

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

**Crowne Plaza - Old Town
Alexandria, Virginia
August 6, 2014
Approved October 2014**

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ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Loren Lustig, PA (GA)
Doug Grout, NH (AA)	Leroy Young, PA, proxy for J. Arway (AA)
G. Ritchie White, NH (GA)	David Saveikis, DE (AA)
Sen. David Watters, NH (LA)	John Clark, DE, Administrative proxy
Dennis Abbott, NH, Legislative proxy	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Paul Diodati, MA (AA)	Tom O'Connell, MD (AA)
Bill Adler, MA (GA)	Bill Goldsborough, MD (GA)
Robert Ballou, RI (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Mark Gibson, RI, Administrative proxy	John Bull, VA (AA)
David Borden, RI (GA)	Cathy Davenport, VA (GA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)	Louis Daniel, NC (AA)
David Simpson, CT (AA)	Robert Boyles, Jr., SC (AA)
Dr. Lance Stewart, CT (GA)	Patrick Geer, GA, proxy for Rep. Burns (LA)
Rep. Craig Miner, CT (LA)	Spud Woodward, AA (GA)
Emerson Hasbrouck, NY (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Sen. Phil Boyle, NY (LA)	Sherry White, NMFS
Brandon Muffley, NJ, proxy for D. Chanda (AA)	Wilson Laney, USFWS
Tom Fote, NJ (GA)	Martin Gary, PRFC
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	

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

Ex-Officio Members

Staff

Bob Beal	Kate Taylor
Toni Kerns	Melissa Yuen
Mark Robson	

Guests

Derek Orner, NOAA	Arnold Leo, E. Hampton, NY
Steve Meyers, NOAA	Raymond Kane, CHOIR
Galen Tromble, NMFS	Jeff Pierce, Maine Elver Fishermen Assn.
Angela Somm, NMFS	Angela Young, Maine Elver Fishermen Assn.
David Pierce, MA DMF	Darrell Young, Maine Elver Fishermen Assn.
Tom Baum, NJ DFW	Robert Crockett, Richmond, VA
Russ Allen, NJ DFW	David Sikorski, CCA
Gordon Colvin, ECS	Mila Jabeaw, USCG
David Frulla, Kelley, Dye & Warren	Donald Lajavic, USCG

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crown Plaza Hotel Old Town, Alexandria, Virginia, August 6, 2014, and was called to order at 10:25 o'clock a.m. by Chairman Louis B. Daniel, III.

CALL TO ORDER

CHAIRMAN LOUIS B. DANIEL, III: I call to order the ISFMP Policy Board. Our executive meeting ran over just a little bit. For those of you that aren't on the executive committee, I'll be giving a report on the executive committee meeting at the business session today. The business session is after this meeting; so we'll have a discussion on various things.

APPROVAL OF AGENDA AND PROCEEDINGS

CHAIRMAN DANIEL: You have your agenda in front of you as well as the proceedings from our May 2014 meeting. Are there any concerns or objections of moving forward with our agenda and approving the minutes from our May meeting? Seeing none; those stand approved.

PUBLIC COMMENT

CHAIRMAN DANIEL: This is an opportunity for public comment. This is for items that are not on the agenda. I see one hand in the back. Are there others that wish to address the ISFMP Policy Board? If not, if you would come to the microphone and state your name, any organization you might represent and have your say.

MR. DAVID FRULLA: David Frulla for the Fisheries Survival Fund, the organization representing the Limited Access Scallop Fleet on the east coast. I wanted to check to see if you would prefer to have comment relating to the Special Management Zones off Delaware now or during that segment of your meeting.

CHAIRMAN DANIEL: Yes; let's do that during the segment of the meeting, David, if you don't mind.

MR. FRULLA: No, not at all, thank you.

CHAIRMAN DANIEL: Okay, just remind me and raise your hand again or come up here and me in the head if I forget. Anybody else from the public; I didn't see any other hands. If not, we'll move right into our agenda. The first item is a review of our stock rebuilding performance. Toni.

REVIEW OF STOCK REBUILDING PERFORMANCE

MS. TONI KERNS: I'm going to go through our annual review of the stock rebuilding performance. On your CD Briefing materials there was the overview of all of our species and how we're doing as well as a memo that talked about some definitions that we are proposing to use that go along with the stock rebuilding performance document and our status of the stocks.

I will read those definitions as I go through to make sure the board is confident in those definitions. We had a little bit of wordsmithing the last time we talked about these, so I want to make sure that everybody approves these definitions. As you all know, this is part of our strategic planning and a task in the 2014 action plan. The objective of doing the review each year is to validate the status and the rate of progress that we're doing in our species' management plans.

If the progress that we're making is not acceptable to the policy board, the policy board should be identifying corrective action. Those could mean having direct feedback to the different species' management boards on how to take action to move forward with individual species' management plans. It also provides staff with input into the 2015 action planning process.

We have five categories. There is one category that we've changed the name and not as rebuilding; and we've called it now viable/rebuilding based on feedback from the policy board. We also have rebuilt, concerned, depleted and unknown. For rebuilt we're defining this as the stock biomass is equal to or above the biomass level set by the FMP to ensure population sustainability.

The stock is still rebuilt if it drops below the target but remains above the threshold. For a viable stock, those are stocks that exhibit stable or increasing trends. Biomass is approaching the target level set by the FMP to ensure population sustainability. For the stocks that are rebuilt, it includes Gulf of Maine/GBK lobster, herring, sea bass, bluefish, scup, Spanish mackerel, spiny dogfish and summer flounder. The viable/rebuilding stock is red drum.

For stocks of concern; stocks of concern are those that are developing emerging issues, which could include increased effort, declining landings or impacts due to environmental conditions. Atlantic croaker – these are the stocks that are all of concern –

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not experiencing overfishing, but the biomass is increasing and F is decreasing.

The biomass is unknown in the assessment due to the uncertainty in the shrimp trawl discards; although there was just a recent workshop on discards that was conducted by SEDAR and we'll be using that to help inform the croaker management plan. The South Atlantic Board is also considering an addendum that looks at a traffic light approach to monitoring the stock outside of the assessment time period; and that would be an update to the current trigger mechanism that we have previously used.

Atlantic menhaden; overfishing is occurring, but it's unknown if the stock is overfished. We're exploring uncertainty in the assessment through the benchmark that will be completed this winter. The board set interim reference points that would increase SSB and availability for ecosystem services as well as established the first TAC in 2013 that works towards ending overfishing; and we were under that TAC in 2013.

Striped bass is not overfished and overfishing is not occurring. The SSB is approaching the overfished threshold; and this is from the 2013 assessment. Projections show that the SSB will likely fall below the threshold due to poor year classes from 2005 to 2010. The advice from the technical committee is to reduce F across all sectors. There is an addendum that was just approved for public comment that looks at doing so.

Coastal sharks; the overfishing and overfished status varies by species. Our FMP complements the federal regulations. The technical committee had a general concern that the fin-to-carcass ratio may create a loophole because different states retain different sets of fins for spiny dogfish, but the board has initiated a draft addendum to actually remove the fin-to-carcass ratio, which would be consistent with the Shark Conservation Act, and will be considered later this week.

For horseshoe crab; there are different trends in the status of the stock. We don't have a coast-wide assessment, but the New England and New York Region, the trends in the population seem to declining; whereas, the Delaware Bay and southeast trends seem to increasing. The board is still trying to solve an issue with the biomedical data in order to use them in regional assessments due to some confidentiality issues in including that data within the regions due to the low number of biomedical companies within each region. We set a

precautionary cap on harvest; and we have a loss of an abundance index without the dedicated Horseshoe Trawl Survey.

For spotted seatrout; there is no coast-wide assessment planned or recommended by the plan review team, but we do have state stock assessments that are close to or slightly above their SPR goals in North Carolina, South Carolina, Georgia and Florida. These assessments would benefit from additional fishery-independent abundance indices, improved discard information and additional biological samplings of the fisheries. The Omnibus that we approved in 2011 includes recommended management measures to help protect the spawning stock biomass.

For winter flounder, Gulf of Maine; the last stock assessment was not accepted, so there no F and SSB target generated although they did put together a proxy F and found that overfishing was not occurring. In 2013 and '14 we maintained the same measures through the commission. NOAA Fisheries increased their state waters subcomponent in 2012 to 272 metric tons and then maintained that state waters subcomponent through 2014.

Depleted; the definition we're using for depleted is reflects low levels of abundance though it is unclear whether fishing mortality is the primary cause for the reduced stock size. I'll go through the depleted species. For American eel; the trend analysis shows that the stock is declining and it is at or near low levels. There is decreasing trends in some of the river systems for the yellow eel stages. There are significant fisheries that are still occurring.

The most recent Addendum III addresses some of the concerns that the technical committee had. It approved a nine-inch size limit, reduced the recreational bag and has restrictions on pigmented eels. The current addendum that we are discussing tomorrow will also look at possible quotas for the glass eels as well as the yellow eels and then measures for the silver eel fishery. The technical committee has also recommended improving passage to help the eel.

The American Lobster Southern New England Stock is at 58 percent of its SSB target. Although overfishing is not occurring, this is the lowest levels of abundance since the 1980's. There was a draft addendum that was approved and reduced exploitation by 10 percent. The Lobster Board had a report on how well that 10 percent reduction did. Not all the LCMA's met that reduction and the board is

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going to review plans from the LCMTs that did not meet the reduction in November. We also have approved trap cuts for Area 2 and 3, which will be implemented in 2016.

For American shad, the trends in the fisheries varies by river system. Currently we do not have an assessment scheduled; but all of the states have put in sustainable fishery management plans as well as habitat plans.

For northern shrimp, the stock is overfished and overfishing is occurring. The second closed the shrimp fishery due to its poor status in 2014 for the first year. The section has approved an addendum that includes management tools to slow catch rates for northern shrimp and is exploring an amendment that will look at limited entry as well as some other management issues in the upcoming year.

For river herring; river herring is depleted or at historic lows. The overfishing status is unknown. Most of the state river surveys are flat or decreasing; and a lot of the available run estimates are decreasing. The states have approved sustainable fishery management plans as well as most states have submitted and the board has approved habitat plans as well.

The River Herring Technical Expert Working Group, which is a joint effort by the commission and NOAA Fisheries, is looking at identifying conservation efforts, critical data gaps, monitoring and evaluating progress towards rebuilding. NOAA has put forward a large sum of money to help fund projects that will address some of these data gaps; and Marin is going to talk about that a little bit more later today.

For tautog; we're at 39 percent of the SSB. Overfishing is occurring and the states have implemented regulations to achieve the target F. We had a benchmark assessment that is ongoing and should be ready for the board's review early next year.

Weakfish; there hasn't been really any changes in weakfish. Based on the results of the assessment, the weakfish stock is at very low levels. There is going to be an assessment that will be addressed next year. The board annually assesses the stock status using indicators to monitor the population until the assessment is completed.

For winter flounder, Southern New England, Mid-Atlantic, it's overfished but overfishing is not occurring. We followed the technical committee's

advice and established low limits to discourage a directed fishery and dead discards. There is no assessment scheduled currently.

For the unknown species; the definition is there is no accepted stock assessment to estimate the stock status. We have three species listed. Sturgeon; it is at low abundance. We need river-specific abundance estimates and better bycatch information. There are four DPSs that are listed as endangered and one as threatened. The benchmark assessment is scheduled to be completed in 2015; and we will have a report out on that later today as well.

For black drum; we have an assessment that is currently ongoing and will be completed this winter. The FMP was approved in 2013 and put together some minimum management measures until we have an assessment to consider.

Lastly, we have spot; there are some unfavorable data trends in the spot fishery. The commercial landings have been declining. The commercial catch-at-age data which showed an expansion of the age structure in the early 2000's has started to contract in the last several years. The length at age and weight at age have decreased for ages one and three. The distribution of the trophy citations of the recreational catch of spot has decreased over the last several years. That is all of our species. Again, I'm looking to make sure that the definitions that have been listed meet the needs of the policy board.

CHAIRMAN DANIEL: Thank you, Toni. Questions or comments for Toni? Doug.

MR. DOUGLAS E. GROUT: Mr. Chairman, I did have a question on the definition you have in the table for rebuilt and viable. I'll tell you up front my concern is that you could potentially have someone look at this and say that is rebuilt/viable and rebuilding. That's because the way I see it – and maybe you can explain if I'm misreading this – rebuilt is when the stock biomass is equal to or above the biomass level. Then it goes on to clarify and say a stock is still considered rebuilt if it drops below the target but remains above the threshold.

Under viable/rebuilding, it says viable stocks exhibit a stable or increasing trend so they're stable or going up; and the stock biomass is approaching the target level. Both of those cases could be between the target and threshold of the biomass; but is the difference here that one is declining and the other one is – you could have a declining stock that's rebuilt?

MS. KERNS: I added that caveat to the rebuilt because we do have species that have been declared rebuilt, but then their biomass levels start to decrease, but they don't come off the rebuilt status until they drop below the threshold. That is why that sort of caveat was there; and the difference between the viable and rebuilding is that those species have not gotten to that rebuilt status yet.

In theory the rebuilt species that had dropped below the threshold could be going in either direction. It could have dropped and then started to come back up, but it never dropped below the threshold so it still has that rebuilt declaration to it.

MR. GROUT: So the major distinction here is that viable/rebuilding; they've never ever – at least since we've been assessing them, they've never reached a rebuilt status? Let's put it this way; since they dropped below the threshold, they have now gotten up to a rebuilt status. Okay.

MS. KERNS: Correct.

CHAIRMAN DANIEL: Other questions or comments for Toni? Tom.

MR. THOMAS FOTE: I'm just wondering what is going to happen with winter flounder in the councils. Have they decided whether they're going for the same trip limits as they did last year; does anybody know?

MR. TERRY STOCKWELL: The New England Council is about to go through its annual specification-setting session; so I can't answer your question quite yet.

MR. DAVID V.D. BORDEN: Mr. Chairman, I actually have two pretty different points. One is on the definitions that goes back to Doug's point. One of my concerns with the definitions, the way they exist, is that to me I think it sets up a dynamic that we create an expectation among some of our constituents that we can rebuild some of these stocks when we don't know if we can.

In other words, if we have a depleted stock – and I keep going back and I've read this definition that it is unclear whether fishing mortality is the primary cause for the reduced stock size. It is almost like that doesn't go far enough at least in my own mind. Some of these stocks, if we just put a whole bunch of scientists in a room and said can you rebuild this stock, I think there would be a debate about whether

or not it's possible to rebuild some of these stocks. There is sufficient uncertainty.

It's almost like we should add something to that that at least lets the public know that it may or may not be possible to rebuild. I'd use weakfish kind of an example. If we put the best and brightest scientific minds in a room and said can we rebuild the weakfish stock, I'm not sure that we'd get an answer to that. I just ask people to think about that a little bit.

And then the other point is I want to go back to winter flounder if you want to take these separately, to Tom's point on winter flounder, if somebody else wants to comment on that. I'm still uncomfortable with where we are with winter flounder. This isn't a criticism of the council, but we have kind of a disconnect that I don't think is doing either organization value.

The council has liberalized the winter flounder regulations in Southern New England; and it's because for valid reasons they changed some of the assumptions that they were using; specifically, the rebuilding time period, which allowed the council to liberalize the catch limits. The commission on the other hand hasn't changed its plan.

We have fishermen fishing out of the same port. One fisherman is fishing at a 3,000 – if they're in a sector I think the limit – and the council members can correct this if I misspeak – the sector representatives are fishing at 3,000 pounds and the state waters fishermen are fishing at 50 pounds; one side of the line and the other side of the line both fishing on the same stock.

It is like a disconnect and somehow we have to sort that out. This isn't the time to do that, but I think we collectively have to figure out a mechanism to bring those two sets of regulations together so they're kind of consistent within the overfishing requirements. In other words, I'm not talking about liberalizing the regulations or deviating from the overfishing standard. I'm just saying somehow we've got to reconcile those differences, because I don't think it serves our interest or the council's interest. Thank you.

MR. GROUT: To David's first point, one of the things that popped into my head is when we hear the comment a stock cannot be rebuilt is the question has something changed in the environment or that the target biomass level – the ability of a fish to get to a target biomass level has changed in absence of fishing.

There is potentially a couple of examples that I could provide of that where the target biomass have changed. I believe one was with yellowtail in federal stock assessment. I think it was Southern New England yellowtail, but maybe my council chairman, Terry, can help validate that; but that the biomass levels changed in a peer-reviewed stock assessment to a lower level.

Potentially we could even argue and make the point with Southern New England lobster where we set a different threshold level than had been there before. It was a recognition that given environmental conditions or habitat changes, in the absence of fishing you may not be able to rebuild to that old level. The concept that you can't ever rebuild, I think we've got to be cautious about using that statement. It just may be that things have changed in the environment that the rebuilding level has changed.

MR. G. RITCHIE WHITE: To continue to go down that line of thought, shouldn't we be footnoting the species where this is occurring not necessarily that it can't be rebuilt, but the majority of contribution to the inability to do it. Northern shrimp is a prime example. We can set anything we want in place there and you're not going to get shrimp if the water doesn't get cold.

When we're listing that in our species, it looks like our management decisions have put that in a situation that it's in, and shouldn't there be more recognition that management doesn't have much to do with some of these species.

REPRESENTATIVE WALTER A. KUMIEGA, III: I was wondering if instead of having terms for these stock statuses, that maybe we'd be better off with a numerical scale. The terms are somewhat misleading. Rebuilt to somebody may mean, well, woo-hoo, it is rebuilt, we can fish all we want. Shrimp would probably get a zero right now because it's closed; it can't support any fishing. There are so many nuances between their statuses that having four or five or whatever we have terms doesn't seem to fully describe what their condition is.

MR. WILLIAM A. ADLER: I want to just visit winter flounder in Southern New England. I've mentioned this before. When you look at the target and threshold on that particular species, I don't know who set the target and threshold so high; and you look at the chart on that and it's like it has never been there or it might have been there in the year 1862.

I'm not sure, but I think that somewhere in the goals of winter flounder Southern New England, somebody should probably take a look at that target and threshold and probably have to bring it down a little. Some of it may have to do with the environmental discussions we just had; but I've seen this forever, it seems, that, oh, yes, you're overfished and it is because the line is so high, it's almost like you could never reach it.

I don't know at what point do we get the scientists to try to say, well, maybe we should bring that down a little to more reality of the past I don't know how many years. I've brought this up before at the Winter Flounder Board, but I just want to continue to reiterate on that particular species I think somebody should do something to make the target and the threshold a little more realistic. I'll stop there; thank you.

MR. FOTE: I especially think about weakfish because that's the poster child where we did everything right. With cooperation with the South Atlantic Council, we got fish excluding devices put in on the shrimp fishery. We basically changed the whole way we market weakfish. It was no longer the six-inch fish going to like smelts.

Every fish had to be at least sexually mature before it was harvested. We cut down on the quotas and did a fabulous job and yet had no results. It went in the opposite direction after a period of time. It was not our fault; but when you put in overfished and overfishing, people say what are doing about this, how are you going to bring them back?

I look at them and I go you've got to call the man upstairs because we ain't getting them back by what we're doing. It has to be environmental conditions or, as the peer-reviewed stock assessment said, natural causes. Maybe we need to put an asterisk. Weakfish could all of a sudden rebound when the environment conditions are right. We've seen that over a period of time.

The other one is croaker. Croaker was down as high and now it's starting go down as low; and what could we do to influence that rebuilding might not be there and be a fishery – if it goes down, like it has in cycles, we'll start clamoring overfished and have to rebuild it; and I don't know if we're going to do much about that.

MR. ADAM NOWALSKY: Mr. Chairman, I think what I'm hearing is there are concerns from a number of people about a need to take a look at these

performance definitions and how we relate them. I'm not sure how we best go about achieving that. Everybody has been able to key on a particular species as an example. I'll use tautog as an example, which is listed as depleted, which says it reflects a low level of abundance even the SSB is at over 50 percent of the threshold.

I think if we looked at a glass of water that was over half full we wouldn't necessarily call that glass depleted at that point. It exhibits characteristics of stable, being consistent in recent years, viable on a slightly uptick of a trend; so there we have that species in one particular category, but yet it clearly could be put into a number of the others as well. That is just an example of I think you need to revisit these performance definitions as they currently exist.

CHAIRMAN DANIEL: With no other hands around the table, I'd like to summarize and make some comments. I was thinking that these comments might come up in the board deliberations, but they haven't. We have struggled back and forth and worked on these definitions for a long time; and I was ready to shut down any wordsmithing discussions that ensued this morning or today.

I think there are nuances and caveats with all the fisheries that we have; and every one of them, the original stock assessments and FMPs are hundreds of pages long that address that; so there is no way that we can provide a single definition or a single stock status that really is going to be reflective of everything we do. I just don't it's possible.

In North Carolina our stock status definitions, some of them are a page long and they address a lot of the concerns that Walter brought up and I think some of the other folks around the table brought up. The number idea is intriguing, but I think there are some minor adjustments to this table that we can make that may address a lot of the concerns around the table.

I would throw out for your consideration – I agree a lot with what Doug said; and from my perspective you can't be viable and rebuilding at the same time. That is inconsistent with at least our definitions is that by definition you're either recovering and rebuilding or you are viable. One of the things that I would suggest would be that we say "rebuilt/viable"; because if it is rebuilt, it viable.

Granted, those may vacillate up and down between the target and the threshold over time; and we don't really want to start saying, no, they're no longer viable because they're now not at the target; and then

just simply state "rebuilding" or "rebuilding/recovering", which is really the same thing; and then just simply indicate recovering and rebuilding stocks exhibit increasing trends; not stable, but increasing trends.

All you would have to do is take that work "stable" out; and then you would end up with a continuum that I think makes more sense or at least it does to me. You're either viable and rebuilt or you're recovering or you're depleted, concerned, et cetera. That way I don't think we need to really get involved in too much more discussion about the actual definitions. That's my view from the discussions around the table; and so I would open the floor again for comments on what I've suggested. Doug.

MR. GROUT: Just to clarify when you say we're taking out under rebuilding the "stable" word; so what if we have a – where would that stock be defined if you have a stock between the threshold and the target that is in the process of rebuilding but is at a stable level for ten years but still hasn't rebuilt.

CHAIRMAN DANIEL: Well, the way we've handled that is that it's still rebuilding. If it never met the target, then it is rebuilding.

MR. GROUT: I would still be rebuilding –

CHAIRMAN DANIEL: Yes.

MR. GROUT: – regardless of whether it is going up?

CHAIRMAN DANIEL: Right; if, for example, there is vacillations in the year class strength of red drum that live to be 60 years – you know, one of the questions we'll talk about today under the Red Drum TORs is when are we rebuilt in red drum? Is it after 60 years of healthy year classes are established or not? They could be under a rebuilding status for years and years and years.

But if you're sitting somewhere and you're below the target and you haven't been declared rebuilt or viable at some point – I mean at some point this commission is going to designate something as rebuilt or recovered; so it has never been rebuilt or declared rebuilt or recovered, it would remain in the recovering mode until it met that definition.

MR. GROUT: But you're going to take out those "stable" words?

CHAIRMAN DANIEL: That would be my suggestion but that's for the board to decide. It could be stable at a low level and that's not good; so then it

could be depleted. Stable would complicate the recovering definition in the North Carolina definition, which is inconsequential to this discussion, but it's not consistent.

MR. GROUT: Maybe I'm missing something here, but I thought if we're rebuilding we're already above threshold, right, so you're not stable at a low level. You're above the threshold but below the target; and I thought you just had originally said that the trend wouldn't make any difference if you're rebuilding, whether it is stable or increasing, but then you're taking out the "stable". It sounds like a circular argument there.

CHAIRMAN DANIEL: If you're above the threshold and just sitting there; are you recovering if you're not moving forward, if you're not increasing?

MR. GROUT: You're not recovering but you're in the rebuilding phase?

CHAIRMAN DANIEL: Right.

MR. GROUT: Okay, so we just have it as a rebuilding if it is stable?

CHAIRMAN DANIEL: You could. I mean, I think that will create some confusion, but it sounded like it already has by taking it out. I don't object to keeping it in there; that was just a suggestion. The key is being over the threshold. Dave Simpson.

MR. DAVID SIMPSON: I think my latest word that I have a problem with is "viable". Toni loves "depleted", but I look at definitions online of "viable" and basically it's capable of surviving. That's the gist of the definition. If any of our stocks are not capable of surviving, then we're way beyond a fishery management problem. You're declaring failure and an Endangered Species Act action. I think it serves us no purpose at all because it is extremely misleading. I would get rid of it; I wouldn't use the term "viable".

CHAIRMAN DANIEL: I have to confess that was my word. (Laughter) I've got to take credit where credit is due and blame where it's due. We ran into that same argument at home where we wanted to say "healthy"; and then we ended up with stocks that because of other situations they weren't necessarily healthy.

It would connote that, for example, bay scallops or something that could have contaminants in it were healthy, and that created a problem and human health

issues. We tried to come up with a word that we could use to define, and we clearly define it as being a stock that is capable of maintaining a sustainable harvest. That's the way we defined "viable"; we didn't use the Webster's Dictionary.

If there is another word that somebody – you could say "sustainable", but "rebuilt you get back into the same concerns that Dave brought up is that you may not every be able to rebuild; and so some stocks, they may never be able to be considered rebuilt; whereas, they might be considered "viable" if they're able to continually produce.

MR. SIMPSON: I think my problem was I looked at the Daniel Webster Dictionary and not the Louis Daniel Dictionary. (Laughter)

CHAIRMAN DANIEL: See, that's your problem, then.

MR. SIMPSON: Yes; so you may be thinking in terms of a viable fishery; you know, that it's economically profitable. What I was reading is it's a viable population and that's very different.

MR. LOREN W. LUSTIG: Mr. Chairman, I'm reminded that what we're discussing here today is probably going to go onto our website. It will go into documents and the like, and I was thinking about the concerned citizen with a reasonable knowledge base, will that concerned citizen come to an accurate conclusion? Hopefully so at the end of this discussion when they peruse these terms, they'll actually come to the correct and accurate conclusion. When I hear words like "complicated" or "confusing", then I lose hope on that. Let's make sure it's clear. Thank you.

CHAIRMAN DANIEL: So are you comfortable with "rebuilding/recovering", but keeping the "stable" word in? Does anybody object to that designation? Okay, so we're good there. You don't like "viable"; we have "rebuilt". Do you want to just leave it as "rebuilt" or do you want slash with that one, too. It could be "sustainable", "really nice", "good", "happy face", "emoticons". That is what we should use is "emoticons", the crying and everything. I'm cool with whatever you guys want, but "rebuilt" is fine with me, just to leave it as "rebuilt". Bob.

MR. ROBERT BALLOU: I just want to put a word in for "sustainable". I think it's a word that people have become increasingly comfortable with; and to communicate to the public, I like using "sustainable" in lieu of "viable". Thank you.

CHAIRMAN DANIEL: Any objection to “rebuilt/sustainable”? There is a concern with “rebuilt/sustainable”, Adam?

MR. NOWALSKY: Well, it’s not so much a concern with that, Mr. Chairman, as it is are we really going to be able to come to explicit definitions here today in the time we have allotted or would we be better served by charting some course how to better address this? I think we’ve heard a lot of concerns.

I think to Loren’s point, these are terms that are going to be attached to the species we manage for public consumption; and what we do with them and what people do with them, as they come here and provide public comment and input on these, I think this is really very important as it reflects the job we’re doing here. I think it deserves the time that we need to put into it however we best achieve that.

MR. WILLIAM J. GOLDSBOROUGH: With respect to sustainable, to me that’s a word that we would only use to describe a harvest level, whether or not that removal rate is sustainable, and not used to describe the status of the stock. Just like with “stable”, it could be sustainable at a low level; and in fact the lowest levels are probably the most sustainable. Maybe the thing to do is to use “stable”; but when we use it, always say “stable but a low level” or “stable”, but – you know, qualify it a little bit.

CHAIRMAN DANIEL: If somebody thinks that they’re going to read a sentence or two sentences that is going to adequately characterize the status of fishery, then they’re going to be disappointed. There is no way. As we’ve heard around the table, there are many difficulties and issues associated with Gulf of Maine flounder or winter flounder and whatever the issue is, weakfish.

You can’t do it. I don’t see that there is any way that this board, sitting around this table, is going to wordsmith and construct definitions above and beyond what we’ve already done. Where we are at this stage of the game is I think we’ve done this now twice or three times we’ve come back with these definitions.

If we’re not happy with these definitions, I guess we need to start over and try to do it again. I just don’t know that we’ll ever have a suite of definitions that adequately address every single concern about every single fishery we have. Really, it is up to the board to decide do you want to retain these definitions and move forward with these definitions as presented

here today or do you want to reboot and maybe set up a sub-group of the board to put together something; because staff has done as much I think as they can do to bring us something that is generic enough that it incorporates all the different issues. Doug.

MR. GROUT: I think the problem we’ll have is, you’re right, a problem that cannot be solved. More specifically, when people look at a word, they’re going to make their own definition. I think the important thing for the commission is to have a table with how we define it; so when people come and say, okay, rebuilt, what does that mean, this is what it means to the commission.

I think the staff has done a good job. I think we’ve got a couple minor tweaks that we were talking about here of coming up with some very simple definitions that will meet hopefully what our definition is. At least I’m comfortable with it the way it is. I don’t know if the rest of the commission is with this, but I think we’re at that point right now where we’re as good as we’re going to be able to get.

MR. NOWALSKY: I would speak in favor of further refinement, Mr. Chairman.

CHAIRMAN DANIEL: I think at least from our experience we’ve done that. They’re not going to be etched in granite on the front door; so we will be able to make modifications if we start to get questions about a certain definition. That’s hard for me to project what we’re going to see. I’ve got one very clear order to refine and either silence or comfort with where we are right now. Robert, you have a lot of consternation on your face.

MR. ROBERT H. BOYLES; JR.: We started this several years ago with the idea that at one point we had a date on these things; and we were going to hold ourselves accountable. Excuse me; our predecessors decided that we were going to be accountable and by 2015 we were going to rebuild or we were going to make satisfactory progress.

I think the issue we have here is one of accountability. Are we doing when we come here quarterly what we employ a staff and what we go home to try to accomplish? I think we all recognize the challenges that are not associated with controlling F; but I think at the end of the day I think we put ourselves in a perilous position if we tweak definitions.

Again, this is good conversation; but I think I go back to where we were. This was an effort to where are

we going to be in 2015; what is our report card; what are our shareholders going to have to say about the job we're doing? I just encourage us to think about that as we contemplate where we go from here. Thanks.

MR. WHITE: I was just asking Bob a number of years ago we used colors. I support living with these definitions, but then adding colors that are more general; and that would be for the public. You've got green, yellow and red. We can understand these for the most part; and if we lump this in general into the colors, the public will certainly understand the colors.

CHAIRMAN DANIEL: I have no objection to that; and I think that might get to one of Loren's comments. I think it does; he is nodding in the affirmative. Are we good with this? David.

SENATOR DAVID H. WATTERS: Mr. Chairman, I hope that we will be cautious in terms of the definitions we use for a couple of reasons. First, if you look at the long historical record into which we entered, there has been baseline creep in terms of what these stocks may have been decades ago. We have to realistic and deal with the situations that we face in terms of what is practical on these stocks.

I would hope we would be quite cautious, though, in determining that something is viable when it's at a relatively low level historically. In terms of the 2015 aspirations, of course, they're aspirations, but I think it's our job as a commission to hold ourselves, again within practical means, to understanding the task before us is to do what we can to increase stocks and make them truly sustainable.

I also feel as we're moving more towards ecosystem-based management that we're going to be understanding that some of these low stocks and thresholds might appropriately be higher; and we've already seen arguments about that in the last couple of years. I'm happy to go forward with this, but I do think we need to have some understanding that I think the public might look at those viability ones and say, well, why are they calling that viability or potentially patting themselves on the back when we know that these are very low levels. Thank you.

CHAIRMAN DANIEL: Thank you; good comments. What I have from the discussion around the table is the two categories that would change would become "rebuild/sustainable"; the "viable word goes away; and the "viable/rebuilding" definition would be "recovering/rebuilding"; and then with the definitions as they are in the table right now with

colors in the red, green and yellow to designate to the public what we deem is good versus they may perceive as good or bad.

With the one exception that I've heard from; is everyone in agreement with that approach? Seeing no objections; that is the way we will proceed. Thank you for a very good discussion. We have a lot of those on tap for today. I do want to tell you before I move on to the next agenda item that, again, we had a very good spirited discussion at our executive meeting this morning.

The business will be a very important meeting for everyone to attend. I know a lot of times folks say, "Well, we don't have anybody to find out of compliance, so we'll skip that." Please do not skip the business meeting today. It occurs right after lunch, but there are very important discussions and very important information coming from the executive committee that needs to be go out to the full commission for discussion and comment as well.

Before anybody decides to leave early from this meeting, I just wanted to make sure you got that.

CONSIDER COMMENTS ON NOAA FISHERIES SPECIAL MANAGEMENT ZONES PROPOSED RULE

CHAIRMAN DANIEL: All right, the next item on the agenda is a review and consider comments on NOAA Fisheries Special Management Zones Proposed Rule. Dave, this is your issue and I know you're keyed up; so if you would like – Dave, let us go through the presentation first. I know you're lined up to ask questions after Toni has given her presentation.

MS. KERNS: NOAA Fisheries has a proposed rule on special management zones off the coast of Delaware for five artificial reef sites. They extended the public comment period and comments can be submitted until August 19. I'm going to present information on these artificial reef sites, trying to get feedback from the policy board on whether or not the commission wants to submit comment on the proposed rule; and if so, what do those comments want to be.

These artificial reef sites are proposed in the federal waters off the coast of Delaware for artificial reefs that have been sponsored by the Sportfish Restoration Project Funds. In maintaining the funding for the building and the maintenance of these sites, there is

need to have only recreational fishing being used in those areas.

Having commercial fishing in those areas goes against the rules of the original funding for the program. It proposes to only allow hook-and-line and spearfishing in the areas. Part of the rationale is to limit the gear conflicts on the reefs. They range in distance from four to fifty-eight nautical miles offshore; they are rectangular in shape; and are proposed to have a 0.46 kilometer or 500-yard buffer zone around each of the areas that range from 7.42 to 8.81 square kilometers.

In briefing materials there is a chart showing where those reefs are. It was a PDF and I could not transfer that over into a picture, so I apologize. Some of the impacts that are listed in the proposed rule; it is information that comes from the vessel trip reports that are shown within 0.46 kilometers of the reefs.

In Site 13 there are greater than ten commercial fishing trips from 2008 to 2010. In Site 14 there is greater twenty trips in 2009. At Site 11 there is seven to twenty-five trips from 2004 to 2006; but that number drops in the more recent years, 2008 to 2010, to three to eight trips. Site 11 and 13 are dominated by pot and trap gear; and Site 14 was dominated by the trawl and dredge gear. The gross income impacts on the percent of total average of gross income for those vessels that are fishing in these areas.

You can see that less than 5 percent of these vessels that are fishing in this area for the small shellfish is six businesses; for a large shellfish business it is only one; and for small finfish it is three. From 5 to 9 percent of their income coming these reef sites; it is very few; only one in the small shellfish and one in the small finfish; as well as the 10 to 19 percent.

There is only one entity that has 20 to 29 percent of its revenue coming from these areas; and it is a small finfish entity. Additional impacts; you would have increased availability of fish to the hook-and-line and spearfishing if you no longer have commercial fishing in those areas. The commercial effort would shift to other areas.

For the fixed gear, these shifts may result in increased gear conflicts because they're forced to move into areas with mobile gears; and that also could potentially lead to increase gear damage or loss, but it's difficult to determine the full impact since you don't know exactly how people would move. If they do move to other sites, those sites

could be less productive, depending on where they move to.

The New England Fishery Management Council submitted comments to NOAA that were in the supplemental materials. We reviewed them. Terry, if you have anything additional that I left out, please let me know. Their comments are mostly pertaining to Area 14, which overlaps with scallop, skate and monkfish fishing grounds.

That area is within the Elephant Trunk Scallop Rotation Area. That area has been open since 2004 and has proven to be a very valuable and productive fishery. The council found that the analysis that was conducted for the EA was incomplete. There were no impacts on the monk and skate fisheries and no overlays of the management zones in the SMZs were conducted.

The council found the center survey overlaps with Area 14; and it shows very high concentrations of offshore scallop beds with Site 14. VTRs are likely an underestimate of impacts, but no attempt was made to correct such an action. For example, you could use VMS to do these impacts.

The EA also does not account for any of the inter-annual variation of the fishery due to the rotational aspect of that scallop management area. They're recommending that NOAA goes back and redoes the analysis for that. Also to note; there is currently no artificial reef within Area 14; so it is open fishing ground right now; and closing the area would be actually closing an active fishing ground.

The council predicts that depending on the timing of the fishery, you could have a loss between one and twenty million dollars since it is a rotational fishery. There were also comments submitted by Delaware.

Delaware had suggested that they also have these SMZs within their state waters; and they do not have buffer zones around their reefs in Delaware. Their fish and wildlife enforcement agents don't consider this to be a problem to not have buffer zones; so they're recommending to have no buffer zones.

Delaware only includes featureless bottom sites, but in most cases natural wrecks adjacent to sites within the proposed buffer zones. These are traditional areas for commercial pot fishermen; and they don't believe that those areas should be lost. They also noted that the precedent for a proposed buffer may have been established by the South Atlantic Council

within their snapper grouper fisheries; and they have been in effect for over twenty years.

At that time the Loran was the best navigational aid; but today since we have GPS, it's easier for vessels to identify and pinpoint their location so that you wouldn't need that 500-yard buffer zone. Again, I'm looking to see if the commission should submit on the rule; and so, what are the issues that we would want to address.

CHAIRMAN DANIEL: Questions for Toni? Galen.

MR. GALEN R. TROMBLE: Just one clarification; the federal rule does not prohibit commercial fishing, per se. It is a gear restriction, so commercial fishing with hook-and-line gear would still be allowed in the areas under the rule.

CHAIRMAN DANIEL: But scalloping would not?

MR. TROMBLE: With mobile gear. If you could catch them with hook-and-line, I guess you could. (Laughter)

CHAIRMAN DANIEL: Can you do that?

MR. TROMBLE: No, you can't do that.

MR. STOCKWELL: Thank you, Toni, for a good summary of the council's letter. Just to follow up on the last comment, the New England Council did ask if this was to move forward, to consider exempting mobile bottom-tending gear from Area 14. In your supplemental materials there is a copy of a letter I wrote last week; and there are three pages of graphs that depict the area and exploitable biomass.

MR. ADLER: In the statistics, Toni, that you came out with like a percentage of income and percentages of stuff, we've run into this in a different issue, the whale issue, and trying to say, "Well, you know, nobody fishes here or very few fish here, it is not a big deal." As we've always found out in that issue had to do with, yes, there's not too many; but for the few that do; it is a very important area for them.

I don't know whether the statistics just throw everything together like they did in our thing; it is a very small percentage of income, it is a very small percentage of fishermen, it is a very small – yes, it probably was, but it was very important to those few that were there.

I'm not sure the way the statistics are gathered, they go, well, very small amount of money was earned –

yes, maybe it was a lot for one guy and not a lot in the overall picture. I wanted to ask Russell, if I could, have you heard anything from the fishermen in that area about this issue? That's where I'll stop.

CHAIRMAN DANIEL: Do you want to address that, Russell?

MR. RUSSEL DIZE: To be honest with you, that is handled by the coastal groups and mostly what I look at is the Chesapeake Bay area. I haven't had any input from the coastal groups on this.

MR. THOMAS O'CONNELL: We've shared this proposal with our coastal fishermen and have not heard any objections up to this point.

MR. MARTIN GARY: I've had a chance to dive several of those sites off of Delaware myself; and I've seen a number of the fish pots. The ones that are in the periphery of the material that is put down, whether it is subway cars or whatever that material is, concrete, everything seems to work out well. The interactions I've had with the recreational fishermen and the charterboat fishermen and the partyboat fishermen, it seems like that coexist fine.

The issues seem to manifest themselves when the gear is wrapped up in the material. I've come upon a couple of pots while I was diving where they were entangled in the material. I've actually released over a dozen and half tautog and sea bass that are tripped in the pots. I guess my question for Toni or the Delaware folks is what is the exact nature of the conflict? Is it that the fishermen are encountering numerous buoy gear that are in the vicinity they just can't fish those locations? It does appear that as long as the fish pots are on the periphery, everybody seems to coexist in harmony.

CHAIRMAN DANIEL: Dave, can you address Marty's question?

MR. DAVID E. SAVEIKIS: Yes, thank you, Mr. Chairman. The primary conflicts are in addition to the funding restriction issue with the U.S. Fish and Wildlife Service and the sport fish restoration is our recreational fishermen are encountering conflicts with the commercial pots. The recreational fishermen are entangling in those, and it is a direct gear conflict. Hopefully, that answers the question.

Now, a couple of other points I want to reiterate. The statistics really don't fully capture the impact I think of – Bill brought up the issue before – fully capture the impact on a few select commercial fishermen that fish the area. There are significant economic impacts

to a couple of our fishermen. Our Tidal Finfish Advisory Council in the state supports the concept of the SMZ but does not support the 500-yard buffers. The Division of Fish and Wildlife also did not ask for that 500-year buffer and intend to submit comments requesting those be removed.

MR. BOYLES: Earlier reference was made of the South Atlantic Council. I'd just like to maybe ask a question just for clarification and also comment about our situation with our reefs. In the South Atlantic I believe it's a gear restriction. Also, the restrictions on possession are limited to the personal possession; so it is in effect – I guess it has the effect of being a recreational bag limit and possession limit on the SMZs off of South Carolina at least. I guess the question for NOAA Fisheries and Delaware; is that what is contemplated here?

MR. PAUL PERRA: No; the possession limit is whatever it is recreational or commercial, depending on how you're fishing. The restriction is just for the gear.

MR. NOWALSKY: Does Delaware have any response to the concerns about Reef Site 14 or a suggested way forward?

CHAIRMAN DANIEL: Will you ask that again?

MR. NOWALSKY: Does Delaware have a suggested way forward or a response to the concerns about Reef Site 14?

MR. SAVEIKIS: Reef Site 14, when that was originally permitted, the area was closed; and we have no concerns with removal of that. In fact, we will be submitting comments to support removal of 14 from the SMZ.

CHAIRMAN DANIEL: Does that address most of the concerns that have been discussed?

REPRESENTATIVE KUMIEGA: Terry was just showing me his scallop chart; and it seems a little odd that you would put something like that in a productive area. I thought typically artificial reefs go places that aren't very productive, to make them productive, and this is already a productive scallop bed. It seemed a little odd.

MR. SAVEIKIS: I want to reinforce that. When it was permitted, it was a closed fishery at the time; so currently we don't see the justification for keeping 14 as an SMZ.

CHAIRMAN DANIEL: I know when we discussed the South Carolina SMZs at the South Atlantic Council years ago, one of the big concerns – and you may have dealt with this in Delaware – was the funding sources of those reefs. I believe, if I'm not mistaken, Robert, that South Carolina funded all their reef material with Wallop-Breaux funds that were recreational dollars; so that was one of the big issues. Let me go to Robert.

MR. BOYLES: Mr. Chairman, I'll answer it in the form of a question. Yes; that is in fact the case; and off of South Carolina there are a number of areas that are known as artificial reefs that were not constructed reefs. There were old shipwrecks, and I guess that's my question to Delaware. These are all constructed with federal aid dollars as the case was with the South Carolina SMZs; Dave, is that correct.

MR. SAVEIKIS: Robert, that is correct, yes, using federal Wallop-Breaux funds.

MR. BOYLES: Just to follow up; I think this is a very reasonable request. I think given where we were in South Carolina, our community came to us. Again, I think it's important to note that this is not exclusion of commercial fishermen, but it is a gear restriction. I think that satisfied, at the time, NOAA Fisheries; and I support the request.

CHAIRMAN DANIEL: All right, with that, I know Dave Frulla would like to address the board.

MR. FRULLA: Mr. Chairman, my name is David Frulla; and we represent the Fishery Survival Fund, the Limited Access Scallop Fleet. I really should probably quit while we're ahead, which is a good admonition. We really appreciate Delaware's offer to take Site 14 off.

If I may, just for a minute, give you a little bit – for those of you in New England, you know this pretty well and many of you from the Mid know this, but I just want to sure that folks understand what we talk when we're talking rotational scallop management.

There are two elements to the scallop fishery in New England for the Limited Access Fleet. One is days at sea, that you get a certain number of days at sea; and the other are these trips into access areas where access areas are – they're trip-limited. The fleet gets a certain number of trips per year. These areas rotate and they closed, almost like rotational farming, based on when scallops set there.

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There are areas in New England that are a bit different because of the Georges Bank Closed Areas; and those areas are drawn and permanent and are drawn without regard really to scallop abundance. There are three areas in the Mid-Atlantic, the Hudson Canyon, the Elephant Trunk and Delmarva going north to south.

Those areas were drawn and are used because those are historic areas of scallop settlement. The Elephant Trunk is in the middle; and it's the one we're concerned about. That has seen in the sixteen years I've been doing scallop management the largest set of scallops we've ever seen. There is one that may be a little bigger off southern Georges that is coming along now.

There is a very, very good set in the Elephant Trunk right now as well that are coming along and we expect to open in a year or two. You wouldn't see with these areas fishing every year. You would see it periodically, which is what you see in the tables. That shouldn't come as a surprise. One thing I think I would note, though, to Mr. Adler's comment through the Chair is that this may not be an issue here of a handful of fishermen being especially dependent on this area and not from the scallop fleet, but it is the fleet.

If I'm understanding it correctly, when you use the VTR data, you only report VTR information once when you're fishing in a statistical area; so that means there is the random chance that you happen to report when you were on that site which is presently open to fishing; so you've got a little bit different dynamic working here.

The other point I'd note is that just in terms of the haul length information and the number of hauls per trip that are reported; you tend to get a different – again a different set of considerations in scallop fishing when you're in an access area because these are areas of high abundance and high grow-out; so you're going to take shorter hauls and fewer trips. Thank you. Again, I just appreciate – I don't want to belabor this. I hope you do decide to recommend taking Area 14 out. Thanks for the opportunity to address you.

CHAIRMAN DANIEL: Thank you, Dave. What I hear around the table is an interest in perhaps sending a letter supporting the Delaware request for the SMZs with the exemption of Area 14.

MS. KERNS: No buffers.

CHAIRMAN DANIEL: Or buffers. Is everybody comfortable with that? Dave.

MR. SAVEIKIS: We would also like to extend and appreciate if the Atlantic States would also comment in support of removing the proposed 500-yard buffers.

CHAIRMAN DANIEL: Yes; and removing the 500-yard buffers. Bill.

MR. ADLER: Yes; removing the 500-yard buffer from just 14 or the other areas?

MR. SAVEIKIS: All the areas; and then 14 would be a moot point if, indeed, it was eliminated from an SMZ.

CHAIRMAN DANIEL: Yes; I think everybody kind of gets what they want here. Paul, welcome.

MR. PERRA: We proposed the measures exactly as recommended through the Mid-Atlantic Council. The Mid-Atlantic Council got input from enforcement; and that's the reason they put in the buffer. There was debate about a thousand yard buffer; no buffer was a compromise. Just for your information, the Mid-Atlantic Council is going to meet next week here in Washington; and they have this item on the agenda. Without input from enforcement, I'd be kind of concerned about how the commission would comment on the buffer.

CHAIRMAN DANIEL: From our understanding, Delaware's enforcement indicated it was not an issue; is that correct, Dave?

MR. SAVEIKIS: An additional follow-up, I want to point out around most of these sites there are existing wrecks that are natural wrecks for which there are really no conflicts; and then that 500-yard buffer would preclude our sea bass fishermen specifically who are potting on those wrecks that are outside the SMZ or the reefs that we establish. These naturally occurring wrecks would be unduly impacted if there was the 500 yard; and we feel that is unfair to our commercial fishermen.

MR. BRANDON MUFFLEY: Mr. Chairman, just two points from New Jersey's standpoint. Regarding the Wallop-Breaux funds, New Jersey did lose its federal aid funding specifically to build artificial reefs because of these conflicts. It has been two years since New Jersey has had these funds available; so it is a real issue that is there. And, two, just to inform the board; New Jersey Division of Fish and

Wildlife will be submitting comments as a state agency in support of the proposed measures as well.

CHAIRMAN DANIEL: Supporting Area 14 be included or not?

MR. MUFFLEY: Well, that hasn't been discussed. The letter hasn't gone out yet so we can modify the letter to include it. We would support that.

CHAIRMAN DANIEL: Yes; I think for our Mid partners on the commission, getting your agreement with this would probably be helpful, for sure. We can't control that; but we're also a lot bigger than the Mid-Atlantic Council, so we can take them, if we have to. (Laughter) Anything else on the SMZ request?

If there is no objection to the letter; then we will draft a letter probably for Bob's signature doing exactly what we all agreed to. I will refresh one more time that we will support Delaware's request for SMZs with the caveats to remove Area 14 and remove the 500-yard buffer requirements. That is the position of the commission on that issue. All good? All right, let's move on. Next on the agenda is the stock assessment updates.

STOCK ASSESSMENT UPDATES

ATLANTIC MENHADEN

DR. GENEVIEVE M. NESSLAGE: I would like to update you on the status of the Atlantic Menhaden Assessment. I'm pleased to report that we are still on schedule for a peer review in December through our host down at SEDAR. We have held, in preparation for this assessment, 12 meetings. Those include nine webinars and five in-person meetings, including our first assessment workshop, which was held in June.

We did not complete all of our tasks at that workshop; and we felt we needed one more to finish things up; and so we'll be holding that next, actually, down in Beaufort once more. I would like to briefly review the items that we did manage to complete at the June assessment workshop. We did review and finalize all input data sources and decisions regarding those data sources.

We reviewed all parameter and model configurations options. We identified the base and the long list of sensitivity model runs that we'll be completing. We also reviewed the progress on the historical tagging data analyses that have been going on. We also began initial discussions on biological reference

points; and we will be revising that topic extensively next week again.

We provided feedback on development of the assessment model. Some preliminary models had been built, but we changed the configuration so much that they needed to be rerun. We will be reviewing the results of those next week. Then we also were provided with a stakeholder analysis of the potential effects on menhaden migration on our estimation of fishery selectivity patterns. We did review that consider it as information for the assessment.

I also want to update you briefly on the Ecological Reference Point Working Group's progress. The group held two conference calls since I last updated you; and we met in June during the Technical Committee Meeting Week to finalize our work on the TOR Number 7 for the Atlantic Menhaden Assessment.

Just to remind you, that was to identify potential ERPs that could account for menhaden's role as a forage fish and to provide the peer reviewers with an idea of where we think we might be going with that methodology and what we think might be the appropriate approach and then get some construction feedback from them on those ideas.

At present we have identified multiple ecological reference points as candidates and several different tools or models that we might use to calculate those reference points. Those are all still under consideration and will undergo further vetting as we proceed this fall. We hope to review at least the preliminary results from most of our models at our September Technical Committee Meeting Week.

Those will be included in the Atlantic Menhaden Assessment Report to address TOR Number 7. Just because the way our process works, the Atlantic Menhaden Technical Committee will then review the entire report, including the ERP Plan; and that will be at meeting in November, before it goes to peer review.

Then, obviously, the peer review panel will hopefully provide some constructive feedback on our idea. Just recap the whole timeline – I know some of you are interested in the exact dates – throughout the rest of the year, we will again next week have our August 12 to 15 Assessment Workshop again in Beaufort.

In September, during Technical Committee Meeting Week, the ERP Working Group will be meeting again to finalize our ERP Plan. We will have

numerous phone calls to cross the t's and dot the i's, I'm sure. Then November 5 to 6, the technical committee will do the final vetting and approval of the report for peer review and the peer review will be December 9 to 11 in Atlantic Beach, North Carolina. Then we hope to have the finalized assessment and peer review report to you at the February meeting in 2015. I'm happy to take any questions. Thank you.

CHAIRMAN DANIEL: Bill, I just assumed.

MR. GOLDSBOROUGH: Well, thank you, Mr. Chairman. Actually, I will take the opportunity to ask Genny, just because I'm curious, were any alternative models or modeling approaches submitted for consideration?

DR. NESSLAGE: For the meeting next week you're speaking about or the first meeting? Next week, yes, Doug Butterworth and Rebecca Rademeyer have submitted through Omega Protein, as consultants for Omega Protein, have submitted an alternative model and some conclusions based on those models. They submitted it a month ago in preparation for this meeting; and we've had a chance to vet it and review it. He will be presenting at the meeting and then we will be discussing its merits at that meeting.

CHAIRMAN DANIEL: I figured you had an interest there, Bill. That was with all due respect. Any other questions on menhaden? All right, next is tautog, Katie.

TAUTOG

DR. KATIE DREW: I don't actually have any slides for this because this is going to be a very short update. After our assessment meeting this summer, the Tautog Technical Committee sort of took a step back to reconsider some of our regional definitions within the assessment. Had we decided to completely redo those, that would have delayed us more; but we've decided to go with the ones that we did most of the analyses on.

As a result, we're planning to go peer review sometime in October or November. As a result, we won't have the final assessment and peer review report ready for the October board meeting, but we will have that done for you in time for February. I will take any questions on that.

MR. NOWALSKY: Will there be both a coastal and a regional analysis, a VPA going to peer review or only one of the other?

DR. DREW: There will be both. There will be a coast-wide modeling approach, which is sort of the continuity run, if you will, to compare to the previous results; and then we will also be doing separate assessments on a regional basis.

MR. SIMPSON: Can you remind me what the regions are you will be doing. Right now we have a Massachusetts/Rhode Island assessment and how does that fit into the regions?

DR. DREW: The regions will be Massachusetts, Rhode Island and Connecticut as a single region; New York and New Jersey as a single region; and then Delaware, Maryland and Virginia as a single region.

MR. SIMPSON: I just have to say it will be interesting to see how we figure out how to split Long Island Sound in two and those two highly overlapping fisheries. I don't know if there is something we can do to sort of anticipate the logical disconnect if the rules are even more different in the future than they are now between our two states' waters.

MR. NOWALSKY: To that point, Mr. Chairman, I was just wondering if you could provide any insight to the board about how that region is working with – are you just splitting a line down the middle of Long Island Sound or how is that contributing to the regions?

CHAIRMAN DANIEL: I would have to ask Katie to answer that or somebody from staff. I would have absolutely no idea.

DR. DREW: Do you mean from a management perspective or from a science and data perspective?

MR. NOWALSKY: From a science and data perspective and then how you would expect us to filter that into the management process.

DR. DREW: That's a good question and it's something the technical committee struggled with as well of do we lump Connecticut with New York and New Jersey or do we put Connecticut with Massachusetts and Rhode Island. I think we went with putting them with Massachusetts and Rhode Island on the basis on the available indices and the trends that we're seeing as well as some of the biological information that in terms of growth rates they appear to be more similar to the Massachusetts and Rhode Island stock then to the New York and New Jersey stocks.

We recognized that obviously there are removals from the Long Island Sound System that may not be getting perfectly accounted for with the data that we have. In terms of going forward with management, I think that's a question for you guys of are you comfortable with having separate regulations within Long Island Sound; and if you're not, how can you make those line up with where the stock needs to be at.

I don't think we're anticipating – obviously, I can't speak to the final results, but I don't think we're anticipating a situation where one stock is overfished and needs immediate reaction and the other stock is perfectly fine and needs no intervention. I think there is room to compromise in terms of types of regulations that will be needed within Long Island Sound so that you can get a consistent management program in this area.

CHAIRMAN DANIEL: Yes; and that's enough on that because this is just an update on the delay in the stock estimate. We're not going to get into a discussion or debate on the assessment or any other things like that. Nope! Now go ahead with the sturgeon.

STURGEON

DR. DREW: I do have a presentation for this. For the Atlantic Sturgeon Assessment, basically progress so far we had a data workshop in the fall of 2013 where we brought all of our technical committee members as well as some outside expertise together to sort of review the available datasets and try to figure out where we're going to go from here.

After that we formed subcommittees of the stock assessment subcommittee to focus on genetic information, tagging and bycatch that all contribute we hope to the overall assessment. These have met via conference call and webinar since then; and we have tentatively scheduled an assessment workshop for the fall of 2014.

However, through the data-gathering process, the stock assessment subcommittee has identified a number of ongoing projects that you're actually getting a list of now that have been funded either through Section 6 funding with a start date of 2010. The completion date was 2013 and a lot of them got no-cost extensions through 2014. These are acoustic tagging programs, genetic data to give us information on movement, spawning, life history, mortality rates.

The problem is they are all ongoing now; and so it has been difficult to get the data both because the PIs are reluctant to hand out data that is incomplete and where the project is not finished yet as well as being reluctant to hand out data that may undercut their future publishing opportunities. As a result, we need additional input from the board because we have identified basically two timelines that the assessment can proceed on.

The major difference between them is our ability to get down to a stock or a system or a DPS level assessment for a lot of these datasets. The data from these projects will greatly enhance our ability to assess Atlantic sturgeon on a stock or a DPS level. Unfortunately, waiting for those data to become available, though, will probably delay completion of the stock assessment until 2017.

We've put together as part of the memo sort of a timeline of what kind of analyses we're looking at and what level that we can complete them at. This was part of the memo that went out in supplemental materials. Basically the point is on the coast-wide level there are a number of things that we can do to be completed and reviewed in 2015 that we would get to as well in 2017.

Those would include things like trend analysis where we're looking at relative changes in abundance, tagging models to give us estimates of mortality across the coast, data-poor models to look at historical stock size and potential productivity of the stock, SPR reference points to give us something to measure against; and historical proxy reference points, again to give us something to measure against. These can be completed on the coast-wide level in 2015.

Waiting until 2017 would allow us to get better information or new information to a lot of these analyses, but more importantly would allow us to go down to a finer scale to assess this species on. A lot of the trend analyses we may not necessarily be able to do on a stock or a DPS level; and definitely the tagging model we could not complete at a stock or DPS level to give us estimates of total mortality.

The data-poor models we can't do on a stock or DPS level at this point. We could do SPR reference points for some systems; but again without a measure of mortality to compare it against, they're not very useful. Similarly with the index reference points, unless you have something to compare it against, they're not very useful.

Whereas, if we wait for some of this new information that will hopefully become available over the next year or so, we will be able to get down to a finer scale for this population and a more appropriate modeling level for this population, whether that's stock or DPS or river system. What we're looking for from the board is basically input on the timeline that you prefer based on your management needs and objectives so that we can start to prioritize the work that we're doing and create an assessment timeline to fit that schedule. Thank you.

CHAIRMAN DANIEL: Very good summary. Let me just add to Katie's report one little caveat. I appreciate very much Angela Somma being here with the Protected Species Group. If you'll recall, whatever it was, two years ago when the stock was declared an endangered species in most jurisdictions and threatened in the Gulf of Maine, I believe it was, we were encouraged to move forward with an incidental take permit. We all were. I don't know what progress has been made particularly in those states north of North Carolina where they have gill net fisheries that are known to interact with Atlantic sturgeon.

The issue that we face is that in North Carolina we have an incidental take permit now. We got it a couple of weeks ago signed sealed and delivered. I'm implementing an incidental take permit right now. I don't know if any other states are doing that yet or not and how close any of the other states are with their incidental take permits.

For those of us that have one or are almost ready to have one and will begin implementing them, I'm facing the risk of having to close my fishery down if I catch a certain number of sturgeon. Nobody else does. Because they didn't move fast enough or they haven't worked hard enough or whatever the issue might be, they don't have an incidental take permit.

As far as I know, Georgia and North Carolina are the only two states that have incidental take permits on sturgeon. Because of that, we may be extremely disadvantaged by having that permit. That increases the importance from having a stock assessment done as quickly as we possibly can in order to try to get some sense on what the status of stock is.

We have had discussion at the board level as to the concerns at least that I have expressed about using the stock assessment and some SPR value to determine whether or not a stock is endangered or not. That is a precedent that could be very dangerous. Especially for something like winter

flounder or a stock that is at a very low SPR rate that could create some real issues for us.

What I'm hearing now is that in order to have a good and concise stock assessment, that we're going to be three years off from even being able to have a stock assessment even done on Atlantic sturgeon. If you look at the memo that was passed around, there is almost ten million dollars, if not more than ten million dollars, being spent now to collect this correction.

It would have behooved us to have that information before the listing occurred; and I think there should be nods in agreement all around the table about that, but they're not. They're endangered species and so we run some real serious risks of being able to handle lawsuits that may come down on us.

I'm not trying to sway your decision in any way, shape or form, but I think that's an important component for those of you with inshore gill net fisheries that interact with sturgeon to keep in mind as you discuss or deliberate on whether or not to – because today we have got to provide guidance to staff do we want the quick and dirty, right out of the gate and do the more comprehensive one later?

I think with the importance that this could have and with the expense that the states are going to have to go through to develop these ITPs and implement them, it might behoove us to do both and modify our schedules accordingly. Again, that will be up to the ISFMP Policy Board as to what to do. I just felt like that was important information for you to have.

I'm sorry if I was proselytizing from the Chair on the state of North Carolina, but I'm only aware of North Carolina having the ITP that is active and is going to be dealt with every day. First I had Dave Borden.

MR. BORDEN: Mr. Chairman, I was going to ask the question that you actually led into is why can't we do both? In other words, if we do both I would envision we get the results of the first phase – and the staff I think has done an excellent job of articulating that it is not going to be as fine a resolution as we need to manage based on the DPS; but we could take some action, a general action to help protect the stock and then move on with a more detailed analysis in which will put us in the position where we can actually manage down to the DPS level, which is what we need to do. Could we have a discussion about what are the pros and cons of doing both?

CHAIRMAN DANIEL: If I could ask either Katie or Bob to address the potential issues and how that might impact our stock assessment plans to do both.

DR. DREW: I think our concern with doing both is that it's a tremendous amount of work. What you're talking about is dedicating a huge technical committee to five years of work for the foreseeable future; and right now we're struggling to get work done with people's current workload.

If you want us to do it that way, is to do a fast, rushed assessment to get at this broad coast-wide level, which will then be immediately probably questionable due to the new available data that is going to relate to the coast-wide population and then immediately send that staff back to work to redo a lot of these analyses and do them on a finer scale; so I'm not saying that it is impossible, but what I'm saying it is a tremendous amount of work from all of your technical committee members.

We've already struggled to get work to get data done with people's current workloads; so to commit that much time and staff energy I think would be a con to the approach of doing them both. Obviously, you guys have your own concerns from a management perspective on this; but that in my mind would be the biggest con is that you would do something that would then later become out of date due to the availability of new data as well as having committed a tremendous amount of technical committee resources to something that becomes out of date and then requires additional work on their behalf to be done in 2017.

SENATOR WATTERS: Mr. Chairman, I hear and attend to your concerns that you've mentioned about your particular situation in your state, but I did want to hope the commission look very carefully at what we heard from the technical committee about this. I think there are a couple of important points here.

One is I think we need that tagging information because that is really what is going to help us make decisions as to what is causing mortality. Secondly, I think the historical information is particularly important. Because of the longevity of the species and the uncertainties about what we're looking at, I would recommend to people who want to really look at the best long-term study that has been to sturgeon is Jeff Bolster's Book, "The Mortal Sea"; the chapter on sturgeon that goes back several centuries and up to recent times. We need more of that information.

The third concern I have here and I think the most important one is the availability of peer review. Especially in the context of the endangered species filings, if we are not able to have full peer review of the materials that are brought forward, I think it is going to hurt the credibility of what we're basing our science for. I would respectfully argue to listen to the technical committee here, to it once; you know, measure twice, cut once, do this for the 2017 and then have the assurance that have taken advantage of what is available to us to make appropriate management decisions. Thank you.

MR. BALLOU: Mr. Chairman, a key issue in my mind is how our assessment, whether it be something sooner rather than later, ties in with the federal government's schedule for revisiting the listing, which I understand is on a five-year cycle, if I'm not mistaken. Maybe I said that wrong, but it's something along the lines of once listed, that listing can't be revisited or wouldn't be revisited for at least five years; but come five years there is a portal, if I understand, to revisit.

I would want to make sure that we take full advantage of that opportunity by providing whatever information we have at the earliest possible time in influence a potential reconsideration and wouldn't – although I totally appreciate the sentiments just expressed about a peer-reviewed assessment and getting the best available information to the Service, I'm challenged by the issue of delaying too much and by doing so not availing ourselves of the earliest opportunity to encourage a revisiting of the listing. Thank you.

CHAIRMAN DANIEL: Thank you, Bob; and I think with both Galen and Angelia here, if I misspeak they'll correct me, but I believe that we could petition to have them delisted at any time. I do believe – and Angela is coming up so I'm not going to say anymore until she corrects me.

MS. ANGLEA SOMMA: Angela Somma; I am the chief of the Endangered Species Division for the National Marine Fisheries Service. No, that is correct; you could certainly petition at any time. There is a five-year review requirement. We did list Atlantic sturgeon in 2012; so in 2017 we will be obligated to do another review of the status to determine whether the current listing classification is accurate or whether it should be revised.

You will also recall that NOAA Fisheries made a commitment that once the stock assessment was completed, even if that is before the five-year

timeframe, that we would look at it and determine whether there was sufficient information there that would cause us to do a new status review even earlier than the five-year timeframe.

CHAIRMAN DANIEL: Thank you, Angela; and again thank you for being here. We appreciate that. I certainly hear Katie loud and clear. Again, it is what is a priority for you and your staff and your state with doing it both ways. Walter.

REPRESENTATIVE KUMIEGA: Mr. Chair, given what we just heard, I think it makes sense to do this once and do it right. I don't think we're going to have a good enough stock assessment. If we try and do it for next year, it is not going to be good enough information to change the listing status and that's really what we need to do if it is warranted. We need good data and we need a good study, so I think it's do it once and do it right.

MR. BORDEN: I'm sensitive to the staff concerns about workload; and I certainly don't want to impose any more work on the staff than is absolutely necessary. I totally agree with the last comment that it's critical given the experience we've gone through over the last two years to do this right. I would support the 2017 timeline; but I'm not sure that we shouldn't do something in addition to that, Mr. Chairman, which is at some point convene a meeting of the Sturgeon Committee and discuss all of this.

Maybe that committee can come up with some general proposals that we could put on the table to try to mitigate some of the negative impacts on the sturgeon population in the interim period so that we're actually doing something for sturgeon conservation as we get this finer detail, which we need to – I mean, the detail that's going to come out of all this work is critical if we want to manage these species down to the river system basis. If we want to do justice to the management program, that's what we have to get to eventually. I think maybe we should do both of those things.

MR. MUFFLEY: Mr. Chairman, I'm going to voice my support in doing the 2015 and the 2017 assessment, knowing what kind of workload it is going to cause to staff and state staff to get this done. I think given the status of where North Carolina is with their permits and where all the other states are with their permits, which is nowhere, getting some information – it may not be exactly where we want it to be, which is what we want in 2017, but I think the assessment could be good enough to give us a good idea of where we are with the sturgeon population.

Much of this information that is in the Section 6 funding is already available. There are a number of years already done; so that new information could be added into this 2015 assessment and it will lay the groundwork for the 2017 assessment. All of the background information will be there; and you have a baseline assessment to do to move forward with the 2017 assessment. I think it will add some credence to what the states need to go through for their incidental take permits. It will help out those states; and I think we need to get a sense of where we are with this population now rather than longer.

MR. NOWALSKY: I would support the comments of both as well; but I would just ask while we see two columns of a 2017 timeline checking more boxes than a 2015 timeline; if the 2015 assessment is a three star, does the 2017 get us to five stars or does it give us three and a half? How much more are we actually going to have in meaningful information to base management decisions and/or inform the Service about the merits of the listing from that 2017 timeline?

DR. DREW: I think the question is at what level do you want to manage the species on? Do you want to treat it like it's a single coast-wide stock or do you want to manage it down to individual river systems or state or DPS levels? The fact that I'm using DPS here, it should give you some clue as to how the Fisheries Service use it in that they are treating it as parts of a subpopulation, as individual stocks.

Our ability to provide you guys and to provide the Service with an overall trend of, hey, Atlantic sturgeon on the coast are doing this; is that useful from either a management perspective related to the biology of the species or is that relevant to how the Fisheries Service is assessing their endangered species status?

Obviously, I cannot speak to the latter, but I think the board should have an idea of how useful a coast-wide estimate is going to be if we need to manage the species on a stock-specific level. There is very little we can do on a stock-specific level with the data that we have now, but a lot more will become possible when these projects are completed and with additional work from the stock assessment subcommittee.

MR. WHITE: Mr. Chairman, I don't know if the Service can comment but it might be interesting to hear their take on these two different assessments. Will the rushed assessment possibly be enough for

them to delist; and if not, why would we waste all that effort?

CHAIRMAN DANIEL: That's a very good question. Go ahead, Angela.

MS. SOMMA: I don't know that I could answer that question. I want to be clear; our commitment was not that we would necessarily delist. Our commitment was that we would look at the stock assessment and the information in it at whatever point in time it came out and make a determination whether we would redo a status review; not that we would necessarily take action based on that stock assessment alone and move forward with a change in the listing.

Certainly, the information in there would be quite valuable. I can't answer that question until we actually see what the stock assessment looks like to know what information is there and how useful it could actually be and whether it would trigger us to do another status review.

CHAIRMAN DANIEL: I guess my comment there would be that, certainly, it will be a tremendous amount more information than you had when the listing decision was made. Hopefully, all the things that we're hearing and all the reports that we are receiving will provide us with good information to get to that point.

I would encourage everyone to continue to move forward with their ITPs so that you can begin to collect the information that we're collecting in North Carolina. We're getting a tremendous amount of abundance and distribution information, but also very good information on discards. These things handle being captured in gill nets very, very well.

The discard mortality rates are extremely low for what we're finding. I think any of that information that the other states can gather and provide for when we do a status review will be helpful. While Angela is here, I will tell you that working the Sturgeon Group, whatever they call themselves at the Protected Resources Section, was a pleasure.

They worked really well with my staff to get this thing done in what I think is probably record time. We now have two state-wide ITPs; and this one did not take us nearly as long and was not nearly as arduous a task; so hopefully you all will find that. Maybe we played the guiana pig and got the ball rolling, but I would certainly encourage everyone to move forward with their ITPs.

MR. BALLOU: Mr. Chairman, there was a teaser a minute ago regarding the opportunity for the commission to request reconsideration at any time and not necessarily waiting for that five-year mandatory review.

To me there is perhaps an opportunity here to consider – and I'm not sure how viable this would be, but consider a request sometime between now and 2017, assuming we go forward with the full assessment for 2017 that would provide an update with regard to the additional data that is available as sort of an interim approach to not necessarily doing an assessment – doing two assessments but rather providing the Service with the information that has become available since the listing with a request to consider the status pending the follow-up full assessment that now looks to be targeted for 2017.

CHAIRMAN DANIEL: Yes; anything we can do I think you wouldn't get an objection from me. I don't know what the technical requirements would be of having to put all of the information together, but as opposed to a stock assessment it may be just as arduous a task to put all the information together and summarize it as it would be to assess the stock.

I don't know, but that's a good potential. I think Angela is aware of our need and what we want to do. Our goal is to try to get these things delisted through good, sound data and analysis. I think if we can provide that the National Marine Fisheries Service I think we have a chance. If I were them, I probably would wait on the 2017 assessment, which has got all the new and the best information involved in it; but at the same time if there was overwhelming evidence that goes contrary to the listing decision, they may be able to get the ball rolling earlier. I just don't know and I don't think Angela can tell us, but maybe she can.

MS. SOMMA: Well, if the commission does any form of a stock assessment in 2015, we certainly are going to look at it and evaluate it. You certainly wouldn't need to submit some kind of a formal request or a petition for us to do that. We've been working with the commission all along on the stock assessment.

We're as interested in the information as you all are; so whatever comes out in 2015, if there is some form of a stock assessment, we certainly will be looking at it very carefully to see whether that along would be enough for us to do another status review. Certainly any and all information – I mean, this isn't the only

information and research that's being done on Atlantic sturgeon.

We are certainly constantly collecting – and, you know, we fund a lot of this work through our Section 6 Program. That is an Endangered Species Act Program. We were funding some Atlantic sturgeon work prior to the listing, but listed species get priority under Section 6, so that's one of the reasons why there is a lot of research going on now.

We have heard loud and clear about the data gaps that went into the listing; and we're trying to close some of those data gaps. We're certainly going to take a very close look at whatever comes out in 2015 if there is some form of a stock assessment. Related to the incidental take permits, I did want to thank Louis for his kind comments.

He is correct; so far we've had two states come in, Georgia and North Carolina. I just want encourage other states to continue to work on that and reiterate our commitment. I think Louis has affirmed that we've lived up to that commitment. If you're willing to work with us and really work on trying to come up with a conservation plan, we have committed the staff, resources and time to work on it and try and get through the process in an expeditious manner. Thanks.

CHAIRMAN DANIEL: And you have done that; and I appreciate that. With that said from the National Marine Fisheries Service and with the expectation and understanding that they will be looking at the data just like we will be. They will be involved with – I assume the technical committee and the stock assessment committees have got National Marine Fisheries Service staff on board.

I think if we get the silver bullet in 2015, then, great; but it is sounding to me around the table that the majority are looking at the 2017 assessment in order to really be the anchor behind our request to delist unless something happens before then that we feel comfortable with our partners to move forward with. Is that a fair characterization of where we are at this point?

Is there any objection to that being the direction to staff moving forward? That was what they were primarily asking us for was that direction. Just one; everybody is in agreement on that? Seeing no objections; then that's the way we will proceed. It is very important that we, as state directors and others to make sure that our staff are available and are

participating and helping compile all this information.

Otherwise, our other assessments are going to suffer for it; but I think we all understand and agree that this a priority issue for our stock assessment staff and so any additional help you can provide would be much appreciated. So with that, what I would like to do is go ahead and break for lunch; and we will start back with this after lunch and then we'll go right into the business meeting. I think it will be sort of seamless, I think, in order to do that unless there is objection from Bob. With that, we will stand in recess until 1:30.

(Whereupon, the meeting was recessed at 12:30 o'clock p.m., August 6, 2014, and reconvened at 1:31 o'clock p.m., August 6, 2014.)

CHAIRMAN DANIEL: All right, everybody, it is 1:31 so we will resume the ISFMP Policy Board. Marin is going to update us on the River Herring Technical Expert Working Group progress.

RIVER HERRING TECHNICAL EXPERT WORKING GROUP PROGRESS REPORT

MS. MARIN HAWK: This is just an update on the progress of the River Herring Technical Expert Working Group, which as Toni mentioned is also known as the TEWG. I just wanted to provide you guys a little bit of background first. If you will recall back in 2013 river herring was found to be not warranted under the Endangered Species Act.

NOAA Fisheries and the commission are coming together to develop and implement a conservation plan for river herring. NOAA Fisheries has provided the commission with \$95,000 and plans to supplement this with an additional \$200,000. Basically what we're trying to do is fill in data gaps in the listing determination before the status review, which will occur in about five years.

Again, the TEWG was formed to provide individual expert opinions to the commission and NOAA Fisheries to aid in the development of this plan. The reason we say individual expert opinions is because under the Federal Advisory Committee Act the TEWG cannot make consensus recommendations; so we document the ideas and thoughts of the members on the TEWG.

There are about 80 people on the TEWG; and it is composed of members from state agencies, the industry, the recreational fishing industry,

government representatives and members of NGOs. Basically what will happen is NOAA Fisheries and the commission will consider TEWG input when formulating the requests for research proposals; and the priorities may be based on the expert opinions that are obtained from the TEWG.

They will also be based on public comment and science and management needs. Those research projects will contribute to that river herring conservation plan that NOAA Fisheries is developing. Just a little bit more about the structure of the TEWG; what we've done is we've split those 80 people into six different subgroups and then a committee that we're calling the Ecosystem Integration Committee.

The first subgroup is the Climate Change Subgroup, and that subgroup will be focusing on topics directly related to climate change. So far in the process, the data gaps that they've identified is the amount of available river herring spawning habitat. They would like some more information on the impacts of the stream flow on passage and the interactions with barriers. The Stock Status Subgroup is focusing on the modeling approaches for river herring; and they're working to identify the data needs for future assessments and for the listing determination.

The Habitat Subgroup is the largest subgroup. It also has the widest scope. They're developing a spreadsheet which will hopefully focus their efforts on habitat research to date and determine where there are gaps in monitoring. The Fishery Subgroup is focusing on the strengths and weaknesses of catch estimates and looking at how management actions that have been implemented could influence those catch numbers.

The Species Interaction Subgroup is focusing on predator/prey relationships. They're trying to determine the predation pressure on different life stages of alewives and how predation impacts natural mortality in different regions along the coast. The Genetic Subgroup has discussed utilizing molecular marker techniques that were used on the west coast for Pacific salmon.

They're trying to determine a good way to standardize genetic techniques on the east coast to ensure that any samples taken are comparable to other samples from different laboratories. Finally, the Ecosystem Integration Committee is an overarching committee, which is composed of the chairs and co-chairs of each of the subgroups.

They're working to ensure an integrated approach is taken and topics that cross subgroups are addressed from a holistic view. Finally, the next steps; we have another call on September 3. As I mentioned, the commission and NOAA Fisheries will be releasing our request for proposal sometime this fall. Thank you.

CHAIRMAN DANIEL: Are there questions for Marin? Bob.

MR. BALLOU: Marin, which federal program served as the source of funding for this? You referenced \$295,000 I believe total committed from NOAA Fisheries. Which NOAA Program is that that they drew those funds from?

MS. HAWK: I don't know, but I will find out and get back to you.

SENATOR WATTERS: Thank you for the report. I had a question. Since we obviously can't regulate much of the habitat of the species; is the group going to come up with some – to be able to identify or come up with some recommendations about how to address issues with the states or those folks who may control dams or other habitat areas that obviously have the most impact on the species success.

MS. HAWK: Yes; the Habitat Subgroup, they're kind of getting things together currently, but they've mentioned that passage is one of the largest threats that they're going to focus and hopefully determine some good solutions.

MS. KERNS: Bob, I think I can answer your question. It is from the GARFO office.

CHAIRMAN DANIEL: Anything else on the TEWG? Seeing none; thank you.

COLLABORATION WITH GREAT LAKES FISHERIES COMMISSION

CHAIRMAN DANIEL: Next up is discussion of collaboration with Great Lakes Fisheries Commission on American eel management.

MS. KERNS: Some of you were members of the commission back in 2008 and 2009 when we had started to work with the Great Lakes Fisheries Commission on an MOU on the eel management. We had a draft, the commission had signed it and then we sort of lost steam from the other side of our partnership.

A couple of weeks ago Bob and I met with staff from the Great Lakes Commission; and we'd like to move forward with collaboration with the Great Lakes. That may or may not entail developing another MOU, but at least starting to collaborate with them on science and then possible discussing different types of management that could help coordinate how we move forward with eels. We're just looking for direction if that's something that the policy board is interested in having staff start to collaborate with the Great Lakes.

CHAIRMAN DANIEL: Is there any objection to that? It seems like a good opportunity. Seeing none; let's move on it.

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT

CHAIRMAN DANIEL: The last item on our agenda for the policy board is Atlantic Coastal Fish Habitat Partnership Report, Pat.

MR. PATRICK CAMPFIELD: A couple of quick funding updates for the Atlantic Coastal Fish Habitat Partnership; in 2013 the partnership solicited applications for on-the-ground habitat conservation projects. The partnership received 18 applications and submitted a rank list to the U.S. Fish and Wildlife Service.

Fish and Wildlife recently announced all fish habitat partnership projects nationally were approved for FY-14 funding. Two project applications submitted to ACFHP were approved to receive funding. The first is an Oyster Reef and Salt Marsh Habitat Restoration Project in Stump Sound, North Carolina, which is about 20 miles northeast of Wilmington.

Red drum, spotted seatrout, weakfish, spot, croaker and shrimp will benefit from the restored and protected salt marsh and oyster habitat. The second project is a barrier removal in West Creek, New Jersey, which is a tributary to Barnegat Bay. This project will restore access to over 13 kilometers of stream habitat for river herring, eel and other diadromous species.

Moving on to the FY-15 project fund opportunities; again, the Fish and Wildlife Service and ACFHP are requesting project applications to restore and conserve habitat for coastal, estuarine dependent and diadromous species. Federal funding available to the partnership through Fish and Wildlife will be used to support the top-ranked proposals.

The maximum amount of available funds for individual projects is \$50,000. Funds can be used for on-the-ground habitat conservation and improvement, as well as related design and monitoring and activities. The number of projects funded will be dependent on the amount requested and funding availability.

I also wanted to highlight that applications must be received by Friday, September 26, a couple of months from now. For more information on the proposal submission guidelines, visit the partnership website, atlanticfishhabitat.org. Finally, you may have noticed that I am not Emily Greene, the long-time coordinator for the Atlantic Coastal Fish Habitat Partnership.

Emily took a new job with NOAA's Office of Habitat Protection back in April. The partnership has hired a new coordinator, Lisa Havel, who will start in September. Thank you, Mr. Chairman; that concludes my report.

CHAIRMAN DANIEL: Questions for Pat? That concludes all the agenda items for the policy board.

ADJOURNMENT

CHAIRMAN DANIEL: Is there any other business to come before the policy board? If not, we'll go straight into the business session.

(Whereupon, the meeting was adjourned at 1:45 o'clock p.m., August 6, 2014.)