RHODE ISLAND MARINE FISHERIES COUNCIL
Summary of Minutes from Monthly Meeting
November 2, 2009 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present:	S. Medeiros, S. Macinko, R. Hittinger, C. Anderson, J. King, K Ketcham, S. Parente, R. Bellavance,
Chairperson:	B. Ballou
RIDEM F&W Staff:	N. Scarduzio, J. McNamee, D. Costa
DEM Staff:	G. Powers
Public:	17 people attended

B. Ballou called the meeting to order. He asked if there were any modifications to the agenda. S. Parente asked if he could have the opportunity to speak on the lobster transferability program when it was discussed under item 4(a) public hearing items. Jody King asked if there were any updates on the EEZ issue. B. Ballou stated there were no new developments. There were no modifications made to the agenda. **B. Ballou asked if there were any objections to approving the agenda. Hearing none, the November 2, 2009 agenda was approved.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the October 5, 2009, meeting. B. Ballou asked if there were any objections to approving the minutes. J. King asked to correct the minutes to reflect that they did not want the "entire month of April closed" (page 6), it should state that they would like these areas closed on April 30. S. Macinko requested that the minutes be expanded to include more of the details on the discussion regarding observer coverage on page 7. **J. King made a motion to approve the minutes as written with the exception of those items that needed to be adjusted. B. Ballou asked if there were any objections to approving the minutes. Hearing no objections, the minutes from the October 5, 2009 Council meeting were approved with the exception of those items that needed to be adjusted.**

<u>Public Comments</u>
R. Fuka made a comment pertaining to S. Macinko's request to expand Council discussion on a particular topic in the October minutes, he requested that he would like more accuracy in minutes for these public meetings. B. Ballou noted, for the record, there were twelve (12) pages of written minutes summarizing the October Council meeting.

C. Brown stated that the SSC had determined that 644 tons of winter flounder would die next year, simply because of other inter related fisheries. He suggested that RI, being part of the 644 ton figure, might want to consider a study fleet of its own made up of state licensed vessels so they could claim a small portion of that quota which would simply die. This would also supplement data, which was lacking. C. Brown stated he would send B. Ballou the information pertaining to this program.

M. Rice wanted to thank everyone, particularly people from the recreational sector, for the high degree of cooperation and hard work in getting the saltwater fishing license through. B. Ballou

thanked M. Rice for his support as well.

New Business

Council recommendations on October 21, 2009 Public hearing items:

1) Shellfish Management Plan and licensing - Quahogs

J. King made a motion to recommend that the Director adopt option 1: (status quo) - the 3:1 exit-entry ratio applied only to eligible PELs w/Quahog endorsements that have retired – allowing for 9 new CFL's with quahog endorsements. S. Medeiros seconded the motion.

J. King explained that the Shellfishermen's Association had a few meetings and their recommendation was to stay at status quo. K. Ketcham questioned King's recommendation for option 1 and not for option 2, which was the approved option, which had been discussed at the IAC meeting. King stated he had recently spoken to M. McGiveney, and McGiveney indicated the Association preferred status quo.

There was discussion from a few Council members about using only PEL's or all retired licenses. S. Macinko pointed out that this looked like the gradual phase out of MPL's and wanted to know if this was the intent. There was no exit/entry ratio for replacing MPL's, therefore over time the MPL's would eventual go away. B. Ballou indicated that was a good point and was not the policy of the department. Macinko referred to original legislation that directed the department to consider new entry through exit/entry ratio not just the transfer of licenses. He continued by stating that it was not clear to him that a few replacement licenses would represent an increase in effort. B. Ballou stated it was a fair comment and there was no way to tell if new entrants were going to fish harder or not fish at all. S. Macinko indicated we might use different vocabulary because it was not clear if we were talking about an increase in effort.

B. Ballou asked for comments from the audience. There were no comments from the audience.

S. Macinko stated he planned to vote against the motion, for option 1 (status quo), and if it failed he would then vote in favor of option 2.

B. Ballou asked for a vote. The Council voted (5) to approve (C. Anderson, J. King, R. Hittinger, R. Bellavance, and S. Medeiros), and (3) opposed (K. Ketcham, S. Macinko, and S. Parente). The motion passed to recommend that the Director adopt option 1: (status quo) - the 3:1 exit-entry ratio applied only to eligible PELs w/Quahog endorsements that have retired – allowing for 9 new CFL's with quahog endorsements.

At this point B. Ballou welcomed and introduced R. Bellavance as a new member of the RIMFC, replacing D. Preble.

2) Shellfish Management Plan and licensing – Soft-shell Clams

B. Ballou asked if there was a motion.

K. Ketcham made a motion to support the IAC recommendation and recommend that the Director adopt option 2: establish a 5:1 exit/entry ratio applied to all eligible licenses that retired – allowing for 17 new CFL's with soft-shell clam endorsements. J. King seconded the motion.

B. Ballou asked for Council discussion on the motion. C. Anderson wanted to know what the rational was for having different standards for the two fisheries (quahog and soft-shell clams).

B. Ballou explained there really was no clear distinction, as it was discussed at the IAC meeting it was a sense that the committee had on how to handle the issue. He asked K. Ketcham as the IAC Chair to weigh in. K. Ketcham stated it was the recommendation from the IAC to combine MPL's and PEL's with quahog endorsements, however, the vote just did not go that way for soft-shelled clam endorsements.

B. Ballou asked for audience comments.
M. Rice asked if anyone had a handle on what the magnitude of the recreational soft-shelled clam fishery was. B. Ballou indicated that the department did not have information on the recreational soft-shelled clam fishery. M. Rice then explained that since the recreational sector was unknown he recommended that the Council think more conservatively on recommending more licenses.

S. Parente pointed out that in the last few years divers had been harvesting many clams that were not typically targeted by recreational people who would be dry digging. K. Ketcham agreed and stated the areas where commercial guys harvested from were not the same areas where recreational people would be harvesting from.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend that the Director adopt option 2: establish a 5:1 exit/entry ratio applied to all eligible licenses that retired – allowing for 17 new CFL's with soft-shell clam endorsements.

<u>3) Finfish Management Plan and licensing</u>
B. Ballou asked if there was a motion.
S. Medeiros made a motion to adopt the IAC recommendation and recommend that the Director adopt option 1: (status quo) - the 5:1 exit-entry ratio applied to active, eligible licenses that retire – allowing for 3 new CFL"s with restricted finfish endorsements. S. Parente seconded the motion.

There was no Council discussion or comments. B. Ballou asked for comments from the audience. There were no comments from the audience.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend that the Director adopt option 1: (status quo) - the 5:1 exit-entry ratio applied to active, eligible licenses that retire – allowing for 3 new CFL"s with restricted finfish endorsements.

<u>4) Crustacean Management Plan and licensing</u>
B. Ballou stated that the trap transferability program was pending and that the Director had made a commitment to move forward with the program. Ballou indicated there was no need for a motion on this item since there was only one option, which was for status quo and there were no other choices.

B. Ballou asked if there were any comments from the Council. S. Parente explained that the information presented was contradictive. He pointed out, as stated in the materials presented, in view of poor resource status increasing effort in the lobster fishery is not warranted, yet the departments wants to go forward with the transferability program to bring new participants into the fishery without increasing effort. Parente felt by taking these statements together, they would be impossible to do and were in conflict. In his opinion, if you brought in more participants,

effort would be increased. He wanted to know if licenses would be issued to people who purchased lobster trap allocations. S. Parente explained he could see going forward with the transferability program so people who already have a license could purchase traps, but not go forward with issuing new licenses.

R. Hittinger stated he agreed with the general trend that S. Parente was putting forward. He agreed that if we have a trap allocation transfer program and we issue new licenses to anyone who purchases a trap allocation you would then increase the pressure on the fishery.

B. Ballou reminded the Council that there were other tools in the toolbox like across-the-board decreases in trap allocations. There were other ways to address effort reduction.

B. Ballou asked for comments from the audience. C. Brown made a point where a father can give his son some traps but the son would have to get a license in order to use them. He stated this could be a common occurrence and there needed to be a way for a person to obtain a license.

T. Jackson stated she agreed with S. Parente's assessment of the new licensing. She indicated she was aware that the technical committee was considering a 50% reduction in trap allocations for RI. She was concerned that this proposal was only for RI and felt that was not right.

B. Ballou asked the Council if they wanted to make any motions or recommendations.

S. Parente made a motion to recommend to the Director to go ahead with the lobster trap transfer portion of the program, but table the issuing of new licenses portion until it has been properly vetted through he IAC with the latest information.

B. Ballou stated that he respectfully suggested the motion would be out of order because the issue had already been addressed through a public hearing process, addressed by the Council, and put before the Director and the Director had made a decision. Ballou then decided to allow the motion to stand to see if there was a second. S. Macinko stated that he would probably not support the motion but if S. Parente wanted to get a sense where Council members stood then may be they should take a vote. S. Macinko reminded the group that they were acting in only an advisory capacity to the Director anyway.

S. Medeiros seconded the motion so S. Parente could get his comments to the Director.
B. Ballou asked for a vote. The Council voted (4) to approve (S. Parente, J. King, R. Hittinger, and S. Medeiros), and (3) opposed (K. Ketcham, R. Bellavance, and C. Anderson), and (1) abstention (S. Macinko). The motion passed to recommend to the Director to go ahead with the lobster trap transfer portion of the program, but table the issuing of new license portion until it has been properly vetted through he IAC with the latest information.

<u>5) Proposed Amendments to the Winter Flounder Management Plan:</u>
B. Ballou asked if there was a motion on the recreational provisions for winter flounder in Part 7.
S. Medeiros made a motion to recommend that the Director adopt the ASMFC requirement to lower the recreational bag limit for winter flounder to (2) fish per person per calendar day. J. King seconded the motion.

B. Ballou asked for Council comments. R. Hittinger commented this was essentially closing

recreational fishing. He stated that people would not make a trip for two winter flounder.

B. Ballou asked for audience comments. There were no comments from the audience.

B. Ballou asked for a vote. The Council voted (7) to approve (S. Parente, J. King, , K. Ketcham, R. Bellavance, C. Anderson, S. Medeiros, and S. Macinko), and (1) abstention (R. Hittinger) The motion passed to recommend that the Director adopt the ASMFC requirement to lower the recreational bag limit for winter flounder to (2) fish per person per calendar day.

B. Ballou asked if there was a motion on the commercial provisions in Part 7.
K. Ketcham made a motion to recommend that the Director adopt the ASMFC recommendation (option 1) to lower the commercial possession limit for winter flounder to (50) pounds per vessel per calendar day. S. Parente seconded the motion.

B. Ballou asked for Council comments. S. Parente stated that option (2), (38) fish per day, would be ridiculous and would encourage people to high-grade fish. He felt option (1) was a much cleaner option.

B. Ballou stated that Enforcement had indicated that either option would be enforceable.

R. Hittinger suggested that the 50 pound option should also have a stipulation that no fish over 12 inches can be discarded to deter against high grading and discarding.

K. Ketcham explained that the State and ASMFC wanted to maintain some kind-of catch record of winter flounder during this time when the federal vessels were prohibited from landing winter flounder. They needed to continue with scientific data, if no one brought any in then they would not have any records or any way to look at the stock. This gives the opportunity to at least have a sampling.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend that the Director adopt the ASMFC recommendation (option 1) to lower the commercial possession limit for winter flounder to (50) pounds per vessel per calendar day.

B. Ballou asked if there was a motion on the commercial provisions in Part 11. This included the state waters in the Coastal Marine Life Management Area (CMLMA).
K. Ketcham made a motion to recommend that the Director adopt the ASMFC recommendation (option 1) in the CMLMA to lower the commercial possession limit for winter flounder to (50) pounds per vessel per calendar day. J. King seconded the motion.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend that the Director adopt the ASMFC recommendation (option 1) in the CMLMA to lower the commercial possession limit for winter flounder to (50) pounds per vessel per calendar day.

S. Macinko requested that for next year when the Council goes through licensing again he asked that the Council be provided with information explaining what had happened to MPL's since the licensing reform act. He wanted to know; how many were initially issued, how many have retired, and if there could be a mechanism that looked at MPL's through an exit/entry ratio.

B. Ballou suggested that the division could do that starting at the IAC level and working up to the Council level.

Update on Fluke Sector Allocation Pilot Program, and Discussion on Issues and Progress for Final Report – J. McNamee:
B. Ballou recapped explaining there were two requirements from the regulations that called upon DEM to provide a preliminary assessment of findings to the Council no later that October 1, and a final report on November 1. At the last meeting, the Council was presented a power point presentation on the preliminary assessment of findings. There was not much more observer data that had been made available since the last meeting therefore staff will provide what updated information we have and also offer a plan of how we plan to move forward in terms of a final report to the Council.

J. McNamee presented a power point presentation first showing cumulative landings of summer flounder for the year, relative to the cap. He also had updated information explaining that 140 trips had been observed. McNamee went on to explain how the Department would proceed to structure the final report and encouraged Council members to feel free to comment or suggest changes that they would like to see in a final report. He commented that it had been difficult to get data from NMFS. He explained the structure of the outline, that there would be five sections for the final report; introduction, resource issues, economic issues, safety concerns, and a conclusion. McNamee pointed out that the three main elements would be the resource issues, economic issues, and safety concerns. He went through the presentation to elaborate on each topic and encouraged Council members to offer input or suggestions as he went through the presentation.

C. Anderson asked what the revised timeline for this report would be. He thought June would be more realistic. B. Ballou commented that at this time they did not know. The Division would be working on the report as the information came in and would do their best to undertake the analysis as the information and data allowed for. He also pointed out that the Division could give updates as needed to keep the Council informed along the way. Ballou indicated that the Division wanted to get this completed as soon as possible, but it depended on the availability of the data.

S. Macinko suggested the Division consider looking at distributional equity issues. He suggested distributional equity issues should be included in the report to make it four main areas.

R. Hittinger asked when analyzing discard, was there a method for comparing discards on other vessels verses the sector vessels especially when the other vessels were targeting another species but get fluke as a by-catch when the fluke fishery was closed for them. McNamee indicated that they could compare this information using the NMFS database, and the Division had already put a request in for this information.

B. Ballou asked S. Macinko to elaborate on what he meant by distributional equity issues and what he would like to see reviewed and give the Council a better indication of what that means.
S. Macinko stated that with these types of programs people have concerns about who is winning and who is losing, which goes beyond economic measures. He indicated to B. Ballou that it was not better to say socioeconomic than economic. He explained he would prefer social and economic analyses and to separate them.

B. Ballou stated, based on this discussion, the Division would also include socioeconomic issues in the report.

S. Parente asked if the sector was selling to just one buyer. C. Brown indicated they were selling to several different buyers. S. Parente also asked if there was any research done on the economic side of jobs lost when sectors were established. He was concerned about job lost.

C. Anderson stated that with respect to the sector pilot program here in RI, the answer would be no because it was a small program. S. Parente was thinking more on a larger scale of what would happen when there were more sectors formed.

C. Anderson stated that one of the rationales for having a sector type program rather than a straight IQF type program was to keep more people involved in the fishery. He was not aware of anyone who was doing work on the effects of job loss.

B. Ballou asked J. McNamee if he had any idea of when the Division would have the necessary observer data. J. McNamee suggested it was a tiered situation; the contracted observer information was available immediately or with about a weeks lag time. He indicated he had put a request in to NMFS but elaborated there might be a more streamlined avenue pending submission of a federal form that may allow a state agency quicker access to the data than the normal 90 day process. He indicated he thought he would have the 2008 data in a few weeks. For 2009 data, the Division could get the raw observer information from the vessels directly. He indicated that NMFS suggested waiting the 90 days to get the audited data, but that does take 90 days to get.

B. Ballou indicated the Division would do the best they could to try to report as soon as possible or in some aggregate manner.

C. Anderson presumed that this issue would come back before the Council at some point before anyone was willing to call anything final. He explained that for his part he was working to get preliminary and intermediate results out and may have some information for the public hearing. He wanted to know if the Council would have information at the time it would be relevant to make a decision.

B. Ballou stated it would be next month when the issue would come to the Council and the Division would have to do the best it could with this issue. Ballou was concerned about coming to the Council each month with piece meal information. He indicated that blocks of information might be a better way to present the information.

C. Anderson stated if the Council would be discussing expansion of the sector allocation program or renewal or modifications in December that would be a critical date to get some preliminary information.

S. Macinko was also curious about the timeline for when the Council was expected to give recommendations on the sector allocation program. B. Ballou suggested that the Council would take up the issue at the December 7, Council meeting and offer whatever you felt you could based on what you had before you.
S. Macinko then inquired about the timeframe the Director would need to make a decision. B.

Ballou indicated that there was no clear sense currently of the timeline for this to all unfold it depended on many factors. S. Macinko suggested if we had the luxury of waiting until there was more information available it would make sense to wait, but often times in fishery management there may be more pressing concerns of the seasonality of the fisheries. He stated that you would not ask any deliberative body to make a recommendation with only partial information if you had the luxury of waiting to present that deliberative body with more information.

S. Macinko asked C. Brown when he would like a decision. C. Brown stated that he would like a decision as soon as possible, but you still need to look at the data to be able to make an informed decision. Brown was reluctant to encourage anyone to make a decision without looking at the data. He explained he had spent a lot on money to generate the data so he wanted people to look it.

C. Anderson stated he was going to do the best he could to get answers on the main questions he was interested in. He was using October 15 as a cut off date because he had SAFIS data up to the period. He felt it would be difficult to get anything that would be considered final by May 1, 2010. He would be interested in knowing if over that period was the observer data on discards consistent with their reports of discards. If there was compliance with the discards of legal fish in the first ten months of the year, whether or not if the data was consistent with that. He felt these were some of the key factors needed to be able to make some type of recommendation in December.

C. Anderson stated that we might want to think about how we want to alter the pilot data generation process long before we have collected all the initial data in the pilot program.

J. King asked C. Brown and the Division if there was time sensitivity for the Council and Director to make any recommendations or decisions. C. Brown indicated that he was not going to pressure anyone in to making any decisions. B. Ballou indicated there was no rush on the part of the Division.

B. Ballou pointed out that the obvious question would be if it made sense to stop the program and wait for a final reprot, or allow the program to continue while the analysis is being undertaken. Ballou stated that the item would be on the agenda under the public hearing items at the next Council meeting so it can be further discussed at that time.

B. Ballou asked the Council when they wanted to hear from C. Brown to get his information about the sector. Ballou asked C. Brown to summarize in a minute or so where the sector was at this point.

C. Brown stated that statistically he would not be able to compete with the state on generating the data or what it meant. Throughout the process they have reported, the state has reported, and the dealers have reported, and they have found errors in a way that he is sure no one appreciated. He indicated this was the first time that commercial fishermen actually got to see landing data and how it ends up in the historical data bank. He stated there were a lot of very small errors. However, fundamentally the data he had was the same as what the state had. If there were any discrepancies, they have accepted the higher number. He suggested that the information he had was very candid and very telling.

B. Ballou suggested that he afford C. Brown and anyone else who wished to comment to do so at

the public hearing on November 12, 2009. He felt this was a better way to handle the matter.

C. Anderson suggested that a way to get more information about the safety issues would be to solicit for those comments at the public hearing.

S. Parente wanted clarification that as it stands currently they would not know what they would be voting on or when they would be voting, concerning the sector program. B. Ballou explained that the Division would take public comment on the sector item that was currently out to notice and those comments would be brought to the Council for consideration at the December meeting.

November 12, 2009 Public Hearing Summary Documents – N. Scarduzio:
N. Scarduzio ran through the items that would be on the November 12 public hearing indicating that public comments would be solicited on the following proposals: Summer flounder quota management proposals, Proposal to continue/expand/modify summer flounder sector allocation program in 2010, Proposal to amend the control date for the summer flounder commercial fishery, Proposal to terminate the RI State summer flounder exemption certificate program, Scup quota management proposals, Black sea bass quota management proposals, Proposed amendments to spiny dogfish management plan, Proposed adoption of coastal sharks management plan, and Proposed amendments to the bay scallops management program.

Approval of Striped Bass AP Agenda – C. Anderson:
C. Anderson stated that the agenda was before the Council last month with a date that he could not make, and now the meeting will take place toward the end of February when a date has been determined.

S. Medeiros asked how he could request to have a menhaden AP meeting in January. He asked if there needed to be an agenda submitted in December for a January AP meeting. B. Ballou suggested S. Medeiros contact J. McNamee to schedule something with him and put together a draft agenda for approval.

Director's Round Table Meeting – B. Ballou:
B. Ballou announced there were two upcoming Director's round table meetings; one scheduled for Friday, November 6, 2009, to discuss commercial summer flounder management. The second meeting would be held on November 12, 2009, to discuss shellfish management.

B. Ballou asked if there was any other business to come before the Council.
J. King had one other correction in the minutes from last month, on page 11 pertaining to whelks the minimum size which was stated as 2 1/5 inches, should be 2 ½ inches.

J. King made a motion to bring back the October 5, 2009 minutes, which had been approved pending adjustments, to reflect that the minimum size of whelks on page 11 of the minutes, be corrected to read 2 ½ inches. C. Anderson seconded the motion. B. Ballou asked for a vote. The Council voted unanimously to approve the motion, the motion passed.

The Chairman adjourned the meeting.

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Nancy Scarduzio, Recording Secretary