

## **MARINE FISHERIES ADVISORY COMMISSION**

**February 17, 2017**

**DFW Field Headquarters**

**Westborough, MA**

### **In attendance:**

*Marine Fisheries Advisory Commission:* Raymond Kane, Chairman; Michael Pierdinock, Clerk, William Doyle; Kalil Boghdan; Charles Quinn; Andrew Walsh; Gus Sanfillipo; Sooky Sawyer; and Lou Williams.

*Division of Marine Fisheries:* David Pierce, Director; Daniel McKiernan, Deputy Director; Assistant Director Michael Armstrong; Story Reed; Nichola Meserve, Jared Silva; Melanie Griffin; Cate O'Keefe; and Brad Schondelmeier.

*Department of Fish and Game:* George Peterson, Commissioner.

*Office of Law Enforcement:* Lt. Matthew Bass.

*Members of the Public:* Edward Barrett; Manuela Barrett; Peter Fadden; Chris Chadwick; Ken Nichols; and John Verissimo.

## **INTRODUCTIONS AND ANNOUNCEMENTS**

There were no introductions and announcements.

## **APPROVAL OF FEBRUARY 17, 2017 BUSINESS MEETING AGENDA**

Chairman Raymond Kane stated that it may be appropriate shuffle to sequencing of the discussion items. This would result in moving the surf clam management item to the end of the meeting in order to provide fishermen in attendance with an opportunity to comment under the "Comments from the Public" agenda item. Ray stated that he needed motion to accommodate this proposed adjustment.

Andrew Walsh objected. He reiterated previous concerns, raised at the December 15, 2016 business meeting, regarding individuals potentially missing discussions on certain items because of changes to the agenda. He argued that the public relied on having a set agenda when travelling to attend meetings.

**Andrew Walsh made a motion to approve the agenda as provided by DMF. The motion was seconded by Gus Sanfillipo.**

Lou Williams agreed with Andrew's comments, but was supportive of accommodating this minor change for this meeting.

No further comments were made. Chairman Kane moved for a vote on Andrew's motion. **The motion failed 2-8 with the Chairman abstaining.**

Kalil Boghdan stated that by moving the surf clam management issue to the end of the agenda, the order of discussion items on the agenda order would remain relatively intact.

No further comments were made. Chairman Kane asked for a motion to adjust the agenda as discussed. **Kalil Boghdan made a motion to move the surf clam management issue to the end of the list of discussion items on the agenda. Lou Williams seconded the motion. The motion was approved 6-2 with the Chairman abstaining.**

### **REVIEW AND APPROVAL OF THE DECEMBER 15, 2016 MFAC DRAFT BUSINESS MEETING MINUTES**

Andrew Walsh requested an edit be made December 2016 MFAC business meeting minutes. He wanted to be on the record opposing the adjustment to the agenda that moved the Nantucket petition discussion from after lunch to before lunch. There was some discussion about how this could be accommodated. Commissioner Peterson suggested it be added to section regarding the review and approval of the December 2016 agenda.

No further comments were made. **Kalil Boghdan made a motion to accept the December 2016 MFAC business meeting minutes as amended. The motion was seconded by Sooky Sawyer. The motion passed 7-0 with the Chairman and Mike Pierdinock abstaining.**

### **ELECTIONS**

Chairman Kane noted that with Bill Adler leaving the MFAC, the position of Vice-Chairmanship was vacant. He requested a motion to elect a new Vice-Chair.

**Bill Doyle made a motion to nominate Mike Pierdinock as Vice-Chair. Kalil Boghdan seconded the motion.**

There was no further discussion. The Chairman put the motion to a vote. **The motion was approved 7-0 with the Chairman and Mike Pierdinock abstaining.**

Kalil stated that Mike Pierdinock was previously serving as Clerk. Accordingly, the Clerk's position was now vacant. The Chairman requested a motion be made to elect a new Clerk.

**Kalil Boghdan made a motion to nominate Bill Doyle as Clerk. Mike Pierdinock seconded the motion.**

There was no further discussion. The Chairman put the motion to a vote. **The motion was approved 7-0 with the Chairman and Bill Doyle abstaining.**

### **COMMISSIONER'S COMMENTS**

Commissioner Peterson focused his comments on the Department's budget and spending. The Department had proposed a capital budget request to the Secretariat of Energy and Environmental Affairs (EEA). One important item in that request was for additional funding for anadromous fish way work. He was optimistic about being able to retain this funding.

Kalil Boghdan asked how these funds would be appropriated and if they were available to non-government entities. Commissioner Peterson stated that the capital budget money would be provided to DMF to facilitate their work. He noted there may be competitive grant funding that third parties could bid on. If Kalil was interested, the Commissioner would forward him the appropriate contact information.

The Recreational Development Panel was working to develop a fishing pier on Deer Island. The project comes at an estimated cost of \$1M. The Commissioner was optimistic that the money would be appropriated in an upcoming supplemental budget. He added that it would be the first major fish pier built entirely from saltwater recreational fishing license fees.

On recreational fisheries, George also highlighted the upcoming Saltwater Fishing Awards. These awards would be handed out on February 18<sup>th</sup> at the New England Boat Show. He encouraged the MFAC to attend. He also discussed the need for improved outreach and promotion for this event. Regarding recreational fisheries outreach, George noted that the Division of Fish and Wildlife had put together a brochure on recreational fishing in Massachusetts and suggested it be distributed to the MFAC.

Ray Kane asked if DMF would reimburse MFAC members if they wanted to go to the Saltwater Fishing Awards. Michael Armstrong noted that the awards were held outside the boat show, so you did not have to buy a ticket into the show to attend the awards. Deputy Director McKiernan stated that DMF would also reimburse MFAC members if they wanted to attend the boat show and for parking at the event.

Lastly, the Commissioner discussed DMF's Seafood Marketing Program. The state's Seafood Marketing Committee had approved funding for seafood marketing grant initiatives in Massachusetts. In turn, DMF moved forward seven grant rewards valued at more than \$75,000. These grants are currently being reviewed by EEA.

Chairman Kane asked Commissioner Peterson about the status of proposal developed by DMF and the MFAC's Law Enforcement Sub-Committee to modernize the state's marine fisheries fine and penalty schedule. Commissioner Peterson stated the proposal was sent up to EEA and was being reviewed. At this point, EEA requested that DFG put

forward a legislative strategy. However, the Commissioner was looking for confirmation of support from the Administration before beginning to develop this intensive strategy.

Director Pierce asked if it would be helpful for DMF to meet with industry groups, discuss the proposal with them and ask for their support. George stated that it would. George also recommended that industry groups write letters of support. David noted staff had put together a list of industry groups and he was currently strategizing how to most effectively reach out to them.

Ray asked where the letters should be sent. George indicated they should be sent to the Secretary and the Governor with DMF and DFG cc'd.

Ray asked if Law Enforcement was supporting the proposal and recommending EEA move it forward. Lt. Bass stated that Law Enforcement was very supportive of the proposal. Commissioner Peterson noted that Col. McGinn had expressed his agency's support for this proposal.

### **DIRECTOR'S COMMENTS**

Director Pierce stated that since the December MFAC business meeting, there had been numerous fisheries management meetings, including the New England and Mid-Atlantic Councils, the ASMFC and a round of DMF/MFAC public hearings.

He noted that he had just returned from the MAMFC. At this meeting the MAFMC approved specifications that would increase black sea bass harvest limits by 50% in 2017. Despite this increase, states were looking at a potential cut in recreational fishing in 2017. This was because the projected 2016 harvest exceeded the 2017 limit. The MAFMC and ASMFC approved a position to remain status quo because the expected cut was within the levels of uncertainty of the MRIP estimates used to calculate harvest. The ultimate decision would come from NOAA and could be influenced by final Wave 6 (Nov-Dec) harvest estimates.

David then thanked the MFAC for the attendance at the recent string of public hearings. He stated that staff was currently working on the various recommendations. The MFAC should receive these recommendations in advance of their March business meeting. With regards to the Nantucket petition, David noted that the hearing was cancelled due to a blizzard and he was scheduling a meeting on Nantucket in late-March to discuss their petition and DMF's analysis of it. However, he did not intend to make a recommendation to move forward the mobile gear closure or net strengthener prohibition.

David noted that the new Senator representing Nantucket, Julian Cyr, had filed a bill in the Legislature to enact a trawl fishery closure in Nantucket town waters.

Kalil Boghdan asked how competing legislation and regulation are managed. George stated that laws always supercede regulations. However, if rules are being tracked

jointly by regulation and legislation and a regulation is passed then it is typical for the legislation to not move forward. Regulation is preferred to legislation because it can be more readily amended.

Kalil then asked if there would be an opportunity for Legislature to hear from individuals on this bill. George briefly explained the legislative process. He summarized that bills are first filed by legislators, then moved to Committee, in this case the Natural Resources Committee. The committee would hold a hearing on all bills of interest to the committee, . DMF and others will then be able to testify at public hearing. George cautioned that of all the pieces of legislation that are filed with the Legislature, only a small proportion of them make it far enough to be signed into law by the Governor.

Director Pierce stated that in late January he also attended the MA Lobsterman's Associations Annual Weekend. DMF held a roundtable discussion with industry and Law Enforcement. The discussion focused on issues regarding fixed gear interfering with trawl surveys. He noted that MLA was supportive of efforts to remove fixed gear from trawl survey locations. However, despite their support, many fishermen seemed less willing to accommodate the trawl surveys. David added that this had to be resolved because it was limiting the ability to collect critical data.

The Director was also planning to attend two meetings in the near future. The first was with the Stellwagen Bank Sanctuary. The Sanctuary was concerned about Atlantic sea herring research set-aside program and the mid-water trawl fleet's effort on mackerel. The second meeting was initiated by Law Enforcement to address interest from New Bedford trawl fleet regarding their ability to possess and offload multiple state limits of fluke during the winter period.

Andrew Walsh asked the Director when DMF would be holding this meeting on fluke. David stated that Law Enforcement was scheduling it. However, once he was informed of when this meeting would be occurring he would inform the MFAC.

Mike Pierdinock asked the Director to further clarify his comments regarding the Nantucket petition. David stated that he was not making a recommendation on the Nantucket petition. Therefore, the MFAC would not be reviewing this issue at the March 9<sup>th</sup> meeting. At the end of March, however, DMF would hold a meeting on Nantucket to discuss the petition and DMF's analysis of it.

Ray Kane stated that he heard numerous comments from fishermen that the winter public hearing docket was too long. Some fishermen were frustrated by this and left before they had the opportunity to comment. David agreed that the docket was long. However, he noted this was an anomaly. Due to the Governor's regulation review project, there was a sizeable backlog of regulatory proposals that were then addressed at these public hearings. Ray Kane asked if DMF could state this clearly to the public so that it could be better understood by industry.

In conclusion, David stated that DMF's outreach coordinator, Elaine Brewer, was leaving the agency and joining the Department of Fish and Wildlife. David commended Elaine for her work for DMF and stated that DMF was in the process of looking for her replacement.

### **LAW ENFORCEMENT COMMENTS**

Lt. Bass stated that current marine enforcement efforts were focused on the fixed gear closure area north and east of Cape Cod designed to protect right whales from entanglements. Enforcement patrols have not found much for gear set in the area and most of the gear found appears to have been lost. However, there may be one individual who is continuing to fish their gear in the closure and this was subject to further investigation.

Ray Kane asked how the gear is removed. Lt. Bass stated that if it is a single trap Law Enforcement may haul the gear. However, if it is a trawl, then a letter is sent to the owner noting where the gear is and asking it to be removed. Law Enforcement then follows up to determine if the gear is taken out.

On unrelated enforcement matters, Law Enforcement petitioned DMF to move forward with two adjudicatory hearings. Lt. Bass expected that there were additional petitions for hearings pending. Jared Silva stated that the two petitions were received and were being processed.

Lastly, Lt. Bass discussed personnel. He stated that there had initially been some speculation that Law Enforcement would be able to make additional hires. However, this was likely no longer a possibility for the upcoming fiscal year.

### **PRESENTATION**

Brad Schondelmier provided a presentation on the Atlantic Herring Research Set-Aside (RSA) Program. The program is an initiative between NMFS, DMF, SMAST and the mid-water trawl fleet. The mid-water trawl fleet is allowed to purchase RSA and fish with this RSA at certain times and certain areas where they would otherwise be restricted. The presentation focused first on the RSA program funding both the port-side sampling program and the river herring bycatch avoidance program. Then he reviewed how the RSA program works.

Ray Kane stated that a spawning stock biomass study on Georges Bank and Nantucket Shoals was a long standing request that had not been moved forward because of funding. He was curious why the funding from the RSA program had not been utilized to conduct this study.

Brad stated that the research priorities set by the NEFMC are to fund the port-side sampling program and the river herring bycatch avoidance program. Even with the RSA

program, these core objectives remain underfunded. The best way to fund this survey would be to have the NEFMC set it as a research priority.

Ray followed up and asked if the fleet is open to such a spawning stock biomass survey. Brad could not speak on behalf of the fleet, but suspected there would be interest. The fleet's main focus on Georges Bank was avoiding haddock. With the haddock biomass at an all time high, they were trying to avoid interactions so as not to reach their cap and shut down their access to the area before the herring quota is taken.

Ray stated that the mid-water trawl fleet is using their sea herring RSA to target mackerel. This fishery would be unable to exist without the herring RSA. However, the fleet is not paying for this mackerel like they are for the herring. He was curious if there were any initiatives to have the fleet pay for the mackerel. Brad stated that a cooperative agreement was reached to have the fleet pay to have access to the mackerel resource. This would go into effect in 2017.

Sooky Sawyer asked for specific monetary figures that the fleet was willing to pay for access to mackerel. Brad stated that this was dependent on harvest. However, if harvest in 2017 is the same that it has been in recent years, then the fleet would likely pay between \$10,000 and \$20,000.

Director Pierce stated that Brad's data shows that the river herring catch on the back side of Cape Cod is getting close to the cap. He asked if Brad could predict when they would hit the cap. Brad stated that the fleet was projected to be at 78% of their cap. However, the fleet moved out of the area to avoid a closure. He noted that the area is very dynamic and river herring may have already moved out. The fleet would like to send some its cleaner fishing vessels in there to do some experimental tows. If river herring presence is low and the catch is clean, then the available cap should increase because the figure is a function of by-catch rates on unobserved trips.

Kalil Boghdan asked if the fleet was using the same gear. Brad stated they were all mid-water trawl vessels that were not using ground gear. He noted that not using ground gear was important because river herring tend to sit closer to the bottom with the mackerel and sea herring above them in the water column. So not using this gear helps limit interactions.

Mike Pierdinock asked what the minimum net mesh size was. Brad stated it was about 1" in the cod end. However, they may increase this net mesh if larger fish are available. Brad added that when they were targeting mackerel there was some concern that they would be catching the abundance of tinker mackerel being found in the area. However, these small mackerel were not being found in the catch, so they must be able to escape the nets.

## **DISCUSSION ITEMS**

### State-Waters Groundfish Management Request

Director Pierce stated that he received a request from state-waters groundfish gillnetters to increase access to the state's commercial groundfish closure in May and adjust the Gulf of Maine cod trip limit so they could have better access to cod, particularly in the fall and winter. David provided a presentation reviewing the request. Ultimately he determined that he was not willing to meet the request because of concerns about providing access to areas where cod are known to seasonally aggregate to spawn (e.g., Eagle Ridge) and increasing fishing mortality on other groundfish species for which the state is already exceeding the state-waters set aside (e.g., grey sole and yellowtail flounder).

Lou Williams stated that he was with these gillnet fishermen when they met with David. He summarized that the current May closure keeps them out of waters north of 42°20' (Boston). The open waters just south of Boston has unproductive bottom and is not conducive to catching flounders. Therefore, these fishermen were trying to gain some access to better fishing bottom just north of Boston.

Lou noted that he had doubts about DMF's spawning cod concerns. He noted that finfish, particularly cod, are not as abundant in the inshore waters of Massachusetts Bay as they had been in the past. He speculated that this may be a result of a change in sewage treatment at Deer Island. Accordingly, cod protection in this area may not be as important as it was in the past if the fish are not showing up. Lou added that flounders seemed less affected by this change, however, they are not as available as they once were in this area. Chairman Kane took comments from the public.

Chris Chadwick, a gillnet fishermen, objected to David's determination to not accommodate their request. He advocated opening some bottom south of Cape Ann and increasing the cod limits in the winter because it is the target species at that time of year and only a few fishermen are fishing. He also argued that fishing mortality was being driven by latent effort becoming active in the trawl fleet and the gillnet fleet should not be negatively impacted by this.

Andrew Walsh asked if the state-waters fleet had reached the state-waters set aside for Gulf of Maine cod since the trip limit was reduced to 200 lbs. Melanie Griffin stated that the trip limit was reduced in season in 2015 and for that year more than 100% of the state-waters set aside was taken.

Chairman Kane stated that he would like to see these gillnet fishermen continue to meet with DMF to see if common ground can be found. Chris Chadwick stated that they had met with DMF and Director Pierce was inflexible. Accordingly, they were hoping the MFAC could force the Director's hand. Chairman Kane stated that the MFAC works off recommendations made by DMF. So, he encouraged Chris and others to continue to work with the agency.

David stated that he was willing to continue to work with the gillnetters. However, he would not move forward the proposed adjustments to the rolling closures due to the



concerns cited. Additionally, he is not in a position to implement adjustments for the spring of 2017. Chris Chadwick stated that he would support changes for 2018, but he wanted to see DMF move them forward immediately.

#### Updates from Recent Interstate and Federal Management Meetings

Dan McKiernan provided an update on the ASMFC Lobster Board meeting. The meeting focused on an addendum to address the status of the Southern New England (SNE) lobster stock. Dan added that a public hearing on this Addendum is scheduled for late March (3/23) at the MA Maritime Academy

The SNE lobster stock is at historically low levels due to environmental factors. He explained that this addendum is somewhat convoluted because there is not a specific biological target. Instead, the purpose is more generally to improve egg production. Accordingly, favored proposals by managers may be to increase the minimum size and/or decrease the maximum size. However, he did not think these proposals would be supported by fishermen because they have already taken action to substantially reduce effort. Adding an additional layer of complexity, any adjustments may also affect the Lobster Management Area 3 fishery – which occurs offshore from the Canadian border through the southern extent of the species - because the SNE stock makes up a component of their harvest.

Nichola Meserve then provided a review of three ASMFC management initiatives:

- At the same March 23<sup>rd</sup> public hearing, comment will also be taken on an addendum to the Scup FMP. This addendum could potentially extend the length of the federally-managed commercial winter seasons (at the expense of the state-managed inshore summer season) in order to enhance quota utilization.
- Then at an April 5 public hearing, the ASMFC will take comment on an addendum to the Sea Herring FMP that addresses how output controls are set for the summertime Management Area 1A sea herring fishery.
- As an ASMFC final action, an addendum to the Jonah Crab FMP was approved. This addendum authorizes the landing of Jonah crab claws coastwide, setting a minimum claw size limit. It also established that Jonah crab caught under the 1,000-lb bycatch limit cannot account for more than 50% of the total catch weight.

Sooky Sawyer asked if the ASMFC had scheduled the meeting to set the days-out in the Management Area 1A fishery sea herring fishery. Cate O'Keefe stated that the meeting had not yet been scheduled; typically it occurs at the end of April to set a days-out schedule that begins in June.

Mike Armstrong provided a review on striped bass. He noted that the fishing mortality target for striped bass was set at 0.18. The most recent stock assessment update shows that fishing mortality has been slightly under the target at 0.16. The narrow difference between these figures prompted Maryland and Virginia to push forward the drafting of an addendum to liberalize fishing regulations. Mike opined that this difference

was nothing more than statistical noise, and while the proposal to draft the addendum narrowly passed, he did not expect a final addendum would be approved.

Kalil Boghdan asked what the potential ramifications were for Massachusetts if the addendum was approved. Mike noted it may result in a negligible increase to the commercial quota. On the recreational side, he was at a loss to understand how the state could increase fishing mortality that minimally.

Mike Pierdinock asked if it made sense for some states to increase fishing mortality that minimally based on their quota share. Mike Armstrong stated that states had individual commercial quotas, but on the recreational side the harvest is managed on a coast-wide basis. He added that the Chesapeake Bay states were previously managed separately from the coastal states and this may be an effort by these states to move management back in that direction. Deputy Director McKiernan noted that while there are only two Bay states, they benefit from the Potomac River Fisheries Commission and Washington DC having a vote on striped bass issues, and from Delaware often voting with these states.

Ray Kane asked if the MFAC could expect to hear more about this in the future. Mike Armstrong noted the addendum process takes 6 months or longer. There will be future ASMFC public hearings on the draft addendum, if approved for public comment, and DMF would report as it evolves.

Nichola was then asked by Director Pierce to discuss black sea bass and fluke.

The ASMFC approved an addendum for recreational fluke management for 2017. This addendum required all states to increase their minimum size limit by one inch (except NC) and reduce their bag limit to 4 fish or less (3 fish for CT, NY, and NJ north of Cape May). North Carolina was exempt from the minimum size increase because of their stated need to maintain a common minimum size among flounder species in their mixed flounder fishery to limit potential non-compliance resulting from species identification issues.

These regulations are projected to reduce recreational harvest by 31%. This is less than the 41% required by NMFS. However, there was Technical Committee support for this option, with rationale including the high inter-annual volatility of MRIP harvest estimates and that this reduction would put the uncertainty buffer of the harvest estimate within range of the harvest limit. Ultimately, it would be NOAA's decision to determine if this approach was sufficient.

If approved by NOAA, the season length in Massachusetts would stay the same. However, the minimum size would increase from 16" to 17" and the bag limit was expected to decrease from 5-fish to 4-fish. However, DMF was planning to propose an exemption to keep Massachusetts' bag limit at 5-fish because there is little difference in estimated harvest between a 4-fish limit and a 5-fish limit. To obtain this exemption,

DMF has to submit a proposal to ASMFC and it would have to be approved by the Technical Committee and the Management Board.

Ray Kane asked if this exemption would be reviewed by the Management Board at the May ASMFC meeting. Nichola expected that DMF would receive some notification either way prior to the May meeting in order to move forward with regulatory adjustments.

Nichola then transitioned to discuss black sea bass. The benchmark assessment had passed peer review and the MAFMC's Science and Statistical Committee had adopted the assessment's projected overfishing limits and agreed upon acceptable biological catch levels for 2017-2019. The Council, however, only set catch specifications for 2017 and 2018 so as to allow a stock assessment update scheduled for 2018 to inform management advice for 2019. The 2017 commercial and recreational catch limits are over 50% higher than in 2016, but due to aging of the extremely robust 2011 year class, the harvest limits are scheduled to decline 15% in 2018 and an additional reduction was expected for 2019. With a stock assessment update prior to 2019, the MAFMC will be able to determine if the 2015 year class was as robust as expected, which may make 2019 cuts unnecessary.

For 2017, Massachusetts will see its commercial black sea bass quota increase by 50% to approximately 530,000 pounds. Accordingly, DMF may be able to accommodate certain management changes this year. However, the recreational side is more complicated. The current 2016 recreational harvest estimate data, which includes a projection for Wave 6 (Nov and Dec), is 8% higher than the 2017 recreational harvest limit (even after accounting for a 50% increase to this limit). Despite this potential need to cut recreational harvest by 8% in 2017, states have proposed NMFS approve status quo management; like fluke this proposal is being driven by the fact that the 8% reduction is within the uncertainty of the MRIP estimate.

States in the northern region are scheduled for a conference call at the end of February. This call will review a proposal from DMF to address management inequities resulting from the ad-hoc regional management approach. These inequities have had a disproportionate effect on recreational fishermen in Massachusetts. If a voluntary agreement could be reached among the states, an opportunity could exist for Massachusetts to slightly liberalize its regulations. However, Nichola cautioned that this was unlikely to occur given the lack of a coastwide liberalization as hoped for because the other states will have to agree to take cuts to give Massachusetts additional harvest opportunities.

Director Pierce cautioned that there were indications that the Wave 6 harvest estimates are going to be much higher than the initial projections. Accordingly, we may be looking at a higher than anticipated final harvest number. He expected the final data to be available shortly. If the overage increased substantially because of Wave 6 data, he noted that he would argue that adjustments should be made by states with fisheries open during that period.

Mike Pierdinock commended DMF for their work. He expressed frustrations that Massachusetts invests more into its MRIP program than other states and seemingly takes more seriously the challenge of reducing harvest. Yet, the state continues to have to cut its recreational limits to account for overages in these other states.

Nichola noted that a new addendum will be developed for 2018, so there may be an opportunity to move away from the ad-hoc regional management approach. Andrew Walsh asked about the process to move away from this ad-hoc approach. David stated that in the past the ad-hoc approach benefited Massachusetts. However, in recent years it did not. So, first DMF has to decide if it is a good idea to adjust the approach and then determine what a suitable alternative approach would be. Then ASMFC would have to approve an addendum that moved forward this different approach.

Kalil Boghdan asked if the population of sea bass is denser along the northern Mid-Atlantic (e.g., NJ and NY) than it was in southern New England (e.g., RI and MA). Nichola stated that the most recent stock assessment looked at the stock on a geographical basis and determined that 80% of the biomass exists north of Hudson Canyon. However, the assessment did not look at stock distribution on a finer spatial scale.

Dan used this discussion of fluke and black sea bass limits to segue into discussing tautog. He noted that the annual adjustments to recreational fishing limits for species like sea bass was driven by federal management plans with “accountability measures” based on MRIP estimates. This is unlike other species such as tautog and striped bass, for which there are not federal management plans.

With the tautog stock assessment, the future of tautog management is in play. Trying to avoid the annual adjustment route, DMF was trying to develop a striped bass like management system for tautog. MA and RI would become a region. Within the region, the states would share uniform recreational fishing rules. This will involve some negotiations because Rhode Island has a spring tautog closure and a higher bag limit in the fall, whereas Massachusetts is open year round with a steady low bag limit. These changes would not affect commercial fisheries.

Additionally, the ASMFC was trying to address tautog poaching and is in the process of developing a tagging program similar to striped bass. For striped bass, because of the large number of permitted harvesters, DMF adopted a point of sale tagging program, which put the requirements on the dealers to tag the fish. However, DMF was looking towards a point of harvest tagging program for tautog; this is largely due to the challenges presented by the live market. Managing a point of harvest tagging system would likely require DMF to consider adopting a control date and limited entry permitting scheme.

Bill Doyle noted that the tautog market is largely a live market and was curious how fish would be tagged. Dan stated that NY had concluded a study to evaluate an effective single use tag that could be applied to the operculum of a live fish.

Kalil asked what the procedure was for adopting this tagging program. Dan stated that an addendum needs to be approved by the ASMFC for public hearing, public hearings would have to be held and then the addendum would have to be passed by the ASMFC. The earliest this would likely occur by is August 2017. Then DMF would need to develop regulations to implement the program. However, in anticipation of having to implement these regulations, he suggested that DMF and the MFAC begin to consider adopting a control date that could later be implemented by regulation.

Mike Pierdinock asked Dan to further clarify why a dealer tagging program was not suitable for tautog. Dan stated it was something DMF could consider. However, it is common for harvesters and dealers to car up tautog. So, it would be beneficial for tautog to bear a tag when they are in the car to aid enforcement. This would have to be done through point of harvest tagging. Lt. Bass and Kalil concurred.

Dan added that DMF's striped bass tagging program has been criticized for being point of sale rather than point of harvest because it may provide opportunities for poaching. However, it was determined to be the most suitable management measure considering the size and geographic diversity of the striped bass fleet. Moreover, there has been a historical preference to keep striped bass as an open entry fishery.

### Surf Clam Petitions

Deputy Director McKiernan reviewed two petitions received by DMF regarding the surf clam dredge fishery. The first petition was developed by John Verissimo and it sought to establish a part-time surf clam dredge permit that would allow existing mobile gear fishermen without a surf clam permit endorsement to participate in the surf clam dredge fishery on a smaller scale basis. This could potentially help ameliorate the impacts of fluke quota reductions and proposed limits on the harvest of whelks.

Dan noted that there is a sizeable amount of latent effort among the existing surf clam and ocean quahog permit holders. Accordingly, the agency could consider enhancing the transferability of these permits by waiving actively fished criteria and requiring an owner-operator provision upon transfer. Additionally, the Provincetown Wetlands Protection Act law suits provided an added layer of complexity, which may force DMF to have to more aggressively manage dredge fishery interactions with eel grass beds through the use of vessel monitoring systems. Considering these issues, DMF wanted to hold scoping meetings with the industry before moving forward any management proposal.

The other petition was to open up areas north of Cape Ann to surf clam and ocean quahog dredge fishing. These areas had historically been closed because of water quality designations. However, water quality work has been done and shellfish may now be harvested from these areas. Accordingly, some mobile gear fishermen would like to

see DMF open these areas to dredge fishing. DMF has reviewed the management history and past industry surveys. At this time, the best path forward is to provide a few scientific permits to conduct survey work in these areas over the winter to determine the availability of surf clams and ocean quahogs. Then, based on the results of this survey work, determinations can be made regarding potentially opening these areas.

Sooky Sawyer stated that there is a lot of lobster gear north of Cape Ann and opening this area to mobile gear fishing may result in gear conflicts. Dan stated that DMF's goal was to have the survey occur this winter before much of the gear got back in the water. Then if DMF were to open the area it could be done on a seasonal basis, which could potentially reduce gear conflicts.

Mike Pierdinock asked for DMF to expand on why these areas were recently opened. Dan stated that historically DMF did not have dedicated resource to due water quality testing in the offshore areas north of Cape Ann. Additionally, there was also little interest in this because past surveys showed limited resource in this area. So, these areas were never opened to shellfish harvest. In recent years, DMF has enhanced its water quality testing and some of these areas are now classified as open or conditionally opened to shellfish fishing. These changes in classifications, coupled with access issues in Provincetown, there is renewed interest in potentially targeting surf clams and ocean quahogs north of Cape Ann.

Andrew Walsh did not support the idea of issuing a new permit. He likened this proposal to the management system that developed the general category scallop permit. This has subsequently created allocation and management issues for the scallop fishery in the Gulf of Maine. Instead, he preferred relaxing transferability criteria. Dan stated that these are the types of comments that DMF is looking for at industry scoping meetings.

Lou Williams asked if any waters north of Provincetown were open. Dan stated that there was a dredge bait fishery off Nantasket Beach. However, everything north of that was closed to dredge fishing. This was largely a product of water quality closures and lack of clam resource.

#### **OTHER BUSINESS AND MFAC COMMENTS**

Bill Doyle stated that he had concerns about any tautog tagging program that would occur at the dealer level.

Sooky Sawyer stated that DMF needed to provide coordinates for the so-called "otter and beam trawl line". The lack of clear coordinates continued to create gear conflicts between the fixed gear and mobile gear fleets. Jared Silva stated that he was aware of this issue and was working with technical staff to map these coordinates. Dan McKiernan stated that this would be an area of focus after the March 9 MFAC business meeting.

Andrew Walsh asked if the state could provide monitoring updates for the state-waters groundfish sub-components.

Melanie Griffin stated that it is possible. However, it could not be provided as timely as it is for quota managed species. For quota managed species, DMF can provide near real time updates because the data is obtained through dealers who report on a weekly basis. State-waters groundfish catch can only be accurately parsed out through fisherman catch reports, which are provided monthly. Also, there is a time-lag to input this data in the database. Accordingly, DMF was looking into providing annual reports for the prior federal fishing year (May – April) in the summer period.

Gus Sanfilipo noted that many mobile gear fishermen were interested in the Nantucket petition. Accordingly, DMF needed to be clear that this issue would not be addressed at the March meeting and needed to inform the fleet when the issue would be addressed. Ray Kane noted that the advisory that cancelled the Nantucket public hearing was clear that the issue would not be addressed at the March 9 meeting. Gus stated that he would like to see additional outreach.

Mike Pierdinock brought up a number of issues regarding highly migratory species, particularly new charter boat and shark fishing requirements. Mike also added that the Gulf of Maine Research Institute was holding a 3-day Marine Resource Education Program and Warwick, RI that covers recreational fisheries science and management. He noted that they also periodically held similar courses on commercial fisheries science and management. He encouraged the MFAC to look into attending. Andrew Walsh added that he took the commercial course and it was very useful.

Ray Kane thanked Nichola Meserve for her ward work at ASMFC on fluke and black sea bass. He asked if final Wave 6 recreational harvest estimates for black sea bass had been tallied. Nichola stated that this information will be available soon.

#### **COMMENTS FROM THE PUBLIC**

Ed Barrett asked when DMF expected to hold a public hearing on Nantucket regarding their petition. Jared Silva stated that a public meeting would be held at the end of March. Ed asked if the comment period remained open on this issue until then. Jared stated that the comment period closed at 5PM on February 17.

Ed then asked why DMF was then holding the Nantucket meeting if it was after the comment period. Director Pierce stated that based on his analysis of the petition and the comments received during the public comment period, he did not intend to move forward a recommendation to adopt the proposed closure or net strengthener petition. The purpose of the meeting on Nantucket would be to discuss the petition and DMF's analysis of the petition with the petitioners.

Andrew Walsh asked David to confirm that he would not be moving forward a recommendation to adopt the closure. David confirmed this.

No further comments were made. **Kalil Boghdan made a motion to adjourn to February 2017 MFAC business meeting. Lou Williams seconded the motion. The meeting was adjourned.**

### **Meeting Documents**

- February 17, 2017 MFAC Business Meeting Agenda
- December 15, 2016 MFAC Draft Business Meeting Minutes
- Presentation on Atlantic Sea Herring Research Set-Aside Program
- Memorandum on GE Gillnet Request
- Memorandum on Part-Time/Small-Scale Surf Clam and Ocean Quahog Permit Endorsement Petition
- Memorandum on Request to Open Areas North of Cape Ann to Surf Clam and Ocean Quahog Dredge Fishing
- 2017 ASMFC Winter Meeting Summary
- 2017 NEFMC Winter Meeting Press Releases
- Memorandum on Recent ASMFC/MAMFC Decisions for 2017 Fluke and Black Sea Bass Management



**Next Meetings**

February 9, 2017  
DFW Field Headquarters  
1 Rabbit Hill Road  
Westborough, MA

March 9, 2017  
DFW Field Headquarters  
1 Rabbit Hill Road  
Westborough, MA

April 6, 2017  
DFW Field Headquarters  
1 Rabbit Hill Road  
Westborough, MA

May 4, 2017  
DFW Field Headquarters  
1 Rabbit Hill Road  
Westborough, MA

June 15, 2017  
DFW Field Headquarters  
1 Rabbit Hill Road  
Westborough, MA