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*Director*

March 28, 2022

**MEMORANDUM**

**TO:** Marine Fisheries Commission  
Southern Advisory Committee

**FROM:** Tina Moore, Southern District Manager  
Chris Stewart, Biologist Supervisor  
Fisheries Management Section

**SUBJECT:** Meeting of the Marine Fisheries Commission's Southern Regional Advisory Committee, March 16, 2022. Recommendations for the Striped Bass Fishery Management Plan Amendment 2

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The Marine Fisheries Commission's (MFC) Southern Advisory Committee (AC) held a hybrid meeting on March 16, 2022 via webinar and in-person at the Division of Marine Fisheries (DMF) Central District Office in Morehead City, NC. Listening sessions were also provided to the public to gain public comment at the DEQ Wilmington Regional Office in Wilmington, NC and the Dare County administrative building.

The following Advisory Committee members were in attendance: Fred Scharf, Jerry James, Jason Fowler, Tom Smith, Cane Faircloth, Samuel Boyce, Pam Morris, Jeffrey Harrell, Adam Tyler (Absent – James Rochelle and Tim Wilson)

DMF Staff: Chris Stewart, Joe Facendola, Garland Yopp, Carter Witten, Hope Wade, Corrin Flora, Debbie Manley, Lara Klibansky, Tina Moore, Charlton Godwin, Nathaniel Hancock., Todd Mathes, David Behringer, Lee Paramore, Steve Poland, Kathy Rawls, Dan Zapf, Casey Knight, Mike Loeffler, Hannah Carter, Jeff Dobbs, Nolen Vinay, Brandi Salmon, Lorena de la Garza, Anne Markwith, Alexander Batchelder, Chris Nealon, Dee Lupton, Cara Kowalchuk, Ashley Bishop, Edward Mann

NC Wildlife Resource Commission (WRC) Staff: Kirk Rundle, TD VanMiddlesworth, Ben Ricks, Jeremy McCargo

Public: Rich Carpenter, Thomas Newman, David Belkoski, Reese Stecher, Fritz Rohde, Greg Judy, Glenn Skinner

Southern Regional AC Vice-Chair Jerry James called the meeting to order at 6:03 p.m.

A call for attendance was performed and attendance recorded. The Southern AC had nine members present and a quorum was met. Fred Scharf came online into the meeting at 7:10 p.m. just before voting started on the management options.

## **APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES**

**A motion was made to approve the agenda by Pam Morris. Second by Cane Faircloth. The motion passed without objection.**

**A motion was made to approve the minutes from the Southern AC meeting held on January 12, 2022. Motion by James Fowler to approve minutes. Second by Cane Faircloth. Motion passed without objection.**

## **PRESENTATION ON ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

Nathaniel Hancock, Charlton Godwin, Todd Mathes, and Joe Facendola presented the DMF recommendations. After presenting, staff fielded questions and comments from AC members for Amendment 2.

A question was raised whether there was a striped bass fishery historically in the Lockwood Folly or Shallotte River systems. Facendola responded there has been no established population because the spawning habitat is not suitable for reproduction.

Discussion continued on the work done on Lock & Dam 1 (LD1) and whether it will be successful. Facendola noted the original structure was built prior to knowing what the proper dimensions (pool width and openings) are for larger species such as striped bass to pass. The openings have recently been widened with the reasoning that it should improve passage of striped bass as well as other anadromous species, such as sturgeon. The flow pulse regime from Jordan Lake has also recently been monitored more closely to submerge the structure. Passing by there the other day the LD1 was under water. A committee member noted Lock & Dam 2 (LD2) is in poor shape and Lock & Dam 3 (LD3) needs to remain for water supply usage and thought LD3 would still prohibit successful spawning unless fish could navigate over. Is there something that could be done to LD3? Facendola responded there are plans in the work to get passage at LD2 and LD3. It is part of a larger interagency workgroup plan. The timing of this larger plan is unknown.

Jeremy McCargo, with the WRC, noted that operating the locks is another alternative, which was successful in the past at LD1. The Army Corps of Engineers (ACOE) says the LD1 is still operable, but LD2 and LD3 are not operable due to damage during Hurricane Florence. They no longer assess if the modified design is working to move fish upstream at LD1. The ACOE received over 6.5 million dollars from the infrastructure bill to redo the lock chambers at all three lock and dams to pass fish until there are adequate structures at LD2 and LD3 or they are removed. We do know that the historic spawning grounds are above LD3 where the fall line and rocky habitat begins. Until the fish get past LD3, WRC does not believe striped bass will successfully reproduce in the Cape Fear River system. A committee member noted the fisheries had potential in this system before the locks were added, and now they limit us to a stocked only fishery. A question was raised whether the WRC was looking to use some of the funds to remove some of the dams. McCargo responded the ACOE owns the dams and therefore they have to agree to have anything built on them. There is an ongoing disposition study to see if the locks meet the need to allow navigation up and down the rivers. The locks are not meeting navigation and there is not a need to move traffic up and down the river. For the state to take over ownership of the of the dams it would takes an act of Congress to hand them over to the state. It's in the federal government's hand right now.

A committee member asked for further clarification on the limits preferred by the WRC if harvest was allowed. WRC recommends the creel limit for the entire river would be two fish per day, an 18-inch

minimum size, and a limited season for harvest, not year around. The WRC would want to restrict harvest but allow access to those hatchery fish.

The committee requested further information on the hatcheries and where fish are released. McCargo explained the WRC grows and stocks the fish in the Cape Fear River. WRC management has looked at the continued no harvest scenario in the Cape Fear River for over a decade, with no improvement in the sustainability of the stock. Since we are not meeting the restoration objective and the fish don't have access to the spawning grounds, WRC would like to allow harvest of these fish. It is hard to justify stocking fish if the fishery remains closed and the restoration potential is minimal. Based on genetic sampling conducted by the WRC at the lock and dams, over 90% are hatchery fish. There appears to be some natural reproduction in the Northeast Cape Fear River and some in the main stem. If WRC were not stocking the system, access to the majority of striped bass in the Cape Fear River would be lost.

A committee member asked why there is no improvement in recruitment in the Tar-Pamlico and Neuse rivers since the no possession limit was put into place in 2019. Todd Mathes explained it's going to take time to see improvement due to variability. We are starting to see larger fish. In 2021, we had some young-of-year fish that we are trying to determine if they are hatchery or wild fish. We can tell who the fish's' parents are based on the genetic marker; if they came from the hatchery brood stock. But if two hatchery fish spawn and produce offspring then it's not traceable and would be represented as a wild fish.

### **PUBLIC COMMENT**

**Rich Carpenter**, I am commenting on behalf of the Cape Fear River Watch. A nonprofit environmental organization that looks to improve water quality in the Cape Fear River basin. We have put a lot of time and effort in to improving fish passage in the Cape Fear River. We were involved in the original efforts to get passage at LD1. We also participated in the monitoring efforts with that structure. The rock archway worked to pass smaller fish such as shad and river herring, but not so much for larger fish. Riverwatch led an effort to modify LD1 that was completed last fall. A group of different agencies and Clemson University have completed and plan on continuing acoustic tagging studies to assess passage at LD1. Taking fish could comprise these studies, and lead to the loss of expensive acoustic tags. The ACOE with the Nature Conservancy are doing pulse flows which should help passage of fish above LD2 and LD3 to their spawning grounds. It's not in the best interest of the stock or the studies to allow harvest at this time. There are also elevated levels of per- and polyfluoroalkyl substances (PFAS) in striped bass; allowing consumption of these fish before more studies can be done is unwise. There were also high levels of mortality on striped bass in the Cape Fear River after Hurricane Florence due to low dissolved oxygen. Striped bass and other species need more time to see improvement.

**Reese Stecher**, a Charter Captain in Oregon Inlet area since 1997. I know nothing about the southern region. The past six years we have had really good fishing where I fish; especially the last two years. Where we run two trips a day. It's hard to swallow the cuts (80% in the ASMA), given the size of the Albemarle Sound. The recreational quota is divided between the ASMA and the Roanoke River Management Area (RRMA). The RRMA is a smaller area on the spawning grounds. That region caught more than double their quota. Why do we allow fishing on the spawning grounds? The RRMA is not getting penalized for going over the quota and this year have a four-day season. The ASMA is getting penalized. The number one killer of striped bass is dead discards. There are three time the discards in RRMA. We need to reallocate the quota. The netters don't even have this many dead discards. It makes no sense.

**Glenn Skinner**, with NC Fisheries Association, read DEQ Secretary Regan's 2019 letter to the MFC about their emergency meeting and directive to the DMF Director to allow no possession of striped bass above the ferry lines on the Tar-Pamlico and Neuse rivers. The letter was issued after the MFC called an

emergency meeting. There was no science to support this action. The director declined issuing the proclamation and noted in the letter to the MFC that the science didn't support it and the Director wouldn't do it. The MFC called a special meeting to ban all gill nets above the ferry line. I ask you to recommend allowing gill net fisheries above the ferry lines as recommended by the MFC Northern Advisory Committee on March 15, 2022. There were measures put in place before the ban that limited discards. The ban has choked out other fisheries such as shad, striped mullet, and white perch for no reason. Please ask the MFC to lift the gill net ban.

**Fritz Rohde**, I am with NOAA Fisheries and in the past worked for DMF. Currently, I am working on fish passage with NOAA. NOAA is in favor for option 1, no harvest on the Cape Fear River. We have done a lot of work to improve passage. We are seeing reproduction below LD1, if fish get above that I believe things will be much better. The Northeast Cape Fear River has been overlooked, there is spawning. WRC needs to reinstate the spawning survey in that area. Smiley Falls is not the holy grail; I thought that too for a long time. The dams went in 107 years ago, and we have had striped bass in the river ever since. They are spawning somewhere up there. If you stop stocking the river, I don't believe they will completely go away. We are satisfied with the passage of shad at LD1. I believe with the new modifications and new pools and better flow sturgeon may pass and striped bass will pass in higher numbers. The ACOE has been sitting on disposition reporting for too long. LD2 should be taken out. LD3 should be modified. We are getting reproduction in the Cape Fear River below Buckhorn Dam. Back in the early 1960s studies found there was reproduction and juveniles were being locked upstream prior to any stocking by WRC. There is natural production happening in the Cape Fear River.

**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 founder 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**

Vice-chair Jerry James asked the committee if they preferred to limit their comments to the just the southern region issues or start with the southern options first? Committee members agreed that wanted to review and make recommendations on all areas in the plan. James directed the committee to the decision document as the outline they would go through to address each of the issues starting on page 4 in the document for the first issue in the ASMA and RRMA management areas.

*Albemarle-Roanoke Sustainable Harvest Issue Paper*

Manage for Sustainable Harvest Through Harvest Restrictions

**A motion was made by Fred Scharf to support option 1.A., maintain status quo: use of a TAL. Second by Samuel Boyce.**

No discussion occurred between committee members.

**The motion passed without dissent**

Commercial Fishery Managed as Bycatch Fishery

**Motion by Adam Tyler to support option 2.A.; maintain status quo: bycatch fishery. Second by Tom Smith.**

No discussion occurred between committee members.

**The motion passed without dissent.**

Accountability Measures to Address TAL Overages

**Motion by Sam Boyce to support option 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 fishery allocated TAL the next calendar year. Second by Adam Tyler.**

Staff confirmed that payback over a TAL would be done by sector. A committee member noted that Option 3.D. provides no room for error by the sector and other options provide some cushion to the recreational sector because of the accuracy to estimate recreational landings. The group noted the WRC initial recommendation was different than the DMF initial recommendation. The WRC initial recommendation instead of pound for pound payback wanted a buffer and any excess would come from above the buffer, not the actual TAL. Anything over the 5% buffer would be taken off.

A committee member requested further information on the rationale about the payback and whether we are legally bound by one measure to meet accountability. Godwin responded when we do projections and come up with the TAL, it's the number we need to get to hit mortality targets. If we don't take the whole overage, we will not meet the targets, and this is not an option under the Fisheries Reform Act. He went on to describe the DMF/WRC striped bass creel survey and the timing of the data collection for recreational landings from that survey. A committee member noted at the federal level the payback is pound for pound over, there is no buffer. Any landings that exceeded in a year must be paid back the next fishing season and the motion on the table now aligns with that approach.

**The motion passed without dissent.**

Size Limits to Expand Age Structure

**Motion by Tom Smith to support options 4.C. and 4.E.; in the ASMA, implement 18 to 25 inch harvest slot and in the RRMA, maintain slot limit 18 to 22 inch and no fish greater. Second by Adam Tyler.**

Tom Smith noted he was a member of the Striped Bass FMP AC and we all agreed that protecting the bigger fish is the right way. It was noted in the draft plan the WRC initially preferred in the RRMA option D. to maintain the 18-22-inch slot but allow one fish greater than 40-inches. After further discussion with their commission the WRC changed their preferred options and now support options 4 C. and E.

**The motion passed without dissent.**

Gear Modifications and Area Closures to Reduce Discard Mortality

**Motion by Adam Tyler to support 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 Cane Faircloth.**

No discussion occurred between committee members.

**The motion passed without dissent.**

Adaptive Management

**Motion by Tom Smith to support adaptive management. Second by Sam Boyce.**

A Committee member noted difficulties with supporting too much flexibility. Steve Poland, Fisheries Management Section Chief verified there is oversight for proclamation in rule that justifies what goes into proclamation, like specific variable conditions and in particular compliance with FMPs. The plans often provide guidance to the Director of what actions can be taken by proclamation. It was noted the first part of adaptive management for the Albemarle / Roanoke (A-R) striped bass says a stock assessment will be updated. When will the next benchmark assessment will occur? Godwin said the last benchmark assessment was 2017, and DMF plans to update the stock assessment this year.

**The motion passed without dissent.**

***Tar-Pamlico and Neuse Rivers Sustainable Harvest Issue Paper***

Striped Bass Harvest

**Motion by Tom Smith supports option 1.A.; continue the no possession measure. Second by Fred Scharf.**

No discussion occurred between committee members.

**The motion passed 7-2.**

Gill Net Restrictions or Limits

**Motion by Pam Morris to support putting back in the gill nets as an option. Second by Adam Tyler.**

Committee members requested more information on why the MFC removed some of the options in this issue and wanted more information on the fisheries above the ferry lines, what they target and the seasons the fisheries occur. Other species targeted with small mesh gill nets include shad, striped mullet using active strike nets, spotted seatrout, and spot. With the flounder closures you still need to give the people



something to work with and the flounder fishery is almost nonexistent now due to the limited season and water temperatures. Mathes went on to explain the specific options removed from the plan. One was to allow the shad fishery, during a certain time window, based on the observer data. Another was to completely remove the closures and implement 3-foot tie downs and distance from shore. And once the fishery was done then have time tie downs and 200 yards distance from shore requirement from February 14 until the following year. For adaptive management we would continue to review each year the observer data to look at striped bass bycatch. A question was raised on how much reduced was striped bass mortality with the tie-down and distance from shore measures? Mathes said the initial work had an 85-99% reduction of striped bass for tie down measure and a 60% reduction for distance from shore. Another report in 2016 had a 75% reduction in discards from commercial gill net fishery between management regimes. A friendly amendment was agreed upon for the original motion.

**The friendly amendment to the motion by Pam Morris, recommend to the MFC to remove the gill net moratorium above the ferry lines and reimplement the management measures prior to the 2019 closure. Second by Adam Tyler.**

**The motion passed 4-1, with 4 abstentions.**

#### Adaptive Management

**Motion by Fred Scharf to support adaptive management. Second by Jason Fowler.**

No discussion occurred between committee members.

**The motion passed without dissent.**

#### *Cape Fear River Sustainable Harvest Issue Paper*

#### Harvest or No Possession

**Motion by Tom Smith to support option 1; maintain the no possession provision. Second by Samuel Boyce.**

Committee members noted they were not in favor of ending stocking and if stocking is ongoing why not allow some harvest on the hatchery fish. Pam Morris requested a member of the public, Fritz Rohde, if he could speak further on behalf of NOAA. The Vice-chair approved Rohde to speak. Rohde continued that NOAA is looking at fish passage for many species including striped bass and with the current changes on the Cape Fear River I believe we are going to see some improvement. There is a guide fishery on this system too, it's not that recreational fishermen have no access, they just can't keep the fish. Stocking does help striped bass as well as other species. NOAA fisheries doesn't want harvest while all the current work is going on in the river. It's too soon, if nothing changes in five years, then we could consider allowing harvest. WRC stopped stocking Jordan Lake this past year. There are recent modifications at LD1, we are now doing the pulse flow. There have been a lot of changes and that is why we don't want harvest.

A committee member noted we should maintain no harvest because there is some natural reproduction in the Northeast Cape Fear River. We want to minimize their removal. It is hopeful that some natural reproduction will occur. We should not allow harvest until we see if fish passage works; continue to stock the river in the meantime and not allow harvest until we see how the fish passage works and evaluate where we are. Another member supported the continuation of the moratorium in the short term. It is understood where WRC is coming from. It's been 13 years and still only seeing limited spawning and limited access to the spawning grounds. There is evidence that natural reproduction is occurring in a small

part of the system. The modification to the archway only just recently finished at LD1. This will be first spring in 2022 we will get new data for striped bass. It worked for shad, but striped bass didn't pass over. Research at UNCW and NCSU work has shown that the fish don't leave the system. They still migrate upstream; some migrate to the Northeast Cape Fear River and some to mainstem of the Cape Fear River. They repeat their runs each spring and it is still embedded in the stock, they just need to exercise it. There may be conditions in the river that make it not suitable for larval success. I just don't think the time is now. Maybe down road we can open it up.

A committee member asked why not allow some type of slot limit like red drum to allow some harvest of the fish? James asked Cane Faircloth, for-hire fisherman on the committee, whether he fished for striped bass in the Cape Fear River. James further noted that he knows there are striped bass tournaments in the river. Faircloth indicated he does not fish in this system, but others have said to him it is a decent fishery and it's getting better. The guides say it is not a big business for them; however, they would like to see stocking to continue. Sammy Boyd noted he fishes in that fishery and has caught some fish 25-inches and greater at times and would like to see it get back to a naturally supported fishery; but has concerns if stocking is not continued.

**The motion passed 5-1-3.**

Adaptive Management

**Motion by Tom Smith to support option 5; adaptive management. Second by Jason Fowler.**

No discussion occurred between committee members.

**The motion passed without dissent.**

*Hook and Line as a Commercial Gear Issue Paper*

Commercial Use to Harvest with Hook and Line

**Motion by Adam Tyler support option 1; do not allow hook and line as a commercial gear for estuarine striped bass. Second by Tom Smith.**

Godwin noted in the A-R system there has been big reduction in the shad and flounder fisheries. There has been difficulty catching the quota due to the closures from turtle and sturgeon interactions. Adding hook and line as a commercial gear would allow commercial fishermen to harvest these fish if gill nets are not allowed in the water. Other states allow this for certain species. A committee member stated we do have commercial hook and line fisheries in NC. For all those reasons I can see having this as a gear. The option reads as 'do not allow', why would you not allow it? Godwin explained previously it was illegal to harvest striped bass commercially with hook and line. In the last amendment we did remove that rule. The Striped Bass AC also didn't support use of hook and line as a gear for commercial harvest of striped bass.

Tom Smith said he was a member of the Striped Bass AC, one of the options was not to allow the use of gill nets at all, so this would allow access to the fishery. Hook and line was added to replace gill nets if they were removed. Godwin noted this issue came from Amendment 1 from the MFC, date back to the late 1980s and didn't have anything to do with the other options. It was a stand-alone.

**Motion passed 6-2-1.**



## Adaptive Management

**Motion by Fred Scharf to support adaptive management. Second by Jason Fowler.**

No discussion occurred between committee members.

**The motion passed without dissent.**

## MARINE FISHERIES COMMISSION UPDATE

Lara Klibansky, MFC liaison, provided the 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 continued overages in the commercial and/or recreational fisheries occur. Amendment 2 to the shrimp FMP was adopted in February and DMF is moving forward on implementing 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 at their May meeting, the next rule package will come to them in August.

## PLAN AGENDA ITEMS FOR THE NEXT MEETING

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

The meeting adjourned at 8:16 p.m.