

**New York State Department of Environmental Conservation
DIVISION OF LAW ENFORCEMENT**

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M E M O R A N D U M

TO: Marine Resource Advisory Council
FROM: Major Timothy A. Duffy
RE: Southern District Monthly Report October -2008
DATE: November 7, 2008

MARINE RESOURCES

Green Clams? (Suffolk County)

Officer Eoin Snowdon was called to assist Officer Smith from the Amityville Police Department who had responded to a report of a clam boat moored in the Village, a violation of a number of local ordinances. Upon inspection of the boat, however, Officer Smith observed a number of bags of clams without tags. As Officer Snowdon arrived at the scene, so too did the boat's owner, a commercial clammer, who offered to move the six bags of clams onto the bulkhead for inspection. When the clams were unloaded, the tags for each bag became visible, but so did irregularities on the tags. After a few questions, the clammer admitted to filling out the tags inappropriately, but also storing the clams on the bay bottom for a number of days after harvest. To show the Officers the "high quality clams" he was taking to market, the baymen selected three clams and broke them open. The first appeared to contain clean meat. As the second and third were opened, the clammer remarked, "Oh, that's a little green." Officer Snowdon issued summonses for the tagging violations, as well as illegally storing the shellfish in water after harvest, then seized and destroyed the entire load of clams.

Porgy Overage (Suffolk County)

On 19 September 2008, MEU (Marine Enforcement Unit) ECO Sean Reilly and Region 1 ECO's Matthew Garrigan and Wes Bennett patrolled Long Island Sound on A4. The officers found a boat where the fishermen onboard had more than double their limit of porgy and many of the fish were undersize. Each occupant of the boat was issued tickets for the violations.

Illegal Use Of Shellfish Shipper Tags (Suffolk County)

On 21 September 2008, MEU ECO Todd Smith charged an East Hampton town shellfish harvester with two counts of unauthorized used of shellfish shipper tags. The charges stemmed from a market check conducted earlier in September, where bags of hard clams were found to have been tagged by the digger using the fish market's shipping tags.

Black Fish In Pots (Bronx County)

On 28 September 2008, ECO Kurt Bush received a complaint that a commercial fisherman had taken too many black fish. ECO Bush contacted the complainant and determined that the information was valid. ECO Bush then

went to the location to find the pots that the fishing vessel had brought back. While ECO Bush was looking for the pots on the dock, he found two pots that were unlabeled on two separate vessels. Each pot had the legal twenty-five black fish and all the fish were of legal size. The pots, however, did not have any labels on them to identify who caught the fish. Both owners of the vessels that the pots were next to came to the location and both received a summons for failure to label commercial black fish pots.

Out Of Season Porgy (Suffolk County)

On 28 September 2008, MEU Officer Brian Farrish was on patrol on Long Island's North Shore checking the Long Island Sound beaches during the recreational closure of porgy. Officer Farrish came upon an individual with his vehicle stuck in the sand. He had driven his two-wheel drive vehicle to the water's edge to get his eight foot boat after a day's fishing and got stuck. ECO Farrish helped him get his vehicle off the beach, then issued him two tickets for having undersize black sea bass, and out-of-season porgies. The Officer cited four more fishermen during the patrol for having out-of-season porgy.

NMFS EEZ Striped Bass Case Off Of Montauk (Suffolk County)

The National Marine Fisheries Service (NMFS) announced penalties handed down by their Office of General Counsel against the party/charter boat *Viking Starship*, stemming from a November, 2006 undercover operation conducted by agents from NMFS and the DEC posing as fishermen for a night-time striped bass trip. The officers documented catching striped bass in the EEZ in the vicinity of the BIS buoy, an unlawful activity. Upon arrival at the dock, the vessel was boarded by MEU ECO Todd Smith and NMFS Special Agent James Cassin. The penalty assessed by NMFS agents was \$35,000.

Blackfish (Suffolk County)

On 30 September 2008, MEU Captain Thumm received a complaint of four people shore fishing at Cranes Neck taking undersized and out-of-season blackfish. The complaint came from a recreational fisherman who was fishing from a boat near the subjects. MEU ECO Nathan Doig walked a long distance along the shore to where the individuals were fishing. As he started looking through the buckets, the complainant on the boat pulled up closer to shore and said that the blackfish were on a stringer on the other side of a large boulder. ECO Doig immediately found them along with several others stringers of fish. ECO Doig wrote several tickets including out-of-season and undersized blackfish. Nineteen blackfish were released back to the waters of the state.

Fresh Fish! (Kings County)

On 02 October 2008, ECO Kevin Thomas was in Sheepshead Bay in plain clothes doing surveillance when he noticed the party boat *Sea Wolf* moored up with a large crowd around it. He went over to investigate and found a crew member with 33 out-of-season fluke and a bucket full of porgies laid out on the deck and offering them for sale. He contacted ECO Jennifer Okonuk, who arrived to issue summonses and document the evidence. The crew member admitted to selling the fish without the proper license. He received tickets for undersized and out-of-season marine species as well as selling fish from a party boat.

Joint Effort (Suffolk County)

On 06 October 2008, MEU Officers Brian Farrish and MEU Lt. Joe Billotto, along with Region 1 ECO's Eoin Snowden and Joshua Sulky, responded to the USCG Station Shinnecock regarding a call that came in about a boat that was fishing in Shinnecock Bay. The fishermen on the boat were allegedly keeping summer flounder during the closed season. The officers got underway with the USCG Station Shinnecock and found the vessel. They cited the two fishermen onboard for taking summer flounder (fluke) and porgy (scup) out-of-season and for taking undersize blackfish (tautog).

TIPP Complaint System Works Again (Suffolk County)

On 09 October 2008, ECO's Dustin Oliver, and Joshua Ver Hague patrolled to East Beach in the Town of Brookhaven, in response to a TIPP complaint of a fishermen keeping undersized fish. As officers arrived, they observed four fishermen matching the descriptions from the complaint. Upon investigation, the ECO's discovered several short black fish, and one out-of-season, short porgy. Three of the individuals were issued ECATs for the violations.

Charter Boat Sneak Attack (Kings County)

Based on a citizen complaint alleging poaching and the active facilitation of illegal activity by crew members on the Sheepshead Bay-based party boat, *Captain Dave*, Lt. Fitzpatrick organized a detail. On 11 October 2008, Region 1 ECO's went undercover on a night fishing trip to make observations of what transpired while the boat was underway. An ECO, in plainclothes, acted as a lookout on the street and let the uniformed officers, standing by in the vicinity, know when the boat was approaching the dock. Around midnight, the ECO gave the signal that the boat was approaching. Lt. Fitzpatrick and Region 2 ECO's proceeded to conduct a surprise full inspection of the boat as soon as it docked. The detail went off without a hitch, with tickets being issued to the captain, crew, and passengers of the vessel for violations including possession of undersized striped bass, mutilating striped bass so that the size could not be determined, and filleting in violation of permit conditions.

Not A Healthy Idea (Nassau County)

ECO's Joseph Munn, Aaron Gordon and MEU ECO Sean Reilly were on boat patrol on 12 October 2008, patrolling the Long Island Sound. As they approached a boat off of Lloyd Point, they noticed the fishermen on board had a striped bass which they were about to throw back in the water. The fishermen were asked if they had any other fish; they replied that they had some bluefish. Officer Gordon boarded the boat and found five short striped bass in a large cooler in the bow of the boat. When the illegal fish were found, one of the men spoke up and said, "You got us." The officers asked the fishermen why they had the fish when they knew they were too short. They both replied, "Well, our doctors both told us to have more fish in our diets." ECATs were issued to each of the men for possession of undersize and over-the-limit striped bass.

Dumping Upon Signal To Stop (Queens County)

On 12 October 2008, MEU Officers James Davey and Jamie Powers were on A3 vessel patrol. While checking recreational vessels in Jamaica Bay, the officers approached a pair of fishermen under the Marine Parkway Bridge. As the patrol boat came up on the fishermen, the officers noticed several undersized tautog hidden in the stern of the vessel. When the captain of the vessel was asked if they had any fish onboard he replied "No". The ECO's then pointed to the tautog and instructed the individuals onboard not to dump anything. While A3 was escorting the vessel to safer water to perform a boarding, the captain reached down and started throwing fish overboard. ECO's announced again not to dump anything overboard on the load speaker. Once again, just prior to boarding the vessel, the captain reached down and tossed over an undersized striped bass. Fortunately, most of the fish floated to the surface and the officers were able to retrieve them. Both fishermen received several summonses including dumping upon signal to stop, possession of undersized striped bass, possession of undersized tautog and failure to release fish without undue harm.

Short, Over-The-Limit & Out-of-Season (Westchester, Nassau/Suffolk Counties)

On 12 October 2008, MEU ECO Sean Reilly and Regional ECO's Joseph Munn, Aaron Gordon and Chrisman Starczek patrolled Long Island Sound on A4. During the patrol, the ECO's found a boat

whose occupants claimed to have only bluefish. ECO Gordon inspected the boat and found five undersize striped bass. ECO's Munn and Gordon each issued the fishermen two tickets for short and over-the-limit striped bass.

Scup With A Case Of The Blues (Nassau County)

On 13 October 2008 at approximately 1630 hours, Region 1 ECO's Don Damrath and Erik Dalecki checked a recreational fishing boat on Long Island Sound. After the two fishermen in the boat repeatedly told ECO's Damrath and Dalecki that there were only bluefish on board, the officers conducted a search. Twenty-one scup, including four fish hidden under some bluefish, were discovered on board. The season for scup closed on 26 September 2008. The two fishermen were ticketed for possessing fish out-of-season.

Blackfish Poacher Apprehended (Nassau County)

On 15 October 2008, Region 1 ECO Matthew Garrigan received a phone call from ECO Sean Reilly of the Marine Enforcement Unit, regarding a blackfish poacher the two officers had been trying to catch over the last couple of weeks. ECO Reilly told Officer Garrigan that he received word that the culprit was currently catching blackfish on the Great South Bay in Oceanside. ECO Garrigan quickly patrolled to the location and was able to locate the man fishing. After watching the man for several minutes, ECO Garrigan watched as the man placed recently caught blackfish into a wire mesh net he had hidden in the water. Officer Garrigan approached the individual and instructed him to stay where he was and not to dump the fish. However, the man subsequently tossed the bag into the water. ECO Garrigan calmly explained to the man that his throwing the bag into the water, after receiving orders not to, constituted a misdemeanor under the Environmental Conservation Law. Along with the dumping charge, the man also received summonses for two undersized fish he was unable to get rid of, as well as charges for littering and failing to release fish without undue harm.

First Day of Patrol for New ECOs (New York County)

In October, Region 2 ECO Michael Buckley took recent ECO graduates Matthew Clemens, Dustin Dainack and Timothy Machnica on a recreational saltwater fishing patrol in New York County for their first day of patrol. Officer Buckley took the new officers to South Street Seaport and Battery Park for fish checks. ECO Clemens found one fisherman in possession of an undersized blackfish. ECO Dainack made contact with a fisherman that had a flounder in his possession, undersized and out-of-season. ECO Machnica observed a fisherman that had a porgy in his possession that was undersize and out-of-season. This was an exceptional start for these officers for their first day of patrol.

MISCELLANEOUS

DEC Artificial Reef Program (Suffolk County)

On 30 September 2008, MEU ECO's Todd Smith and Brian Farrish assisted DEC Biologists Chris Laporta and Phil Locicero with trap surveys on the Shinnecock and Moriches Artificial Reefs. A total of 20 pots have been "fishing" on the reefs, providing invaluable data as to what fish and crustaceans inhabit the reefs during the different seasons. The data collected will help bolster future additions to the Artificial Reef program.

Federal Fisheries Training (Suffolk County)

On October 1 and 2, 2008, MEU ECO's Sean Reilly, Brian Farrish, Kevin Thomas and Todd Smith attended Federal Fisheries Training at USCG Station Jones Beach. Instructors from USCG NERFTC in Cape Cod provided the training.

F/V Night Moves Case Settled (Southampton Town Court, Suffolk County)

On 17 September 2008, MEU Lt. Joe Billotto met with the Suffolk County District Attorney's East End Bureau along with the defendant in the *F/V Night Moves* case and the defendant's attorney. This was a joint Region 1 Eastern Zone and MEU investigation case. The officers were investigating allegations regarding the operator of this stern trawler taking over-the-limit of summer flounder. In January 2008, a joint operation apprehended the subject operator while he was taking and transporting twice the legal landing limit of summer flounder. This apprehension resulted in several charges, one being a misdemeanor commercialization charge. On the above date in September, at Southampton Town court, the defendant agreed to an offered plea deal, including a corporate substitution. The corporation pled to one count of "taking over-the-limit of summer flounder," as a commercial misdemeanor and paid a \$4,000.00 fine, in satisfaction of the entire docket. The defendant also forfeited all of his illegal catch.

SIGNIFICANT MEETINGS

FDA – Shellfish Patrol Document Review

On 23 September 2008, MEU Captain Thumm coordinated the Patrol Review for the 2007-2008 fiscal year at Setauket. Mr. Don Ullstrom from the US Food and Drug Administration met with regional law enforcement managers and Capt Thumm to review the patrol compliance, discuss patrol issues and re-evaluate some areas. On October 27th, the Program Element Evaluation Report (PEER) was received by Capt. Thumm from Mr. Ullstrom, indicating that the Patrol Element of the NYDEC currently meets all of the requirements of the National Shellfish Sanitation Program (NSSP) Model Ordinance.

Marine Endangered Species Workshop (Suffolk County)

On 17 October 2008, Lt. John Fitzpatrick attended a meeting of the newly-formed Marine Endangered Species group in Port Jefferson. The workshop was organized by DEC Marine Endangered Species Program Coordinator Nicole Minhovets and included participants from a wide range of governmental agencies and non-profit groups, including the DEC, NMFS and the Riverhead Foundation for Marine Research and Preservation. The group discussed ways to better protect the endangered sea turtles and marine mammals that inhabit New York's waters. Lt. Fitzpatrick represented Law Enforcement and made suggestions as to how the group can better interface with New York City agencies when strandings and sightings occur.

Atlantic States Marine Fisheries Commission

During the week of 20 October 2008, MEU Captain Thumm attended a meeting of the Atlantic States Marine Fisheries Commission's Law Enforcement Committee in Rehoboth, Delaware. Representatives from all of the eastern coastal states were there. In addition to several presentations on enforcement procedures, resources and equipment, there was also a discussion on how the current economic conditions are affecting the agencies and officers tasked with marine resource protection, a rather disheartening discussion into staffing losses and budgetary restrictions.

TAD/acp