an opportunity to rebuild their allocations before opening up the program to new licenses (allow for full participation only after one year). *W. Macintosh* offered that he agreed with the one year delay for full participation. *C. Rein* offered a motion to **recommend adoption of option 2 (only allow amongst current license holders)**; 2nd by *J. Grant*, **with the caveat that new licenses be available after one year** (per AP recommendation). (note: the regulations would be modified to reflect this – combine elements of both options). *P. Duckworth* commented that availability of new licenses

should only occur after the trap reductions are completed (after the 5th year); to which *R. Ballou* replied that it would commence after one year the program begins. Discussion then ensued regarding the transfer of allocation from federal or into RI state waters (and possibly vice-versa), and how licenses would be issued to reflect this. *M. Gibson* offered that this would increase effort in RI waters, which was not intended, and that this matter needs clarification with ASMFC and NOAA Fisheries. It was discussed that until NOAA Fisheries publishes a final rule regarding trap transferability by federal lobster permit holders, this matter would remain unresolved. *M. Gibson* inquired as to clarification as to the year delay; is it based on fishing year (begins June 1) or calendar year. *R. Hittinger* offered that it should be one full year after program implementation. After conclusion of discussion, *W. Macintosh* moved to offer a **perfected motion “to recommend adoption of option 2 for the 2014 fishing year (6/1/14 – 5/31/15) with the caveat that it would take place for this fishing year only, after which time option 1 would take effect but only be applicable for state trap allocations”**; 2nd by *M. Rice*. Discussion ensued regarding the transfer of federal traps into state waters. *J. Grant* offered that this matter needs clarification and will continue to be unclear until the federal program commences. **The motion passed by a vote of 6 – 0; *J. Grant* abstaining.**

4. **Application Deadline option:** *M. Gibson* offered that the Division was in support of option 2 (application only during set time of year) due to Division needs for administering the program. *R. Hittinger* offered a motion to **recommend adoption of option 2**; 2nd by *M. Rice*. *M. Rice* offered that option 2 seemed logical due to needs of administering a government program. **The motion passed by a vote of 7 – 0.**

R. Ballou then asked for discussion and a vote for Part XV regulations in its entirety. *J. Grant* inquired as to whether or not federal permit lobster trap allocation holder will be subject to a trap reduction schedule if the federal government doesn't commence a program. *M. Gibson* offered that an MOU in place between RI and the federal government adequately address this matter. *J. Grant* offered a motion to **recommend adoption of the regulations in their entirety, including the options as previously addressed** and voted on; 2nd by *D. Monti*. **The motion passed by a vote of 7 – 0.**

R. Ballou then asked for discussion and a vote for the proposed amendments to the Licensing regulations, and offered that these amendments were intended to sync with Part XV, which was previously discussed and voted on. *M. Rice* offered a motion to **recommend adoption of the regulations as proposed**; 2nd by *J. Grant*. **The motion passed by a vote of 7 – 0.**

4c. - AP Meeting/Agenda approvals:

1. **Groundfish/Federally Managed Species:** *K. Booth* provided a summary of the topics for the meeting to be discussed at the meeting and as outlined in the proposed agenda, including Monkfish and Coastal Sharks. He advised the Council that the regulation regarding the Cod fillet should also be added to agenda; to which *J. McNamee* added that this also involved Cod minimum size. *R. Ballou* inquired as to objection to adding these two additional items and approving the agenda; hearing none, the agenda was approved; tentatively planned for March.
2. **Tautog:** *R. Hittinger* offered that participation was low for these meetings; and was looking to combine with another AP meeting. *R. Ballou* inquired as to objections to approving the agenda; hearing none, the agenda was approved.

3. **Summer Flounder:** *R. Ballou* offered that this meeting should be held as soon as possible. Discussion ensued regarding coordination with Massachusetts per new ASMFC requirements and the timeliness of the meeting with regards to coordination with Massachusetts and ASMFC. *R. Hittinger* inquired if meeting was solely addressing recreational management, to which *R. Ballou* replied that it was. *D. Monti* asked to add a “RI Fish for the Future” proposal. It was also discussed to add an item to discuss the ASMFC regional management requirement for RI and Massachusetts. *R. Ballou* inquired as to objection to adding these two items and approving the agenda; hearing none, the agenda was approved; tentatively planned for the following week.
4. **Scup/Black Sea Bass:** *R. Ballou* inquired as to objection to approving the agenda as proposed; hearing none, the agenda was approved. It was discussed that this meeting would be combined with the Tautog AP meeting, tentatively planned to be held within the next two weeks.
5. **Menhaden:** *J. Grant* offered that a discussion needs to occur regarding fishermen fishing commercially for Striped bass while simultaneously fishing recreational for Menhaden (pogies) in the Narragansett Bay Menhaden Management Area; in that fishing for pogies may be illegally occurring during closure of the Management Area. He offered that it may be possible and necessary to modify regulations to accommodate this practice. *R. Ballou* offered that *J. Grant* should provide an email to *D. Monti* in order to prompt discussion at the AP meeting. *R. Ballou* then inquired as to objection to approving the agenda as proposed; hearing none, the agenda was approved.

The final conclusion for scheduling meetings was to hold the Menhaden and Scup/BSB meetings in tandem on the same date; and the same for the Tautog and Summer Flounder meetings.

6. **Whelk Ad Hoc:** *R. Ballou* inquired as to objection to approving the agenda as proposed. *M. Gibson* asked for a modification: to change item 1.a. to “DFW Age and Growth study – report data and implications”; item 1.b. to DFW stock assessment update; items 1.c. and 2. to remain as the last two items. *J. Grant* concurred with proposed changes. *R. Ballou* inquired as to objections to approving the agenda as revised; hearing no further proposed modifications, the agenda was approved. *J. Grant* offered that a tentative date of February 20th had been scheduled for the meeting.
7. **Winter Flounder:** It was discussed that the meeting was needed to discuss State waters recreational fishing specifications set by ASMFC last week. *M. Gibson* inquired as to the need for the meeting due to proposed liberalization of the regulation. He suggested that if meeting is held, that an item regarding an update from staff regarding the life history project be added. *D. Monti* offered that the meeting should be held with the added agenda item per *M. Gibson’s* suggestion. *R. Ballou* inquired as to objections to approving the agenda as revised; hearing no further proposed modifications, the agenda was approved.

Agenda Item 4d. - Council package format and mailing: *J. McNamee* provided rationale for the request to change from paper packet mailings to electronic packets, which would be provided via email and/or DFW website; benefits which would include reduction in paper, and posting for public viewing prior to meeting. He explained that agenda items would be hyperlinked for easy access and internet is available at Corless Auditorium to accommodate this change. *W. Macintosh* offered concern with internet/WiFi availability in the building; to which *J. McNamee* offered that it is available. *R. Ballou* inquired as to the possibility of providing CD’s as back-ups in the event of unavailability of the internet; to which *J. McNamee* replied that the current paper packets would be preferable due to equipment needs to produce the CD’s. *J. McNamee* then also

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offered that the agenda items should be downloaded to individual laptop hard-drives (items will be available as pdf's) prior to arriving at meeting; then would still be able to access in event of unavailability of internet. Upon conclusion of the discussion, it was agreed by Council to try the electronic format.

Agenda Item 4e. - Appointment of Chair to Bluefish/Weakfish Advisory Panel: *R. Ballou* offered that Council member *C. Rein* had volunteered for this appointment. *D. Monti* moved to recommend approval of this appointment; 2nd by *R. Hittinger*. *R. Ballou* inquired to any objections; hearing none, the appointment of *C. Rein* was approved.

Agenda Item 5:

- FYI - Director Decision Memo:
- *D. Monti* brief to the Council regarding the re-authorization of the Magnuson-Stevenson Act: *D. Monti* offered that the re-authorization is currently underway and that the state's congressional delegation will be meeting on February 14th here at the Bay Campus to seek comments. He offered that a white paper has been produced by the NOAA recreational fishing working group that he is part of to address a synopsis of the recreational needs to be included in the re-authorization. *K. Booth* offered that the issue of transiting in the EEZ should be discussed. *R. Ballou* offered that the Director's primary focus for this meeting will be RI representation on the Mid-Atlantic Council and the transit issue.
- NEFMC Report: *R. Ballou* offered that the ASMFC report was not yet available and provided a summary of the main points of NEFMC report.

W. Macintosh offered that the issue about how the science has impacted the Black Sea Bass fishery and how the Division had indicated that science is suspect needs to be brought as an issue for the upcoming meeting regarding re-authorization of the Act. He offered that this problem is affecting how fishermen feel about the science. *R. Ballou* offered that the Council could discuss re-authorization issues at subsequent Council meetings, and then the Council could follow-up with Council recommendations on re-authorization of the Act. He indicated that Council members should let him know if this was desired for subsequent Council meetings.

Discussion ensued regarding the regional management now required for recreational Summer flounder, and that RI regulations should be syncing with Massachusetts regulations

Meeting adjourned at approximately 8:40

Prepared by *P. Duhamel*