



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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SUMMARY OF PUBLIC HEARING COMMENTS

Hearing Officer: B. Ballou
DEM Staff: N. Scarduzio, D. Costa, M. Gibson, G. Powers, L. Mouradjian,
RIMFC Member Present as an observer: S. Parente

The public hearing was held on October 19, 2010 in Narragansett, RI at the URI Bay Campus, Corless Auditorium. Approximately thirty (30) people attended the hearing. The following items were presented for public comment:

- 1) The DEM proposed Management Plans for the Shellfish, Finfish, and Crustacean sectors:** These management plans are developed by the Division of Fish and Wildlife, as required in statute, to give the underlying data used in the proposed changes to the commercial fishing license regulations, and are reviewed annually.

Public Comment: There were no specific public comments on the three management plans. There were some comments in disagreement with the Division recommendations regarding the soft-shell clam fishery as captured in statements made under item 2b below.

- 2) Amendments to the commercial fishing license regulations regarding the availability of licenses and endorsements in 2011:** The changes proposed in the licensing regulations for 2011 reflect the recommendations as set forth in the Division of Fish and Wildlife sector management plans, advice from the RIMFC Industry Advisory Committee (IAC), and DEM staff. The proposals that came forward contained options for both status quo in the shellfish, finfish, and crustacean sectors and a recommendation from the Division of Fish and Wildlife for no new endorsements for soft-shell clams. Industry, via the IAC, proposed status quo; to retain the 3:1 exit/entry ratio for quahogs for all eligible licenses (MPL's + PEL's with a quahog endorsement) that retired. For soft-shell clams, industry, via the IAC, proposed status quo; to retain the 5:1 exit/entry ratio applied to all eligible licenses (MPL's + PEL's + CFL's with a soft-shell clam endorsement) that retired. The Division of Fish and Wildlife recommended no new endorsements for soft-shell clams. Industry, via the IAC, also recommended status quo; to maintaining the 5:1 exit/entry ratio for restricted finfish endorsements but to issue PEL's with RFF endorsements instead of CFL's with RFF endorsements, as well as, no new lobster

endorsements. This portion of the hearing was conducted in five sections therefore the summary below is structured in five sections (2a through 2e) for ease of reading.

a. Shellfish sector - Quahogs

Public Comment: T. Jackson, President of American Alliance of Commercial Fishermen, stated that if licenses or increased effort would not hurt quahogging she would be in favor of allowing more licenses with a quahog endorsement to be made available. She offered a second option of a 3:2 exit/entry ratio if the resource could support that.

Public Comment: G. Carvalho, RI Fishermen's Alliance, stated that anyone who wanted a shellfish license should be allowed to get one. This was for quahogs, steamers, and whatever was included under the shellfish license.

Public Comment: R. Fuka, President of the RI Fishermen's Alliance, was in support of G. Carvalho's proposal to allow shellfish licenses to anyone who wanted one. He stated this was a RI Fishermen's Alliance position and they endorsed anything that would be pro work since there were way too many people not fishing right now.

Public Comment: T. Burchett, stated he agreed with R. Fuka, absolutely no restrictions on new licenses.

Public Comment: B. Cherenzia, RI Fishermen's Alliance, stated he had four sons with three of them in the fishing business and none of them can get licenses. He indicated they had to either work for him or work for someone else on deck. He stated he was in support of opening up licenses especially for shellfish so these kids could have their own business.

Public Comment: M. McElroy, rod and reel fisherman, stated he agreed with G. Carvalho and what the other guys were saying. He questioned when DEM was going to extend the boundaries north of Conimicut he felt the water was clean enough to open. But if that area opened there would be 500 or 600 people wanting to get shellfish licenses.

Public Comment: B. Loftes, RI Fishermen's Alliance, stated if we could open licenses up and get more people working and generate revenue for the state of RI without hurting the biomass then we should do it. He felt the resource regulated itself, once it gets down to where there are not that many then people do not quahog. He felt we needed to do whatever we could to create more revenue and jobs for RI. He felt we were not harvesting nearly enough compared to the way it was. He was in support of opening it up and letting anyone get a license.

Public Comment: An audience member stated that if 49 quahog licenses retired last year then there should be 49 available for this year if the fishery can support that increase.

Public Comment: J. Jarvis, RI Fishermen's Alliance, agreed with what had been said. He felt the exit/entry ratio should be 1:1 or should be available to anyone who wanted a license.

Public Comment: P. Duckett, felt we needed to increase the exit/entry ratio to 1:1 due to our current economic conditions. There was no way we should be reducing the number of licenses.

Public Comment: J. Kourtesis agreed that the fishery should be wide open or a 1:1 exit/entry ratio especially when you have a fishery that can take it. If the fishery can not take it then that may be a way to regulate it instead of making other cuts. He stated that it should be at least 1:1 ratio.

B. Ballou closed this portion of the public hearing on quahogs.

b. Shellfish sector – Soft-Shell Clams

Public Comment: G. Carvalho, stated his recommendation would be if anyone wanted a shellfish license they should be able to get one. Conimicut Point should not be designated as a Shellfish Management Area it should stay the same area as the upper bay. There should be no change in the bushel limit especially in waters outside non-management areas because people do not catch 12 bushels anyway, but if they happen to have a good day and catch more than 6 bushels they should be entitled to keep it. He stated regarding harvesting methods, the law currently does not allow dredging and mechanical harvest of those species it is a question of enforcement. He indicated this was an enforcement issue not a regulation issue.

Public Comment: R. Fuka, President of the RI Fishermen's Alliance, stated that he would use G. Carvalho's statement as the position of the RI Fishermen's Alliance. Licenses wide open, not lowering the possession limit, and do not make Conimicut Point into a management area.

Public Comment: B. Loftes, RI Fishermen's Alliance, stated he was fed-up with DEM telling him what he could do and what he could not do. He felt DEM did not have this authority. He felt his constitutional rights were being violated. He was in support of opening up licenses for this fishery.

Public Comment: T. Jackson, felt that for 2010 the soft-shell clam landings would be reduced because the size had been increased from 1 ½ inches to 2 inches in the middle of the season. She stated that the resource was not in trouble, Conimicut Point should not be designated as a Shellfish Management Area, and the possession limit should not be lowered. She felt we were in serious economic times and to keep limiting access to resources was not right. She stated she agreed with what both G. Carvalho and R. Fuka had already stated that we needed to open up this fishery, may be not wide open, but more than a 5:1 ratio. She reiterated that the possession limit should not be lowered especially since the resource was not in trouble.

Public Comment: T. Burchett, stated he was also in support of opening it up. He wanted to know how DEM was getting around the state constitution and this was in clear violation. He wanted to know who DEM was going to have to answer to. He felt the waters belonged to the people.

Public Comment: J. Kourtesis stated he disagreed with all the DEM recommendations for the soft-shell clam fishery, one reason being the soft-shell clam size increase had just recently been implemented. He did not feel any of the recommendations were justified.

Public Comment: M. McElroy, rod and reel fisherman, and RI Shellfishermen's Association, was opposed to establishing Conimicut Point as a Shellfish Management Area. He felt the DEM recommendations for the soft-shell clam fishery in Conimicut should have already been implemented at the beginning of the season and he figured that the 2010 landings would be much higher than any other year. He blamed DEM for keeping Conimicut wide open then making it a half day opening and not taking into account the tide schedule. Claiming you could not dig after noon time and that was when the tide was low enough to dig. He stated that decisions for this area were hastily made and DEM do not take into account all the ramifications. He stated he was opposed to establishing Conimicut Point as a Shellfish Management Area, and reducing the possession limit to 6 bushels was too late since the area was already wiped out.

Public Comment: P. Duckworth, commercial fisherman, stated that DEM should do away with the shellfish endorsement.

B. Ballou closed this portion of the public hearing on soft-shell clams.

c. Finfish sector

Public Comment: J. Kourtesis stated the whole licensing system was horrible. He indicated that all this stemmed from quotas which were terrible and the science which was terrible. He felt it did not matter what was done at these meeting the only thing that ever mattered was mesh size. He stated that all this means nothing, other than depriving people the chance to work hard and try to make it.

Public Comment: T. Burchett, stated the fishery would regulate itself, when it gets to a point where it becomes not financially equitable for a person to fish then they will stop fishing and the species would have the opportunity to rebreed. He stated that we have never run out of soft-shell clams or finfish or any of these things because people will not fish themselves out. Fishermen are responsible and they know how to run their businesses. He felt DEM had no business being involved in this aspect of this industry.

Public Comment: B. Loftes stated these licenses should be opened up to anyone who wants one. He felt if you had a multipurpose license you should be able to

fish for whatever you wanted to fish for. He noted they had been fishing out here for a long time and they have not run out of anything yet. The only thing is that the government got involved and they just keep coming up with more regulations to justify their existence, if they just got out of our way we could actually make a living and stimulate the economy. He was in support of opening up licensing for restricted finfish.

Public Comment: T. Jackson, President of American Alliance of Commercial Fishermen, stated it would be dangerous to open things up, wide open. But she felt this violated RI 's Constitution of open access to a public resource. She was in support of raising the 5:1 exit/entry ratio to may be 5:3.

Public Comment: K. Booth, RI Commercial Rod and Reel Association, referenced language from the finfish management plan page 8 which he felt needed to be updated.

Public Comment: P. Duckworth stated licensing should be wide open or at least 1:1, for every one that leaves one should be able to get in.

Public Comment: J. Macari, RI Commercial Rod and Reel Association, did not support having licenses wide open and suggested that renewals be based on the retirement of active licenses if we went to a 1:1. The 1:1 exit/entry ratio should be based on active licenses that showed some history.

Public Comment: Al Tingley was against opening licensing wide open. He understood there were a lot of people out of work and sympathized with people with kids that wanted to get into the industry, but he felt the quotas were so low that if we let more people into the fishery then the amount of fish to go around would be much lower. He indicated that the quota systems would have to go away in order to open licensing wide open. He also noted there was no market for the fish anymore. He felt this would not be an economical approach.

Public Comment: R. Fuka, President of the RI Fishermen's Alliance, stated he supported opening licensing wide open.

Public Comment: B. Cherenzia, RI Fishermen's Alliance, stated he supported opening licensing wide open, which he felt would not happen but he would support a 1:1 exit/entry ratio.

Public Comment: J. Jarvis stated he agreed with wide open, if not wide open then he would support a 1:1 exit/entry ratio. He noted that not everyone can catch fish and the fish move around fast. He also commented that during winter months there were a lot of guys fishing way out in and they should not have to be out there in the winter weather. He was concerned for their safety. He also recommended individual fishing quotas.

Public Comment: C. Kerns wanted to know where in the Constitution did DEM have the right tell people what they could and could not do to make a living. He was in support of opening licensing up to the people.

Public Comment: P. Duckett stated that at a minimum it needs to be a 1:1 exit/entry ratio, there was no reason to reduce the number of licenses.

Public Comment: P. Muli agreed with the 1:1 exit/entry ratio, one-out , one-in.

Public Comment: S. Parente wanted to make a pointed of interest relative to the 5:1 exit/entry ratio; he stated that in 2007 there were 587 participants in the fluke fishery and using the 5:1 exit/entry ratio we should have lost people, however in 2008 we had 606, and in 2009 there were 630 participating. He just wanted to share the information noting he wanted to remain neutral since he was a Council member representing all fishers. His intention was to demonstrate that even though licenses were retiring there still had been an increase in participants in the fluke fishery.

B. Ballou closed this portion of the public hearing on finfish.

d. Crustacean sector

Public Comment: P. Duckworth stated that the trap allocation transferability program should go forward, noting that the program should have been implemented years ago hand-in-hand with trap allocations.

Public Comment: B. Cherenzia, RI Fishermen's Alliance, stated he did not have landings for the qualifying years so now he has a back yard full of lobster pots. He recommended that everyone who has a multipurpose license should be given a few pots. He stated he had a multipurpose license but he keeps on losing things he can fish for. His recommendation was to give them a chance to fish for everything.

Public Comment: J. Kourtesis also recommended that multipurpose license holders should have some reasonable allocation of lobster pots. He stated also lost his pot allocation because he stopped fishing for lobsters and started fishing with his dragger.

Public Comment: T. Jackson of American Alliance of Commercial Fishermen, commented that their ventless trap surveys in Areas 2 & 3 showed a healthy resource of lobsters. She felt the information from the technical committee was faulty. She was not in support of opening up licensing wide open but felt something needed to be done. She was also in support of moving the trap allocation transferability program forward.

Public Comment: B. Loftes stated RI was the only state that disenfranchised all these people that had multipurpose licenses who can no longer participate in the

fishery when all the other states gave their people 800 pots. This created property rights. He claimed DEM provided a disservice to the fishermen as well as all the people in the state from lost revenue.

B. Ballou closed this portion of the public hearing on lobster.

e. Title change of the commercial fishing licensing regulations:

The Division proposed changing the title from “Rules and Regulations Governing the Management of Marine Fisheries” to “Commercial Fishing Licensing Regulations”.

Public Comment: There were no comments made on this proposed amendment.

B. Ballou closed this portion of the public hearing.

- 3) **Proposed amendments to the RI Marine Fisheries Regulations – Part III:** The changes proposed to Part III were changes that would allow for more flexibility to adjust seasons and the authorization to redistribute allocation as necessary among gear types for quota managed species in accordance with federal Fishery Management Plans.

Public Comment: J. Kourtesis stated he did not feel it was necessary to give DEM more power to control possession limits without having a public hearing, and gear types was another issue because it leaves it open even though we are talking specifically about fish traps. He felt a transfer date could be worked out with the fish trap guys ahead of time. He also noted that DEM needed to find a different way to regulate all the fisheries because not only are we going off shore on boats the we do not belong off shore in, because they are too small, but for the last few years we have not made enough money to keep these boats up. So we are not only going off shore in boats that are too small but we are also going off shore in boats that are not in top notch condition. He was concerned that something would happen to one of them and it would be for this reason. He called for a total overhaul of the way we regulate fish. He addressed the people in the audience that did not drag and stated that the guys that worry about over fishing, the reason that we see a lot of fish right now is because the draggers went to 6 ½ inch mesh groundfishing. However, now that they took the groundfish away from us he predicted it would now go the other way, it was all about mesh size. He stated it had nothing to do with quotas, if we do not kill the small fish then there would be a lot of fish to catch. He commented they were being forced into killing small fish by regulation. He stated this would all eventually turn around because they took groundfish away. He emphasized it was all related to the mesh size that they tow.

Public Comment: T. Jackson, American Alliance of Commercial Fishermen, also stated it was dangerous to give DEM the authority such as this. She felt that some where down the line it would be used against us on a level that we just do not see right now. She also voiced concern that when catch shares come around this

would give DEM full control over implementing catch shares into every state fishery, she felt the proposed language regarding possession and season changes was too vague and she was concerned that DEM would pass things through without going to public hearing.

Public Comment: K. Booth, RI Commercial Rod and Reel Association, stated his concern was that it upsets the balance of power drastically without a thorough review, right now the Council has a process and a procedure to follow to get input from everyone. This would render the Council less powerfully than it already is. He suggested if the gear type in question was fish traps then specifically state fish traps in the regulation. He felt the proposed language gave broad power with no checks and balances, which is contrary to what this process is supposed to be set-up for. He was not in support of the proposed language and recommended keeping things the way they were.

Public Comment: Al Tingley question when the transfer date was for rolling over unused quota from fish traps.

Public Comment: M. Gibson clarified that there was no transfer date it was eliminated with last year's scup management plan regulation amendments. There was an allocation for the scup general category and a fish trap allocation with no provision for an automatic rollover. Gibson stated this would be revisited with the upcoming public hearing in November and people should bring their comments to that public hearing.

Public Comment: B. Loftes, was not in support of giving DEM more power, he recommended changing the rollover date and moving forward from there. He stated they could work with the trap guys and come up with a date they did not need to give DEM more power to do that. He commented that he would talk to the fish trap guys and bring his recommendations to the November public hearing.

Public Comment: P. Duckworth stated he was not in support of these proposed amendments he did not want DEM to have more power. He felt items should go to public hearing for public comment. He indicated if it was this one specific issue with the fish trap guys they could work with them to come up with a date to rollover.

Public Comment: J. Jarvis stated this goes right back to poor management right down the line. He felt this was putting control in the wrong place.

Public Comment: T. Burchett stated that the federal government had no place in this.

B. Ballou closed this portion of the public hearing.

4) Proposed amendments to the Fish Trap Regulations: The changes proposed were to update the DEM Division of Fish and Wildlife mailing address from the Government Center location to the Jamestown location, and to add a section to clarify that sub leasing of permitted fish trap locations is prohibited.

Public Comment: There were no specific public comments made on these proposed amendments.

B. Ballou closed the public hearing.

List of Exhibits:

Exhibit 1 – Affidavit of Publication/Posting, and Public Notice

Exhibit 2 – Copy of Draft proposed regulations

Exhibit 3 – Copy of introductory remarks made by the hearing officer

Note: No written comments were received