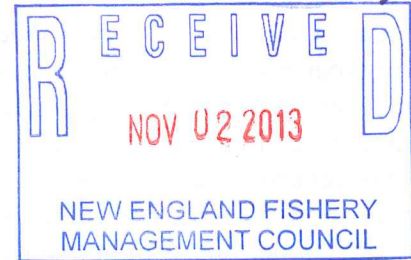


Email from Rick Weber:

From: Rick Weber [<mailto:RWeber@SouthJerseyMarina.com>]
Sent: Saturday, November 02, 2013 6:22 PM
To: David Preble
Cc: Michelle S. Bachman; Tom Nies; Jeff Kaelin
Subject: Winter Flounder EFH designation in Cape May Harbor



Dave,

My name is Rick Weber and I am writing today to ask for your help. I own a small marina in Cape May, New Jersey. Cape May is currently included as Winter Flounder EFH despite a dearth of Winter Flounder. I am hoping that a simple solution might readily be found in time to be included in the Omnibus EFH Amendment. Please understand that I am not trying to overhaul an FMP or undermine proper conservation measures. I am asking that someone recognize that the current EFH designation is flawed. Locally, that means that we are required to dredge at inopportune times to avoid a fish which I contend is rarely, if ever, present.

Because of the consulatory relationship required by the federal permitting process, before the Army Corps of Engineers issues any dredging permit they must accept comments and suggestions from other agencies. Without fail NMFS is there to stringently guard the EFH as designated by the councils. While the Corps has the prerogative to ignore this advice they have made it clear they have no intention of overriding NMFS's wishes. So the council enacts EFH, NMFS enforces it with no further questions, and the Corps implements it. Such is importance of getting EFH right at the council level.

For me, what NMFS requests is that no dredging be performed from January 1st through May. This can be a real burden, between transient boaters and late season fisherman chasing stripers our marinas and waterways can stay busy well into November, and by late May the seasonal boaters have returned along the stripers and black drum. This leaves us from the middle of November until January 1st to get all of our winter work done, along with everyone else in the state. It is both more expensive and less safe than it should be. If the dredgers could work at the time and pace of their choosing their rates would be more affordable. Likewise, the right time to string steel pipe all over a harbor is when the transient boaters and weekend fishermen have gone away. Sooner or later someone's going to get hurt.

Having grown up here it is my opinion that it was a mistake to include Cape May as EFH in the first place. Winter flounder have never been part of the local fishing scene. You know fishermen, if there had been any quantity of winter flounder someone would have found them and started fishing for them. There is no historical fishery, recreational or commercial in Cape May's waters. Could some of our commercial boats have landed some that were caught in other waters? I suppose, but I can find no one who considers the winter flounder local to Cape May at any time of year. In fact, estuary surveys done by the state during the creation of the EFH found ZERO winter flounder in the Wildwood/Cape May area from November through April. Interestingly, the population didn't trail off as the sampling proceeded south, instead there was a sharp inflection point at Little Egg Harbor. Something about South Jersey was apparently undesirable to winter flounder.

My understanding is that Cape May was included as EFH based on modelling rather than surveys. Apparently, and I am no EFH expert, the preferred habitat was characterized and all areas that fit that model were included as the likely range of the winter flounder, and therefore EFH. Cape May Harbor must reach the right temperature, for the right number of days, with the right depth and salinity or whatever, and voila, winter flounder EFH. Unfortunately no one told the winter flounder and nearly two

decades later, despite preserving the theoretic spawning grounds, we still have no significant winter flounder population in Cape May. It is time to decide that perhaps the model was wrong.

One reason the model may have been wrong for Cape May Harbor in particular is that the harbor is entirely manmade, being dug from wetlands just over 100 years ago. There are no winter flounder populations that have been spawning in Cape May Harbor for eons to follow their instincts back as the population rebuilds. Also, being dug from wetlands, the harbor and adjoining basins are under constant threat of reverting back to wetlands. In my basin I assume that I will accrete 4" of silt per year, or nearly 2mm of silt per week. According to Ms. Bachman's memo to the Habitat Committee of September 27, 2010, accumulations of more than 1mm of silt over a three week period impact winter flounder egg viability. South Jersey Marina is filling in at six times that number! My experience implies that the extraordinary silting rate of Cape May Harbor makes it permanently inhospitable to winter flounder eggs.

Even IF the model was appropriate when used two decades ago, factors such as climate change could significantly impact its relevance today. I am told that there is now science indicating that the center of mass for the Mid-Atlantic population of winter flounder has already shifted north. If accurate, this makes the previously marginal habitat of Southern New Jersey now even less inviting. As we move to protect fish in their new areas, shouldn't we also recognize when an area is no longer 'essential'?

So these are my three arguments, either the winter flounder were never in Cape May, or their eggs can't survive in Cape May Harbor, or they used to come here but don't anymore. Frankly, I don't care which of these arguments resonate with the council as they are all true and lead to the same conclusion – at a minimum Cape May Harbor should be removed from winter flounder EFH, if not all of Southern New Jersey. The region is being asked to carry a conservation burden with no likelihood of having any impact on the future of the stocks. Surely this is not the intention of the FMP, Committee, or Council. I am asking for some relief.

While I am a member of the HMS AP and sit on the ICCAT Advisory Committee, I confess I am not familiar with the structure and workings of your council. I am not sure who to address this to nor specifically what to ask for. The Habitat Committee seemed like the right place to start, but if I have it wrong, please let me know. I understand the current amendment has been in process for years and I am coming in late. I also know that if we don't get something done in this window it will be many years before another Omnibus EFH amendment is prepared.

Thank you for your time and consideration. To facilitate communication I am copying this to the Executive Director and EFH coordinator of the New England council, along with my local representative to the Mid-Atlantic council. I will follow up by phone in coming days to see if there are any additional steps I should take to further help my cause.

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