

**RHODE ISLAND MARINE FISHERIES COUNCIL**  
**Minutes of Monthly Meeting - amended**  
**July 10, 2006**  
**URI Narragansett Bay Campus**  
**Corless Auditorium**  
**South Ferry Road**  
**Narragansett, RI**

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

Chairperson: M. Gibson (G. Allen took over half way through the meeting)

RIDEM F&W Staff: N. Lazar, N. Scarduzio, D. Erkan, T. Angell

DEM Staff: R. Ballou

DEM Legal Counsel: G. Powers

DEM Law  
Enforcement: F. Ethier

Public: 26 people attended

Chairman M. Gibson called the meeting to order. He asked if there were any changes to the agenda. M. Gibson started by introducing Dr. Chris Anderson, a new Council member. There were two requests made for agenda modifications. There were as follows: The first was to expand the summer flounder advisory panel report to include a discussion on the summer 1 sub period, the next issue was the addition of an agenda item under 7d for the Directors response memo stemming from the May 4<sup>th</sup> public hearing. S. Parente asked to have agenda item 5e to request an advisory panel meeting to review current gill net regulations. **There were no objections by the Rhode Island Marine Fisheries Council (RIMFC or Council) to approving the agenda as modified.** M. Gibson asked if there were any objections to approving the minutes of the June 5, 2006 Rhode Island Marine Fisheries Council meeting as submitted. **S. Medeiros made a motion to approve the minutes as submitted and D. Preble seconded the motion. There were no objections from the Council therefore the minutes were approved as submitted.**

**Advisory Panel Reports**

*Shellfish:* J. King gave the report. The panel began with a discussion on new whelk regulations. G. Schey had brought forward some proposals as to how the regulation should be. The proposal touched on pot allocations, minimum size, licenses, and pot specifications. The shellfish AP recommended that the initial proposal be forwarded to the Council with thoughts on promulgating a body of whelk regulations by January of 2007. The AP then went through their membership list and D. Erkan was now sending

out letters to the panel members identified as having poor attendance. Upon response to the letters, or if no response is received, new panel members will be solicited to replace the outgoing members. The final order of business was to review the aquaculture leases. The AP had no objections to the three leases (Roebuck, Ricciarelli, and Brown) that they had been presented with. The panel also reviewed a lease associated with the North Cape shellfish restoration and had no objections to the proposed restoration plan.

G. Schey expressed his concern that something gets done prior to next years fishing season with regard to whelks. M. Gibson stated that the current schedule is to get a body of regulations done prior to next year. A question was asked about what the whelk stock assessment would encompass as far as socioeconomic data. N. Lazar stated that it would be primarily based on biological data. **M. Gibson suggested the Council authorize a reconvening of the shellfish AP when the body of whelk regulations has been drafted. The Council had no objections to this. The Council also had no objections to the shellfish AP chairman working through the shellfish AP membership list to purge non-active members.**

*Summer Flounder:* D. Preble gave the report. The sole agenda item was to discuss the fluke exemption certificate program. There were three main items discussed under this topic. The first was to allow individuals that currently do not have permits to lease them from individuals that do. The second was to eliminate the program entirely. The third possibility was to leave it at status quo. The panel decided to recommend remaining at status quo. The panel decided to have a second informal discussion about the performance of the summer 1 fluke fishery even though it had not been noticed on the agenda.

S. Medeiros expressed concerns about making a judgment on the AP agenda topic due to the lack of attendance at the meeting. A suggestion was made to list AP members who were absent. D. Preble expressed concern over making any major changes to the fluke fishery at this time due to the impending quota decreases coming down the line. **G. Allen stated that he thinks the Council should recommend to the Director, for the reasons mentioned by S. Medeiros and D. Preble, that he not make any changes to the fluke exemption certificate program at this time. S. Parente and K. Ketcham both concurred with G. Allen's statement.**

M. Gibson stated that there had been requests for action by members of the fishing community with regard to fluke, and the AP had an informal discussion on this topic. The point was that this was a timely issue and he hoped the Council would discuss this topic to offer advice to the Director. K. Ketcham stated that he was concerned that if summer flounder were taken from the summer 2 sub period as suggested by some at the AP meeting, this would increase discard mortality on the summer flounder stock during that period. S. Parente stated that he was a proponent of combining summer 1 and summer 2 and thinks the Director should take this action. He went on to state that the possession limit should start at 100 pounds and be adjusted appropriately. He meant this for the current fishing year and also for 2007. G. Allen stated that the Council should not adjust the management plan at this time as the plan had been approved through a rigorous public

process. He felt that S. Parente's suggestion would be a valid plan to consider for 2007. D. Preble suggested convening the fluke AP again soon, suggesting early September, to begin management plan discussion for 2007 as they were going to be contentious. There was a discussion on what created the heavy landings of fluke in the summer 1 sub period.

*Lobster:* J. King gave the report. The lobster AP began with a discussion on the Atlantic States Marine Fisheries Commission (ASMFC) addendum VIII to the lobster fishery management plan. The second order of business was to go over some proposed regulatory changes that had to do with the current v-notch definition for lobsters. J. King and M. Gibson gave the highlights of the addendum VIII discussion; it was an informational discussion. The panel then went on to discuss both a new v-notch definition as well as a maximum gauge size, which was being proposed in Massachusetts. The panel made a recommendation to convene the area 2 LCMT to discuss consistent v-notch definitions and maximum gauge size regulations. They also recommended that the Council approve a new v-notch definition and maximum gauge size and be consistent with MA as well as being consistent with their implementation date. The panel had a discussion on a ventless trap survey and gave the DFW some input on the survey methodology.

M. Gibson gave further detail on the DFW's position on the v-notch definition as well as the maximum gauge size. K. Ketcham asked if the maximum gauge size would affect other fisheries that catch lobsters such as trawlers. The discussion was that it would depend on the federal permit designation. M. Gibson suggested a motion that the Council recommend to the Director that he work with his MA counterpart to develop a new v-notch definition and maximum gauge size for area 2 that will extend the longevity of the North Cape lobster restoration program, both of which will be implemented simultaneously with Massachusetts and as soon as possible. **D. Preble agreed with the language and made the motion as suggested by M. Gibson. G. Allen seconded the motion.** P. Brodeur made a comment that the maximum gauge size would be ineffective due to how the lobsters are currently stratified with regard to size and management areas. He suggested making the max gauge size only pertain to female lobster. **K. Ketcham made a friendly amendment that the Council move forward with the new v-notch definition but hold off on the maximum gauge size for now. The makers of the motion did not object to the friendly amendment.** An audience member asked about procedural issues with the current action being taken. M. Gibson stated that the Council had previously been given background information and that if the Director took an emergency action, a follow up public hearing would be needed to make the action permanent. A second audience member requested that the maximum gauge discussion be put forward at the next lobster AP meeting. G. Powers suggested specifying that the Council recommend by their motion that the Director should find imminent peril to the lobster resource and thereby invoke his power to promulgate emergency regulations. **K. Ketcham made a second friendly amendment to clarify the motion as recommended by G. Powers.** The Council decided this intent was already within the motion and did not need to be amended. S. Macinko asked exactly what was in imminent peril, the funding for the program or the resource. M. Gibson suggested removing the language from the original motion that stated "restoration program" and replace it with "lobsters" thereby reading "extend the longevity of the North Cape lobsters". **The makers of the motion**

**did not object to the friendly amendment. The Council approved the motion unanimously.**

There was a discussion on the status of addendum IX. M. Gibson stated that it is still under development at ASMFC and will be brought forward at the August ASMFC board meeting.

### **New Business**

*Council comments on aquaculture leases:* This discussion took place immediately before the advisory panel reports (above). There were three leases to review. N. Lazar introduced the three leases. The first two were leases that had been seen by the Council during the last month, remanded to the shellfish AP, and were now back before the Council. The third lease was new to the Council. The site had been reviewed by the Division of Fish and Wildlife (DFW) and the Council had a memo from M. Gibson as well as the site evaluation form from the DFW. The memo stated that there were concerns due to naturally occurring shellfish in the area as well as reports of harvesting in the area of the lease. The DFW suggested moving the lease to deeper water but at the same time did not think the current lease site would impact the biology of the resources in that area. The shellfish AP had reviewed the lease and did not object to it, albeit this was before they had seen the DFW site evaluation. J. King briefed the Council on what the shellfish AP had stated regarding these leases. K. Ketcham asked if any east bay fishermen were present at the meeting. D. Alves stated that none were at the meeting but some were consulted during the public comment period, none had issues with the site. J. King asked that this be remanded back to the shellfish AP for further discussion given the new information that had come forward. **K. Ketcham made a motion that the Council approve the Roebuck and Ricciarelli leases and remand the Brown lease back to the shellfish advisory panel. G. Allen seconded the motion. J. King made a friendly amendment to allow a conditional approval from the Council pending his conducting a phone poll. The makers of the motion did not object to the friendly amendment. The Council approved the motion unanimously.**

*Discussion on RIMFC aquaculture lease policy:* N. Lazar stated that this discussion was taking place because the current policy for aquaculture leases that the Council is working with does not work well. N. Lazar outlined a proposed policy that included mailing the application to the advisory panel, determination by the DFW with a site visit, if necessary, any biological impacts, and then present all information to the shellfish AP at a meeting. There was a discussion about the current policy and its problems. An audience member objected to expediting the process due to the fact that this is an operation that takes place in a public trust resource and therefore should not be expedited as in the case of agricultural farms on land. D. Alves assured the audience member that none of the public process was being shortchanged; they were simply trying to avoid an extra one-month issue that arises due to the normal Council advisory panel policy. The Council discussed the current operating procedure for CRMC with regard to aquaculture applications. G. Allen suggested that the DFW provide the Council with a policy written down on paper for the next Council meeting. It should include the ideas brought up during the discussion.

*Council advice to DEM Director on Greenwich Bay shellfish proposal:* The Council had been provided a document containing the Greenwich Bay proposal as written by the RI Shellfishermen's Association. In summary the proposal alters the Greenwich Bay opening schedule as currently defined if certain weather conditions and closings occur. The position of the DFW is that they are concerned about the proposal due to its sole reliance on economic factors as the reason for altering the agreed to schedule in regulation. M. McGiveney gave the Council some background on the proposal. R. Ballou indicated that the Director is still being counseled by his legal staff on this issue. **D. Preble made a motion to table the Greenwich Bay proposal until the DEM renders its opinion on the legality of the proposal. J. King seconded the motion. The Council voted unanimously to approve the motion.**

*Council discussion on potential to improve AP process and use of AP as part of Council member training process:* **G. Allen suggested moving this topic to next month's agenda. There was no objection from the Council.**

*Discussion on "no discharge policy":* R. Ballou stated that this policy was in effect and he had a handout for the Council on the policy. He offered to take any questions on it that the Council had. The Council had no questions.

*Discussion on gillnet regulations:* S. Parente stated that his intent on this topic was to have an advisory panel meeting to discuss updating the RI gillnet regulations mainly with regard to marking requirements and the adoption of similar rules to Massachusetts. **S. Parente suggested remanding this issue to the Industry Advisory Committee. The Council had no objections to this.** G. Allen asked that an agenda be brought forward for the next Council meeting for approval.

### **Other Business**

*Memo to Council on regulatory consistency with federal regulations:* N. Lazar stated that the Council had been presented a memo containing a list of areas in RI regulations that were inconsistent with federal regulations. The items in the list would be forwarded to public hearing as regulatory change proposals. S. Medeiros asked about the filet law contained in the memo. He was under the impression that this was a topic that was still being discussed through the enforcement advisory panel process. N. Lazar stated that the filet law the memo referred to was specific to cod and for federal vessels. An audience member asked whether it would be beneficial to have all RI regulations conform to federal requirements, noting specifically coastal sharks. N. Lazar stated that it is a matter of jurisdiction in most cases but in the specific case of sharks, the ASMFC was currently working on a plan for sharks that may implement state specific measures regarding coastal sharks.

*Memo on end of the year meeting schedule:* G. Allen asked for Council comments on the memo regarding the end of the year meeting schedule. The Council requested having there follow up meeting to the proposed September 11 meeting on the same night as the hearing. The Council agreed to skip the October 2 scheduled meeting. The follow up

Council meeting to the October 16 public hearing will be held on October 18. The Council agreed to hold the follow up to the proposed November public hearing on the already scheduled December 4<sup>th</sup> monthly meeting.

*Council comments on advisory panel nominations:* N. Scarduzio stated that the DFW was in receipt of a resume from J. Boland who wanted to be considered for the vacant shellfish dealer position on the shellfish advisory panel. **The Council had no objections to his appointment, therefore his nomination was approved.**

*Report from the DFW on winter flounder and menhaden observer programs:* N. Lazar began with the menhaden program. He stated that there was a breakdown in communication as to when the program was supposed to begin and there were also logistical problems with putting an observer on a spotter plane, namely with regard to insurance. There were also problems with coordinating in such a short amount of time, stating that he had not received a memo about the plan until May 4. He wanted to go on record to state that Arc Bait had been very cooperative during the process, however things did not shake out in time to put together a survey program. N. Lazar finished by stating that the one sea sampler that they had contracted left to take another job and the DFW currently has no sea sampler. N. Lazar went on to speak about the winter flounder survey. Again, losing the sea sampler made this survey difficult to coordinate as well as in this case, running in to difficulties with getting industry boats to take on an observer. G. Allen wanted to go on record to state that the DFW had seriously let down the commercial and recreational fishermen of the state by failing to accomplish these two commitments.

### **Old Business**

*Floating fish trap site chart:* N. Lazar stated that the Council had been provided a chart as well as a memo from B. Murphy indicating the sites that had been set with gear and whether or not they were marked correctly. The Council had no comments on this.

*Report from DEM Law Enforcement on floating fish trap sites:* F. Ethier stated that there currently was no formal report from DEM Law Enforcement. G. Allen stated that he had requested this with S. Hall in attendance and still nothing had been done. He found this troubling. There were no further comments from the Council.

*Report on Quota Management Project:* G. Allen suggested deferring this to the next meeting. The Council agreed.

### **FYI**

*Director's decisions on the May 4 public hearing:* N. Lazar went through the memo. G. Allen stated that the only thing left that had not been filed was a determination on whether the fall tautog fishery would be altered.

### **Post agenda discussion**

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary

**AMENDMENT:** The Council requested at their 8/7/06 meeting to have the motion made during the lobster advisory panel report from these minutes clarified. The entire motion was as follows:

**Original motion as suggested by M. Gibson** - that the Council recommend to the Director that he work with his Massachusetts counterpart to develop a new v-notch definition and maximum gauge size for area 2 that will extend the longevity of the North Cape lobster restoration program, both of which will be implemented simultaneously with Massachusetts and as soon as possible.

**Three friendly amendments were made to the original motion, two of which were approved by the makers of the motion. The approved friendly amendments were** - 1. that the Council move forward with the new v-notch definition but hold off on the maximum gauge size for now; and 2. remove the language from the original motion that stated “restoration program” and replace it with “lobsters” thereby reading “extend the longevity of the North Cape lobsters”.

**Therefore the complete motion should read as follows** - that the Council recommends to the Director that he work with his Massachusetts counterpart to develop a new v-notch definition for area 2 that will extend the longevity of the North Cape lobsters, which will be implemented simultaneously with Massachusetts and as soon as possible.