

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
February 2, 2004
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: G. Allen, S. Macinko, S. Medeiros, D. Preble, J. King, K. Ketcham

Chairperson: D. Borden

RIDEM F&W Staff: M. Gibson, B. Murphy, N. Lazar, D. Erkan

DEM Enforcement: 1 person attended

Legal Counsel: G. Powers

Public: approximately 20 people attended

D. Borden called the Rhode Island Marine Fisheries Council (RIMFC or Council) meeting to order. He asked if there were any additions to the agenda, stating that S. Medeiros asked to have a discussion on recreational scup measures under other business. J. King and M. Gibson stated that there were shellfish advisory panel (AP) minutes which included an action item. D. Borden stated that the shellfish AP minutes would be discussed during the advisory panel report agenda item. **D. Borden asked if there were any comments on the minutes which were included in the packet for the January 5, 2004 meeting. There were no comments. He asked if there were any objections to approving the minutes as submitted. There were no objections therefore the minutes were approved.**

Advisory Panel Reports

Floating fish trap: G. Allen gave the report stating that K. Ketcham was also present. G. Allen asked to have T. Hoxsie added to the list of attendees, he was not currently listed in the minutes. The panel discussed lateral separation between traps and decided that this was not an issue except for the case of the Sakonnet Point traps. The distance between the traps was unknown and a representative from this company should attend the next floating fish trap AP meeting. There will be a second meeting at Jamestown on the 5th of February at 1:00. G. Allen stated that hopefully one of the Sakonnet Point fish trap owners would attend this meeting and then they would be able to put this issue aside. The panel also talked about lineal separation of traps, which again most of the traps which are set in the state are not a problem. However, the Sakonnet Point trap operators were not available for comment. The panel went on to talk about the purpose of the panel. G. Allen stated that the purpose of the panel was to ensure boating and navigational safety with regard to the floating fish traps. He went on to state that the panel won't be useful unless

the state requires the trap operators to identify which traps will be occupied for the upcoming season and maps are generated to give out to boaters. License renewals were discussed. The panel stated that a Department of Environmental Management (DEM) requirement in the regulations has a provision to inspect the fish traps and their locations. This should be enforced, it currently is not. At the next meeting that G. Allen had mentioned earlier, the panel would discuss marking the fish traps.

Winter flounder: G. Allen gave the report. He stated that the meeting was going to be an informational meeting. On the same day that the panel met, they were informed that legislation was passed which delayed the implementation of amendment (13) and this left what the panel was going to discuss up in the air for the time being. What they were going to discuss was potential reductions which would have to be enacted by the Atlantic States Marine Fisheries Commission (ASMFC) on winter flounder. Only two commercial representatives were present at the meeting. Due to the poor turnout and the legislation which was passed, the panel briefly discussed some alternatives, but did not come up with anything quantitative. G. Allen stated that he would highlight the things the panel talked about. They talked about the R.I. coastal marine life management area, they talked about the “no drag line” in Narragansett Bay (both of which are felt to have little benefit with regard to winter flounder), they talked about mesh size requirements in Narragansett Bay, and (on the recreational side) they discussed fishing in the coastal ponds. G. Allen stated that when D. Borden returns from the next winter flounder technical meeting, the panel would reconvene to revisit all of the areas they had briefly identified as potential problems in Rhode Island.

D. Borden asked M. Gibson to comment on the stock status. M. Gibson said the stock is as it has been for several years, the abundance is low, and there is still residual fishing mortality which is too high to allow rebuilding in the stock.

D. Borden stated that he would not be attending the winter flounder technical meeting but another staff member would. He went on to state that the reason he had wanted a meeting before the ASMFC technical committee meeting was to get ideas from RI’s industry to bring to the meeting. D. Borden stated that at the ASMFC level there is great concern about winter flounder stocks in the inshore areas along the coast including Narragansett Bay.

An audience member stated that he felt the meeting notice was not clear about what was going to be discussed and there were no trawler representatives present at the meeting. He hoped that the Council would hold another meeting with a clearer agenda before any decisions were made. D. Borden agreed.

G. Allen stated that one of the problems with developing a plan of action is that due to reporting insufficiencies, it was not known where the fish were coming from when they were being landed. This data would be important to know when developing a plan.

D. Borden commented further on the legislation alluded to earlier in the discussion. He stated that the legislation which had passed delayed implementation of amendment 13. A

second rider to this legislation was submitted and it would most likely pass. This second rider reinstates implementation of amendment 13 which should take place in May.

Scup/Black Sea Bass/Summer Flounder: K. Ketcham gave the report. The AP discussed the fish trap regulations first. The AP reviewed the existing regulations and two of the trap companies stated that they would like to remain at status quo for 2004. K. Ketcham presented a proposal at the meeting which was brought to him by three of the other trap representatives. K. Ketcham gave the details of the proposal (see AP minutes for details). The AP decided to bring both proposals forward to the Council. Not noticed in the AP minutes was a proposal to add in a quota trigger to keep the traps from exceeding there limit. D. Borden asked the Council if they would like to take this action item up at the present time. They agreed. G. Pope asked what specifically the quota trigger discussed would be. M. Gibson stated that there is an 80% trigger in the existing regulations where the possession limit will drop from 25,000 to 10,000 pounds. K. Ketcham suggested leaving this quota trigger in for the alternate option. **K. Ketcham made a motion to send both the status quo option and the alternate option to public hearing. J. King seconded the motion.** There was no further discussion. **The Council voted unanimously to approve the motion.**

D. Borden suggested taking up the recreational scup discussion under other business as suggested by S. Medeiros at the beginning of the meeting. The Council agreed

D. Preble gave the summer flounder recreational AP report. He stated that the main concern was the discards created by the size limits over the past few years and also coming in under the allowable recreational catch in 2003. D. Preble stated that RI would be able to liberalize its catch for next year by 13%. Most people at the AP meeting wanted to take the conservative approach, however, and remain at status quo. A proposal was brought forward at the meeting by F. Blount to allow for an incidental catch after the 20th of September which is the usual end date for the recreational fishery. He suggested extending the season until the end of the year with a possession limit of 1 fish. N. Lazar did an analysis and found that this would increase the catch by only 3%, therefore the state would still be 10% under their allowable catch. The AP consensus was to keep the size limit the same but alter the regulations according to the proposal put forward at the meeting (mentioned above). **D. Preble made a motion to bring this proposal to public hearing. The motion was seconded by K. Ketcham.** D. Borden asked for further discussion.

G. Carvalho suggested letting the public know for the public hearing that they could potentially harvest 10% more than what the proposal mentioned allows, the public may want to propose a less conservative management plan. He feels that if the recreational fishery doesn't utilize all of the resource allotted to them they stand to possibly lose it. D. Preble stated that he agreed with those statements. M. Gibson stated that the public hearing has already been noticed but it allows for any number of proposals to be brought forward.

G. Pope asked about the size limit. He feels that one of the major complaints of recreational fishermen is that the size limit is higher than what they would like. D. Preble stated that this was brought up but N. Lazar stated that modifying the size limit would have a bigger impact than 13% on the allowable catch.

G. Allen asked M. Gibson to have, for the public hearing, the maximum bag limit for the proposed second part of the summer flounder recreational season. M. Gibson stated that the Division of Fish and Wildlife (DFW) would do that.

An audience member stated that the AP discussed all of these options and were of the opinion that the reduced catch for 2003 was most likely do to inclement weather. If the weather had been better, the panel was of the consensus that the catch would have been at or over the allowable catch for the year, this is why they decide to go with the conservative estimate. **The Council voted unanimously to accept the motion.**

Shellfish advisory panel: J. King gave the report. The AP met to talk about spawner sanctuaries and open areas within management areas. J. King gave a synopsis of the areas which the AP wished to open and close (see AP minutes for map). Briefly, the RI Shellfisherman's Association (RISA) initially requested a yearly opening of "High Banks" after the area receives shellfish transplants rather than the current 2-year spawning closure policy for the shellfish management areas. The position of the DFW was to leave transplant closure policy as-is in the absence of hard biological data to support this change. The RISA counter-proposed a partial permanent closure triangle (Spawner Sanctuary). The AP came to the consensus to approve the proposal and bring it forward to the Council. The AP then discussed potentially adding a Bristol shellfish transplant for 2004 and they requested a Providence River dredging project update from the Army Corps of Engineers. D. Borden asked if this needed to go to public hearing. M. Gibson stated that these changes all existed within a management area therefore they did not have to go to public hearing. M. Gibson went on to state that what the Council has is a map with the proposed changes, he suggested allowing the DFW to draft some regulatory language and then bring this back to the Council for comment. M. McGiveney restated his support and the support of RISA for the proposal which was before the Council. **D. Borden asked the Council if there were any objections to having the DFW draft regulatory language which would be brought back before the Council at the March meeting for action. There were no objections.**

New Business

Distribution of the public hearing summary document: M. Gibson introduced the document which had been passed out to the Council at the beginning of the meeting. He briefly went down the list of items which were up for public hearing. B. Murphy brought up an issue with the floating fish trap commercial proposals. He stated that addendum X specifies that floating trap fishermen will only be allowed to begin fishing on April 15 on the state quota if the federal quota is exhausted by this date. If the federal quota is not caught by this date, the floating trap fishermen could put their traps in the water on April 15th, but they would have to fish at the federal possession limit.

R. Boragine stated that the public hearing summary document only documents the fluke aggregate landing regulations which were promulgated by the DFW. He went on to state that at the previous Council meeting, D. Preble made a motion to send all summer flounder proposals back to public hearing. M. Gibson stated that the public hearing summary document only reflects DEMs requirement to follow up an emergency regulation with a public hearing. There was also a technical change which was filed which will be discussed later in the agenda which deals with the motion made at the last Council meeting. D. Borden restated what M. Gibson said.

Other Business

Update on nominations to Enforcement AP and a request to convene: S. Medeiros read off the names of the proposed nominees: R. Jackson, G. Carvalho, D. Eagan, K. Thompson, R. Wallis, Ted Platz, and M. McGiveney. S. Medeiros went on to state that he supports the nomination of all of the individuals. **S. Medeiros made a motion to accept all of these individuals for the Enforcement Advisory Panel. G. Allen seconded the motion. There was no further discussion and no objections therefore the motion was approved.**

Update on Commercial Fishermen's Committee: M. Gibson stated that at the request of the Council a general solicitation was sent out and the three names listed on the memo were the only responses. The names were M. McGiveney, G. Carvalho, and R. Smith. **K. Ketcham suggested using the idea brought up at the last Council meeting to go to the associations in the state and have them put forward nominees. D. Borden asked if there were any objections to doing what K. Ketcham had suggested. There were none.** D. Borden stated that DFW staff would carry out this task.

S. Medeiros asked the Council if he could request that the Enforcement Advisory Panel meet, he had neglected to do this earlier. He stated that the panel would meet to discuss what subjects the panel would be charged with advising the Council on. **There were no objections to this.**

Update on RIMFC nominations: D. Borden asked M. Gibson to repeat the nominees for the Council vacancy. M. Gibson stated that the two individuals who came forward were B. Knight and M. Marchetti. D. Borden stated that the process was for the Council to make comments about the nominees but to not take a formal vote. He opened the floor to comments. There were no comments from the Council. D. Borden stated that the two nominees would be forwarded to Providence for the Director to make his recommendation.

Old Business

Reschedule July meeting: B. Murphy stated that due to July 4th, a federal holiday, falling on a Sunday, July 5th would be a day off for the state. **The Council decided to move the meeting to Tuesday, July 6th.**

Update on fluke regulations: M. Gibson stated that two items had been passed out to the Council, a memo from Acting Director Vincent and copies of the technical change which had been filed. Briefly, the Director declined to send the issue back to public hearing citing the fact that the process which had been followed originally was legitimate and procedurally correct. He did however recommend filing a technical change which reinstates the historical allocation percentages but gives the quota over the 2003 base year quota specifically to the summer 1 sub period per the Councils intent. This was done.

K. Ketcham asked what happens if the entire summer 1 quota is not caught, how do the fish get redistributed? M. Gibson stated that any underage gets split between the following sequential periods.

R. Boragine asked that the DFW pay special attention to how the fish are landed during summer 1 this year so that there is a basis to work off of when allocating any quota changes for 2005. M. Gibson stated that the summer 1 quota will be analyzed and brought to the summer flounder advisory panel after the sub period. The DFW will then be able to analyze the performance of the 2004 summer 1 sub period and make a recommendation for 2005.

G. Pope asked about the performance of the fishery from 2003. M. Gibson stated that he thought there was an overage during the winter 1 period and an underage during the summer 1 period.

K. Ketcham asked M. Gibson how the aggregate landing program is working so far. M. Gibson stated that landings have not come in as fast as he anticipated but there had been several weather interruptions this year. The fishery is currently at around 40% landed with a trigger to terminate the aggregate landing program at 80% landed. M. Gibson anticipated that this would occur around mid March.

R. Boragine stated that it was obvious that the Director was not going to revisit aggregate landings therefore he urged the Council to make it a priority so that it does not fall by the wayside. D. Borden stated that a process was currently underway to hold several meetings to discuss aggregate landings as was requested by the Council.

Added agenda items

Recreational measures for scup: D. Borden asked to begin this item with the committee report. K. Ketcham stated that what the meeting boiled down to was that they weren't completely sure what the allowable catch of scup was going to be for the following year because of some data that had come out of New York. The panel was hoping to wait for the DFW to get back to them with a better idea of what the allowable catch was going to be. The panel was planning on meeting again. The problem arose because of a regional assessment rather than a state assessment of recreational catches for scup. This regional assessment groups RI together with New York, Connecticut, and Massachusetts. The panel did recommend some changes based on the potential reduction of 57%. They

decided to raise the minimum size to 11 inches and to have a split season of 8-10 fish bag limit from May to August and then a 50 fish bag limit from the end of August and going as long as possible. It is not specified in the report but the panel wanted the August start date to coincide with Labor Day weekend. D. McPherson stated that the panel did not recommend anything; rather they just discussed the bag limit and seasons and would wait for better data from N. Lazar before making a recommendation. K. Ketcham stated that he felt the panel did want to make the specifications he mentioned earlier their recommendation.

M. Gibson gave a synopsis on why there was a 57% reduction required this year, basically stating that based on a region assessment, New York had a large overage while some of the other states, Rhode Island included, had smaller overages and they averaged out to 57%. For this year Rhode Island takes a hit because of the large overages of other states but in the future it may be one of those other states that take the hit if Rhode Island has a large overage.

K. Ketcham stated that as he read the addendum, New York in this instance seems to get rewarded with more allocation for going way over their quota. M. Gibson stated that a 57% reduction, which is what all the regional states have to adhere to, doesn't seem like a reward to him. There was more debate on this issue as well as the validity of MRFSS data. D. Borden made the point that this is a two fold problem because this MRFSS data will be used in the stock assessment; therefore it may in the end effect commercial fisheries.

There was discussion about the NMFS trawl survey data also, G. Pope and D. Borden both making the point that because of the schooling nature of scup the trawl survey has a tendency to either get very few fish or very many fish. For the past couple of years there was only a small number of fish caught by the survey and if this occurs this year, the fisheries, both commercial and recreational, will be looking at a quota reduction.

G. Carvalho made a point that the movement of scup is temperature driven, therefore if the NMFS sampling design doesn't take this into account, they stand to miss the large schools of fish by either sampling too late or too early.

F. Blount made the point that Rhode Island fisheries are going to be cut in half while the New York fishery will benefit by having over a million pounds of fish in excess of their long term average. D. McPherson supported F. Blount's comments and stated that Rhode Island should not accept any more than a 21.2% reduction in its recreational fishery.

D. Borden stated that this had been discussed at several different levels and it was his impression that this situation was not a done deal, rather it was going to be revisited. He went on to state that he does support this regional approach, but implementing it this year would be unfair due to the large overages in some of the partner states. G. Allen stated that it was not adequate as he saw it to just go by D. Borden saying that he thinks it is going to come back up. He proposed drafting a letter from the Council to the Director of ASMFC stating their disapproval of this amendment. D. Borden stated that the DFW

would commit to taking all of the comments expressed this evening and would draft a letter which would request that the ASMFC formally reconsider this issue. S. Medeiros asked if it would be beneficial to send letters from various fronts, in other words a letter from the Council but also a letter from the Governor. D. Borden said he would look in to this. G. Allen went on to say that they should at the same time offer some suggestions as to how to alleviate the situation for this year.

G. Allen asked whether they should defer this issue until a later public hearing rather than sending it to the next public hearing. D. Borden stated that he did not think they should defer it. They could still discuss the different scenarios, either a 57% or 22% reduction, whatever the reduction ends up being, because no action is taken at the public hearing. D. Borden stated that he would also see if V. O'Shea (Director of ASMFC) would attend the public hearing to hear first hand some of the arguments about this issue.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary