

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

**The Westin Alexandria
Alexandria, Virginia
August 3, 2016**

Approved October 2017

TABLE OF CONTENTS

Call to Order, Chairman Douglas Grout 1

Approval of Agenda 1

Approval of Proceedings, May 2016 2

Public Comment..... 2

State Directors Meeting Report 2

Executive Committee Report 3

2016 Annual Review of Stock Rebuilding Performance..... 5

Commission Involvement in Cobia Management 8

Overview of the Conservation Equivalency Guidance Document 14

Risk and Uncertainty Policy Workgroup Report 14

Habitat Committee Report 19

 Update on the Sciaenid Habitat Source Document..... 26

Artificial Reef Committee Report..... 26

Atlantic Coastal Fish Habitat Partnership Report 27

Other Business 28

 Managing Resources for the Benefit of Another Fishery 28

 Letter to the Mid-Atlantic Fisheries Council Concerning Shad and River Herring Stocks 34

Sturgeon Letter to NOAA on Critical Habitat Designation..... 40

Adjournment..... 41

INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of May 2016 by Consent** (Page 1).
3. **On behalf of the South Atlantic State/Federal Fisheries Management Board, move to recommend that the ISFMP Policy Board develop a complementary Fishery Management Plan for Cobia** (Page 9). Motion by James Estes. Motion carried (Page 12).
4. **On behalf of the South Atlantic State-Federal Fisheries Management Board, move to recommend to the Policy Board that the South Atlantic Board is the appropriate venue to develop the FMP for Cobia** (Page 13). Motion by James Estes. Motion carried (Page 13).
5. **Move to task the Habitat Committee to draft a base letter to express the Commission's concerns regarding seismic testing and its possible impacts on fisheries and fish habitat, for review by the Policy Board at the Annual Meeting** (Page 25). Motion by Tom Fote; second by Eric Reid. Motion carried (Page 26).
6. **Motion to adjourn** by Consent (Page 41).

ATTENDANCE

Board Members

Patrick Keliher, ME (AA)	Loren Lustig, PA (GA)
Rep. Jeffrey Pierce, ME, proxy for Sen. Langley (LA)	Tom Moore, PA, proxy for Rep. Vereb (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	John Clark, DE, proxy for D. Saveikis (AA)
Doug Grout, NH (AA)	Roy Miller, DE (GA)
Ritchie White, NH (GA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Bill Adler, MA (GA)	David Blazer, MD (AA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Rachel Dean, MD (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
Jason McNamee, RI, proxy for J. Coit (AA)	John Bull, VA (AA)
David Borden, RI (GA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Rep. Craig Miner, CT (LA)	Doug Brady, NC (GA)
David Simpson, CT (AA)	Michelle Duval, NC, proxy for B. Davis (AA)
John McMurray, NY, proxy for Sen. Boyle (LA)	Robert Boyles, SC (AA)
Steve Heins, NY, proxy for J. Gilmore	Malcolm Rhodes, SC (GA)
Emerson Hasbrouck, NY (GA)	Pat Geer, GA, proxy for Rep. Nimmer (LA)
Brandon Muffley, NJ, proxy for D. Chanda (AA)	Spud Woodward, GA (AA)
Tom Fote, NJ (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Martin Gary, PRFC
Andy Shiels, PA, proxy for J. Arway (AA)	

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

Ex-Officio Members

Staff

Bob Beal	Ashton Harp
Toni Kerns	Amy Hirrlinger

Guests

Sherry White, USFWS	Russ Allen, NJ DFW
Debra Lambert, NMFS	Bob Ballou, RI DEM
John Carmichael, SAFMC	

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, August 3, 2016, and was called to order at 2:30 o'clock p.m. by Chairman Douglas E. Grout.

CALL TO ORDER

CHAIRMAN DOUGLAS E. GROUT: Welcome all; this is the meeting of the ISFMP Policy Board. Before I go any further, we have a long time member of our ASMFC family that is retiring in a month -- at the end of the month. I would like to have David Simpson come up. We have a little token of our esteem here, for the many years that you've been putting in on technical committees and Management and Science Committee; and the last eight years as a board member.

We have the compass rose pen that will keep you in the right direction for all the years that you've helped steer the commission in the right direction over the years. I greatly appreciate all the time and effort and your expertise that you have put in; both at the technical level and at the policy level. I think you and I started about the time, became board members about the same time; but you get to retire earlier. Thank you very much, We appreciate that. (Applause)

MR. DAVID G. SIMPSON: Well, you know I was not really expecting anything. I had told a couple of people that I thought I had to. I was going to pull an A.C. Carpenter; you know, just kind of slip away and see if I went unnoticed. Really, it has been a big privilege and a pleasure to be able to work with the commission.

From things I've said in the past, I think you all know how much I respect and admire this group and the process, the way we do things, how we do things; working with all of you for many, many years, some of you for decades. Toni and I worked on a lot of stuff for a lot of years; summer flounder, scup, black sea bass, lobster and other stuff too I'm sure. Tina and Laura and

Bob, this has just been great; and all of you folks, I just can't thank you enough. Again, it really has been a privilege and a pleasure, so thanks. (Applause)

APPROVAL OF AGENDA

CHAIRMAN GROUT: Well. Thank you again, Dave, and we do have an agenda here; and I believe there are a couple other items that people would like to add to the agenda. I know John Clark; you came up and expressed something.

MR. JOHN CLARK: Shad and River Herring Board Chair, Bill Goldsborough and I would like to add to the agenda a brief discussion of the upcoming, I think it was just released, a white paper to the Mid-Atlantic Council. The Mid-Atlantic Council will be discussing shad and river herring management at their upcoming meeting; and then if I understand correctly, voting on their final decision on that in October before the annual board meeting, the annual ASMFC meeting, that is. I was hoping that perhaps the Policy Board can come up with some action to send a request to the Mid-Atlantic Council to let them know our interest in managing the species through our plan working with them on this issue.

CHAIRMAN GROUT: Okay, we'll add that. Is there anything else that we need to add to the agenda? Toni, you said there were another couple items.

MS. TONI KERNS: There was a letter that the Sturgeon Board has requested to send to NOAA on the critical habitat designations. Bob was the chairman of that board, so I think he'll address that.

CHAIRMAN GROUT: All right, anything else, changes to the agenda? Is there any objection to the agenda as modified?

APPROVAL OF PROCEEDINGS

CHAIRMAN GROUT: Seeing none; we also have proceedings from our May, 2016 meeting in our briefing packet. Are there any changes or additions to those proceedings? Seeing none; are there any objections to approving the proceedings? Seeing none; the proceedings are approved.

PUBLIC COMMENT

CHAIRMAN GROUT: Our next item is the opportunity for the public to provide comment on things that are not on the agenda. Is there anybody from the public that has something they would like to speak to the Policy Board on?

STATE DIRECTORS MEETING REPORT

CHAIRMAN GROUT: Seeing none; we'll go to the next agenda item, which is a report by the Chairman on the State Directors meeting we had on Monday, with NOAA Fisheries.

This was an excellent, well attended meeting. Everybody at the meeting thought it was an excellent opportunity for the directors to be discussing issues of common interest with our partners in management. The first thing we talked about was federal budgeting priorities that the commission had.

On our list of priorities for federal budgets was ACA funding. I think we've discussed this before that we have seen increases in the past in the council and commission line, but Atlantic Coastal Act funds have remained flat, so we've been trying to get at least a similar increase to what the commissions have been getting.

We also have a priority FIN and ACCSP funding, SEAMAP, NEAMAP funding, Horseshoe Crab Survey funding, MRIP funding, MRIP-APAIS funding obviously now that we're taking on the APIS Survey, and then jurisdictional fisheries grants; which clearly affect all the states, not only here on the Atlantic Coast, but throughout the coastal United States.

We also had an agenda item on lobster and crab management, and that discussion essentially turned into a discussion about ways to improve commercial reporting via incentives and disincentives. We had a very long and lengthy discussion, and came up with some different thoughts and certainly a lot of people are interested in seeing how we can get to electronic reporting; which would make things much more efficient in the future.

Obviously, it is something we'll have to work on with our fishing industry on those things. Also, we talked about MRIP and APAIS, now that the commission is conducting the Access Point Intercept Survey. We talked about the status. It seems to be going well, during the initial year here with a few minor hiccups. One of the things that surprised some of the states that have not been involved, is the fact that the headboat samplers had to actually pay a fare to get on some of the for-hire vessels; and in one state they actually were required to tip the mates, even though they weren't catching fish or having fish filleted. There was a discussion about that and we've actually referred some of these issues to our Rec-Tech Committee. Further on, we also had more discussion about recreational data, particularly this year with bluefish and black sea bass estimates; the final estimates being very different than what the preliminary estimates were.

We also were concerned about the timing of it, and we're asking about the reasons for the delays in releasing the final estimate. We were told that it was basically because of the large changes. National Marine Fisheries Service wanted to look into that in detail, and find out the reasons and be able to speak informatively about it to us.

They've also developed new business rules for MRIP staff to use when we have low sample size strata, which was one of the problems that was occurring in the charterboat strata on MRIP. You may have seen in your e-mail, some of the charterboat estimates were revised based on

new methods they have for low sample size; they essentially collapsed the waves.

There was also discussion about some states have mandatory logbooks, and why they couldn't be used where they have 100 percent mandatory logbooks in some states for charter and parties, and why they couldn't be used instead of MRIP. The response was that logbooks still need MRIP and ACCSP approval before the methods used for these state logbooks could be used for landings info for management.

Then, of course, I think a lot of you heard; we got an update on the revised estimates in the final black sea bass and bluefish rules. Black sea bass was essentially status quo, and with bluefish under the final rule, \$1.6 million transfer to the commercial fishery is going to occur. We also had a discussion about coral management and National Monument designation.

In coral management the New England Council continues to work on an amendment to the Habitat FMP. One of the things, when we were discussing monument designation and the commission's position on this, we were given advice that we should be looking sometime in the near future for potentially a proposal being put forward to comment on, and the importance of the commission providing comment on that if and when a proposal comes out.

We also discussed the impacts of the Spring Bottom Trawl Survey out of the Northeast Fisheries Science Center. It had a delay in starting, and actually had a breakdown in the middle where they had to stop. They did complete all of the stations that were required, but of course because of the late start the temporal distribution of the survey was very different than what it has been in past years.

We were asking for input on how that was going to affect assessments of ASMFC managed

species. The Center is going to be working on that on a species by species basis, and then what can be done in the future to prevent these things from happening or how to address them. I think we received an e-mail this week from Bill Carp, talking about looking at the use of industry-based platforms as backups for the Bigelow Surveys.

We also had a brief discussion about aquaculture permitting, because NMFS had received a request for aquaculture in the EEZ that would have included striped bass and other species. NOAA Fisheries committed to have future discussions with ASMFC about any potential aquaculture; particularly involving commission managed species in the EEZ. We asked for an update on National Standard 1 Guidelines, and were told that the proposed changes are still at OMD for review and "will be out sometime in the future." We also discussed the New England Fisheries Management Council request to be involved in management of summer flounder, scup and black sea bass.

We asked GARFO when that decision might be made. They indicated they wanted to discuss this request with the Mid-Atlantic Council first, and then also in the fall, they will be talking about it at the NRCC meeting; and after that they will make a decision on what they will do with the New England Council's request to get involved with black sea bass, fluke, and scup management.

Finally, we updated each other on where our Atlantic sturgeon Section 10 permitting process was right now; and committed to providing these updates on an annual basis. Are there any questions from the Policy Board about this? Okay seeing none; I'll move down to the next item, which is another report by me.

EXECUTIVE COMMITTEE REPORT

This is from the Executive Committee meeting; which was two hours as opposed to seven hours. It should be a little bit quicker.

We had a discussion about, the Executive Director asked us to provide input on ASMFC being leads on staff assessments, and are states still comfortable with this. The issue that brought this up was we've had one or two assessments where the commission stock assessment biologists have taken the lead, and as we've gotten close to completing the assessment, some of the states may not have been fully involved with it; and then were coming up with concerns about the assessments.

The Executive Committee still felt that having the ASMFC leads on these assessments was a good process, and we should continue it and that we will work as directors to try and encourage our stock assessment biologists and technical committee members to speak up if they have concerns early on in the process; early and often.

We also have reviewed the Conservation Equivalency Document that Toni will be going over with you as one of our Policy Board agenda items. We made comments on that. We also reviewed a white paper that was produced by staff on PDT membership, board members being on PDT of the species.

After considerable discussion on this, the original issue with this was there was a concern brought up by some of our commissioners that having board members as Plan Development Team members might have an optics problem with the public. With the potential thought that that particular board member might get two bites of the apple; both in developing the plan and also voting on the final measures in the plan.

After considerable discussion, the Executive Committee felt that the benefits that these board members provide to helping develop these fisheries management plans outweigh the optics issues that may occur with the public. We also began work -- you remember last time

we had Collette come and give us a review on Roberts Rules of Order.

One of the things that she recommended to us was to have a document of specific commission procedures that we have that may vary slightly from Roberts Rules of Order. We're still working on this. We provided input to the staff on this. We'll consider it again at the fall meeting, and bring it before the policy board at that time for consideration and approval. We also had a discussion about potential renaming of the Hart Award. With the recent passing of one of our longtime, highly regarded commissioners from Maine, Pat White, there was a proposal put forward to rename it to the Hart-White Award.

We had a discussion about the appropriateness of that and also discussed potential other options, such as maybe naming our awards of excellence after Pat White. We actually sent that to the Awards Committee for further discussion. I know the LGAs had a discussion on that and your discussion will be sent to the Awards Committee; along with the Executive Committee for some resolution again at the fall meeting.

Finally, we some Saltonstall-Kennedy funds that the commission has been getting. Originally, we expected that it was going to be \$500,000.00 and the Executive Committee had made some recommendations on how that would be spent. Bob came to us and said that that amount of money is actually only going to be \$200,000.00.

The Executive Committee had a discussion on how we would trim down the projects that we would use that on. Essentially, our recommendations are going to be that \$150,000.00 of that be used for some of the South Atlantic fisheries independent surveys; such as the longline surveys in several states.

Then the remainder of that would be used to help offset the shortfall that the Maine/New

Hampshire Trawl Survey is experiencing this year. Those are the issues that we went over at the Executive Committee. Are there any questions on any of those items? Okay, thank you very much. Now we will move on to the next agenda item; which is Toni giving us a review of our stock rebuilding performance.

MS. KERNS: I am going to just take this brief moment to let the commission know that we have hired a new FMP coordinator, his name is Michael Schmidtke. He did a lot of the blue line tile assessment work with the Mid-Atlantic Council and the South Atlantic Council; presented to their SSCs. He is a PHD candidate out of Cynthia Jones' lab in Old Dominion University; and he will be starting with us on September 1st. We're excited to have him.

I made it easy, it's another Mike. You don't have to learn a new name. We're ready to go. We're ready to have him aboard.

2016 ANNUAL REVIEW OF STOCK REBUILDING PERFORMANCE

MS. KERNS: With that, I am going to go through the 2016 annual review of stock rebuilding performance. As everyone recalls, this is a part of our Strategic Plan for the five-year plan that is ongoing.

The first time we did this was in 2009, and we used the information from the discussion that we have today to help build the 2016 Action Plan; which we will review at the annual meeting. The objective of this program is to validate the status and the rate of progress for our species. If the Policy Board feels that the rate of progress is not what you're looking for, then today would be where we would try to identify some corrective action; whether to take some information back to those boards or back to TCs or staff to work on with those groups.

Again, what we're looking back for feedback today is information to get into the 2017 Action Plan process, and then direct feedback to the

specific boards. As you recall, we have five categories; rebuilt sustainable, recovering rebuilding, concerned, depleted and unknown; and each of our species are put into these five categories. For the rebuilt and sustainable, it is pretty much the same list that we had last year; the Gulf of Maine, Georges Bank lobster, Atlantic herring, menhaden, black drum, bluefish, scup, Spanish mackerel, and spiny dogfish. We moved striped bass into the recovering rebuilding section and took red drum out of recovering rebuilding; so we swapped those two species.

I am going to go through the species of concern, where we're taken some action in the past year or had some new information. For black sea bass, we are currently undergoing a stock assessment for black sea bass; which will be completed in December. Black sea bass has a unique life history characteristic which contributes to the uncertainty regarding the stock size, response to exploitation; therefore, the OFL cannot be specified for the fishery, which means that a level of catch cannot be derived from the model results.

We've been using either a constant catch approach or using a data-poor model, in order to determine what the quota is for black sea bass. We are trying to develop reference points and assessment methods to account for this unique life history in the assessment work that is ongoing; and we're exploring a spatially structured stock assessment to address these incomplete mixings of the stock.

We're trying to evaluate the implications of range expansion to the stock and the fishery dynamics, to help us set forth a management plan in the future. For the Atlantic coastal sharks we have several different coastal sharks, but I just wanted to point out here, and hopefully, you can see this in the table; if not it is in your document on the briefing materials; that in 2015 the bluefin sharks were found to be not overfished and overfishing is not occurring,

as well as the Atlantic smoothhound were not overfished and overfishing was not occurring.

To complement the shark conservation act of 2010, the board implemented a fins naturally attached policy for all sharks; with the limitation for the smoothhounds. Harvesters can remove the fins of smooth dogfish, provided the weight of the fins onboard does not exceed 12 percent of the total weight of the smooth dogfish carcass; as well as that the total composition of the catch is at least 25 percent smoothhound, and that is what was approved at the board meeting yesterday.

For horseshoe crab we have put forward to do a benchmark stock assessment for 2018 this year. This will be a unique stock assessment, where most of it will be done pretty much behind closed doors; because of the confidential nature of the biomedical data. The Stock Assessment Subcommittee will be looking at a regional approach so that we can give the board a better understanding of what's happening in each of those regional categories for horseshoe crab.

But dedicated funding is continued to be needed for a coastwide survey to help inform those regional stock assessments, or we should broaden other surveys by the geographical regions. Biological reference points are needed, as well as a mechanism to include biomedical data and mortality estimates in regional assessments; without compromising data confidentiality. We wanted to keep moving forward to try to work with the biomedical groups, so we don't have to have these black box assessments.

For red drum, we had a benchmark stock assessment that was presented to the South Atlantic Board in 2016. The desk reviewed models with a stock synthesis framework suggested that overfishing is occurring in both the northern and southern regions. The board had some questions about the unique life history of red drum; and the results of those assessments and how those life history

parameters feed into the different parameters of the model. The Technical Committee is working on five large tasks, and will be reporting out to the South Atlantic Board on those tasks, so that the board can then determine how they want to move forward with management; in response to those Technical Committee tasks, as well as the findings of the stock assessment.

For summer flounder, the 2016 ABC was decreased by 29 percent to reflect the declines in the stock size that we've been seeing; as well as the board approved regional management measures, which is a more precise use of the MRIP data. Next week, summer flounder, scup, and black sea bass and bluefish will be subject to the joint management meeting.

I am sure that many folks have heard in the rumor mill that the summer flounder stock is continuing to decline. This is partially because the stock overestimates SSB in the terminal year as well as overestimates recruitment; and we have not had any real good recruitment classes in recent years, and most of them have been below average. We will figure out how to move forward next week here.

For tautog, the coastwide portion of the stock assessment found the fishery to be overfished and overfishing was occurring. Regional assessments were also completed, and as we heard yesterday, the TC completed an additional set of regional assessments, and have moved forward with the Plan Development Team to look at a four-region approach to develop management measures, as well as we have initiated a tagging program for the commercial fishery to address some of the concerns that we've been seeing with the black market fishery and unknown catch.

Additional species of concerns that were in the list were Atlantic croaker, and the winter flounder Gulf of Maine Atlantic croaker is currently undergoing a stock assessment. The results of that will be out this fall or this winter.

With winter flounder Gulf of Maine, as well as the southern New England/Mid-Atlantic, we continue to try to work with the New England Council; as well as through the NRCC to try to move forward on management measures that will help this stock move forward in rebuilding.

The board continues to set very precautionary measures for both of these stocks, which don't seem to be responding to these minimal management measures. For depleted species, for southern New England lobster the stock is depleted and overfishing is not occurring. Abundance is at approximately 42 percent of the threshold, and the current exploitation is below the threshold.

Estimates for recruitment are near zero, and they are at the lowest on record. The TC has been advising the board to use output controls to manage the fishery, while the board continues to use input measures. Before the most recent assessment came out, the Technical Committee had advised 50 to 75 percent reductions for the southern New England lobster management areas; and the board approved a 10 percent reduction, and then took some additional reductions in traps for Areas 2 and 3.

With the results of the new assessment the board is considering a 20 to 60 percent increase in egg production; and tomorrow we'll have a lot of discussions on how the board is going to move forward with measures in southern New England. For northern shrimp, we still are seeing failed recruitment in that fishery. The Technical Committee and Stock Assessment Committee don't expect to see any recovery until at least 2017. The Section continued to implement a moratorium in 2015, and initiated an amendment to look at limited entry in the fishery.

The Section moved forward with having the Plan Development Team look at quotas for each of the states with a fishery. The trawl survey is ongoing right now, and I think they are seeing

some maybe good things there. Ashton went on it, so you could ask her about it if you're interested.

Then we received an assessment for weakfish this year. The 2016 assessment found that we are still below the mortality thresholds, and we're below the SSB thresholds. We have very strict regulations on the harvest of weakfish in both the commercial and recreational fishery and continue to have those.

For Jonah crab, the commission implemented the Jonah crab FMP this year. The landings have increased 6.4 times since the early 2000s, with over 17 million pounds of crab that were landed in 2014. The status of the resource is relatively unknown. We don't have a lot of data that we can use for an assessment, including maturity estimates. There are a couple of states that are working on maturity studies, and as soon as we have that information we'll try to get a stock assessment conducted.

In the meantime, we're going to have the Jonah crab TC look at some stock indicators, to try to give the board some information on what kind of changes are occurring in the stock. Then some additional depleted species, shad and river herring, winter flounder in southern New England/Mid-Atlantic, sturgeon, spot and spotted sea trout. Spot is also undergoing an assessment that will be ready this fall; and that is all.

CHAIRMAN GROUT: Any questions for Toni? Ritchie.

MR. G. RITCHIE WHITE: The suggestion on northern shrimp, it is not possible that it can recover in 2017. You might want to move that date out a year or two.

MS. KERNS: That is the advice that we still have, so I was trying to stick with the scientific advice; but yes.

CHAIRMAN GROUT: Any other questions?
Malcolm.

DR. MALCOLM RHODES: Just a question.
Spotted sea trout are in depleted category? I
mean, is that just in local areas?

MS. KERNS: I apologize, Malcolm. They should
be under the unknown category, as well as
Jonah crab.

MR. WILLIAM ADLER: This is more of an
observation from the reports; particularly on
black sea bass. I know there is really nothing
here, because I believe it is the federal Mid-
Atlantic that sets things with that wonderful
SSC. But I have a big problem with the fact that
nobody can increase the quota on black sea
bass, when everybody says that's all they can
catch everywhere. I suppose it's just an
observation that I don't know what anybody
can do to shake them loose to raise that quota;
because it's ridiculous. I just wanted to put that
on the record, I guess.

CHAIRMAN GROUT: Next week.

MR. ADLER: Get it changed.

MR. DAVID V. D. BORDEN: Just a suggestion for
the future. On some of these species there are
data limitations that cause some of the
problems in terms of the board's adherence
with regulations. For instance, there is a very
limited lobster sampling program in the
offshore areas, which now NOAA and some
other organizations have started to address.
But I think to the extent going forward that
there are problems like that it would be useful
to just have some kind of notation in here; so
that it draws attention to the need for funding
and better data collection programs.

CHAIRMAN GROUT: Good thought, Dave. Bill
again.

MR. ADLER: I'm sorry, here I go again. On
winter flounder, many times when we've had

the board meetings, I brought up the fact on
the particular chart that we have here that I
think that the target, the top line there, is too
high. It is almost like it has never been that high
in recent memory; and yet the comments
always come back, well it was there at one
time, and it's off the chart to the left back in
1776 or whatever it was.

I think that the way this is put forward suggests
that we have to really do a lot of work, and
according to what I'm looking at here, the bar is
too high. I've said this before that I think
somebody should really look at perhaps
lowering the bars a little more to the realistic
thing. I just wanted that one on the record, too.

COMMISSION INVOLVEMENT IN COBIA MANAGEMENT

CHAIRMAN GROUT: Further comments,
questions? Okay. The next agenda item is
cobia, and whether we're going to potentially
become managers of cobia. Toni is going to
start it and then I guess Jim has a motion.

MS. KERNS: Just a quick refresher course on
cobia and cobia management. Gregg Waugh
came in and spoke to the Policy Board at the
May meeting, and gave a bunch of this
information; but just a reminder of where we
are and why we're here. Cobia range from
Nova Scotia to Argentina, the stock that we're
really thinking about here is the stock that is on
the Atlantic Coast, and that is divided up into
two groups.

There is the Atlantic migratory group, which
ranges from roughly Georgia up to New York,
and then there is the Gulf group, which is the
east coast of Florida; as well as the Gulf of
Mexico. There is primarily bycatch in the
commercial fishery, as well as a very valuable
recreational fishery. Approximately 83 percent
of the recreational harvest in state waters from
Georgia north is occurring, and so that is why
we have an interest in this fishery; because of
that large state water catch.

Cobia is managed currently jointly via the South Atlantic Council and the Gulf of Mexico Fishery Management Council. The Mid-Atlantic Fishery Management Council has two seats on the South Atlantic Council, and so that is how they are involved in cobia management. The Atlantic migratory group, the South Atlantic Council sets the ABC, the TAC, and all the fishery specifications for that group. Then for the Gulf migratory group, the ABC is set by the Gulf of Mexico Council. The South Atlantic and the Gulf of Mexico Council determined a percentage of that ABC; basically a sub-allocation is given to the east coast of Florida.

Then the South Atlantic Council sets the regulations in order to meet that sub-allocation. There is a little bit of joint management going on there. Again, with the South Atlantic Council, the Mid-Atlantic Council has those two seats; and so they do have influence there on the Florida east coast fishery.

In 2015, the Atlantic migratory group cobia's ACL was 630,000 pounds, but landings far exceeded that at 1.5 million pounds. NOAA announced a closure for the Atlantic migratory group cobia effective June 20th in 2016, for that overage in the ACL from 2015. The closure impacted the range of all of those states; but the greatest impacts were seen in the Outer Banks of North Carolina, as well as the states Virginia to the northern extent of the range.

Virginia and North Carolina responded by changing their state specific regulations to lessen the impact of the closure. Then the South Atlantic Council requested that the commission consider joint or complementary management; largely in fact, due to that large state water catch that I told you about earlier, to help regulate that recreational fishery and to have state input on the management measures; to be able to better manage the cobia complex as a whole.

Yesterday the South Atlantic State/Federal Fishery Management Board had a very good,

thorough discussion on cobia management and where they wanted to see this management go. They made a recommendation that the commission implement a complementary cobia management FMP. What does complementary mean? It would mean that we would not have to have lockstep measures with the council vote. We would put together an FMP that is somewhat similar to those management measures within the federal plan.

It would be most likely how complementary management has worked in the past, where the Federal Council would set the ABCs and the ACLs, and then the states would work with those ABCs and ACLs, in order to implement management measures within their state waters. We typically jointly look at stock assessments. Oftentimes, the federal partner takes the lead in those stock assessments though. States would do state survey work, they would also monitor their quotas if quotas were put in place.

You could still have state specific regulations that weren't those that mirrored the federal regulations at times that can work out without having negative impacts on state and federal permit holders; depending on how it is designed. The other thing that the board recommended was that the cobia FMP be a part of the South Atlantic State/Federal Fishery Management Board. I will turn it over to Jim for those specific motions that were made at the council.

CHAIRMAN GROUT: Jim.

MR. JIM ESTES: If we can have it up on the screen, please, I'll state the motion and then I'll talk a little bit about the rationale behind it; although Toni covered some of that. **On behalf of the South Atlantic State/Federal Fisheries Management Board, we move to recommend that the Policy Board develop a complementary fishery management plan for cobia.** Now, if I might, a little rationale; Mr. Chair.

CHAIRMAN GROUT: Absolutely. That is a motion by the board so it doesn't need a second. Go ahead, Jim, for the rationale.

MR. ESTES: Toni mentioned some of the rationale. First and foremost I think is that although it differs from state to state, in 2015 about 80 percent of the landings were from state waters, and so that makes a little bit of sense that the commission would have some part of the management. We also discussed a little bit how Atlantic States Marine Fisheries Commission might be a little bit more nimble, and we could react possibly a little quicker than the council could to things that might change.

As Toni mentioned, the South Atlantic Fisheries Management Council consists of three members each from the states of North Carolina through Florida; including federal partners; and the Mid-Atlantic Council has two members, and so there was a little bit of discussion about equal membership.

For example, I know that Virginia, I think, has one member there. Here we're all equal. Those were those main points, unless Michelle has something to add. By the way, we also were lucky to have Dr. Duval with us, because she now serves as Chair of the South Atlantic Fisheries Management Council; and she also serves on our board. It was very useful to have her with us.

CHAIRMAN GROUT: Any questions or discussion from the board? I have one question, and it's from the standpoint of the commission has been taking on a lot of different species in recent years. I wanted to get a feel from Toni or Bob. Do we have the staff capacity to take on yet another very important, probably based on some of the public comments I heard last week, relatively controversial management.

MS. KERNS: I think I'll start and then Bob can fill in anything that I might leave out. I think that if adding cobia, we will be at full, full tilt capacity for staff. I think we'll have to be quite cognizant

and careful of our action planning, to make sure that we're not doing more than what we can handle; and then at times during the year we add additional amendments or addendas, and I think we'll have to look at the list and make sure that we prioritize the work that staff is doing.

It is not only our staff that will be impacted, but it is also states staffs for TC members, and stock assessment members, Plan Development Teams, et cetera, that will be cognizant of during those times. Your state members are also quite overloaded at times, and so we want to be cognizant of that. Do you want a budget as well, Doug or no?

CHAIRMAN GROUT: I don't need details in a budget, unless some of the board would. I just wanted some assurance from the staff that we weren't going to be taking away from other management board capacities to be able to move forward by taking this on without additional staff.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Just a quick comment. Two points in addition to what Toni said. One is that we've hired a contractor to work on cobia right now to help out with the staff capacity, and that seems to be working out well. That is an option moving forward to deal with staff capacity. The other is sort of a more philosophical question, which is do the commissioners have time to deal with all the species that we have on our plates right now? We've got four meeting weeks a year, two at four days and two at three days; so that is 14 days a year for the commissioners to tackle all the species that they have to tackle.

That is a pretty big workload. I'm not saying that the cobia sort of is the snowflake that causes the avalanche and makes us not be able to do our work. I think it is just symptomatic of everything that we're doing. Everybody's busy and everybody's pretty well flat out. At the Legislators and Governors Appointees Lunch today, there was a bit of conversation about

timing of briefing material and a lot of documents coming the Wednesday before meeting week as supplemental material.

That is another symptom of just being busy between our quarterly meetings. I think all those dimensions play into just prioritizing workload; and make sure that staff is working on the high priority of the folks around this table. As Toni said, we don't really have anyone sitting around the office looking for things to do; but we just want to make sure that we're hitting the most important projects that you want us to work on. Should this move forward, we just need to make sure cobia is in the right place in that prioritized list.

CHAIRMAN GROUT: I think that's a good point, Bob, because you've seen recently it has been difficult for boards to have the thorough discussion that they need, for different management actions within the timeframes that we're allowed; because we're only here three or four days a week. It may be something that we need to consider in the future, particularly for taking on additional species. I saw Michelle's hand and then Robert and then Ritchie.

DR. MICHELLE DUVAL: I'm sort of struck by some of the comments around the table. This is a little bit of déjà vu of similar conversations that we have around the South Atlantic Council table a lot. I know John Carmichael is sitting here in the back of the room. I am sure he would nod his head with regard to capacity and wanting to make sure that staff that are already running at full tilt, don't get overloaded.

Unfortunately, sometimes at the council level we have triage issues that we just simply have to deal with. I guess I am fully aware of the capacity issues here. I don't want to create even the start of the avalanche, but I do think that cobia does meet all the criteria for a species that we would consider for interstate management.

You know, there is certainly some controversy with regard to stakeholders, in terms of taking on cobia. I think I tried to address some of those concerns at the South Atlantic board meeting the other day. I think they are mostly related to assumptions that if the commission were to take on cobia that we would immediately move towards a state-by-state management approach.

I have tried to tell folks that may be certainly an option down the road, but that doesn't mean that that is something that the commission would consider out the gate. I do think that taking on management of cobia would alleviate those concerns about equal representation that Mr. Estes outlined. I think given the migratory nature of the species, given some of the distributional shifts that we are seeing, given some of the warm water conditions that we are seeing. I think that it would be wise for the commission to consider taking on cobia sooner rather than later.

MR. ROBERT BOYLES: I would like to echo Dr. Duval's comments just for the board's consideration, a reminder that fully 80 percent of the cobia caught on the Atlantic coast or caught in state waters, we just spent four and a half hours kicking the can down the road on a very important species; the percentage of quota which my state enjoys is zero.

We've had a request from a sister, delivered in body requesting us to consider taking over management. In South Carolina when we closed our fishery in state waters, as well as in coordination with the federal closure, my anglers asked me how come our sister states to the north are continuing to draw fish out of that population?

Their request of me is one of equity. My interest in this is I fully respect and appreciate fisheries triage. I think that is important for us all to take into consideration. But I will repeat what I said yesterday at the South Atlantic Board to quote Dr. Franklin, "We must all hang

together, or surely we will all hang separately.” I would urge the Policy Board to approve this motion.

MR. WHITE: I have more of a question than taking a position on this. The word, complementary, I guess I questioned. If we’re going to put a lot of resources and effort into coming up with a management plan and managing this fishery, does that mean then that we are just following what the South Atlantic is asking us to do or telling us to do?

I would think that if 80 percent of the harvest is in state waters that the commission would be the lead entity, and the South Atlantic would be following the commission’s lead. I guess I don’t quite understand how this process would unfold.

CHAIRMAN GROUT: I guess our Executive Director would like to answer that.

EXECUTIVE DIRECTOR BEAL: I’ll give it a try. Ritchie, I think a lot of the details still have to be developed. But if there is the maintenance of a federal component in a fishery management plan, then that portion of the management will be bound by the Magnuson-Stevens Act. The South Atlantic Council will, if they maintain their plan, which under this motion they would; will still be obligated to set ACLs and catch limits and accountability measures.

But I think the idea is that through working through the states and the commission, we’ll be able to deal with a lot of the allocation issues and slow down the fishery so that the accountability measures that were triggered this year can be deferred or avoided altogether, and the fishery can be better managed and meet the needs of the states.

Because right now, depending on when the closures occur, it advantages and disadvantages certain regions of the coast. Working through the commission process, I think a lot of the commission work will probably be sort of

spreading out the benefits or equalizing the benefits across all the states that have cobia.

CHAIRMAN GROUT: Further discussion on the motion? Dave.

MR. BORDEN: I’m supportive of the concept of doing this, but I would just like to note I agree with a lot of what Robert said. Where I get apprehensive is when I think about this many people following our normal FMP development process with PIDs and public hearings and all of those types, in a formal FMP. I think of all the time and effort and labor that go into that. I would go back to the point that Ritchie made is, the issue to me is complementary regulations, and not the full development of a FMP. I don’t have the answer for this, but maybe there is a process that we could follow that would short-circuit a lot of our own procedures to try to minimize the workload. The operative phrase here I think is complementary regulations.

If we can simplify the way we develop those, I think it would behoove us, because this is sure to happen with other species. This is just the first one with climate change and all the rest of the things that are going on in the ecosystem. I think we should all expect that this is going to happen again.

MS. KERNS: David, I see some of the points that you’re making and we could try to talk potentially to see how we could make some changes to our process potentially. But the commission would have an FMP. It would be largely based on the council FMP, but because it is complementary and not joint, it does allow for the commission to have unique measures that are not in the council plan. You could have some state-specific information within our FMP. It doesn’t have to be like similar to summer flounder, scup, and black sea bass.

CHAIRMAN GROUT: Further discussion on the motion, seeing none; do you all need time to caucus on this? **Let me try this. Is there any objection to the motion? Seeing no objection**

to the motion, the motion passes. One of the things, there is a follow up on this, Toni and Bob, as we get into the fall meeting where we're looking at our action plan for the future.

I would like a special consideration given to, not only an analysis of staff capacity, but also of board and technical committee capacity at our current levels of fisheries management; to see if there is the potential that we may need to change things. Maybe we can do it the way it is, but go ahead, Bob.

EXECUTIVE DIRECTOR BEAL: Now related to that a moment ago you mentioned that some of the board meetings are tight, very tight. You indicated that some of the discussions may not be able to sort of develop and unfold and get into as much detail as you want. I think if that is a prevailing perspective of the commissioners that we're trying to jam too much in a meeting week. That would be good for us to know.

We're trying to accommodate all the decisions at staff level that we know need to happen during a meeting week to keep documents moving forward and everything else. But it is more of an art than a science, scheduling these meetings. Some go over, some go under and hopefully around five or six o'clock, we get done for the day. But if that is the sense that we're trying to do much in a meeting week or in a day or in a two-hour meeting or whatever it is. If we can get that feedback to staff, that would be helpful.

CHAIRMAN GROUT: Possibly one mechanism for getting that kind of feedback from our commissioners is we do that annual survey of how we're doing. Maybe we could add a question to that survey; do you think we need more time in our meeting week to thoroughly do our business?

EXECUTIVE DIRECTOR BEAL: Some of your meetings are entirely too long. But that is fair too.

CHAIRMAN GROUT: I agree. We need to have good meeting management. I know I didn't do a good job at Executive Committee in keeping us on time. But I know, from my observation today at Menhaden, Bob Ballou did an excellent job of moving things along, and we were still an hour behind.

MR. WHITE: Yes, because we used to have four, four-day meeting weeks; so we've dropped two days out of our schedule.

CHAIRMAN GROUT: Okay Jim, I believe you have another motion from the board. It's already up there. Okay. Should I read this into the record? I'll let the Board Chair read it into the record for me.

MR. ESTES: **On behalf of the South Atlantic State/Federal Fisheries Management Board, move to recommend to the Policy Board that the South Atlantic Board is the appropriate venue to develop the fisheries management plan for cobia.**

CHAIRMAN GROUT: **Again, this is a board motion. It does not need a second.** Is there discussion on the motion? Toni.

MS. KERNS: Just a quick note for those states that are not on the South Atlantic Board. If you have an interest in cobia or commissions, you can make a request to the Policy Board at any time to be able to declare into that species management board; especially if we're going to have a new species within that board, as well as that we offer seats to the councils on any of our management boards. The South Atlantic Council does have a seat on the South Atlantic State/Federal Board.

DR. DUVAL: Not to belabor this, but I do think that this is something that in terms of where board management of this species moving forward. I think that is something that can be a little bit flexible, and should the commission decide down the road that it really does require its own separate board or a subset of the South

Atlantic Board; you know we can certainly do that. It just seems like right now it is the best place to start.

CHAIRMAN GROUT: Further discussion on this motion? **Is there any objection from any states to this motion; states and federal entities? Seeing none; the motion passes.** Okay, that covers cobia management. We are now official cobia managers.

OVERVIEW OF THE CONSERVATION EQUIVALENCY GUIDANCE DOCUMENT

CHAIRMAN GROUT: Toni, do you want to give an overview of the Conservation Equivalency Guidance Document that we've been reviewing and making changes to?

MS. KERNS: I'll be quite brief on this, in the interest of time. The Executive Committee tasked staff to look at the guidance documents, and one of the guidance documents that we had not looked at in a very long time was the Conservation Equivalency Guidance Document. It just gave an overview of procedures of how states were supposed to go about putting together conservation equivalency plans. Over time as the commission has evolved, what was in that document and how we actually practiced started to separate from each other.

Staff, as well as the Assessment Science Committee and the Management and Science Committee, made some recommendations on how we can make changes to that document to reflect current practices. It includes recommendations on the timing of requests for conservational equivalency proposals; the information that needs to be contained, the evaluation of those proposals, how long they last. We'll be making language changes to the documents based on the recommendations that came out of the Executive Committee meeting and we'll present that to the Executive Committee at the annual meeting; and then present the document to the Policy Board for their review and approval at annual meeting, as

well. Again, just to note that it is actually reflecting what our current practices are. There aren't any significant changes. I will highlight if there are any significant changes to current practice in my presentation at the annual meeting.

CHAIRMAN GROUT: Any questions for Toni?

RISK AND UNCERTAINTY POLICY WORKGROUP REPORT

CHAIRMAN GROUT: Okay, we'll move on to Risk and Uncertainty Policy Workgroup. Shanna has –

MS. KERNS: Jay's going to do it actually. He chaired that work.

CHAIRMAN GROUT: Jason, since he is Chair of the Workgroup, is going to do the presentation on this; and there will be an action for consideration of approval of the Risk Policy Statement.

MR. JASON McNAMEE: My name is Jason McNamee; I work for the Rhode Island Division of Marine Fisheries. I am the proud Chair of the ASMFC Risk and Uncertainty Policy Working Group. I've got a quick presentation here. I'll try to get through it quick, so we can get to the heart of the discussion.

Just brief introduction, at the November Executive Committee meeting, the Executive Committee reinitiated a process to develop a Risk and Uncertainty Policy for the commission. It had been attempted before. It got going and then got quiet. We wanted to get it going again. We felt a little more optimistic. This kind of discussion, this type of policy, it's becoming better understood. It's becoming more of a standard in scientific and management procedures.

Some recent examples emphasize the need to develop this policy. I will use a very contemporary example, maybe from this

morning. I think the board could have used a little more guidance; I think it would have helped in the discussions this morning at menhaden. This is exactly what this type of policy is meant to do. It sets out that kind of criteria a priori, so you have that guidance.

It could have been that one piece that you needed this morning to help with that process. There have been other examples, striped bass I think it was last year, because there was no guidance, the Technical Committee ended up choosing a risk. It is really not a technical decision, it is a board decision, so a couple of examples there as to why these types of policies are important.

Some of the benefits of a risk policy, they've been used for many years now by the regional councils. There are some negative examples from really rigid applications of these types of policies. But there are also successful examples. It is not all negative. We tend to focus on the ones that get us jammed up; but there are some examples where these risk policies have benefited the management of the different stocks.

In our case, because they've been used for a while now, we have the benefit of hindsight, and so we can build a policy that has a little more flexibility associated with it. A couple more points on the benefits, one of the nice things about setting out the policy ahead of time, it provides a priori guidance to the technical committees for specifying recommendations; and these recommendations will be in line with what the board wishes. It kind of lines everybody up, makes them more efficient. It improves the integration of fisheries science and management by maintaining transparency and creating management level accountability.

That is another nice aspect of setting forth these types of policies. It allows the TCs to work a little more efficiently. You don't have to have that extra bounce, where the TC kind of

comes back to the board and says, we need a little more guidance; and so that gets sped up, because that is already provided.

It also provides greater clarity in the process for the stakeholders; they kind of know ahead of time the things that are guiding some of your decisions. Back in April, the ASC and MSC both met at a joint meeting, and we began to scope out a plan for the development based on that request from the Executive Committee.

We created a plan, and what we wanted to do was develop a multidisciplinary working group to work on the policy. What we mean by multidisciplinary, we had members from the MSC, members from the ASC, as well as some board members. We kind of constructed this working group; and our first task was to develop the Risk Policy Statement.

We began working on that. Two products came out of the process to develop the Risk Policy Statement, and so I'll pause for a minute. The Risk Policy Statement is the overarching, guiding principles for the whole rest of the policy. This is that kind of couple of sentences right up front, very high level that sets out the perspective of the policy and the guidance that the following policy will follow; and so it is that high level statement.

We did it kind of in a sequential way, and we got two products. We got the feedback from our Multidisciplinary Working Group, we got some common threads. We had multiple people contribute; each kind of contributed very thematically similar things, which was kind of interesting. We synthesized some of those common threads; and I'll show you that on the next slide.

Then we produced the actual statement, and we'll give you a look at that, as well. The common threads that kind of popped up were consistently applied across all commission species. The people that were on the working group wanted something that kind of be

comprehensive, used consistently across all of the species, and not just completely change what you're doing from species to species; you know where appropriate.

They thought it was important to incorporate social and economic factors. That is something we talk about a lot, but don't have a good mechanism for incorporating. This provides us an opportunity to do just that. Provide transparency for the commission process, I've talked about that a couple times, but when you set up this guidance ahead of time, it increases that transparency.

Flexibility should be built in so the policy can be amended and adapt to change. We don't want something that is static and really hard to change. We want something that is flexible that we review through time; and that is one of the things that we'll try and really harp on, as we build this and really keep in mind. A final kind of theme was to provide stability in management measures, and that is something that we talk about a lot but often don't achieve. Stability is another attribute that we can build into this policy. The second thing that we developed was the Draft Statement, so I'm going to yammer away here for a minute. You can ignore my voice and kind of look up there and read through that.

I promise you I am going to go to a slide at the end where the font is much larger, and give you some more time to kind of stare at that. But just a couple of comments before I click through; I've got two more slides. A couple of comments, the Draft Statement, as I mentioned, was sort of a sequential process for us. We asked the Working Group to kind of all contribute their ideal policy statement, and those got sent in.

We kind of coalesced them; and then synthesized them into a single statement, trying to grab everything that had come forward to us. At that point what we did was we put forward that synthesized statement. We had a

conference call. We beat it up real good on the conference call, made some good modifications; made it a little more efficient, as well.

It might be hard to believe, looking up at that. But we did, and sent it back out; received a few more comments. The point of all of that is we worked on this pretty hard. We were pretty satisfied with the product, but now we want you all to take a look. Wordsmith it if you want, offer some advice; however you want to approach it.

Just to show you our next step, so establishing the Multidisciplinary Working Group, we did it. We checked that one off the list. Now we're developing the Policy Statement, and it is important for the continuation of this process to get that Policy Statement set; because that guides the process from here on out.

This is the opportunity to set that high level policy guidance, so we know how to proceed with the rest of it. That is what we're hoping to achieve at this meeting. Then we'll meet again and we'll begin to scope out a plan for the rest of the policy. We'll develop one thing we thought would be very useful, which is to develop some examples; so actually walk you through what the policy would do in a sort of example situation.

We've gotten some good feedback on how to that; one data poor, one more data rich, those kinds of scenarios. Then we'll present those examples to the board during the annual meeting. That is our kind of ideal timeline there. I will stop now for questions; I'm going to flip one more slide so that the statement will go back up on the board.

But one comment is with the retirement of Dave Simpson, we'll be down a member on the working group, so if anyone on the board would like to be involved with that, we would be happy to take on another member to offer that board member guidance to the process. With

that I will stop talking, put the Policy Statement back up there and take any questions that you might have.

CHAIRMAN GROUT: Questions on the Policy Statement.

MR. ADAM NOWALSKY: This may be premature, but I'll try, anyway. In that the examples we're talking about seeing being driven by this policy statement. Are they similar to the risk policies that the federal council's might be using; such as the B to BMSY ratio is something, then do something with your quotas, or if the stock is overfished and overfishing is occurring do something else. Are we talking about applying something that mathematical that we see at the federal level; or are you contemplating something else? Any indicator of what that something else might be would help me in responding to this statement.

MR. McNAMEE: Yes, excellent question. That was as we began talking about this that is always the question. Are we going to get locked into some like super stringent rigid control rules? The way, at least at this point, that we are envisioning this policy to be applied mechanically is like a decision tree, where you bounce through a set of questions that you ask, based on the information and the species that you're working on. What we think that does relative to -- if you'll bear with me, I don't mean to offer that I know exactly what you're thinking.

But I think you are kind of envisioning a really rigid process. If X equals Y then some result happens. I think what we envision in the decision tree is more nuance to that, so we don't get locked into a really rigid result, based on one single element. There are a number of elements in there that we can all weigh, but in the end the goal is to get to a system that we all know ahead of time; and will kind of know how things are going to flow through that system.

Without being able to offer you the examples specifically, and we did actually go through a mock example at the ASC/MSC meeting, I don't know if that was provided. We didn't provide it to the board, but we did kind of begin to tinker with an example to see how it worked. We'll continue to do that. I can't be more direct with you at this point, because I don't know. We haven't gotten to that point yet.

CHAIRMAN GROUT: Other thoughts and questions and discussion on this? Steve.

MR. STEVE HEINS: Would you envision that this would only be applied to species that the council doesn't already apply a risk policy to, or is there going to be some relationship between commission policy and a council risk policy?

MR. McNAMEE: Good question. I don't envision this as being additive with preexisting risk and uncertainty policies that are out there. But one way that it could be helpful is, there is a process for management uncertainty for some of the jointly managed species; but by and large that management uncertainty aspect is not applied. This could supplement in that aspect of it, but I don't see it as double dipping on the risk; I guess for a lack of a better way to put it.

REPRESENTATIVE CRAIG A. MINER: To me, it describes what I've read in the charter. It is a condensed version. I appreciate the work you've done here. It looks something like what I expect to see from this commission or the board. It would be certainly benefited, and not only that but it is necessary by the demands of the charter that govern this body. I would like to see this move forward, so, good job.

MR. BRANDON MUFFLEY: I am glad to see this move forward. I was part of the original one that when this topic came about a number of years ago that kind of fizzled, so I'm glad to see this go. I think this provides a lot of benefits to the board members; and also to the public, so that they can see some rationale behind some of the decisions that we have. I don't know if

this is a question specific to you, Jay, or more to Doug. What would be the way that we would implement this sort of policy?

Like structurally within the commission's guidelines and rules and regulations, how would this specifically be implemented and applied?

CHAIRMAN GROUT: I'm being consulted. Toni is providing me advice that it could be the decision of the board as to whether we want to incorporate this, for example, into the charter; or some of our existing documents as a policy, or we could have a standalone policy statement. Again, that is something that we would have to decide at this particular point in time.

MR. BORDEN: Question for Jason. Jason, did I understand you correctly that if the commission adopts this, then it basically sets a framework for additional work that would be done; and then you would bring all of it back and ask for formal approval. I mean, if that is the case, my assumption is we don't need a motion at this point; just the acquiescence of the committee.

CHAIRMAN GROUT: That's the way I see it. I would like to have concurrence from this board that this is a policy statement that we would like to move forward with, and then the Working Group will complete their work and then come back and we'd have something that we'd formally adopt.

MR. BORDEN: I think it's a good first step, and I'm comfortable with it; given the fact that we're going to revisit the whole issue at some point with further details.

MR. NOWALSKY: I, as well, support the intent of what we're doing here. My only concern with this as written and I would be interested in feedback about where the specific verbiage came from, would be with regards to requiring full consideration of the uncertainty. I think, by

its very nature, the level of uncertainty is uncertain.

I think, we, as managers, those that do the work, the public we represent, can always point to something else that we should be considering or didn't fully consider. What was the thought process to that particular phrase; and is there something else that was considered, the maximum consideration practicable; something to that regards that would allow for that understanding that it is by its very nature uncertain.

MR. McNAMEE: Great question. The idea behind that statement, I think, was to fully account for, to the extent we could, the uncertainties that are accounted for. I think that gets to Steve's question. Some uncertainties are already accounted for. We Monte Carlos sampled the output from the stock assessment.

We projected with uncertainty around parameters X, Y, and Z; and so there are certain things that we have accounted for uncertainty very explicitly, and we kind of itemized those, so we can see them. Then there are these remaining ones for instance that we don't necessarily do a good job of accounting for; economic uncertainty, social uncertainties, things like that. The idea with the statement is to lay bare what we've accounted for and what we've not accounted for; and how we deal with it at that point.

CHAIRMAN GROUT: Further discussion, further comments? What I've heard from those who've spoke, I see support for moving forward with this. Are there any objections to having the Working Group take this and develop examples, and bring back something that we can look at for consideration and potential approval at the fall meeting, or the next available meeting? Seeing none; thank you very much, Jason, for the work of the Working Group on this. I appreciate your leadership on that. Okay, next

on our agenda is Lisa Havel with three reports; 10, 11, 12.

HABITAT COMMITTEE REPORT

DR. LISA HAVEL: My first report will be on the Habitat Committee. On May 11th and 12th, the Habitat Committee met in Cape May, New Jersey. They had a presentation by Dr. Ken Able from Rutgers University, reviewed the process for making recommendations to the Policy Board, reviewed the 2016 Action Plan progress, and finalized the topics and articles for the 2016 Habitat hotline, which will be shallow water habitats.

They also discussed climate change actions by state, and discussed seismic testing effects on fish habitat. This was submitted to the Policy Board in a memorandum in the supplemental materials; and I would like to go into more details about that now. Some background on seismic testing, the Habitat Committee discussed whether the effects of seismic testing warrant a position in comments by the commission.

Seismic testing includes oil and gas exploration, siting of offshore wind facilities, and characterization of sand resources. Testing uses loud blasts from air guns up to 180 decibels every few seconds for up to weeks at a time. This can cause temporary changes in functionality of areas for different species; making it a habitat issue.

This should be of interest to the commission, even if it is not a habitat issue. Seismic testing can cause behavioral disruptions in feeding and movement, which can have proximate effects on feeding and reproduction; and ultimately affect stock productivity. Impacts can be minimized if testing is timed to avoid key life history stages.

But you need more information for accuracy and precision in order to set those timings. Seismic testing can also cause injuries in marine

organisms. The Habitat Committee's perspectives were influenced by comments from the Mid-Atlantic Fishery Management Council and the South Carolina Wildlife Federation. The Mid-Atlantic Council wrote to BOEM, opposing seismic testing on the U.S. East Coast, citing insufficient data on impacts to marine mammals and fisheries.

The South Carolina Wildlife Federation wrote to the South Atlantic Council, opposing offshore seismic testing and oil and gas development; and asked the council to at least protect essential fish habitat and habitat areas of particular concern in offshore waters. They also asked to designate special management zones, and send comments to BOEM and the Office of Coastal Resource Management.

The Habitat Committee recommends that the commission adopts a position similar to these organizations; and convey that position to BOEM and other entities, and we have the possibility to move this forward today. The Habitat Committee also wanted to include that seismic testing is used to locate oil and gas resources, as I stated. That can have additional detrimental effects to managed species, if oil and gas drilling does start to occur.

CHAIRMAN GROUT: Okay, we have a request from the Habitat Committee to write a letter expressing the commission's concerns about this seismic testing. I would like to have a discussion on this; and also any questions that you may have for Lisa, concerning the Habitat Committee's position on this. Tom, you had your hand up?

MR. THOMAS P. FOTE: I've been in this argument a long time, Rutgers University basically doing seismic testing off New Jersey, and they weren't even doing that; they were doing it for archeological. Under the guise of doing for climate change, they really were looking for – they want to sell the papers for oil and gas drilling, but they couldn't do that off New Jersey, so they did it under the guise of

looking how 60 million years ago climate change affected them; and that was totally absurd.

But the latest one is that the Manasquan Ridge, the boats were out there doing seismic testing; not on the magnitude that Rutgers was doing, but a slow one. They were looking for sand granules and to destroy the Manasquan fishery, Manasquan Ridge, which has been a fishing hole for hundreds of years off New Jersey.

Jimmy Loveland just pointed out the fact to me that he went out, and some of you know Jimmy; he was on the Mid-Atlantic Council. He went out the week before and was getting a couple of boxes of summer flounder. Right after they did the testing, all they were getting were three or four fish from the same area.

It dramatically effects, whether it kills them or not it does move them out of the area. The seismic testing is not doing anything good for fishermen, so it is either we do all drilling or we do sand mining for this. I understand we have to do beach replenishment. Usually, I don't bring the Jersey Coast Newspaper here, but there are two interesting articles; one is from the New York Times that a book that a gentleman is putting together right now, and looking at sand mining around the world.

A lot of it is due to major construction that is going on, Singapore and other areas of the world; and how they are destroying all the reefs, all the lumps, everything that is going on. It is just not unique to New Jersey or Florida or any other place that are doing this kind of testing and mining. I'll leave copies on the table, please take a look at the article. I asked Tina, I'll send her the New York Times article so she can send it out in the next commission mailing; but I support a letter going out. If you need a motion, I'll make a motion.

MR. DOUG BRADY: I'm relatively new here. Has this been something that's been on the

plate for a while, or is this the first time that this has come in front of the entire commission?

CHAIRMAN GROUT: I believe it is the first time we've had any requests like this.

MR. BRADY: I'm not necessarily opposed to it, but I'm not sure if it doesn't require some more thought if you are going to make these strong statements. This is the first I've seen it. That's just my opinion.

MR. FOTE: Over the years, we've commented on certain projects that would affect spawning areas; anything that affects fisheries, and we have written this type of letter before. In the last 25 years I remember writing quite a few, especially when all the Governors Appointees and Legislative Appointees were on the Habitat Committee. We would look at different issues like this and approve them. We do it after careful discussion and getting all the facts. But we would do letters on that. A lot of it was to protect striped bass habitat or other habitats. The same way we were looking at the dredging issues, or supporting NMFS in some of their habitat issues that they were going on and write a letter in support of them.

MR. MUFFLEY: I also would support a letter from the commission on this issue. As Tom had mentioned, it has been a very active issue in New Jersey, not just for oil and gas exploration; but as Tom had mentioned, under scientific studies in regards to climate change issues, so it has been used for other purposes.

One of the things that I would recommend that be included in the letter is the need for additional research and studies to take place; because that is one of the things we are really lacking, is to understand what these impacts are. Most of the studies that have taken place or have taken place either in laboratory settings to try to understand what the impacts are, or when they evaluated impacts to fisheries, they've been in Europe and in other locations.

We don't have anything specific to the Atlantic Coast to definitively say, what happens when this testing takes place? We have information from the fishermen, but I think we need something more comprehensive; so I would recommend that the letter also discuss the need for research to get a better understanding on the issues.

MR. CLARK: I was just curious, Lisa, did the Habitat Committee also look into coordinating with the Ocean Action Plans that are being developed in both the northeast and the Mid-Atlantic; because I know this is an issue that has come up with the Ocean Action Plan to try to coordinate planning of these type of activities, and limit where they take place?

DR. HAVEL: That did not come up at our meeting, no.

MR. PATRICK C. KELIHER: I think any letter that is written needs to insure that BOEM is going to continually keep the commission apprised of any applications that are being submitted. Frankly, I'm more comfortable commenting on, instead of a blanket statement, commenting specifically to applications that may be submitted for permitting.

I'm sure the federal agencies will be commenting on any of these, and states with coastal zone management programs through the Federal Consistency Act, will be doing that as well. It feels good maybe to send a letter, but to be very specific on specific projects may be more appropriate.

MR. BOYLES: The South Carolina Department of Natural Resources has commented to BOEM on issues of seismic testing. I would point out to the Policy Board that my agency includes both the Marine Resources Division as well as the South Carolina Geological Survey. I reside at the South Carolina Marine Resources Center, which was established almost 50 years ago to promote ocean sciences research and development.

My concern with the letter, although I understand and appreciate some of the comments I've heard around the board about impacts of testing, unknown impacts on fish species. We mentioned that in our specific comments to BOEM. But at the same time, you know, our particular proposal off the South Atlantic, we made some very specific recommendations to BOEM; recognizing that we are interested in understanding what is out there on the shelf. I'm not comfortable with this vis-à-vis the perspectives, particularly from the Wildlife Federation. I understand where they are coming from, but just recognize that my agency has got a little bit broader portfolio.

CHAIRMAN GROUT: I have a quick question for you, Lisa. Then if I know the state of New Jersey wanted to make a motion. After I get the answer to the question, if you would like to put a motion up on the board for consideration by the Policy Board; I would take that after the question. I noticed in the Habitat Committee memo that it has been documented to actually demonstrate injuries to marine resources. What kind of injuries are occurring and to what resources, when this happens?

DR. HAVEL: It has been shown to decimate larval and egg stages, and then also there are sublethal affects like affecting hearing, causing injuries to fish hearing; which can effect orientation and reproduction.

MR. BRADY: I see the perspectives influenced by comments from, I guess that's Mid-Atlantic Fisheries Management Council and the South Carolina Wildlife Federation; and that this letter may take a similar position. Are those perspectives anywhere in our documents?

DR. HAVEL: They are in the supplemental materials.

MR. PATRICK GEER: Just to let you know, the South Atlantic Fisheries Management Council, through their Habitat AP, has a similar comment

letter, statement that they put forward back in April of 2015. That is available as well.

CHAIRMAN GROUT: Does New Jersey want to put a motion up on the board for consideration, or not?

MR. FOTE: Before I make the motion, let me explain a couple of points. When we asked from New Jersey, we asked them to do it in the wintertime when there is no fish on those areas that would basically be disturbed; especially when the whales would be missing and the porpoises and everything else.

They refused to do it, because they are looking at when they can do it with graduate students. They are looking at doing it in the summertime that all the fish are there. That was one of the things. Also, the LMB was supposed to do research on the effects of this. As you know, once they did the seismic, they never do any of the research projects to tell us what happened after that; as Brandon pointed out.

Maybe the letter should go along with a motion that we send complementary letters, since we're doing complementary today with the South Atlantic and the Mid-Atlantic Council, asking for any project that is approved that the research needs to take place and needs to be funded before the project takes place, and that we get answers to what goes on there.

It is like when we do dredging. We don't do dredging when fish are spawning. It should be done when the fish are not in the area. It is not my problem if it is not convenient for the guys to blast, but we're here to look after fish and what the effects on fish are. That's one of the things I think we should state in the letter. Again, I understand, Robert, and we need to get research. But we need to get research that doesn't do it during fishing seasons or that will affect commercial fishermen and recreational fishermen; or damage fish, or damage marine mammals. That's my concern here, and if you could do it at alternative times, it is probably

harder in the south but it is not harder in the north. There are whole times that there is no fish out there because nobody is fishing. That is one of the ways. I haven't worded the motion; I'm not good at that. I always left it to Pat Augustine.

Doug, do you want me to make a simple motion that we send a complementary letter to go along with the South Atlantic Council and the Mid-Atlantic Council, requesting that any seismic blasting or testing takes place when fish are not in the area, as much as possible, and that research needs to be done on any project that is; and funding for that research needs to be up front before you do the project.

CHAIRMAN GROUT: Did you get that? Once we get that up, I will see if there is a second, unless somebody would like to second it as they heard it. Okay, Eric Reid will second it as he heard it. We'll try and get that up on the board and have discussion on the motion for the discussion. John, as I was asking for a motion, I saw your hand whip up. Do you have something you would like to say?

MR. CLARK: I was just going to note that the Mid-Atlantic Council has a habitat policy and kind of a set of standards to how we respond to this sort of thing, so when one of these site-specific projects comes up, we could have staff write a letter relatively quickly; fire it around to the council, get it approved, and get it out, because often the timeline on these things is such that that sort of thing is a requirement. Maybe you want to take a look at that as well as the letter itself from the Mid.

CHAIRMAN GROUT: Michelle and I see a half hand up. Robert, do you want to speak, too? Michelle first.

DR. DUVAL: To follow up on Pat's comment about the South Atlantic Council letter, which is fairly broad in nature, the council does have energy policies and attach that and a letter to BOEM. I think it was rather general. I have,

wearing my agency hat here, I have some of the same reservations as Robert does about sending a very specific letter.

I think I could support a broad letter that encourages advanced communication from BOEM to the commission, with regard to projects that may be occurring along the Atlantic Coast that would have the potential for overlap with our managed species and to encourage consideration of that when reviewing applications. You know, some general language like that. I just have concerns about my ability to approve a motion that is very specific, when my agency, as a whole, is considering specific impacts on projects on a case-by-case basis.

I mean, I don't think any of us want to see any kinds of seismic projects that would significantly impact the species that we're trying to manage here, or be at cross purposes with what we're trying to do. I'm trying to find some way to finesse this into an encouraging BOEM to come to us and work with us and give us a heads up on when some of these things are coming forward. But I'm concerned about my ability to support this motion, given specifics that my agency might not be able to support.

CHAIRMAN GROUT: Tom does that say what your motion is, or would you like to consider modifying your motion so that you might get support from the state of North Carolina?

MR. FOTE: I think this is pretty broad, because all I'm saying is that basically similar letters that you sent in the Mid-Atlantic Council, but because they promise to do the research, and they never do the research, I'm asking for some funding in there. I think it is pretty broad. I don't think it is particular to any project. But if you're going to approve these types of things, this is one of the things you have to do; if you want to Wordsmith that, I am fine with that.

MR. BOYLES: I may need to clarify a comment I made earlier. If you read the letter from the

South Carolina Wildlife Federation, you look at Page 2, and if I may Mr. Chairman, I would like to read it. It is our understanding that the designation of the proposed areas as SMZs would also then be categorized as EFHs/HAPCs. This categorization would provide a stronger argument for protecting these important places from activities associated with energy exploration.

We encourage the SAFMC to address the energy development issue and all potential concerns regarding fisheries. To Mr. Fote's point, again, my agency wrote BOEM with concerns; and just for the board's knowledge BOEM had earlier indicated on the South Atlantic area off of South Carolina, they did not intend to lease any areas within 50 nautical miles of the coast.

Our comments were basically; well, if you're not going to lease anything within 50 miles of the coast, why test within 50 miles of the coast. I want to be clear to the board that we are concerned because of some comments New Jersey made earlier. There are documented impacts of seismic testing on fisheries.

I read the comment into the letter, because I think it is a little -- I'm not sure that it was clear and I certainly appreciate where the Habitat Committee is coming from. But if I'm not mistaken, the context of the letter from the Wildlife Federation was to the South Atlantic Council vis-à-vis their development of spawning special management zones. It was not specific to BOEM exploration and development, and I think it is important for the Board to recognize that; and because of that lack of clarity, I just would say I cannot support the motion.

MR. JOHN M. T. BULL: Hearing the concerns expressed around the table, and I have some concerns, as well. One of those concerns is that my agency; the Virginia Marine Resources Commission, has some permitting authority on transmission lines, whether it is renewable energy or if it is traditional oil pipelines. To that

end, I really feel uncomfortable about interjecting Virginia at this point; when we may have a say in a permitting role down the road.

It strikes me with the concerns that are being expressed around the table, that maybe this is better to kick it back to the Habitat Committee, to at least come up with a draft letter that we could all review; and then maybe make some suggestions on just how broad it should be or how specific it should be.

MR. MUFFLEY: I won't speak for Tom, because he may have his own thoughts, and I definitely will not be able to speak for him very well. But I don't think that Tom is indicating we need to provide a letter specifically as to what the Habitat Committee was recommending. It was not for the commission to come out on some specific policy statement as to conduct seismic testing or not to conduct seismic testing with a specific area. I think it is to raise the issues of scientific seismic testing; what our concerns are from a fisheries management perspective; and to be more informed and have an open dialogue with BOEM about those particular issues; and to also address the specific research and our lack of real good understanding of what those impacts may be. I don't think it was to say, this should not happen here or there.

I think it was just to raise the issues that this commission may or may not have in regard to seismic testing. I think it was intended to be a little bit more broad, and maybe the Habitat Committee's recommendation was to be much more specific. I'm not really clear. That is my general sense of where this was to go.

MR. ERIC REID: I did second this motion; of course, it was a blank screen when I did it, but that's fine. I did it because I wanted to have this discussion. You're talking about asking for cooperation from BOEM. You're all dreaming, every one of you. Do you think you're going to get cooperation from BOEM?

Look at the proposed wind farm area up in the corner in the entrance to New York Harbor. There was no cooperation from BOEM on that; none. To think you're going to have an open dialogue with BOEM; I'm sorry, I don't think so. Mr. Keliher, I think you're asking for things you're never going to get. But I think what this commission needs to do, and I like Mr. Bull's suggestion of putting this back to the Habitat Committee, and I would like to send a base letter.

We build bases on management plans. I would like to send a base letter to BOEM, stating that we are concerned about their seismic testing and what it may or may not do to our fish; and be ready at any moment to send a topic specific letter to BOEM at any time, any time we so please, whether or not it will fall on blind eyes or deaf ears.

We won't have any hearing left because of seismic testing, I don't know. But my intent is to have this commission say that we're concerned and then pick our battles every time there is one. But do not think for one second you're going to have an open discussion with BOEM.

CHAIRMAN GROUT: Further discussion on this motion.

MR. FOTE: I was trying to be very broad here, and broader than what the Habitat Committee, but now if you want to send it back to the Habitat Committee to get them to draft a letter, and look at what the Mid-Atlantic Council does, look at what the South Atlantic Council does; and give that as guidelines to move forward, I have no problem doing this at the next meeting. It ain't going away.

John, unlike you, where they were talking about 50 miles offshore, when they do this in Jersey they are doing it four miles from the beach. They're doing it 12 miles from the beach, they are doing it right in front of us on all the habitat that's there; because they're looking for areas

they are going to sand mine and they want to do it within three miles of the beach, even in state waters.

I'm sorry to say that one of our federal agencies caved into BOEM, because they knew that these were fish habitat areas like the Harvey Cedars Lump, the Sea Isle City Lump, and they're all gone, because I got caught sleeping. I really feel bad about that because I didn't know what they were doing. Excuse me; I was getting a little carried away. By the time I became alerted that they had already destroyed three of the major lumps that were historic fishing areas off New Jersey, now I'm trying to save the last couple that are left. I mean, we're not going to replace those lumps in my lifetime, your kid's lifetime or your grandchildren's and many generations. It only takes a couple of days, and of course that sand doesn't stay there; it winds up going a mile off the beach, but it never reduces that lump that was basically destroyed. That is the only thing I'm looking at.

CHAIRMAN GROUT: Did I hear at the beginning of your comments there that you would be willing to modify this existing motion to essentially be a general letter based on the South Atlantic and Mid-Atlantic comments that would be drafted by the Habitat Committee. That draft would be brought back before the Policy Board in the fall for our consideration.

MR. FOTE: Yes, if Eric agrees with that. Of course, I agree with Eric. I've been dealing with Bureau of Land Management for I don't know how many years, and I've run into the same problem; they just give us the wind and they do whatever the heck they want. It's almost as bad as the Army Corps of Engineers. I don't know which one is worse.

MR. GEER: Doug, just one last thing. I sit on the South Atlantic Council's Habitat AP, and I would like to say folks at BOEM have been pretty cooperative. In fact, they have a seat at the

table now on that committee. Maybe that's what, I don't know if BOEM has a seat on the Habitat Committee or not for the commission. Maybe that's one way to open that dialogue, and have the same with the other councils, as well. It has made the discussions very lively. But at least the person is at the table with us at every meeting. That's a suggestion I would have.

CHAIRMAN GROUT: That's a good suggestion, too. I know the New England Council has had regular visits from BOEM in recent years. Tom, we've kind of revised this to more of a general letter that is going to be drafted by the Habitat Committee and brought back before the Policy Board for consideration. It is up there, I think on the bottom. Is that something more general that you prefaced your original comments with?

MR. FOTE: Yes, do I have to make that as a substitute motion? I can't make a substitute motion to my motion. I don't know parliamentary procedure for that, but yes. If it is acceptable to Eric, I would basically allow that to be the motion.

CHAIRMAN GROUT: Eric, is it acceptable to you?

MR. REID: It is acceptable to me.

CHAIRMAN GROUT: All right, sorry Dennis for not following my parliamentary procedure here, I know it's a motion of the full board. But I'll try to do a little better job next time.

DR. DUVAL: I think, if we could just add a few words indicating for review by the Policy Board at its next meeting; I think that would sort of complete the thinking. The way it is written now it almost sounds like they are going to draft a base letter, and then that letter is going to run off somewhere and we're not going to see it. I just want to make sure for everybody that that is clear.

CHAIRMAN GROUT: Is that okay with the maker of the motion and the seconder? Any other discussion on this?

MR. MUFFLEY: Not to the specific motion, but I want to be clear that I like Pat's suggestion of maybe, I don't think it needs to be reflected in the motion, but that the letter will if this group agrees, to invite BOEM to be a member or attend future Habitat Committee meetings or something to that effect. But I think that was a good idea; and I think it could be addressed in this letter, as well.

CHAIRMAN GROUT: Further discussion; okay, seeing none; I'm going to try this. **Is there any objection to this motion? Seeing none; the motion is approved, and we'll look forward to a draft letter at our fall meeting.** Boy, that fall meeting is getting full. All right, Lisa, next item.

UPDATE ON THE SCIAENID HABITAT SOURCE DOCUMENT

DR. HAVEL: Moving on, a brief update on the Sciaenid Habitat Source Document, we contracted Dr. Alison Derry to finish the first draft of the document. It was written and it is with the Subcommittee currently for editing; it is on track to be presented at the annual meeting, so it is getting even more full.

Finally, for the Habitat Committee, we provided comments on NOAAs Atlantic sturgeon critical habitat designations. Some members were excused because their states were already providing comments; but overall the Habitat Committee found the designations complete and factual, with minor comments. These comments were represented at the Atlantic Sturgeon Management Board meeting yesterday. With that, I'll take any questions.

CHAIRMAN GROUT: Any questions on the Habitat Committee report? Okay, seeing none; Artificial Reef Committee report.

ARTIFICIAL REEF COMMITTEE REPORT

DR. HAVEL: Moving on, Artificial Reef Committee, we had a joint ASMFC/GSMFC meeting March 14th and 15th in San Antonio, Texas. We have three new state representatives on the committee; Bradley Ennis from Florida, Alicia Nelson from Virginia, and Jason Peters from North Carolina. We were given presentations on reef monitoring efforts and Rigs-to-Reefs in the Gulf of Mexico, presentations on fish aggregation devices and artificial reefs in Japan.

ACFHP gave an update on the black sea bass habitat project, and I'll provide some of those updates in the next update to you all, and there are also state updates at this meeting. The Florida Fish and Wildlife Conservation Commission is jointly hosting a symposium at the American Fishery Society meeting in 2017 in Florida, and I will be serving as the commission representative on the Steering Committee for that symposium.

Our next meeting is February 7th and 8th in Florida, most likely Jacksonville. ASMFC and NOAA co-hosted a two day national artificial reef workshop here June 9th and 10th, here in Alexandria, Virginia. It was attended by approximately 70 people from around the nation, representing federal, state, nonprofit, commercial and recreational fishing entities.

The objectives were to give an overview of the current state of the science, identify considerations for reefs as a management tool, identify challenges and needs for implementing artificial reefs, and discuss the potential for partnerships. There were presentations, panel discussions and weld café discussions. Topics included the history of artificial reefs, the potential as a management tool, the regulatory framework, NOAAs ecosystem-based management policy, regional accomplishments and challenges, current and future science, and looking towards the future. The workshop summary will be released this week. That is it

for the Artificial Reef Committee, and I will be happy to take any questions.

MR. CLARK: I was just wondering if the Artificial Reef Committee is going to develop a policy on special management zones at artificial reefs. I know Delaware went through getting reefs designated as SMZs, and I believe New Jersey is interested in it now. Just curious if there was a policy being developed.

DR. HAVEL: South Carolina also has some as well. We are not currently working on a coastwide policy. But if that is something of interest to you, we can definitely talk about that.

CHAIRMAN GROUT: Other questions? Okay, ACFHP.

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT

DR. HAVEL: Finally, a brief update on the ACFHP progress that we've been making over the last couple months. The ACFHP Science and Data and Steering Committees met in Cape May, New Jersey, May 9th through 11th, and we mostly discussed our conservation strategic planning; 2017 to 2021 will be the new five-year conservation strategic plan.

We are very busy this year working on updating it. Our Species Habitat Matrix was published in Bioscience, and we're working on our website for the Species Habitat Matrix. I am going to give a brief update on the black sea bass habitat progress since the last time I gave a presentation. We received a grant from the Mid-Atlantic Council to support habitat research in the Mid-Atlantic, and we awarded this grant to Dr. Bradley Stevens from the University of Maryland, Eastern Shore.

His project was titled Hab in the MAB: Characterizing Black Sea Bass Habitat in the Mid-Atlantic Bay. The contract has been signed and we're currently working on a press

release; that will be released this week, likely. An update on our eelgrass conservation project, we received a grant from NOAA to replace traditional boat moorings with conservation moorings in Narragansett Bay.

This reduces eelgrass damage, increasing fish habitat. Monitoring has taken place this summer and the sign has been installed, so this project is complete. I will be presenting the results at Restore America's Estuaries meeting in December in New Orleans. Here is a visual of the sign that has been installed for everyone that walks by the estuary.

We received funding from NOAA to complete a Southeast Fish Habitat Mapping Project, and this is to spatially prioritize fish habitat protection and restoration sites using JS mapping and analysis. We were looking at habitat threats, fish presence/absence data, and existing or historical maps. This mapping project will take place from North Carolina to Florida.

Using our NFHP U.S. Fish and Wildlife funding for fiscal year 2016, we're going to be putting that funding towards ACFHP operations, a northeast napping project to complement the southeast mapping project that is being funded by NOAA; and also we are putting money towards the Bradford Dam Removal in Westerly, Rhode Island. This will open up 32 miles of spawning habitat and nursery fish habitat; benefitting shad and river herring, among other species. For FY2017 for the NFHP U.S. Fish and Wildlife funding, the announcement will be released August 11, and the deadline to submit proposals will be September 22. We'll be recommending proposals at the fall meeting in Maine. ACFHP would like to thank ASMFC for your continual operational support, and I'll take any questions.

CHAIRMAN GROUT: Questions of Lisa. Seeing none; thank you very much, Lisa for all three of those beautiful reports.

OTHER BUSINESS

MANAGING RESOURCES FOR THE BENEFIT OF ANOTHER FISHERY

CHAIRMAN GROUT: Next item on our agenda is Managing Resources for the Benefit of Another Fishery; Commissioner White.

MR. WHITE: I'll try to be as brief as I can. I'm going to have to educate all the commissioners that don't know about Atlantic herring on the complexities of Atlantic herring management before I get into the issue that concerns me. I'll try to go through it quickly. If anybody has any questions interrupt me, or if the northern three states that are involved in this feel that I left something out or I'm stating something incorrectly; interrupt me while I go.

Atlantic herring is managed jointly with the New England Fisheries Management Council, with the council involved in fishing and the commission involved in landings. Service sets the total annual catch limit, which is then divided across four management areas; we have a slide showing those areas.

The Service has seasonal limitations on allowable gear types in Area 1A, and Area 1A is the area that I'm going to talk about. January 1 to October 1, midwater trawl vessels, which are large hundred foot plus vessels, are banned. January 1 to July 15, small mesh bottom trawl vessels, mostly 50 feet and under are banned; and then allowed in specific areas off of New Hampshire and northern Massachusetts coast, where groundfish are not normally found.

They harvest very small volumes of herring. January 1 to December 31, purse seine vessels are allowed, and many use midwater trawl vessels as carriers. The Section then has divided the 1A quota into trimesters. Trimester 1, January 1 to May 30, there are no landings allowed. Trimester 2, January 1 to September 30, 72.8 percent of the quota is harvested, and Trimester 3, October 1 to December 31, or until the 1A Sub-ACL has reached 27.2 percent.

That is all done, nothing to do with herring management, only to do with lobster. Section further regulates effort by determining a number of landing days allowed each week by authorizing the three northern states, Maine, New Hampshire and Mass, to make in-season-landing-day adjustments. In addition, Section closes three defined areas within 1A when spawning is occurring.

Generally, these closures begin in eastern Maine and move down the coast through western Maine and Massachusetts/New Hampshire. The management of landing days, other than for spawning closure, is for the purpose of providing a steady flow of lobster bait for the lobster industry. This is the reason harvest is not allocated in the first trimester, as there is little lobster fishing during the winter.

The lobster fishery needs more bait than Area 1A quota provides, so it depends on landings from Area 3, and importation of menhaden from the south. The majority of herring is used for lobster bait, but it is not the exclusive use. The states of Maine, New Hampshire, and Massachusetts limit landings days to provide a steady flow of bait; often changing the landings days multiple times during the second and third trimester, going from seven days down to one or two or vice versa. This year a number of circumstances have created a severe lack of lobster bait. Industry stockpiles bait in coolers and freezers from Area 3 late in the fall to be ready for the beginning of spring. Last fall the herring fishery was closed early, in August, due to bycatch of haddock in Area3, therefore coolers were not filled to the level that they normally were.

During the second trimester currently ongoing, very little landings have been available from Area 3, because of haddock mixing with herring. The midwater trawl boats are not out fishing in Area 3. The purse seine fleets has added capacity as a few midwater trawl vessels change gear type and are now rigged with purse seines,

which allows them to fish in Area 1A during Trimester 2.

This added effort provides the fleet with ability to harvest the entire Trimester 2 quota very quickly. The issue that concerns me, I believe the Atlantic herring fishery is the only fishery that the commission micromanages. When I say, that we're going to be starting an addendum that could regulate when a boat can land and how much a boat can bring into land on a daily basis; for the sole benefit of an industry involved in a different fishery, being lobster.

The commission is picking winners and losers in both the harvest of and the sale of herring for bait. Some large businesses would favor harvesting at a faster rate, and freezing the catch; while the smaller dealers and lobstermen want fresh bait on a steady basis. This year the quota would have been harvested prior to the commencement of spawning.

Since we have slowed harvest, the spawning closures will take effect this year. I believe this has a potential negative impact on herring resource, as the spawning closures are not perfect. Is it an appropriate role for the commission to be involved in managing the herring fishery for the benefit of the lobster industry, and making decisions that affect businesses that have nothing to do with herring management?

Is this the obligation of the commission, or should the states of Maine, New Hampshire, and Massachusetts be taking on this role? Commissioners have requested the Section begin an amendment to have the ability to limit amounts landed, as I said earlier, amounts landed on a daily and/or weekly basis per vessel, or per carrier.

I request the Policy Board consider establishing a policy to guide the Atlantic Herring Section going forward to either endorse what we have been doing, or making the recommendation

that the Section should not be managing in this way, and that it is up to the three northern states to take on this role.

CHAIRMAN GROUT: Ritchie brought this item up at one of our Days Out meetings, and had asked that this be put on for the Policy Board to get our input on this. Again, what he's looking at is this. The question is, is it the role in commission management to be managing a resource for the sole benefit of another fishery? I have Dennis Abbot and any other comments we would like to have on this. Pat will be second.

MR. DENNIS ABBOTT: Just to add to what Ritchie said, every year we go through this exercise of setting the number of landing days. Although we set the landing days, we don't set the fishing days, and these large boats with refrigeration fish more days than there are landings days. Although this year Maine has closed the loop for Maine licensed boats to only be able to fish on those days.

We go into the year, also, not knowing how many vessels are going to be fishing. We don't know how many carriers are going to be fishing, and as a result we're trying to provide a steady supply of lobster bait for the Maine fisherman. It gets to be a more difficult task, as Ritchie described, every year.

MR. KELIHER: The state of Maine has a billion, with a B, dollar lobster fishery. In order to ensure that we have steady access to bait, we have had to micromanage this fishery. I think it's very appropriate that we do so. Area 1A does not come close with the total quota that it has to thoroughly supply bait to the fishery within New England; let alone, the state of Maine.

We now have a capacity problem. The capacity problem in my mind is related strictly to Area 3, where midwater boats are not fishing because of haddock bycatch issues, and waiting as late into the season as possible. What they are

doing now is coming in to Area 1A to become carriers for the seine fleet.

Based on what we saw in June this year, the size of the schools, the availability of those schools to landing ports in both Rockland and Portland, we very likely would have exceeded the Area 1A quota in late June or early July. It was imperative that we take those type of micromanagement steps; yes, to benefit the lobster fishery.

Again, I appreciate the concerns being raised by Ritchie, but I disagree with the premise that -- I'm not saying he is saying we shouldn't be doing it, but I'm not sure that it is accurate that we don't frankly do it in other areas. I mean, all of the management that we do is to benefit one sector or another. This one does cross over into lobsters; but again, the importance of this fishery economically to the state of Maine shows me clearly that we need to do that.

MR. ADLER: The Massachusetts lobster fleet is involved in this too, and it is in need of the bait, as well. My concern if we abandon the current way we do things, and nothing is perfect but we try very hard with the three states, to get it right or close to. But my concern would be if the Atlantic States Section divorces itself from what it is doing.

If the states are told they can do what the Section does, I would think that if they were going to assign the states the ability to do basically what we do now, any amendment or addendum or whatever to the herring thing, I wouldn't want the wording to be that those states can't do what they feel is appropriate to manage this herring and supply the bait. I would just be concerned.

It wouldn't be so bad if the states could do it, if they would basically be doing what we do now; but we call it a Section. I wouldn't want an ASMFC plan, addendum, amendment, to restrict what Massachusetts, New Hampshire

and Maine have been doing all along. I'll stop there for now.

CHAIRMAN GROUT: Okay, I have Ritchie, Dave Simpson, and Dave Borden.

MR. WHITE: I would like to clarify a little bit, and I know that I've had a hard time explaining this. First off, I would see if the commission felt that the three states should be doing it. I think the Section would allow seven days of harvesting. There is nothing in the herring resource that would not allow the herring resource to be called quickly; and it would probably be better for the herring resource if it were all harvested before spawning.

Then the states can always be more conservative, so the three states then through their licensing of these vessels, as the state of Maine did this year, could then make the decision that is a business decision, of slowing this up. My thinking is, what if something was found in herring that helped cancer; and all of a sudden an industry said, we need this and we need it during the winter.

Then what if Atlantic States, all of a sudden, says, okay, we're going to shift. This is a more important use than lobster bait, and we're going to make sure it is all harvested for this new industry, and it is all going to take place in January and February. I mean that is the same principal as what we're doing here. It would be the same as the menhaden board saying we're going to limit New Jersey's bait harvest, and we don't want them to catch it as fast as they do; because we need more to go to the Maine lobster industry.

That is the principal I'm coming from. I had a number of large bait dealers from Maine at our previous meetings, because I've stated this a number of times at our meetings, come up and say you're totally correct that the government shouldn't be involved in making these business decisions; but we need you to keep doing it. Anyway, I hope that is more helpful.

MR. SIMPSON: I've never quite understood the Section's role in management of sea herring since you are all equally represented on the New England Council, and the New England Council is setting the quotas, which determine how much can be removed and no more. I am concerned where you finished off, why we would get involved in the marketplace.

My understanding of the sea herring fishery is that the overwhelming majority of it goes to bait. I think there used to be more human consumption, but there is very little of it now. Wouldn't that take care of itself, and shouldn't it take care of itself? There is a supplier providing product to a user, and you would think the marketplace would self-adjust.

If we're going to tinker with the timing during which fishing operations occur, I would think we, as a commission, would want to focus our comments and direction on things like bycatch of river herring; other considerations, ecological considerations not economic ones or micromanaging a marketplace. I just am concerned about getting involved in that aspect of private enterprise.

MR. BORDEN: Philosophically, I like the idea of the government staying out of micromanaging businesses. But I think the reality is we all kind of tread a narrow line on this issue. If we were to just look at the value of the herring fishery and we compare it to the value of the Area 1 lobster fishery, I think the lobster fishery is worth 450 million dollars; Pat probably knows better than I do, but somewhere around there.

The herring fishery is worth a fraction, a small fraction of that. I think the issue that Ritchie is raising is valuable, in terms of a discussion, but to me it's kind of a multifaceted problem. If you look at it, I mean, it's a bait crisis is what is happening in industry. It's unfortunate that Steve Train isn't here to comment on it.

The things we do in the herring fishery, the things that we have done in the ground fish

fishery, the cuts in menhaden historically, and the cuts next year in terms of the skate allocations, all have an impact. That is all bait that is going in to various lobster fisheries; whether they are inshore or offshore. I mean the other contributing factor here is there has been a rapid acceleration in the number of traps in the Gulf of Maine. You only need to look at Canada, Nova Scotia where they fish 350 to 400 traps. The industry easily can catch the same amount of lobsters that they can with 800 traps, and they use a fraction of the bait. There are a lot of different ways you can look at this. I think it is a worthwhile discussion. I'll be interested to see where it goes, though.

MR. KELIHER: Just for clarity's sake, the regulations that we put on the books this year were asked for by both the herring industry and the lobster industry. Both of them knew the fact that we needed to micromanage; in fact during the course of the winter the seine fleet saw that we were going to be having this issue.

The fact that they knew they needed to be managed and micromanaged, I think, says a lot. They know that they need to avoid a big glut of bait at any one time. It would not be able to be absorbed, and to be able to stretch bait out to help alleviate the shortages that David mentioned, was critical. I think I'll avoid making any comments on trap reductions on the microphone.

MR. ABBOT: It is unfortunate that Steve Train had to leave. At the LGA meeting I asked him how lobster fishing was, and he says right now it is really kind of lousy. He said part of it is because of the imposition of landing day restrictions by the state of Maine, in trying to do the right thing and trying to supply a steady amount of bait.

The price of a barrel of bait has gone from approximately \$60.00 to \$130.00. It has more than doubled; that is what the market has done. We pull on one end and it comes out the other end in a bad way. I just wanted to add

that; that the price of bait has gone crazy this year, and he also added that down east Maine are catching so many lobsters, their profit margin is different and they don't mind paying the higher price, because their catch is so much greater this year as it was last year.

CHAIRMAN GROUT: I'm going to go to Dan, and then I would like to see if there is any discussion from people outside of the Herring Section region about this, whether they have any input one way or the other; because it does seem like this is turning into a Section meeting, or at least a northern states discussion of this. I was hoping if we brought this forward, it would be something that the full Policy Board would be discussing. But Dan, go ahead.

MR. DAN MCKIERNAN: I regret that David's not here, he also had to leave, but he has been working in herring for about 40 years and I don't have that experience. But it seems to me that there is a question of governance that takes place here; that if it is not a Section vote, and it is just a three state gentleman's agreement, then I don't think in the future you would have the unanimity among the parties, or the potential for one or more states to break away.

Am I right to assume that because it's a Section vote, the states go back and they tell their bosses, I need to condition this permit or I need this rule, because the Section took this vote or else I'm going to be found out of compliance. Is that the essential question here as to why we do it through the Section, versus just a three-state agreement?

CHAIRMAN GROUT: Because we're managing this as a resource of a whole in this particular management action that we approved, essentially delegated authority to do these days out to limit the days fishing, just to the states that have landings from Area 1A; because that is really where it is. It was supposed to be, I believe, and the plan says it is supposed to be a unanimous vote, because it is supposed to be a

consensus, because it is not a full section voting on these things.

MR. MCKIERNAN: But are they not mandatory measures by the Section measures to adopt?

CHAIRMAN GROUT: We agree to all put those in.

MR. MCKIERNAN: And if we don't?

CHAIRMAN GROUT: We would be found out of compliance?

MR. MCKIERNAN: That's what I'm asking.

CHAIRMAN GROUT: Because it is part of the management plan. Any discussion from other board members? Yes, Adam.

MR. NOWALSKY: Well, I think the question I have is, is there a recommendation from Ritchie or somebody else as to what the actionable item would be here that we could weigh in on. I think the goal of getting input from the Policy Board as a whole is to get another set of eyes on this, per se. Okay, hear what you're saying. What would you propose do that we could give some feedback on?

CHAIRMAN GROUT: You can go ahead and say it. I have it written down that you were looking to consider either establishing a policy to endorse the management that we're currently doing, or should the Policy Board develop a policy that would direct the Herring Section to discontinue that type of management.

That is what Ritchie is looking for. Does the Policy Board feel this is something that they should weigh in on? Clearly, Ritchie feels that we should be out of this type of management. You've heard input from others that say we shouldn't be. Tom.

MR. FOTE: Are we manipulating the price of herring? Are we raising the price of herring to \$160.00 a barrel to basically benefit certain

sectors of this and disadvantage to other people? That's what I'm trying to figure out here, and I don't think that's our business. I don't think that is the Herring Section's business. I don't know. That is what I'm trying to figure out here from listening to the conversation, since I really don't attend the Herring Section meetings that often.

CHAIRMAN GROUT: There might be differing opinions on that. Pat, go ahead.

MR. KELIHER: This is a supply and demand issue. There is not enough supply, so the demand is very high, so the price of bait has gone up. They've been limited to 15 trucks for the week. In order for these boats that some are costing 3 to 4 million dollars a piece with operations and crews; they've had to raise the price of bait.

Did they raise it too high, probably? We're not saying what you've got to charge for bait. We're controlling the supply, knowing that the price was going to go up. If we had of caught it all up in June or early July, the Maine lobster industry would have been in a terrible, terrible situation. That would have been a bigger economic disaster than having to pay a high price for bait.

CHAIRMAN GROUT: Does the board want to weigh in on this with some kind of an action?

MR. SIMPSON: Despite what I said, I think not. I think what I would want to know is the commission process is that based on the fact that I heard there seems to be agreement from both fisheries that this is a good idea. I think when you develop these plans, if you're going out for public comment, you're considering both sides.

That, I think, would satisfy the commission's role here. I have philosophical beliefs that would suggest that we back away from managing these fisheries like we own them, and they're our business and we're going to meter

out catch to satisfy another user that we manage. I think if there is a public process and you honor the balanced comment, then I think that is as much as the Full Commission should be concerned about.

MR. BORDEN: With your agreement, I would like to ask Ritchie a question if that's all right.

CHAIRMAN GROUT: Go ahead.

MR. BORDEN: Ritchie, you mentioned the groundfish haddock bycatch issue. To what extent has the Section thought about formalizing a recommendation that that bycatch allowance be raised? My memory of our catch performance in haddock is, I think, we're only catching 15 or 20 percent of the TAC. We've got record year classes in the fishery, so do we need to be this restrictive? If that is forcing the Area 3 boats into Area 1, then couldn't we encourage that by liberalizing the bycatch allowance?

MR. WHITE: The last thing in the world that I would want the commission to get involved in is groundfish. Since we're not, I have no ability to make any comments on haddock, because I'm not involved in that process, and we ought to stay out of it. But I mean that is clearly part of the problem.

I'm not saying that what we're doing should not take place, because I think the three states that are now doing this, and we're saying the Section, but this is not being carried out by the Section. This is being carried out by a subset of the Section; it is only Maine, New Hampshire and Massachusetts that are doing this. It is not always consensus when we pick the days.

The last time we altered the days, which was a couple weeks ago, Massachusetts did not agree with New Hampshire and Maine, and it was a two-to-one vote, and it went that way. But Massachusetts wanted more days and the other states decided against that. You have three

states that are acting for the section and for the commission.

It is a public process. We hold either an in-person meeting or a phone meeting with the public; so it is an open and public process when we do this. I'm not suggesting that this shouldn't be done. It is a huge lobster industry, it is a lot of money and that needs to take place; but is it the commission's role to do it, or is it the three states that now do it, is it their role within their own regulations?

Maine went more conservative than the commission this year, and implemented trip limits down to the day and down to how many trucks a boat could bring in. They have the ability to do that for their licensed boats. If New Hampshire got the same regulations and Massachusetts got the same regulations, then those three states, if they all agreed, can be more conservative than the commission, and implement these kinds of regulations. That is my question. If the sense is that the commission should be doing this, and this is a proper role for us, then fine; and we'll continue on the way we're doing it.

CHAIRMAN GROUT: Okay, it's ten after five right now, I would like to see if there is going to be anybody from this Policy Board that wants to make a motion that would be a formal recommendation on this. If not, I think we've had a very thorough discussion of this. The discussion has been centered around the Section members.

Potentially, if the board does not have a mind to make a recommendation here, then maybe it is something that should be put up at the Section as a management action for recommendation. Is there anybody on the board that wants to put up an action here?

CHAIRMAN GROUT: Okay, seeing none at this point, we've had a good discussion on this and we do have a couple of other items under Other Business that we need to address.

**LETTER TO THE MID-ATLANTIC FISHERIES
COUNCIL CONCERNING
SHAD AND RIVER HERRING STOCKS**

CHAIRMAN GROUT: The first item is a letter. John Clark, I think you were looking for consideration of this commission sending a letter to the Mid-Atlantic Fisheries Council concerning shad and river herring stocks in the fishery.

MR. CLARK: I know the last thing we need is another agenda item today. Unfortunately, the timing on this one won't wait. In summary, Mike Luisi, who is the Vice Chair of the Mid-Atlantic Council, is here. I believe the Mid-Atlantic Council will be considering their management actions for shad and river herring at next week's meeting; and then they will be making final decisions before ASMFC meets again for the annual meeting.

Based on that, I thought based on consultations with Bill Goldsborough, the Chair of the Shad and River Herring Board that it would behoove the Policy Board to perhaps send another letter to the Mid-Atlantic Council, as we did back in 2012, when this was last considered by the Mid-Atlantic Council.

I guess at that time we sent a letter that raised our concerns, discussed all the efforts and sacrifices the ASMFC states had made to try to restore shad and river herring, and asked that all management approaches taken by the Mid-Atlantic Council would be, I believe the words we used were complementary and joint management approaches for these. Before we get into the specifics of what we would like in a letter, I think I would like to turn it over to Mike to ask what the Mid-Atlantic Council is considering at this time.

CHAIRMAN GROUT: Go ahead, Mike, and then Toni has a comment.

MR. MICHAEL LUISI: Wearing my other hat as the Vice-Chairman of the Mid-Atlantic Council, I

think I can clarify very quickly where the council is in their discussions on shad and river herring. Three years ago the council took up the question about whether or not they wanted to consider shad and river herring as a council-managed species.

At the time they determined that it was neither required nor appropriate three years ago; however, they committed to revisiting that three years from then, which is putting us to the time period where we currently are. In the meantime a working group was established composed of regional, state and federal management partners; to address shad and river herring mortality.

Caps were set, there was no assessment work, there was no science driven work that would set harvest limits for shad and river herring; but that commitment was to revisit that issue in three years. On top of the council's commitment there were orders from the U.S. District Court that with some guidance as to how the council would take up the issue again; in reconsidering whether or not shad and river herring would be a council managed species. I think, where we are currently, between the commission and the council is that there are two issues.

One is, whether or not the commission wants to urge or write a letter suggesting the direction that the council should go in, regarding whether or not they continue the more ad hoc approach to managing shad and river herring, or do they take shad and river herring up as a managed species; which would essentially put that into a fishery management plan, for which ABCs would be set and there would be more management control centered around the science-based approach.

A white paper directing the council on that question was just sent out to us all just a couple days ago, so I have yet had the opportunity to review that paper. There is no plan to discuss this as clarification from what I think, I

mentioned to John before, there is no current plan to discuss this at next week's council meeting.

The Shad and River Herring Committee will plan to meet the following week via webinar, I believe, to discuss the white paper and set forth the path for our October meeting; where the final decision will be made as to whether or not the council takes shad and river herring on as a managed species.

Now if they do, if the council goes forth with considering shad and river herring as a council-managed species, then I think the question comes as to whether or not the commission would suggest to the council either joint or complementary management measures going forward for the future. But right now, we're kind of in a limbo as to whether or not the council is going to maintain this ad hoc approach, which they would not have an FMP and would essentially continue working with this working group to address shad and river herring mortality.

That could be the path forward. We won't know until October. I don't know where to leave that as far as any decision here as to how this commission would like to help inform the council on their position. There are two positions. Should they take up the species as a managed species, and if so, perhaps a joint or complementary action should be considered. If any of my colleagues around the table here, who sit with me on the council, know anything differently from what I just said, please feel free to correct me. Thanks.

MR. CLARK: Thanks, Mike. Thanks for filling that in. It really does sound pretty much exactly like the situation we were in back in 2012 when this last letter was written, because the letter that the Policy Board did send to the council was stating the concerns of the commission about management.

At the time this one was written, it wasn't known yet which direction the council would go in on the management. I would say maybe the thing for the Policy Board to even just revisit the letter from 2012 and update it perhaps with some more recent information, and send it to the council just to urge action be taken on this issue.

CHAIRMAN GROUT: What is the pleasure of this board? Do we want to redraft the letter that we sent three years ago with more current information? Is there a way that we could send that letter out to the Policy Board, because some members were not originally on the commission at that time?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, 2012 seems like a long time ago sometimes. We can circulate the old letter and we can provide some updated information and maybe circulate sort of a track changes edited old letter to the Policy Board, with some updated information and things that have occurred since the last meeting; and see if that meets the need of the Policy Board. Then the committee is meeting, I think on the 18th, is that when it is? I don't know if we can get it turned around that quickly, but if so we can submit the letter before that meeting.

CHAIRMAN GROUT: Isn't the importance, and Mike and John, you can comment on this. Isn't the importance that we get the letter before the October meeting?

MR. LUISI: Yes, thank you. I think that is the important date, is to get a letter, if the Policy Board wants to send a letter to the council before their final decision; which will be in October. But I do want to just mention though, and it's been too long since I've seen the letter from 2012.

But if the 2012 letter was suggesting action, so prior to 2013 there was no action being taken by the Feds on river herring and shad management. Since 2013, like I said, it is not a

council managed species, but action has been taken. In the update, just understand that action has been taken. It is whether or not we go to the next step in that action and consider it as a council- managed species.

MR. BEAL: My recollection is the last time we talked about this there was a direct conversation of, should ASMFC support a stock in the fishery designation or not; at the Mid-Atlantic Council, and we were split on that as a commission. I'm not sure without another vote or some other indication; I'm not sure how we include that yes or no regarding stock in the fishery in a letter, unless we get some more guidance from this group or the Shad and River Herring Board or something.

CHAIRMAN GROUT: But we did send a letter that did not take apposition then on stocks in the fishery. We did not take a position. Go ahead, John.

MR. CLARK: Ashton and Bill sent me the letter, and it did not take a position. It didn't urge the council to go into the stocks in the fishery. It more or less outlined the approaches that the commission would like to see when the council did start managing shad and river herring. For example it said, clearly detail the process by which ACLs and accountability measures would be set.

The commission prefers that ACLs and accountability measures apply only to catch and bycatch in federal waters. If this is not legally possible, the commission requests that it be the responsible party for determining any in-river portion of ACLs. The impacts of inconsistent federal and state water regulations on existing river systems, specific conservation measures, and regional approaches that are being considered; and t0hat type of recommendation was made by the letter.

CHAIRMAN GROUT: I would suggest that staff, a course of action here would be for commission staff to re-circulate an updated

version of this letter for comment and input by the Policy Board. Once we get back that comment, any significant changes should be included in there and then send it out for an e-mail poll, as to whether we send it or not.

MR. WHITE: Might another option be to write a letter asking the Mid-Atlantic Board to delay making a decision, and then we send this to the Shad and River Herring Board for their recommendation back to this Policy Board; so that we can kind of fully flush this out. I just don't get the feel that we're kind of rushing this along without figuring all the ramifications.

CHAIRMAN GROUT: Do you have a comment Mike, on the timing?

MR. LUISI: Yes, I do. While it was a council commitment to reconsider this action, I did state that we also received orders from the U.S. District Court; and the U.S. District Court expects an answer by October. We don't have any opportunity to delay.

CHAIRMAN GROUT: That had sent up a whole series of hands. I originally had Emerson and then was it Adam; no, you're all set. I'm going to go with Emerson first, but I just want to know who's on deck.

MR. EMERSON C. HASBROUCK: Just having heard a brief synopsis of the previous letter that John just read off a couple of minutes ago; that got into some detail about what should and should not happen with ACLs and how they should be implemented and where. To me, that is quite a bit of detail that I think is premature at this point in time. That might be appropriate after we find out what the council's decision is on this, but I wouldn't support sending a letter with that type of detail in it right now; because we don't know what the Council is going to do.

MR. NOWALSKY: I was going to suggest that staff request from the council staff, Jason Didden in particular, to get a copy of the documents that the River Herring and Shad

Committee is going to be reviewing. Make those available, and the webinar will be open to the public on the 15th, and anybody here would have the opportunity to listen in.

Perhaps, a member of staff here could as well take notes and circulate any potential actionable item that this board could take up, the commission could take up via e-mail or something prior to what the council has to do in August. I'm not sure there is anything else the commission could do at this point.

CHAIRMAN GROUT: John.

MR. JOHN McMURRAY: Yes, almost of what I was going to say –

CHAIRMAN GROUT: Oh, sorry I was asking who wanted to be in the queue and I didn't see your hand up, John. I'm sorry. Go ahead.

MR. GROUT: Sorry about that. Yes, well most of what I was going to comment on and ask has already been covered. But I would be, of course, in support of the commission weighing in here, but I think at the very least you guys have to get a look at the white paper. I mean, we just got it and we haven't really had a chance to look at it yet. That would probably need to be a requirement before you guys wrote a letter. Of course, timing is an issue, so I don't know how it's going to work.

MR. CLARK: Yes, I just don't want to give everybody a complete sense of déjà vu here, but one of the first paragraphs of the letter said; given that the Mid-Atlantic Council has not yet determined whether it will move forward with Amendment 15 to designate shad and river herring as the stocks in the fishery, it is difficult to provide specific recommendations at this time. We were pretty much in the same boat in 2012. At the same time we did at least urge them the actions that were most important to the commission.

MR. NOWALSKY: I'll just add that in those documents that the council has already put together, one of them being what's called a Draft Decision Document, a little bit longer than what you might typically think of, a page or two cheat sheet. It has a section that contemplates interaction with the ASMFC moving forward.

It talks about joint or complementary management, similar to species we've talked about earlier. I would add that the council is well aware of the commission's interest in the species, and is taking those previous comments into consideration; and weighing those in how to work together moving forward.

CHAIRMAN GROUT: What is the will of this board? I've suggested a way forward. There have been some alternatives that have been put forward, as far as moving forward. One, the way I suggested was to reiterate and update some of the items in the original letter, and have it circulated to the board for any comments.

Then have a vote on it. There have been suggestions that that should wait until the white paper has been reviewed, and then get comments on the board from the white paper. I think one of the difficult things we have to deal with here is that we're not meeting between now and when the council takes up, so we have to try and develop a course of action today; if we're going to take action.

Adam just alluded to the fact that we already sent a letter and it sounded from his perspective, the council was taking into consideration the items that were put forward in that letter three years ago. Maybe we don't need, to reiterate the letter. Would there be any objection to resending a letter that is revised, in the way that I had suggested? Emerson, you're objecting?

MR. HASBROUCK: Yes, because I'm not sure what that letter is going to do; other than what has already been done. If the information we

have is that in the council white paper, there is a section about how if the council decides to go forward with shad and river herring, a species in the plan; that there should be coordination and collaboration with the commission. What more are we expecting the council to do, other than to acknowledge the fact that if they go forward they should do it with us?

EXECUTIVE DIRECTOR BEAL: I tend to agree with the notion that the coordination is already there. We've got obviously a number of states that serve on the Shad and River Herring Committee, and then obviously on the Full Council, and then I serve on those, as well. I think the only sort of new piece of information we could provide is, does ASMFC support adding shad and river herring as a stock in the fishery; and I think that is where we were split in the past, so I'm not really sure how to move forward without a clear direction on that. But I think the coordination part seems to be handled pretty well already; in my opinion, anyway.

MR. MUFFLEY: I agree with, I think, where Emerson and Bob went. To me, I don't know what the point of sending another letter addressing general concerns may be; since we're in generally the same area we were in 2012. To me, the point of a letter would be to either support or not the Mid-Atlantic Council in making stocks in the fishery for shad and river herring. That would be the point of a letter. Otherwise, I'm not quite sure what we're going to accomplish.

CHAIRMAN GROUT: Okay, then I'll try the opposite. Is there any objection to not sending a letter? There is an objection from you, John?

MR. McMURRAY: Yes, sorry.

CHAIRMAN GROUT: Okay, then I need a motion one way or the other, John.

MR. McMURRAY: Well, Mr. Chairman, I am not ready to make a motion. I would just offer the

suggestion that there is obviously going to be some new information in this white paper. I can't tell you what it is, because I haven't looked at it yet. But it is probably something that the commission is going to want to weigh in on.

MS. KERNS: Doug and I were just side-barring, and how about this as a way to move forward. I've just asked for Jason to get a copy of the white paper to distribute to the Policy Board in an e-mail, and we can distribute that as soon as I can get a copy of the white paper. Then we'll have a member of commission staff listening in on the call the week after the council meeting; and we'll write up a summary of that call.

Then depending on their recommendation, we could put together possible paths forward for the Policy Board to consider. Whatever direction that the council's committee is going, if it is the will of the Policy Board to want to make a recommendation about stock in the fishery or not stock in the fishery, we could do a conference call to discuss that and then have a vote on that; whether or not we make that recommendation in a letter, or we could do that via e-mail.

But I think that if the discussion is anything like it has been in the past, it would be a conference call that we would need to do. But noting that we would have to turn that conference call around quite quickly between now and then, so a doodle poll would have to be filled out quite rapidly; and time would have to be made flexible.

CHAIRMAN GROUT: Any thoughts on that particular course of action here? Yes, John.

MR. CLARK: I think that is a good suggestion. I should have said something earlier. But I think it is a good idea for the Policy Board to weigh in on this. I mean, the current, if I'm not mistaken, I think the ACL for the Mid-Atlantic for shad is pretty large; and there are a lot of

shad and river herring being caught in the ocean fisheries.

It really does hurt the efforts that the commission has taken to try to restore these species. We've taken some very drastic actions. As you know, we've closed river herring fisheries up and down the coast. I don't see there is any harm in the commission at least updating the old letter or taking Toni's suggestion there. I think is a great way forward.

CHAIRMAN GROUT: Any other discussion on this particular option of moving forward?

MR. HASBROUCK: I wasn't on the commission back in 2012, so at that time was there a discussion by the commission or one of the boards about whether or not shad and river herring should be included as stocks in the fishery? Did that discussion take place already, and is that a discussion you think we can have via e-mail? I'm kind of thinking -- well, it depends on the answer to the first part of my question.

CHAIRMAN GROUT: Well, Toni was telling me yes, there has been a discussion. I think Bob also mentioned that there had been discussion and the commission were split on that; and so we did not specifically comment on whether there should be stocks in the fishery. I cannot tell you whether our commission would continue to be split.

I would be surprised if there weren't differing opinions on such an action. There has been discussion in the past, yes. That is why Toni was suggesting through this method that there be a conference call that is going to make the final decision on whether we send a letter. I have Andy and then Dave, was it you?

MR. ANDY SHIELS: I had a conversation with John Clark about this earlier today. I had an offline conversation with Mike Luisi a few minutes ago. I think, without putting words in John's mouth, the main purpose here is to make

the board aware, make the council aware that the board has some interest in it.

I think Toni's approach is what we discussed just before she said it. That is the right way to go to put this on the radar, to get the information which is going to be available, not until the 15th. The subcommittee will work on this in the meantime, from the council. But on the 15th there will be a webinar, and then more people will have access to that information.

The council will meet next week, but probably isn't going to discuss this. The council then will meet in the first week of October, preceding the next meeting of ASMFC. I think serially and to go in the correct order, and to not threaten anyone; the approach is to follow the course that Toni suggested, get the information out there.

No serious decision has to be made at this point, and let's see where the webinar goes; and when that information is conveyed to the group, the comfort level, and if it calls for something bigger it can certainly be brought up at the annual meeting, because that schedule is not full enough yet. We're looking to add some more menhaden-like issues to it.

MR. BORDEN: I'll make this really short. I agree with Toni's suggestion. I think it's a good one. It is not a perfect solution, but the only thing I would add to that is if we're going to follow that course of action, I would encourage the staff to circulate whatever material becomes available on this issue to everyone, so that we can all inform ourselves before we do the conference call.

CHAIRMAN GROUT: Okay, I'll try it one more time. Is there any objection to moving forward with the action that Toni outlined? Seeing none; that is the course of action that we'll be taking.

STURGEON LETTER TO NOAA ON CRITICAL HABITAT DESIGNATION

CHAIRMAN GROUT: Thank you for a good discussion on this, and now we have one last agenda item and that is a sturgeon letter to NOAA on Critical Habitat Designation. Bob.

EXECUTIVE DIRECTOR BEAL: Hopefully, this letter discussion will go quicker than the last discussion of a letter. At the Sturgeon Board yesterday, I think most folks were there since this is a coastwide board, as the Sturgeon Board is. The board discussed the critical habitat designations for sturgeon, following the ESA listing.

They initiated a process of drafting a letter with a potential approval of that letter and submitting that to National Marine Fisheries Service, to comment on the critical habitat designation. The plan will be for staff to draft a relatively generic letter with just some overarching concepts on the critical habitat designations; with the understanding that the states are going to provide the river-specific comments for each of their river systems that are within their jurisdictions.

A generic letter will be circulated to the Shad and River Herring Board, and if folks are comfortable with that letter, then it would be forwarded to the National Marine Fisheries Service by September 1st. The question before the Policy Board is; since it is a letter from the commission, is the Policy Board comfortable with this process, and sort of comfortable delegating that final decision authority to the Shad and River Herring Board; since that is a coastwide board.

The membership generally mirrors the same folks that are around the table here. Again, it's going to be – what did I say – sorry, sorry, I got brainwashed over the last hour. Yes sturgeon, Atlantic sturgeon letter. Since the Atlantic Sturgeon Board is coastwide. If folks are comfortable with that process and comfortable

delegating that decision to the Sturgeon Board, we can move forward through that course.

CHAIRMAN GROUT: Are you all comfortable with delegating that to the Sturgeon Board, which is disguised as a Policy Board? Any objections to that?

MS. ALLISON MURPHY: No objections, but just for the record; NMFS abstains.

ADJOURNMENT

CHAIRMAN GROUT: Okay. Is that close enough? Thank you very much for that, and I believe that is it on the agenda. It's been a long time, and my apologies to ACCSP for running so late here. It has been a tough day, and this meeting is adjourned.

Whereupon the meeting was adjourned at 5:43 o'clock p.m. on August 3, 2016.)