PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

WINTER FLOUNDER MANAGEMENT BOARD

Webinar
February 2, 2021

Approved January 31, 2023

TABLE OF CONTENTS

INDEX OF MOTIONS

ATTENDANCE

Board Members

Megan Ware, ME, proxy for P. Keliher (AA)
Sen. David Miramant, ME (LA)
Cheri Patterson, NH (AA)
Ritchie White, NH (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Dan McKiernan, MA (AA)
Raymond Kane, MA (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)
Conor McManus, RI, proxy for J. McNamee (AA)
David Borden, RI (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Matt Gates, CT, proxy for J. Davis (AA)
Willian Hyatt, CT (GA)
Jim Gilmore, NY (AA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)
Joe Cimino, NJ (AA)
Tom Fote, NJ (GA)
Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)
Mike Millard, USFWS
Allison Murphy, NMFS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Paul Nitschke, Technical Committee Chair
Kurt Blanchard, Law Enforcement Representative

Staff

Robert Beal
Toni Kerns
Kristen Anstead
Maya Drzewicki
Emilie Franke
Chris Jacobs
Jeff Kipp
Dustin Colson Leaning
Savannah Lewis
Sarah Murray
Joe Myers
Kirby Rootes-Murdy
Caitlin Starks
Deke Tompkins
Geoff White

Guests

Karen Abrams, NOAA
Max Appelman, NOAA
Pat Augustine, Coram, NY
Richard Balouskus, RI DEM
Vincent Balzano, ME
Chris Batsavage, VMRC
Peter Benoit, Ofc. of Sen. King
Alan Bianchi, NC DENR
Jason Boucher, DE DFW
Delayne Brown, NH F&G
Jeff Brust, NJ DEP
Joe Cavaluzzi
Matt Cieri, ME DMR
Allison Colden, CBF
Heather Corbett, NJ DFW
Jamie Cournane, NEFMC
Jessica Daher, NJ DEP
Justin Davis, CT (AA)
John DePersenaire, RFA
Russell Dize, MD (GA)
Chris Dollar, CBF
Bill Dunn
Julie Evans
Cynthia Ferrio, NOAA
James Fletcher
Alexa Galvan, VMRC
Pat Geer, VMRC
Shaun Gehan, Gehan Law
Bill Gorham, NC
Melanie Griffin, MA DMF

Guests (continued)

Alex Hansell, MA DMF
Helen Takade-Heumacher, FL FWS
Carol Hoffman, NYS DEC
Asm. Eric Houghtaling, NJ (LA)
Rachel Howland, NC DENR
Jeff Kaelin, Lund's Fisheries
Rob LaFrance, Quinnipiac Univ
Wilson Laney
Mike Luisi, MD DNR
Chip Lynch, NOAA
Pam Lyons, Wild Oceans
Shanna Madsen, VMRC
John Maniscalco, NYS DEC
Chris McDonough, SC DNR
Nichola Meserve, MA DMF
Roy Miller, DE (GA)
Pat Moran, MA Environ. Police
Brandon Muffley, MAFMC
Brian Neilan, NJ DEP
Josh Newhard, FL FWS
Gerry O'Neill, Cape Seafoods
Derek Orner, NOAA
Craig Pugh, Leipsic, DE
Kathleen Reardon, ME DMR
CJ Schlick, NC DENR
Eric Schneider, RI DEM
Tara Scott, NOAA
McLean Seward, NC DENR
David Sikorski, CCA MD
Melissa Smith, ME DMR
Somers Smott, VMRD
George Stamboulis, NY IT
Mark Taylor
Chris Uraneck, ME DMR
Beth Versak, MD DNR
Holly White, NC DENR
Chris Wright, NOAA
Sarah York, NOAA
Phil Zalesak, MD
Erik Zlokovitz, MD DNR
Rene Zobel, NH F&G

The Winter Flounder Management Board of the Atlantic States Marine Fisheries Commission convened via webinar; Tuesday, February 2, 2021, and was called to order at 1:30 p.m. by Chair David V. Borden.

CALL TO ORDER

CHAIR DAVID V. BORDEN: Good afternoon, this is the Winter Flounder Management Board meeting. My name is David Borden; I'm the Governor's Appointee from the state of Rhode Island. We have a relatively short agenda, most of which relates to reports, and the main purpose of this meeting is to set specifications for 2021.

I'll just run through the items on the agenda. Under other business, I only have one item. Toni has asked for like one minute to update us on an issue, and when we get to that subject, I'll ask whether or not anyone else wants to add anything to the agenda.

APPROVAL OF AGENDA

CHAIR BORDEN: In terms of the agenda, any additions or deletions to the agenda, other than what I said? There are no hands up that I can see, Toni.

MS. TONI KERNS: I don't see any hands either, David.

CHAIR BORDEN: Okay, so any objections to approving the agenda? I have no hands up, the agenda stands approved as is.

APPROVAL OF PROCEEDINGS

CHAIR BORDEN: Approval of the proceedings is the next item of business. The proceedings of October 20th, any objections to approving the proceedings? If you object, please raise your hand. I see no hands up, the proceedings stand approved by consent.

PUBLIC COMMENT

CHAIR BORDEN: Public comments. We normally take public comments on issues that are not on the agenda, so are there any members of the public that wish to comment on a winter flounder issue that is not on the agenda? For this, Toni, I think I'm going to ask you, do you have any hands up?

MS. KERNS: No hands, David.

CHAIR BORDEN: Okay, so although we don't have any public comments at this time, I may take public comments later on, depending upon the circumstance.

CONSIDER SPECIFICATIONS FOR THE 2021 FISHING YEAR

CHAIR BORDEN: When we get to the substance of the meeting, we've got two items. One is a Technical Committee report, and the other is an Advisory Panel report. Dustin, would you like to provide both reports? I think you can do both at the same time, and then we'll take questions on both of them.

MR. DUSTIN COLSON LEANING: Yes, thank you, Mr. Chair, I'll just transition over to my screen now. All right, thank you. As the Chair alluded to, we have a pretty straightforward agenda today. We'll be covering winter flounder specifications for the 2021 to 2023 fishing years. I'll start with an outline here. Just going over a background first. I'll cover the status of the winter flounder Gulf of Maine and southern New England, Mid-Atlantic stock, followed by commercial and recreational fishery trends. Then I'll cover the New England Fishery Management Council winter flounder specifications for the fishing years 2021 through 2023.

Then, I'll go over the Addendum III specifications process. This will be followed by the Technical Committee report and recommendations, and then I'll wrap up with the Advisory Panel report, before we have the Board action, which is to consider setting specifications for the fishing years 2021

through 2023 for winter flounder, Gulf of Maine and southern New England/Mid-Atlantic stock.

The 2020 management track stock assessment determined that the Gulf of Maine winter flounder stock biomass, status is unknown, and overfishing is not occurring. For the 2019 biomass for fish over 30 centimeters, that is the exploitable threshold, according to the minimum size. This was estimated to be 2,862 metric tons, and the fishing mortality rate was estimated to be 0.052, which is well below the fishing mortality threshold of 0.23.

Side notes here, the Gulf of Maine stock is not in a rebuilding plan, since it was never declared overfished. Here we have a quick snapshot view of the surveys, which informs the stock assessment, a lot of noise here, a little volatility over the years. But for the most part we can see an average kind of flat line trend over time.

Hence, a very different picture when you look at total catch from both the commercial and recreational fisheries. As you can see, total catch has declined in the eighties, and precipitously in the nineties, and has remained quite low since. We've got commercial landings here in purple, and recreational landings here in green, all of which are at timeseries lows in recent years.

Despite the decline in commercial and recreational landings, the indices of abundance have remained somewhat flatlined. The general lack of response in survey indices, and lack of changes in age and size structure are the primary sources of concern, with catches remaining far below the overfishing level.

Now moving on to the southern New England and Mid-Atlantic stock. The spawning stock biomass in 2019 was estimated to be 3,959 metric tons, which is 32 percent of the biomass target, and 64 percent of the biomass threshold for an overfished stock. Both SSB or spawning stock biomass and fishing mortality are at timeseries lows.

As a reminder, this stock is in a rebuilding plan with a target date of 2023, and a projection using assumed catch in 2020 and fishing mortality of zero through 2023, indicated that there was about a 5 percent chance of rebuilding SSB to the target by 2023. Overall, the outlook is not looking very good for this stock.

Here we have recreational landings for the southern New England stock. As you can see here on the graph, we have the old MRIP landings in red and the blue designates the new MRIP landings. There was a scale up here, it was a pretty consistent scale up across the timeseries, but due to the scale of the graph, it's kind of hard to tease that out in the most recent years, where you've just got timeseries lows of recreational catch. Then we also have the commercial landings displayed here on this graph. We see a big decline in the eighties, followed by a little bit of an increase in the nineties, but then another precipitous decline from 2000 all the way until present day.

At the stock assessment peer review, Tony Wood, the assessment scientist, his sensitivity analysis using an environmentally driven model, was discussed. The inclusion of estuary water temperature into the model had little impact on the estimates of SSB but did help to explain the declines in recruitment values in recent years.

I mention this because it was in response to the Bell et al. paper, although it wasn't included in the official stock assessment. It was approved for management. It was ran as a sensitivity analysis, just to show that these things are being explored, and that it may help explain recruitment, but may not really contribute to any differences in estimated levels of spawning stock biomass.

Now moving into the specifications portion of this presentation. After these two stock assessments were accepted for management use, the Council met in December to set specifications for federal waters. This table displays the total ACL and state subcomponents for each of the stocks.

A state subcomponent is comprised of both recreational and commercial catch, and the commercial portion of the state subcomponent is caught by vessels that do not hold federal northeast multispecies permits. The recreational portion is based off of the MRIP estimates of recreational catch.

The subcomponent is an estimation of what the state fisheries will harvest each year. It is important to note that it is not an allocation, and there are also no accountability measures associated with a state water subcomponent, meaning that there is no pound for pound payback if the state waters subcomponent is exceeded.

Looking at this table, you can see that 2021 to 2023 Gulf of Maine state subcomponent was revised upward from the 2020 value, to reflect the recent fishery trends, using 2017 through 2019 average catch. The reverse happened for the southern New England/Mid-Atlantic stock, which was revised downward to reflect the reduction of catch in recent years.

As a reminder, Addendum III was approved in 2013, and this revised the specification process, so that the recreational and commercial fishery measures may be set for up to three years, to better align with the federal water's specifications process. Previously, measures were changed through addendums, and the majority of the measures that are currently in place were set through Addendum II.

The commercial measures that are subject to change are trip limits, trigger trip limits, size limits, season, and area closures. The recreational measures subject to change are size limits, bag limits and season. The commercial management measures presented here have not changed since 2014. I can come back to this slide later during the discussion, if needed. Here we have listed the current recreational winter flounder regulations by state. You'll note here that the federal waters measures are open all year, with no creel limit and a uniform size limit of 12 inches. This particular discrepancy between state and federal waters measures I'll get back to later.

TECHNICAL COMMITTEE REPORT

MR. COLSON LEANING: The Technical Committee met on January 6, to review recent fishery trends, stock status information, and the Council specifications to help review state waters measures.

The TC recommended no changes to the recreational or commercial measures, and there were several reasons for why they supported this recommendation. First, the Council's groundfish Plan Development Team or PDT adjusted the state subcomponent to reflect recent trends in catch. The 2017 through 2019 average catch was used as a proxy for catch in 2021.

But this assumed constant measures within state waters. Changing the measures would make this analysis invalid, and in effect invalidate the states subcomponent catch value. Second, the TC recalled their 2018 analysis, which indicated that the majority of southern New England and Mid-Atlantic commercial fishermen are not landing their trip limits, which means that the trip limit is successful in its design of solely accounting for bycatch.

Since winter flounder aren't being targeted in the southern New England/Mid-Atlantic stock, a greater reduction in the trip limit could lead to more regulatory discards, without much of an effect on fishing mortality. Lastly, the TC has heard anecdotal reports that anglers are rarely catching their bag limit, so adjustments to the recreational measures may not prove fruitful either.

The TC also discussed the mismatch between the state measures and the lack of a bag limit in season in federal waters, but reasoned that any angler fishing in the EEZ would need to abide by the regulations of the state waters they travel back through to, to get back to shore. TC was also concerned about the low likelihood of the stock rebuilding to the target biomass.

In addition, it is more concerning that fishing mortalities have not appeared to be the main cause, and they supported that more analysis is needed to better understand how environmental indicators play a role in winter flounder recruitment. This will likely need to be taken up in a more substantive way through the next research track stock assessment.

ADVISORY PANEL REPORT

MR. COLSON LEANING: The Advisory Panel also met. That was on January 14 via webinar. They discussed specifications, current fishery management issues, and provided research recommendations. Of note here that attendance was limited. We had one participant from the commercial industry, and two who are recreational fishermen, and also come from a very environmentally focused perspective.

The Advisory Panel members were all concerned about the status of the stock in southern New England/Mid-Atlantic, but there was some disagreement on what was the greatest cause for concern. One member noted that environmental stressors have been an issue, such as hypoxia, pollution, habitat destruction, as well as rising sea temperatures.

Another did think that sea temperature is an issue, but not to the extent in which it is being brought as the primary cause for low abundance. He however, thought that fishing mortality was the biggest issue, and should be addressed immediately. However, all three were in agreement that natural mortality through predation appears to be a big problem. The AP also commented on the fact that there are many places in the Gulf of Maine where winter flounder were once abundant, but are no longer encountered.

Due to these concerns, two Advisory Panel members supported a recreational fishing moratorium, until both stocks show increases in abundance. The third AP member in attendance, coming from the commercial industry perspective, thought that the potential cost of reduced access and regulatory discards, outweighed the potential benefits of a moratorium, and so did not support this recommendation, and felt he could not really weigh in on it, considering that he is more of a commercial representative.

Those original two AP members also thought that the inshore commercial fishery should close during the spawning season, from December to April, to protect the spawning stocks. The AP also had a number of research recommendations. They went from increasing understanding of the internal stock substructure, there have been some tagging studies that they referenced and talked about, but they encourage more research in this area, to kind of understand the interesting dynamics there.

One idea was to have sonic tag tracking studies, to improve the life history information of winter flounder. Another idea in that lane was looking at genetic testing to analyze natal homing. It was also the recommendation to conduct studies of eggs, larvae, and young of year, to test for abnormalities contributing to natural mortality.

One AP member was also interested in looking at the effects of nearshore pollution on winter flounder. Lastly here, just wrapping up. The AP also had a request specific to the Board to review panel membership, and appoint representatives. They recognize that this is an issue more broadly, not just with winter flounder. But there has been decreased participation in the Advisory Panel process.

They thought with the greater focus on younger membership, they might be able to ensure sustained stakeholder participation in the management process. With that I'll ask if there are any questions, and then as a reminder today, we are considering setting specifications for the 2021 through 2023 fishing years.

The Board has the ability to set specifications for only one year, if they prefer that approach. However, Addendum III did provide the ability to set specifications for three years, to align with the

Council specification setting process. With that I'll take any questions.

CHAIR BORDEN: Questions for Dustin, let's have the order of taking questions on the Technical Committee first. Any questions? I see no hands up, Toni, have you got any hands?

MS. KERNS: Yes, we have Conor McManus.

CHAIR BORDEN: Conor.

MR. CONOR McMANUS: Dustin, from the TC's notes, was it apparent whether there were suggestions for further research or work to address needs for upcoming stock assessments, to help better inform ABCs or OFLs, or was there more of a focus on trying to address some research or science within state waters that might lend themselves to better spatial management, or trying to address some of the questions during those early life stages? Just trying to get a sense from a management board perspective, where we should be trying to think about focusing our efforts.

CHAIR BORDEN: Dustin.

MS. KERNS: Dustin, if you're talking, we can't hear you.

MR. COLSON LEANING: Man, I hate when I do that. Thank you for letting me know, so I don't go on for a minute by myself. No, thank you for the question. It was tough, because the conversation at the Technical Committee level was sparked by the discussion of Tony Wood's sensitivity analysis.

Some on the TC acknowledged that it seems that some within the Board, or people who are interested in winter flounder management, are trying to grapple with the understanding of what does it mean if catch is declining precipitously over time, and you're not seeing a rebound in the population or recruitment. Most often with a rebuilding plan, the tried-and-true way to solve things is to reduce fishing mortality. In the absence of that being an effective tool, what can be done?

They were saying primarily we should get a better understanding of what may be causing this decline. Through the type of analyses that Tony Wood conducted and were referenced in the Bell et al. paper, but there were some problems there, because the timeline on which these might be revolved is kind of up in the air. I think at this point there hasn't been an official date set for the next research track stock assessment.

I think the date 2026 was tossed around. But up until now, the NRCC has established a process where substantial revisions to a stock assessment model needs a research track stock assessment, so that is why these types of analyses and this type of work haven't been conducted through the management stock assessment process. I may have kind of answered your question. You can maybe try reiterating again if I've missed some of your key points there.

CHAIR BORDEN: Conor, a follow up?

MR. McMANUS: No, thanks for that, Dustin. I was just thinking in the larger context, particularly in the discussions we had for lobster this morning, trying to find not just any tools to improve the stock, but the ones that are actually to be effective. Just trying to think about what properties for us to hone in on moving forward in the future.

What might these bottlenecks be, considering both the TC's and the AP's hypotheses for things for us to look at, and how we would try to address those? I think it's interesting in the context of temperature, and how that is, I think an improvement to the assessment model, once it passes if we can get it into a research track. But it's interesting in that it doesn't really change our understanding of SSB perhaps, so it might be helpful for a projection. But it leads to the question of what should we do moving forward. I guess I would just try to think from the Board perspective, and all of us, about what types of things we would want to consider, continue to look for guidance from the TC on how

we should prioritize examining the different processes that may be controlling southern New England and Mid-Atlantic winter flounder.

CHAIR BORDEN: Thanks, Conor, Tom Fote you're next.

MR. THOMAS P. FOTE: Yes, I was wondering if you have a projection of how the Gulf and Georges Bank winter flounder stocks are doing, because I know some of the guys that take trips. As a matter of fact, I did two years ago make the cruise, you know 35, 40 miles offshore to go for black sea bass.

We rounded up a winter flounder that was about 3 pounds, which is never what we see inshore, and never what we see in the bays and estuaries. We figured they were Georges Bank stock. What information can you give me on that? If we went and got basically recorded it when we came in, it would have been recorded as a New Jersey stock, but they were really, I think Georges Bank stock.

CHAIR BORDEN: Dustin, do you want to follow up on that, or someone else?

MR. COLSON LEANING: Yes, I'll give it a shot. I'm relatively new to winter flounder, so the majority of my experience and my learning process has been centered on these two stocks. Offhand, I can't give you the scientific stock assessment perspective. I can maybe pull that out later in the discussion. But I do know that during the Advisory Panel meeting, the commercial fishery representative was saying that they have been encountering some really sizeable, some really large winter flounder.

It seems from his perspective that there is a healthy offshore stock, and so that is in huge contrast to some of the winter flounder that are encountered inshore. He also noticed that discrepancy, and that kind of tied into the whole conversation about complex stock substructures, and how in some areas they may be completely gone, but in other areas they may still be doing quite well.

CHAIR BORDEN: Any other questions on either one of these reports? I have no hands up. Anyone? Toni, have you got? Jim Fletcher.

MR. JAMES FLETCHER: Since Tom is there, would you ask do the Jamaica Bay effect of the estrogen or warmer climate, and is it possible that one of those slides you showed had small fish in it? Has any consideration been done to enhancing the stock through producing mainly female fish? Thank you.

CHAIR BORDEN: Dustin.

MR. COLSON LEANING: Mr. Chair, I'm not sure if that was directed to me. I'm not sure if I'm able to answer that.

MR. FOTE: Dave, could I follow up on what Fletcher was asking? This is Tom Fote.

CHAIR BORDEN: Certainly.

MR. FOTE: Yes, what he is talking about is Dr. McElroy's study that was done in Jamaica Bay, which showed that there were only females in most of it. I mean there were like 15 to 1, 16 to 1, 14 to 1, and I think it was 13 to 1, in a survey she had done over a period of time, looking at winter flounder in Jamaica Bay.

As some of you know, I grew up fishing Jamaica Bay, and that has huge sewer outflows right into Jamaica Bay, and matter of fact, if you ever go out in the Bell Park, when you pass Starlight City, that is still the landfill seeping into Jamaica Bay from when we basically put in many years ago. There is a high concentration of anything disruptive in Jamaica Bay.

It looks like it is affecting the sex of winter flounder inside the bays and estuaries. It is one of, also the fact that New Jersey was the last one to see a collapse in the winter flounder stock, even though it was due to warm water. We should have seen the first collapse. But we have no bays or estuaries that we directly dumped sewage in, so we just pump it

directly into the ocean. The winter flounder were left alone when they were in the bays and estuaries. That is just a hypothesis, but Dr. McElroy, she's a friend of Emerson, he could probably answer more to that.

CHAIR BORDEN: Thanks, Tom, anyone else for a question for Dustin? I don't have any hands up. **If not, we're going to move on. I asked the staff to develop a draft motion. If they could put that up on the board, please. All right, you can see the motion that the staff recommends. Would someone like to make that as a motion?** If so, raise your hand. I've got Conor McManus, and then I have Dennis Abbott as a second. Any discussion on the motion?

MR. McMANUS: I guess I would just say well I do support this motion. I would just urge us to continue to think about, similar to other stocks in other circumstances, what we want this fishery to look like, and try and think through about what the goals are for us in southern New England, particularly in southern New England for winter flounder.

CHAIR BORDEN: Thanks, Conor, Dennis, would you like to comment on the motion?

MR. DENNIS ABBOTT: No, I don't think there is anything to comment on.

CHAIR BORDEN: Anyone else? I have no hands up. Let me ask, are there any objections to approving this motion by consensus? If so, raise your hand. There are no hands up, so the motion stands approved by consensus.

OTHER BUSINESS

CHAIR BORDEN: Next item on the agenda is Other Business. Toni, do you want to report on a follow up item?

MS. KERNS: I apologize, I'm having some work so I can have some heat added to my house, since I have none right now, and there might be some loud construction noises. A couple of commissioners have raised some concerns with staff, and we started to touch on some of these concerns, either through the TC report, or issues that folks have brought up. Conor, you raised some of them, in terms of trying to figure out what is the science that we need to understand, in order to start seeing rebuilding for this, in particular southern New England/Mid-Atlantic stock, and even some questions with the Gulf of Maine stock for winter flounder. The stock assessment showed that you wouldn't be able to rebuild the stock by 2023, and that is the end date for the rebuilding program.

We do not manage this stock alone; we partner with the New England Fishery Management Council on this stock. Federal regulations are set through the Council. The Commission just sets regulations in state waters, as we've done today, and there have been some questions raised about the discrepancy between trip limits in federal waters, versus state waters.

I think that there may need to be some additional discussion with the New England Fishery Management Council, that we have done some through the NRCC about how to move forward with management in this stock. What happens when we don't rebuild in 2023, questions such as that. You know there are some questions that we would want to bring forward to the Science Center.

Tony Wood did this paper that was not a part of the official peer review for the assessment, if I'm understanding correctly. We would need some more science, which we thought was going to be included in this last assessment, but then it turned out it wasn't. I think we just need to find a path forward for trying to rebuild this stock, or having an understanding of what is possible.

Maybe it isn't rebuilding this stock, but what does happen? I think we will bring forward these questions, and raise these issues with the NRCC, to try to work together as both NOAA Fisheries, the Science Center and New England Fishery Management Council, to find a path forward.

ADJOURNMENT

CHAIR BORDEN: Any questions for Toni? I see no hands up. Any other business to come before the Board? There are no hands up, so the meeting stands adjourned by consensus.

(Whereupon the meeting convened at 2:00 p.m. on Tuesday, February 2, 2021)