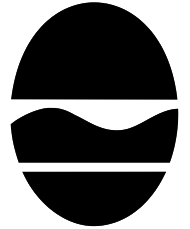


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Joe Martens
Commissioner

TO: Marine Resource Advisory Council
FROM: Major Timothy A. Duffy
RE: NYSDEC Marine Enforcement Report-January 2012
DATE: February 2, 2012

MARINE RESOURCES

Untagged/Out Of Season And Out Of Excuses (Suffolk County)

On December 9, 2011, during the inspection of Sunrise Lobster in the Town of Brookhaven, ECO Tim Fay observed workers filleting fish in a building behind the facility. During the inspection ECO Fay observed one of the workers quickly put the carcass of one of the fish he was filleting in the bottom of a bucket. ECO Fay investigated, pulling out a black sea bass carcass from a bucket full of fluke carcasses. When asked where the container of black sea bass was, none of the workers would provide any information. Inspecting the building further, ECO Fay found 28 pounds of black sea bass in a cooler that was said to have only ice in it. Black Sea Bass is a NY State quota managed species which closed to commercial harvest in November 2011. When ECO Fay asked the owner why the fish was in the cooler and untagged, the owner said that he bought the fish in the city and that they were from Rhode Island where Black Sea Bass was open. ECO Fay then asked the owner if he had a receipt showing the sale/purchase of the fish which he did not have. The owner was issued summonses for dealing in untagged containers of NYS quota managed species and possession of Black Sea Bass more than 14 days after the closure date.

Commercial Summer Flounder Trip Limit Violation (Suffolk County)

On December 22, 2011, MEU Officers Brian Farrish and Rich Maggio were on patrol in Montauk conducting commercial fishing vessel dockside checks. The officers discovered a discrepancy in the vessel trip report (VTR) of one commercial fishing vessel that was offloading six cartons of fish. The VTR reported 350 pounds of summer flounder and 65 pounds of butterfish as being landed by the vessel on that date. The Officers compared the VTR to what was actually offloaded, going through all six boxes of summer flounder only to find no butterfish. The captain of the vessel had harvested a total of 420 pounds of summer flounder and was 70 pounds over his commercial trip limit of 350 pounds. The captain of the vessel later admitted to keeping an extra box, saying that it was going to be handed out to some of his friends for Christmas. He was issued a summons for landing over the legal trip limit for summer flounder.

Seed Oysters Violation (Suffolk County)

On December 22, 2011, MEU ECOs Brian Farrish and Rich Maggio were conducting JEA checks in Montauk. Upon inspection of a walk-in cooler, ECO Maggio found four bags of oysters. It was apparent from a quick check through the first bag that there might be undersized oysters (seed) present. To determine

the extent of the seed content, the four bags of 150 oysters each were individually measured and counted. The count revealed that each bag contained between 50 per cent and 74 percent undersized. Interviews of subjects handling said oysters are underway and charges are pending.

Digging For Trouble (Westchester County)

On January 2, 2012, Region 3 ECO James Davey was conducting shellfish grounds inspections in an area of uncertified waters of Long Island Sound at the Rye Playland Beach. Shortly after arriving at the beach shoreline, an individual was observed through binoculars to be bending over amongst a jetty of rocks with what appeared to be a rake in one hand and a large bag in the other. After a half mile walk down the beach, ECO Davey approached the subject who had now made his way to the beach area. Upon seeing the officer, the subject began moving quickly toward the woods. Officer Davey ordered the individual, "Don't Dump, Police...Stop!" Upon hearing the officer's orders, the illegal clammer tossed the rake and his catch and began running from the scene. After a short foot pursuit, ECO Davey apprehended the subject. The individual was charged with Taking Shellfish From Uncertified Waters, Possession of Undersized (Seed) Hard Clams, Failure to Comply with a Lawful Order and Dumping Upon Signal to Stop.

JEA Market Inspections (Queens)

On January 7, 2012, Region 2 ECOs Shea Mathis and Chris Lattimer were conducting JEA Fish Market inspections in Flushing. While inspecting a seafood restaurant known to have multiple prior violations, the ECOs found 20 American Lobster which were under the legal length. This led the ECOs to check another restaurant in the area under the same ownership. An inspection of the second restaurant resulted in another 13 lobsters under the legal length. The two businesses were each issued misdemeanor summonses for possession of undersized lobsters.

Ghost Pot Hauling (Kings County)

For two days in January, ECOs from the Marine Unit and Region 2 attempted to recover illegal or abandoned fish and lobster pots from the ocean floor. These unmarked pots can cause operational problems for other fishermen when their lines get snagged on them, causing them to lose valuable fishing gear and possibly their catch. The illegal pots are also a threat because the local fish and other species swim or crawl inside with no way of getting out, becoming trapped and likely perishing. The Marine Unit SAFEboat is equipped with a commercial size pot hauler, something unique among other law enforcement boats. The ECOs drag a grappling hook along the bottom and attempt to hook onto the old pots. Once hauled aboard, the fish are safely returned to the ocean and the pots are confiscated. In total, the officers were able to recover 15 pots, approximately 300 yards of line and released 58 tautog, 1 winter flounder and 1 porgy.

Market Checks (NYC)

On January 7, 2012, MEU ECO Jamie Powers and Region 2 ECOs Brent Wilson and Tim Machnica met in Manhattan for market inspections. Throughout the day the officers inspected several restaurants and markets. By the end of the day, the officers issued eight summonses to four different markets. The summonses were issued for the following: possession of oversized Lobsters, possession of undersized Black Sea Bass, possession of untagged shellfish, possession of untagged containers of quota managed

species, possession of undersized Blue Claw Crabs, storage of shellfish on the floor (a sanitary violation) and possession of shellfish from a non-approved FDA source. The illegal lobsters and fish were then taken to the Bowery Mission in Manhattan for donation to their feeding program.

Freshwater Clam Street Sales (Kings County)

On January 12, 2012, ECOs David Thomas and Matthew Baker responded to a complaint of someone selling freshwater clams in Brooklyn's Chinatown. Freshwater clams are not regulated by the FDA so the safety of the clams cannot be verified. The ECOs wrote five criminal summonses to a female who was illegally commercializing the clams. Because of the dangers of consuming uncertified clams, most of the charges were misdemeanor level. ECO Baker continues to investigate further complaints of freshwater clam sales in Brooklyn.



Aquaculture Permit Violations

In December of 2011 and January of 2012, Captain Dorothy Thumm, Lt. Joe Billotto and MEU ECO Sean Reilly have been involved with the Shellfish Program Staff in the determination of the extent of the permit violations for a large scale aquaculture operation. The operator of that enterprise exceeded the scope of his permit and conducted operations in locations for which he had no permits. The operator has paid a \$10,000 penalty and has further compliance issues to address.

MISCELLANEOUS/MEETINGS

New Years Eve Detail (NYC)

On December 31, 2011, MEU ECOs Jamie Powers and Kevin Thomas and Region 2 ECO Dave Thomas participated in a Radiation Detection Detail on the Hudson River.

This was a multi-agency detail that included NYSDEC, NYPD, Union County PD, USCG and NJSP. NYSDEC was tasked to patrol near midtown along the Hudson River and to screen all vessels transiting toward the city for traces of radiation. Onboard the vessel they had several devices capable of detecting and identifying various sources of radiation.

Marine Staff Meeting

On January 11, 2012, Region 1 Captain Tim Huss and Lieutenants Frank Carbone and Dallas Bengel attended a meeting of the Marine Enforcement Unit at the Division of Marine Resources building in Setauket. Updates on marine enforcement issues, including a presentation from SA Smith of the NMFS were provided to the region one members.

Marine Resource Advisory Committee

On January 17, 2012, Captain Dorothy Thumm attended the 7:00 pm meeting of the MRAC at East Setauket. In contrast to previous evening meetings, there were an exceptional number of attendees from the fishing public this time, a mix of recreational and commercial fishermen.

TAD/acp