



Marine Resources

Advisory Council

BULLETIN

Robert Danielson

John Davi, Jr.

Melissa Dearborn

Paul Farnham

James House

Thomas Jordan

John Renaldo

Paul Risi

Karen Rivara

Christopher Squeri

Charles Witek

Dean Yaxa

William Wise  
Chairman

Kim Knoll  
Staff Assistant

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11 July 2011

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Meeting of the Marine Resources Advisory Council

Chairman Wise began the meeting at 7:07 p.m. Although the Council meetings are generally held in the afternoons at 2:00 p.m., the July meeting is held in the evening to try to better accommodate the fishing community during their busy season.

The meeting began with introductions by the members of the Council as well as the DEC's Director of Marine Resources, James Gilmore.

Councilor Bob Danielson announced that there was to be a ribbon-cutting ceremony on Thursday, July 21<sup>st</sup> to commemorate the John Fritz Memorial Fishing Pier at Smith Point County Park. Bob welcomed all to attend and remember John Fritz. Mr. Fritz, who passed away a few years ago, was an active member of the Long Island Beach Buggy Association (LIBBA), held positions on State and County fishing advisory boards and was a member of many fishing clubs and organizations. Mr. Fritz was a tireless advocate for fishermen and recreational fishing access.

Chairman Wise reviewed the meeting agenda. He noted that there was a possibility that there would not be a quorum of councilors present at the meeting. This has been a recurring problem over the past year that seriously hampers the Council's operation. The main problem is that two commercial fishery representative seats on the Council have been vacant for some time and this leaves the Council perilously close to a quorum problem at every meeting. Mr. Wise is going to dedicate time over the next month or so to try and get these seats filled. (Note: In fact, a quorum was not achieved at this meeting; thus, the Council could take no official action)

**Public Comment Period**

No comments were offered.

**Draft Minutes, 12 April 2011 and 10 May 2011 Council Meetings**

No changes were needed to the draft minutes of the Council's 12 April 2011 and 10 May 2011 meetings; formal approval will be deferred to the Council's 20 September 2011 meeting.

**Report, Striped Bass Trawl By-Catch Allowance Work Group**

Chairman Wise reminded the Council of its ongoing discussion about the current striped bass by-catch allowance given to commercial trawl fishermen. Trawl fishermen were initially allowed 7 striped bass tags per day; that number was raised some years ago to 21 to assist trawl fishermen in using their full annual allotment of tags. Last year, Councilor Paul Farnham asked that the number be relaxed even further or to remove the daily limit entirely. A workgroup was established that was comprised of recreational and commercial fishermen to

look into this. Mr. Wise reported that this group met only once. It was clear from the onset that the recreational members were dead-set against any relaxation of the current 21-fish daily by-catch limit. Councilor Charlie Witek (a member of the group) has summarized the recreational point of view in a memo and Mr. Wise (as Chairman of that Committee) has asked Mr. Arnold Leo to speak up for the commercial side and do the same. Mr. Wise state that, as chairman of the committee, he saw an unbridgeable chasm between the recreational and commercial fishery representatives on the group that would never be bridged. He thought the best that could be achieved was to have both sides present their opinions to the Council; there will not be a consensus report on this topic. Mr. Wise felt that time could be better spent focusing on issues where progress was likely to be made as opposed to just spinning wheels and wasting everyone's time.

Audience member Mr. John Mihale said he believes that some consideration should be given to allow the commercial fisherman to fill their tags, provided they inform the DEC when they are going to fish, what they caught and when the tags have been filled. Once a trawl fisherman's annual allotment of striped bass tags had been used, they should be barred from fishing in State waters until the end of the striped bass commercial fishing season.

### **Bureau of Marine Resources Budget, Staff & Administrative Issues**

Mr. Jim Gilmore gave a brief summary regarding the following:

#### *Budget-*

The Bureau of Marine Resources lost revenue because of the suspension of the marine recreational fishing license, although about \$2 million was eventually restored to the budget to offset this loss. This \$2 million represents only about one-third of the lost revenue, so the budget is not in the best shape. The Bureau will, however, be able to cover expenses by continuing to cut back on certain administrative duties. For example, this year the Department will not mail out commercial striped bass tags to those who are eligible for an allotment. Fishermen will have to personally pick up their tags at East Setauket, saving the cost of mailing them. Mr. Gilmore commented that, if things remain status quo, the Bureau should be able to maintain its basic programs and activities. They had been hoping to increase the enforcement capabilities but that will not happen now.

#### *Staffing-*

The CSEA union has come to a contractual agreement with the State but PEF union has yet to do so. Mr. Gilmore stated that there will be staff cuts within the Department. As of July 27<sup>th</sup>, the Department lost its public outreach person in the Albany office. The publication of "Field Notes", the Department's electronic newsletter, will also be a casualty of that same cut along with any outreach pamphlets or information sheets normally produced by the outreach person.

Originally there was going to be 85 positions lost within the Department (mostly biologists). The Commissioner was able to have that number reduced to 46, 8 of which are in the Bureau of Marine Resources. Mr. Gilmore stated that, in a strange twist, the DEC will actually be receiving waivers in order to hire a few people. This is largely due to filling positions responsible for reinstating the Conditional Shellfish Harvest Program. Mr. Gilmore is concerned, however, that by the time the interviews and paperwork for the new hires are completed and approved, too much time will have transpired and the State will renege on the waivers.

Audience member Mr. Reed Reimer expressed concern that any reduction in the number of Environmental Conservation Officers (ECO's) will reduce the levels of environmental enforcement, further impacting the State's budget negatively. Fewer tickets issued means less revenue. Mr. Gilmore explained that environmental penalty fines go into the Marine Account, but permit fees (which represent a substantial amount of money) go into the General Fund.

Dr. Nancy Solomon said she heard rumors that, with the cuts, there will no longer be anyone to do the water quality testing for towns but Mr. Gilmore said that the program is back on track. That position (a lab technician) is one of the ones that the Department has approval to try and fill.

Mr. Carl LoBue said that he has heard from sources in this week's Fisherman and various media in Albany that, because of the way the budget was written, the U.S. Fish and Wildlife Service may withhold as much as \$20 million in Wallop-Breaux and other grant-in-aid funds from DEC. Mr. Gilmore replied that the rumors were true. The budget bill that passed gives the Division of the Budget the authority to take money out of the New York State Conservation Fund and use it for other purposes. When the Federal government found out about it this, they determined that it was a violation of the rules of the Sport Fishing Restoration Program. They decided to hold back New York's Wallop-Breaux allocation until this is rectified. Mr. Gilmore stated that the Governor's Office has been notified of this situation. To correct this problem will take an act of the State Legislation, which does not reconvene until September. Mr. Wise suggested that this is a matter of high importance to everyone and that the Council should keep this problem foremost in mind and ensure that the

integrity of the Conservation Fund (and the Marine Account that is a part of that Fund) is restored and then upheld. Councilor Danielson suggested that Mr. Wise author a letter on the Council's behalf expressing its concern – the rest of the Council concurred.

A member of the audience questioned whether the marine recreational fishing license fee paid by recreational party and charter will be refunded. Jim Gilmore said that there is a bill awaiting signature by the Governor that would give a refund to all fishermen.

*Administration-*

Mr. Gilmore stated that there is much frustration in this area because what used to take one month to receive approval now takes between six and eight months because of new procedures that have been put in place. The Division of the Budget has imposed impossibly strict spending restrictions on the agencies.

**2012 Tautog Management Measures**

Mr. Gilmore reminded everyone that the Atlantic States Marine Fishery Commission's (ASMFC) most recent (2011) assessment of the tautog (blackfish) stocks found that the stock was being overfished. The Commission's Blackfish the Technical Committee has that a reduction in blackfish fishing mortality (F) is needed. On 07 July 2011, a public meeting was held at Stony Brook University to discuss alternative revisions to the current blackfish regulations in New York. The limits presented in the following tables were the options initially presented.

**Table 1  
Commercial Fishery, Commercial & Recreational Fisheries Bear Equivalent Cuts  
(53% reduction in F)**

Option	Open Season	Possession Limit	Size Limit	Total Reduction
C1	Aug 1 – May 14	25/10	16	53.0
C2	Aug 16 – May 20	25/10	16	53.0
C3	Jan 1 – Feb 29; Apr 8 – Nov 7	25/10	16	52.9
C4	Sept 1 – May 26	25/10	16	53.1
C5	Oct 4 – Jan 31	25/10	14	53.1
C6	Sept 9 – Apr 30	25/10	15	53.3

**Table 2  
Recreational Fishery, Commercial & Recreational Fisheries Bear Equivalent Cuts  
(53% reduction in F)**

Option	Open Season	Possession Limit	Size Limit	Total Reduction
R1	Jan 17 – Apr 30; Oct 1 – Nov 12	4	16	53.0
R2	Jan 17 – Apr 30; Oct 1 – Nov 15	3	16	53.1
R3	Jan 17 – Apr 30; Oct 1 – Nov 25	2	16	53.3
R4	Jan 17 – Apr 30; Oct 1 – 28	4	15	54.0
R5	Jan 17 – Apr 30; Oct 1 – 24	4	14	53.9
R6	Oct 1 – Nov 14	4	16	53.1
R7	Oct 1 – Nov 17	3	16	53.2
R8	Oct 1 – Oct 29	4	15	54.0
R9	Oct 1 – Oct 30	3	15	54.0
R10	Oct 1 – Oct 25	4	14	53.9
R11	Oct 1 – Oct 27	3	14	53.1
R12	Oct 8 – Dec 1	4	16	53.1
R13	Oct 15 – Dec 16	4	16	53.1
R14	Oct 19 – Dec 20	4	16	53.2

**Table 3**  
**Entire Reduction in F Taken From the Recreational Fishery, Only**  
**(56.9% reduction in F)**

Option	Open Season	Possession Limit	Size Limit	Total Reduction
R15	Oct 1 – 23	4	14	57.5
R16	Oct 1 – Nov 8	4	16	56.5
R17	Oct 8 – Nov 23	4	16	56.5
R18	Oct 15 – Dec 10	4	16	56.5
R19	Jan 17 – Apr 30; Oct 1 – Nov 6	4	16	56.5
R20	Jan 17 – Apr 30; Oct 1 – Nov 8	3	16	56.9

**Table 4**  
**Commercial/Recreational Combination**  
**(13.3% reduction in commercial fishery F; 55.9% reduction in recreational fishery F)**

Option	Open Season	Possession Limit	Size Limit	Total Reduction
C7	Commercial Apr 8 – Feb 29	25/10	15	13.3
R21	Recreational Oct 1 – Nov 9	4	16	55.9
R22	Recreational Oct 8 – Nov 24	4	16	55.9
R23	Recreational Oct 15 – Dec 11	4	16	55.9
R24	Recreational Jan 17 – April 30; Oct 1 – Nov 7	4	16	56
R25	Recreational Jan 17 – April 30; Oct 1 – Nov 9	3	16	56.4

**Table 5**  
**Commercial/Recreational Combo**  
**(31.3% reduction in commercial fishery F; 54.6% reduction in recreational fishery F)**

Option	Open Season	Possession Limit	Size Limit	Total Reduction
C8	Commercial April 8 – Feb 29	25/10	16	31.3
R26	Recreational Oct 1 – Nov 11	4	16	54.8
R27	Recreational Oct 8 – Nov 26	4	16	54.8
R28	Recreational Oct 15 – Dec 13	4	16	54.8
R29	Recreational Jan 17 – Apr 30 Oct 1 – Nov 9	4	16	54.8
R30	Recreational Jan 17 – April 30 Oct 1 – Nov 12	3	16	54.7

Ms. Sandy Dumais of DEC explained that it should be kept in mind that if you were to choose either a commercial or recreational option, they must both come from the **same** table – you would not be able to mix and match from different tables.

The Council then had an extended discussion about how the need to reduce fishing mortality in the tautog fishery should be generally approached, as well as the pros & cons of specific management alternatives.

Councilor John Davi worries that increasing the minimum size limit will result in New York exceeding its allowance harvest limit and we would then be penalized next year. Ms. Dumais replied that the weights are based on the coastwide average

and our average is actually higher than that but our quotas are based on that coastwide average weight, so New York would actually come out ahead.

Chairman Wise stated that part of the quandary involved deciding whether the required reduction in F should come out of the recreational fishery alone or should both fisheries bear a burden. The recreational landings of tautog far exceed the commercial landings in New York, at least the *reported* commercial landings. Councilor Tom Jordan stated that the commercial fishery should not be asked to take a reduction. The original language of Addendum V to the Interstate Fishery Management Plan for Tautog (FMP) stated that the reduction needed to come from the recreational fishery **only**. This was *after* the Technical Committee and The Tautog Management Board went over everything. Mr. Jordan continued that, based on data contained in the FMP and 2009 landings data from NMFS, landings in the commercial tautog fishery fell by 28% between 2005-2005 and 2009. During the same time frame, recreational tautog catches increased by 30% – 35%. Tom questions why the Commission is now considering mixed reductions covering both fisheries. Why does the commercial fishery have to suffer when it is not responsible for the overfishing ?

Ms. Dumais responded that it is actually Addendum IV to the Tautog FMP where the language calling for reductions in the recreational fishery only is found. When the ASMFC Tautog Technical Committee looked the tautog fishery in different states, taking the reduction **only** from the recreational fishery would have obliterated the entire recreational fishery in those states. This is not the case in New York, where the recreational fishery is much larger than the commercial fishery. In order to prevent that outcome, Addendum V was created whereby it stated the reduction should come from both industries.

Councilor Jordan commented that this only reinforces his belief that New York's commercial fishery should not share the burden. Why should New York be penalized for the disproportion of fishing in other states?

Councilor Danielson said this is clearly a reflection of the poor quality of the Marine Recreational Fishing Statistical Survey (MRFSS) data, stating that it's a known fact that MRFSS overestimates the actual harvest by recreational anglers in New York. He estimates that the recreational catch is actually a third less than the MRFSS estimate, yet tautog is still in decline. It can't be a recreational fishing deal only, in order to make a difference the hit must come from both fisheries. Steve Heins of DEC clarified saying that the numbers are not *declining* – they are flat. Councilor Witek said that New York's commercial harvest of tautog has increased 66% in the five years on record. The recreational fishery took the full hit during the last round of fishing mortality reductions; it's now time for both sides to bear the burden.

Councilor Davi noted that, if the recreational fishing industry would stop dragging their feet and get a marine recreational fishing license so the data can be counted correctly, they would be able to stop blaming MRFSS. He agreed with Councilor Jordan. The commercial fishery has not gone over in their landings so why be penalized?

Councilor Paul Risi said that, regardless of the accuracy of the catch estimates, we need to make a decision now and move forward. He'd be willing to give up the 6-7 days in the recreational tautog fishing season.

Audience members who were members of the State's recreational "for hire" fishing sector stated that the most important thing is that recreational fishermen be allowed to fish (and they to sail) as much as possible.

Audience member Mr. Marc Hoffman said that the spawning season for tautog needs to be protected through a coordinated effort affecting both the commercial and recreational fisheries.

Mr. Mihale asked what would happen if you totally eliminated the commercial fishery for tautog in New York? Councilor Jordan answered that the recreational fishery would still be facing a fishing mortality reduction of more than 50% compared to last year. To that end, he stated would be willing to negotiate and recommended looking at Table 4, Option C7 on the commercial side and Options R21 to R25 for the recreational fishery. John Davi concurred.

Charles Witek spoke against disproportionate reductions in the commercial and recreational tautog fisheries. He'd like the burden to be shared equally. He also mentioned that he would like to see a hard quota for New York's commercial tautog fishery, especially given that it remains an open access fishery.

Chairman Wise asked for comments about Councilor Jordan's recommendation.

Commercial fisherman John German agreed that Option C7 on Table 4 was the best of the commercial fishery options, although he doesn't much like it.

Chairman Wise stated that, since a quorum of councilors was not present, the Council is unable to make a formal recommendation. However, it should be able to come up with a majority opinion. Most councilors were happy to restrict

their consideration to Table 4 except for Councilor Witek who felt that the options on that table were disproportionately weighted against the recreational fishery. He cited a section of the current NYS marine fishery management policy (Section 13105.b.4 of the Environmental Conservation Law) that states "When you have reductions, the reductions should fall on all sections equally." Mr. Witek stated that there should not be a reallocation giving one sector a break over another. Mr. Jordan replied that, the Table 4 options do not represent a resource reallocation from the recreational to the commercial fishing sector. Official landings data indicate that New York's commercial fishery for tautog always landed about 10% of the recreational landings for the species. He would sign up for a hard annual commercial quota of 10% of the recreational landings for tautog any day of the week.

Mr. Jordan's suggested that the final options be drawn from Table 4; most people in the audience supported Option C7 for the commercial side and perhaps R23 for the recreational fishery. Councilor Danielson said he would be more comfortable if each of the sectors were dealing with the same size fish as in the options contained in Table 5. The commercial fishery representatives expressed opposition to the options in Table 5, preferring those in Table 4.

Through much discussion the majority of the council and with a quick poll of the audience, the most popular choice was Table 4 Option C7 for the commercial fishery and either Option R22 or Option R23 for the recreational fishery, with R23 being slightly more favored. Messrs. Hoffman and Reimer spoke on behalf of the options in Tables 1 & 2, which provide for greater protection of tautog during their spawning season.

Mr. Gilmore asked if there was a predominant view that both sectors (recreational and commercial) should take *some* reduction? (Yes) It was also suggested that the Department submit Tables 4 & 5 to ASMFC's Technical Committee. Mr. Wise said that the Council should be able to make a more specific recommendation at its 20 September 2011 meeting.

An audience member questioned how long the recreational tautog season might be if the recreational minimum size was increased to either 16 or 17 inches? As a member of the recreational "for hire" industry, this individual felt that the most important thing are the number of days the season is open and their boats can be out on the water. Mr. Gilmore expressed reservations about further increases in the recreational minimum size limit for tautog, saying that, as the recreational minimum size limit on fluke has been increased, fewer and fewer anglers are out there fluke fishing.

### **Striped Bass Management Measures**

ASMFC Commissioner from New York Mr. Pat Augustine brought up the subject of slot sizes as an alternative means for the management of striped bass. He stated that statistics show that the stock is at a state of equilibrium and the population is controlling its own growth. In his view, using a slot size of 24" – 30", with one fish larger than 30" allowed, would take the pressure off the bigger fish. Most folks who commented disagreed with this idea, stating that New York anglers would be penalized while other states will not have to comply. Councilor Danielson said if slot size limits were not implemented in the striped bass fishery on a coastwide basis it will not work and it will not be fair to New York. "For-hire" Captain Jim Schneider said there are too many striped bass around and that the minimum size limit for the species should be lowered in New York, which would help open up the fish to greater harvests by shore-based anglers, among others. Mr. Hoffman commented that he doesn't understand how catching smaller striped bass would help larger striped bass. Councilor Risi spoke about the possible enforcement problems that a slot size would entail. Councilor Jordan believes that the limits are already confusing and if you switch to a slot size, things will get even worse. Most felt it was better to have a larger size limit because once the fish is caught you would be able to keep it. Mr. Augustine requested that the Council gather statistics and put together a subcommittee to re-think this issue. He believes that ASMFC will look closely at the issue of a slot size in the striped bass recreational fishery. As one of New York's ASMFC commissioners, he would like to have the input of the Council when he speaks at the next Commission meeting. Ms. Carol Hoffman of DEC said the Commission's Striped Bass Technical Committee is preparing a report and will be looking at the interim stock assessment with the potential proposal for creating an addendum to reduce striped bass fishing mortality.

### **Council's 2011 Meeting Calendar**

The following are the dates of the regularly scheduled meetings of the Marine Resources Advisory Council in 2011:

20 September  
15 November

Except as noted, all regularly scheduled meetings of the Council are held at 2:00 p.m. at DEC's offices at 205 Belle Mead Road in East Setauket, New York.

### **20 September 2011 Council Meeting**

The following topics are tentatively scheduled for the Council's 20 September 2011 meeting:

- 2012 tautog regulations.
- 2012 summer flounder, scup and black sea bass regulations

Check the Council's web page, <http://www.somas.stonybrook.edu/MRAC> for items added to the agenda after this bulletin is distributed. For further information about the Marine Resources Advisory Council or items covered in this bulletin, to make arrangements for addressing the Council on an agenda item or submitting written comments on an agenda item, or to suggest an agenda item, contact: William Wise, Chairman, Marine Resources Advisory Council; PHONE: 631/632-8656; FAX 631/632-9441; [wwise@notes.cc.sunysb.edu](mailto:wwise@notes.cc.sunysb.edu).