

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

SUFFOLK, SS.

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IN RE RAOUL D. ROSS and OFFSHORE)	ADJUDICATORY PROCEEDINGS	
LOBSTER PERMIT - DMF ID # 152578,)	DOCKET NO. OLP-152578-08-PH	
BOAT PERMIT - DMF ID # 152576, and)		
BOAT PERMIT - DMF ID # 140418,)		
)		
Respondent)		
)		
IN RE EDWARD J. LEZYNSKI, and)	ADJUDICATORY PROCEEDING	
BOAT PERMIT - DMF ID # 85131, and)	DOCKET NO. BP-85131-08-PH	
ALL PERMIT ENDORSEMENTS and)		
AUTHORIZATIONS,)		
)		
Respondent)		
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FINAL DECISION

I, Paul J. Diodati, Director of the Division of Marine Fisheries, having read the attached **RECOMMENDED FINAL DECISION**, hereby adopt the Administrative Law Magistrates Findings of Facts, Conclusions of Law and Recommendations in their entirety. For these reasons, offshore lobster permit, DMF ID # 152578, and boat permits, DMF ID # 152576 and ID # 140418, including all attached regulated fishery authorizations will not be renewed; and boat permit DMF ID # 85131 including all attached regulated fishery authorizations will not be renewed.

Pursuant to G.L. c.30A, §14(1), the respondents have thirty days from the receipt of this **FINAL DECISION** to seek judicial review in Superior Court.

Dated: 1-4-2010

Paul J. Diodati, Director

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

SUFFOLK, SS.

IN RE RAOUL D. ROSS and OFFSHORE)
LOBSTER PERMIT - DMF ID # 152578,)
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Respondent)

ADJUDICATORY PROCEEDINGS
DOCKET NO. OLP-152578-08-PH

IN RE EDWARD J. LEZYNSKI, and)
BOAT PERMIT - DMF ID # 85131, and)
ALL PERMIT ENDORSEMENTS and)
AUTHORIZATIONS,)

Respondent)

ADJUDICATORY PROCEEDING
DOCKET NO. BP-85131-08-PH

RECOMMENDED FINAL DECISION

I. INTRODUCTION

Under authority of G.L. c. 130, §80 and 322 CMR § 7.01(9), and in accordance with G.L. c.30A, §13 and 801 CMR §1.00 two show cause orders were served; one on Raoul D. Ross (hereinafter “Ross”) and one on Edward J. Lezynski (hereinafter “Lezynski”) informing them that an adjudicatory hearing had been scheduled for each individual to determine whether offshore lobster permit ID #152578, and boat permits ID #152576 and ID #140418 (Ross), and boat permit ID #85131 (Lezynski), including all applicable regulated fishery permit endorsements should not be suspended, revoked or not renewed by the Director of the Division of Marine Fisheries (hereinafter “*Marine Fisheries*”) for violations of the Commonwealth’s marine fishery laws.

Pursuant to 801 CMR §1.01(7)(j) and §1.02(9)(a) I issued an Order dated January 1, 2009 informing the parties that the two proceedings would be consolidated, there being issues common to both proceedings, including common facts and law. Neither party objected to the consolidation. The proceeding was continued by joint motion of all parties on several occasions while they undertook serious attempts to reach an agreed upon

decision. However, negotiations broke down and the adjudicatory hearing was held on May 5, 2009. In attendance were Captain Peter Hanlon,¹ Lieutenant Earl Burns, and Officer Gus Lunedei from the Massachusetts Environmental Police (hereinafter "MEP"), Story Reed from *Marine Fisheries*' data and statistical branch, Ross, Lezynski and their mutual authorized representative, Attorney Emile Morad, Jr. All those persons testifying were sworn in.

Having heard the testimony, studied the demeanor of the witnesses, and reviewed all of the physical evidence, I hereby make the following Findings of Fact and Conclusions of Law and issue this **FINAL RECOMMENDED DECISION**.

II. FINDINGS OF FACT

1. Ross is a commercial fisherman who holds three commercial fishing permits including: (1) offshore lobster permit ID # 152578 for use on board the 50' *Carole R II*, MS 7779KJ with regulated fishery authorizations for coastal access permit (CAP) -NS, CAP-squid, fluke, scup, northern shrimp, sea scallop shucking, horseshoe crab, sea bass, quahog-dredge, and shellfish; (2) boat permit ID # 152576 for use on board the 30' *Little Boat*, MS 7779KJ with regulated fishery authorizations fish pot-conch, fish pot-sea bass, fish pot-scup, sea scallop shucking, striped bass, quahog dredge and shellfish; and (3) boat permit for use aboard a 20' boat, MS 1085AR with regulated fishery authorizations fish pot-conch, fish pot-scup, fluke and shellfish.

2. Lezynski is a commercial fisherman who holds one boat permit ID # 85131 to for use on board a 21' boat, MS 1718TT, with regulated fishery authorizations for fluke, scup, horseshoe crab, sea bass, striped bass and shellfish.

3. On July 15, 2008, at approximately 10:45 am, Capt. Hanlon observed the *Carole R II* enter Hyannis Harbor and proceed towards the Ocean Street docks. Following the *Carole R II* at a distance of approximately ½ mile was the 20' foot boat being operated by Ross. As the 20' boat passed by, Capt. Hanlon observed two grey and two black fish totes as well as a fishing pole were visible under the port rail inside the

¹ At all times relevant to his observations and investigations of this matter Peter Hanlon was an active MEP Captain. However at the time of the adjudicatory hearing Capt. Hanlon had retired from State service.

boat.² The 20' boat followed the *Carole R II* into Hyannis Harbor and moved to the east side of the inner harbor. The fish totes were then off-loaded from the *Carole R II* onto a white truck, MA Registration 4719TR (hereinafter the "white truck"), that belonged to Ross which was in the parking area behind the Cape Cod Museum (hereinafter the "Museum").

4. The following day, July 16, 2008, Capt. Hanlon and Lt. Burns drove by Ross's home and observed Ross's white truck parked in the yard. The MEP Officers returned to inner Hyannis Harbor. Capt. Hanlon approached the 20' boat secured to the dock and observed the same two gray and two black fish totes that were seen in the boat on the previous day. There was no lobster holding crate, known as a lobster car, in the 20' boat at that time.³

5. Capt. Hanlon and Lt. Burns then drove to the Great Island area of Yarmouth where they established an observation point and set up a Discoverer Telescope which goes from 0x power to 60X power. From that area using the telescope Capt. Hanlon could observe several fishing vessels dragging nets in the coastal waters off of Yarmouth. The weather was dry, seas were calm and visibility was clear up to 15 miles. Capt. Hanlon and Lt. Burns maintained surveillance of all boats entering and exiting Hyannis Harbor. At approximately 9:20 am Capt. Hanlon saw Ross's 20' boat exit the harbor and head slightly offshore. Using the telescope Capt. Hanlon was able to see that Ross was operating the 20' boat. Ross continued south and brought his 20' boat to a stop. Ross was observed in some form of activity on board the 20' boat while it was stopped, after which he came underway and headed further south towards an area known as the "Bishops."

6. At about the same time the MEP Officers observed the *Carole R II* underway to their east heading for their observation point. Ross continued operating his 20' boat back towards the position where he had first come to a stop by following the *Carole R II* closing to about ¼ mile. The *Carole R II* passed approximately ⅓ of a mile off the MEP observation point and then came to a stop.

² Generally, a fish tote can be anything capable of temporarily holding fish, such as a cooler, boxes or containers or, in this case, a plastic container with removable top that is specifically designed, built and available to the commercial fisherman. See the photos from the CD that was received into evidence.

³ 322 CM322 CMR 6.14(1) defines a lobster car as "any container, enclosure, crate, or any other container or contrivance designed to hold and store lobsters."

7. Using the telescope, Capt. Hanlon was able to see that Lezynski was operating the *Carole R II*. Capt. Hanlon watched as Lezynski joined a crewman at the stern of the *Carole R II* and both men began working. During this activity Capt. Hanlon saw a yellow buoy suddenly appear floating in the water directly behind the stern of the *Carole R II*. Lezynski and the crewman moved quickly forward from the stern and disappeared inside the pilot house. The *Carole R II* then came underway and, at a good rate of speed, headed on a course directly to the entrance of Hyannis Harbor.

8. At this point Ross was seen heading his 20' boat towards those waters that had just been worked by Lezynski and his crewman from the stern of the *Carole R II*, and which now contained a floating yellow buoy. Ross brought his 20' boat to a stop at the yellow buoy, gaffed it, placed the buoy line into a pot hauler on the starboard side of his boat and worked to pull on the buoy line and haul what was attached to the other end of the line to the water's surface. The MEP Officers saw a gray lobster car with a lockable top attached to the end of the yellow buoy line come to the water's surface. With the use of a fish pick, Ross began to remove fish from the gray lobster car and bring the fish aboard his 20' boat. Capt. Hanlon readily recognized the clean white belly and tail that identified the fish as summer flounder, also known as fluke.⁴ Ross then hauled the gray lobster car onto his 20' boat and emptied the remaining contents of fish onto the deck. Ross placed the yellow buoy and trap line inside the now empty grey lobster car and moved it to the bow of his boat. Ross then concealed the lobster car by covering it completely with the top covers of fish totes. Ross secured the fish tote covers concealing the gray lobster car by pressing down on them. He finished up by washing down the entire deck of his 20' boat with sea water retrieved with the help of a red bucket.

9. On July 16, 2008 at approximately 10:55 am, Officer Lunedei had positioned himself near a tackle shop on a hill directly overlooking the parking area behind the Museum, less than 200 yards away. Officer Lunedei was able to observe Ross operating his 20' boat enter Hyannis inner harbor. Ross proceeded directly to the docks behind the Museum, secured his 20' boat to the dock and prepared two black fish totes to be off loaded. Ross's white truck was parked behind the Museum. Approximately ten minutes

⁴ 322 CMR §622(1)(e) defines summer flounder as "fluke or that species of fish known as *Paralichthys dentatus*."

later a small black pickup truck entered the parking area behind the Museum, backed up to Ross's white truck and came to a stop. Lezynski exited the small black pickup, took three fish totes from the back of his truck and placed them on the back of Ross's truck. Both Ross and Lezynski off loaded the two black fish totes and the gray lobster car from the 20' boat and placed them on the back of Ross's truck.

10. During this same time frame, fishery enforcement Special Agents Shawn Eusebio and Joseph D'Amato of the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (hereinafter "*NOAA/NMFS*") became involved in this fisheries investigation and surveillance.⁵

11. During the evening of July 16, 2008, while the 20' boat and the *Carole R II* were secured to the dock, *NOAA/NMFS* Special Agent Eusebio located the yellow buoy tied to trap line with a grey lobster car attached to the other end. The lobster car had no markings, identification or other indicia of ownership. Using a black marker *NOAA/NMFS* Special Agent Eusebio placed a number of identifiable marks on the yellow buoy and the grey lobster car.

12. On July 17, 2008 at approximately 7:15 am, Officer Lunedei arrived at the parking area behind the Museum joining *NOAA/NMFS* Special Agents D'Amato and Eusebio. Officer Lunedei approached Ross's 20' boat which was secured to the dock. The following items that were in the 20' boat were photographed and documented: two empty black fish totes, two empty green fish totes, 3 buckets, two bushel baskets, a white cooler, and two fishing poles. The grey lobster car and yellow buoy which contained the identifiable markings that Special Agent Eusebio had drawn on them during the previous day were not in the 20' boat.

13. Approximately 70 minutes later, while still remaining in the parking area Officer Lunedei watched Ross drive his white truck into the parking area behind the Museum. Ross exited his truck, walked down the dock and onto his 20' boat. Officer Lunedei noticed that Ross was not carrying nor have in his possession a gray lobster car, lobster trap or yellow buoy. Using his cellular telephone, Officer Lunedei notified Capt.

⁵ Administrative Notice is taken of the fact that MEP has entered into a joint agreement with *NOAA/NMFS* whereby MEP officers are deputized as federal Special Agents with all necessary powers to enforce federal fisheries law, and federal Special Agents are deputized as Environmental Police Officers with all the powers necessary to enforce state fisheries laws.

Hanlon that Ross was leaving the inner harbor in the 20' boat. At approximately 8:38 am Ross came underway in his 20' boat and proceeded straight out of the Hyannis inner harbor.

14. On the same day, July 17, 2008, at approximately the same time, 7:05 am, Capt. Hanlon and Lt. Burns established an observation point at the lighthouse in the Great Island area of Yarmouth. Special Agent Jenkins from the United States Coast Guard's Intelligence Unit joined the MEP officers supplying them with a Canon Camera. Using the Canon camera, Capt. Hanlon could easily identify the *Carole R II* to the east of their observation point. A number of photographs were taken.

15. At approximately 9:30 am NOAA/NMFS Special Agent Eusebio told Capt. Hanlon that he, Eusebio, had picked up Ross's 20' boat heading outbound from Hyannis Harbor. Lt. Burns also saw Ross's 20' boat heading outbound from Hyannis Harbor. All three fisheries enforcement officials watched Ross's 20' boat close on a position just off the point of land at the Yarmouth Lighthouse. Ross brought the 20' boat to a stop and remained in that position until approximately 9:29 am when the 20' boat came underway and headed for the "Bishops".

16. Off to the east towards Yarmouth, Capt. Hanlon could see the *Carole R II* stopped in the water. Men were seen on the stern cleaning the vessel's nets. At approximately 10:25 am the *Carole R II* came underway heading towards the officer's observation point. At about the same time Ross's 20' boat was heading for their observation point as well. Capt. Hanlon took a series of photographs showing the vessels converging on one another. Ross's 20' boat approached the *Carole R II* from the port side stern. The *Carole R II* came to a stop. Capt. Hanlon saw the captain, Lezynski, and a crewman emerge from the pilot house and walk towards the stern of the *Carole R II* where Hanlon saw one of the men holding the yellow buoy that had been marked earlier by the NOAA/NMFS Special Agent. Hanlon watched one of the men throw a yellow buoy overboard. Hanlon then photographed the yellow buoy as it began floating close to the stern of the *Carole R II*.

17. The *Carole R II* came underway and headed towards the entrance of Hyannis Harbor at a good speed. Ross operated his 20' boat and came towards the yellow buoy. Ross hooked the yellow buoy and pulled it aboard. He put the line from the yellow buoy

through the snatch block of his pot hauler and pulled the gray lobster car alongside his 20' boat and, just as he had done the day before, opened the lobster car in the water and using a fish pick began removing fluke from the lobster car and bringing it onto his 20' boat. Ross continued to haul the fluke aboard, pulled the lobster car up onto the rail and finished removing all of the fluke. Ross placed the trap line and yellow buoy into the lobster car, closed it, and moved it again to the bow of the 20' boat. Ross was seen handling a number of fish tote covers at the bow. He then took the controls and headed toward the entrance of Hyannis Harbor.

18. MEP Officer Lunedei had maintained his observation of the docks and parking area behind the Museum and observed the 20' boat entering Hyannis inner harbor at approximately 11:25 am. *NOAA/NMFS* Special Agent Eusebio immediately notified Capt. Hanlon of this fact. Capt. Hanlon, Lt. Burns and Special Agent Jenkins then departed their observation point at the Yarmouth Lighthouse to join Officer Lunedei and Special Agents Eusebio and D'Amato at the parking lot behind the Museum.

19. The 20' boat proceeded straight to the docks behind the Museum. At approximately the same time, Lezynski was seen driving his black pickup truck into the parking area behind the Museum and backed up to Ross's white truck. Lezynski exited his truck and unloaded fish totes onto Ross's truck. Lezynski then walked down the dock to the 20' boat and helped Ross unload two black fish totes from the boat. Officer Lunedei identified himself as a Massachusetts Environmental Police Officer and informed both Ross and Lyzenski that he was going to conduct a fisheries inspection of Ross' permits, gear and catch.

20. Ross stated that he had approximately 200 pounds of fluke caught by rod and reel. Officer Lunedei inspected the contents of the 20' boat and found the gray lobster car and the yellow buoy that had the identifiable markings drawn on the previous day by *NOAA/NMFS* Special Agent Eusebio with a black marker. Officer Lunedei read Ross and Lezynski their Miranda rights. Both men replied that they understood their rights.

21. At this point Capt. Hanlon and Lt. Burns had joined Officer Lunedei and *NOAA/NMFS* Special Agent Eusebio in the parking area behind the Museum. Special Agent Eusebio showed Ross the grey lobster car and yellow buoy that had the black

marks drawn on them. Lezynski admitted that he was already in possession of his daily quota of three hundred pounds of fluke which he had caught that day, and in the presence of Officer Lezynski went on to complete and sign his daily fishing vessel trip report as required by both *Marine Fisheries* and *NOAA/NMFS*.⁶ After conversing with Ross, Lezynski admitted that he had caught and possessed more than 300 pounds of fluke that day and had transferred at sea the excess fluke to Ross. Lezynski stated that approximately 170 pounds of fluke over his daily quota had been placed in the grey lobster car attached to the yellow buoy and placed in the water that morning.

22. Ross admitted that some of the fluke he had just landed was taken from the marked grey lobster car placed in the water along with the yellow buoy by the *Carole R II*. Both Ross and Lezynski admitted to conducting the same at sea transfer on the previous day of an amount of fluke that was over the 300 pound daily quota by placing it in the same grey lobster car located by the same floating yellow buoy. Lezynski admitted that he and Ross had been conducting at sea transfers of fluke during the month of July.

23. The grey lobster car was not legibly marked with the name and residence of the owner. MEP Officers seized the grey lobster car and yellow buoy which had been marked by the *NOAA/NMFS* Special Agents. The fluke landed by Ross, which weighed out at 191 pounds, were seized by MEP officers and sold to Atlantic Coast Seafood for \$447.50. MEP officers also seized and inventoried the contents of the 20' boat. All items, including a \$447 check representing the proceeds from the sale of fluke, and a lobster pot belonging to Ross's son were seized and labeled by MEP in accordance with the seizure and forfeiture provisions of G.L. c.130, §§9, 12 and 257.

24. 322 CMR §6.22(2)(d)(2) establishes a daily possession limit of 300 pounds of fluke for commercial fishermen using nets.

⁶ Both state and federal fishery agencies have requirements that fishermen complete and sign a daily fishing trip report identifying what fish was caught, how much, where and when. NOAA/NMFS and the 5 northeast states, including Massachusetts, use the Standard Atlantic States Information System (SAFIS) to collect commercial fisheries data from authorized dealers who purchase fish directly from fishing vessels. SAFIS contains reliable landings of fluke by commercial fishing vessels. The SAFIS records received into evidence establish that between 6/10/08 and 7/22/08 the *Carole R II* landed its daily 300 pound quota on numerous days. These same records show that Ross also landed fluke on many of the same days as the *Carole R II* supporting Lezynski's admission that he and Ross had been conducting at sea transfers of fluke for the month of July.

III. CONCLUSIONS OF LAW

1. According to 322 CMR §8.02, the transfer fish at sea means “to convey or move fish or shellfish from one vessel to another vessel at-sea.”

2. According to 322 CMR §8.02, the term at sea means “any location in all waters under the jurisdiction of the Commonwealth including within harbors.

3. Ross and Lyzenski violated the provisions of G.L. c.130, §1 by “knowingly counseling, aiding or assisting another in the violation” of G.L. c.130, §32, and 322 CMR §§6.14, 6.22 and 8.11(20), “or by knowingly sharing in the proceeds of such violation by receiving or possessing fish, shall be deemed to have incurred the penalties imposed thereby upon the person guilty of such violation.”

4. Ross and Lyzenski violated the provisions of G.L. c.130, §32 by using a lobster car which was not legibly marked with the name and residence of the owner.

5. Ross and Lyzenski violated the provisions of 322 CMR §6.14 by placing a buoyed or lobster car within waters of the Commonwealth.

5. Ross and Lyzenski violated the provisions of 322 CMR §6.22(2)(c)(ii) by possessing fluke in excess of those limits set forth in 322 CMR §6.22.

6. Ross and Lyzenski violated the provisions of 322 CMR §8.11(20) by engaging in *at sea transfers* of fluke which is a fishery subject to a 300 pound daily possession limit between June 10 through December 31 as fully set forth in 322 CMR §6.22.⁷

IV. CONCLUSION AND RECOMMENDATION

MEP has met its burden of showing by a preponderance of credible evidence including testimony, *Marine Fisheries* and *NOAA/NMFS* fluke statistical data, and photographs establishing that both Ross and Lyzenski violated the marine fishery laws

⁷ 322 CMR 8.00, Coastal Fisheries Conservation and Management, is a comprehensive regulatory scheme designed to conserve important fisheries such as fluke. The purpose and scope of chapter 8.00 states the following: “[T]he Massachusetts Marine Fisheries Advisory Commission, concerned about impacts from increased fishing effort on the Commonwealth’s inshore fisheries resources, has adopted conservation and management strategies to cap fishing effort in state waters and has established timetables for further actions in the future. Regulations which implement these strategies are designed to address both the recent, sharp decline in abundance of many of the most important fisheries resources inhabiting state waters and the poor near-term prospects for inshore fisheries. Inshore fisheries resources are limited and stressed, and overall fishing pressure is increasing. 322 CMR 8.00 is designed to address the efforts of mobile gear fishermen who have a major impact on fish and shellfish abundance by virtue of their ability to pursue fish and their increased fishing power.” 322 CMR §8.01. See also comprehensive fluke regulations at 322 CMR §6.22.

that are specifically designed to conserve and restore the important fluke fishery. The respondents do not dispute this evidence.

The conservation and management of fluke stocks is very important not only to the continued rebuilding of the fluke resource, but to the Massachusetts economy, its fisherman and its coastal fishing communities. Fluke is managed by the Atlantic States Marine Fisheries Commission (hereinafter "ASMFC") of which Massachusetts is a member State.⁸ ASMFC in conjunction with the Mid-Atlantic Fishery Management Council has developed and approved a Summer Flounder, Scup and Black Sea Bass Fishery Management Plan, including numerous amendments and addendums (hereinafter "the fluke plan"). The regulatory measures set forth in the plan are required to be adopted and enforced by the member states.⁹ Amendment 2 to the plan, approved by ASMFC in 1992, established a comprehensive program for the development of annual fishing regulations for fluke to be implemented by the member states. ASMFC establishes Annual Total Allowable Landings (hereinafter "TAL") which are then divided into a state-by-state commercial quota (60% of the TAL) and recreational quota (40% of the TAL). The commercial and recreational TAL is then allocated to the 15 member States. Presently Massachusetts has been allocated a mere 6.8% of the TAL.¹⁰ Exceeding the annual allocated fluke quota would have serious consequences for both stock rebuilding and the continued allocation of the same percentage in the future.

These are serious violations. The respondent's activities were clandestine and deliberate. The respondents knowingly violated marine fishery conservation laws. These at sea transfers of fluke have been taking place over a significant period of time. Finally, this activity has negative impacts on rebuilding fluke stocks, and on Massachusetts' continued ability to properly conserve this quota based fishery and implement and enforce the conservation regulations of the fluke management plan.¹¹

⁸ 322 CMR c.130, App. §§1-5. Other members include Maine, New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.


⁹ *Id.*

¹⁰ Addendum XV to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan, Atlantic States Marine Fisheries Commission, November 2004.

¹¹ The failure of Massachusetts to implement and enforce its fluke regulations could result in a finding of "non-compliance" by the ASMFC, thereby jeopardizing the Commonwealth's fluke allocation. See Atlantic Coastal Fisheries Cooperative Management Act, 16 USC §5101, et seq.

For all of the reasons set forth above, I am recommending that the following permits not be renewed: Ross's offshore lobster permit ID # 152578 endorsed with regulated fishery authorizations for coastal access permit (CAP) -NS, CAP-squid, fluke, scup, northern shrimp, sea scallop shucking, horseshoe crab, sea bass, quahog-dredge, and shellfish; Ross's boat permit ID # 152576 endorsed with regulated fishery authorizations for fish pot-conch, fish pot-sea bass, fish pot-scup, sea scallop shucking, striped bass, quahog dredge and shellfish; Ross's boat permit ID # 140478, endorsed with regulated fishery authorizations for fish pot-conch, fish pot-scup, fluke and shellfish; and Lezynski's boat permit ID # 85131 endorsed with regulated fishery authorizations for fluke, scup, horseshoe crab, sea bass, striped bass and shellfish.

Dated: 1-3-10

By: 
David C. Hoover, Esq.
Administrative Law Magistrate
Department of Fish and Game

NOTICE

This decision is a Recommended Final Decision of the Administrative Law Magistrate. It has been transmitted to the Director of *Marine Fisheries* for his Final Decision in this matter. This Recommended Final Decision is therefore not a Final Decision of the agency and may not be appealed to the Superior Court pursuant to G.L. c. 30A. The Director's Final Decision is subject to court appeal and will contain a notice to that effect. Because this matter has now been transmitted to the Director of *Marine Fisheries*, no party shall file a motion to renew or reargue this Recommended Final Decision or any portion of it and no party shall communicate with the Director of *Marine Fisheries* regarding this Recommended Final Decision, unless the Director, in his sole discretion, directs otherwise.