

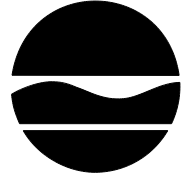
**New York State Department of Environmental Conservation
DIVISION OF LAW ENFORCEMENT**

Southern District Office

100 Hillside Avenue, Suite 1W, White Plains, NY 10603-2860

Phone: (914) 428-2505 ext. 2 § **FAX:** (914) 428-2349

Website: www.dec.ny.gov



M E M O R A N D U M

TO: Marine Resource Advisory Council
FROM: Major Timothy A. Duffy
RE: SDO Monthly Director's Report - December 2008
DATE: January 5, 2009

MARINE RESOURCES

Long Island Sound (Nassau County)

On 20 November 2008, MEU Officers Brian Farrish and Sean Reilly, together with Region 1 ECO's Eric Dalecki and Mike Unger and Region 3 ECO James Davey, patrolled on A4 in Long Island Sound checking recreational fishermen focusing on blackfish. All the boats checked were in compliance. One boat was hauling lobster gear and found to be in violation with undersize escape panels. ECO Dalecki issued a summons for fishing the illegal pot.

Harvest Of Undersize Bay Scallops (Suffolk County)

On 20 November 2008, MEU Officer Todd Smith assisted Region 1 ECO Richard Maggio with a complaint of two diggers taking undersized bay scallops in the vicinity of Jessup's Neck in Peconic Bay. The two ECO's waited for the duo to return to the dock, where ECO Maggio observed the two men offload their catch and load it into their van. As they were departing, ECO Smith stopped the vehicle and checked their shellfish for compliance. The three bushels of bay scallops were not tagged properly and there were over 37% undersize scallops in each basket. The two diggers were ticketed.

Not My Stripers (New York County)

In December, Region 2 ECO Timothy Machnica was on patrol in New York County checking various fishing access sites in the evening hours. Officer Machnica approached the only individual fishing off the Dyckman Street Pier and began to talk about fishing. The individual was asked what he was using for bait and he pulled a plastic bag out of his tote bag, smelled it, replied "clams" and insisted that ECO Machnica smell it. ECO Machnica replied that it was ok and that he believed him. The fisherman put the bait back on top of the tote bag and walked away. ECO Machnica asked for consent to search the bag and upon further inspection, found two short striped bass in the tote bag. Immediately upon ECO Machnica inquiring about the stripers, the individual insisted the stripers were not his. The fisherman stated that there were two other people fishing with him and that they put them in his bag. There was no one else in

the area. The individual was charged with possession of undersized striped bass.

Illegal Blackfish and Striped Bass Harvest (Suffolk County)

On 03 December 2008, MEU Officers Todd Smith and Brian Farrish, along with MEU Lt. Joe Billotto, conducted a fisheries patrol in the vicinity of Montauk Harbor. The first vessel checked had striped bass tags that belonged to a fisherman who was not onboard and one striped bass that was out of the commercial slot size (37" TL). The captain of the vessel was issued two ECAT's.

The second vessel checked had two recreational fishermen who were in possession of *ten* striped bass. Each of the fishermen was issued an ECAT for possession of eight striped bass over the limit. The third vessel checked had two recreational fishermen that were in possession of *nineteen* blackfish. Each fisherman was issued an ECAT for possession of eleven blackfish over the limit.

Undersized Striped Bass (Queens County)

On 04 December 2008, MEU Officers Jamie Powers and Kevin Thomas were on boat patrol when they received a call of an individual keeping undersized striped bass near Beach 44th Street on Rockaway Beach. The officers returned to the dock and headed to the location. The ECO's were able to approach the individual undetected and observed the fisherman finish cleaning his fish. When the fishermen finished his filleting, he turned around and was greeted by the two officers. The appropriate summonses were issued for possession of undersized striped bass and possession of over-the-limit striped bass.

Blackfish And Drugs Seized In Charter Fishing Vessel Bust (Kings County)

On 04 December 2008, Lt. John Fitzpatrick received a tip that the *Marilyn Jean*, a charter fishing vessel that runs out of Futura Marina in Sheepshead Bay, had been out fishing and that the captain brought back a large, illegal quantity - many totes full - of blackfish. The captain had just departed the marina with the fish in the back of his truck. Lt. Fitzpatrick dispatched MEU ECO Kevin Thomas and Region 2 ECO Matthew Nichols to the location, but the vehicle had already driven away and the officers could not locate the vehicle. The next day, on December 5th, Lt. Fitzpatrick received a new tip that the *Marilyn Jean* was out fishing again. Lt. Fitzpatrick organized a surveillance detail. MEU ECO's Jamie Powers and Thomas were already in place conducting surveillance of the marina, as they had received their own information about blackfish poaching taking place at the location and they stayed put. Lt. Fitzpatrick and Brooklyn ECO's Matthew Baker, Matthew Nichols and Neil Stevens, along with ECO Alan Brassard from Staten Island, mobilized and took up positions in the area, ready to tail whichever vehicle(s) departed the marina with an illegal catch. Officers Powers and Thomas saw the *Marilyn Jean* return to dock and then watched as individuals from the boat carried a 55-gallon drum up to a vehicle. The individuals filled the tank with water, a sign that live blackfish were going to be transported. Once the vehicle left the marina, with its license plate covered to facilitate not getting caught, ECO Nichols and ECO Baker began to tail it. Fearing that the suspects knew they were being followed, the officers initiated a traffic stop. Lt. Fitzpatrick assisted with the stop and questioned the occupants. They admitted that they had about 30 blackfish (actually 37 fish), but no DEC licenses and that they knew

that the recreational limit is four fish per person. The driver admitted that they were going to go to Chinatown in Manhattan and sell the fish to markets that were advertising blackfish in their windows. The officers escorted the vehicle back to the marina to document the evidence.

In the meantime, the other officers responded to the marina. ECO Thomas went down to the *Marilyn Jean*, where the captain and another individual were present. The individuals denied that there was any fish around, but then ECO Thomas found a bag of 18 blackfish hanging from the dock in a mesh bag. When questioned, the suspects claimed that they had no knowledge of the fish. Upon further questioning, however, the captain of the vessel admitted that the fish were, in fact, his. As the officers continued their investigation, ECO Powers noticed the smell of marijuana coming from inside the truck of another one of the passengers on the boat. ECO Thomas noticed marijuana residue on the center console of the truck. Based on these observations, Officers Powers and Thomas, along with the other ECO's, searched the vehicle thoroughly, turning up more marijuana, a Motrin bottle containing unidentified prescription drugs, and \$2,400 cash in an envelope, hidden underneath the floor mat. Lt. Fitzpatrick interviewed the subject. Ultimately, three individuals were arrested on misdemeanor-level illegal commercialization of fish charges. The fourth individual was placed in custody and brought to the precinct for further investigation. At the precinct, Brooklyn South Task Force Detectives assisted the ENCON officers in determining what drugs the subject had. It was determined that, in addition to the marijuana, he was in possession of the controlled substance, oxycontin. He was charged with multiple penal law crimes for the marijuana and prescription drugs. In all, the officers seized 163 pounds of blackfish, worth approximately \$1,630. In addition, the fisherman's \$2,400 cash was seized and secured as arrest evidence. This case is being prosecuted by the Environmental Crimes Unit of the Brooklyn District Attorney's Office.

Blackfish Enforcement (Nassau County)

On 06 December 2008, MEU Officer Sean Reilly and Region 1 ECO's Matthew Garrigan and Donald Damrath patrolled the Atlantic Ocean on A5. During the patrol, the ECO's checked vessels fishing on area reefs. They found two vessels fishing outside Jones Inlet with short blackfish and issued the fishermen tickets for taking undersize blackfish.

ENFORCEMENT OF OTHER LAWS

Fishermen's Group Outreach (Richmond County)

On 21 December 2008, Region 2 Lt. Bernard Rivers, along with Region 2 ECO's David Thomas, Alan Brassard and George Scheer, participated in a meet-and-greet with the Fishermen's Conservation Association at Michael's Bait Shop located on Mansion Avenue in Richmond County. The gathering gave the ECO's an opportunity to speak casually with fishermen in their patrol sector. The meet-and-greet was followed by a question-and-answer session between the fishermen and the officers. The fishermen voiced their concern about poaching issues in the area as well as seeking information with regards to the status of a possible Marine District recreational fishing license and clarification on the Environmental Conservation Law as it relates to marine fishing issues.

MISCELLANEOUS/SIGNIFICANT MEETINGS

Fisheries Training (Nassau County)

On 26 November 2008, MEU ECO Sean Reilly trained boarding team members at USCG Kings Point on state fisheries. The members of Kings Point were shown types of fishing gear, given fish identification training and training to recognize commercial fishermen and common violations.

Operation Clean Water

On 03 December 2008, MEU Lt. F. Lopez and MEU ECO J. Powers conducted a site inspection at 2124 Mill Avenue for tide wetland violations and illegal disposal of solid waste into the navigable waters of the state. This enforcement activity is part of Operation Clean Water, a task force comprised of federal, state and local governmental agencies focused on taking enforcement action against persons that pollute the waters of the state. One of the primary concerns of the task force is removing derelict vessels, broken piers and illegal fill from state waters.

Shellfish Meeting

On 18 December 2008, Captain Tim Huss attended a meeting with Suffolk County Executive Steve Levy and staff from the Long Island Planning Board, The Nature Conservancy, representatives of the shellfish management programs from the Towns of Islip, Brookhaven and Babylon, Debra Barnes of DEC's Shellfish Management Program and a representative of the Brookhaven Baymen's Association to discuss future management plans for the shellfish resource in Great South Bay. This initiative is based upon the fact that The Nature Conservancy now oversees the management of approximately 14,000 acres of bay bottom formerly belonging to the Blue Points Company, as well as some signs that the hard clam resource may be beginning to return after over two decades of decline. Captain Huss was able to provide the committee with an historic perspective on the shellfish issues in Great South Bay with regard to enforcement, management and harvest trends during the past thirty years, as well as emphasize the significance of DEC's role in shellfish management and protection. The goal of the committee is to have safeguards and management regulations in place in the event the resource does return to the record harvest numbers that occurred in the 1970s.

TAD/acp