

Atlantic States Marine Fisheries Commission

ISFMP Policy Board

February 1, 2021

10:15 - 11:45 a.m.

and

February 4, 2021

1:45 - 4:15 pm

Webinar

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

February 1, 2021

1. Welcome/Call to Order (*P. Keliher*) 10:15 a.m.
2. Board Consent (*P. Keliher*) 10:15 a.m.
 - Approval of Agenda
 - Approval of Proceedings from October 2020
3. Public Comment 10:15 a.m.
4. Review State Membership on Species Management Boards (*T. Kerns*) **Action** 10:20 p.m.
 - Review State Declared Species of Interest
5. Discuss Recreational Management Reform Initiative (*J. Beaty*) **Possible Action** 10:35 a.m.
This agenda item will be discussed jointly with the Mid-Atlantic Fishery Management Council (MAFMC)
6. Recess until Thursday, February 4 at 1:45 p.m. 11:45 a.m.

February 4, 2021

7. Public Comment 1:45 p.m.
8. Executive Committee Report (*P. Keliher*) 1:50 p.m.
9. Progress Update on the Risk and Uncertainty Policy (*J. McNamee*) 2:05 p.m.
 - Review Draft of the Risk and Uncertainty Policy
 - Discuss Steps to Consider Final Approval of the Policy
10. Review and Discuss 2020 Commissioner Survey Results (*D. Tompkins*) 2:35 p.m.

This meeting will be held via webinar, click [here](#) for details.
Sustainable and Cooperative Management of Atlantic Coastal Fisheries

11. Review State Membership on Species Management Boards (*T. Kerns*) **Action** 2:55 p.m.
 - Review Pennsylvania’s Membership on the Atlantic Menhaden Management Board
12. Discuss Commission Process for Working on Recreational Reform Issues with the MAFMC (*T. Kerns*) 3:25 p.m.
13. Discuss Possible Reporting Programs to Capture Recreational Release Data (*T. Kerns*) 3:40 p.m.
14. Committee Reports **Action** 3:55 p.m.
 - Habitat Committee (*L. Havel*)
 - Artificial Reef Committee (*L. Havel*)
 - Atlantic Coast Fisheries Habitat Partnership (*L. Havel*)
15. Review Noncompliance Findings (If Necessary) **Action** 4:10 p.m.
16. Other Business/Adjourn 4:15 p.m.

MEETING OVERVIEW

ISFMP Policy Board
Monday February 1, 2021
10:15 -11:45 a.m.
and
Thursday February 4, 2021
1:45 – 4:15 p.m.
Webinar

Chair: Pat Keliher (ME) Assumed Chairmanship: 10/19	Vice Chair: Spud Woodward (GA)	Previous Board Meetings: October 22, 2020
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from October 22, 2020

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Review State Membership on Species Management Boards (10:20-10:35 p.m.) Action

Background

- Each year states review their declared interest for Commission managed species. States/jurisdictions/agencies have requested changes.

Presentations

- T. Kerns will present requests for changes to the State Declared Species of Interest.

Board action for consideration at this meeting

- Consider changes to the State Declared Species of Interest

5. Update on Recreational Reform Initiative (10:35 -11:45 a.m.) Possible Action *This agenda item will be discussed jointly with the Mid-Atlantic Fishery Management Council (MAFMC)*

Background

- The Council and the ASMFC's Policy Board (Board) reviewed progress on the Recreational Management Reform Initiative and discussed next steps. After reviewing nine topics that

were either recommended by the Recreational Management Reform Initiative Steering Committee or by stakeholders through scoping for two separate ongoing amendments, the Council and Board agreed to initiate a joint framework/addendum and a joint amendment to address several recreational issues. The framework/addendum will further develop and consider the following topics and management issues:

- better incorporating MRIP uncertainty into the management process;
- guidelines for maintaining status quo recreational management measures (i.e., bag, size, and season limits) from one year to the next;
- a process for setting multi-year recreational management measures;
- changes to the timing of the recommendation for federal waters recreational management measures; and
- a proposal put forward by six recreational organizations called a harvest control rule. The amendment would consider options for managing for-hire recreational fisheries separately from other recreational fishing modes (referred to as sector separation) and would also consider options related to recreational catch accounting such as private angler reporting and enhanced vessel trip report requirements for for-hire vessels.

Presentations

- Update on Recreational Reform Initiative (**Meeting Materials**) by J. Beaty

Possible Board Actions for Consideration

- Consider initiating a workgroup

6. Recess until 1:45 p.m. on February 4

7. Executive Committee Report (1:50 -2:05 p.m.)

Background

- The Executive Committee will meet on February 3, 2021

Presentations

- P. Keliher will provide an update of the Committee’s work

Board action for consideration at this meeting

- none

8. Progress Update on the Risk and Uncertainty Policy (2:05-2:35 p.m.)

Background

- At the 2020 Summer Meeting, Commissioners supported the continued development of the draft Risk and Uncertainty Policy and Decision Tool.
- The Policy Board tasked the Risk and Uncertainty Policy Workgroup with further refining the criteria for the Risk and Uncertainty Decision Tool and updating the striped bass example.

Presentations

- J. McNamee will review changes to the draft Risk and Uncertainty Policy and potential next steps.

Board action for consideration at this meeting

- None

9. Review and Discuss 2020 Commissioner Survey Results (2:35-2:55 p.m.)**Background**

- Commissioners completed a survey of Commission performance in 2020 (**Supplemental Materials**). The survey measures Commissioner's opinions regarding the progress and actions of the Commission in 2020.

Presentations

- D. Tompkins will present the results of the 2020 Commissioner survey highlighting significant changes from the previous year.

Board discussion for consideration at this meeting

- Determine if any action is required based on the survey results

10. Review State Membership on Species Management Boards (2:55-3:25 p.m.) Action**Background**

- Articles II, VIII, and XII of the ASMFC Compact address participation by certain states eligible for ASMFC fishery management activities, including Pennsylvania, generally requiring that such participation be limited to anadromous species found in those states' waters. Pennsylvania has been part of the Atlantic Menhaden Management Board since 2016. Because Atlantic Menhaden are not anadromous, the question arose whether it is proper for Pennsylvania to participate in the Menhaden Board.

Presentation

- R. Beal will present a review of Pennsylvania's membership on the Atlantic Menhaden Management Board

Board action for consideration at this meeting

- Consider the draft memo

11. Discuss Commission Process for Working on Recreational Reform Issues with the AFMC (11:25-3:40 p.m.)**Background**

- The MAFMC and the Commission have been working on a Recreational Management Reform Initiative for summer flounder, scup, black seas bass and bluefish.
- The Policy Board has been meeting with the MAFMC to discuss these issues

Presentations

- T. Kerns will present information on the Commission process for this issue

Board action for consideration at this meeting

- none

12. Discuss Possible Reporting Programs to Capture Recreational Release Data (3:40-3:55 p.m.)**Background**

- In a recent review of biological reporting requirements, the Bluefish Technical Committee noted the stock assessment recommendation to accurately characterizing the recreational release lengths is integral to the assessment and any improvement to the methodology used to collect these data is recommended.
- The TC discussed options for electronic reporting that could be used for collecting recreational angler release data to remove the need for a state to create a new data collection system with an ACCSP staff member. The TC recommended the Bluefish Board advance the importance of broadly collecting reliable recreational release length frequency data from all recreational species by asking the Policy Board to task the ASC to work with the ACCSP to develop a comprehensive program for reporting released fish of all recreationally import species the Commission manages.
- The Bluefish Board had some concerns about the lack of specificity in the recommended task.

Presentations

- T. Kerns will present information current and developing applications that could address the collection of recreational release data.

Board action for consideration at this meeting

- None

13. Committee Reports (3:55-4:10 p.m.) Action

Background

- The Habitat Committee met in the Fall of 2020
- Concerns were raised by Habitat Committee members that the Army Core was considering changes to dredging windows. The Committee drafted a comment letter for dredging windows for the Commission to consider.
- The Artificial Reef Committee has updated the 1988 state artificial reef profiles
- In the Fall of 2020 the ACFHP Steering Committee met

Presentations

- L. Havel will present a summary of the HC fall meeting and the draft comment letter
- L. Havel will present the update of the state artificial reef profiles
- L. Havel will present an overview of ACFHP activities

Board action for consideration at this meeting

- Approval of the comment letter on dredging windows
- Approval of the state artificial reef profile update

14. Review Non-Compliance Findings, if Necessary Action

15. Other Business

16. Adjourn



Atlantic States Marine Fisheries Commission

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Patrick C. Keliher (ME), Chair

A.G. “Spud” Woodward (GA), Vice-Chair

Robert E. Beal, Executive Director

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

SUBJECT: 2020 Commissioner Survey Results

TO: ISFMP Policy Board

FROM: Deke Tompkins

DATE: January 25, 2021

32 Commissioners and Proxies completed the 2020 ASMFC Commissioner Survey. The survey is based on the 2019-2023 Strategic Plan. This document contains a summary of the 2020 Survey results, charts summarizing responses for questions 1-16, a summary of the five open-ended questions, and unabridged responses to the five open-ended questions.

Survey Summary

Questions 1-16 prompted respondents to rate their answer on a scale of 1 to 10 (ten-point Likert scale). Questions 7, 8, 14 and 15 were new to the 2015 survey and Question 16 was added in 2020. Key takeaways from this portion of the 2020 survey:

Lowest scores: Q8 “progress to end overfishing” and Q9 “managing rebuilt stocks” received the lowest scores for the second consecutive year, 6.88 and 6.71 respectively.

Highest scores: Scores for Q6, Q11, Q13, Q14 and Q15, relating use of ASMFC resources remain among the highest scores.

Falling scores: From 2019 to 2020, scores fell for Q4, Q8, Q5, Q3 and Q10

Rising Scores: From 2019 to 2020 scores rose for all other questions except Q16, which has only one data point.

Question	2019 Score	2020 Score	Delta
Q4 cooperation with federal partners	7.71	7.28	-0.43
Q8 progress to end overfishing	7.19	6.88	-0.31
Q5 relationship with our constituent partners	7.35	7.1	-0.25
Q3 Commissioner cooperation	7.19	7.13	-0.06
Q10 engaging state/federal legislators	8.23	8.19	-0.04
Q13 resource utilization on issues Commission can control	8.58	8.63	+0.05
Q7 overfishing as a metric of progress	7.23	7.31	+0.08
Q9 managing rebuilt stocks	6.61	6.71	+0.10
Q12 reacting/adapting to new information	7.61	7.72	+0.11
Q2 progress toward Vision	7.84	8	+0.16
Q1 clear & achievable plan to reach Vision	7.74	7.91	+0.17
Q6 securing resources for management & science	8.39	8.58	+0.19
Q15 Science Department products	8.45	8.65	+0.20
Q14 ISFMP products	8.5	8.72	+0.22
Q11 fiscal & human resource utilization	8.65	9.31	+0.66
Q 16 ACCSP products	-	8.13	-

Discussion Question Summaries (All responses are listed below the summary)

*Some of the **obstacles to the Commission's success in rebuilding stocks (Q17)** include depleted stocks, environmental/climate conditions, balancing individual and collective interests, management response time, lack of MSA requirements for ASMFC-managed species, inadequate federal resources/support, reallocation, recreational data shortfalls, and cooperation with the councils.*

The most **useful products produced by the Commission (Q18)** include meeting materials, stock assessments, species status reports, the Annual Report, Fisheries Focus, TC memos, www.asmf.org, the Commissioner handbook, FMP reviews, staff support, Habitat Committee products, Legislative and Executive Committee Meetings, ACCSP Data Warehouse and electronic reporting apps.

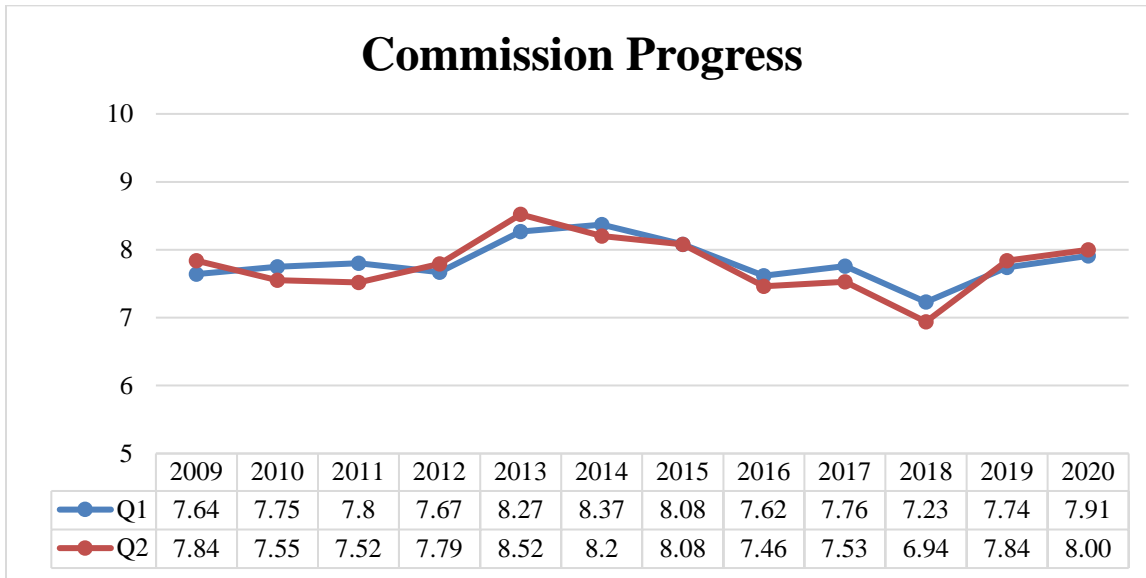
Additional products the Commission could provide (Q19) include stock assessment summaries, parliamentary process training, annual action timelines for each board, a quota monitoring webpage for ASMFC species, a history of state regulations, cooperative data collection with industry, management action summaries for public outreach, fishery performance reports, and increased TC transparency.

Issues the Commission should focus on more (Q20) include depleted species, modernizing outreach for the next generation, habitat & climate change, socioeconomics, earlier access to meeting materials, improvements to MRIP, regulatory consistency among states, refining conservation equivalency, public outreach, stakeholder engagement, accountability measures, increased Congressional support, quota allocation, shortening the length of joint meetings, access for all user groups, and regional differences and intra-species interaction.

Additional comments (Q21) included a request for less frequent joint ASMFC/council meetings, increasing ASMFC focus on compromise, spending less time on depleted fisheries that can't be changed through management, addressing council (mis)representation, starting hybrid in-person/virtual meetings, better cooperation between sectors, increasing TC transparency, and *many* complements to ASMFC staff.

Commission Progress

1. How comfortable are you that the Commission has a clear and achievable plan to reach the Vision (Sustainably managing Atlantic Coastal Fisheries)?
2. How confident are you that the Commission’s actions reflect progress toward its Vision?



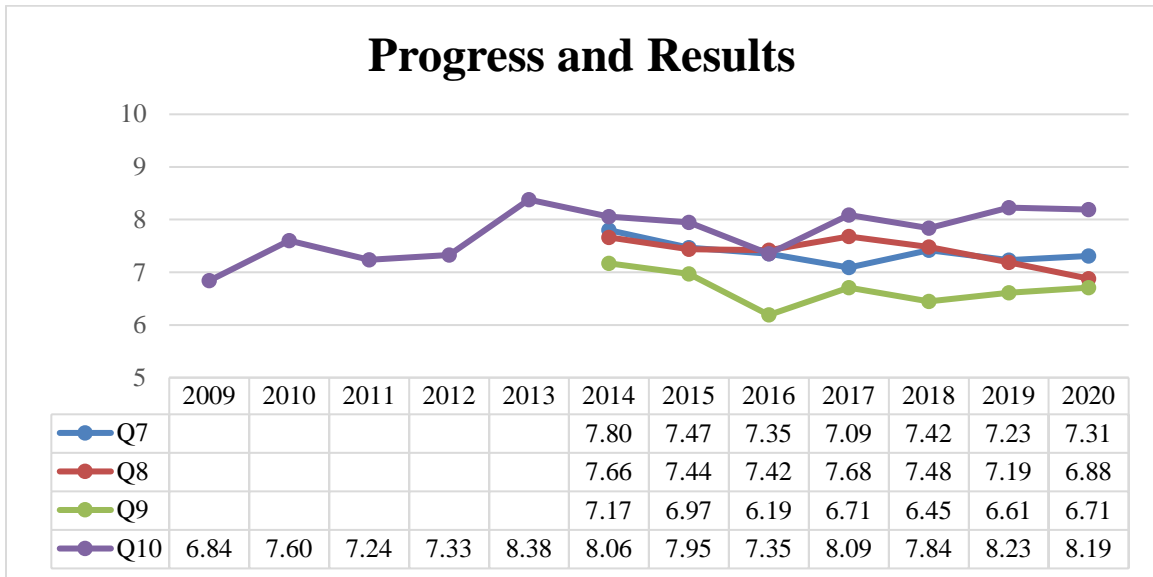
Commission Execution and Results

3. How satisfied are you with the cooperation between Commissioners to achieve the Commission's Vision?
4. How satisfied are you that the Commission has an appropriate level of cooperation with federal partners?
5. How satisfied are you with the Commission's working relationship with our constituent partners (commercial, recreational, and environmental)?
6. How satisfied are you with the Commission's effort and success in securing adequate fiscal resources to support management and science needs? Measuring the Commission’s Progress and Results



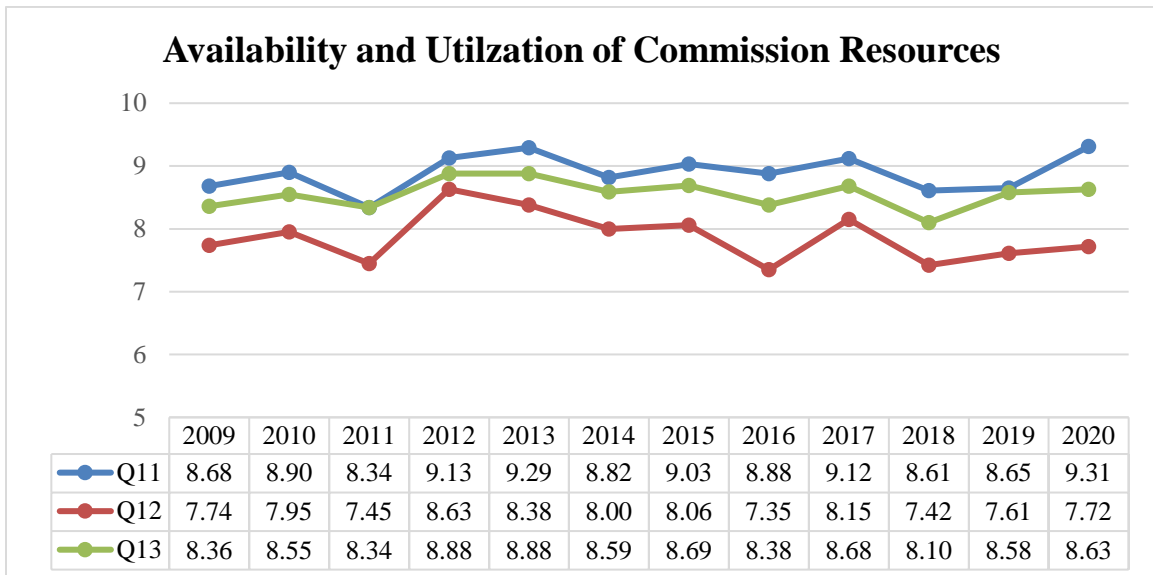
Commission Execution and Results

7. One of the metrics the Commission uses to measure progress is tracking the number of stocks where overfishing is no longer occurring. Is this a clear metric to measure progress?
8. How satisfied are you with the Commission's progress to end overfishing?
9. Are you satisfied with the Commission's ability to manage rebuilt stocks?
10. How satisfied are you with the Commission's efforts to engage with state legislators and members of Congress?



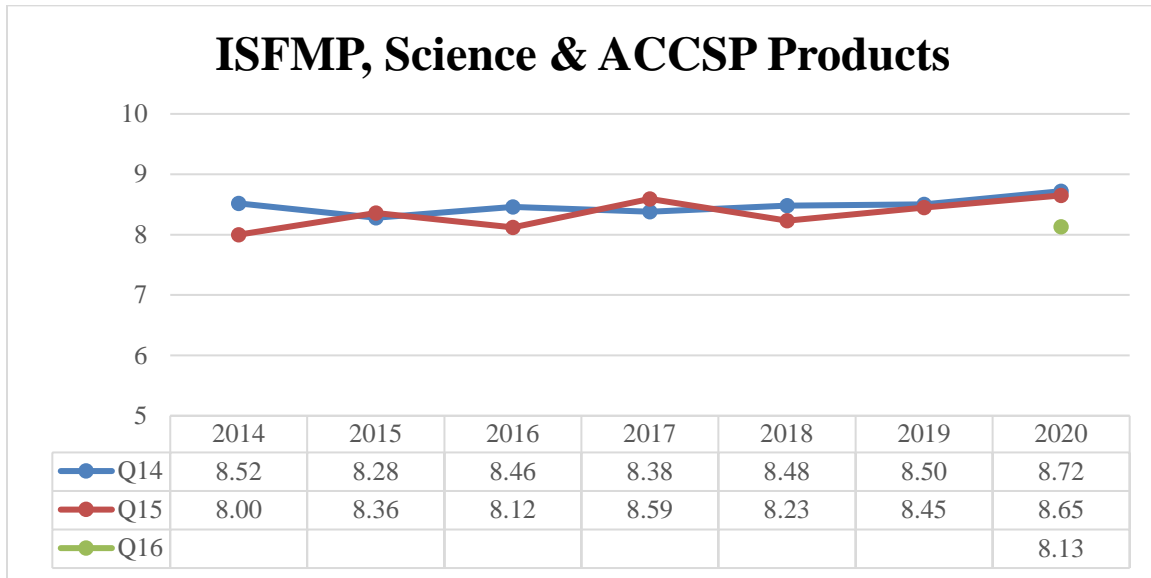
Measuring the Availability and Utilization of Commission Resources

11. How satisfied are you that the Commission efficiently and effectively utilizes available fiscal and human resources?
12. How comfortable are you with the Commission's performance in reacting to new information and adapting accordingly to achieve Commission Goals?
13. The Commission has a limited scope of authority. How comfortable are you that the Commission spends the appropriate amount of resources on issues within its control?



Commission Products

- 14. How satisfied are you with the products of the ISFMP Department?
- 15. How satisfied are you with the products of the Science Department?
- 16. How satisfied are you with the products ACCSP?



Unabridged Answers to Questions 17-20

Q17 What is the single biggest obstacle to the Commission's success in rebuilding stocks?

- What to do about depleted stocks is a big problem.
- States have some difficulty in agreeing with management/regulatory approaches that impact them negatively sometimes. Not impossible - e.g. menhaden
- Reluctance to adequately include climate change factors in management and hold on to decades old management data/decisions
- Politics. The make-up of the Commission (State rep, Gov. appointee and legislative rep (or proxy) makes it hard to avoid political pressure (especially in an election year).
- The delay that sometimes comes between the time a problem arises and reaction. Striped bass for example.
- How long it takes to implement new management actions
- I think not being subject to the same rebuilding requirements of the MSA makes it challenging, or opens opportunities to not rebuilt.
- Not enough Federal support with resources, funding, etc.
- Time and energy spent on allocation issues. But, to be fair, I don't know how to fix this. Allocation issues are important, I just wish they didn't dominate so much.
- self-serving states (e.g., putting state interest above preservation of coastal stocks, excessive desire for conservation equivalency)
- Balancing between the resource and Economics
- Recreational data is still not reliable and having to work jointly with MAFMC on issues. We are overreacting to new data that really seems to have big flaws and recreational anglers are penalized by these new baselines. We see a 49% increase in commercial summer flounder quota and the recreational sector see nothing. The wrong message.
- Some folks best intentions do not allow let to look forward, instead they are focused on their recollections of how it used to be.

- other stocks
- Mismatch between "new" MRIP numbers and recreational harvest targets - forcing potential undue restriction of recreational access to rebuilt stocks
- States looking out for their personal interests instead of the coastwide health of the species
- Climate change and unwillingness to make difficult decisions when it affects things in their state.
- Agreement between all with the developed and informed science and consistent management decisions to rebuild the stocks. Have no question on conservation equivalency meeting the management needs of a state or federal partner.
- Environmental conditions
- Lack of action
- Factors beyond ASMFC control, such as global warming, and the clusterfudge caused by the new MRIP numbers, which have changed our assessment of some stocks to overfished and other stocks to unbelievable abundance. The new MRIP has managed the dubious achievement of reducing public trust in the recreational data and made fisheries managers wonder what the hell we are doing.
- Changing environmental conditions
- Intervention by the Federal Council process.
- Insufficient data, particularly with regard to recreational catch, but also independent data on many species.
- Results of climate change (shifting species distributions, changing ecosystem productivity, recruitment success, etc.)
- The dynamic and unpredictable nature of fish stocks and their response to management and environmental factors.
 - Failure to "toe the line" as defined by true and ardent conservationists
- Wrong influences
- Differing interests between states and pressure from special interest groups. Unfortunately this is a natural tension. Not easily eliminated. Can only be managed as best it can.
- Climate change - there are so many forces out of our immediate control that make it hard to align cause and affect
- Pressure from people who make money exploiting fisheries

Q18 What are the most useful products the Commission produces for you?

- species status reports and stock assessments
- Detailed briefing materials prior to meetings.
- Pre-meeting briefing materials and dedicated staff to support the Commissioners.
- All the meeting materials are excellent
- Pretty good briefing documents
- Annual report, Fisheries Focus, TC memos
- I truly think ASMFC products are really great and they help the managers prepare for meetings well.
- Individual states problems managing quotas.
- Meeting preparation materials and info on the website.
- Commissioner handbook, FMP reviews ASMFC swag/commemorative clothing :-)
- Science and personnel to help make informed decisions
- We are doing a great job in communicating what we are doing even though I am not sure we are doing the right thing.
- data
- Stock assessments; FMP reviews
- Summaries of agenda items prior to meetings and summaries of actions after meetings
- Everything has its relative importance.

- Science and outreach.
- Science
- stock status reports
- ASMFC products are consistently good; the plans are thorough and are always well-written. The previous comment about MRIP is in no way a criticism of the excellent stock assessments done by ASMFC. The Stock Assessment scientists must work with the data they are given.
- What has come out of Habitat Committee lately very helpful. All the regular meeting materials also.
- Legislative and Executive Committee meetings plus the quarterly meetings.
- ACCSP data warehouse and electronic reporting apps.
- Briefing materials for meetings, meeting summaries, staff memos to management boards, audio recordings of board meetings, Atlantic Coast Fisheries weekly newsletter
- Stock assessments and fishery management plans.
- Speaking to other Commissioners "out in the hall". It is here (outside of meetings) that true progress can be anticipated.
- Information links and articles
- Development and analysis of data to allow for proper management decision making.
- Stock assessments 2. Fishery management plans including amendments and addenda
- The scientific studies and interpretations of the data

Q19 What additional products could the Commission create to make your job easier?

- A typical stock assessment is a long and involved document. Good and concise summaries are very helpful, especially for busy administrators and Commissioners whose time is volunteered.
- Briefing materials broken down into separate files for specific Board meetings. useful to pass to state agency staff for consideration and discussion.
- Time for another Parliamentary process training
- I'm fine with current products
- Timelines of annual actions/activities for each board - next assessment update, next benchmark, FMP requirements, compliance reviews, etc.
- Cannot think of anything.
- A devise to beam us to-and-from meetings like they have on Star Trek
- Quota monitoring webpage for non-federally managed allocations; history of state regulations
- Utilize more fisherman and their equipment to make front line information available when evaluating stocks in the fishery.
- I do not know if we can produce the products that we need since the money is not there and they are being handle by NMFS and they do not have the money to do it right
- Public outreach resources
- none
- One page bullet point summaries of proposed management actions that could be distributed to the public would be helpful, but otherwise I think the ASMFC documents cover the bases well.
- Long term quota tracking performance sheets
- At this time, I can't think of any.
- Can't think of any
- The SAFMC uses fishery performance reports as a tool to determine if management prescriptions are successful and to determine if changes are occurring in a fishery. I'd like to see ASMFC do something similar
- Be sure to give us the GREAT BENEFIT of a healthy debate. This would avoid "GROUP THINK" as was demonstrated at the Bay of Pigs Invasion
- More transparency in the TC discussion.

- None noted
- A compiled document of states' current quotas for species would be very helpful. When states participate in quota transfers it can be hard to find what an individual state's quota is for the current year. Species like summer flounder, BSB, menhaden would be most helpful because they are species for which there are frequent transfers

Q20 What issue(s) should the Commission focus more attention/time on?

- What to do about depleted species, and how to convey these limitations on restoration to the public.
- Transitioning Outreach and public interaction efforts in to include more customer-friendly web and social media-based methods to increase connection to the current and next generation of resource stakeholders and
- Climate change impacts on stocks
- socio economic issues
- Climate change and shifting fisheries
- The challenge I often face is that the materials are not provided early enough for the thorough review that they require, or to then coordinate with other state commissioners after reading through the materials.
- Replenishing overfished stocks.
- MRIP. We need a technical review of the statistical and operational design of this program. Many are concerned that there are systematic problems with how data are extrapolated to determine state totals. I don't know if this is something the Commission staff are able to do given current workload and the technical skill set that a survey of this size requires. Probably other constraints as well. But if it could be accomplished, this would be of great interest to many Commissioners.
- More consistent regulatory language among jurisdictions implementing the same requirement. Interstate trade of ASMFC-managed species relative to constraining commerce. Further refinement of concept of conservation equivalency. Making recreational rules more consistent and/or equitable among states.
- Environmental challenges
- Look at what climate change is really doing it to fish stocks and stop interrupting it as they moving to the north and forgetting the biology of some species that bigger fish move north and there is still plenty of smaller fish in the south that we are not letting those southern states harvest.
- Habitat, estuary health, chemical influences
- updating the progress of the stocks
- Public engagement/outreach
- accountability measures for states to meet FMP mandates
- Methodology has delivers needed information for meetings in a more timely manner. That could involve a piecemeal approach rather than receiving on line information just before meeting weeks.
- Work with the hill and the states on continued and increased Congressional funding support.
- Making changes in the fixed quota system in responsive to climate change, Need a federal mandate to require the Councils to do likewise
- Holy cow, the meetings are long enough already! Maybe more attention to meeting procedures as the joint December meeting was ridiculous. We as a body need to have procedures that will allow us to end debate and vote on the questions at hand.
- MRIP uncertainty
- Ocean changes which in turn change specie distribution.
- Stakeholder engagement/input though APs and public hearings is an important issue identified by ASMFC and will need more time and attention to fully address. Recreational data collection is another issue that will require more time/attention from ASMFC.
- We must continue to find innovative and novel ways to interact with our stakeholders.

- Rebuilding fish stocks
- Fair access for all user groups and income levels.
- Regional differences and intra-species interaction impacting individual species health.
- Quota allocation in the face of dynamic stock conditions and climate change. This is a very challenging issue but it is biggest issue facing fisheries management
- We are heading in the right direction by considering all aspects that result from changes to a particular fishery. More data that includes every aspect.

Q21 Additional comments?

- This is a recurring topic, but the number of joint meetings with the Councils is taxing the available time of Commissioners who are volunteers. Council members are paid for their time at these joint meetings, so time is much less of an issue for them.
- Staff support in all areas is outstanding!
- Commission staff are the best and continue to provide outstanding professionalism and support.
- Overall, the Commission leadership and staff do a great job. Commissioners face undue stress (see 20 above) and that can be counter-productive when managing stocks. Perhaps there should be some discussion on how to better address avoiding political pressure, but frankly, that's a no win situation when each state has its own issues "back home".
- From a business management perspective, the Commission is doing a great job. Fiscal and operations management is excellent!
- We appreciate the efforts of ASMFC helping all the states through the pandemic and related issues (e.g., availability of staff, coordination).
- There seem to be no compromise on the side of commissioners and proxies representing the commercial industry on quota reallocations between states and also with the recreational sector. They only look at what benefits their own pockets and their states' commercial fishermen.
- Commission needs to invest less effort in depleted stocks (shad, river herring, American eel, SNE lobster); be content to say that it's not a fisheries management problem with a regulatory solution; ASMFC can't "fix" the problem
- Given the circumstances we've been under the last past ten months, I believe the Commission staff have done a great job keeping us moving forward. Additionally, the level of cooperation by staff on the CARES Act Disaster Relief has been outstanding and warrants acknowledgement.
- It's been a difficult year for everyone!!!!
- ASMFC staff really rose to the challenge posed by COVID in 2020. That ASMFC got so much done under such adverse conditions just showed again what a superb staff ASMFC has put together. Keep up the great work!
- When joint management occurs between the Councils and Commission, non-member states should get a Council vote!!!!!!!!!!
- I believe it is time to discuss the merits of using a hybrid approach to meeting - in-person and virtual formats.
- Work VERY HARD at bringing Commercial Anglers and Recreation Anglers together - also add ANY & ALL Recreational groups, like whale watchers, bird watchers, etc.
- The TC process needs to be open to the public, period.
- None.
- Complements to ASMFC staff...this is challenging work and they work hard at their jobs



Atlantic States Marine Fisheries Commission

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Patrick C. Keliher (ME), Chair

A.G. "Spud" Woodward (GA), Vice-Chair

Robert E. Beal, Executive Director

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

DATE

Colonel Benjamin A. Bennett, Commander
U.S. Army Corps of Engineers Wilmington District
69 Darlington Avenue
Wilmington, North Carolina 28403-1398
Attention: Emily Hughes

Dear Colonel Bennett:

The Atlantic States Marine Fisheries Commission (ASMFC or Commission) is the Interstate Fisheries Commission formed by the 15 United States East Coast states and chartered by Congress in 1942. The Commission is tasked with management of the nation's estuarine, diadromous and marine fishery resources which occupy habitats in the member states' jurisdictional waters along the United States East Coast (see www.asmfc.org). The Commission's mission is "to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of physical waste of the fisheries from any cause." On occasion the Commission elects to express concern regarding proposals which it believes could adversely affect resources under its jurisdiction, and this is one of those occasions. Please consider these comments during your further evaluations.

The ASMFC's Habitat Committee (HC) and Interstate Fisheries Management Program (ISFMP) Policy Board have reviewed the Wilmington and Morehead City Harbors Maintenance Dredging and Bed Leveling Draft Environmental Assessment (EA), dated August 2020, and the corresponding letter from the U.S. Army Corps of Engineers (USACE) Wilmington District dated August 19, 2020. We have further reviewed the Corps ADDENDUM to the Federal Consistency Determination Wilmington Harbor and Morehead City Harbor Hopper Maintenance Dredging and Bed Leveling, dated December 23, 2020. The proposed action is elimination of the existing hopper dredging window in portions of Wilmington Harbor and Morehead City Harbor so that maintenance dredging and bed leveling can occur year-round with offshore or nearshore placement of dredged material. The Addendum would limit the proposal to a three-year period ending December 31, 2023, and commits to a number of studies, yet to be completely specified, to assess the impacts of hopper dredging in the two localities. The purpose of the proposed action is to provide maximum flexibility to obtain contract dredges for maintenance dredging. The purpose of the window, which limited hopper dredging to the period of December 1 to April 15 and has been in place for over 20 years, is to minimize impacts from dredging to fishery resources migrating between ocean and vital nursery areas and to the habitats used by the migrants. The purpose of this letter is to express our concerns with the USACE decision to move ahead with the proposed action, as modified, and to recommend that the Wilmington District instead prepare an Environmental Impact Statement (EIS) which will fully address the potential impacts of the proposal.

In addition to reviewing the USACE's EA and Addendum, the HC, ASMFC staff, and ASMFC leadership have reviewed comments provided to you previously by the National Marine Fisheries Service (NOAA Fisheries; October 2, 2020), the North Carolina Division of Marine Fisheries (NCDMF; May 7, 2020), the North Carolina Wildlife Resources Commission (NCWRC), the South Atlantic Fishery Management Council (SAFMC; October 2, 2020) and the Southern Environmental Law Center (SELC; October 2, 2020), the latter of which filed its comments on behalf of multiple conservation organizations (Audubon North Carolina, Cape Fear River Watch, Defenders of Wildlife, North Carolina Coastal Federation and North Carolina Wildlife Federation). We also reviewed the memorandum from the NCDMF to the NC Division of Coastal Management (NCDCM; November 3, 2020) which provided the NCDMF comments for consideration during the NCDCM consistency determination process. That process was completed and we have reviewed the issued consistency concurrence dated December 31, 2020, as well as additional electronic correspondence from the NCWRC prior to that date in which the NCWRC expressed additional concerns and/or requested clarification of the USACE's modified proposal. We incorporate by reference all of the concerns expressed within those previous communications but focus herein on concerns which are most relevant to the species and jurisdictions for which ASMFC and its member states are responsible.

The Commission is responsible, either solely or in collaboration with the federal Fishery Management Councils (New England [NE], Mid-Atlantic [MA] and South Atlantic [SA] FMCs), the two federal fishery management agencies (NOAA Fisheries and the U.S. Fish and Wildlife Service [USFWS]), and the Potomac River Fisheries Commission and the District of Columbia, for the management of a suite of species, some of which may be adversely affected by the USACE proposal (see Attachment 1). These species are managed under Congressional mandates specified in the Atlantic Striped Bass Conservation Act (1984), the Atlantic Coastal Fisheries Cooperative Management Act (1993) and the Magnuson-Stevens Fishery Conservation and Management Act (1996). There are a total of 26 Fishery Management Plans (FMPs) which collectively address the measures necessary for sustainable management of a collective total 68 nearshore and pelagic species (several of the plans address multiple species, i.e., coastal sharks—40 species, and shad and river herring—4 species). Since the NOAA Fisheries and SAFMC have already provided their comments to you on jointly-managed species via separate letters, our letter focuses on those species which are 1) under sole ASMFC jurisdiction and 2) occur within the geographic range which includes Beaufort and Cape Fear River inlets.

Those species which meet the two criteria specified above and are most likely to be impacted by the USACE proposal include: alewife, American eel, American shad, Atlantic croaker, Atlantic menhaden, Atlantic striped bass, Atlantic sturgeon, black drum, blueback herring, hickory shad, red drum, spot, spotted seatrout, and weakfish. Without exception, all of these species are either diadromous (requiring residency in both fresh and salt waters to complete their life cycle: alewife, American eel, American shad, Atlantic striped bass, Atlantic sturgeon, blueback herring and hickory shad) or are estuarine-dependent (Atlantic croaker, Atlantic menhaden, black drum, red drum, spot, spotted seatrout and weakfish). All of them use ocean inlets as migratory corridors to and from their spawning and nursery habitats (for the anadromous species) or to and from nursery habitats in inland fresh waters (the catadromous American eel) or to and from estuarine or riverine spawning and nursery habitats (the remaining estuarine-dependent species).

The ASMFC Habitat Committee is currently in the process of reviewing each of the species managed by ASMFC with a view toward clarifying and refining ASMFC designated Fish Habitats of Concern (FHOCs; Fish Habitats of Concern Designations, ASMFC Habitat Committee, in preparation). While the ASMFC FHOC designations carry no legal obligations, they are ecologically functionally equivalent to and are defined using the same definition as the Habitat Areas of Particular Concern (HAPCs) under the NOAA Fisheries and federal FMC guidelines (see: <https://www.fisheries.noaa.gov/national/habitat-conservation/essential-fish-habitat>). It is probable that both of the North Carolina inlets and associated

navigation channels which are the subject of the USACE's proposal will be designated as FHOc for one or more species under ASMFC management, along with additional inlets within the jurisdiction of ASMFC member states.

The most recent comprehensive description of the value of environmental dredging windows for the habitats and species that would be impacted by the USACE proposal is found in Wickliffe et al. (2019), "An Assessment of Fisheries Species to Inform Time-of-Year Restrictions for North Carolina and South Carolina" (NOAA Technical Memorandum NOS NCCOS 263. 268 p. <https://doi.org/10.25923/7xdd-nw91>). The authors address the habitats used by all life stages of 13 managed fish and crustacean species. The ASMFC is fully engaged in the management of six of those (alewife, American shad, Atlantic sturgeon, blueback herring, red drum, and summer flounder), with four of those (alewife, American shad, blueback herring and red drum) managed solely by ASMFC. The authors also address the benefits of environmental dredging windows (also called moratoria) to the species and their habitats. In addition to the species that Wickliffe et al. (2019) address, the inlets and navigation channels which are addressed in the USACE proposal are used by all of the green-highlighted species in Attachment 1 for access to spawning and nursery habitats. Maintaining periods in which dredging and associated activities are prohibited ensures that access will occur with limited or no impact.

Wickliffe et al. (2019) conclude (p. 239): "Moratoria, if properly implemented, can protect valuable fisheries species (and protected species), which if lost, would translate into a substantial impact on local and regional economies, ecosystems, and livelihoods." The ASMFC contends that the USACE EA effectively ignored this conclusion, and that elimination of dredging windows would cause a significant environmental impact. Therefore, we suggest that the USACE should develop an EIS which fully analyzes a suite of alternatives, including the status quo (i.e., maintaining existing environmental dredging windows). The bottom line is that seasonal windows effectively mitigate the negative impacts of dredging on ASMFC-managed species during important phases in their life history.

We acknowledge that the USACE's modified proposal as contained in the December 23, 2020 updated federal consistency determination Addendum shortens the period during which moratoria would be eliminated to three years (ending December 31, 2023), and that the USACE has committed to conduct studies and various monitoring protocols designed to "...achieve an improved understanding of potential impacts of dredging on marine species and estuarine habitats during the most biologically productive months of the year" [quoted from response letter sent to organizations and members of the public by the NCDEQ, Division of Coastal Management]. Our understanding is that the details of the proposed studies have yet to be finalized, and that some of the organizations which have expressed concerns regarding the proposal believe that not all of their concerns were addressed by the modifications and will likely continue to pursue preparation of an Environmental Impact Statement.

In closing, we reiterate that we share the concerns that have been articulated by the other management agencies, organizations, conservation groups, and private citizens provided to you in earlier correspondence. A major concern we further express is that should the Wilmington District implement the proposed measures within the EA, even as modified, other USACE Districts to both the north and south within the ASMFC and member states' jurisdictions may attempt to do the same, resulting in more widespread potential for impacts to ASMFC-managed resources which would be more likely to produce population-level impacts. The precedent which would be established by the Wilmington District proposal continues to represent a threat of great concern to the ASMFC Habitat Committee, ASMFC professional staff and the ASMFC Interstate Fisheries Management Policy Board.

I appreciate the opportunity to provide these comments to you. Should you have any questions, feel free to contact ASMFC Executive Director Robert Beal, ISFMP Director Ms. Toni Kerns, or Habitat Coordinator Dr. Lisa Havel.

Sincerely,

Patrick C. Keliher

cc: Habitat Committee
New England Fishery Management Council
Mid-Atlantic Fishery Management Council
South Atlantic Fishery Management Council

L21-###

ATTACHMENT 1

Current List of Species Managed by ASMFC (as of December 17, 2020; Under **MANAGEMENT**, ASMFC = sole jurisdiction; **JOINT** = managed jointly with one or more federal Fishery Management Councils or with NOAA FISHERIES; Atlantic Sturgeon historically has been managed solely by ASMFC but was federally listed by NOAA FISHERIES in 2012 and remains on the federal endangered species list):

[**NOTE:** The 15 species highlighted in **green** are those managed solely under ASMFC jurisdiction and occurring within the geographic range encompassed by the Beaufort and Cape Fear River inlets in NC; species followed by * are those addressed individually in Wickliffe et al. (2019)]

<u>SPECIES</u>	<u>MANAGEMENT</u>	<u>FISHERY MANAGEMENT PLAN</u>
alewife (<i>Alosa pseudoharengus</i>)*	ASMFC	ASMFC Shad and River Herring
American eel (<i>Anguilla rostrata</i>)	ASMFC	ASMFC American Eel
American lobster (<i>Homarus americanus</i>)	JOINT w/NOAA Fisheries	ASMFC American Lobster
American shad (<i>Alosa sapidissima</i>)*	ASMFC	ASMFC Shad and River Herring
Atlantic croaker (<i>Micropogonias undulatus</i>)	ASMFC	ASMFC Atlantic Croaker
Atlantic herring (<i>Clupea harengus</i>)	JOINT w/NEFMC	ASMFC Atlantic Herring
Atlantic menhaden (<i>Brevoortia tyrannus</i>)	ASMFC	ASMFC Atlantic Menhaden
Atlantic striped bass (<i>Morone saxatilis</i>)	ASMFC	ASMFC Atlantic Striped Bass
Atlantic sturgeon (<i>Acipenser oxyrinchus</i>)*	NOAA Fisheries	NOAA Fisheries Recovery Plan
black drum (<i>Pogonius cromis</i>)	ASMFC	ASMFC Black Drum
black sea bass (<i>Centropristis striata</i>)	JOINT w/Councils	ASMFC Scup, SF and BSB
blueback herring (<i>Alosa aestivalis</i>)*	ASMFC	ASMFC Shad and River Herring
bluefish (<i>Pomatomus saltatrix</i>)	JOINT w/Councils	ASMFC Bluefish
coastal sharks (40 species; see the FMP)	JOINT w/NOAA Fisheries	ASMFC Coastal Sharks
cobia (<i>Rachycentron canadum</i>)	ASMFC	ASMFC Cobia
hickory shad (<i>Alosa mediocris</i>)	ASMFC	ASMFC Shad and River Herring
horseshoe crab (<i>Limulus polyphemus</i>)	ASMFC	ASMFC Horseshoe Crab
Jonah crab (<i>Cancer borealis</i>)	ASMFC	ASMFC Jonah Crab
Northern shrimp (<i>Pandalus borealis</i>)	ASMFC	ASMFC Northern Shrimp
red drum (<i>Scianops ocellatus</i>)*	ASMFC	ASMFC Red Drum
scup (<i>Stenotomus chrysops</i>)	JOINT w/Councils	ASMFC Scup, SF and BSB
Spanish mackerel (<i>Scomberomorus maculatus</i>)	JOINT w/SAFMC	ASMFC Spanish Mackerel
spiny dogfish (<i>Squalus acanthias</i>)	JOINT w/Councils	ASMFC Spiny Dogfish
spot (<i>Leiostomus xanthurus</i>)	ASMFC	ASMFC Spot
spotted seatrout (<i>Cynoscion nebulosus</i>)	ASMFC	ASMFC Spotted Seatrout
summer flounder (<i>Paralichthys dentatus</i>)*	JOINT w/Councils	ASMFC Scup, SF and BSB
tautog (<i>Tautoga onitis</i>)	ASMFC	ASMFC Tautog
weakfish (<i>Cynoscion regalis</i>)	ASMFC	ASMFC Weakfish
winter flounder (<i>Pleuronectes americanus</i>)	JOINT w/Councils	ASMFC Winter Flounder

From: Tom Lilly <foragematters@aol.com>
Sent: Tuesday, January 26, 2021 7:53:54 PM
To: Tina Berger; Robert Beal
Cc: flypax@md.metroca; jubylee@verizon.net; THOMAS LILLY
Subject: [External] corrected copy to distribute

Tina Please distribute this....We ask that the policy board, the menhaden board and the staff click on our new site menhadenproject.org to read the background for our request the menhaden delegates pass a motion at the February 2 meeting that an addendum proceed with scientific input and public comment on potential measures to protect the early Spring-Summer flow of menhaden into the Chesapeake Bay. This forage is critical to rebuilding the bay's forage base. That forage is now being targeted by 12 industrial sized purse seiners with no protection. The bay cap and the recent 10% decrease in the TAC, unfortunately, do nothing to protect those menhaden schools. The base is failing year after year. We have tried to give the board a complete explanation of the need for this action and means to accomplish it. This is the "time and area" controls referred to in Bob Beal's letter to Secretary Ross that were recommended by a Commission consultant. This important matter should not be put off any longer. The duty of the Commission to act in these circumstances is made clear at page 4 paragraph 2 of that letter.

Thank you Tom Lilly Menhaden Project

From: [Tom](#)
To: [Tina Berger](#)
Subject: [External] Fwd: : Bill Dunn opinions on effects of the factory fishing
Date: Thursday, January 21, 2021 1:27:25 PM
Attachments: [2021-01-21_124329 Bill Dunn.pdf](#)

Tina could you post this to the menhaden board with attachment? Thanks. Tom

Sent from my iPhone

Begin forwarded message:

From: Tom Lilly <foragematters@aol.com>
Date: January 21, 2021 at 1:04:50 PM EST
To: bill.anderson@maryland.gov, lynn.fegley@maryland.gov, mjdize@verizon.net, acolden@cbf.org, wbaker@cbf.org, jeannie.riccio@maryland.gov
Cc: steve.bowman@mrc.virginia.gov, bplumlee@pbp-attorneys.com, pat.geer@mrc.virginia.gov, district01@senatevirginia.gov, martingary@gmail.com, rbeal@asmfc.org, dunnsville@gmail.com
Subject: : Bill Dunn opinions on effects of the factory fishing
Reply-To: Tom Lilly <foragematters@aol.com>

Bill and Lynn..and other menhaden delegates ..our site is not up yet so I felt you should be aware of this comment by Virginian Bill Dunn. Bill tracks the movements of the Omega ships while they are at work in the Virginia bay and the Virginia Atlantic Zone. The tracks tell the story when a set is being made and the length of time the ship remains stationary while the menhaden is pumped onboard. There are many other clues as to how many schools are present and of those how many are caught when you can monitor the Omega radio chatter between the plant , the spotter pilots and the purse seine captains. Bill has a reputation of being very careful and neutral in his comments on his facebook site. The trends year to year become apparent- thats what is important here.

He says quite a bit in the attached mail dated 12/11/20. I am quite certain he has the years of experience and data to back up these opinions. I hope you, and the other Maryland and Virginia delegates will consider the seriousness of what he says in what

you are planning to say and do at the menhaden board meeting on Feb 2nd...I am sending this to Steve Bowman and the Virginia delegates as well as our other Maryland delegates. I hope people pay attention to this.

Thank you Tom Lilly

Date: Fri. Dec 11, 2020 8:41 am

Phil, I would like to add per our conversation last week, that as long as the CBBT is considered the demarcation line for the Chesapeake Bay as set up by ASMFC per the direction of Omega and/or they can fish within the 3 mile EEZ line along the coast then even if the Bay Cap was 0 fish they can still catch a majority of every group of schools migrating into and out of the Bay. They just have to put a little more fuel in their ships.

Moving them out to the EEZ is the only option that will reestablish the menhaden biomass within the Bay. This statement is based on daily observation of Omega's fishing practices of following the schools as they migrate into and out of the Chesapeake Bay by tracking their movements, radio communications discussing the quantity and size of schools as well as class of fish (age groups) that are seen, catch amounts per ships made as reported via radio back to Reedville and learning the migration patterns of the schools after years of watching them follow the groups of schools. While not exact "science" is observed in these daily tracking reports they show the patterns and results of Omega's efforts and are a good representation of what's happening in the local depletion of our state's waters.

If you have followed my post starting this year on <https://www.facebook.com/Chesapeake-Bay-Defenders-1890352121190102> it is apparent that these groups of schools have been dropping off at an alarming rate from the previous 5 years and are in deep decline that is simply not shown or represented in ASMFC's coastal biomass figures. There are 5K people that follow this page and it reaches over 7K people so there are a lot of people that are concerned about these issues as they personally see the results of this depletion out on the water by the lack of menhaden schools seen.

Respectively,

Bill Dunn