

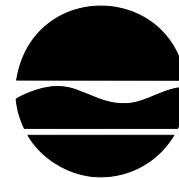
**New York State Department of Environmental Conservation
DIVISION OF LAW ENFORCEMENT**

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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: SDO MRAC Report – November 2009
DATE: December 2, 2009

MARINE RESOURCES

Shinnecock Inlet (Suffolk County)

On 22 October 2009, Marine Enforcement Unit (MEU) ECO Brian Farrish and Region 1 ECO Jeremy Eastwood were on boat patrol around the Shinnecock Inlet area when they observed a boat acting suspiciously and avoiding the DEC vessel. The officers eventually caught up to the boat and found the fishermen to be in possession of several small black sea bass. The individuals admitted to using the undersize fish for bait.

NYSDEC Marine Enforcement Unit Makes Striped Bass Poaching Arrest In Brooklyn (Kings County)

On 26 October 2009, MEU Officers Jamie Powers and Kevin Thomas arrested two local fishermen in Brooklyn, New York. The officers located a boat suspected of poaching in the area of Breezy Point and tracked it back to the dock in Shell Bank Creek off Seba Avenue. After the boat had tied up to the dock, the ECO's witnessed the two fishermen struggling to drag two totes full of striped bass up to the truck. As the officers approached, the fishermen realized their good day of fishing was coming to an end. The fishermen watched as the ECO's counted out 46 striped bass, over the legal recreational limit for the two of them by **44** fish. The fish weighed a total of 295 pounds and ranged from 20 to 40 inches. The legal recreational size is between 28 and 40 inches. Forty of the fish were less than 28 inches in length.

The two fishermen, John Arena of Parkville, New York and Mark Sarubbi of Brooklyn, New York, were arrested and processed at the 61st Precinct on the following charges: possession of 40 undersized striped bass; possession of 44 striped bass over the legal recreational harvest limit; possession of 46 untagged striped bass, taking striped bass for commercial purposes without a permit and failing to possess a valid food fish license. Additional charges are anticipated. Their arraignment is scheduled for early December. They are facing thousands of dollars in fines and possibly four years in prison. The Brooklyn Environmental and Economic Crimes Unit is prosecuting the case. The fish were seized and destroyed because striped bass are not permitted to be harvested for commercial sale from waters west of East Rockaway Inlet due to the potential level of contaminants in the fish.

Got Another One... (Kings County)

On 30 October 2009, ECO's from Region 2 and MEU Officers Kevin Thomas and Jamie Powers set out to find more striped bass poachers. The MEU team set up surveillance and watched a target vessel come into port in

Brooklyn. ECO's Neil Stevens and Matthew Baker were there waiting and watched the party offload fish into the back of his truck. The officers then followed the individual to a nearby market in Coney Island where the owner came out and paid the fisherman for his catch. At this point, Lt. John Fitzpatrick gave the order and the officers converged on the suspects and arrested them. More illegal striped bass were found being offered for sale in the market. Charges are pending for illegal commercialization of a marine species, untagged striped bass, undersized striped bass and over-the-limit striped bass.

Brooklyn Striped Bass Poacher Arrested for 2nd Time, Along With Store Owner (Kings County)

In October, the Division of Law Enforcement received information that an individual who operates a recreational vessel was trolling umbrella rigs and taking large numbers of short striped bass in local waters. On 30 October 2009, Region 2 Lt. Fitzpatrick coordinated a detail involving MEU ECO's Jason Powers and Kevin Thomas and Region 2 (Brooklyn) ECO's Stevens, Baker and Okonuk. The officers coordinated surveillance and watched as the boat returned to Gateway Marina in Brooklyn. Yuriy Modylevskiy then placed a cooler full of fish in the back of his vehicle and headed to the Brighton Beach area of Brooklyn. The officers tailed the vehicle to a fish market (Royal Seafood) and watched as Modylevskiy exchanged the cooler full of untagged striped bass for cash handed to him by the store's owner. As the store's employees quickly dragged the cooler down into their basement, the officers sprang into action, placing Modylevskiy and Royal Seafood's owner, Arcadi Ezri, under arrest. The officers recovered 41 lbs. of illegal stripers from Modylevskiy's cooler and an additional 22 lbs. of illegal striped bass parts from the market's basement, indicating that the store had purchased illegal fish previously. Both individuals and Royal Seafood are to be arraigned in Brooklyn Criminal Court on misdemeanor-level illegal commercialization of fish charges in the near future. The Environmental Crimes Unit of the Brooklyn District Attorney's office is prosecuting the case

Tautog Or Treat (Nassau County)

Halloween is always a spooky time of year, especially when checking bridge fishermen under the Meadowbrook and Wantagh Parkway bridges. While checking fishermen on a cool and windy Halloween, Region 1 ECO's Michael Unger and Matthew Garrigan encountered a group of fishermen who appeared uneasy with the officers' presence. One fisherman immediately started to head for a bucket near his fishing buddy. Both officers simultaneously ordered the fishermen not to touch the bucket and not to dump any fish. Of course, the directive was ignored and the fisherman took two big steps and violently kicked his bucket full of fish, attempting to dump his fish into the water. Ironically, he kicked the bucket so hard that the short tautog it contained never made it more than a foot from the water's edge. The fisherman received two tickets for possessing undersize tautog and for failing to comply with a lawful order of an ECO.

Blackfish Poacher (Kings County)

On 01 November 2009, during a routine patrol of Gerritsen Beach, Region 2 ECO Matthew Krug checked the docks at the end of Everitt Avenue for individuals taking over-the-limit and undersized blackfish. Officer Krug watched one individual for thirty minutes during which time the subject caught a short blackfish and hid it. After being approached by ECO Krug, this individual denied having any blackfish. However, after a search of the area, 12 blackfish were recovered including 10 that were undersized. The male subject was then issued two criminal summonses for possession of undersized blackfish and over-the-limit of a marine species.

Conviction For Illegal Clamming (Kings County)

On 13 June 2009, Region 2 ECO Neil Stevens conducted an FDA shellfish inspection along the Plumb Beach section of Jamaica Bay. During the inspection, several individuals were observed carrying bags containing illegally-harvested clams off the beach. After calling in the assistance of ECO's Shea Mathis and Jared Woodin, two individuals were issued several summonses. On 05 November 2009, the poachers appeared in Brooklyn Criminal Court where they pled guilty to illegally taking shellfish. Both individuals pled guilty to taking shellfish from uncertified waters, possessing illegally harvested shellfish, and failure to comply with the lawful order of a

Conservation Officer. Each paid \$750 in fines.

Out-Of-Season Scup (Suffolk County)

On 05 November 2009, while on patrol on the north shore of Long Island, MEU ECO Brian Farrish spotted a vessel returning to the dock after sunset. The officer asked the individuals several times if they had any fish on the boat. Every response given was "No, no fish today". After the boat was up on the trailer and in the parking lot, the officer heard the recognizable sound of live fish moving in a plastic bag. After finding the bag of scup, the officer once again asked if they had any more fish on board. They replied, "No". Hidden in another compartment was a second bag of scup. The fishermen were cited for possessing scup out-of-season.

Montauk Commercial Fishing Heats Up (Suffolk County) JEA

On 05 November 2009, Region 1 Officers Tom Gadowski, Jeremy Eastwood and Lt. Frank Carbone inspected a trawler off-loading at Gosman's fish dock. There they observed striped bass thrown onto the dock. The fish covered a large area and most of them were untagged. The fisherman, Dave Aripotch, was only entitled to catch 21 fish as a bycatch. The officers had the remaining 93 striped bass tagged with the fisherman's tags and sold them to a fish market and received \$2,037.50 for the 815 pounds of striped bass seized. The fisherman was charged with over-the-limit striped bass and for failing to tag striped bass.

On 10 November 2009, Region 1 ECO's Tim Fay, Tom Gadowski and Lt. Frank Carbone and MEU ECO Brian Farrish conducted a surveillance of a fisherman. The officers observed the boat return to the dock. As a result of the surveillance, they were able to witness the fisherman and his two friends in possession of 41 out-of-season black sea bass and 8 over-the-limit blackfish. The officers then inspected the dock for additional violations. They located three in water storage containers belonging to another fisherman containing at total of 39 blackfish, 14 more than the legal commercial possession limit.

That's A Lotta Fish (Suffolk County)

On 20 November 2009, Region 1 ECO's Caitlin Grady and Mark Simmons, along with Lt. Dallas Bengel, decided to check a new seafood dealer in Bellport after receiving a tip that the shop may be dealing in illegal fish. Before even entering the shop, the officers found three totes of untagged bluefish in a van. They also discovered a pallet of untagged sea bass and porgy (scup) outside the shop's bay door. An inspection inside the shop uncovered another pallet of untagged porgy and four just filleted but untagged striped bass, two of which were out of the commercial slot size for this species. Inside the shop, they also found an untagged bag of clams, an untagged bag of oysters and two untagged bags of mussels. While looking for the owner of the business, the officers discovered another new shop next door to the one just checked and that shop had a pallet of untagged porgy. When the owner of the first business was finally located and interviewed, the ECOs discovered that he did not possess a shipper/dealer's permit. All in all, approximately 2,590 pounds of porgy, 770 pounds of sea bass, 300 pounds of bluefish, six pounds of striped bass fillets and four bags of shellfish were seized. The officers had to call in reinforcements, i.e., ECO's with F-250 pickups to transport the fish, which were sold by the State. Tickets were issued for the untagged bluefish, sea bass, porgy, striped bass and shellfish, out-of-slot size striped bass, and no shipper/dealer's permit, with felony commercialization charges likely, pending the final tally of the price of the sold fish.

TAD/acp

cc: Captain Thumm