

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
June 7, 2004
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: D. Preble, K. Ketcham, S. Parente, S. Medeiros

Chairperson: D. Borden

RIDEM F&W Staff: M. Gibson, J. McNamee

Legal Counsel: G. Powers

Public: approximately 15 people attended

Chairman D. Borden called the meeting to order. **D. Borden asked if there were any objections to approving the minutes as submitted. There were none, therefore the minutes of the May 3rd, 2004 Rhode Island Marine Fisheries Council (RIMFC or Council) meeting stood approved.**

Advisory Panel Reports

Lobster: J. King was not available to give the lobster advisory panel (AP) report, therefore M. Gibson, who had attended the meeting, gave the report. He stated the purpose of the meeting was to further develop industry opinion of the measures outlined in the Atlantic States Marine Fisheries Commission (ASMFC) addenda to the lobster fishery management plan. The first item discussed was a schedule of minimum gauge size increases. The minutes of the lobster AP meeting outline the comments made on this topic. The consensus of the panel was to recommend that the minimum gauge size for lobsters in lobster fishery management area (LFMA) 2 remain at 3-3/8”.

The second order of business was the lobster exemption certificate programs. Because area 2 and area 3 were to reach equal gauge sizes, the AP recommended repealing this program.

The next order of business was the interpretation of the most restrictive rule. The consensus of the AP was to support the new interpretation of the most restrictive rule.

The next order of business was to discuss LFMA 2 minimum gauge sizes. The AP recommended staying at 3-3/8”.

The next order of business was to discuss LFMA 2 minimum escape vent sizes. There were several comments made (see lobster AP minutes 6/2/04). The consensus of the AP

was to remain at 2x5-3/4” rectangular and 2-1/2” circular escape vents until new research has been completed.

The next item was regarding effort reduction. The AP recommended going to 2000 pounds rather than 4000 pounds as the minimum qualifying poundage.

The next two items were the gauge size increase and escape vent increase schedules for LFMA 3. The AP consensus was to accept these regulations as written.

The second to last item was regarding the outer cape LFMA escape vent size schedule. The AP had no recommendation on this item.

The final order of business was regarding lobster trap/business transferability. There were several comments made, the most notable of which is that this item is still being discussed at the ASMFC level. The AP recommended taking this item out to public hearing anyways.

P. Brodeur stated that the AP did not support the lobster trap/business transferability part of the new regulations but supported sending it to public hearing so that they could make specific comments stating their opposition to this proposed regulation change. He also wanted to address the escape vent issue. He stated that it was unfair that some people had already opened their escape vents to the required size and now, after the fact, find out that the Department of Environmental Management (DEM) will show some leniency regarding the size of the escape vents. He felt fishermen should have been notified better and before they made changes to their equipment. He went on to say that M. Gibson indicated at the previous RIMFC meeting that he would be looking at the T. Hall escape vent study, but at the subsequent AP meeting, he had not done this.

M. Gibson stated that what had been stated at the previous RIMFC meeting was that the lobster industry would provide him the study and then he would review and discuss it with them. He received nothing prior to the AP meeting.

D. Borden stated that he would like M. Gibson to set up a meeting to discuss this issue and also to contact T. Hall to get a copy of his study. M. Gibson stated that this was already assigned to him and he had staff working on it.

M. Marchetti stated that M. Gibson had been working with him to address a lot of the problems which had been taking place between DEM and the lobster industry and he was confident that they were both working towards greater cooperation again.

Enforcement: S. Medeiros gave the report. The AP members had been assigned at the previous meeting to come in with a couple of questions from there specific user groups. A question from a commercial representative was asked about whether it was a violation to take a commercial and a recreational possession limit at the same time. The DEM Law Enforcement members who were present stated that this would be a violation.

Conversely, if a commercial vessel goes out to fish recreationally, this is not a violation as long as the recreational limits are not exceeded.

There were similar questions posed by a charter boat representative. The specific question was whether a charter boat captain who is commercially licensed could take a commercial limit while he/she is out. DEM Law Enforcement stated that they could. A second question was asked which was whether a charter boat could sell his/her catch at the docks. There is a federal list of fish that could be sold at the dock and the fish must be live in order to sell them legally. Further, the individual must have a dealer's license.

A shellfisherman asked whether they could be provided with GPS coordinates of the different management areas and closure lines. DEM Law Enforcement stated that they will do this but it won't be available until next year.

DEM Law Enforcement stated that they are currently running a program where new recruits are sent out with different industry representatives so they can get a feel for the jobs that they will be regulating when they begin work.

A commercial diver stated that many boaters do not follow the 50 foot safety radius when his dive flag is up which creates a dangerous situation for him. DEM Law Enforcement stated that this is most likely a public education issue and they could address it that way by emphasizing this rule in the safe boating classes.

A recreational representative stated that on the south side of Block Island, many fishermen from other states are taking well over there allowed limit of striped bass. DEM Law Enforcement stated that they were aware of this and they have a few cases in court at the present time.

A final comment was about herring regulation signage on Hardig Brook in Warwick. A recreational representative stated that there currently was no sign at this site which is leading to violations taking place there. J. McNamee stated that he would contact the DFW staff responsible for these signs. Along these same lines it was asked whether local municipal police could pitch in to help DEM Law Enforcement. S. Hall stated that they do pitch in but they can not make enforcing DEM regulations a priority.

There was further discussion on posting of DEM Law Enforcement hotlines and public outreach relating to this as well as discussions about violation fines. DEM Law Enforcement is working on both of these topics.

The consensus of the group was that these meetings were worth while and they would like to meet again in the fall after the busy summer season.

New Business

Proposal for new aquaculture operation: M. Gibson began the discussion by stating that there was a procedural problem with commenting on the application. This application had

not gone before the shellfish AP yet. It was currently on the shellfish AP agenda but the shellfish AP was not meeting until the following evening. This would be the place where the industry would be represented and could speak to potential conflicts with a wild fishery in this area.

J. McNamee stated that the Council could take public comment on this evening and then via email get the remaining pieces of information they needed. J. McNamee could then poll the Council, also via email, as to whether to approve or disapprove of the application.

D. Alves asked whether this site had been visited by the Division of Fish and Wildlife (DFW). M. Gibson stated that it had not been visited yet, an assessment was rendered to the Council from the DFW based on a preliminary meeting but a formal site visit had not been performed yet. J. McNamee stated that the DFW would be visiting the site this week. These results could also be sent to the Council members via email.

B. Rheault, the applicant, gave a few comments to the Council. He stated that it was a simple lease, no gear or anything, just oysters put on the bottom which would then be harvested with either a dredge, SCUBA, or a rake depending on which technique worked better. He stated that there is not eel grass or wild growing clams in this area. He presented five letters which were from local shellfishermen stating that they did not fish in this area and supported this proposal.

D. Preble asked whether there would be any issues with recreational fin fishermen. B. Rheault stated that there would not be because there is no gear used in this proposal, and this proposed lease may in fact provide valuable habitat and attract more fish in to the area.

K. Ketcham asked a question about eel grass interactions and how this would effect the proposed lease if eel grass were to be restored in Point Judith Pond, namely would he be using primarily SCUBA to collect clams which would not disturb eel grass as much as other methods. B. Rheault stated that he did not think eel grass would be restored in this area any time in the near future because of water quality issues there.

M. Marchetti stated that his only concern was that this used to be an area to harvest scallops. He went on to state that he did not think there had been scallops present in this area recently. B. Rheault stated that the reason there were not scallops in this area anymore was because of low oxygen events in the pond.

D. Borden asked the Council if anyone objected to the suggestion by J. McNamee to poll the Council via email on this issue. There were none.

Discuss and respond to Jamestown Conservation Committee letter: M. Gibson spoke to this. He stated that the DFW had received a letter from the Jamestown Conservation Committee regarding shellfishermen using bullrakes in eel grass areas. M. Gibson suggested that the Council could refer this back to the DFW to develop a

recommendation to be brought before the shellfish AP, following which the Council could advise the Director of DEM to enact some sort of protected marine management area or some other type of action.

S. Medeiros stated that the letter was not specific in the area it wanted to protect, therefore he asked if it would just be a generic proposal to protect all around Jamestown. M. Gibson stated that this is one of the things he would like the DFW staff to figure out. S. Medeiros asked if there were any Jamestown Conservation Committee members present at the meeting. There were none. He went on to state that he had received a call from one of the members on this topic. From his conversation S. Medeiros felt that this group was anti-public access and would use a thing like this to move this anti-public access agenda forward.

K. Ketcham stated that he agrees that they need to come up with a more specific plan, otherwise the Council should not even be considering this letter.

M. Gibson stated that the DFW would look in to these issues including contacting DEM Enforcement to see if they corroborate the story.

D. Borden asked if there were any objections to sending this item back to the DFW for further development. There were no objections.

Other Business

Update on groundfish relief fund: M. Gibson gave the update. The research trust fund had run aground therefore the plan had gone to giving out a direct payout to fishermen following the guidelines set forth by the National Marine Fisheries Service (NMFS). Certified letters had been sent out and the DFW had received all of the receipts back. A number of the responses had come in late but there was no problem extending the date until the end of June. Now the delay was waiting for the revised grant to be authorized by the federal government. As soon as this occurred the individuals would begin to receive checks.

P. Ruhle asked if everyone sent there responses back. M. Gibson stated that they had six or seven which they received the certified receipt back but had not received a response. They will be sent one more letter. D. Borden stated that if they do not respond to this next letter they would be out of the program.

Report on the second aggregate landing workshop: J. McNamee gave the report. The meeting covered three agenda items, the first of which was to come up with a new winter 1 program for fluke. This agenda item was skipped due to the fact that no participants from the winter 1 fishery were present at the meeting. **J. McNamee requested that the Council authorize another meeting to revisit this agenda item. D. Borden asked if there were any objections to this request. There were none.**

The second agenda item was to discuss alternatives to an aggregate landings program.

One of the issues which had come up at the previous meeting was the idea to allow more than 1 license on a single vessel and allow those individuals to take more than one possession limit. The attendees had a lengthy discussion of this topic. The issue was brought up whether DEM had the authority in the first place to limit licenses on a vessel. G. Powers was tasked with coming forward with an official DEM legal ruling on this issue. The Council members were provided with a memo outlining DEM's position. J. McNamee asked G. Powers to speak to what the memo states. G. Powers outlined his memo, the gist of which was that DEM does have the authority to do this.

Several commercial rod and reel participants voiced their opposition to this program stating that it would increase effort and was just a way of getting an aggregate landings program in the summer which they had all gone on record stating that they were opposed to such a program. A written statement was passed in.

A commercial trawl representative stated that he felt it was time to allow for multiple licenses on a single vessel for the same reasons that this is currently allowed for the striped bass fishery.

A commercial gillnetter stated that it made good safety and economic sense to allow this. He runs a small vessel and can not afford to pay a deckhand, therefore if he and his father could both take a possession limit on one vessel they could both go out on one of their vessels which increases safety for both of them. He went on to suggest capping the number of licenses on a boat to two.

A commercial trawl representative stated that allowing for multiple licenses would increase safety for them and went on to state that it does not seem equitable to allow for this practice in some fisheries (i.e. quahogs and striped bass) but not in others.

DEM Law Enforcement stated that this type of program would be easier to enforce but does have pitfalls involved with it.

A commercial rod and reel representative stated that allowing for multiple licenses would shorten the season and this presents safety issues of its own, namely individuals will go out in poor weather because they are concerned the fishery will close.

At this point the next agenda item was discussed which was the expansion of aggregate landing programs into other sub periods and other species. A couple of the commercial trawl representatives were opposed to these programs in the summer, but not in the winter sub periods. One of the trawl representatives present was for aggregate landings in the summer for the economic and safety reasons discussed during the meeting. The commercial gillnetters stated that for their user group this was not a good idea because it does not promote good gillnetting practices (gillnets should be tended every day, this might encourage them to leave the net unattended for longer periods of time).

P. Brodeur asked if the idea of multiple licenses on a vessel would be for all species, namely would this also hold for lobsters. G. Powers stated that it could be for all species,

but did not have to be for all species. D. Borden went on to say that this issue is still in its infancy. The thing to do was to allow this working group to continue to meet and develop first whether they wanted to proceed with a program like this and second if they decide to move forward to develop an actual proposal which would then move on to the advisory panels. He suggested allowing the working group to also discuss these issues, the Council had earlier authorized the discussion of a winter 1 program.

M. Gibson asked if there was a priority for what the Council wanted the DFW to do, seeing as how the winter 1 program and the possibility of allowing multiple licenses on a vessel are two separate issues. D. Borden stated that they are equal as far as a priority ranking but should be handled in two different meetings.

I. Parente made the point that the only group that he saw that was opposed to multiple licenses was the one group who already had the ability to do this with the striped bass fishery, he felt this was ironic.

D. Borden asked if there were any objections to having the two workshops mentioned earlier. There were no objections.

Council comments on nominees for the vacant Council seat: J. McNamee stated that the vacancy was for G. Allen's seat on the Council. He stated that he solicited nominations through the normal procedure and only received one response which was for reappointment from G. Allen. J. McNamee just wanted to provide the Council the opportunity to comment if they wanted to. S. Medeiros and K. Ketcham both voiced their support for G. Allen's reappointment. **S. Medeiros made a motion to unanimously support G. Allen for the Council seat. The motion was seconded by D. Preble. The Council voted unanimously to approve the motion.**

Added agenda items

J. McNamee stated that it was his understanding that both S. Parente and A. Tate had been approved for their Council seats. D. Borden also stated that he felt this was the case but went on to say that he would look in to this and find out conclusively.

J. McNamee stated that he had passed out public hearing summary documents to the Council. The summary documents were also available at both of the DFW facilities and on the DFW website.

P. Ruhle asked if a list would be made available once all of the groundfish relief fund data was compiled and the money was mailed out. M. Gibson stated that he would have to check with DEM Legal Counsel on exactly what could be published due to privacy issues, but they would put something out for people to look at.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary

AMENDMENT : S. Medeiros stated that on page 5, in the first full paragraph, it was written that a Jamestown Conservation Committee member had called him. It should read that a Jamestown resident had made the call, not a Jamestown Conservation Committee member. He would like this amended in the minutes.