



ROY COOPER
Governor

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April 27, 2022

MEMORANDUM

TO: Marine Fisheries Commission
Finfish Advisory Committee

FROM: Lee Paramore, Northern District Manager
Fisheries Management Section

SUBJECT: Meeting of the Marine Fisheries Commission's Finfish Advisory Committee, March 17, 2022. Recommendations for the Estuarine Striped Bass Fishery Management Plan Amendment 2.

The Marine Fisheries Commission's (MFC) Finfish Advisory Committee (AC) held a meeting on March 17, 2022. The meeting was a hybrid meeting; some members of the AC were in person at the Morehead City Central District Office while others attended virtually. Listening sessions for the public were also held in Dare and New Hanover County.

The following Advisory Committee members were in attendance: Thomas Brewer, Jeff Buckel, Brent Fulcher, David Mense, Allyn Powell, Randy Proctor, Sam Romano, Ken Siegler, William Tarplee, Scott Whitley, Tom Roller

DMF Staff: Chris Stewart, Joe Facendola, Garland Yopp, Hope Wade, Corrin Flora, Debbie Manley, Tina Moore, Charlton Godwin, Nathaniel Hancock., Todd Mathes, Lee Paramore, David Behringer, Steve Poland, Kat Rawls, Casey Knight, Mike Loeffler, CJ Schlick, Brandi Salmon, Dan Zapf, Cara Kowalchyk, Anne Markwith, Dee Lupton, Alexander Batchelder, Lorena de la Garza,

WRC Staff: Chris Smith, TD VanMiddlesworth, Kirk Rundle, Ben Ricks, Jeremy McCargo

Public: Glenn Skinner, Stuart Creighton, Bill Gorham, Reese Stecher, Joey Van Dyke, Steve House (Dare County Commissioner), David Sneed

Finfish AC Chair Tom Roller called the meeting to order at 6:07 p.m. A call for attendance was performed and attendance was recorded. The Finfish AC had all eleven members present and a quorum was met.

APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES

A motion was made to approve the agenda by Randy Proctor. Second by Brent Fulcher. The motion passed without objection.

A motion was made to approve the minutes from the Finfish AC meeting held on January 13, 2022. Motion by Randy Proctor to approve minutes. Second by Ken Siegler. The motion passed without objection.

PRESENTATION ON ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2

Charlton Godwin, Nathaniel Hancock, Todd Mathes, and Joe Facendola presented the recommendations in the Striped Bass FMP Amendment 2. Staff then fielded questions and comments from AC members.

Questions and comments from AC

The AC asked for clarification about the section in the FMP that discussed slot limits for the ASMA and whether the slot limits would apply to both the commercial and recreational fisheries. Staff confirmed that it would apply to both for the ASMA. The AC asked for clarification that there was some spawning in the Cape Fear but not for the Neuse or Tar/Pamlico rivers. Staff noted spawning activity does occur in the Cape Fear and genetic analysis does indicate in recent years around 11% of genetically tested fish were of wild origin and some juvenile wild fish have been occurring in our sampling. Staff also noted that there is very limited natural reproduction in the Tar/Pamlico and Neuse systems. Recent sampling initiated in 2017 to capture young of year fish did not yield any wild striped bass until two juvenile fish were captured in 2021. These fish are currently being genetically tested to determine if they may be of wild origin, so there may be some very limited evidence of natural recruitment. Follow-up on recruitment in Cape Fear River and the AC asked if the reason the WRC was recommending opening was because they are assuming it is just a purely stocked resource. Does recent evidence of some natural recruitment change that assumption? Staff did not speak for WRC but noted that sampling does indicate some natural recruitment based on sampling and genetic verification albeit limited. An AC member asked about discard mortality that occurs in the recreational fishery and commercial fishery. If we were to consider harvest, should we not also consider a decrease to the slot limit to potentially reduce discard mortality in the fishery? Staff clarified that different options are being considered for the different management areas. The management option being considered will not increase or decrease the minimum size limit but would put in a slot limit to protect larger females in the ASMA where harvest is currently allowed. Staff also clarified that discard estimates vary by system. Staff referred the AC to a table in the FMP providing discard estimates for the Tar/Pamlico and Neuse systems and noted that the estimates from the ASMA are higher for both the recreational and commercial fisheries.

The AC asked about any potential management occurring where fish are spawning and the impact of catch and release fishing on the spawning stocks. What is the discard mortality and

how is that harming the stock? Staff replied that discard mortality and impacts vary by water temperature. The overall assumed release mortality is 6.4% and those rates are incorporated in the stock assessment. Fishing on the spawning grounds has been allowed during prior stock recoveries. The harvest season on the Roanoke historically ends April 30th, but there is still catch and release fishing. Discard numbers can range from 10k to 15k but can be as high as 40k fish a year depending on year class strength. We assume 6.4% of these fish die in the stock assessment. An AC member asked about commercial estimates of discards and whether they are based on the observer program. Staff noted that current estimates are based on onboard observations. A member noted that some question the validity of those estimates.

An AC member asked why we would have two slot limits and would the slot limit increase discards. Two different regulations can be confusing to the public. Staff noted that regulations in the RRMA and the ASMA have been different since the 1990's and that the ASMA has never had a slot but does have a minimum size limit of 18 inches total length. Figures from the FMP providing the length distributions of harvest were then shown to the AC. There is not an expectation from staff that the slot limit will significantly increase discards, but it will provide additional protection for larger spawning females. The reason for the different slots in the RRMA versus the ASMA is to account for the size of fish being most frequently encountered by the fisheries and gears allowed in each of these areas. Some comments from the AC noted that consistent regulations across areas would be beneficial. An AC member asked what the effect would be if we moved the season back two weeks on the spawning grounds to shift harvest towards males and away from female fish. This would also shift harvest to a time period with cooler water reducing discard mortality. Staff noted that this idea could be considered as a possibility.

An AC member brought up water flow and its impact in determining year class strength during the spawning period. What is the status for controlling optimal water flows in the Roanoke River? Staff noted that WRC meets weekly with the Corps during the spawning season and they negotiate the best flow levels possible based on rainfall and water levels in Kerr Lake.

PUBLIC COMMENT

Steve House, Dare County Commissioner, read a resolution that was adopted by the Dare County Board of Commissioners in a unanimous vote. The resolution endorses shifting a greater allocation of the A-R stock recreational quota from the RRMA to the ASMA to protect and preserve the striped bass stock. Endorsement of this resolution was based on differences in both the timing and location of the fisheries as well as the overall size of the areas; the RRMA fishery occurs on the spawning grounds during spawning, while the ASMA fishery does not, and the ASMA is much larger in acreage serving a much broader area.

Stuart Creighton, member of Striped Bass AC, expressed concern about the A/R stock. It's the last remaining naturally reproducing stock. There are more problems than just the river flow on the Albemarle. Blue catfish are a problem in this system. What is the impact of blue cats? Has it been studied? What are impacts of gill nets and discards? We can't set catch levels as high as we

have in the past. They were too high. As soon as the stock recovered the catch levels were set too high. On the Neuse and the Tar/Pam, the gill net restrictions are working. There are more striped bass now, the benefits are there. On the Cape Fear River and the Tar and Pam we need to consider what the management will look like if this becomes a put-grow-take fishery because we may be there soon.

Reese Stecher, a Charter Captain in the Oregon Inlet area since 1997, trying to get back to two fish per day in the ASMA. We need to reallocate the quota between the ASMA and RRMA. There is a kill season on the spawning grounds in the RRMA. We come in under quota in the ASMA so why do we need a slot limit? The RRMA is going over the quota and are being rewarded. They caught more than twice their quota last year. Our season got cut, it's not fair and its needs to be addressed. If this is about economics there 8 counties that border the ASMA, more than RRMA. If the RRMA harvest season is not eliminated, the allocation between the RRMA and the ASMA needs to be based on the size of the water bodies. Eliminating the harvest in RRMA will not impact the economy of that region. Most of the fishing is catch and release and they will continue to have fishing.

Glenn Skinner, Executive Director of the NC Fisheries Association, requested that the Finfish AC recommend to the MFC to lift the gill net bans above the ferry lines in the Tar-Pamlico and Neuse Rivers and allow harvest of striped bass. The summer strike net mullet fishery, as well as other fisheries, were heavily impacted by the net bans. In 2019, the MFC forced the DMF Director to issue the proclamation to ban nets above the ferry lines after he had previously declined. The MFC called an emergency meeting with only 48 hours' notice and no public comment, disregarded the science, and forced the Director to issue the proclamation. Shortly after this occurred, DEQ Secretary Regan issued a press release condemning the MFC for their actions. The net ban is not necessary and it needs to go back to how it was before, with the previous tie-down and setback rules in place.

Joey Van Dyke, recreational guide from Hatteras, used to fish the Tar, Pam, and Neuse. All the rivers are getting closed. Everything is getting pushed into the Roanoke River and there is more pressure on that system. What we see in the commercial fishery is happening in the recreational fisheries. The WRC and DMF are to blame. The Tar and Neuse have been closed for 5 years now with no recouplement of fish to anglers. We have nothing to show for it. Do we want this to happen to the Albemarle and the Roanoke? No, we don't want to lose these fisheries. People come from all over the country to participate in this fishery. Take pride in this fishery, stock the fish and allow access to the fishery.

Greg Judy, commercial fisherman from Washington, NC. My comments are directed to the Tar- Pamlico and Neuse rivers. Last fall I served as an AC member for the Striped Bass FMP. It went well and there was good exchange between participants. Because of the low population and poor natural recruitment, the consensus was to reluctantly support the no possession of striped bass in these rivers until the population rebuilds. What the fishermen requested was to allow gill nets access above the ferry line; specifically, the small mesh fisheries for white perch, striped mullet, and shad. Most of which would be drop nets and strike nets. Due to the limited season and colder water temperatures, discards would be limited from the large mesh gill net fishery for flounder. In the Tar-Pamlico and Neuse rivers, 2013-2018 observer data indicated that there were

only 708 dead fish from small and large mesh gill nets. This was mostly from the large mesh gill net fishery; but the flounder season was 11 months long at that time. There were also regulations (tie downs, distance from shore, etc.) that limited bycatch of striped bass as well. The MFC at the February 2022 meeting eliminated the options for use of nets above the ferry lines and the MFC commissioners who did this have now lined up their positions with the Coastal Conservation Association and the NC Wildlife Federation. The MFC is trying to prevent review and debate by the public and ACs. In the Albemarle Sound there has been a steady decline in the use of gill nets. There has been an 83% reduction in small mesh trips, but striped bass have continued to decline in the Albemarle Sound and Roanoke River. Please allow small mesh gill nets above the ferry lines in the Tar-Pamlico and Neuse rivers.

VOTE ON RECOMMENDATIONS TO THE MARINE FISHERIES COMMISSION FOR ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2

Albemarle-Roanoke Sustainable Harvest Issue Paper

Manage for Sustainable Harvest Through Harvest Restrictions

Motion by Brent Fulcher to support option 1.A, maintain status quo: use of a TAL as recommended by the Division. Second by Randy Proctor

No discussion on motion.

Motion passed 10-0, with 1 abstention.

Commercial Fishery Managed as Bycatch Fishery

Motion by Brent Fulcher to support 2.A, maintain status quo: bycatch fishery as recommended by the Division. Second by Allyn Powell.

One member commented on concern that larger fish tend to occur in Albemarle fishery and that there is greater potential for dead discards. No further discussion occurred.

Motion passed 9-0, with 2 abstentions.

Accountability Measures to Address TAL Overages

Motion by Allyn Powell to support 3.D, if the landings in any one of the management areas' three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceeds their allocated TAL in a calendar year, any landings in excess of the TAL will be deducted from that fisheries' allocated TAL the next calendar year. Second by Brent Fulcher.

Member asked for how Northern and Southern ACs voted on this issue. Chair noted that both supported DMF recommendation of 3.D. Discussion on how recreational estimates are derived and if they come from MRIP. Staff explained that for striped bass we have specific surveys designed for the striped bass harvest and we do obtain precise estimates. Some comments that

with a shortened season we could have potential for more error in survey. Member noted that recreational fishery could be regulated with tags, similar to commercial fishery. Staff noted that with commercial tags the tagging takes place at the dealer level and is simple because the number of dealers landing striped bass is manageable. Recreational tagging would be much more expansive and difficult with requirement for self-reporting. The current creel survey should be able to estimate harvest.

Motion passed 10-0, with 1 abstention.

Size Limits to Expand Age Structure

Motion by Brent Fulcher to support option 4.C. and 4.E.; in the ASMA, implement 18-25 inch harvest slot and in the RRMA, maintain slot limit 18-22 inch and no fish greater. Second by Randy Proctor.

Member asked about discards and if there would be rationale for going lower to reduce the dead discards such as for fish under 18". Staff noted that during most years, the fish discarded are under 16-18". The ASMFC plan compliance requires that we not go below 18" and the size limits match up with size at maturity. Member asked about discards and consideration for controlling discards during warmer water temperatures when release mortality is higher. Staff noted that the harvest season automatically closes by at least April 30 for this reason, but we do not prevent folks from fishing where they may catch and release striped bass after this date. Closing the season does limit the incentive to go striped bass fishing. Another AC member stated that effort does normally drop off during the summer. Staff noted that the creel survey in the ASMA and RRMA does not extend into the summer, but effort certainly does go down. We do have year-round estimates in the Tar/Pam and Neuse River. Discussion occurred about if the DMF and WRC both supported 4.C. and 4.E. Staff noted that this was the case. Member asked if staff considered fish over 27 inches as a slot to avoid additional discards. Staff noted that a slot up to 25 inches as recommended protected most of current harvest and afforded protection of larger spawning fish. Member asked about Northern and Southern AC motions and was noted that both supported options as provided in the motion as made by Finfish AC.

Motion passed 9-0, with 1 abstention.

Gear Modifications and Area Closures to Reduce Discard Mortality

Motion by Allyn Powell to accept options 5.A and 5.E. Allow commercial harvest of striped bass with gill nets and recreational harvest and catch-and-release fishing in the ASMA and RRMA including on the spawning grounds. Require non-offset, barbless circle hooks when fishing live or natural bait in inland waters of the RRMA May 1 through June 30. Second by Brent Fulcher.

Member offered a friendly amendment to modify the season on the spawning grounds by opening it 2 weeks earlier to allow for a buffer, while water temperatures are cooler, to the harvest of striped bass on the spawning grounds. After discussion by the Chair and AC on the allowance of amendments and motions outside of the options provided in the plan, the committee agreed to move forward with consideration for the amended motion. Member explained his

reasoning for the friendly amendment was to direct more harvest on males on the spawning grounds during a period when water temperatures were cooler and release mortality would be lower. The amendment was discussed and the motion to amend was withdrawn so the original motion could be voted on.

Motion passed 9-0, with 2 abstentions.

A motion was then made by Ken Seigler to recommend the harvest season on the spawning grounds be moved 2 weeks earlier to allow a buffer between the arrival of the male fish and the female fish on the spawning grounds and to improve release mortality as it relates to water temperatures.

Motion failed for lack of second.

Adaptive Management

Motion by David Mense to accept the option of adaptive management. Second by Allyn Powell.

Concern expressed by member that adaptive management appears to have no limitations. Staff clarified that this authority allows for the opening and closing of seasons to manage harvest within the TAL or to change the possession limits as needed to control harvest. Used to manage gill net effort and to control harvest and discards in the commercial fishery. Also used to adjust the TAL to keep the fishery within the fishing mortality targets based on stock assessments. Member noted that there is nothing in the adaptive management related to recruitment and if it continues to be low would we need to use the juvenile index in management to take precautionary action to protect stock. Staff noted that we have used the lack of recruitment to expedite an update of the stock assessment that is planned later this year. This update is based on our recent observation of low recruitment, but we have not specifically considered the juvenile index as a trigger for additional management.

Motion passed 9-0, with 2 abstentions.

Tar-Pamlico and Neuse Rivers Sustainable Harvest Issue Paper

Striped Bass Harvest

Motion by David Mense to support option 1.A, continue the no possession measure as recommended by DMF. Second by Randy Proctor.

Member asked for clarification as to what regions are covered by the motion. It was clarified that we are discussing the Tar-Pamlico and Neuse systems of the CSMA and that there is currently no harvest allowed for either the commercial or recreational fisheries.

Motion passed 6-4, with one abstention.

Gill Net Restrictions or Limits

Motion by David Mense to accept option 2.A, maintain the gill net closure above the ferry lines. Second by Randy Proctor.

Substitute Motion by Brent Fulcher to allow the use of gillnets in the Tar-Pamlico and Neuse rivers above the ferry lines. Second by Allyn Powell

Rationale provided by member for the substitute motion was that the closure of the rivers to gill nets was closed arbitrarily against the Secretary's advice and the standing Director of Marine Fisheries at the time that it was closed. The year class that was intended to be protected should have passed through and we are hindering fisheries with minimal if any benefit to the striped bass stock. Another member expressed concern that the MFC pulled the options from the plan prior to the plan going out to public or to the AC's for input. Existing rules with tie-down nets and distance from shore have taken care of issue for bycatch. Concern was expressed over bycatch estimates for striped bass and if they are reliable. Member noted that many fisheries are being impacted in order to protect this one fishery. Staff, upon request by a member, clarified and provided data on studies that show the effectiveness of tie-downs and distance from shore at reducing striped bass bycatch. Clarification was made that the substitute motion would be intended to revert to regulations previously in place by the Division prior to the closure in 2019. Staff provided a brief summary of regulations in place prior to 2019.

Substitute motion failed 5-5, with 1 abstention.

Original Motion failed 5-5, with 1 abstention.

Adaptive Management

Motion by Randy proctor to approve adaptive management. Second by Jeff Buckel.

Staff clarified that adaptive management purpose would allow for a formal review of data to determine sustainability prior to next Amendment.

Motion passed 9-0, with 2 abstentions.

Cape Fear River Sustainable Harvest Issue Paper

Harvest or No Possession

Motion by Ken Seigler to accept option 1, maintain the no possession provision. Second by David Mense.

Staff clarified that option 2 was the WRC recommendation and in this case the WRC didn't agree with the DMF recommendation. WRC would like to see some harvest of fish since its primarily a hatchery supported system. WRC has also noted that access to the spawning grounds remains very limited making successful spawns unlikely. DMF clarified that they would like to keep the no harvest provision in place to evaluate the modifications at lock and dam 1 and the

newly implemented pulse flows. This action is being taken now to submerge the lock and dams to allow fish passage. Additionally, DMF would like to better understand the level of reproduction we are seeing evidence for in this system. Based on the genetic work there are some wild caught fish showing up in the agency surveys. Around 10% of all the fish tested in 2019 were not hatchery and we do see young of year fish as well. Allowing harvest at this time would target fish that do manage to pass and spawn. A little more time is needed to assess these recent changes. Member asked if there was movement between the CFR and the rest of the CSMA? Staff noted that it is very rare for fish to leave the system, we did have one fish get caught in Chesapeake Bay from the CFR. The majority stay in the river and don't go into the rest of the CSMA.

Motion passed 8-1, with 2 abstentions.

Adaptive Management

Motion by Allyn Powell to adopt option 5, Adaptive Management. Second by Randy Proctor.

No discussion.

Motion passed 9-0, with 2 abstentions.

Hook and Line as a Commercial Gear Issue Paper

Commercial Use to Harvest with Hook and Line

Motion by Randy Proctor accept option 1 (do not allow hook and line as a commercial gear) and 3 (adaptive management). Second by David Mense.

Member asked why option 1 to not allow hook and line as commercial gear was put forward by the DMF. DMF recommends not allowing this gear at this time due to the low stock abundance and we don't want to encourage any additional harvest at this time. DMF would like to keep this as an option through adaptive management in the future. AC asked how this fishery would be monitored. Staff noted that the dealers in this fishery have to call in their tags/catches harvested daily. Moving to a hook and line gear allowance now could increase participants and be an issue given the current low TAL and this is one reason the DMF does not currently support. The STB AC also didn't recommend this.

Motion passes 6-0, with 5 abstentions.

MARINE FISHERIES COMMISSION UPDATE

Staff provided an update. In February, the MFC approved the draft Estuarine Striped Bass FMP Amendment 2 for MFC AC review and public comment through April 1, 2022. We are holding the listening sessions a week before the AC meetings. This allows the public to hear presentations from staff about the documents. We allow questions after the presentation to anyone in the session. They are recorded and put online in the 'Hot Topics' section of the

webpage for the species. Amendment 3 for southern flounder was approved with the DMF recommendations. The MFC also approved a two-year delay in reaching 50/50 parity, moving the date from 2021 to 2023 with parity occurring in 2026. The MFC also approved a resolution that they would consider a moratorium if there are continued overages in the commercial and/or recreational fisheries. Amendment 2 to the shrimp FMP was adopted in February and DMF is moving forward on implementation on the management strategy. In May, the MFC will be provided an information updated on the FMP for Interjurisdictional Fisheries. The MFC will have no rule items in May, the next rule package will come to them in August.

PLAN AGENDA ITEMS FOR THE NEXT MEETING

No items are planned at this time. MFC ACs will not likely need to meet again until October 2022 and staff will send an email to all committees with updates as they become available.

The meeting adjourned at 8:45 p.m.