

ADVISORY COUNCIL ON TIDAL FINFISHERIES



MINUTES OF JANUARY 24, 2013



Richardson and Robbins Building Auditorium, 89 Kings Highway, Dover, Delaware 19901
Phone: 302-739-9914, Fax: 302-739-6157

ADVISORY COUNCIL

Dewayne Fox, Ph.D., Chairman
Bernie Pankowski
Brian Hoffecker (*absent*)
James "Jay" Little
Marvin Kahl, Jr. (*absent*)
P. "Wes" Townsend
Vacant-NCC Commercial

DIVISION OF FISH & WILDLIFE

John Clark
Stewart Michels
David Saveikis, Director
David Small, DNREC Deputy Secretary
Capt. John Rutherford

PUBLIC

4 Visitors

Agenda Item 1. Welcome

Chairman Fox called the meeting to order at 6:00 and welcomed those in attendance.

Agenda Item 2. Approval of 12/4/12 meeting minutes

The December meeting minutes had not been fully reviewed prior to meeting and so were not yet available for approval by the Council.

Agenda Item 3. Executive Order 36 update

Deputy Secretary Small went over the origins and process of this order. He explained that the last General Assembly dealt with a number of pieces of legislation pertaining to agency regulations and oversight. As an alternative, the Governor issued Executive Order 36 (EO36) requiring agencies to review regulations 3 years old and older. The focus of the review is on redundant or burdensome requirements and other inefficiencies pertaining primarily to the business community. Each county has held public hearings and the hearing record is open for comments until March 1. Public comments will be reviewed after the record closes. The DNREC will then prepare a report, including recommended changes, as required by the Governor's Office. Mr. Small stated that DNREC will be vigilant in efforts to continuously improve routine business processes as a result of this review. **Director Saveikis** gave a brief overview of some tidal fishing regulations that were found to meet the guidelines of EO36, such as: 7 DE Reg 3592 which states the process for closing the American shad Atlantic Ocean fishery during 2003 through 2005. This regulation closed the American shad Atlantic Ocean fishery in 2005, thus this regulation should be replaced with a simpler regulation stating that this fishery is closed.

Agenda Item 4. Shark finning bill update

Mr. Clark stated that the original bill proposing to ban the possession, transport and sale of shark fins in DE introduced by the Humane Society of the U.S. (HSUS) did not make it through both houses of last year's Delaware Legislature. Commercial fishermen in DE did not support the bill because it did not allow for the sale of legally-taken shark fins. In December, Representative Jaques met with several commercial fishermen at Legislative Hall to discuss new legislation. The HSUS recently drafted a new bill which would prohibit the sale of legally-taken shark fins within DE, but commercial fishermen would be allowed to sell outside of DE. An issue with the new bill is the HSUS intends to pursue

similar laws across the U.S. which would eventually impact the entire commercial fishery. **HSUS Delaware Director, Hetti Brown** was in attendance and commented that their intent has always been to eliminate shark fins from coming into DE from unknown origins and being used in shark fin soup. HSUS never intended to interfere in any way with current commercial fishing practices in DE. She clarified that she is not aware of any DE commercial watermen finning live sharks and selling the fins illegally. Her agencies' concern is with the importation of illegally-taken shark fins coming into DE from NY City and Philadelphia. This is the reason for pursuing elimination of the marketplace altogether. **Mr. Townsend** expressed concern that this proposed legislation appears to be driving prices down in DE.

Agenda Item 5. Bowers dredging update

Mr. Clark explained that the DNREC received \$627,000 in the fiscal year 2013 bond bill to dredge the Murderkill channel at Bowers Beach. The state does not have the necessary equipment for this type of project so Chuck Williams from the Division of Watershed Stewardship (DWS) planned to contract it out. Because this project is one of several related to bay/beach nourishment and navigational channel dredging over the next five years, the decision was made to hire engineering companies so that each project would not have to be handled separately. This contractual process has delayed the start of the Bowers Beach project until the fall. Mr. Clark then recognized Capt. Dave Russell, who has played a vital role in obtaining funds for DE to perform this dredging project. **Capt. Russell** briefly explained how the Army Corps of Engineers (Corps) changed their policies regarding maintenance dredging of waterways due to the U.S. economy's decline over the last several years. He said the Corps advised him to pursue funds from state government. He expressed his frustration with the decision to delay the Bowers Beach project by combining it planning and design with several other future projects. He stressed that these funds were awarded for the purpose of dredging at Bowers Beach and should be utilized without delay. **Mr. Small** sympathized with Capt. Russell, but explained how it's unfortunate that the State was put in a position to take over responsibility from the Corps. The DNREC does not have the capacity to fully take on such projects as they involve specialized engineering and permitting and use of equipment that the DNREC does not own, requiring that these services be contracted out. **Mr. Little** remarked that he is concerned about the financial

impact to commercial fishermen and that recreational fishing businesses could also be negatively impacted since anglers cannot get through this channel to the bay. There is also a very serious safety issue to boaters. **Dr. Fox** commented that he had no idea this project had been impacted in this way. He said this is an example of the importance of maintaining infrastructure, and added that if it is neglected (i.e., the Corps' change of policy regarding waterways maintenance), then important, historic industries could be lost. After further discussion, **Mr. Small** said he will look into the possibility of other options; however, he is not very optimistic. He also expressed his agreement with Dr. Fox's comments regarding the importance of infrastructure.

Agenda Item 6. Regulatory update/regulatory review

Mr. Michels went over various fishing regulations being modified, proposed, etc. Proposed, new tidal invasive regulations are proposed to designate snakehead, blue catfish, flathead catfish, walking catfish and grass carp as invasive species that will be allowed to be taken by bow and arrow and other methods in tidal waters. It is proposed to make it unlawful to possess, transport, purchase or sell live invasive species without the written permission of the DFW Director. A March 21 public hearing is tentative. The DFW is deliberating with the NMFS regarding adopting the federal rules for highly migratory species so that DE could enforce and prosecute violations at the state level. This may not be practical given the frequency of updates to the federal rules. **Mr. Michels** stated that a Start Action Notice (SAN) for striped bass regulations will be prepared soon to change the regulation to clarify weigh station and harvester tagging and reporting requirements. A public hearing was held last night on proposed horseshoe crab regulations to allow the quota to be adjusted annually according to the outputs of the Atlantic States Marine Fisheries Commission's (ASMFC) Adaptive Resource Management Model and Board action. The 2013 quota is expected to be 161,881 male horseshoe crabs, a substantial and sustainable increase from the 2012 quota of 100,000 male crabs. As part of this action, the DFW is seeking the ability to close the fishery predictively upon reaching 95% of DE's quota to prevent overages. The hearing record will remain open until Feb. 7.

Agenda Item 7. Management update: menhaden, black sea bass

Mr. Clark reviewed several updates, including that the Mid-Atlantic Fisheries Management Council (MAFMC) will hold its final vote on Feb. 13 regarding designating Special Management Zone (SMZ) status for DE's artificial reef sites in federal waters. The DFW is proposing no buffer zone around these reef sites. **Mr. Townsend** expressed his concern with losing the ability to commercially fish near these sites. After some discussion, **Mr. Clark** continued with an update on Atlantic menhaden. He explained that with implementation of ASMFC Amendment 2 to the Fishery Management Plan, DE was issued a coastwide Total Allowable Catch (TAC) of .01%. This amount equates to approximately 1/3 of DE's 2012 landings data. A monitoring system must be implemented to track landings but there is an allowance for a by-catch of 6,000 lbs. per day, per commercial fishermen. In regard to black sea bass, the 2012 quota had been based on what was landed the previous year and did not account for

growth in the population, so this has resulted in huge overages in the recreational fishery. **Mr. Clark** stated this, along with the fact that there is no survey information currently being gathered for black sea bass, has created a confusing management situation. He stated that 2013 may bring severe restrictions as a result. The ASMFC is asking individual states how they prefer to manage black sea bass in their waters. DFW Biometrician, Richard Wong, has considered DE's data and reported that the 2013 management options for DE all return similar results. The Summer Flounder Technical Committee has approved quotas for the coastal states. DE's landings were well under the allowable quota for 2012, thus the 2013 quota was increased by 104%. Options for size, season and creel limit will be presented during an upcoming public hearing.

Agenda Item 8. By-laws discussion

Mr. Clark stated that he will email the edited draft to the Council, and hopefully, they will be ready for approval during the next meeting.

Agenda Item 9. Postpone/cancel February meeting

It was decided that, due to schedule conflicts, the February meeting is cancelled.

Agenda Item 10. Director's update

Director Saveikis showed off this year's *Fishing Guide*, which has been revamped to be consistent with the DFW's *Hunting Guide*. He said the revision actually saved the DFW about \$10,000 of licensing funds, which equates to \$40,000 when matched with federal dollars. He also went over items of interest in the latest edition of *Outdoor Delaware* magazine (www.dnrec.delaware.gov/Admin/Pages/OutdoorDelaware). The Department's three Enforcement Sections are looking into a unified, consistent legislative approach to increase certain offense fine amounts and de-criminalize some offenses. There will be updates to this initiative during future meetings. The DFW intends to introduce the scientific collection permit legislation that was originally considered last year. There have been no changes to this proposed legislation, which the Council has previously approved. **Director Saveikis** said that the DFW is still considering developing legislation to allow partnering with organizations such as Recreational Boating and Fishing Federation (RBFF) in order to better market and engage license holders. This marketing strategy encourages license renewals and new license sales with special offers (e.g., gift card to Cabela's). States that partner with these types of organizations see an increase in their fishing/hunting license sales. There are some legal issues related to protecting personal and confidential information to resolve prior to initiating legislation to establish this type of partnership.

Agenda Item 11. Agenda items for next meeting

Dr. Fox requested items for the next meeting's agenda:

1. EO36 update.
2. Striped bass update.

This meeting adjourned at approximately 8:03 PM.

Respectfully submitted,



Kim Stangl
Recording Secretary