

## **MARINE FISHERIES ADVISORY COMMISSION**

### **Business Meeting Minutes**

**September 17, 2024**

**Kingston Town House**

**26 Evergreen Street**

**Kingston, MA 02634**

#### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Kalil Boghdan; Shelley Edmundson; Chris McGuire; Tim Brady; and Bill Amaru. Absent: Arthur “Sooky” Sawyer and Bill Doyle.

*Division of Marine Fisheries:* Daniel McKiernan, Director; Bob Glenn, Deputy Director; Kevin Creighton, Assistant Director; Story Reed, Assistant Director; Jared Silva; Nichola Meserve; Anna Webb; and Greg Skomal.

*Department of Fish and Game:* Tom O’Shea, Commissioner.

*Massachusetts Environmental Police:* Captain Robert Forsythe and Lieutenant Matt Bass.

*Members of the Public:* Ed Barret, Will Poston, Ray Jassaume, Raymond Jarvis, Mike Hogan, Eric Spicer, and Peter Fallon.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

Chairman Ray Kane called the September 17, 2024 Marine Fisheries Advisory Commission (MFAC) business meeting to order.

## **REVIEW OF SEPTEMBER 17, 2024 BUSINESS MEETING AGENDA**

Chairman Kane asked if there were any amendments to the September 17, 2024 MFAC business meeting agenda. Director McKiernan requested two changes to the agenda. First, Bill Doyle had requested DMF provide a presentation on CSO-related shellfish closures in Buzzards Bay, and as Bill was unable to make the September meeting, DMF was moving to postpone this presentation. Second, DMF wanted to reorder the remaining discussion items to address false albacore and Atlantic bonito management first. There were no objections raised to these requested changes and the September 17, 2024 was thusly amended.

## **REVIEW AND APPROVAL OF AUGUST 20, 2024 DRAFT MEETING MINUTES**

Chairman Kane asked if there were any amendments to the August 20, 2024 draft MFAC business meeting minutes.

Mike Pierdinock requested an edit to his comments on page 15. The concern he stated was related to the unregulated discharge of pharmaceutical drugs in

wastewater, not just birth control pills.

Shelley Edmundson also requested an edit to her comments regarding food security earmarks on page 12. She asked that the minutes more clearly state that these grants have enabled the Martha's Vineyard Fisherman's Preservation Trust to purchase local seafood, pay a fair price to local fishers for the product, and donate the fish to island food insecurity groups.

No objections were raised to these amendments.

The Chairman requested a motion to approve the August 2024 MFAC business meeting minutes. **Tim Brady made the motion to approve the June 19, 2024 business meeting minutes as amended. Bill Amaru seconded the motion. The motion was approved 6-0-1 with Chairman Kane abstaining.**

### **LAW ENFORCEMENT COMMENTS**

Lt. Bass provided comments for the Massachusetts Environmental Police (MEP). The MFAC were updated on two outstanding enforcement issues related to lobster trap fishing in Cape Cod Bay. First, a criminal trial involving lobster gear violations was concluded with a jury finding in favor of MEP on all counts. Second, DMF came to a settlement agreement in an adjudicatory proceeding involving lobster trap limit and trap tag violations, which resulted in the primary violator forfeiting his permit and another permit involved faced sanctions limiting their ability to fish lobster traps moving forward. Lt. Bass also discussed an incident involving the assault of a federal fisheries observer and commercial striped bass violations on the North Shore.

There was some discussion among Lt. Bass, Director McKiernan, and Jared Silva regarding the settling of adjudicatory proceedings and what decisions are published to DMF's website. Jared noted that, as a matter of practice, proceedings that conclude by agreement are not published to the website so as to encourage parties to settle.

Regarding the commercial striped bass enforcement matters, MEP Captain Robert Forsythe noted it involved illegal catch occurring in New Hampshire (where commercial fishing is prohibited) for sale into Massachusetts and this required cross-jurisdictional cooperation. Kalil Boghdan commended MEP for their efforts

On personal issues, Lt. Bass stated that Acting Colonel Patrick Moran recently retired from MEP and Governor Healey has hired retired State Police Superintendent, Colonel Chris Mason, to serve as MEP's Interim Colonel until a more permanent candidate can be brought on board. Capt. Forsythe also noted that Jack Chapin was also recently promoted to North Shore Captain following AJ Ford's retirement earlier this year.

There was some follow-up discussion among Capt. Forsythe, Lt. Bass, Chairman Kane and Kalil Boghdan regarding personnel. Captain Forsythe confirmed there are currently 107 uniformed officers (including management) employed at MEP. Chairman Kane recalled ranks had historically been about 130 officers, which was thought to be an

appropriate level for MEP's ranks. Captain Forsythe noted MEP continued to try to work to increase their ranks and thanked the MFAC for their continued advocacy. There was then some discussion of the state's hiring process.

Chairman Kane, Bill Amaru, Capt. Forsythe, and Lt. Bass then discussed MEP's presence along the Outer Cape region. Amaru noted there were several new field officers along the Outer Cape this year but noted there he has not observed an on-the-water presence in the region. Lt. Bass noted MEP did not currently have a permanent patrol boat east of Bass River due to logistical issues, but some of the vessels are trailered. Bill and Ray both felt there should be a more robust on-the-water presence in this region given the breadth of fishing activity that occurs along the eastern shore of the Cape.

Tim Brady stated that smart management can also help MEP better allocate their limited resources. To this point, he described how the 2020 action to close the Cape Cod Canal to commercial striped bass fishing helped lessen the previously persistent enforcement and compliance issues at the project likely allowing MEP to allocate resources elsewhere.

### **COMMISSIONER'S COMMENTS**

Commissioner Tom O'Shea began by updating the MFAC on the status of the "Commercial Fisheries Commission." This public body was established by the Legislature in 2022; includes representatives from various commercial fishing organizations; is co-chaired by DMF and the Office of Coastal Zone Management (CZM); and is to focus on the development of sustainable fishers, particularly as it relates to offshore wind energy development. For a number of reasons, it has been challenging to launch this public body. Foremost, has been the appointment process, which was now concluding with only one outstanding appointment remaining. Additionally, DMF also recently loss personnel to administer and oversee this public body, including Dr. Justin Bopp (Wind Energy Specialist) and Julia Kaplan (Policy Analyst). DFG has prioritized backfilling Dr. Bopp's position and was hopeful a job listing would be posted this fall. Additionally, there were some concerns regarding how this new public body fits in alongside the MFAC and the Fisheries Working Group on Offshore Wind. He noted that unlike the MFAC, the new public body does not have a regulatory role. However, there may be some redundancy with the Fisheries Working Group. Tom's goal was to hold this body's inaugural meeting by the end of the year. To achieve this, he was considering bringing an outside group, such as the Consensus Building Institute (CBI), to help facilitate the onboarding process and refine the Commission's goals and objectives.

Kalil Boghdan asked for more clarity regarding the mission of the Commercial Fisheries Commission and expressed concerns that it could divert authority away from the MFAC.

Commissioner O'Shea stated that the enabling statute was broadly worded, but that his expectation is the body would primarily work on issues related to fisheries and

offshore wind. The statute also requires the Commission produce an annual report for the legislature on the various topics it works to address.

Director McKiernan added the public body should be renamed the Commercial Fisheries Commission on Offshore Wind, as the focus of the body is really to address the industry's concerns related to wind energy development. Dan also noted that the MFAC has very clear advisory and regulatory oversight authorities which this new public body does not possess.

Bill Amaru noted that a significant hurdle to filling out many state public bodies is the lack of compensation.

Moving on, Tom indicated Legislature would likely take up the Environmental Bond Bill in early-2025. Accordingly, the Department was looking to acquire capital funds for public access, habitat restoration, and land acquisition.

Commissioner O'Shea was looking forward to meeting and working with MEP's Interim Colonel. He noted there were currently several issues of common interest between the Department and MEP. Foremost among them is the new gun law and how it may impact hunters.

Tom recently attended an event at the New England Aquarium that provided a behind-the-scene's look at NOVA's three-part series titled "Sea Change: The Gulf of Maine". This series looks into the Gulf of Maine ecosystem and how this body of water is warming faster than much of the rest of the world's oceans. Tom spoke very highly of the series and encouraged MFAC members to view it. Bill Amaru strongly agreed.

Commissioner O'Shea recently presented to the National Caucus of Environmental Legislatures. The focus of the presentation was the state's Biodiversity Executive Order and Strategic Planning initiative. He noted that the presentation as well received and was in stark contrast to a presentation given by a State Representative from Florida.

### **DIRECTOR'S COMMENTS**

Director McKiernan began his comments by mentioning recent correspondence with the Massachusetts Shellfish Officers Association (MSOA). Earlier this summer, MSOA contacted DMF to raise concerns regarding how some municipalities were constrain the ability of their Constable to effectively conduct their job. Dan speculated some of this may be in response to concerns regarding how this job interfaces with Peace Officer Standards and Training (POST) requirements. In response, DMF issued a letter to MSOA that descried DMF's expectations for how the shellfish constable job is to be conducted. This included working hours that allowed them to be in the field when shellfish fishing was occurring; conducting routine inspections; issuing citations and warnings, and working cooperative with DMF to implement emergency public health closures. DMF would forward MEP the letter.

DMF completed and published its 2023 Annual Report. This annual document effectively serves as a compendium on the breadth of the agency's infrastructure and work. Dan opined this was a critical document for organization posterity.

The Massachusetts Legislature will host Seafood Day at the State House on October 16. This is an annual event to celebrate the Commonwealth's Seafood Industry.

DMF was working to resolve some confusion regarding the state's marine lateral boundary with New Hampshire. Historic legal documents set the boundary as proceeding eastwards at 86° 07' 30" East from shoreline. However, there is confounding language New Hampshire statute that describes the boundary as proceeding more southeasterly at 107° East from the coast. This has led to some New Hampshire fishers setting lobster trap gear in Massachusetts state waters, including during the seasonal whale closure. DMF was working with the New Hampshire Department of Fish and Game to better educate the public on the maritime boundary.

DMF's fall trawl survey was experiencing some setbacks. The contracted vessel, the R/V Gloria Michelle, has been at the Fairhaven Shipyard undergoing repairs. While the start of the survey has been delayed, it should occur and conclude during the period when it has been historically conducted. However, this will likely require staff put in a series of long days and the upcoming weather forecast may further complicate completing this work on schedule.

At the upcoming ASMFC meeting, the Lobster Board will vote on Addendum XXXI. This addendum delays the implementation of the biological measures approved as part of Addendum XXVII from January 1, 2025 to July 1, 2025. This is designed to potentially accommodate Canadian rule making and address potential international trade impacts. This delay is not expected to have any impact on conservation given the limited lobster harvest during the winter and early spring period. If the ASMFC approves this addendum, DMF will recommend the MFAC vote to adopt the delayed implementation date at its October business meeting.

DMF and CZM are developing comments on NOAA Fisheries' proposed vessel speed rule that could affect vessel traffic, including ferries, in Nantucket Sound. DMF's focus has been on challenging NOAA's risk analysis. Once the letter is finalized, DMF will send the MFAC a copy.

Chris McGuire asked if CZM and DMF were proposing NOAA Fisheries adopt an alternative management strategy or more broadly objecting to the proposed speed limit rule. Bob Glenn stated the comment letter is stating DMF's objections to NOAA's preferred broad-scale speed restricted area while also supporting dynamic management (Alternative 4).

Bob noted that NOAA's preferred proposal is not sufficiently surgical or dynamic and its adoption is likely to have significant economic consequences, particularly related to the islands and their ferry traffic. Bob further opined that vessel strike risk is being attributed to nearshore areas like Vineyard Sound and Nantucket Sounds where right

whale sightings are highly infrequent. This is because of spill over risk from adjacent offshore areas like Coxes Ledge and Nantucket Shoals without consideration for differing environmental and oceanographic conditions between the areas that may influence where right whales are likely to occur.

McGuire noted that technology will likely play a critical role in implementing dynamic speed restriction areas. The Stellwagen Bank Sanctuary Advisory Council has successfully piloted broadcast notices through AIS to ship operators. Bob Glenn added that the federal funding through the Consolidated Appropriation Act to enhance right whale surveillance should also be able to eventually fund the monitoring arrays necessary to inform real-time dynamic management.

### **2024 QUOTA MANANAGED SPECIES REPORT**

Anna Webb provided an update on overall trends in fishery performance for black sea bass, summer flounder, horseshoe crabs, and tautog. DMF also discussed a recent transfer of menhaden quota from Rhode Island to Massachusetts that allowed the fishery to reopen at the 25,000-pound trip limit and would likely keep the fishery open for the remainder of the season. This was done to address concerns about a local shortage of lobster bait.

Bill Amaru requested DMF and the MFAC consider creating gear type specific sub-quotas for the inshore summer flounder fishery. He noted that while the mobile gear fleet may not object to taking the quota during the summer, this year's late August closure disadvantaged hook and line fishers who target summer flounder as they migrate out onto Nantucket Shoals later in the summer. Director McKiernan described some of the logistical challenges related to accurately monitoring gear type specific sub-quotas for the same species within the same time-period. Jared Silva agreed with Director McKiernan's assessment but noted that staff were analyzing this concept and would present on it at the industry meeting this fall.

Mike P., Bill Amaru, and Anna Webb discussed the collection of data regarding gear type and fishing location from dealer reports, state trip level reports, and federal vessel trip reports. Anna noted added that dealer data are due weekly for quota accounting purposes, whereas state-level harvester reports are due monthly, and with QA/QC processing, harvester data sets are generally not complete until the spring of the following year.

Mike P. asked whether menhaden caught in Massachusetts were servicing local bait markets or bait markets in other states. McKiernan indicated that DMF does not monitor for the end use of this fish and that DMF cannot regulate the fate of these fish. His understanding of the fishery is that a lot of the fish stays local, but some of it is trucked out of state. Mike P. then asked if out-of-state vessels (e.g., Maine) can fish or land in Massachusetts, bypass local demand, and truck the fish back home. Dan stated they could do so if they were correctly permitted but this has not yet occurred with any type of frequency.

Mike P., Dan, and Nic then discussed DMF's current quota use strategy to reduce trip limits based on quota use and rely on out-of-state transfers to keep the fishery open at throughout the season, versus Maine's strategy to use their quota up enter into the Episodic Event Set-Aside Fishery. Dan and Nichola indicated this would likely be the focus of the industry meeting this meeting.

### **UPCOMING PUBLIC HEARING ITEMS**

#### Control of Use of Fish Pots in Federal Zone

Director McKiernan led a review DMF's proposal to address the use of fish and conch pots by Massachusetts commercial fishers in the federal zone. Bob Glenn and Jared Silva contributing to the briefing. The proposed actions were being driven by right whale entanglement concerns. DMF has observed an increase in fish and conch pot gear being fished in the federal zone immediately south and east of the Islands, which is a hot spot for right whale activity throughout the year. At present, there are not sufficient state or federal effort controls to limit the proliferation of this pot gear in these waters. Moreover, there is not sufficient clarity regarding how to mark these buoy lines so as to designate it federal waters gear, rather than state gear attributable to the Massachusetts Mixed Species Pot/Trap Fishery. This distinction is critical as we evolve towards a future where state fisheries are managed as discrete units under an Incidental Take Permit (ITP).

To address these concerns, DMF developed a two-pronged proposal. The first prong focused on enacting state controls to limit the proliferation of fish and conch pot gear in federal waters to control risk. This included requiring fishers hold a DMF-issued conch or fish pot permit to fish this gear in federal waters and possess or land catch from this gear in Massachusetts; to require all gear bear a Massachusetts' trap tag; and have the state trap limit and seasons apply regardless of where gear is set. The second prong addressed buoy line marking and would require this gear be marked consistent with the federal Atlantic Large Whale Take Reduction Plan (ALWTRP) rules for the Northern Nearshore Pot/Trap Fishery thereby distinguishing it from the Massachusetts Mixed Species Pot/Trap Fishery. However, the marking scheme for the Northern Nearshore Pot/Trap Fishery is currently very similar to the scheme for Massachusetts Mixed Species Pot/Trap Fishery.

Dan and Bob then discussed that the expansion of the conch pot fishery into the federal zone. Under the current management regime, it is conceivable that any commercial fisher with a DMF-issued shellfish permit can set an unlimited quantity of untagged conch pots in the federal zone year-round. Effectively, effort would only be limited by resource availability in federal waters, the capacity for the fisher to haul the gear, the seasonal behavior of whelks limiting their catchability at certain times of the year, and profitability. While concerns about scup and sea bass pot gear remain, they are less strenuous than conch pot gear. This is because there are federal FMPs for scup and black sea bass that result in federal limited entry permitting requirements to take these fish and quotas to control harvest. Layered on this, there is at least a limited entry permitting scheme to possess and land black sea bass in Massachusetts, seasons and trip limits to manage the state's quotas for both species, and at present, a limited market for scup.

Chairman Kane and Director McKiernan discussed DMF's ability to regulate state permit

holders and registered vessels in federal waters. Dan was confident DMF had the authority to do so out to 200 miles, particularly for the whelk fishery as there is no federal FMP.

Shelley Edmundson and Bill Amaru objected to DMF's proposal to require commercial fishers also hold the DMF-issued limited entry scup and black sea bass pot endorsements to fish this gear in federal waters. They noted that individuals have invested in federal limited entry federal permits to fish pot in federal waters and this would now eliminate their ability to do so unless they also obtained an expensive and difficult to come by state-issued pot endorsement. Amaru noted this created another barrier to entry and permit diversity, which he had been working with DMF to bolster.

McKiernan recognized these concerns and was willing to revisit his proposal. However, he noted that individuals who were currently fish potting in federal waters without a corresponding state pot fishery permit endorsement were likely violating state trap tag regulations. He noted these individuals would be ineligible to obtain trap tags and would thusly be in possession of untagged pots when transiting state waters to set and haul out the gear.

Shelley asked if the conch potting in the federal zone was currently being conducted by state conch pot endorsement holders. McKiernan confirmed that this was DMF's understanding.

Mike P. questioned why this fish pot activity was not managed through the ALWTRP. Glenn and Silva explained that the ALWTRP sets the buoy line marking and configuration rules for various buoed gears, but it does not control the number of traps or buoy lines that may be set. Moreover, the buoy line marking and configuration rules have not been recently updated to adopt the more robust buoy line marking requirements and weak rope rules like those affecting the lobster and Jonah crab trap fisheries.

Kalil Boghdan asked why the channeled whelk fishery was not managed by a quota. McKiernan and Glenn explained that federal requirements to end overfishing have produced federal and interstate fishery management plans that establish quotas based on federal and interstate assessments. Whelks are generally found in sandy, shallow, nearshore waters and have a limited migratory footprint. Accordingly, they are not subject to federal or interstate fishery management programs. Rather, management authority falls to the coastal states who generally do not dedicate their limited resources to produce and maintain a stock assessment of their channeled whelk population to justify a quota-based management model. Instead, the states have relied on effort and harvest controls to manage the fishery, similar to the management of other local shellfish resources. It is conceivable that Massachusetts may eventually adopt a quota-based management system for whelks and this is an area that the anticipated Management Strategy Evaluation by SMAST may address.

#### Entanglement Reporting

Bob Glenn stated that DMF was seeking to require all persons report turtle and large whale entanglements in fishing gear. This proposal responded to comments by NOAA



Fisheries during their review of DMF's Incidental Take Permit Application.

Director McKiernan and Bob Glenn both recognized there are some legitimate reservations about the scope of the rule. However, the proposal seeks to regulate best practices and use the regulation as a means of educating the boating public on how to identify and report entanglements.

Shelley Edmundson asked if there was turtle disentanglement training for commercial fishers. Bob indicated that such training does exist, but to date it has been focused on law enforcement and marine biologists.

#### Striped Bass Total Length Measurement Clarification

Nichola Meserve reviewed DMF's memorandum on striped bass total length measurement. When the fishery was managed by a minimum size, squeezing the tail to lengthen the fish was explicitly allowed by regulation. This allowance was maintained when the state moved to a slot limit. However, with the implementation of the maximum size in the slot limit, fishers began to fan the tail to shorten fish under the maximum size. While squeezing the tail is explicitly legal under state regulations, DMF views fanning the tail as being implicitly legal as the regulations do not contemplate its legality. Accordingly, there is interest from both anglers and MEP to provide clearer regulatory language on how to take total length measurement. At present, DMF was proposing to mandate squeezing the tail in the measurement of all striped bass and DMF's Recreational Fisheries Program was collecting data this season to help inform discussion of this proposal at public hearing in early 2025.

Mike P. noted that regardless of where the rule ends up, DMF should conduct outreach on the final rule to the phone applications that display state fishing regulations.

Kalil Boghdan expressed his interest in this being addressed coastwide through the ASMFC so that there is a uniform standard across states.

### **DISCUSSION ITEMS**

#### False Albacore and Atlantic Bonito Management

Director McKiernan explained that there has been increasing interest among a segment of recreational anglers to develop a management program for Atlantic bonito and false albacore. This is being driven by the expansion of these fisheries in the northeast and their increased seasonal importance to the recreational sector. Moreover, several years back there were serious concerns about the reported widespread retention of large numbers of young-of-the-year Atlantic bonito as bait.

The ASMFC Policy Board considered management but there was limited interest given personnel limitations and that these species fall under the jurisdiction of NOAA's Highly Migratory Species program and the International Commission for the Conservation of Atlantic Tunas. Instead, the ASMFC convened a working group of interested states, which DMF participated in. Dr. Greg Skomal has represented DMF at this working group.

Dr. Skomal then presented data on commercial and recreational catch characteristics for Atlantic bonito and false albacore. This included data on commercial landings and value, recreational catch and harvest, and recreational length frequency data. Massachusetts is a major player in the coastwide recreational fishery for both species. Our recreational fishery is predominantly catch and release, however, it is common for up to two Atlantic bonito to be retained. While there are commercial fisheries elsewhere along the coast (e.g., Florida, North Carolina, Rhode Island), Massachusetts does not have a commercial fishery for false albacore and contributes nominally (~3%) to coastwide commercial Atlantic bonito landings.

Mike P. stated he has heard anecdotal reports that there are expanding commercial hook and line fisheries for these species in Massachusetts, particularly Atlantic bonito. However, it does not appear that these landings are showing up at any real level in SAFIS data. Mike speculated this may be due to underreporting or illegal direct-to-public sales. Director McKiernan concurred that those would be reasons why SAFIS data would not capture landings. He also noted that direct-to-public sales may also raise issues with the Department of Public Health given the need to properly handle these fish to limit histamine production and the risk of histamine poisoning. .

Mike P. then asked what commercial gear is likely responsible for Rhode Island's commercial landings. Skomal indicated that he did not analyze the commercial data based on gear type. McKiernan speculated that landings may be attributable to their inshore pound net fishery. Dan noted that these fish may also be caught in Massachusetts fish weirs but our landings may be limited by the interannual variability in weir fishery participation and local markets for the species.

Bill Amaru expressed his support for proactively managing these fisheries, particularly given the expansion of these resources into New England, as well as the current lack of stock assessment information and coastwide management programs.

No further comments were provided by the MFAC. At Director McKiernan's request, Chairman Kane accepted comments from the public.

Ray Jassaume stated that he became interested in pursuing a management program for Atlantic bonito several years back upon observing increased targeted fishing pressure, excessive catches, and the retention of large quantities of young-of-the-year fish as bait. As a shore-based angler, he was concerned that his mode of fishing would be disproportionately impacted if the resource was to become depleted. He opined that shore-based fishing is reliant on their being robust availability whereas vessel-based anglers can steam to where fish are aggregated. He advocated for DMF to pursue both size and bag limit rules.

Mike Hogan is the owner of Hogy Lures and Salty Cape out of Falmouth, MA. Through his businesses and recreational fishing activity, he has observed increasing interest and participation in the recreational fishery for false albacore and Atlantic bonito along the South Cape. He expressed his interest in proactively managing these resources, as well as his concerns about the growth of this fishery absent a conservation management

program. He opined that proactive management would likely be well received by the recreational fishing public.

Eric Spicer works for the Saltwater Edge in Rhode Island. He stated the recreational false albacore and Atlantic bonito fisheries have become an economic driver for bait and tackle shops in Southern New England. He was also concerned about the growth of this fishery absent a regulatory program and supported DMF taking a proactive management approach.

Peter Fallon is a charter boat captain who operates out of Falmouth, MA during the summer and he primarily target false albacore. Peter stated that both false albacore and Atlantic bonito fill a seasonal gap for anglers and charter boats in southern Massachusetts during August and September, as striped bass and bluefish have not been locally available, the black sea bass fishery closes in early September, and the tautog bite does not turn on until the early fall. Peter has observed a significant increase in recreational fishing effort for false albacore and Atlantic bonito during recent summers along with an apparent organized commercial harvest involving numerous anglers on jet skis repeatedly filling coolers and then returning to a “mothership” to offload their catch. He was also concerned that interstate and federal management conversations were trapped in a “Catch 22” situation whereby there is an unwillingness to manage these fisheries absent data describing there is a need to manage these fisheries but there are no assessments for these fisheries to provide the necessary data. He was enthused that DMF was willing to discuss a potential management program moving forward.

Director McKiernan asked how many fish his clients typically retain on a charter. Fallon indicated that his charters are primarily catch and release, but some clients may retain one or two Atlantic bonito.

Ray Jarvis spoke next. He is a charter boat captain out of Westport, MA. During the late summer, his charter business primarily targets false albacore and Atlantic bonito. Ray supported proactive management. He noted that these species comprise an important component of his business model and make southern Massachusetts a destination fishery for many anglers. Ray reiterated the previously stated observations regarding increasing recreational fishing effort, emerging commercial operations, and the retention of these fish as bait. With regards to the jet ski fishing activity, he opined that the fish was likely destined for into commerce and the fish were likely not being reported.

Will Poston spoke last. He is a policy associate for the American Saltwater Guides Association (ASGA). He discussed that expansion and growth in the Atlantic bonito and false albacore fisheries and his worries that this increased effort coupled with the lack of a cohesive management program along the coast would lead to eventual declines in abundance negatively impacting the health of the stocks and the viability of the recreational fishing sector in Southern New England. He discussed the false albacore tagging study that ASGA was involved in and how it demonstrates the geographic extent of this resource and fishery along the Atlantic coast. He advocated for Massachusetts to take a proactive, leadership role in managing these resources and hoped this would push other states to do the same.

Bill Amaru asked about the feeding behavior of these fish and whether they schooled together or separately. Jarvis, Poston, and Fallon discussed their observations of the feed behavior of both species. They generally agreed that they tend to school separately but may feed adjacent to one another. They also described a sequence in local availability whereby the Atlantic bonito arrive first, then the false albacore show up and Atlantic bonito availability starts to wane, then the false albacore migrate out, and a final run of Atlantic bonito generally follows. The in migration of false albacore appeared to assert some type of pressure on Atlantic bonito that affects their catchability and availability.

Chairman Kane, Director McKiernan, and Kalil Boghdan discussed the benefits of and challenges to moving forward with coastwide management. Director McKiernan noted that the lack of an interstate management framework does not prevent Massachusetts from acting unilaterally to implement a state-wide recreational or commercial fishery management program. He cited DMF's catch limits for sand eel and blue crab as examples of efforts to constrain the development of new industrial scale fisheries. However, any attempt to limit recreational harvest would need a corresponding rule to prevent the commercial permit from becoming a loophole.

Mike P. expressed his concern about managing these species outside the HMS and ICCAT frameworks because it would create a management baseline should conservation be needed on an Atlantic or coastwide basis. Based on his experience at ICCAT he felt this could ultimately disadvantage the proactive jurisdiction as they would be required to reduce harvest from their existing rules while other jurisdictions with unregulated fisheries only have to initiate a management process that moves them forward from an unlimited harvest baseline.

Chris McGuire noted that The Nature Conservancy has a decision support tool called Fish Path that assists in the development and stakeholder engagement process for building management strategies for undermanaged or unmanaged fisheries.

#### Update on Effort to Modernize Management of Surf Clam Dredge Fishery

Director McKiernan noted that DMF held an industry meeting on September 16 to discuss modernizing the spatial management of this fishery using geofences and cellular-based vessel monitoring. Representatives from three active vessels were in attendance and were generally supportive of DMF's initiative. DMF was now pivoting to meet with local municipalities to better understand what user group conflicts may exist in their waters. This directed public scoping will inform the development of a regulatory proposal for potential implementation next year.

McKiernan and Amaru briefly discussed the history of surf clam management issues in Provincetown.

Chairman Kane allowed a question from the public. Ed Barrett asked if VMS was sufficient to meet the proposed spatial monitoring requirement for the surf clam fishery. Dan stated VMS did not have a sufficient ping rate for the geofencing tools and the proposal was to require the same cellular-based device used in the federal lobster fishery. However, surf

clam permit holders would not be required to obtain the device unless they intended to participate in the fishery.

### **OTHER BUSINESS**

Chairman Kane asked DMF staff if they were investigating concerns regarding dragger caught lobsters and if they would be able to address it at MLA Weekend. Story Reed indicated staff have been meeting on this subject and an analysis will be forthcoming.

Mike P. noted there were pending changes to electronic reporting requirements associated with HMS permits. Additionally, he noted this would be his last MFAC meeting. His term expired in August 2024 and he was not seeking reappointment given his commitments as a member of the New England Fishery Management Council.

Bill Amaru again encouraged folks to watch the NOVA series on the Gulf of Maine.

### **PUBLIC COMMENTS**

No public comment was provided.

### **ADJOURNMENT**

Chairman Ray Kane requested a motion to adjourn the September 17, 2024 MFAC business meeting. **Shelley Edmundson made a motion to adjourn the meeting. The motion was seconded by Kalil Boghdan. The motion as approved 6-0-1 with Chairman Kane abstaining.**

## **MEETING DOCUMENTS**

- September 17, 2024 MFAC Business Meeting Agenda
- August 20, 2024 MFAC Draft Business Meeting Minutes
- Quota Monitoring Update for September 2024
- Proposal to Control Use of Fish and Conch Pots in Federal Waters
- Proposal to Require Marines Report Large Whale and Turtle Entanglements
- Total Length Measurement Proposal for Striped Bass
- Presentation of False Albacore and Atlantic Bonito Catch Characteristics

## **UPCOMING MEETINGS**

9AM  
October 29, 2024  
1 Rabbit Hill Road, Westborough

9AM  
November 19, 2024  
via Zoom

9A  
December 17, 2024  
via Zoom