

PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD

June 12, 2003

Double Tree Hotel Crystal City
Arlington, Virginia

ATTENDANCE

Board Members

Lew Flagg, Maine DMR	Gene Kray, proxy for Curt Schroder, PA
Sen. Dennis Damon, Maine Leg. Rep.	Roy Miller, Delaware DFW
John Nelson, New Hampshire F&G	Phil Jones, Maryland DNR
Ritchie White, New Hampshire Gov. Apte.	A.C. Carpenter, PRFC
Dennis Abbott, proxy for Mary Ann Blanchard, NH	Jack Travelstead, Virginia MRC
Paul Diodati, Massachusetts DMF	Preston Pate,, North Carolina, DMF
Bill Alder, Massachusetts Gov. Apte.	Damon Tatem, North Carolina Gov. Apte.
Vito Calomo, proxy for Anthony Verga, MA	David Cupka, South Carolina Gov. Apte.
David Borden, Rhode Island, DEM	Benjamin Gregg, South Carolina, DNR
Gil Pope, Rhode Island Gov. Apte.	Susan Shipman, Georgia DNR
Jerry Carvalho, proxy for Rep. Naughton (RI)	Kathy Barco, Florida Gov. Apte.
Eric Smith, Connecticut DMR	Anne Lange, NMFS
Bruce Freeman, New Jersey DFG&W	Bill Cole, USFWS
Tom Fote, New Jersey Gov. Apte.	

ASMFC Staff

Megan Gamble	Lydia Munger
Bob Beal	Brad Spear
Tina Berger	Nancy Wallace
Vince O'Shea	Mike Howard
Carrie Selberg	

Guests

Douglas Grout, NHF&G
Mark Hodges

TABLE OF CONTENTS

Welcome; Introductions.....	5
Approval of Agenda.....	5
Approval of Proceedings from February 26, 2003 Meeting.....	5
Public Comment.....	5
Management and Science Committee Report.....	5
NEAMAP Report.....	14
Habitat Committee Report.....	17
Law Enforcement Committee Report.....	23
Stock Assessment Committee Report.....	25
Review of Paper on Priorities for Addressing Delays in Implementation.....	26
Consideration of Massachusetts Appeal of the Black Sea Bass Allocation.....	28
Discussion of ASMFC Appeals White Paper.....	46
Other Business; Adjourn.....	48

**Summary of Motions
February 26, 2003**

Motion to approve the 2003 peer review schedule, as well as changes to the assessment process as recommended.

Motion made by Ms. Shipman; Second by Dr. Kray. Motion Carries

Motion to accept the Summer Flounder Regulatory Discards Report and forward it to the Summer Flounder Management Board.

Motion made by Mr. Fote; second by Mr. Damon. Motion Carries

Motion that the Circle Hook Definition and White Paper be approved with Changes, and forwarded to the Striped Bass Management Board, and other appropriate Boards, for consideration.

Motion made by Mr. Cupka; Second by Mr. Pope. Motion Carries

Move that the Policy Board approve Massachusetts appeal and instruct the Black Sea Bass Board to revisit the Massachusetts percent share for 2003 and 2004, taking into account the sea bass regulatory histories of all the states with sea bass quota.

Motion by Mr. Diodati. Motion fails for lack of second.

Move that the Policy Board direct the ASFMC Staff to conduct a preliminary review of the technical merits and shortcomings of granting rewards for more conservative management measures than those required by the plan and report back to the ISFMP Policy Board.

Motion made by Mr. Pate; second by Mr. Freeman. Motion Carries

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Washington Room of the DoubleTree Hotel, Arlington, Virginia, on Thursday, June 12, 2003, and was called to order at 12:50 o'clock p.m. by Chairman John I. Nelson.

-- Call to Order --

CHAIRMAN JOHN I. NELSON: Okay, welcome to the ISFMP Policy Board. Staff is going to be, as usual, handing out some things for you to quickly read. Did everyone get the new agenda?

MR. ROBERT E. BEAL: It's on the CD-Rom.

CHAIRMAN NELSON: Okay, so it hasn't changed from the CD-Rom?

MR. BEAL: It has not.

-- Approval of Agenda --

CHAIRMAN NELSON: Okay, you have the agenda that was sent out on CD-Rom. I have a couple of changes to that. The NEAMAP report, Number 9, we're going to move up to include under Number 5, under the Management and Science Committee Report.

I am pleased to announce that Number 13, which is obviously an unlucky number anyway, does not exist, and that is non-compliance issues. There are none so scratch that one. Any other modifications of the agenda? Okay, seeing none, the agenda will be approved as modified.

-- Approval of Proceedings --

We have the approval of the proceedings from the February 26th Policy Board meeting. I think that was sent to you previously or it was handed out. Any changes or modifications to the minutes? Is it by consensus they are approved. By consensus, they are approved. Thank you very much.

-- Public Comment --

Public comment, any public comment at this

time on any item, keeping in mind that we will, as necessary, take public comment on each agenda item. Okay, seeing no public comment, let's move on to the Management and Science Committee report. Chris is all set to give that.

-- Management and Science Committee Report --

MR. CHRIS BONZEK: My name is Chris Bonzek. I am from the Virginia Institute of Marine Science, for those of you who I haven't had the pleasure yet to meet with. I appreciate you putting me up on the schedule. I have a personal appointment tonight that I need to get to, so I appreciate you accommodating me.

We have three action items and several updates for you to consider. The action items are the peer review schedule; summer flounder regulatory discard report; and the circle hook white paper.

Let me go through the peer review schedule first. The MSC reviewed the peer review schedule for 2003 and 2004. We're going to be asking you to approve the schedule for '03. We forwarded this schedule to you for your consideration. The schedule should be on Page 6, I believe, of the packet that Geoff just passed out.

The species scheduled for this year include Atlantic sea herring, which has already been completed through the TRAC system, which is that joint Canadian and American review system.

Spiny dogfish is being reviewed at the spring SARC later this month. Croaker and Atlantic menhaden have been directed to SEDAR, which is the new Southeast Region equivalent of SARC, the Southeast Data and Assessment Review.

Bluefish has been delayed until '04, and that's because the assessment is now just being done. I believe that's contracted at the University of New Hampshire.

I won't go through the list here, but '04, there

are, including bluefish, ten species scheduled, which is many and just a little bit further down we'll be addressing that.

Speaking of the SEDAR process, we discussed one, what we thought very advantageous, element of the way they do business where they hold a separate data workshop from the actual assessment meeting.

Several months prior to the assessment the group gets together. Everybody brings their data to the table. Each dataset is analyzed for its appropriateness, and at the end of that meeting those are the only datasets which will then be included later on in the assessment.

We think that's something that the commission ought to consider incorporating into their process, and Doug Grout, who is going to represent the stock assessment committee later on, will be endorsing that, I believe, as well and probably giving you a little bit more detail about it, also.

Another item that is common between MSC and the stock assessment committee is the scheduling of peer reviews. Right now we're locked into a five-year process that is sort of hard-coded.

But, with the 23 managed species and a limited number of outlets to get these things done, that automatically means that there is a log jam, such as in '04 where there is ten scheduled for review.

The stock assessment committee is going to be studying and recommending some changes in that that might consider the quality of the data, type of assessment, life history of the species and maybe loosen up on that absolute five-year number to allow a little bit more flexibility.

So, the action item, then, is we recommend that you accept the 2003 peer review schedule, and we place it for your consideration.

CHAIRMAN NELSON: Okay, could I get a motion from the board for that? Susan, thank you, and a second from Gene Kray. Discussion

on the motion? The chair recognizes the new commissioner from Connecticut.

MR. ERIC SMITH: Thank you, Mr. Chairman. Did I miss a beat somewhere in here? I thought lobster was '03. Had that been put off somewhere? I don't see it on the '04 schedule, either.

CHAIRMAN NELSON: Bob.

MR. BEAL: The '03 assessment for lobster is just going to be a turn-of-the-crank. It's not going to be a peer review, so you're going to update it using the same methodology as the previous peer-reviewed assessment, and then the peer review is going to take place in '04.

CHAIRMAN NELSON: David.

MR. DAVID V.D. BORDEN: I think everyone knows I don't serve on the Lobster Board, but if the Lobster Board ultimately decides to move forward with a TAC in terms of Area 2, especially if it's a hard TAC, there may be a need to review the methodology that is used to derive that TAC.

I can see that being kind of a key issue. I just raise that. I don't have a proposal on how to deal with it. I think people should keep that in mind.

CHAIRMAN NELSON: All right, well keep that certainly on the horizon. We'll be talking in August I think a little bit more about the lobster. Other questions? David.

MR. DAVID CUPKA: Thank you, Mr. Chairman. I'd like to ask the maker of the motion if it was her intent not only to approve the peer review schedule, but also the changes to the assessment process that the Management and Science Board recommended.

MS. SHIPMAN: Yes.

CHAIRMAN NELSON: Thank you. And the seconder, I assume, is in agreement with that. Any other questions? All right, why don't we call the -- do we have a need to caucus at all?

Okay, I'll give you a chance to caucus.

(Whereupon, a caucus period was held.)

CHAIRMAN NELSON: Okay, all those in favor of the motion, please raise your right hand; opposed; null; abstain. It passes unanimously. Go ahead, Chris.

MR. BONZEK: Geoff just reminded me that I should remind you that the '04 schedule will come to you at the annual meeting in December. The second item for your consideration, summer flounder regulatory discards report.

You will recall that either two years ago or three years ago, I believe, the issue came up of how do we start to deal with regulatory discards; how do we reduce them?

There was an initial workshop -- I believe it was two years ago -- in the springtime that addressed many of the generic issues among many fisheries. We did some of that dot voting like you all did this morning in your strategic planning, and a number of items were highlighted as being of the highest priority.

Those items were then applied in a second workshop to the specific fishery for summer flounder. To tell you the truth, it escapes me exactly why that species was chosen, but it seemed appropriate.

The report for that has been in the works now for quite some time. It should have come to you a little bit earlier than this.

There were a couple of the strategies in that report that did not have specific actions to support them that the workshop participants came to consensus upon, and so it was brought back to MSC for reconsideration as to whether that needed to be done.

We discussed it pretty thoroughly and decided that if the workshop participants couldn't come up with specific strategies for those, that we shouldn't really impose our own; and, looking more closely at the document, there are several discussion points about each of them.

So we think that the report is complete as it stands and we forward it to you for your consideration and approval -- and for forwarding it, I'm sorry, to the Summer Flounder Management Board for their consideration.

CHAIRMAN NELSON: Okay, let me see if there's any questions first on the report before we have any motions on it. Any questions?

All right, how about a motion to accept the report, and is it the intent it was to go back to the Summer Flounder Management Board; is that what you --

MR. BONZEK: Not back to, but to them for their consideration and input into their process.

CHAIRMAN NELSON: Okay, Tom.

MR. THOMAS FOTE: So moved.

SENATOR DENNIS DAMON: Second.

CHAIRMAN NELSON: Senator Damon seconds. Okay, any other comments, questions, associated with the motion? All those in favor of the motion please raise your right hand; opposed; null; abstentions. The motion passes unanimously. Gil.

MR. GIL POPE: The only thing is I'd like to see a copy of it.

MR. BONZEK: It's in the briefing book.

MR. POPE: It's in the briefing book. Okay, because it's not included here. Thank you very much.

MR. BONZEK: No, it's not in our handout.

CHAIRMAN NELSON: Okay, go ahead, Chris.

MR. BONZEK: The third item for your consideration is the circle hook white paper. You will recall that we came to you at the fall meeting in Williamsburg, and at the behest of one of our members we had asked permission to form a circle hook working group so that we could start to investigate some of the issues

surrounding use of circle hooks.

That quickly took on a life of its own, and the work group did a lot of work in a short period of time. Probably the most important thing that they did so far was propose a definition for what a circle hook is since, that's an issue just in and of itself. The definition is listed here in your handout: a non-offset hook with the point turned perpendicularly back to the shank.

The second thing that we did, we accepted the group's recommendation that an angler education or advisory approach be used in encouraging the use of circle hooks rather than a regulatory approach where it becomes a compliance issue or a mandatory issue.

The report also has a number of research recommendations and we accepted those with one addition, and the addition is bolded in your handout; namely, the effect of fishing styles, namely, hook-setting methods, when you set the hook and how you set the hook, on improving release mortality -- I apologize; that should be worded a little bit differently. We did this at 10:00 o'clock last night -- with various hook types should be evaluated.

Further, the use of circle hooks currently employed by anglers in the fishery needs to be quantified; who is using them; where are they being used; and how many?

Anecdotal evidence suggests that mortality can either be increased or decreased on a species-by-species basis just based on exactly how the hook is configured and how it is fished.

In terms of implementing the research recommendations, we suggest that the recommendations be incorporated into the ASMFC prioritized research needs document and placed on the ASMFC Website, and that we share these research needs with Sea Grant, and hopefully they will include them in their RFPs as well.

In terms of outreach, we discussed the desirability of developing state and species-specific informational packets to improve

outreach efforts, but we didn't recommend assigning this task specifically.

And this is very important, that although the discussion focused most closely on striped bass, that we recognized that the definition and research recommendations may apply to a number of different fisheries, and that the recommendations should be forwarded not only to the Striped Bass Board but to any and all appropriate boards.

And in the report it becomes clear fairly quickly which ones those might be and which ones might not be, so I won't list them here but they are in the report.

So, our request to you is that we recommend to the Policy Board the circle hook definition and the white paper be approved with the changes that I've outlined and forwarded to the Striped Bass Management Board and other appropriate boards for their consideration.

CHAIRMAN NELSON: Okay, a motion to that effect.

MR. CUPKA: So moved.

CHAIRMAN NELSON: Okay, I've got David and Gil seconded. All right, discussion on the motion. Tom, go ahead.

MR. FOTE: I was a participant on the conference call. It was really interesting to sit and listen to it because we were able to get the manufacturers -- not the people that are the CEOs but the people that actually design the hooks -- together with the law enforcement people and basically discuss with fisheries people and discuss all the different facts.

I think it was a good opportunity for them to learn what they need to do to come into compliance with regulations and things like that, and they brought points so it was a good discussion point.

It was done over the phone so it was relatively cheap comparing to a lot of the workshops that we do. But, actually, I think a lot of information

was gained out of it. It ought to work in other areas of the country because they will basically look at it for not just the East Coast but the West Coast and the Gulf, so I look forward to more workshops like this.

CHAIRMAN NELSON: Susan.

MS. SUSAN SHIPMAN: Chris, I was interested in your recommendation of trying to find out the proportion of anglers using those hooks. Did you talk at all about trying to get an add-on to the MRFSS? You know, every now and then, about every other year they're doing special add-on surveys, and have you explored that and that might be worth looking at?

MR. BONZEK: We did not, but that is a great idea.

CHAIRMAN NELSON: Gil, did I have you?

MR. POPE: Yes, I was just curious whether sizes of the hooks were discussed at all?

MR. BONZEK: One of the research recommendations is that manufacturers be encouraged to standardize their sizing of hooks. Currently, the same number can mean a number of different things in terms of how big it actually is. That's about as far as we got.

MR. POPE: Okay, because when it says "turn back in perpendicular", even just the slightest little bit, it could be interpreted that that was a circle hook; whereas, some of them are quite long. They make it actually that long and that's the true circle hook.

MR. BONZEK: In the report there is an image of one and it is just the bare tip that's turned back.

MR. POPE: But was there any recommendation to make it hard and fast or is this kind of still kind of like quasi?

MR. BONZEK: Well, make the definition hard and fast?

MR. POPE: Definition hard and fast?

MR. BONZEK: I think the idea was just to keep it as generic as possible because it is such a difficult issue.

CHAIRMAN NELSON: Okay, Tom, go ahead and then I'll go across to Roy.

MR. FOTE: I was just going to that point. What the manufacturers discussed, some of it, is they are basically -- they want to be able to research and design what is a better hook that's accomplished so they want to let that avenue be open.

Plus, they're in competition with each other so they want to be able to design better hooks that accomplish, so that's why the definition was kind of left a little vague.

CHAIRMAN NELSON: Okay, Roy.

MR. ROY MILLER: Chris, a quick question. Is New Jersey the only state that requires circle hooks for a particular fishery among the East Coast states that you know of?

MR. BONZEK: In our discussions, that was the only one and that's for a very small geography and a very short period of time. It's not general to the state.

CHAIRMAN NELSON: Okay, did you want to clarify anything on that?

MR. BEAL: Well, I think I only heard half of Susan's comments regarding -- I was involved in a sidebar conversation. But, I think Susan was making mention of a MRFSS add-on for circle hooks, to evaluate the use of circle hooks.

That recommendation is actually consistent with the recommendation from the Striped Bass Management Board. They want to explore the same thing so we can look into that.

CHAIRMAN NELSON: Any other comments?

MS. SHIPMAN: I try to avoid the Striped Bass Board so I'm sorry I didn't know that.

CHAIRMAN NELSON: They were looking at

doing it at low cost, though. All right, are you ready for the motion? All those in favor, please raise your right hand; opposed; null; abstention. The motion passes unanimously.

MR. BONZEK: We have a number of update items as well that I'll try to go through as quickly as I can, in no particular order here.

The Blue Atlantic Transmission Pipeline Project, this is the second time that we've heard from some people who are proposing to build a natural gas pipeline from Nova Scotia, probably around the southern edge of Georges Bank and leading into the New York/New Jersey area.

There is apparently or at least there is thought to be and hoped to be large natural gas deposits up off the southern coast of Nova Scotia. These people seem to be trying to be good citizens. They've done extensive surveys of the bottom type.

They're aware of some of the lobster migrations issues they might have to address. They're using the commission rather as an outreach to the states and as a contact point so that we can get back and forth to them.

Their schedule has been delayed by a year from what we presented to you in the fall. That is because there has been a slower than hoped for discovery of gas deposits up there. So we heard from them and we will be continuing to hear from them.

CHAIRMAN NELSON: Bill, go ahead.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. There is a workshop in June in Rhode Island put on by the Blue Atlantic to discuss some of these issues. It's like a two-day workshop, just about, to discuss some of those issues he just mentioned.

CHAIRMAN NELSON: Paul.

MR. PAUL DIODATI: We've been dealing with a separate project for a hub-line from Nova Scotia that was land-based until it got to Northern Massachusetts, and now it's water-

based.

There's a number of agencies involved in evaluation of the project at the state level, and there has been a fair amount of mitigation money that has exchanged hands.

I think that this particular project, if there is dialogue between the company and the commission, I think it's important that the effected states know exactly what that dialogue is. So, I think that communication is going to be very important.

CHAIRMAN NELSON: Okay, thank you, Paul. I think I had Tom and Gil.

MR. FOTE: You should also be aware that El Paso didn't -- they didn't find the gas that they thought they would find last year and El Paso right now is in -- the firm that was putting this all together is in bankruptcy. The industry is having a tough time so this process could be even slowed down even further.

CHAIRMAN NELSON: Okay, thank you. Gil.

MR. POPE: I was just wondering if they got into any kind of detail as to how much of the pipe was going to be buried a little bit, if possible, and how much was going to be on top due to migrations and stuff like that.

MR. BONZEK: They haven't put any numbers to it yet. Their survey work that they've done so far is still proprietary until they officially file with PERC. They're aware that they may have to do that.

They're aware that there may be portions of it that are partially buried and then covered over with rock so that hopefully creatures could migrate over it. No numbers but, yes, they're aware.

CHAIRMAN NELSON: Any other questions? Chris.

MR. BONZEK: The second update item is an interstate tagging program. This is an attempt to give a good housekeeping seal of approval to certain good citizen-based tagging programs.

The report has been in preparation for some time.

We reviewed it and recommended some updates and modifications to it before we forward it to you. We will be forwarding it to you over early summer, and we will bring it forward to you for your consideration at the 2003 summer meeting.

CHAIRMAN NELSON: Any questions? Gil.

MR. POPE: One more quick question. I went to a tagging session on this. I think it was sponsored by the ASMFC a while ago, and there was some concerns by someone from the U.S.G.S. about citizen tagging and whether they would do it in the right way to where they wouldn't harm the fish and whether or not any tagging done by the citizenry or the general angling public was even used for any information at all. I was just wondering if that is included in the report. Thank you.

MR. BONZEK: It is. The process for certifying the programs will involve an application and then a peer review of sorts. And among the items that they need to have -- among the items in the questionnaire are is it going to be used by science? Have scientists been involved in designing it?

What's the method of placing the tags? Is there training involved in placing the tags? It's trying to make sure that it is really a quality program and that the data are going to be used.

CHAIRMAN NELSON: Any other questions? Chris.

MR. BONZEK: Okay, Number 3, multi-species assessment activities. MSC Multi-Species Subcommittee has reviewed a draft of the proceedings of a workshop titled, "Linking Multi-Species Assessment Information into Single Species Management."

The draft report is out for comment from workshop participants and should be completed by the MSC Multi-Species Subcommittee before the annual meeting.

In a separate document from that, the MSC Multi-Species Subcommittee is also evaluating how multi-species assessments can be incorporated into the ASMFC management process, potentially a huge issue for you all to consider in the future. That document will be forwarded during the commission's 2003 annual meeting.

In terms of the modeling that has been going on, just let me give a brief history of that. The initial model that ASMFC contracted out for with Drs. Garrison and Link was a four-species VPA.

The four species was striped bass, bluefish, menhaden, weakfish. The initial model focused on partitioning out that portion of the menhaden natural mortality, which could be ascribed to predation by the other three species.

A second year's contract extended that model so that it permitted feedback back from the prey level to the predator level. That model is now complete. It's in review. The stock assessment subcommittee is reviewing it and it will be ready for commission use very soon.

A further extension of that model done by a different group at the University of Miami to add a spatial or geographical component has also been contracted for using money from the Rutgers University Striped Bass and Bluefish Group or that funding source.

That two-year project began in February and staff is working with the Miami scientists to collect the input data necessary to parameterize their model.

CHAIRMAN NELSON: You know, being from New England, every time I hear the word "multi-species" a shiver goes up my back, but this one, at least it only went half way up my back. Any questions for Chris on this update? Bill.

MR. WILLIAM GOLDSBOROUGH: Yes, I just wanted to ask Chris, he said that the second part of the model, and I guess that means both parts now, will soon be available for

commission use. Do you mean actual application to the management process?

MR. GEOFFREY G. WHITE: Actually, the stock assessment subcommittee is going to be looking at the model for both the data inputs, as well as the model formulation, and they hope to take that to peer review in 2005 without asking any management questions of it.

In our normal peer review process, we send assessments to peer review along with kind of the management implications and questions.

The goal with this, since there is new science in the model as well as kind of a new idea and methodology for the commission, would be to send it without management questions to give it more of a methodology assessment.

If it makes it through that peer review well, and the commission as a whole decides that's a direction that you guys want to go, which is part of the multi-species subcommittee of MSC, their report to you this annual meeting, then it would be available for basically you guys to start asking the management questions of it and have it run for that purpose. But, it's a very step-wise slow progression that we're looking at.

MR. GOLDSBOROUGH: So, Geoff, you said the peer review would be in 2005; is that right?

MR. WHITE: Correct, that's where it is on our peer review schedule. The model being reviewed, it will probably take about a year to get it through kind of the internal review of the stock assessment committee and get the report written. So, considering the other workload issues, it will probably be about that time where it will be appropriate to get it out for an external peer review.

MR. GOLDSBOROUGH: So at least two years before practical application and probably more like three, realistically?

MR. WHITE: Most likely, and that's also dependent on the wishes of, obviously, you.

CHAIRMAN NELSON: All right, any other

questions on this? Go ahead, Tom.

MR. FOTE: Have we basically put any cost to this? I know the model isn't that expensive but the data that needs to go into the model gets very expensive to put in there. So are we basically looking at what it would cost to actually run one of these models? I know one of the ones for menhaden cost like a million dollars.

MR. WHITE: At this point, the only dedicated cost that the commission has incurred is the time for the people to meet and talk about it.

The model itself was funded through a grant from CBSAC, and then actually the second year, states who were interested provided some money to continue the effort. The spatial model is coming from Rutgers Bluefish/Striped Bass money.

There's no additional funds or activities set aside for data collection specific to the multi-species model. Part of the exercise is to determine if we have the model structure capabilities and the data availability to be able to do it with the level of reliability that we're comfortable with. But, we're not spending money to go out and collect more data for this model.

CHAIRMAN NELSON: Go ahead, Tom.

MR. FOTE: My point is from what I've seen of ecosystem models, the data that goes in there is very detailed and it gets very expensive. What I'm saying is, is there going to be any calculation along there to actually accomplish our task and how much it would cost for that model to actually get the necessary information to be usable?

MR. WHITE: We don't have a dollar figure evaluation of that at this point. The way this multi-species model is structured right now, it's not a full ecosystem model. It picks a middle range of species, and the primary inputs of it are actually the single-species assessments that the commission performs.

So, that's the biggest level of input. Just as an additional point, some of the workshops that

we've held and other people that we've talked with at the stock assessment committee level, one of their major points is the best way to improve the quality of the multi-species model is to improve the quality of the single-species models, because those are the inputs.

CHAIRMAN NELSON: Thanks, Geoff. Anyone else? Any other questions on this? All right, Chris.

MR. BONZEK: Thank you. The power plant assessment, the commission has issued a contract with someone called ASA Communications to compile the Atlantic menhaden power plant impingement and entrainment data from New Jersey through South Carolina, and for that to then be incorporated into the Menhaden VPA.

The ASMFC Power Plan Panel will review the available data and initiate the assessment in '03. The panel hopes to have the assessment peer reviewed in early '04.

CHAIRMAN NELSON: Any questions? Gil.

MR. POPE: Real quickly, is it just menhaden?

MR. BONZEK: Yes.

CHAIRMAN NELSON: Any other questions? Okay, Chris.

MR. BONZEK: Fish ageing manual, something very important. Previously Management and Science approved development of an ageing manual based on the need to provide consensus ageing techniques and nuances -- nuances meaning things like defining birth dates, defining what constitutes an annualist, what structures should be used, that sort of thing -- for the 23 species presently under the commission's purview.

MSC approved of the format and the general methodology of sections of a GSMFC manual that is currently in use and to take their ideas and use them for the ASMFC.

Species-specific chapters will be added to the

manual to clarify the specific methods approved by each ASMFC technical committee, and that document will be updated once per year with additional species chapters.

The ASMFC-managed species that are already included in the GSMFC manual -- and we had a hard time figuring out if that was either four or five just in the short time that we spent -- those sections will be forwarded to the appropriate technical committees of ASMFC for their review, modification and hopefully approval.

These sections are being forwarded not as complete for them to use, but as a starting point for their consideration. And then over time ageing workshops for each of the ASMFC species will be convened to develop recommendations for ageing structures and techniques of choice and other specific issues; and then once approved, those will be incorporated into the manual.

The striped bass, weakfish and taug sections have been drafted and will be sent to the technical committees in '03, and we anticipate that American shad and river herring will be addressed in '04.

You can quickly add up and figure out that if we're doing two or three per year and we're starting out with maybe five or six that are more or less complete, it's going to take a little while to finish this document.

CHAIRMAN NELSON: Okay, questions? Susan.

MS. SHIPMAN: Chris, is that going to dovetail in with the ACCSP-funded project that is doing - - it's an ageing manual?

MR. BONZEK: Geoff has the answer.

MS. SHIPMAN: Then we're the lead contractor on that, I think.

MR. WHITE: Yes, we're coordinating directly with -- it was Spud and I think it's changed to John Foster. But those sections, through talking with Lisa and Joe Moran before he left, we are

going to send to the ASMFC technical committees for consideration.

If it passed through them, we'd be able to partially take that off of your plate on that contract and allow you guys to focus on things like the reference collections and other species.

CHAIRMAN NELSON: Any other questions on this point? All right, Chris.

MR. BONZEK: Okay, conservation equivalency. MSC Conservation Equivalency Subcommittee has met once and need to meet again before they can make much progress. The report will be forwarded to the Policy Board when it's completed.

CHAIRMAN NELSON: Any questions on that one?

MR. BONZEK: Technical committee functioning. A pilot test was conducted during April of an idea to get all the technical committees or all appropriate technical committees together during one particular meeting week rather than spreading them out sort of on an ad hoc basis.

The idea being if you can get all the people together and have them dedicate a few days at once, it's easier and probably cheaper to have them function that way.

In April the Atlantic Croaker Technical Committee, Atlantic Menhaden TC and the Stock Assessment Committee met over a three-day period.

The initial reviews were positive. This will be repeated once more, and then a full evaluation of its success or failure will be forwarded.

Further, during the technical committee meeting week, the first meeting's management seminar was held for the TC chairs and vice-chairs. The purpose of this was to educate them in how to move a meeting through its agenda, how to build consensus, how to do a little bit of conflict resolution. The seminar was attended by 13 technical committee personnel and

approximately 10 commission staff and was well received.

CHAIRMAN NELSON: Questions? All right.

MR. BONZEK: The final item for MSC is kudos to Geoff. Normally, MSC has the support of at least two and usually three commission staff, and due to vacant positions and Lisa's good news, Geoff was stuck by himself this week and has done just a bang-up job not only for us but for all his other assignments, as well.

CHAIRMAN NELSON: All right, let me just thank the Management and Science Committee for once again taking on obviously a lot of work. I guess they're making headway on various areas, and so we should feel free to pile on whatever we want in the future. Thank you very much, Chris, and thank your committee members, also. Now you wanted to do the NEAMAP?

-- NEAMAP Report --

MR. BONZEK: Yes. Again, thank you for reworking your agenda a little bit so that I can also present NEAMAP. Dr. Mercer from Maine is chair of the NEAMAP Board and was scheduled to do this update, but it seemed appropriate for me to go ahead and do it and let her get home a day early, so I'm going to be working from her notes.

There is one page that was handed out just behind Geoff, and that represents the outline of items that we heard as a NEAMAP update that are not necessarily quite the same as what I'll be presenting to you. I'll be working from Dr. Mercer's notes.

Let me go back, just to raise this on the radar screens a little bit and refresh your memory of what NEAMAP is and how it started. NEAMAP, think of it rather in terms of a SEAMAP equivalency for the northeast.

The idea was first broached in the mid to late '90s and the initial impetus for it was concern that the RV Gloria Michelle, which is the vessel off which the Massachusetts does their extensive

surveying, was thought that the Gloria Michelle might not be available for very much longer and that there needed to be some mechanism for continuing their survey.

That issue was expanded a little bit to realize that there are many gaps in survey coverage in the northeast region, that there are issues of survey coordination among states. So the idea of a more general body under which fishery independent data could be gathered together was initiated, and the name applied to it was NEAMAP.

You can think of it in a very broad stroke -- and maybe I shouldn't even say it, but it might be the fishery-independent analog to ACCSP.

Some of the events that have been some of the successes so far, if you can call them that, the NEAMAP board was formed in 2000. Dr. Mercer is the chair. Dr. Borman is the vice-chair.

The Operations Committee was formed simultaneously. I'm the chair of the Operations Committee. Our terms will be at least for another year. The timing of it, I'm not quite sure of. The Operations Committee also has formed a trawl design, a trawl implementation subcommittee and a data management technical committee.

The NEAMAP program in your current strategic plan relates to Goal 2, which says "strengthen cooperative research capability and specific actions, including expanding cooperative interstate fisheries research programs and developing and coordinating data management programs that are independent of specific fisheries."

Accomplishments so far: a program design document has been produced which outlines the goals and objectives and program structure and its organization. A five-year operations plan that outlines tasks has been published and is being implemented.

The '03 Operations Plan that outlines tasks to achieve the administrative data collection and

data management goals has been published and is in place. The MOU under which NEAMAP will operate was developed, approved by the board, and sent to the states for signatures.

The MOU is modeled after the ACCSP MOU and it outlines the need, the purpose, the goals and objectives and the roles of the partners, which specifically are to work together to implement and coordinate fishery-independent sampling programs; develop funding initiatives; and take actions to achieve goals and objectives of NEAMAP.

To date, eleven of the nineteen partners have signed the MOU. Those that have are Connecticut, Maine, Maryland, New Hampshire, North Carolina, Pennsylvania, Virginia, the commission, NMFS, Fish and Wildlife and the Mid-Atlantic Council.

Those who have not: D.C., Massachusetts -- I understand that they're close -- New Jersey, New York is also close, PRFC, Rhode Island and the Northeast Fishery Management Council.

As I mentioned, there were two technical committees that have been formed of NEAMAP. The Trawl Technical Committee has met and discussed survey platforms and survey areas and sampling.

Along with that issue of the Gloria Michelle back in the mid-'90s, the other sort of impetus for developing NEAMAP was the fact that there were very large areas of the coast that are underrepresented in terms of trawl survey coverage or survey coverage, period.

Some of that was taken care of when Maine and New Hampshire found monies to start their own survey, but that survey is being done on a year-to-year appropriations basis, and they only have I think current money through '04 and are totally unsure as to whether that survey can be continued.

But, assuming that it does continue, the way that we are structuring NEAMAP at this point is that in the northeast, where there generally is near-shore trawl survey coverage, the function of

NEAMAP will be survey coordination, net and gear mensuration studies, does a six for an index number in Connecticut correspond to a three in the neighboring state of Rhode Island, something along those lines.

From Montauk south, with the exception of New Jersey, most of that area in the nearshore waters is not covered by any existing trawl survey coverage. And so the idea in that area is to try to find funding to initiate a survey that would supplement and augment the Northeast Fishery Science Center Survey, which does very few inshore stations.

The Data Management Technical Committee has met and started work on its data issues. They have decided that a centralized data system is preferable, that the data system should be populated for the most part only with summarized or indexed type data so that people don't have to give up their raw data.

That was an issue with some states that have long-term ongoing surveys that are somewhat proprietary and don't want necessarily to publish that for anybody to use and/or misuse.

One task that the board assigned to the Operations Committee was to try to develop a showcase project that would raise NEAMAP a little bit higher on the radar screen. We came up with several suggestions ranging from almost free to several hundreds of thousands of dollars.

The almost free one was to go ahead and develop a Website that outlines the functions of NEAMAP, publishes some of the documents that have been issued so far, and to make a little database that has survey indices so that the assessment scientists can just go to that one place rather than ping-ponging on us all several times during the year for different datapoints. That would be easy, almost free, depending on how it was done. And, it could really be a good shot in the arm to get started. An idea that I personally think is a good one is personnel exchange among existing survey staff — let people from one state go visit on the boat and see how people in other states do it.

That not only gets everybody to know one another but how things are done. People certainly have good ideas in one place that could be incorporated somewhere else. It might start to encourage people to start doing things in similar ways or at similar times. I just like that idea.

The third possible showcase project is gear comparisons and net mensurations that would probably be a few tens of thousands of dollars, do specific side-by-side towing, put net measurement gear on the nets so that we know that the net in Rhode Island is fishing a certain width or swath on a typical tow, the net in Connecticut is fishing a different width on a typical tow, so that you have some basis for comparing the apples and oranges among the states.

And then the most expensive one was to try to find funding for a one-time survey of the underrepresented areas right now to just try to build some momentum, and that, of course, would be several hundreds of thousands of dollars just to get the people and boat time together.

What we most are looking for from the board and from others is a funding strategy for the long term. So far NEAMAP has been operating only on whatever travel funds the commission can spare. That's not quite right. I mean, there were line items, but it's just travel time.

The Maine-New Hampshire study, as I mentioned, is questionable as to whether it can go on. The board does not feel that it's within their power to try to go out and solicit congressional appropriations or whatever else might be needed. So we would hope to gather some ideas from you all on long-term funding for NEAMAP and political support for NEAMAP as well.

CHAIRMAN NELSON: Thank you, Chris. Anyone got a brainstorm as far as funding? If you do get those brainstorms, if you would just forward those over to Linda or to yourself?

MR. BONZEK: Linda would be good.

CHAIRMAN NELSON: All right, thank you. And that does conclude all of your reports, I think, Chris, isn't it?

MR. BONZEK: Yes, thank you very much.

-- Habitat Committee Report --

CHAIRMAN NELSON: Thank you very much, I appreciate it. The next agenda item is the Habitat Committee report. Bill.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. What I'd like to do, with your indulgence, is provide the Habitat Committee report and then hand off to Carrie Selberg, who is going to provide some information on where we are on artificial reef materials/guidelines. There is some pending activity there that she'll need to brief you on.

I am not asking for any action from the board today, but among the things the Habitat Committee is dealing with now, there are five that I just wanted to provide an update so the board was aware of where we stand on them.

The Habitat Committee met over two days in April, as we've done for the last two years, and it was a very productive meeting. The first thing I want to update you on is the progress on a diadromous fish habitat source document, something you have heard, you may have heard it called "anadromous" fish habitat source document in the past.

It's something that has been in the pipeline for some time, but we are seeing the light at the end of the pipeline, as it were. And I'll tell you why. This is a pretty ambitious document. It will be very large. It covers eight species; two shad, two herring, two sturgeon, striped bass and eel. Of course, eel is what made it diadromous.

We had at one time attempted to approach this by enlisting separate authors for each of those species. We made a little bit of progress but, as you can imagine, that would be quite a challenge to manage.

What we have done this year is we have been

able to assign this task to our contractor/writer, Karen Green, and get it off the dime in splendid fashion.

You will be familiar with her work from beach nourishment paper that we recently completed; and if you took a look at that, I'm sure you'd be impressed with the quality and the comprehensiveness of that, and we anticipate the same from this document.

We feel it's going to be a very valuable reference for promoting the habitat needs of these important commission-managed species on various fronts. There will be recommendations throughout. There will be state-specific information in appendices. And all that taken together, we feel like it will be a great addition to the habitat publication series.

The next thing I want to just update you on is the ongoing development of FMP habitat sections, one of our core functions. We routinely keep up with the FMP update schedule and coordinate with the PDTs to update the habitat sections, and the two that are currently underway are winter flounder and menhaden. Nothing to provide on that at this point.

The next thing I want to tell you about is ongoing work on focusing on major habitat types of importance to commission-managed species.

You certainly will recall the amount of energy that the Habitat Committee put into SAVs, submerged aquatic vegetation, over several years, developing a policy for the commission and an implementation plan and a brochure and many other activities to promote the protection and the awareness of that very important habitat type.

At the initiation of that process, we actually developed a list of major habitat types of importance, and we are now going to, what we viewed as the next most significant of those, and that is what we're calling "shellfish bed habitat."

And, we are working with a volunteer author and -- well, two authors, actually; one that was

provided by a NMFS intern and another who is a volunteer author from the University of Maryland, Dr. Ken Painter.

That is showing some progress and we expect to have a draft at the Habitat Committee's August meeting, and hopefully it's something that we can share with the broader audience within the commission at a subsequent meeting in the not-too-distant future.

But we're very excited about that initiative as well, because shellfish bed habitat, as I'm sure you would agree, is very valuable to the commission species up and down the coast and there are various threats to it.

The next thing I want to brief you on is a new area that the committee is focusing on known as "living shorelines." I don't know if it's a familiar term to all of you. It is something that was brought to our attention by work that is underway in both North Carolina and Chesapeake Bay.

It's a way, in a biologically friendly way, to approach shoreline erosion stabilization. And, therefore, it's an alternative to standard shoreline hardening which, as you all know, virtually eliminates the very important littoral zone and the underwater grass habitats nearby due to scouring emergent grass marsh habitat along the shore, beach habitat, et cetera.

Living shorelines attempt to utilize those natural habitats to advantage in stabilizing shoreline, and what the committee has done is had a pretty in-depth initial discussion that was actually quite valuable cross-fertilization on this topic.

We are viewing erosion as a pretty important habitat issue on several fronts. It contributes a lot of sediment to estuarine systems, smothering grass beds, shellfish beds, et cetera.

And, if you can kill two birds with a stone by controlling erosion and doing it in a way that also restores important shoreline habitats, then that would be desirable, and that's the intent of this approach. So, we're looking at it very closely and considering how we might evaluate

it and how we might utilize it. More on that in the future.

The last thing I want to tell you about is that the Habitat Committee also spent a fair amount of time on something we've been spending time on here this week, strategic planning.

We have gone through the habitat section of the existing strategic plan in depth and developed several updates that we intend to incorporate into the work that's been done here yesterday and today. That completes my report. I'd like to hand it off to Carrie now.

CHAIRMAN NELSON: Okay, thank you, Bill. Any questions for Bill before I go over to Carrie? Go ahead, Bill.

MR. ADLER: Bill, do you just zone in on a couple of different situations or does the committee look at any possible situation of habitat destruction along the coast? I noticed you mentioned two different places but, I mean, do you look at any of the other ones that are brought to your attention?

MR. GOLDSBOROUGH: There are a lot of different ways we're approaching habitat issues. Actually, the five things that I just described sort of are examples of the different approaches: habitat source documents; the FMP sections; focusing on specific habitat types, like SAV or shellfish bed.

And, this living shorelines thing is just that, something that was brought to our attention, and in initial discussion it appeared to be a very valuable tool for restoring and maintaining habitat that we want to investigate further.

But, beyond that, the only other thing I would mention that is a major item in our tool box, if you will, is the protocol that we developed for evaluating major projects that are brought to our attention as potential threats to habitat.

And you may remember that protocol that involves fully vetting the issue internally, going to the commissioners of the states that would be involved, and getting their concurrence with a

specific action, like writing a letter to a permitting authority or what have you. So, there is a host of different ways that we approach habitat. Did you have a specific thing to bring to the committee's attention?

MR. ADLER: Yes, we have a project in Massachusetts where they want to go out and take -- I forget now how many -- acres and acres of prime habitat for fish and lobster off of Boston and bring it in to nourish a beach in Winthrop.

I know the Division of Marine Fisheries has sent letters to the other agencies, but it doesn't seem like it's getting through to them. It could be a serious thing, especially when it happens. I just didn't know if there was any connection.

MR. GOLDSBOROUGH: Well, there certainly can be, and what I would recommend is that you contact Paul Caruso in Massachusetts -- he's a committee member -- and bring him up to date on it, if he isn't already, and suggest that he bring it to the committee's attention at our August meeting.

MR. ADLER: Okay, I know that the Division of Marine Fisheries has sent letters into the authorities, whatever they are, but they don't seem to be getting anywhere so I'll talk to Paul about that.

CHAIRMAN NELSON: Paul.

MR. DIODATI: Bill is referring to a project for ocean mining of sand and gravel, and we have commented fairly extensively on this. I think what Bill's suggestion might be that maybe the commission's habitat committee could take a position on ocean mining.

In fact, the Commonwealth of Massachusetts has just put forth a new initiative to develop ocean-zone management and we have our first meeting Tuesday. This is taking place at our governor's level. We'll keep the commission abreast of what occurs in that new initiative.

CHAIRMAN NELSON: All right, thank you, Paul, so you'll forward your communications

that you've already sent, also, to the Habitat Committee to update them. Tom, did you have a comment?

Let me have Bill comment back to you just for a second.

MR. GOLDSBOROUGH: I wanted to reply to Paul. It sounded like two possible actions, either or both might be in order; one, a letter taking a position on this particular project; and, two, the committee's focus on this activity in general along the coast as a threat to habitat. Is that what I'm hearing?

MR. DIODATI: Yes.

CHAIRMAN NELSON: All right, thank you. Tom, go ahead.

MR. FOTE: Well, it just goes to beach replenishment; and if they have a particular project, again, the protocol is there. Three commissioners can basically request that we basically look at it, the habitat. That's why we set up the protocol to make sure it comes from the three commissioners in that state and the Habitat Committee.

CHAIRMAN NELSON: I suspect you will probably be able to get that done. Lance and then Bill.

DR. LANCE STEWART: I'd just like to mention that we've discussed several times the seabed excavation problems in Long Island Sound. They relate to energy routes of pipelines and cables.

And not to get into this again, but the Habitat Committee has been briefed several times at the request of Connecticut, I guess, and a couple of other states.

We realize this to be a monumental change in benthic habitat if these projects are approved, and we're looking at a screening process or a coordination process that the Habitat Committee could play a significant role in position on or resolutions on

-- and we've stated it several times and the

Habitat Committee has discussed this several times.

So, to add to the mining aspect of it, we have excavation routes that involve a new ecological benthic environment, and that's trenching and, you know, an entrapment-entrainment ecological situation that is extreme.

If you look at four or five transit routes across Long Island perpendicular to the tidal flow and the migratory routes and the larval neftoid layer, entrapment process, it's very significant. So, those are things I hope we would continue to consider and enter into the Habitat Committee oversight.

CHAIRMAN NELSON: Now, I understood you said that you've provided that information to the Habitat Committee?

DR. STEWART: Yes, essentially about three or four times. I would suggest that it might become a major issue for multiple state pipeline transmission, especially the review process and sign off by major agencies that are charged with the ecological evaluation and environmental impact statement routines that go on.

We've considered them to be, in some cases, superficial. So, I hate to use that, but that comes along with the need for energy and the expediency somewhat arrogantly requested by multi-national for-power companies.

And these are multi-national companies, and there may be eight or nine of them. So, you're not dealing with a particular state's regulation of its seabed. You're dealing with intrusion of an energy process that affects fisheries habitat I think very significantly.

There is no monitoring proposed. The investigations of what that unique change in environment is going to be is not well spelled out.

CHAIRMAN NELSON: All right, thank you, Lance. Bill, did you have another comment?

MR. GOLDSBOROUGH: Yes, first, I'll speak

to what Lance just said. He is right, that this has been a topic of quite a bit of discussion by the Habitat Committee. I'll mention, by way of explanation, that yesterday the group, in its strategic planning process that was evaluating where we are on the habitat-related goal of the existing strategic plan, listed as the first item on the negative column of things that are holding us back, as our ability or inability to actually influence large-scale manipulations of aquatic habitat.

And it was the pipeline and cable activities that had been brought to our attention that stimulated that point most prominently. That's the first thing.

The second thing about that is that the Habitat Committee is very interested in this topic, and in fact I am, as chairman, planning to assign a lead on this activity to our vice-chairman, who is very knowledgeable of this activity. So, we will be moving forward on this. Lance is our vice-chairman.

CHAIRMAN NELSON: Well, then I think he's already got a leg up on it, Bill.

MR. GOLDSBOROUGH: Back to Paul's issue. I did also want to mention that the beach nourishment paper that was recently completed might be consulted as a possible reference for some of the mining impacts, because, of course, beach nourishment often entails mining offshore to bring sand on shore.

CHAIRMAN NELSON: All right, thank you very much, Bill. David, you had a comment?

MR. CUPKA: Yes, thank you, Mr. Chairman. I just wanted to point out that the South Atlantic Fishery Management Council just finished and approved a policy statement on beach replenishment that contains some policy guidelines, recommendations and so forth, and it specifically addresses the issue of ocean mining and whatnot.

Bill Cole, who is the chairman of our Habitat Committee, can certainly provide a copy of that to Bill and Lance, if they would be interested in

seeing it. It may help you somewhat along those lines. I just wanted to make you aware of that.

CHAIRMAN NELSON: Thank you, David. I'm sure that will be helpful to them and I appreciate you having that sent along. You probably ought to send it to the other councils, too, really, because these are issues that we all have to wrestle with at some point. Carrie was going to give us an update on artificial reefs.

MS. CARRIE D. SELBERG: I have two artificial reef issues that I wanted to bring to your attention. The first is the materials guidelines. This is a document that was previously a Gulf Commission document.

The Atlantic Coast and Gulf Coast Artificial Reef Committees have been spending about the last year and a half updating that document, and they have finished updating the document.

We will be sending it to the Habitat Committee in the next week or so for their review because the Artificial Reef Committee is now a part of the larger habitat program.

Once they've had an opportunity to comment and we've made edits that they'd like to see, we will be sending it to all of the commissioners for your review. We will be giving you a timeline for commenting back on that document, but we will be bringing it to the Habitat Committee and then to the Policy Board for approval as a final commission document at the August meeting.

CHAIRMAN NELSON: Okay, any questions for Carrie on that? Tom.

MR. FOTE: Would you care for a 402-page document I've got at my house on EPA and asbestos on subway cars? I'm looking for a place to put it where it can do the most good. And it's a shame so we won't go over the same study again so if you want it, I'll pass it on to you next time I come down.

MS. SELBERG: Subway cars are mentioned in the materials guidelines?

MR. FOTE: Well, this basically covers asbestos

in subway cars, but it uses asbestos in a bunch of other issues, too, and background studies and the EPA did a very comprehensive study. I've got 401 pages of it.

MS. SELBERG: Yes, and that's referenced in the document and Bill Figley was actively involved in the revision of the materials guidelines, so I think any of the pertinent information from the document like that would have been included in the revision of the materials guidelines.

CHAIRMAN NELSON: So I think that one is staying in your house, Tom. Good try, through. Okay, Carrie.

MS. SELBERG: The second artificial reef issue is MARAD has put out a proposal for the process for releasing ships for use as artificial reefs, and this is something that has been in the works for a very long time now.

There are many states around the table who I know are very interested in this program and getting their hands on some of those ships to be used as artificial reefs.

The Artificial Reef Committee has been hard at work reviewing that proposal and providing some suggestions to the commission on comments they'd like to make back to MARAD on the draft proposal.

They find the overall process very encouraging but they have a couple of specific suggestions. And so, staff is currently working on drafting a response to MARAD and we'll be sending that out for commissioner feedback.

We'll most likely to be sending it to the Executive Committee for all of you to take a look at; and if there are people who are not on the Executive Committee who would like an opportunity to look at that draft before it goes to MARAD, please let me know and we'll make sure that you can see that.

But some of the things we're proposing to put in the letter is that the artificial reef committee members would like to be involved in

developing the cleaning protocols for those ships, and that they are very encouraged by the proposal's section that talks about facilitating faster permit approval process.

The key issue is really title transfer. The MARAD proposal has a section which indicates that title transfer would happen early in the process and the states would be responsible for cleaning, towing and sinking the ships.

The Artificial Reef Committee members believe it would make a much better program if that title transfer happened once the ships were on the bottom; and if there was a national program for cleaning and distributing those ships.

The letter will include those points and we will appreciate any feedback all of you have on that draft letter. I would also encourage you to talk to your Artificial Reef Committee members, because they have put a lot of thought and effort into their responses. If you state doesn't have someone on the Artificial Reef Committee, please let me know. I'd be happy to bring you up to speed on some of the issues.

CHAIRMAN NELSON: Okay, thank you, Carrie. Let me see if there are any comments, questions. All right, Tom.

MR. FOTE: Yes, the liability to the states, I was talking to some of the dive associations, because they belong to one of the organizations I belong to, and they were basically talking about that you actually can lay claim to a ship on the bottom, but then you become liable if somebody is hurt on the ship.

So, I would, for the state's sake, let the Navy get it down on the bottom in case something happens the states don't want to be liable for the transporting of it.

CHAIRMAN NELSON: All right, we knew the lawyers would get involved somehow, Tom. All right, Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. Two strategy issues with this letter, the first being that this is an

important issue coming from the 15 states within the commission, and I'm inclined and my recommendation would be that the letter go to the Administrator of MARAD, within the Department of Transportation, under either my signature or your signature.

We can discuss that, but the issue is if this is important and you really want to get some sort of policy decision out of it, then we ought to send it to a policy level person over in MARAD.

The second issue is, my understanding is that the Gulf states have similar concerns and there had been discussion about a joint letter from the Gulf States Commission and the Atlantic States Commission.

My inclination is that each commission send its own separate letter referencing that this issue is shared by both commissions, and then we'd send a copy to the Gulf States. But those two strategies things would be my initial recommendation, Mr. Chairman. Thank you.

CHAIRMAN NELSON: All right, thank you. I don't see anyone saying, no, that it doesn't sound like a good idea to adopt those approaches. Susan.

MS. SHIPMAN: No, in fact I want to say, yes, it's a very good idea. Our artificial reef coordinator has been very involved with the deliberations with the other states and it's a really important issue. I think we ought to back the committee and certainly endorse Vince sending a letter forward to the Maritime Commission.

CHAIRMAN NELSON: All right, then why don't we plan on that approach, Vince. Any other comments? Vito.

MR. VITO CALOMO: This is kind of a stretch, Mr. Chairman, and I guess I just got my brain waves to work again, because I'm kind of a backward manager, you know, Mr. Chairman, and I would like to make a statement to Bill Goldsborough and Lance and, of course, the rest of the commissioners to know that it was about 30 years ago that the Gloucester Fisheries

Commission went on a drive to eliminate the mining and graveling on the Stillwagon Bank.

We did this in the name of a sanctuary. It's called the Stillwagon Bank Sanctuary. And we were all made up at -- the Gloucester Fisheries Commission was 90 percent commercial fishermen but 30 years ago we did that. But we also were guaranteed our rights to fish on that.

But I just wanted you to know that 30 years ago, back then we were concerned about the habitat of the mining and graveling, and here it is again 30 years later coming up, you know, removing sands and sediments and stuff like that.

I know it was kind of a stretch, but I just wanted to get this in. I think it's important that people know this. Thank you, Mr. Chairman.

CHAIRMAN NELSON: All right, thank you, Vito. Go ahead, Pres.

MR. PRESTON PATE, JR.: Thank you, John. Before we leave the artificial reef discussion, it might be helpful if the individual states are keenly interested in participating in that program with MARAD, that they check with their state's attorney general's office about the liability coverage that the state might have.

We are very keenly interested in securing at least one, if not more of those ships, and have made the inquiry to our AG's office and found that the liability concerns should not be a deal-breaker for us.

We happen to have enough tort claim coverage to accommodate most anything that might happen in the towing and sinking of those ships. So, that might advance our process of endorsing this quite a bit if a state can feel more comfortable with the liability question.

CHAIRMAN NELSON: Okay, thank you, Pres. Gil, go ahead.

MR. POPE: Very quickly, is there anything in there about the use or availability of those concrete, I think they're reef igloos or reef balls, I've forgotten what they're called. Is there

anything in that report that you know of?

CHAIRMAN NELSON: Carrie, go ahead.

MS. SELBERG: In the materials guidelines?

MR. POPE: In the availability of the states or any studies on their effectiveness or anything like that? Were they studied at all?

MS. SELBERG: In the materials guidelines, there is a whole chapter on materials like that.

CHAIRMAN NELSON: All right, anything else on this subject? Okay, we've got three more reports, really, before we get to the Massachusetts appeal, and so I'd like to finish those reports and then take a brief break so that we can get set up for any presentation, and then we'll come right back for that. So, we have the law enforcement, Mike.

-- Law Enforcement Committee Report --

MR. MIKE HOWARD: Thank you, Mr. Chairman. The meeting we held yesterday started at 8:30. Thirteen of our Atlantic states and two federal agencies were represented. The chair, Deputy Chief Kurt Blanchard, Rhode Island, opened the meeting. The following is a summary.

Our guidelines for resource managers is being overhauled with a rescoring by all the states. This is a living document. The committee also passed a motion to pursue -- which I explained last year would be a movement into a new area, which is conducting a compliance study of fisheries.

Now, the committee chose to do this with the American Lobster FMP, and this would be to analyze enforcement efforts to quantify, to what degree possible we could, whether or not we can put actual percentages on how well parts of a plan are being enforced.

We intend to elicit university personnel to do this. We are drafting the feasibility at this time. The committee shared several success stories of investigations that were completed over the year.

These stories highlighted the cooperation of agencies such as the National Marine Fisheries Service and the states, as well as state-to-state cooperation.

Cases included joint investigations between NMFS and the state of Rhode Island on summer flounder and illegal gillnet violations; between the states of New York, Connecticut and Rhode Island on lobster issues; as well as Massachusetts and Maine on gear compliance enforcement.

The states of New Jersey, Delaware, Pennsylvania, NMFS and Coast Guard worked on sea bass issues and horseshoe crab issues. The southern states were certainly included, too, and I could go on, but just to give you an example of how we're doing interagency and intrastate cooperative efforts. We'll continue to work to outline ways we can cooperate in investigations across state lines as time goes on.

The issue of at-sea transfers in the scup fishery was discussed by the committee. The committee understands the need to reduce regulatory discard and would like to assist the commission in the reduction of discards through management measures.

The LEC does have concerns with the enforceability of at-sea transfers, not to say that those boats are being boarded now to weigh 30,000 or 15,000 pounds, but there are overwhelming concerns of other fisheries that may be involved in that.

Regulations that can be enforced dockside seem to be a theme where law enforcement will have control where the commission feels it is needed. We will continue to work to outline these concerns in the following weeks.

EEZ striped bass enforcement, as the process moves forward to open the EEZ to the harvest of striped bass, the LEC would like to share that few states routinely patrol the EEZ. Regulations that can be enforced dockside such as creel and size limits are strongly encouraged and will be enforceable.

The LEC supports the Management and Science Committee's circle hook definition. We further support the education and voluntary use of circle hooks where it will reduce discard mortality. There is a strong feeling that regulatory use of circle hooks may increase confusion and non-support of fishery management plans.

The sharing of information and presentations between the LEC and the Gulf States Commission and the ISSC continued at this meeting and will continue in the future. Any questions?

CHAIRMAN NELSON: Okay, thank you, Mike. Let me just understand that the Law Enforcement Committee would like to get the blessing from this board to quantify the lobster measures in the Lobster FMP and report back to us on the enforceability of that or whatever other aspect they want to report back to us on?

MR. HOWARD: Yes, we're certainly going to work with — we want to look at the feasibility of conducting a compliance study from a law enforcement angle to quantify our enforcement efforts and compliance rates in a scientific way.

CHAIRMAN NELSON: Okay, is there any objection to the Law Enforcement Committee embarking on that endeavor? I don't see any objection to that, so you have the board's blessing on that. Questions for Mike? Go ahead, Bruce.

MR. BRUCE FREEMAN: Mike, on the transfer of scup at sea, this was an issue that was raised at the Mid-Atlantic Council and subsequently raised at the commission.

And when it was raised, believe me, there were a number of concerns, but my understanding now relative to the issue is that the transfer at sea would only occur with cod ends, not with any other way. I don't know if that had entered into your discussion or not, because I know it's of concern to the enforcement side.

MR. HOWARD: Yes, Mr. Freeman, that issue has been raised. The issue was thoroughly discussed, and Mr. O'Shea was a part of that, and discussed to some degree later, too. The

whole issue of transfer at sea raises many concerns.

Finally, I think everybody understands the issue of the scup fishery as it is. And, really, we would like to work toward alternatives that would allow this that would be easy for the industry, but also provide some sort of mechanism that everybody can live with.

We can't weigh 30,000 pounds and we can't handle a cod end. We're just concerned that this could lead into one loophole that offers other problems of regulatory control that we can't enforce.

MR. FREEMAN: MR. Chairman, I would suggest that -- I don't know the mechanism, but I would suggest that a copy of the report be sent to the Mid-Atlantic Council who is dealing with this issue.

Now, many of the same enforcement people deal with the Mid-Atlantic; and since they have has the agencies, the Coast Guard and the Fisheries Service, but, nevertheless, I think the basis of the report would be useful to the Mid-Atlantic Council dealing with this issue.

CHAIRMAN NELSON: Any objection to that? Okay, staff will take care of that. Mike, was there another item that you wanted to have the board's okay? I'm sorry, I might have missed it.

MR. HOWARD: John, we did do a motion that supported the use of the circle hook and encouraged the voluntary use and generally opposed regulatory use of circle hooks.

CHAIRMAN NELSON: Okay, thank you very much. Any other comments, questions for Mike? All right, thank you very much, Michael. We have the Stock Assessment Committee report. Go ahead, Doug.

-- Stock Assessment Committee Report --

MR. DOUG GROUT: Okay, thank you, Mr. Chairman. My name is Doug Grout, and I have the dubious distinction of having been elected the initial chair of the Stock Assessment

Committee. Feel free to impeach me any time you feel like it.

If you will remember, our primary purpose of this new committee that reports directly to the Policy Board is the coordinating schedule of species stock assessments and providing inputs to various boards and yourself on any questions you have on peer review or stock assessments.

At our initial meeting, we were asked to review the peer review schedule. As you've already approved that schedule for 2003, we made recommendations that menhaden and croaker go through the SEDAR process.

And then, as we looked at 2004 and saw the ten peer reviews scheduled, we saw that there might be a problem there, and one of the things that came out from the committee was that not all species may need to have that hard, fast five-year trigger for them.

There may be some species, for example, where the length of time series just isn't long enough for conducting a stock assessment. For example, American eels is up there for next year.

So, we started looking at potential other triggers for these peer-reviewed stock assessments, these benchmark stock assessments, not the turning of the crank, and we looked at five or four criteria: type of data and quality of data in the stock assessment; the model choice; the length of time series available and the management requirements.

And as a result, we've asked the research and statistics staff to compile a matrix of this information for all the commission species. At our next meeting in August, we'll review that and hope to provide you with at least a recommendation for some alternative to the five-year trigger at one of the later Policy Board meetings this year.

The other thing concerning peer reviews that we want to make a gentle recommendation to the commission and the Policy Board is that when the boards are deciding what type of a peer review, we would like to recommend that you

ping on your technical committee chairs to get their input from the technical committee on what type of review they feel might be appropriate and help you take that piece of information in making your decision as to what type of peer review.

Then concerning stock assessments, we were very heartened to hear about the new SEDAR process where they separate out the data workshop from the assessment review workshop.

We feel that that would be of tremendous benefit if the commission added that kind of a concept to all of our stock assessments, to have a separate data workshop where the data would be brought together and the committees would come to a consensus on the inputs to the stock assessments.

Then the stock assessment subcommittees would get together at a later date and turn the crank on these stock assessments. And, as I said, we're going to recommend that this be included in the commission process, but before we do that, we said this might cost a little extra money so we wanted to get a handle on what kind of increased costs, you know, it may be even more cost beneficial.

But we've asked staff to see if they can come up with some rough ballpark estimates on how much going to this type of a process would cost before we bring this kind of a recommendation to you. And, again, this will be something for a later Policy Board meeting for you to consider.

We were then also asked to provide input to the Tautog Board on the use of catch curves in assessing regional tautog stock status. We came to the consensus that we endorse the Tautog Technical Committee guidance concerning evaluating catch curve analysis with a couple of minor additions.

We suggested that sampling methods and sample size also be included in any assessments documents using catch curve analysis for stock assessments. And, finally, we appointed a subcommittee to provide scientific review to the

MSVPA which was just presented to the Policy Board.

CHAIRMAN NELSON: Okay, thank you, Doug. Questions for Doug? Okay, Doug, thank you very much. The last item, before we take a quick break, will be the review of the paper on priorities for addressing the delayed implementation, and Bob is going to do that.

-- Priorities for Addressing Delays in Implementation --

MR. BEAL: Thank you, Mr. Chairman. Each of you were just handed around a front-and-back sheet, a short document that is a follow up on a change to the ISFMP Charter that the Policy Board approved down in Williamsburg.

If you will remember, there has been probably a year-long discussion about the effects of delays in implementing certain management measure such as closing fisheries when quotas are reached or implementing annual changes to recreational specifications and those sorts of things.

A number of the species that have coast-wide management programs, if a state implements a state later than the other states, that state for various reasons gains a benefit for staying open longer; and potentially with some of the quota systems we have, there are some repayment penalties the following year that may impact all the other states because one state had, for whatever reason, a delay in implementing their management measures.

So, the Policy Board charged all of the individual species management boards with going back and looking at the current management program for those species and determining if delayed implementation has had a negative impact or may have a negative impact on the management and the achievement of the goals and objectives in the plan.

Most of the boards that have met since the annual meeting did discuss this. The species boards that haven't met, staff has kind of reviewed what is going on with those species

and made some recommendations that are included in this document.

So, just briefly, the species have been divided into three separate priorities. The top priority or the high priority is in Table 1. Those are summer flounder, scup, and black sea bass. And, as we have mentioned before, the reality is that this issue began with those three species.

There's a number of coast-wide management measures that need to be changed annually, if not more frequently than that, and quotas that close and trip limits that change and those sorts of things. So those are the species that delayed implementation in the past has really had an impact.

Staff is recommending that the management board, for summer flounder, scup and black sea bass, initiate an addendum to address delays in implementation and potentially put in some punitive penalties if a state is late in implementing one of the required management measures.

This addendum is not in the work plan for this calendar year so the recommendation really is that this gets put into the work plan for 2004, and that the management board go through the addendum process in 2004 to determine if there are any necessary changes to that management program.

The medium priority species which are included in Table 2, it was determined that each of those species has some management measures that could, if they were delayed, could negatively affect the other states.

For instance, lobster, if a state were to implement a gauge size increase later than all the other states, that state is at an advantage for some time. And herring, there is the days out provisions and, again, if a state doesn't implement those days out, they have an advantage.

So, the species in Table 2, the recommendation is that there is no justification to initiate an addendum just to deal with delayed

implementation, but as the management program goes on and we develop amendments or addenda in the future for each of those species, the boards should consider whether or not they want to include anything to address delayed implementation.

And then the third set of species are the low priority species. Based on the management board advice and on review of the current management program, these species really don't appear at this time to have any management issues that could have a negative impact if states are delaying their implementation.

Most of the reasoning is that there's not a lot of annual changes or frequent changes to the management program for each of these species. But, it's noted that if there is a change in the management program for any of these species, the board should consider if delays in implementing those changes may impact the achievement of the goals.

And at the bottom there is just a short paragraph which is the language from the charter that describes what should be included in an addendum or an amendment if one is developed to address this issue. And with that, I can take any questions.

CHAIRMAN NELSON: Okay, Roy.

MR. MILLER: Thank you, Mr. Chairman. Bob, I wonder, considering the action the board has taken in regard to requesting that an addendum be prepared on horseshoe crabs, if maybe horseshoe crabs should be bumped up to the medium priority bracket. I don't want to initiate a long discussion on moving these things around, but that one kind of jumped out at me.

MR. BEAL: Okay, thank you. We can do that unless there's any objection.

CHAIRMAN NELSON: Let me just clarify. Even if it's on a low priority, if there is an addendum that is going to be made, we're still giving the board the opportunity put in this type of language to deal with it as they see fit; is that correct?

MR. BEAL: Sure.

CHAIRMAN NELSON: Okay, so that probably helps. So we don't need a motion, Roy, on that. Lew.

MR. LEWIS FLAGG: Thank you, Mr. Chairman, just a quick question. I was wondering if this species prioritization process, is this going to take place on an annual basis? Would we get this listing every year or what is the proposed schedule for this activity?

MR. BEAL: The charge in the charter to the management boards was just a one-time charge with kind of an ongoing review. So the intent of this document is kind of to set the initial prioritization; and as any management changes go along, the board should always consider whether delays could cause a problem.

CHAIRMAN NELSON: Is there any objection to using these as the criteria for implementing our advice to the boards on dealing with this issue on the next amendment or addendum for the various species involved?

Seeing none, again, I would say we give the blessing to the boards to enact this as the time allows for them to develop their amendments and addendums.

MR. BEAL: Great, and staff will take this into account as we're working on the action plan for 2004.

CHAIRMAN NELSON: All right, I'll give you a five-minute break and it will give us time to get set up for the presentation by Massachusetts on their appeal. Thank you.

(Whereupon, a recess was taken.)

-- Massachusetts Appeal of the Black Sea Bass Allocation --

CHAIRMAN NELSON: Okay, if everyone would take their seats, please. The next item is the consideration of Massachusetts' appeal of the black sea bass commercial allocation.

It's not often that we have an appeal for the commission to consider. So, I just beg the board's indulgence to give me somewhat latitude, to kind of work my way through this, and hopefully I'll be fair and objective to all parties.

What I'd like to do is have the staff give us an overview sort of bring -- I know a number of folks are not on the Black Sea Bass Board, and I'd like to have staff just bring us up to date as far as how the allocation was made, that sort of thing and any other pertinent information.

If there are some questions for staff, then we will take them at that time. And then Dr. Pierce, I believe it is, would be making a presentation on the appeal. Paul, did you have a comment to that?

MR. DIODATI: Yes, Mr. Chairman. I think it would be helpful to me to know exactly how many of the members here today are on the Black Sea Bass Policy Board.

CHAIRMAN NELSON: Okay, it would help me, too. If you raise your hand for what states are on the Black Sea Bass Board and entities are on the Black Sea Bass Board. We've got one, two, three, four, five, six, seven, and eight, nine, ten. We've got ten. And how many do we have present here is I think probably your next question.

MR. DIODATI: Exactly.

CHAIRMAN NELSON: There's at least -- there's 11 and maybe there's 12.

MR. DIODATI: I notice a number of states representatives have already left, so I'd like to know how many of our partners are represented.

CHAIRMAN NELSON: Yes, we can do a roll call, then, and just get it of all the states. How is that, Paul? It's easier than counting probably. All right, Bob is going to just quickly do a poll of the states that we have here.

MR. BEAL: Maine.

MAINE: Present.

MR. BEAL: New Hampshire.

NEW HAMPSHIRE: Here.

MR. BEAL: Massachusetts.

MASSACHUSETTS: Here.

MR. BEAL: Rhode Island.

RHODE ISLAND: Here.

MR. BEAL: Connecticut.

CONNECTICUT: Here.

MR. BEAL: New York. (No response) New Jersey.

NEW JERSEY: Here.

MR. BEAL: Pennsylvania.

PENNSYLVANIA: Here.

MR. BEAL: Delaware.

DELAWARE: Here.

MR. BEAL: Maryland.

MARYLAND: Here.

MR. BEAL: Virginia.

VIRGINIA: Here.

MR. BEAL: North Carolina.

NORTH CAROLNIA: Here.

MR. BEAL: South Carolina.

SOUTH CAROLINA: Here.

MR. BEAL: Georgia. (No response) Florida.

FLORIDA: Here.

MR. BEAL: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Here.

MR. BEAL: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Here.

MR. BEAL: Potomac River Fisheries Commission.

POTOMAC RIVER FISHERIES COMMISSION: Here.

MR. BEAL: You have 16 voting members here; and of those 16 voting members, 11 of those are on the Summer Flounder, Scup and Black Sea Bass Management Board.

CHAIRMAN NELSON: So, five are not, then.

MR. BEAL: I didn't call District of Columbia and they are not present at this meeting, so I should mention that.

CHAIRMAN NELSON: All right, let me also perhaps give my own thought process on this as far as what do we do, and that is we've gone through and said what we're doing to do as far as procedural.

Depending on when we vote -- I assume we will have a motion to vote on. When we vote on that, if there is a motion to not change is a majority vote, then we do nothing.

If there is a vote to change what is the decision of the board, then I think the recommendation from this group would be to highlight where we think there was any error or problem associated with the decision-making process and forward that back to the Black Sea Bass Board for them to deal with that.

Does anyone object to that? Is there anything else that anyone else would think that needed to be included in this process? Okay, then why don't we have the staff give us a recount of how did we get to the commercial allocation.

MR. BEAL: Thank you, Mr. Chairman. This is going to be kind of off the top of my head, so if anyone has any questions or feel that I left anything out when I get done, you know, please let me know.

Black sea bass is jointly managed by the Mid-Atlantic Council and the Atlantic States Marine Fisheries Commission. From 1998 through 2002, the commercial black sea bass fishery was managed through a coast-wide quota that was divided up into four equal quarters, three months long each, and those quarters were allocated based on the landings that occurred during historic period. Once a quarterly quota was landed, that period was closed until the next quarter began.

In 2002 the Mid-Atlantic Fishery Management Council and the ASMFC initiated Amendment 13 to the Fishery Management Plan. In that fishery management plan there was a series of options on different ways to allocate the available commercial quota.

The draft amendment did not contemplate changing the percent share of the overall quota that is allocated to the commercial fishery. It was just dealing with how the commercial share is divided up among the states that are along the coast or whatever approach was appropriate or desired by the management board and the council.

One of the options in there was a state-by-state quota system, and in the document there is a series of base years that were used to allocate the state-by-state quota system. The series of years that were included in the document ended in 1997. 1997 was the last full year of fishing prior to the implementation of the quarterly quota system.

So, the council and board opted to leave out 1998 through 2001 landing history in that it was felt that those years may be artificially skewed based on the quarterly quota system that was in place at the time and there was, for lack of a better term, "artificial control" on those landings that may have skewed the landings during that period.

There was the usual two rounds of public hearings. The deliberation by the management board took place in Newport News, Virginia. There was a joint meeting with the Mid-Atlantic Council and the Summer Flounder, Scup, Black Sea Bass Management Board.

At that meeting, the board and council decided that it may be appropriate to have different management programs at the state and federal level. The federal government had some concerns about implementation of state-by-state management systems, and the states felt that they could control the quotas that were proposed under the state-by-state management system.

So, that resulted in the federal government opting to have a coast-wide quota for the year, which is just a total poundage of black sea bass that can be landed in any year. The commission opted to divide up the available quota into a state-by-state quota basis, so we have a little bit different systems at the state and federal level.

The appeal that Massachusetts has provided today focuses on the state shares that the Atlantic States Marine Fisheries Commission came up with for Amendment 13.

As I said earlier, there were a series of base periods and a series of options for base years in the draft amendment, and the management board had lengthy discussions on the merits of different base periods and the different times.

Ultimately, what happened was the states put their heads together and negotiated different shares that really weren't related back to any one of the base periods that was presented in the document. It was a hybrid of years, and the states negotiated shares that they felt were appropriate at that time.

There was a motion made in Newport News, Virginia, and that motion included the state shares that ultimately ended up in Amendment 13. That motion passed unanimously in Newport News, Virginia. That was the board level approval of Amendment 13. Then that ultimately translates into a recommendation to the full commission to approve Amendment 13.

The full commission considered Amendment 13 at their following meeting, and at that time the motion to approve Amendment 13 passed with only one vote in opposition to the plan or to the state share system, and that vote was cast by Massachusetts.

So, in a nutshell, that's kind of how we got to where we are today. The state quota system is in place right now and the states have begun fishing under those quotas for 2003.

One important provision in Amendment 13 that I forgot to mention was that the state shares contained in that document are only for the year 2003 and 2004 fishing years. So, there is a sunset in that plan.

The shares that were negotiated and agreed upon in Newport News only are in effect for those two years, and the board has some work to do to determine what the shares should be following year 2004.

So, that's an important provision in Amendment 13. I think that's a summary. I can answer any questions or if there is anything I left out, I'd be glad to be filled in on that.

CHAIRMAN NELSON: All right, any questions for Bob? Dave.

DR. DAVID PIERCE: Not a question, just an addition, and that addition would be that both the council's plan and the addendum, certainly the addendum, has a provision to allow the board to modify the allocations based on a consideration of state regulations in place during the base years. That's an important point that's relevant to some of the presentation I will be giving this afternoon.

MR. BEAL: Yes, that's correct, that provision is put in there for the states to be able to revisit the shares that are currently included in Amendment 13.

CHAIRMAN NELSON: Ritchie.

MR. G. RITCHIE WHITE: A point of clarification, Bob, on the initial vote that

determined these allocations. It was a unanimous vote?

MR. BEAL: Yes.

CHAIRMAN NELSON: Other questions? All right,

MR. BORDEN: Thank you, Mr. Chairman. I apologize for coming in late. Bob, in terms of the provision for awarding a state a different percentage share, that's based on the base year analysis. Since we didn't use base years in order to derive the allocation formula, does it still apply?

MR. BEAL: It's a little bit of a gray area. The language does mention events occurring or new data being available regarding the base years but, as you said, the board negotiated these shares rather than chose an average of between year X and Y, so it's a little bit of a gray area exactly how that could be applied.

CHAIRMAN NELSON: Okay, Massachusetts, then, would -- Paul.

MR. DIODATI: First I just wanted to thank you, Mr. Chairman, and Mr. Vice Chair, and the Executive Director and the Policy Board for giving us an opportunity to do this today.

You know, we're taking this very seriously so I hope that everyone else does the same. We view this as an alternative approach to a formal, legal argument. I think it's important for us to develop this type of procedure within the commission, and it hasn't been used very much.

We're not going to really ask this board to decide what percent shares should be for this fishery resource. We're simply asking the board to consider whether or not the Commonwealth was treated fairly in the decision that was made.

Then I would expect that if the Policy Board should decide that perhaps there is a different way to calculate the percent shares, then you will ask the Policy Board or the Black Sea Bass Policy Board to go ahead and do that.

We certainly believe that all of our partners should work to promote better utilization of fisheries resources, which is the key element of this organization's mission. Part of our argument here today is that the Commonwealth of Massachusetts has taken steps beyond those which were necessary to protect this resource.

And, if we are going to encourage our partners in the future, we need to do that sort of thing, then we need to provide incentives, and those incentives could only come in the shape of fair treatment when it comes time to allocate quota shares. I'm going to ask David to go ahead and give his presentation and then we'll see how we proceed from there.

CHAIRMAN NELSON: We'll have a discussion after that. David.

DR. PIERCE: I also provide my thanks to the board for sticking around and taking the time to hear our appeal. You have a document that's rather lengthy. I thought you might receive that this morning, but you just got it now, although you probably wouldn't have had time to read it anyways because you had the strategic session all day long, at least most of the day.

Nevertheless, in my presentation, which will be relatively brief, I'll highlight the important points so that you won't be shortchanged by not having the opportunity to read this through from the beginning to the end.

Clearly, we weren't certain whether it would do us any good to present this appeal to the Policy Board since a majority of the members of the Policy Board are members of the Black Sea Bass Board. Nevertheless, this is the process and we hope that the Black Sea Bass Board members who are present here today will be open minded.

Before I begin my presentation, I'd like to introduce you to Bob and his cousin, Little Billy. This is significant because it relates to the presentation. Little Billy is eight inches in length, and Bob is twelve inches in length.

Twelve inches is Massachusetts' minimum size and, as you will see, this is the size of fish that

comprises much of the historical landings database for black sea bass landings region-wide going back through the years. I'll get to that data in a little while.

All right, so this is the appeal regarding the 13 percent share. I have to apologize up front for this presentation in that it's not going to come across the way it should. The computer is having a little bit of a difficult time communicating with the projector so bear with me. I don't think it will be too much of a problem, but it may be a little bit of an aggravation.

All right, so what are we requesting? We're requesting that the Policy Board agree that our appeal is justified and that the Policy Board instruct the Black Sea Bass Board to respond favorably to Massachusetts' argument that a higher share, for example, 20 percent, is appropriate in light of the Commonwealth's long history of black sea bass conservation and other state's reliance on small, juvenile sea bass, for example, less than nine inches, less than eight inches, for their commercial landings as a basis for their percent shares.

Now, we see that this percent share for Massachusetts and for the other shares represents what can be characterized as a very major policy and philosophical issue for this interstate organization.

And, that issue can be phrased in the form of a question, that being in any plan or addendum, is it appropriate for a state to be penalized for its previous and many years of conservation measures while states without those measures are rewarded?

Now, we have concluded that this has happened through Amendment 13 to the Black Sea Bass Plan, the council's plan, and then, of course, the Atlantic States Marine Fisheries Commission addendum mirroring that amendment.

If this Policy Board's answer to this important question is no, it's inappropriate to penalize and reward, then we feel you should grant our appeal. If, yes, then deny the appeal, but then,

of course, consider the consequences of that decision.

Reasons for the appeal. Well, there's the overarching issue, as I've already alluded to, a state should not be penalized for its conservation efforts; and those states having promoted overfishing for many years, even unintentionally, should not reap the benefits of their inaction or their passivity.

The second reason, the board refusal to revisit the shares until 2005. The board's conclusion that member states already have sacrificed percentage points for the Amendment 13 options, and Massachusetts should appreciate the 13 percent because the addendum provides as little as 5.3 percent and no more than 7.4 percent for Massachusetts' share.

Importantly, the addendum ignores 1998, 1999, 2000, 2001, then, of course, 2002 commercial fishery data, and these were the years when Massachusetts was finally able, finally able to reap the benefits of a recovering black sea bass overfished stock. So we have concluded that Massachusetts is being penalized and other states are being rewarded for high landings of small, juvenile sea bass.

This is Little Billy in the palm of a fisherman's hand, just to give you a bit of a perspective as to how large these fish are or, I should say, more appropriately, how small these fish are.

An Amendment 13 and addendum objective, this objective has been a problem for Massachusetts for a long time now and we've expressed opposition to it every time it has been raised.

It's a clearly stated objective to "redistribute black sea bass landings" away from Massachusetts based on the belief -- and this is a mistaken belief -- that Massachusetts effort on sea bass has increased; thereby, disadvantaging other states fishermen.

And this perspective was made very clear in the Mid-Atlantic Council's newsletter of Spring 2001 where it says, "The advisors also discussed the fact that inequities have been created by the

current management system as landings have shifted to the north and trip limits have been reduced. In fact, data for Quarter 4 in 2000 indicate that 41 percent of the landings for that quota occurred in one state; Massachusetts."

Then in the Amendment 13 public hearing summary document it states pretty much the same thing: "Possible inequities have been created by the current management system as landings have shifted to the north.

"In fact, preliminary data for Quarter 4 in 2000 indicate that 41 percent of the landings for that quarter occurred in one state, Massachusetts" and then, appropriately enough, it states, "A shift in abundance of black sea bass to the north may account for these landings." So, Massachusetts was targeted.

The reason for Massachusetts increased black sea bass landings

-- and this is quite a significant point and I don't want to understate it -- increased abundance and availability of black sea bass in our waters after many years of a dearth of black sea bass, bass finally, once again, were found on local fishing grounds, Nantucket Sound, Vineyard Sound, around the islands, Buzzard's Bay, in great numbers and of all sizes. Typical, all sizes of black sea bass are found in our waters, not just large black sea bass.

And that's evidenced from this figure where you can see the Division of Marine Fisheries -- well, you can't really see it too, well, it didn't copy very well -- the Division of Marine Fisheries Spring Bottom Trawl Surveys, 1978 to 2001 -- you have this figure in that document that was passed out a little while ago -- stratified mean catch per tow, this is 1978 going to the current time, and you can see that during the '70s and early '80s, black sea bass was relatively high and the fishery took advantage of that abundance.

We had relatively high landings of black sea bass at that time, 500,000 pounds, 600,000 pounds or more. Then it dropped down dramatically, lack of black sea bass in our waters.

And then recently, perhaps because of the efforts of the Mid-Atlantic Council and then the ASMFC, but the black sea bass abundance began to increase. I believe a year class or two showed up on the scene; and because we're on the edge of the range of black sea bass, they showed up and the index of abundance in our trawl survey was high; and similar, if not higher, to the sorts of abundance we witnessed back in the '70s and early '80s.

Regarding effort, was it effort? Did we increase our effort, therefore, landings increased in Massachusetts? If indeed that was the case, I wouldn't understand the board's concern about Massachusetts landings in recent years.

But this figure shows very clearly that its catch-per-unit effort, its abundance, its availability, not landings -- the pink line represents landings from 100,000 going up to approximately 550,000.

And you can see that landings have steadily increased certainly since the, since 1998. That's 1998, '99- this is year 2001; this is 2002. The green dash line represents catch per unit of effort.

Catch per unit of effort in our sea bass pot fishery, which is the fishery responsible for the majority of landings of bass in our waters -- and it's certainly the canary in the cage -- we can use that fishery.

Its operation, how it progresses, is a way to judge what is happening with black sea bass in our waters. So the pounds per pot on this side increased from around 0.2 pounds per pot during the early '90s, 1992 through 1997, thereabouts, and then it jumped up, for example in year 2000, to -- this is 2000, I believe -- to about 1.2 pounds per pot, and then it increased further in 2002 up to 1.5 pounds per pot, so there has been a dramatic increase in catch per effort in the pot fishery.

The landings have paralleled that increase in catch-per-unit effort. What about the numbers of pots fished or pot days specifically? We get reports from our fishermen. We have a pretty

good handle on what's happening with that fishery.

The green line represents landings, the same landing trend as shown in the previous figure, 100,000 pounds. Up here it's 500,000 pounds.

The pink or red line represents the pot effort, and you can see from this figure that pot effort was relatively stable in terms of pot days between, let's say, 400 and 500,000 pot days. And recently, starting in the year 1999, the effort dropped down.

We suspect that's because of the regulations that were in place; quarterly quotas, fisheries closed, fewer days to fish, less pots are pulled, fewer pot days, so it dropped down to 300,000. Once again, it was not effort.

There was increased catch-per-unit effort caused by significant increases in abundance of black sea bass and increased availability of black sea bass. So, we conclude there is an incorrect assumption made by the Sea Bass Board and by the Mid-Atlantic Council.

They incorrectly concluded that a landings redistribution was necessary due to increased effort in Massachusetts. We made this argument to the board. We made this argument to the council in correspondence, at the meetings, but unfortunately we had no real impact.

Now, why relatively low landings in Massachusetts from the late 1980s through much of the 1990s? That's the database that was used in Amendment 13 and the addendum that lead to those extremely low percent shares that I mentioned before, far less than 10 percent.

Why is that so relative to the other states, especially? Well, effort elsewhere. This is a concern that the Division of Marine Fisheries has repeatedly expressed going back to 1994 in some of our first correspondence with the Mid-Atlantic Council.

Effort elsewhere and on small sea bass over the years has caused fishing mortality to be relatively high and has contributed to low

landings of black sea bass in Massachusetts. Why in the world would we think that? The distribution of black sea bass as determined from tagging information.

We did tagging work in 1988. Returns came in '88 and in 1989. This shows the figure with the tag returns. This figure is in your handout. You can't see it really here on the screen but I'll try to describe it.

Two thousand fish were tagged from May 17 through June 18, 1988, in Nantucket Sound. Bass were taken from sea bass pots, the tagging there for mortality was very, very low. They were in excellent condition when they were released.

The tagged bass were from 8-1/4 inches to 10-3/4 inches total length. As I said, very small bass are found in our waters; we just don't take them.

Fifty-two bass were recaptured by draggers offshore through May 1, 1989, and the important point to note is that many tags occurred on the edge of the Shelf during the late autumn and certainly during the winter period.

Many were caught in the Hudson Canyon Area and also inshore of the Hudson Canyon area. In other words, the black sea bass that are in our waters during the spring, summer and fall will be overwintering elsewhere offshore, as well as inshore to some extent, and there they're subjected to fishery by other states.

That's been the way it has happened, the way the fisheries have operated for many, many years. What else contributed to our very low landings in the '90s and some of the '80s of black sea bass?

Our regulatory history, frankly. Our regulations dramatically affected the potential for black sea bass catch in our waters. In 1986, the 12-inch minimum size. We've had that minimum size in place since that time.

In April 1988, a moratorium on the issuance of sea bass pot fishery permits and a 400-pot limit. March 1992, a night closure to mobile gear

fishing in all waters south of Cape Cod and a 4.5 inch minimum mesh for trawlers fishing from June through October south of Cape Cod.

There are a few others here that I'm not going to mention, but we have a history here of cutting effort in Nantucket Sound, Vineyard Sound and areas where black sea bass is abundant, and that has impacted the catch and landings of black sea bass, but most notably and most significant is that 12-inch minimum size.

Do smaller bass show up in our waters? Does a 12-inch minimum size really impact our fishery? Well, yes, it does. Very clearly, it does.

I've already indicated they're very abundant in our waters, and it's evident here from this particular figure. All right, this is a spring and summer black sea bass pot fishery, 1993, length distributions, just a snapshot, data we obtained in 1993 broken down by ages, age 2, age 3, 4, 5, and 6.

This right here represents the peak, age 2 fish. Age 2 fish and even age 1 fish are found in our waters in great abundance. And, this shows that very clearly from the sea sampling many fish have been thrown back because they're less than the 12-inch minimum size.

This is also reflected in our bottom trawl survey data that we've collected from state waters since 1978. Now, this minimum size in particular has had a very major impact on our landings.

Before the council FMP, I should note, other states had no minimum size, absolutely none, or a small minimum size. There was no limit in North Carolina and Virginia. There was an 8-inch limit in New York and New Jersey.

And that gets to Little Billy over here, 8 inches, New York and New Jersey, or no limit, for that matter. So, as a consequence, other states' fishermen — and this is extremely important — other states' fishermen were able to land black sea bass from every year class for two years before Massachusetts fishermen or anybody else landing in Massachusetts were able to take advantage of those year classes.

So, this provided a tremendous competitive advantage gained at the expense of conservation and spawning success. Massachusetts landings have suffered due to the high fishing mortality on those year classes at a young age. Taken when they're young, they're not going to be there when they're old. All right, now this is key data.

Again, you've got it in your handout. From this distance, I don't know if I can be steady enough. This is percent of landings of black sea bass less than or equal to 8 inches, less than 8 inches right there. That's the blue, the dark blue. Less than 9 inches, that is the red. Less than 10 inches is the yellow. Less than 9 inches is the blue and then the final one is less than 12 inches.

And this is just a cumulative percent of landings with this being 20 percent; that's 40 percent; 60 percent; 80 percent and, of course, 100 percent. And these are the years. This is 1988, '89, '90, all the way though 1997.

The important point to note here is Little Billy, less than 8 inches, taking a look at the purple, it's '88. 39 percent, then it's 35 percent, then it's 10 percent, then it's 49 percent, 33 percent, 31 percent, 33 percent, 15 percent, 40 percent, all black sea bass less than 8 inches; by number, not by weight, by number.

And this is regionwide. These are not fish landed in Massachusetts because we had our minimum size in place, the 12- inch minimum size. Just as of concern is the less than 9 inches, 63 percent, 64 percent, 37 percent, 77 percent, 73 percent, 72 percent, 64, 49, 67, and 50 percent.

These are extremely high percentages of black sea bass region-wide less than 9 inches that made up the database for landings of the majority of states up and down the coast because of the lack of minimum sizes or the 8-inch minimum size.

1996, finally something happened. It took a long time to get here but it did. In 1996, finally, a 9-inch minimum size was adopted coastwide through Amendment 9 to the Mid-Atlantic

Council's FMP. And that contrasts, once again, with Massachusetts 12-inch minimum size, which as been in place since 1986.

All right, it's important to note some of the comments that have been made from fishermen, from the industry, regarding these minimum sizes or lack thereof. The Mid-Atlantic Council Black Sea Bass FMP was discussed at public hearings in the early '90s prior to, of course, it's implementation in the mid-'90s.

I thought these were rather interesting comments and they typify the attitude of fishermen in many other states regarding black sea bass. Norfolk, Virginia, hook-and-line commercial fishermen said 9 inches was good.

Ocean City, Maryland, one commercial fisherman agreed with 9 inches, and he said he couldn't live with 10 inches. Another said 10 inches or bigger would put him out of business.

A trawler man stated that 9 inches was too large and an 8-inch limit for two years at first would be best. In Cape May, New Jersey, a processor wanted 9 inches as a minimum size. Commercial fishermen insisted no more than 9 inches, and 10 inches would be bad. They wanted 9 inches.

And, quite significantly and quite dramatic as far as I'm concerned, a National Fisherman article, January 1992 entitled, "Fish Trappers Specialize in Mid-Atlantic Sea Bass", a New Jersey fisherman stated, "I can live with 7.5 inches for a minimum, but if they go any bigger than that, we'll have problems."

But why land juvenile small black sea bass? Why was that happening? Well, first of all, no minimum size. Why no minimum size? Back in the 1980s and even until now, restaurants in China Towns of Philadelphia and New York prefer small sea bass, and I'm sure there are many other outlets for small sea bass, maybe for cat food, whatever.

That was one of the outlets for those sizes of black sea bass. There was a demand for those sizes, and these were some of the markets being

supplied by New Jersey and other states' fishermen.

Now, this should come as no surprise to this Policy Board. Now, consider the recent problem the Atlantic States Marine Fisheries Commission has had controlling mortality on tautog. Illegal landings of small, live tautog for restaurants, New York and New Jersey, again, the Asian market appears to be very receptive to live fish. Put them on the plate; it's a perfect fit; it's the demand.

Now, as I get close to the end here, there is another reason for the appeal. A cut in landings in Massachusetts we're expected to take relative to recent years, when finally, as I indicated earlier in my presentation, when finally black sea bass have appeared again in our waters and in large numbers because of abundance and availability.

The Massachusetts quota for this year is 391,600 pounds. In 1999 we landed 573,000. In 2000 we landed 625,900; in 2001, 570,300 pounds. So our 2003 quota represents a cut of 31 percent, 37 percent, and 31 percent, respectively, from those years.

So, considering our conservation record, going way back, and the nature of our fishery, primarily pots, this drastic cut, we feel, is unjustified, and it's an inappropriate reduction to redistribute black sea bass to the other states, especially back to those other states with the glaring history of landing small juvenile sea bass.

Regarding our fishery, as I indicated, it's a pot fishery primarily. Here is the nature of the fishery in terms of the size and nature of the boat, and this is a sea bass pot with black sea bass inside.

All right, the requested share. As Paul indicated, we don't expect this board -- well, this Policy Board can't make a decision regarding a requested share, but we felt we should at least make it clear as to what we want the Black Sea Bass Board to consider.

We're seeking a 20 percent share, which is a 7 percent increase. The 20 percent keeps Massachusetts close to the amount of landings we had on average from '99 through year 2001. That was 589,600 pounds. At 20 percent we would receive 602,500 pounds, and this is less than the three-year high, during that three-year period of 625,900 pounds.

Now, importantly, we are not requesting that the Black Sea Bass Board consider 2002 landings, which rose to 962,300 pounds. We haven't finished our analyses to determine if effort was a factor last year. Obviously, if effort was a factor, then we certainly could not defend any percent share that would get us up to that number.

We're sensitive to the fact that there is a concern by member states, by board states that increased effort in our state could be a problem for region-wide management of black sea bass.

Now, 20 percent, as far as we're concerned, is a concession on our part, and we know that there will be many people who will think that we're insane regarding that but we're not.

Division of Marine Fisheries analyses, taking minimum size differences between states into consideration -- this is analysis that was done a while ago and brought before the board and brought before the technical committee, the Black Sea Bass Technical Committee -- revealed that Massachusetts share actually could be 30 percent or more if we accounted for this difference in minimum size, not all other regulations, just the minimum size alone.

The Black Sea Bass Technical Committee preliminary review of the analyses appeared favorable, but they haven't yet concluded that analyses, which is unfortunate.

So, also consider that the addendum has a provision to allow the board to modify allocations based on a consideration of state regulations in place during the base years.

So, this is not a new issue; we've raised it before. Other state were sensitive to this issue,

that there are differences in regulations between states, and that allocations should be modified accordingly.

But we said at the board meeting, we said at the Policy Board meeting of last year and, of course, now, that we do not feel it's appropriate for us to wait two years or so for us to consider a change in the percent shares.

We all know how difficult it is to change percent shares when they're in place. And, besides, the fishery is this year and it's next year. The cut for this year is significant relative to what has happened in our waters in recent years.

So, just as a reminder, less than 8 inches; 39 percent, 35, 10, 49, 33; less than 12 inches, 63 percent, 77, 72, 64, a database comprised of very small sea bass, many of which are immature.

And then just to reiterate so that you don't forget how I began this presentation, we're requesting that our appeal -- our appeal is to get this Policy Board to agree that our appeal is justified and to -- and this may not be the necessary instruction because, again, this is a new experience for us as well.

We're not exactly sure of the nature of the recommendation, if it should go back to the policy board, but if we had our druthers, we would like the Policy Board to instruct the Black Sea Bass Board to respond favorably to Massachusetts arguments that a higher share, for example, 20 percent, is appropriate in light of the Commonwealth's long history of black sea bass conservation and other states reliance on small juvenile sea bass less than 9, less than 8, for their commercial landings as a basis for their percent shares.

Why? Well, this gets right back to the policy, philosophical issue, the question that I asked at the beginning of the presentation, the Policy Board response, we feel, should be consistent with a sensible and fair policy or philosophy of not penalizing a state for many years of conservation and rewarding other states for their lack of conservation. So, thank you very much

for your patience.

CHAIRMAN NELSON: Thank you, Dave. I'd like to try to have some structure to our follow up here, and that would be that we would have any clarification questions from the board to Dave or Paul; and then after that period of clarification, if there is any statements that board members want to make; and if this needs to have any clarifications of laws, we certainly entertain laws.

But, I do want to just avoid a back-and-forth discussion here. I think it's making statement of facts and any clarifications associated with the facts that would be presented to this board, and then I think it would be appropriate for whatever motion that you want to put forth before the board.

CHAIRMAN NELSON: Sure, go ahead, Eric.

MR. SMITH: Unfortunately, time is very short for a number of people who are going to try and get the last plane out of town without having to add more to our ticket price. I don't know that asking questions about the details in the report is relevant for the ISFMP.

The real question is whether the ISFMP feels it is appropriate to send it back to the Black Sea Bass Board to reconsider. I believe that's the central question. I believe we'd benefit from some debate here, because at ten of four I've got to get up and go. I've already changed it once, I'm sorry.

CHAIRMAN NELSON: Eric, let me have you say that again because we should get clarifications, if there's any clarifications by the board, for what Dr. Pierce has presented. I think you have to have that in front of you so that it is clear.

And then it really should be -- maybe the other thing would be then to have a motion as far as what should be done here and then have the debate about that. Does that address what you were putting forth?

MR. SMITH: I won't spend any more time with

my comment. I just think — it's enough said. Thank you.

CHAIRMAN NELSON: Go ahead, Pres.

MR. PATE: Will you take questions to the petitioner now, Mr. Chairman?

CHAIRMAN NELSON: Yes.

MR. PATE: And I hope what I'm about to ask is a point of clarification. Dave, I'm interested in hearing your perspective of the consequences of denying your petition; viz-a-vie, the major policy and philosophical issue that you have raised.

And I'm asking that because this issue has come up before in allocation in other species. I'm not aware of any dire consequences that have resulted from that. I might have missed something, and I'm just interesting in hearing your perspective on what could happen in the future if your request is not granted.

CHAIRMAN NELSON: Go ahead, Paul.

MR. DIODTI: I'd like to answer that. Pres, you know, first of all, we just spent as a group the better part of two days talking about this organization's mission which, again, the essential items are to promote the best utilization of our fishery resources and to prevent the physical waste of those fishery resources from any cause.

It's written right here, and we spent two days talking about that. Our state has gone to great lengths to make sure that didn't happen with black sea bass. We put measures in place to instruct our fishermen how to preserve and rebuild that resource. It has finally happened.

Now we're being instructed by this commission that we should be taking less black sea bass. Is there a dire consequence there? I think there is. I don't think that we're putting our actions where our words are. That's what I think. I think that undermines the credibility of this organization. That's the dire consequence.

CHAIRMAN NELSON: Any other clarifications of Dr. Pierce's presentation? Ritchie.

MR. WHITE: Not having been a part of this, I'd be interested in knowing if Massachusetts was present at the original vote, why did they vote in favor of this?

DR. PIERCE: As I indicated in the memo, Ritchie, which you haven't had a chance to read yet, that was a very difficult day of long discussions regarding what to do with black sea bass. A number of options were batted about, a number of motions were made and defeated regarding what should the percent shares be.

I and the rest of my delegation were uncertain as to which way to go. As a matter of fact, we didn't want to support any percent share. Some members didn't want to support percent shares.

But after a while, as the day got long, there was conclusion that we had to come up with something. So in the interest of ASMFC solidarity, I agreed that we should support a percent share.

But at the time, I also made it very clear what my reservations were. Then, after the meeting was over, in further reflection regarding the nature of the vote and the implications of that vote, we made it very clear in a very prompt response to the board that indeed the percent share was not going to be acceptable, largely because the analyses that we had initiated regarding the impact on percent shares, because of the different regulatory histories that wasn't considered.

Also, because of the way in which we voted, there was absolutely no way for us to take advantage of one of the plan strategies, which was to take a look at the base years and then account for that difference in regulatory history to change percent shares. That could not happen.

So, at the next meeting regarding black sea bass, I think it might have been — I'm losing track. At the next meeting, when we talked about black

sea bass and that particular decision, we attempted to raise the issue again, but there was absolutely no one in favor of raising that discussion once again to discuss the issues.

So, as a consequence, we felt we had no other choice but to -- at the Policy Board meeting, as indicated a little earlier on, we had to vote against the plan.

CHAIRMAN NELSON: Okay, before I go to Paul, I think based on the timing, we need to make sure we have enough members here to have an adequate discussion and also vote on this issue, and I think it would be appropriate for Massachusetts to put forth a motion for consideration by the board. Paul.

MR. DIODATI: I'd like to move that the ISFMP Board approve this appeal and instruct the Black Sea Bass Policy Board to revisit the Massachusetts percent share for 2003 and 2004, taking into account the sea bass regulatory histories of all states.

CHAIRMAN NELSON: All right, is there a second to that? A second to the motion? There is no second to the motion. David.

MR. BORDEN: Thank you, Mr. Chairman, a couple of different points. First off, I think, as everyone will recall, the negotiations that we went through in order to reach the percent shares were extraordinarily difficult.

It was a very difficult day. At least speaking on my own behalf, I walked out of the room dissatisfied with the percent share that the state of Rhode Island ended up with, and I don't think there was a single state that walked away from that table that was happy with the allocation formula.

Having said that, I would also state that I am somewhat sympathetic to the plight of Massachusetts because the state of Rhode Island has been in a similar position on three other instances where we've had restrictions in place prior to a plan and basically been penalized.

Our fishermen have been penalized for that so I

am sympathetic to the arguments that are being made. And just to quickly reiterate, the state of Rhode Island had a 10-inch minimum size on sea bass well in advance of the plan so that biased our landings.

And to compound matters, we had a 50-fish pot limit within the state, which did exactly the same type of thing that David and Paul are characterizing.

Now, having said that, I don't think the way to resolve this is to simply go back and instruct the management board to allocate more fish to the state of Massachusetts. I say that with all due respect to the state of Massachusetts, because what that's going to result in is exactly the type of debate that we had the last time.

The only way to resolve that is then to take fish away from somebody else. That's the only way to resolve that. If Massachusetts is going to get a higher percent, then somebody else is going to get a lower percent.

And, if you look to the south, a state like the state of New Jersey could go back in and raise the argument that they should have gotten 42 percent of the quota instead of their 20 percent of the quota.

So, I mean, this is just going to open up a whole series of wounds that I don't think are going to be beneficial to the process.

I would suggest an alternative that I actually didn't think of until about five minutes ago so let me just try this out. I would think one strategy for resolving this is to have the management board do an examination of rewarding states with more restrictive regulations, in other words, just the opposite of what we do with striped bass.

In striped bass we basically have a size standard; and if you want to fish below that size standard, you get a penalty for doing it.

There is no reason that you can't reverse that whole process and basically set up a system whereby if a plan size is 11 inches, and

Massachusetts has a 12-inch minimum size, then in fact they're increasing yield per recruit.

They're increasing spawning stock biomass. It's good for the population. And, if they're going to select a larger size, there is no reason they shouldn't get a yield advantage out of that. Now, this would require a technical analysis to set up that type of system and it would require a plan change to do that.

But, I think we could really take advantage of this appeal and plow new ground. If we could set up that type of system where states that are more conservative than the region-wide regulations get some benefit out of it, it would be one way to give the state of Massachusetts more yield without necessarily penalizing the other states.

I would throw that out as a concept; and if some of the states around the table feel it is desirable, I would be happy to put a motion on the table.

CHAIRMAN NELSON: Let me get a clarification, if I can, Dave. Is this a policy that you would like to see developed, that the staff would develop and come back to this group, and then give direction to the various boards, that this is the type of policy that they should consider when they are developing their management plans?

MR. BORDEN: Yes.

CHAIRMAN NELSON: Or, are you trying to have this go directly to the Black Sea Bass Board?

MR. BORDEN: All I would suggest is if the people around the table like that concept or there are some other concepts like that that we want to explore to try to resolve this issue -- because there is merit in the appeal, some aspects of the appeal.

All I'm suggesting is that we would simply refer that concept to the management board and ask the management board to develop it, do a technical review of the concept, and see what the results of that technical analysis is, see whether

or not there are significant yield increases for the state of Massachusetts that may help them solve the problem they're trying to solve.

CHAIRMAN NELSON: Is there objection to asking the board -- and I believe you said it would be the Black Sea Bass Board in this case -- to taking a look and seeing if they can develop some process that allows that to take place? I do see hands; I guess it will take longer. Jack and then Roy.

MR. TRAVELSTEAD: I wasn't noting an objection. I just wanted a clarification that, David, you mentioned credits for states that had size limits that were higher than the plan required; and there could be other actions that states have taken outside of size limits that were designed to preserve the resource or conserve the resource, and I assume you're including those measures, a review of those types of measures in your request, not limiting it solely to size limits?

MR. BORDEN: That's correct. In other words, people that are more conservative should get some benefits out of being more conservative.

CHAIRMAN NELSON: Roy.

MR. MILLER: David, a question or two about your proposal. Your idea of credits, does that assume that the species has the same life history throughout its range; in other words, the same growth rate?

If we're going to consider lengths of harvest at a particular jurisdiction, that sort of assumes that they all mature at the same rate throughout the range or, otherwise, some of the conservation advantage of delaying the harvest until the larger sizes might be lost.

And, secondly, if we're suggesting that credits be given, then the ultimate result of that is going to be a redistribution of the percentages of the allocation; am I right?

MR. BORDEN: Well, I think my answer to your first question is that's exactly the type of issue that I think the technical staff should get

into, and I'm sure they would get into it.

And it would vary stock by stock and species by species if you wanted to apply the concept to other species. But in terms of the redistribution, I mean, my concept, if my concept is correct, is we base our quota based on a selection size, basically the minimum size.

And that generates a poundage that then gets allocated, right? If you change the selection pattern in the fishery, you're going to change the poundage that results from that. So it's just the reverse of the striped bass type mechanism.

You know, there may be a technical flaw in this theory, but I'm sure that the technical and scientific staff could quickly point me in the right direction.

CHAIRMAN NELSON: And, Dave, if I could for clarification -- and I recognize it's only been five minutes since that light has gone off -- you would be looking at the technical committee taking a look at this and seeing if they can come up with some formula that accommodates this type of process. Are you looking at it -- if they can do it, is this for the next round of quota determination?

MR. BORDEN: I would say that's entirely up to the board. You know, this would be something that the board would look at at its next meeting, and Pres could charge the technical committee with reviewing the concept.

The concept may not have technical merit or there may be technical problems with it, in which case it would come directly back to us. But in terms of when you implement it, that I think would depend a lot on what the technical analysis of it is.

If it had technical merit and there weren't big, major analytical problems with it, then I don't see why you couldn't do an addendum to change the plan, but it would also require a change in the council plan.

CHAIRMAN NELSON: Okay, Pres.

MR. PATE: David, are you suggesting consideration of future management measures or ones that have occurred in the past?

MR. BORDEN: I'm not talking in a retroactive manner. I'm speaking more about states that currently have regulations or in the future have regulations more restrictive than the plan requirements.

The only reason I say that is that if we go back down that road, the state of Rhode Island will be right behind the state of Massachusetts asking for a higher percentage share because of our 50-pot limit and 10-inch size and all the same arguments. I don't want to go down that road.

CHAIRMAN NELSON: Okay, I had a couple other folks. Let me get Tom and then Gil and then Bruce.

MR. FOTE: As long as Dave clarified what he was talking about as future measures down the road, I mean, New Jersey has gone through this with striped bass and a few other species over the years where we were more conservative, and we always got told, no.

And also when we talked about tautog and we basically went to the fact that we said we wanted to go up two inches, should we get some credit for that, and then they talked about the term "delayed mortality" rate.

So, really, you didn't do any savings, you were just delaying that mortality rate. So, I guess this is going to be a difficult technical question and we'll get some response. But as long as it is for the future and it's not going backwards, because there is a lot of species I would like to go back and look at, too.

And over the years, I could always remember North Carolina putting in that 5-inch mesh before anybody else did on summer flounder and basically that affected what they got later on, too, so we've all done those same types of action. I think every state in the commission has done that and never got rewarded for it. It was part of what we did.

CHAIRMAN NELSON: All right, I have Gil.

MR. POPE: Thank you, Mr. Chairman. Also, the idea of the proactive conservation credits is not a new thing and everybody has already stated that. But, I think that this might be -- the Policy Board might be the place to start looking at this issue and maybe coming up with some ideas on how do we handle this in the future; because, if I remember correctly, there was a problem with the one-fish, two-fish about four or five years ago with striped bass when the state of Massachusetts actually did receive credits, did not have to pay back the eight-year-old-plus problem that we were having in the striped bass, because they happened to be at one fish, 28 or whatever size it was, instead of two.

So, in essence they did get a form, in a way, of a conservation credit for the first time. That's the only time that I think I remember that happening because I questioned Phil Coates about it and he says, "We're talking striped bass. I don't want to hear about flounder."

So, we need a basic policy, I think, or to start looking at the idea of when these proactive conservation credits come up and having some kind of maybe basic policy that deals with that. Thank you.

CHAIRMAN NELSON: I know that Eric has said that he has got to take off, and I don't want to cut short this type of discussion, but I get the sense from what I've heard so far is that nobody is really objecting to having this as a guinea pig at the Black Sea Bass Technical Committee to take a look at and be able to come back and see if something that is viable that can be worked out.

If there are people that are opposed to doing that, I think I'd rather let them speak right now so that others who have to leave can hear that. Paul and then Jack.

MR. DIODATI: I'm opposed that this is the solution to our appeal, because all we're doing is having a discussion about what is going to make the commissioners feel good about the inaction that you're taking, and so I oppose that.

CHAIRMAN NELSON: Okay, Jack and then Eric.

MR. TRAVELSTEAD: I don't oppose this going forward, but I do have a concern. You know, it sounds very good when you say you're going to reward states for being more conservative than the plan says they have to be.

But, you have to look at the other side of the equation, too, and what that says is we're going to penalize a state for abiding by the law, and that's where I have a problem.

If there is a management plan that says we're going to manage this species according to X, Y and Z, and a state does just that, then I've got a problem with penalizing that plan.

If we should be doing more than X, Y and Z, then let's amend the plan for everyone so that we're all more conservative than we think we should be. That's the equation that's got to be worked out by the technical people, I guess. But, there is a fundamental problem there with penalizing people who are abiding by the very plan that we adopt.

CHAIRMAN NELSON: Let me get Eric and then I want it -- I don't want to have an endless discussion on this. I think we need to have a motion and get it voted up or down.

MR. SMITH: I have no objection to what David spoke about, and I honestly don't have time to voice the other point I wanted to so I'll just wait. I mean, I think -- enough said. Thank you.

CHAIRMAN NELSON: All right, thank you. Let me go back, then, to Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. There are a number of issues that we need to keep in mind in a broad sense. One is that all the fish we deal with are not randomly distributed along the entire coastline.

I mean, we understand that with striped bass. We understand it with summer flounder. It's true of scup. It's true of black sea bass. So, the concentration of various sized fish in various

areas are different, and they're different at different times of the year.

And the difficulty is, well, if you're going to try to come up with some even system, you have to take that into consideration, which up to now has not been possible.

The other point is all the states, at various times, have put regulations in place for different reasons, some for social reasons, some for conservation reasons, and everything in between. We will continue to do that for various reasons.

To try to equate what each one of those actions means so far as increases or reduction in the catch are very difficult, and I think we've all been in that situation where we have had, over the course of time, and those plans we put in place actions in our state which have restricted the catch, and then when we look at the so-called "base", when we try to figure out what the base is, the years that those base apply, one or more of the states have been slighted.

I mean, it goes back to our very first plan and the issues raised by a number of states of making those considerations. It's not to say that the issue that Massachusetts raises so far as having size restrictions in place is not a valid one, but, again, I think we all at various times are faced with that very same question.

My suggestion if in fact it's the Policy Board's determination to try to look at this, is that the issue shouldn't be deflected back only to the technical committee of the Summer Flounder, Scup, and Black Sea Bass Board, but really to the Management and Science Board, because it's a much more encompassing.

We're going to get into this with croaker and with spot when those plans come up. Certain states have certain things; and depending on the distribution of the fish, we have different sizes and different regulations. It's going to be a very difficult issue to deal with.

But, this issue goes just beyond black sea bass. It includes almost every species we deal with. If

we want to try to come up with a solution to this, it needs to be in the broad concept. We could use black sea bass as an example to try to work through that, but I suspect in order to accomplish our goal it needs to apply more than just to black sea bass.

CHAIRMAN NELSON: Well, I don't think we disagree with that. It was looking at a technical committee that would be familiar with a species to deal with all, as you said, the various issues that are associated with that and use that as an example. I would like to have us have a motion on the floor for us before we have any further discussion on this. Is there one? Gil.

MR. POPE: Yes, thank you. I have a motion here: to move that the Policy Board direct the Black Sea Bass Management Board to evaluate the merits of increasing the quota for the states that adopt management measures more restrictive than the plan requirements.

CHAIRMAN NELSON: Is there a second to that? Ritchie seconds. All right, discussion on the motion? Bill.

MR. GOLDSBOROUGH: I want to echo what Bruce was saying. I view this as a new application of conservation equivalency that does have implications for lots of other species.

I want to note that, as Chris Bonzek reported in this MSC report, we do have a conservation equivalency subcommittee that has met once, and is going to meet again, and is charged with examining the application of conservation equivalency through the whole ISFMP process.

I would not necessarily say that any action ought to wait until that report is completed, but in the interest of expediency, perhaps what we might do is ask that subcommittee, when it does meet again, to on a parallel track to that which has been moved, to examine this as a management tool for the commission as a whole, and perhaps that that deliberation will provide some insight that will be useful in putting this in a broader context. I guess I would suggest an amendment to the motion to that effect.

CHAIRMAN NELSON: Bill, if I could, and certainly you can do that if you so desire, but talking to staff -- I appreciate the points that I've heard so far on this issue.

We probably don't know where to put this for consideration, and we need to let staff look at the situation and come back to us in August with a recommendation on how to proceed with this and let us vote then on how to proceed on it.

That's what I would suggest to this board. We don't know that it should go to the Management and Science Committee. We don't know that it should go to the conservation equivalency component of that committee; because, if it needs to have a technical input on a particular species, we need to have that looked at to see if that is a valid way of going about it. That's the thought up here right now, so we don't want to assign it to a group that's going to go, "What do we do with this?"

MR. GOLDSBOROUGH: Just so there is clarity in what I was saying, I was suggesting a parallel track, not an alternative.

MR. POPE: That's fine with me.

CHAIRMAN NELSON: Do you have any ideas?

MR. PATE: I have a substitute motion, Mr. Chairman.

CHAIRMAN NELSON: Okay, let me get staff input here first and then we'll come back to the motion.

EXECUTIVE DIRECTOR O'SHEA: Yes, thank you, Mr. Chairman. I think the concept of giving us some time to look at this, whatever you decide to do, it is sort of a two-step process. It gives us a chance to look at it and give you some recommendations. I think that's a good one.

One of the things is this sort of seems to me to oversimplify the complexity of this whole issue. To say that the state has measures that are more restrictive, I mean, the state may have done

other things that are a heck of a lot less restrictive, and how do you take those things into account and should you be taking those things into account?

A simple example, a state had a more restrictive size limit, but took no steps to limit effort or actually encouraged effort, for example, how do you judge that? So, I think this is a tough thing, and I think the idea of letting us think about who to refer it to, I think that's good advice.

CHAIRMAN NELSON: Pres.

MR. PATE: Thank you, Mr. Chairman. I'd like to make a motion that the board direct the ASMFC staff to conduct a preliminary review of the technical merits of granting rewards for more conservative management measures than those required by a plan and report back to the ISFMP Policy Board in August.

CHAIRMAN NELSON: In August. And this would be a substitute motion?

MR. PATE: Yes.

CHAIRMAN NELSON: Okay, is there a second to the substitute motion? Bruce seconds. All right, discussion on the substitute motion. A.C.

MR. A.C. CARPENTER: Preston, would you also consider not only the merits but the pitfalls of such a system be evaluated by the staff?

MR. PATE: I thought about adding that, and but, yes, as a matter of clarification, I'm acceptable to that.

CHAIRMAN NELSON: Other comments? Go ahead, Bill.

MR. COLE: Pres, when you say "granting rewards for more conservative measures", are you talking about a reward in the sense of a larger creel or are you actually — because I think what we are talking about is they are asking if I have a more conservative measure, I get a bigger share of the quota.

Now, the way this is, this is just conservation equivalency tables. My question is by the word “rewards”, do you mean more fish in the creel?

MR. PATE: Yes.

MR. COLE: Or quota?

MR. PATE: More quota.

CHAIRMAN NELSON: Other comments? Ritchie.

MR. WHITE: Yes, I think to that point, I would view it that you would have to prove increase in biomass, and you would get a percentage of that so it wouldn't come out -- to go back to Jack's concern, it wouldn't come out of existing quota. You would have to prove that you were going to be increasing the population and then get a percentage of that, something like that.

CHAIRMAN NELSON: Go ahead, Pres.

MR. PATE: Thank you, Ritchie, and that's the point that I had intended to make to Jack earlier. That's the way that I envisioned it, also. I used the term “technical merits”, trying to create a charge for the staff to determine whether or not that is even -- you can even determine that in some type of mathematical way.

CHAIRMAN NELSON: Other comments? All right, other comments on the motion. All right, do you need a moment to caucus? Are you ready for the vote? All those in favor of this motion, please raise your right hand; opposed; null; abstentions, one abstention. The motion passes. All right, thank you.

MR. PATE: This the main motion now.

CHAIRMAN NELSON: Yes, that's right. All right, this is now the main motion. All those in favor of the main motion, please raise your right hand; opposed; abstentions; and null votes. One abstention. The motion passes.

The next item on the agenda is the discussion of the appeal process white paper. As you recall, we had talked about looking at our appeal

process, and we were hoping to look at it before we actually had another appeal.

But it actually worked out, I think, probably to our benefit to have gone through an appeal under the current process, and now let's take a look at it and see how well that process worked.

There are various areas that we've already identified as we need input from the board as far as clarifying, refining the existing process or should we modify it to the extent that it is a totally different process?

So, there are really a couple of different questions here, and the staff is handing out a decision topic. We don't have to solve this today, but I think that we need to look at some of the issues that have been raised by the staff and see if we can provide some input to them now.

Ideally, they would be coming back to us with scenarios in August for us to consider. It depends on how much input we can get today from the board. Bob, do you want to walk us through this?

-- Appeal Process White Paper --

MR. BEAL: Just very briefly, there is a document, as John mentioned, passed around with six different issues on there that the Administrative Oversight Committee had identified. Under each of those issues, there is a question or series of questions on things to think about and things that the AOC discussed.

They wanted to have an open discussion at this meeting, so they didn't recommend anything or propose any options under these. They kind of left them as they are, as questions.

The first issue was appeal criteria and initiation; should every decision and every issue by a management board be able to have an appeal or should only certain issues be allowed to be appealed? And, if so, who decides if it is a valid appeal or not?

Issue 2 is what body should hear an appeal? Should it continue to be the ISFMP Policy

Board or should there be another separate appeals body made up of a subset of commissioners or some other group? And, if so, what's the best voting dynamic there; people that are on the board; not on the board; LGAs; state directors, all those issues.

Appeals board meeting, what type of meeting should it be? How should the meeting flow? Is one meeting sufficient? Should it be open to the public or a closed meeting? What authority does the appeals board have? Who should they send their responses to? Who does their charge?

Does it go back to the management board for that species or is their a decision final and that decision actually becomes an adjustment to the fishery management program?

What do we do to prevent abuse of the system? In other words, there is a scenario where states appealing things could slow down the process and slow down their need to come into compliance with the fishery management plan or something like that, so are there any disincentives to prevent people from abusing the systems?

And the other thing is preventing an appeal chain reaction. This issue came up hypothetically if, you know, on a state-share system similar to this, if one state gets more, the other states get less, and how do we prevent all the other affected states from just simply coming back with their appeal back to the appeals body?

So those are just the questions that we came up with that probably need to be addressed when considering if any changes and what changes should be made to the appeals process.

CHAIRMAN NELSON: What I'd like to do -- I think I probably put a timeline in there that might have been more ambitious than what I probably should have, so the staff -- I could feel them kind of trying to twist my arm.

But, I think it would be important for whatever input we could provide to the staff today in using our time wisely, but recognizing that we probably can't get all the input that we would

like, we need to think about this.

This is certainly an issue that needs to have some deep enough thought given to it, so over the course of the next couple months we certainly want you to continue to think about this and be prepared to discuss it in great detail at the August board, in which we'd give the input to the staff and see if they could then come back to us at the annual meeting with a more detailed alternatives for us to consider. So, if we could get input now, I'd still appreciate it. A.C.

MR. CARPENTER: I have two thoughts on this. One is, is there any guidance provided us in the Atlantic Coastal Act where the Secretaries of Commerce and Interior play the role of the appeal body when a state is found out of compliance? Is there anything in that law or that procedure that they have set up which may benefit review for this particular purpose?

And my second thought is that Bill Hogarth made the comment a while back that it's a damned shame that so many of our species are being managed by courts, and they truly are. But, we're approaching a situation where an aggrieved state is going to be seeking legal recourse if they can't find recourse within the commission.

So, we may want to look at some of the case studies of some of those cases that are currently in a court system to try and figure out what constitutes the level to get to an appeal, and what some of the parameters that -- the very questions that you've asked here, we may find some guidance in some of those certain situations.

I think all of us have access to a state or commonwealth attorney's office that we may want to discuss this list of questions with before you come back to your next meeting or get the benefit of that thought to the executive director.

CHAIRMAN NELSON: All right, thank you, A.C. Anne.

MS. ANNE LANGE: A.C., to your first question, I don't really think there are any

specifics relative to what the secretaries' responsibilities are.

The first issue is to determine whether or not we agree or that the secretaries, excuse me, agrees that the state or a state is out of compliance.

And then the second issue is whether or not the fact that a state is out of compliance, if it has a negative impact on the status of the stock. I don't think it really gives any guidance to how to address an appeal. You know, either a state is or isn't out of compliance, and does it have a negative impact on the stock.

And the assumption is that if there are compliance measures and they're not being met, that it would have a negative impact on the status of the stock but, you know, the degree of that -- again, I don't think that it really would serve to address this.

CHAIRMAN NELSON: A guidepost for us. All right, thank you, Anne. Anyone else want to provide any input at this particular time or do you just want to think about it and provide it over a period of time? I get the sense that really is how you want to do it. Do you want to say anything, Vince?

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. Maybe one other sort of issue that I'm not sure we fully covered in our paper here, and it might be an expansion of Issue 5, and this would be to, again, ask you to think and reflect on, but it seems to me there is a potential for a fundamental strategy shift where a state may forego full participation in a board process and instead put its investment into an appeals process.

I think there needs to be concern about addressing that potential and how you do that. So that's sort of associated with some of those disincentive questions, but we really want people to come into the board fully committed, sort of give their bottom line as opposed to holding back because they perceive that there is a better deal available at the appeals process. I think that would be a step backwards for us. Thank you, Mr. Chairman.

CHAIRMAN NELSON: All right, thank you, Vince. All right, we'll put this on the agenda for the August meeting and take it up at that time. Other business? Tony.

-- Other Business --

MR. TONY BOGAN: Yes, I'm Tony Bogan from United Boatmen, and I'm also here today on behalf of RFA as well. First of all, thank you, Mr. Chairman, for giving me this time, and I'll attempt to set a speaking speed record for myself so everybody can get out of here.

I'd like to preface my statement by saying in the last ten months, since I stopped focusing on highly migratory species and research for United Boatmen, and have pretty much taken over all aspects of fisheries management as it relates to United Boatmen, I've dealt with the commission on several occasions.

And not just the commissioners themselves but the staff as well have been more than accommodating in they have given me quite a bit of latitude, so if in my statements to the Striped Bass Management Board on Monday or my statements now seem to have any kind of accusatorial tone, that is not my intent. It's just something that I'm very passionate about.

I'm here to talk about an issue that arose back in February at this very hotel with striped bass. At that meeting it was said that you folks were trying to look into it and have the Striped Bass Management Board look into the issue of producer areas.

At the Striped Bass Management Board meeting on Monday, basically there was no resolution. There was basically very little discussion other than the fact that it couldn't be discussed.

My main issue is this, and the reason that I'm here today, that I came back down here today, is to more or less ask the Policy Board if they could try and task the Striped Bass Management Board to come up with some kind of clarification, some kind of clarifying language about the manner in which producer areas were simply eliminated in the process of going from

Amendment 5 to Amendment 6.

I won't belabor the issue of all the specifics because it is all on the record from the Monday meeting of the Striped Bass Management Board where I gave the examples of the difference in the documents, et cetera.

But, basically our opinion, United Boatmen and RFA's opinion is producer areas were not eliminated from Amendment 6. They were simply omitted from the wording in the document through no act of a motion being passed or made and through no actual on-record discussion.

Between the December Rhode Island, the February meeting and the meeting on Monday, there is actually no discussion where anything was done that specifically stated the removal of producer area.

The reason I make that sound as if it is significant is in Amendment 5 and in the draft version of Amendment 6 that was used for all of the public hearing processes in all of the states, it was a major component of the July draft version of Amendment 6.

And my quick reference is there were 144 references to it in the document that was used. In the February version of the document there were 4. And of those 4, the 140 that were eliminated were 100 percent of the substantive references to producer area.

The four that were left were three that mentioned what used to be in Amendment 5 and one in reference to a slot limit test that was done. So all of the choices, options, et cetera, that everybody had to debate, including all three different mortality target levels to choose from during the public hearing process in Amendment 6, they all involved producer area.

Somewhere between the December Rhode Island meeting and the draft version of the Amendment, which was the February draft, those references were simply omitted. You know, I likened it to the example of somebody using Adobe Acrobat to make the PDF file did a

find and replace, and it just kind of disappeared.

And, again, I don't mean to say that with dire undertones. That's the only way I could see it happening because after going through all of the minutes extensively of all the meetings, there was never a motion passed or even made to discuss that.

Additionally, and the reason why I thought it might be appropriate to bring it up to you and something that might give you an impetus to do it, to ask the management board to look into this deeper, is that the actual motion that was passed to set the recreational standards for striped bass as far as size limits and bag limits goes does not in and of itself remove producer area status.

The actual motion made simply references that the "coastal recreational fisheries will remain as under Amendment 5, 2 at 28." Well, the coastal fisheries were always 2 at 28.

What about the producer area? There is no mention of eliminating it, no mention of removing it. It simply addressed a piece of the existing regulations and did not address anything further.

And my best guess was that you were the appropriate people to come to because this is a procedural issue from our perspective. It has nothing to do with the fact of a producer area. It could have been any specific substantive part of the document. It could have been the word "the" and "if", if they were important in their context, that they were eliminated.

It just happens to be, in this instance, that it's producer areas is the point of contention because by its omission it made a complete change to the dictionary definition of status quo which is what everybody was under the impression they were voting for, which "status quo" means stays the same.

Well, when three states have to go up from 4 to 8 inches in size limits as a result of the passage of Amendment 6, that is certainly not status quo. And that is pretty much -- I had a little more, but I know everybody wants to get out of here so

I'll cut it at that and just thank you again, Mr. Chairman, for taking the time to listen to me.

CHAIRMAN NELSON: All right, thank you, Tony. I think it would probably be appropriate because this has -- I think, Tony, you've brought it up previously.

And my sense is that he hasn't got a detailed explanation and just because of time and whatever else for a variety of reasons, the simple thing is for the staff to just provide an explanation back to Tony in regard to this subject. The board have any problem with that? Jack.

MR. TRAVELSTEAD: No, I don't have a problem with that. I share some of Mr. Bogan's concerns. You know, since we had the meeting of the Striped Bass Board where Amendment 6 was adopted, there does seem to be a fair amount of confusion about what exactly occurred and what was adopted, and the producer area issue is one of them.

At the board meeting this week, we heard discussion about whether or not spawning area closures were part of Amendment 6 or even a part of Amendment 5. We heard comments this week about whether the trophy season in the bay was something that is or isn't allowed under Amendment 6.

And so I'm beginning to have some doubts about what exactly does Amendment 6 provide for? So, I think it would be helpful if staff went back and looked at the minutes of that meeting and pulled out the specific motions that were made and provide some information to us about the things that were included in Amendment 5 that are now included or not included in Amendment 6, just for us to have and look at and decide at some point whether we need to make some repairs; not making a judgment at this point one way or the other, but just let's look at all of it in a table of some type so that we can perhaps provide some clarification to Mr. Bogan and others.

CHAIRMAN NELSON: Okay. Roy had his hand up and I'll come back to you, Lew, and

then Tom. Roy, go ahead.

MR. MILLER: Mr. Chairman, it was my understanding at the Striped Bass Board meeting that this issue for funding considerations largely would be deferred until next year. Is that your understanding or your remembrance as well?

CHAIRMAN NELSON: Doing an addendum to address anything to change Amendment 6 would require waiting until the action plan for next year to be approved and to have the commission approve putting in monies, times, resources for that development of that type of document.

That's my understanding. Now, going back and trying to provide some clarity to an issue of somewhat of some confusion, I don't think that requires the staff going through as much detail and work as what an addendum would require. I personally don't think that's a problem unless the staff is going to be telling me otherwise, and I don't see them saying that.

MR. MILLER: Thank you for that clarification.

CHAIRMAN NELSON: Okay, Lew.

MR. FLAGG: Thank you, Mr. Chairman, just very briefly because my ride is waiting. I think Jack is exactly right. I think it is appropriate for the staff to go back and review the record of those meetings.

I know there was some concern expressed here today and earlier about the fact that certain things were done to the document that did not occur as a consequence of any particular motions.

I'd just like to remind folks here with respect to the doings of the boards, we don't always craft specific motions and directions for everything that the staff does.

I think based on some of the discussions that were held at previous meetings, there was a sense of direction from the board to the staff to the criticisms that in fact we didn't have specific motions to do certain things.

We don't always have motions to address certain things, and that's just sort of a clarifying issue. And maybe because of the fact that this is a major change, maybe there should have been a motion. However, there wasn't that I'm aware of.

But I think we have to consider the context of the discussion that occurred and what the staff's direction was at that time. Thank you.

CHAIRMAN NELSON: Yes, and I think that the direction of what the board charged -- if I recall, Mr. Chairman, you had a sub-committee that was charged to look at various items and you were given the authority to get that document done and which you did, and we appreciate that.

But we need to make sure that the public understands the overall process and has confidence in what is done that obviously none of us feel that anything undue was done and -- undue was done -- nothing undue took place, and that we wanted to make sure there is confidence in the process. I had Tom and then Ritchie.

MR. FOTE: I would echo a lot of Tony Bogan's comments on this. It has been a serious issue in New Jersey. It's going to continue to be a serious issue in New Jersey. We, like Massachusetts in some issues, do not think this has been addressed.

We will be coming to the next Striped Bass Board trying to get some reassurance. I mean, this is where some states just didn't understand what the "status quo" vote meant for the status quo. And I'm sorry, people said I should have understood and things like that, but it really wasn't.

I think something as big as this needed a motion, with the dire consequences for three states and two producing areas. It really has greatly affected my people and my state, and they've come to me and basically want some questions answered, and that's what I'm putting forward.

CHAIRMAN NELSON: Okay, thank you,

Tom. Ritchie.

MR. WHITE: I don't remember which meeting but I recall asking Bob Beal specifically that status quo of Amendment 5, that we were voting on 2 at 28 and not the regulations of Amendment 5, that we were not considering the status quo of Amendment 5, that it was based on 2 and 28. I don't know if you remember that, Bob, but I specifically remember asking that and you'll find that in the minutes in one of the meetings.

CHAIRMAN NELSON: All right. Well, again, I get the sense from the board that they concur, that the staff just go in and prepare a detailed description of the final development of our four-year-old or four-year-in-the-making FMP. Did I have any one else?

MR. POPE: I totally concur with Jack and I agree, I think that should be done.

CHAIRMAN NELSON: Okay, Paul.

MR. DIODATI: Will that be done for the August meeting?

CHAIRMAN NELSON: Maybe. We will strive to have it for the August meeting so that it will be both convenient to get to a number of folks down in this area, but also in general make sure it clears the air for all of this. Is there any other business to come before the board? I would entertain a motion for adjournment.

Without objection, thank you very much. We are completely adjourned.

(Whereupon, the meeting adjourned at 4:30 o'clock p.m., June 12, 2003.)

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