Virginia Marine Resources Commission
Finfish Management Advisory Committee Meeting
VMRC Conference Room

October, 20 2009

Members Present
Hon. Ernest Bowden
Ken Neill
Jeff Deem
Chris Vaughan
Hon. William Laine, Jr.
Andy Hall
Douglas F. Jenkins, Sr.
Robert Weagley
Russell Gaskins
Walter Rogers
Samuel Swift
Wynston Holbrook

Members Absent
Pete Nixon
Tom Powers

VMRC Staff
Jack Travelstead
Rob O'Reilly
Mike Johnson
Laura Lee
Joe Cimino
Lewis Gillingham

Public
G.G. Crump
Robert Allen
John Wyatt
Ken Smith
Sheldon Arey
Frank Kearney
Bill Swanner
Leslie Parr
Charlie Gregory

I. Announcements

Meeting called to order at 6:02 PM

Mr. Bowden announced that he wanted to add an item to new discussions concerning the 10% flounder bycatch limit for trawlers.

II. Approval of the minutes

Minutes from the August FMAC meeting were approved with no revisions.

III. Old Business

a. River Herring – Preparation of ASMFC response plan and directive from the Commission

Mr. Travelstead stated the river herring issue was presented to FMAC at its August meeting and that ASMFC adopted a management plan that will call for a complete moratorium on the recreational and commercial harvest of river

herring starting January 1, 2012. A state can be exempted from this plan if they can show that their management plan provides for sustainable fishery. Currently, Virginia lacks enough data to show that the river herring fishery is sustainable. The Commission was presented with this same information along with FMAC's recommendation that the commercial fishery be limited to a 200 pound per day bycatch or 10% of their daily harvest. The Commission did not take any formal action on this issue but did express concern that the bycatch limit suggested by FMAC was too high, especially when large numbers of target fish are being harvested. They asked staff to evaluate other measures to limit the commercial fishery to a very small bycatch. They felt that keeping a small bycatch would be sufficient to prevent accidental possession of river herring when similar species, like menhaden, are targeted. Mr. Travelstead stated that we do not have sufficient data to characterize the bycatch of river herring in pound nets and asked Mr. Rogers if he could provide any information. Staff will have to eventually prepare a report for ASMFC detailing how Virginia will manage river herring sustainably to avoid a moratorium on the harvest of river herring from occurring.

Mr. Rogers agrees that 10% may be too high. He doesn't know what the river herring harvest is specifically but it can vary and can be over 10%, but on most days feels it is less than 5%.

Mr. Travelstead asked Mr. Weagley in what fisheries would we see river herring caught as bycatch in gill net nets.

Mr. Weagley responded that, early in the spring, the perch fishery would have river herring as bycatch.

Mr. Rogers stated that the offshore draggers harvest large amounts of river herring as well.

Mr. Travelstead responded that there is an effort within the Northeast and Mid-Atlantic Councils, and NMFS, to put controls on the harvest of river herring by trawlers.

Mr. Rogers asked what the threshold would be to lift the moratorium.

Mr. Travelstead responded that we currently lack data that would tell us when the population has reached healthy levels. The only data Virginia has is through a VIMS sampling project which provides an index of juvenile abundance and that we would need to see several years of higher indices to be able to make an argument for lifting the moratorium.

Mr. Bowden stated that it will not be possible to use landings to make a case for lifting the moratorium.

Mr. Travelstead asked the committee if, in summary, they felt that a 10% bycatch was too high and that it should be lower?

Mr. Rogers stated it sounded like we need to have the bycatch as low as possible which allows for accidental possession of river herring.

Mr. Travelstead stated that VMRC may be better off waiting to see what other states submit for their management plans and see how ASMFC regards those plans.

Mr. Robert Allen stated that the river herring have been in trouble for 14 years and nothing has been done about it. He then asked when do we declare a fish species is beyond our ability to bring back and remove all fishing restrictions, for that species, to reduce the impact of those regulations on other fisheries.

Mr. John Wyatt stated that recreational fishermen in Virginia remove more river herring than commercial fishing does. He also stated that blue catfish remove a large number of river herring in Virginia's rivers as well.

Mr. Bowden stated he felt we should wait and see the other states submit for management plans and what ASMFC finds acceptable for management plans.

b. Gill Net Limited Entry Proposal – Final Comments

Mr. O'Reilly gave a brief presentation on the details for a limited entry proposal for gill nets, which were discussed at several gill net sub-committee meetings. These details will be shown to the Commission at its meeting on the 27th of October for a public hearing. The information in the presentation included qualifications for the Class "A" limited permit and the net limits for the Class A and Class B permits. The Class A permit would allow a permittee to fish up to ten gill nets, each no longer than 1,200 feet. The Class B permit would allow the permittee to fish up to five gill nets, each no longer than 600 feet. To qualify for a Class A permit, a harvester had to have a gill net license prior to December 31, 2005; or have harvest reports utilizing gill nets for at least 100 days, in any one year, for the period of 2006 through 2008; or have harvest reports utilizing gill nets for at least 60 days, in any two years, from 2006 through 2008. The Class B permit would be available to anyone with a Virginia Commercial Registration Fishing License who did not qualify for a Class A permit. In addition, the Class A permit would be divided into Virginia resident gill net permits and Virginia non-resident gill net permits. Transfers of permits would be limited so that Virginia resident permits could only be transferred to another Virginia resident harvester, and non-resident permits could only be transferred to other non-resident harvesters. According to VMRC Mandatory Reporting Database 1,486 Virginia residents would qualify for Class A resident permits and 42 non-residents would qualify for Class A non-resident permits.

Mr. Bowden stated that he thought the subcommittee discussions recommended the Class B permit should be limited to five gill nets, no longer than 1,200 feet in length.

Mr. Jenkins stated that commercial harvesters will use the gear that benefits them at the time. He is worried that some people who have not been using the gear, but held licenses in the past, might want to use it later and will be unable to do so.

Mr. Jenkins expressed concern that someone who has a commercial fishing license but hasn't used gill nets might, at some time in the future have to use gill nets to make a living.

Mr. Bowden stated that anyone with a commercial fishing license is eligible to get the Class B gill net license.

Mr. Weagley stated that at times he has fished more then ten nets and that he doesn't want to see that restriction for commercial harvesters.

Mr. Ken Smith read a letter from Tangier Waterman's association and the Virginia Waterman's Association stating that they did not want a limited entry in the gill net fishery for Virginia watermen. The association voted unanimously to oppose the creation of a limited entry gill net fishery. However, Mr. Smith felt that the 600 foot restriction was a reason why a lot of Tangier watermen voted against the proposal. He understood that this idea of a limited entry gill net fishery was intended to limit non-resident individuals from harvesting in Virginia waters. He feels that this issue could be taken up in the state legislature using the state code pertaining to the issuance of non-resident commercial harvester's licenses due to Maryland limiting the purchase of commercial fishing licenses to Virginia residents.

Mr. Bowden responded that while it is difficult to get for a Virginia resident to get a Maryland commercial fishing license they are not excluded. This might make changing the Virginia code to limit Maryland residents illegal.

Mr. Smith was concerned that people would want to fish more net because a 1,200 foot net could not be set in areas where they want to fish. They would rather be limited in the total length of net they could set instead of total number of nets. He still thinks that the Virginia Waterman's Association would still rather do this legislatively.

Mr. John Wyatt asked if his two sons, who do not have commercial licenses, would be able to get commercial fishing licenses and gill net licensees.

Mr. Travelstead responded that once they got their commercial fishing licenses they were then eligible to buy a Class B gill net license.

Mr. Ken Smith asked if we could change the Class B license to allow an individual to fish 6,000 feet, with any number of nets, instead of five 1,200 nets.

Mr. Bowden said he would support the 6,000 foot Class B and 12,000 foot Class A permit language.

Mr. O'Reilly stated that it would be best if FMAC were to make a recommendation.

The committee endorsed this plan by unanimous consent, endorsing the 6,000 foot limit for a Class B permit and a 12,000 foot limit for a Class A permit.

c. Spiny Dogfish Limited Entry Proposal – Final Comments

Mr. O'Reilly introduced the limited entry spiny dogfish fishery plan to the committee. Harvesters qualify to be in the fishery by meeting one of two minimum requirements: by averaging greater than 60 days of gill net usage over the period of 2006 through 2008 and harvested at least one pound of spiny dogfish over that period; or harvesting at least 10,000 pounds of spiny dogfish in any one year for the period of 2006 through 2008.

Mr. Bowden indicated that the gill net subcommittee tried to make the requirements the least restrictive as they could, but with regional and state quotas being enacted Virginia, could have its spiny dogfish harvests reduced drastically.

The item was moved forward by consent.

IV. New Business

a. Pound Net Fishery – Use requirement exemption

Mr. O'Reilly stated that since with Isabel there have been problems with the inability to re-establish some of the pound net stands that were damaged. The Commission, since 2004, has been aware of this and has given exemptions to pound net licensees, who claimed their nets were damaged, in regard to regulations that require the setting and fishing of a pound net to maintain that pound net license for the next year. There is an issue where there are commercial fishermen who want to get pound net licenses, but because there are a limited number of pound net licenses available they may not be able to purchase a license. To continue to grant these exemptions over the course of several years is excluding these individuals from the fishery. It would be good to set some guidelines about how often a current pound net licensee needs to set their pound net to maintain their license when they are affected by storms or other hardships.

Mr. Rogers stated that it is a big commitment to put up a pound net. There may be times that a person doesn't want to put that pound net up one certain year but they want to retain the option to put it up the following year. There are minimal ways to set a pound net to qualify for retaining that pound net license for the following year.

Mr. Rogers made the motion that by Dec. 31, 2010 a pound net licensee must set and fish that pound net to maintain their priority for that license for 2011.

Mr. Swift seconded the motion.

Motion passed with twelve votes for and one vote against.

b. Discussion – Gear Conflicts at hot water discharges in Elizabeth and York Rivers

Mr. Travelstead read a letter from the Tidewater Anglers club which stated that expressed some concern that the club had with a potential problem at the hot water discharge canal on the Elizabeth River. Specifically, the letter addresses speckled trout which utilize this area as a thermal refuge during the winter. The area is small in size and the club feels that these fish are highly susceptible to commercial gill nets due to the relatively small area that they are thermally limited to. A good recreational fishery has developed in these areas and the club would like to see these areas protected from commercial gill netting activity. There is a commercial quota on speckled trout but it is fairly small and most of the quota is usually caught in any given year. Generally they are caught as bycatch in the haul seine fishery. Small numbers are caught in the gill net fishery but they are not targeted as commercial fishermen consider them difficult to be caught using gillnets.

Mr. Bill Swanner, the President of Tidewater Anglers Club, stated that there is a unique fishery in these areas with large numbers of citation trout. The fishery is dominated by catch and release anglers. They are not aware of any problems in these areas with commercial gill nets but they want to take preemptory action to prevent their use as they could conceivably catch up a large portion of the fish due to the area's small size and the inability of the fish to leave due to thermal constraints.

Mr. Hall asked if there was any other kind of commercial fishing activity in this area during the winter.

Mr. Swanner responded that there are occasionally a few commercial hook and liner vessels.

Mr. Deem asked what time of year do you typically see these congregations.

Mr. Swanner stated usually mid-October through the end of March.

Mr. Gillingham stated that according to citation records people come from several other states to fish this area in the winter. In addition there appears to be a large number of individuals who keep their bag limit of 10 fish per person. One way to address this might be to create a special management area with a reduced bag limit for speckled trout.

Mr. Bowden stated that he was in favor of looking into this issue further.

Mr. Deem agreed that this should be examined further.

Mr. Bowden asked that this be placed on the next FMAC agenda.

c. Discussion – 10% flounder bycatch rule

Mr. Bowden stated that he sees a problem with the 10% bycatch allowance for summer flounder in the offshore trawl fishery. Currently, a vessel is allowed to have 10% by weight of summer flounder. However, he has noticed a practice where these trawlers are bringing in large amounts of unusable fish, such as small croaker, to allow the vessel to land summer flounder. He asked if it would be possible to allow a small catch limit of flounder instead of requiring 10%, by weight, of flounder as bycatch.

Mr. Travelstead stated that VMRC has received the same reports as Mr. Bowden and VMRC is concerned about this practice. The intent of the regulation was to prevent waste and allow the fishermen to bring in these flounder. This should be brought forward as an item for this committee and the Commission.

Mr. Weagley asked about the items the striped bass items on the Commission's October agenda.

Mr. O'Reilly stated that no quotas have been generated by the Harvest Control Model, yet, but it will be coming in time for the November meeting. As for the penalties they had been written as percentages of a harvester's quota but there are some issues. To clean up the language and make the overage ranges more equitable, staff is proposing to change the penalties section to discreet pound values based upon a bay gill net share.

V. Next Meeting Date

No meeting date was set.

VI. Adjournment

Meeting adjourned at 8:40 PM.