

PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD

December 18, 2003

The Terrace Room, Roosevelt Hotel
New York City, New York

ATTENDANCE

Board Members

George Lapointe, Maine DMR	Tom Fote, New Jersey Gov. Apte.
Patten White, Maine Gov. Apte.	Richard Snyder, PA Fish and Boat Comm.
Denis Damon, Maine Leg. Rep.	Roy Miller, Delaware DFW
John Nelson, New Hampshire F&G	Timothy Targett, Delaware Gov. Apte.
Ritchie White, New Hampshire Gov. Apte.	Pete Jensen, Maryland DNR
Dennis Abbott, proxy for Mary Ann Blanchard, NH	Bill Goldsborough, Maryland Gov. Apte.
Paul Diodati, Massachusetts DMF	A.C. Carpenter, PRFC
Bill Alder, Massachusetts Gov. Apte.	Jack Travelstead, Virginia MRC
David Borden, Rhode Island, DEM	Preston Pate,, North Carolina, DMF
Gil Pope, Rhode Island Gov. Apte.	Damon Tatem, North Carolina Gov. Apte.
Jerry Carvalho, proxy for Rep. Naughton (RI)	John Frampton, South Carolina, DNR
Eric Smith, Connecticut DMR	David Cupka, South Carolina Gov. Apte.
Lance Stewart, Connecticut Gov. Apte.	John Duren, Proxy for Ralph Balkcom (GA)
Gordon Colvin, New York DEC	Gil McRae, Florida FWC-MRI
Pat Augustine, New York Gov. Apte.	Kathy Barco, Florida Gov. Apte.
Brian Culhane, proxy for Sen. Johnson (NY)	Mitch Needleman, Florida Leg. Rep.
Bruce Freeman, New Jersey DFG&W	Anne Lange, NMFS
	Jaime Gieger, USFWS

ASMFC Staff

Megan Gamble	Lydia Munger
Bob Beal	Brad Spear
Tina Berger	Nancy Wallace
Vince O'Shea	Toni Kerns
Carrie Selberg	Lisa Kline

Guests

Linda Mercer	Steve Meyers
Chris Bonzek	Lew Flagg
Richard Otterstedt	Wilson Laney
Niels Moore	Douglas Grout
Bill Cole	

TABLE OF CONTENTS

Welcome; Introductions.....	5
Approval of Agenda.....	5
Approval of Proceedings from August 27, 2003 Meeting.....	6
Public Comment.....	6
Administrative Oversight Committee Report	
▪ Proxy and Conflict of Interest White Paper.....	6
▪ Appeals Process White Paper.....	14
▪ Parliamentary Process White Paper.....	19
▪ Process Consistency White Paper.....	27
Habitat Committee Report	28
Artificial Reef/MARAD Update.....	29
Management and Science Committee Report	
▪ Peer Review Schedule.....	31
▪ Interstate Tagging.....	31
▪ Multispecies Report.....	32
Stock Assessment Committee Report.....	36
Law Enforcement Committee Report.....	39
Protected Species Committee Report.....	41
Discussion of ASMFC Role Regarding <i>Crassostrea ariakensis</i>	42
Other Business; Adjourn.....	51

Summary of Motions

December 18, 2003

Move that the ISFMP Policy Board recommend to the Commission that the ISFMP Charter be modified to reflect option #2 in the White Paper on ASMFC Commissioners' Proxies. This option prohibits meeting specific proxies from voting on final actions.

Motion by Mr. Pate on behalf of the AOC. Motion passes.

Move that the ISFMP Policy Board continue to serve as the deliberative body that will address appeals from aggrieved states. The Administrative Oversight Committee will be charged with developing the details of the appeals process for presentation to the ISFMP Policy Board at the March 2004 ASMFC Meeting Week.

Motion by Mr. Pate on behalf of the AOC. Motion passes.

Move that the ISFMP Policy Board recommend to the Commission that Section Four (d)(1) of the ISFMP Charter be modified to read:

“Meetings will generally be run according to the current edition of “Robert’s Rules of Order” except a Board or Section will need a 2/3’s vote of all the voting members of that Board or Section (i.e., entire membership) to amend or rescind any final actions regardless of prior notice. For this section a final action will be defined as establishment of quotas, allocations, annual specifications, approval of fishery management plans/amendments/addenda, and non-compliance recommendations.”

And Article III, Section 1 of the ASMFC Compact and Rules and Regulations be modified to read:

“.....The conduct of meetings of the Commission or any other body established under its authority shall be governed by the current edition of Robert’s Rules of Order, Newly Revised, except a Board or Section will need a 2/3’s vote of all the voting members of that Board or Section (i.e., entire membership) to amend or rescind any final actions regardless of prior notice. For this section a final action will be defined as establishment of quotas, allocations, annual specifications, approval of fishery management plans/amendments/addenda, and non-compliance recommendations.”

Motion by Mr. Pate on behalf of the AOC. Motion passes.

Move to adopt the MSC’s 2004 Peer Review schedule.

Motion by Mr. Colvin; second by Mr. Lapointe. Motion passes without objection.

Move to accept the MSC’s recommendations regarding the Tagging issues paper.

Motion by Mr. Augustine; second by Mr. Cupka. Motion passes without objection.

Move to accept the stock assessment committee’s recommendation regarding including data summaries in annual reports.

Motion by Mr. Augustine; second by Mr. Carpenter. Motion passes without objection.

The meeting of the ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Terrace Room of the Roosevelt Hotel, New York City, New York, on Thursday, December 18, 2003, and was called to order at 11:59 o'clock a.m. by Chairman John I. Nelson.

-- Welcome; Introductions --

CHAIRMAN JOHN I. NELSON: Okay, let me welcome everybody to the ISFMP Policy Board. It's actually one minute before twelve. Introductions, do I need to make any introductions, Laura? I know she was going to make sure I didn't miss anyone, and I don't see any notes before me.

Let's see, I do have John, John Frampton is here. There's John right over here. As new commissioners, I just wanted to make sure that either I recognized new commissioners or proxies. So, Gil McRae is here? There he is. Gil, thank you.

And Patrick Emory. Patrick, where are you? Is he here? Well, I'd like to welcome all of them to the commission, and I hope you've had an enjoyable week.

MR. GEORGE LAPOINTE: John Nelson, we have one more new proxy, John Duren from Georgia.

CHAIRMAN NELSON: John Duren, thank you. Doesn't quite look like Susan, does he? All right, welcome aboard. Before I get into the agenda and everything else, I know we were kind of hurried last night over a couple of board meetings.

I think there was one chairman that probably was happy to be able to finish up and step down, but we never had a chance to thank him for all his efforts over the past probably 15 years -- at least it probably seems like that to him.

So, where is my former striped bass board chair? Lew, come on, stand up, Lew. We want to thank you, Lew, for all your efforts. Thank you very much. (Applause) Did we make him chair of lobster? (Laughter)

-- Approval of the Agenda --

All right, you have a new agenda that has been distributed. Are there any changes or additions to that? I have a couple, so let me go through mine first.

I have, under other business, the South Atlantic Board update that Bill Cole will be doing, and also I have a NEMAP update that Linda Mercer would be doing. Are there any other changes or additions? Gordon.

MR. GORDON C. COLVIN: Mr. Chairman, I believe we had asked for an opportunity to have a discussion of American eel.

CHAIRMAN NELSON: Is that okay under other business, Gordon?

MR. COLVIN: Other business will be fine. Are we going to discuss the action plan at all? It could easily be brought into that.

CHAIRMAN NELSON: The action plan would actually be under the business section, I believe, isn't it? Yes, it's under the business section.

MR. COLVIN: Then other business would be -
-

CHAIRMAN NELSON: Would that be more appropriate there?

MR. COLVIN: We could do it here under other business. I think it's more of a Policy Board question.

CHAIRMAN NELSON: Anyone else? A.C.

MR. A.C. CARPENTER: Mr. Chairman, there was a fax poll for the shad and river herring which did not meet, but can we get Bob to report on the results of that, please, at some point.

CHAIRMAN NELSON: Okay, why don't I do that right after the public comment, A.C. Okay, so that will be between 4 and 5. Anyone else? All right, seeing none, the agenda is so approved.

-- Approval of Proceedings --

Approval of the proceedings from August 27th, '03, any additions, changes? Any objections to accepting those proceedings? Seeing none, the proceedings are accepted.

-- Public Comment --

Public comment. Any public comment at this time, keeping in mind it would be on items that are not on the agenda that would be brought to the attention of the commission for other business or at another time.

We will provide a public comment opportunity under each of the agenda items as warranted. All right, seeing none, we'll move on to the fax poll results, Bob.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. Just briefly, the Shad and River Herring Board was polled on two proposals, one by Potomac River Fisheries Commission and one from the state of Virginia.

There are 19 total votes on the board. We received responses from 14 of the members; therefore, we do have a quorum on the vote.

For the Potomac River Fisheries Commission proposal, there were 12 votes in favor, 1 vote against and 1 abstention, so that proposal passes the board review.

For the Virginia proposal, there was 1 vote in favor, 11 votes against and 2 abstentions; therefore, that proposal did not pass the board review.

I am actually drafting a memo right now that summarizes all the votes and the action taken by the board. That memo will be for Jack Travelstead's signature, as he is the current Shad and River Herring Board Chair. I'll draft that and have Jack review it and sign off on it, and we'll get that out to everybody before the end of the year.

CHAIRMAN NELSON: Thank you, Bob. Okay, the next item is the Administrative

Oversight Committee report.

-- Administrative Oversight Committee --

MR. PRESTON PATE JR.: Thank you, John. The Administrative Oversight Committee met Sunday afternoon, and we went over a number of items that the commission had been considering now for several meetings.

I summarized those in the preceding Executive Committee meeting, but this is the point where we'll take some action on the three that are listed on the agenda. Bob Beal is going to give you a summary of each of those at this time.

-Proxy and Conflict of Interest White Paper-

MR. BEAL: Okay, thank you. The three white papers that we're going to discuss right now and consider action on were included in the CD-Rom. If you don't have copies of those, we do have packets. Just raise your hand, and Carrie Selberg has those in the Policy Board package.

What I intend to do is just briefly run through the first white paper, and then, John, the board will consider action on that one, and then we'll just move down the list.

The first white paper is the white paper on ASMFC Commissioner's proxies. This paper has actually changed very little since the last time it was presented to this board at the August meeting in Alexandria, Virginia.

I'll just briefly go through what's included in the paper, and then I'll answer any questions, if you have any. The paper starts out with the background on the current guidance for proxies that are included in the ISFMP Charter and the Compact rules and regulations.

The charter provides direction on how frequently proxies can change and what background the proxies can have. It states that they need to be from the same state or jurisdiction or agency as the individual making the designation.

It also highlights that the Code of Conduct shall

apply to all proxies. The compact and rules and regulations highlights the different types of proxies. It describes ongoing proxies, permanent proxies and meeting-specific proxies.

It also states that a person cannot have more than one vote. In other words, a person sitting on a board cannot receive the proxy for someone else and have more than one vote on any board.

The paper goes on to describe the Code of Conduct that is included in the rules and regulations of the commission. It just describes briefly the responsibilities and how commissioners are expected to handle their responsibilities to the ASMFC.

The Code of Conduct also highlights the potential for conflict of interest and states that no commissioner and, therefore, proxy, shall have the indirect or direct financial interest that conflicts with the fair and impartial conduct of this person's official duties.

It describes that the Executive Committee can consider reviewing anyone's potential breach of this Code of Conduct. The paper goes on to highlight the statement of the problem.

The concern is that when a commissioner is appointed to the ASMFC, they are appointed through an in-state process that ensures that the individual does not have any conflicts of interest with the commission and that may prevent them from serving as an impartial member of the commission.

There has been a concern raised that some folks that are serving as proxies may potentially have a conflict of interest, since those individuals that are appointed proxies don't go through the same state review process that the individuals that are appointed as commissioners go through.

The paper goes on to describe three different options that may be considered by the Policy Board to address the proxy issue. The first option is the disclosure of fishery-related financial interests.

The appendix of this document or the attachment

to this document is a disclosure form that was based on the advisory panel nomination form. This was suggested at the last Policy Board meeting.

The form goes through a series of questions just to highlight the individual's background and their interest related to fishing activities.

Option 1 would be to have anyone serving as a proxy fill out this form. The form would be made available to the members of the board as well as the members of the public at the meetings where these individuals would be serving as a meeting-specific proxy.

The second option is that meeting-specific proxies do not vote on final actions. This option does not affect permanent proxies or ongoing proxies. It only affects meeting-specific proxies.

So, if a meeting-specific proxy were to come to a meeting and serve as a commissioner, that individual would not participate in a state caucus and, therefore, would not participate in the vote of that state on any final actions.

Final actions are described as quotas, allocations, approval of fishery management plans, amendments, addenda and non-compliance recommendations.

The individuals that are serving as meeting-specific proxies would be able to vote on non-final actions or intermediate actions that the board or a section is taking.

The second paragraph under Option Number 2 is very important, that this option would only apply to legislative and governor's appointee proxies.

The notion here is that an individual or an administrative commissioner that appoints a proxy would be selecting someone from their state agency or agency that they work for, and those individuals are bound by the state's Code of Conduct and conflict of interest requirements, so the individuals serving as administrative commissioner proxies would be able to vote on final actions that are being considered by a board or a section.

The third option is that proxies are appointed through the state process. Each state has a process set up that establishes legislative and governor's appointee commissioners. The idea here is that that same process would be used within the states to establish an alternate or a meeting-specific proxy.

But it is noted, and I think it's very important that this process may and most likely is very cumbersome and would be very difficult for the states to do in a timely manner or potentially do at all.

There may be some state laws that prevent alternates or proxies being appointed through the state process as it stands right now. So, those are the three options, Mr. Chairman, that are included in the document.

CHAIRMAN NELSON: All right, thank you very much, Bob. Let me turn it back to Pres first to have their recommendation put forth, and then we'll have discussion.

MR. PATE: Thank you, John. There has been considerable discussion by the AOC on this matter during the meeting Sunday night and in a prior phone conference that we had a few weeks ago.

We have reached a consensus that Option Number 2 is the preferable option for the commission to adopt, so on behalf of the Administrative Oversight Committee, I move that the ISFMP Policy Board recommend to the Commission that the ISFMP Charter be modified to reflect Option Number 2 in the white paper on ASMFC Commissioners proxies. This option prohibits meeting-specific proxies from voting on final actions.

CHAIRMAN NELSON: Okay, we have a motion from the committee, a recommendation open for discussions on that. Who did I have first? Yes, go ahead, Pete.

MR. W. PETE JENSEN: Bob, clarify for me what a "specific proxy" is to make sure I'm understanding that term. Is it meeting specific or board specific?

MR. BEAL: Meeting specific.

MR. JENSEN: Meeting specific?

MR. BEAL: If someone is serving as an ongoing proxy for an individual board, in other words if, in your case, the state of Maryland appointed someone to be their permanent representative on the Summer Flounder Board, for example, that individual would not be affected by this change.

MR. JENSEN: Okay, so this is a fairly narrow issue. This would apply only to legislative/governor appointee-specific proxies.

MR. BEAL: Exactly.

CHAIRMAN NELSON: Thank you, Pete. Ritchie.

MR. G. RITCHIE WHITE: I was just seconding the motion.

CHAIRMAN NELSON: Thank you, it's a committee motion, though, and I think we're all set on that, but thanks for making sure. Jack.

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. I have some concerns about the motion. I think yesterday I said that proxies were my kind of people, having been one for a little while. A number of concerns.

To me, with Option 2, there is a presumption of guilt. It says you're a proxy, a specific proxy; therefore, you must be guilty of a conflict of interest, and we're going to punish you by taking away your vote.

I think this suffers from trying to find a simple solution to a broad problem. Let me give you an example. Senator Chichester is our legislative member to this commission; and for this meeting, he appointed Wayne McLesky as his meeting-specific proxy.

Mr. McLesky is a member of the Marine Resources Commission, who has been fully vetted through the state's conflict of interest laws. But if this were to be adopted, Mr.

McLesky would not have been able to vote at any of the things that we voted on at this meeting, so that causes me some problem.

The second issue is I'm not sure of the practical effect of this. You know, each state gets one vote around the table. That state owns that vote, and it seems to me, it's up to the state to make sure that things are done right when it comes time to vote.

Now, going back to the Mr. McLesky's example, if this had been in effect, Mr. McLesky would not have been able to vote at this meeting on a number of issues.

But, when it comes time to caucus on a vote, I think it would be very naïve to think that I would not consult with Mr. McLesky on how Virginia ought to vote on an issue. Am I supposed to turn to him now and say, "Well, you can't vote. It's going to be the way I see it."

That's just not going to happen, at least not in Virginia's situation, knowing that that man was appointed by a senator as his specific proxy. I think we need to look at, too, what is the purpose of a proxy.

People tend to appoint proxies because they're of like mind with the appointer. They're appointed, perhaps, because they're more versed on the particular issue that is going to be voted on and more articulate.

Let me give you an example. A couple of months ago, Rick Robbins was appointed proxy by Catherine Davenport at the Horseshoe Crab Board meeting.

Rick is heavily involved in that fishery, and there's no question that appears to be a conflict of interest there, but Catherine Davenport appointed him as a proxy because she couldn't be at that meeting.

She knew that Rick was of a like mind on the issues that were going to be debated that day and was very articulate on the issue and could address a number of the questions that the other board members might have.

So, in that case it really didn't change the vote. Had Cathy been here, Cathy would have voted the same way. Now there's an obvious appearance of a conflict because people sitting around the table know Rick and know he's involved in the fishery, but I don't really think it changes the vote.

My last concern is we've had a lot of talk about solutions to this problem, but we really have not had a very frank discussion about the size of this problem and specific examples that are bothering people.

To me, at least strictly from the Virginia position, I think this problem can be solved simply by some frank discussions with our members, perhaps a letter from the chair to all of the members about this problem, the fact that it has concerned people, and they need to think about their appointments before they make them, perhaps the state directors talking to the legislative member or the citizen appointee about their appointment of proxies.

I know that will work in Virginia. We've already had some discussions with our members about this very issue. We're not finished with those discussions, but strictly from Virginia's perspective, I think we can solve this problem without going to the degree of taking votes away from people.

To me, this is a move in reverse. It goes back to the days where legislative appointees and governor's appointees didn't even vote around this table, and I just think that's a move in the wrong direction. Thank you.

CHAIRMAN NELSON: Thank you, Jack. I had Brian next.

MR. BRIAN CULHANE: Well, first, I wanted to respond to some of the things Jack was saying and talk about these ongoing discussion we've been having at the AOC. Also, I was wondering would it be in order to get a second on this motion before we go any further?

CHAIRMAN NELSON: Well, it's a committee motion, and Ritchie had wanted to second it,

anyway, but I think we're all set.

MR. CULHANE: Okay, then to what Jack was saying, I'm glad Jack brought these things up because I think there are a lot of people that feel that way. As a proxy myself, this is something that I was very interested in.

And as the chairman or vice chairman, I'm not sure what I am right now, of the Legislators' Committee, this has also been something that we have been discussing for many years now, which led up to this.

Now, one of the things that Jack brought up was the ability to participate in a caucus. Certainly, if somebody is a specific proxy at a meeting, it is anticipated that they would be able to fully participate in a caucus before a vote.

What this excludes them from is the actual vote and only on final actions. Those final actions would be identified before the vote by the staff telling us that this is a final action.

And the other issue and this was -- Jack brought up a couple of examples, and I don't want Jack to think that this was in response to those situations. This has been going on for many years.

The concern that really brought this to mind for me and kind of changed my mind was seeing specific proxies come in at the very end, the final vote on a management plan that had been worked on for -- how long did we work on striped bass, five years? -- and come in and exercise a vote.

I don't know what the caucus was. I can't pretend to know what went on in a state's caucus, but certainly there was a potential there for two people that had not been involved in the process, or at least at the table for those five years, to come in and change that state's vote.

That was something that really bothered me. As I said, as a proxy myself and proxy to a legislature, I looked at this very skeptically. We've been discussing this for quite a while at the AOC.

We've gone through a lot of different changes, and this is where we've come after a long period of discussion on this issue. I certainly look forward to frank, open discussion from the rest of the members on this right now. I don't see that there's any great rush on this.

Obviously, if people are terribly troubled by some of these provisions, maybe we should take a little bit longer, but I think it is something that we need to know about and think about.

If nothing else, I think this discussion helps us look at how we use specific proxies at meetings. Thank you.

CHAIRMAN NELSON: Thank you, Brian. Tom.

MR. THOMAS FOTE: I guess I've worn a unique hat, because I started off as a proxy, then I was the governor's appointee and then was proxy again and then was governor's appointee. I have a real problem with doing it this way.

A conflict of interest is really an interesting call sitting around this table. There's no rule in New Jersey about how the conflict of interest is basically held on the three commissioners.

What we do is a full financial disclosure to let people know where we have vested interests that the legislature has to vote on me when I go through as the governor's appointee. The legislator goes through a different process.

We have specific processes done in the state. I was just thinking of Jack's -- I'm looking at this scup meeting coming up in January. I thought it was February. I might not be able to make it. I also thought of the fact that it's another four-hour meeting that I might have to travel down to that I really don't.

I say, well, maybe I have a member of New Jersey, who sits on the council, who has gone through the federal conflict of interest process and everything else. I could basically send him down with my proxy, save the commission money because he's there already, and do that instead of me having to go to a four- or five-

hour meeting.

That would preclude me to do that, because if I knew he did not have a vote, I could not do that. It would behoove me to get on the plane because I feel that the vote is important, because sometimes we do have disagreements.

I would have no problem with a specific proxy for a specific meeting coming in with a letter of financial disclosure and letting us know your vested interests, because we probably know. I mean, sitting at this table there are people who vote on issues that they fish on, they make money at.

I mean, that has always been understood, and that's part of the process. The same thing happens at the council system. That does not preclude you from voting. You should basically let people know why and what for.

Again, I worked through a long process starting in 1990 with many other legislative and governor's appointees over the years to basically get equal status for the legislative and governor's appointees. We're at that state. We're at that point.

I'm very proud of the effort the commission has made over the years to do that. As I had testified before the Pew Commission and the Oceans Commission, this is the best system around right now.

I think this would be a step backwards. I think there's a way of addressing it. As a commissioner, I'm not going to send somebody here that will embarrass my state or embarrass me. I think that's up to the commissioners to do that.

I don't see my legislators doing the same thing. We have careful discussions on who we send out. I think every state does that. Again, it's a caucus vote.

As Jack pointed out, if somebody is sent down here by a legislator or a governor's appointee, and they're going to sit and caucus, the state director is going to sit and listen, and it's going

to be a real vote.

To tell the person, "Well, you don't have a vote" is basically just making him feel like he's wasting his time coming on a final action. I've thought about it. I think the financial disclosure letter is important. It should be done since I have to do one. It's 27 pages long.

I don't think you want to do that form, but maybe a short form basically saying the same thing we do as an advisor, but I really could not support this, because I think it's a step backwards.

CHAIRMAN NELSON: Thank you, Tom. Ritchie.

MR. WHITE: Thank you, Mr. Chairman. I think Jack made some very good points. But, as our process is more and more in the public realm, as we saw yesterday in dogfish and horseshoe crab, I think the appearance of conflict of interest, even though there may not be conflict of interest, is important for us to consider.

I think the issue that Brian brings up that you go through, like striped bass, years of a process and then someone votes at the very last second, certainly it appears that person hasn't been involved and may not understand all the intricacies of that long, lengthy process. I think it helps us certainly from an appearance standpoint and I would support it.

CHAIRMAN NELSON: Thank you, Ritchie. George.

MR. LAPOINTE: I share many of Ritchie's points of view. In response to something Tom said, I think the mere presence of a financial disclosure form doesn't -- I mean, that's an important part of conflict, but you could have a conflict of interest or the appearance of conflict of interest that would be something that wouldn't show up on a financial page, and I think that's important to consider.

CHAIRMAN NELSON: Roy.

MR. ROY MILLER: Thank you, Mr. Chairman. I just wanted to relate one personal experience in regard to proxies. Incidentally, I'm an ongoing proxy for our division director. Others in this room are in a similar role, like Jack.

But to the topic of the specific proxies, I wanted to relate one particular circumstance. Our former legislator, several meetings ago, appointed a temporary or specific proxy to represent him at a meeting; and he did so, and I worked well with the gentleman, hopefully.

We spent the day coming up to speed on the striped bass issues, and everything went fine. And then lo and behold, the next meeting of the commission he had appointed -- unbeknownst to me until I arrived, he had appointed another proxy, so I had another gentleman to bring up to speed.

Everything worked out; it was okay. But, had it not worked out, I think it could have been awkward, because there were just two of us, and any caucus on which we disagreed, obviously, Delaware would have registered a null vote, and that might have been an issue of considerable importance to our department.

So, in consideration of the Administrative Oversight Committee's deliberations, I would support Option 2 as they propose. Thank you.

MR. PATE: Thank you, Mr. Chairman. Most of the discussion so far has focused on the attempt to eliminate real or perceived conflicts of interest, but to me it's more important to have this provision in place to make sure that all of the participants in a final action are making informed judgments.

It's hard for someone to come in at the tail end of issues that have been contentious and discussed for so long to have the same level of understanding as those that have more actively participated in the longer period of time have.

It was not intended to prevent those specific proxies to have the opportunity to participate in the caucus discussions on a final vote.

Certainly, their opinions, because they are representing the permanent members of this commission, are important. The intent was to keep, what I'll call, "limited or uninformed" judgment from influencing the final decision.

It's intended, I think, to respond to the worse-case situation where someone could come in at the last minute and cause their state to have a null vote because of their inability to reach consensus within the delegation, and under some circumstances that null vote could have a significant influence on the outcome of the vote. I do support this as the preferred option.

CHAIRMAN NELSON: Thank you, Pres. Gordon.

MR. COLVIN: Thank you, Mr. Chairman. Again, I want to thank the Administrative Oversight Committee for the work they did on this.

I believe that, in fact, the committee, over several working sessions over a considerable period of time, has had the kind of candid and appropriate discussion in that setting of the issues that led to their recommendation to us today that Jack Travelstead properly called for.

I think that's where they happened, and that's where they needed to happen. This is a difficult issue. It does cut both ways, and it's tough to strike a balance. I fully support the recommendation the committee has come up with.

I think that, on balance, it's the right thing to do, recognizing that it has some negatives as well as some positives, but I think it's where we need to go. Well, let me just leave it at that for now and express my support and appreciation to the committee.

CHAIRMAN NELSON: Thank you, Gordon. Okay, I had Dennis and Jerry.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. I support the motion. I think that going back in time, I'll state for the record that I am a proxy now, and I was a former legislator.

I think that as we went through this process, those of us who were involved in achieving caucus voting, we considered the concern of the state administrators.

I mean, we had the feeling, and I think rightfully so, that the state administrators had a concern of how the legislator's and governor's appointees were going to affect the state's decisions, and what we are trying to prevent is a further dilution of that.

If I were a state director, exactly as Roy Miller said, he has not problems but really strong feelings regarding the state's position being affected by some "Johnny come lately" that shows up for a meeting, how well intended or not well intended, and he probably always is well intended, but those of us who participate like laymen, like myself, I mean it takes us a long time to get up to whatever speed that we're at.

We know that someone who shows up for a meeting has a hard time doing more than finding a seat in some cases and figure out what we've done over a period of three or four years, so that's why I support the motion. Thank you.

CHAIRMAN NELSON: All right, Jerry.

MR. GERALD CARVALHO: Yes, I agree with the statements that Tom Fote made. I especially agree with the description that Jack gave. I agree with Jack's approach to the problem, that a state that has a problem could be approached specifically on a question.

As for perceptions, I've heard statements about the perception. One need only to get in a small commercial vessel and steam home into the harbor and recognize the perception there's no fish in the ocean because that guy just took them all.

We see that all the time so we have to deal with bad perceptions of people. They're not going to go away no matter what we do. I think that there's a great responsibility to the states, and if votes are changed or whatever position that caucus delegation takes, that's the state's

responsibility. And they ought to have the opportunity to do it, other than something that becomes outwardly and obviously unethical.

CHAIRMAN NELSON: Okay, thank you, Jerry. I've got a couple more hands that went up. I think we've probably heard quite a bit; and before Pat tells me to call the question, I just want to let you know that I'll take a couple more comments, and then I am going to call the question. Brian.

MR. CULHANE: I'll be brief. One of the things that we embarked on a few years ago -- I think it has been a very positive development for this commission -- has been the use of caucus votes.

I can only tell you the way New York uses that, even in situations when all three of us are not here. I think, generally, my attendance at commission meetings is pretty good, and I think most of you know that.

Sometimes I miss a Monday morning or a Thursday afternoon because of family concerns, but I'm generally here and generally we work as a trio, not the "Three Stooges," as a trio.

But, there are a lot of joint council-commission meetings that I don't get to attend. Before those meetings, Gordon and Pat always make an effort to call me up and find out if we're all in agreement on things.

I trust that if we were not all in agreement on things, that the state director or the state director and the governor's appointee would not go and override me because I was not there; and that if my vote made the difference on our state's position, that they would either abstain or submit a null vote even if I was not there to exercise that myself.

I would encourage any states that don't have that kind of working relationship to pursue that kind of relationship. Thank you.

CHAIRMAN NELSON: Okay, thank you, Brian. Go ahead, Dave.

MR. DAVID V.D. BORDEN: Just a quick point, Mr. Chairman. If Gordon has the power to get his delegation together, I suggest that he set up a caucus, and I'll be the first one to sign up.

CHAIRMAN NELSON: I'm going to merely say I think we've had a good discussion on this, and I'm going to give thirty seconds for the caucus to take place so you can come to an agreement. I just noted at the end, the motion by Mr. Pate is made on behalf of the AOC Committee. I'll have staff take care of it. Thank you. Okay, thirty-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN NELSON: Is everyone ready? All right, all in favor of the recommendation, please raise your right hand; no, like sign; abstain, two abstentions; null votes, one. Thank you very much.

The motion passes 12 in affirmative, 3 negative, 2 abstentions and 1 null. We'll pass that recommendation on to the commission for their full consideration.

The next item is the appeals process white paper, and Bob is going to walk us through that. Tom.

MR. FOTE: This will go to the full commission for a vote. We're only states voting, not jurisdictions or the agencies?

CHAIRMAN NELSON: This will go to the commission for their consideration of modifying the charter.

-- Appeals Process White Paper --

MR. BEAL: Okay, thank you. The next white paper is the appeals process. I think this is actually the fourth time this discussion has been on the Policy Board agenda, and for very good reasons it has been delayed a couple of times.

The primary reason was that there was a pending appeal from the Commonwealth of Massachusetts regarding black sea bass, and the Policy Board members indicated that they would

feel more comfortable commenting on the appeals process following the completion of that appeal.

We have gone through that, and everyone keep that experience in mind as we go through this discussion. As I mentioned, this is the fourth time it has been discussed, but this is the third iteration of this paper, so I think I can go through it pretty quickly and just hit the real highlights.

If there are any questions, I'll be glad to go back and try to explain those. Again, the appeals process is currently included in the ISFMP Charter. The charter indicates that the Policy Board will serve as the appellate body here at the commission and will review any appeals from an aggrieved state.

The charter doesn't have much detail on how the appeals process will be handled. It doesn't include any details on timing or authority of the Policy Board as far as findings of an appeal, so those are some of the questions.

The other question that has been brought up is whether or not the Policy Board is the appropriate body to handle appeals. So the first issue that is contemplated in this document is the issue of what is the appropriate appeal body.

The question is should it remain here at the Policy Board or should there be a separate appeals body developed for each specific appeal that's brought forward by a state.

The decision on who should hear appeals is the primary decision that needs to be made with respect to the appeals process here at the commission.

There's a series of six other issues that are listed in the document. All six of those issues still need to be addressed whether or not it stays with the Policy Board or if a new group is established for each appeal.

So, no matter what the results of the decision on the first issue is, the next series of issues all still need to be addressed.

The first of the remaining issues, the next issue is appeal criteria and initiation. This issue contemplates what is a valid appeal, who should decide what is a valid appeal, and what type of measures should be able to be appealed by the states.

The third issue, or Issue Number 3 in the paper, is the appeals body meeting. The details of how the appeals board or appeal group will meet just needs to be determined and spelled out so that the timing and the flow and the presentations and those sorts of things can be clearly defined so that the state knows what to expect when they initiate an appeal.

The next issue is the appeals body product and authority. Upon completion of appeal, what are the states bound to do? Are any other management boards bound to take action? What product will be developed by the appeals body, and what will be forwarded on to the states or to the different groups out of the appeals process?

Issue 5 is consideration to prevent abuse of the appeals process. There's some concern that some states could potentially use the appeals process as a way to delay the implementation of certain regulations.

The appeals process never was and still is not intended to preempt the established board process. It's an extraordinary situation that states have gone through all the normal channels that we use to negotiate and make decisions at the commission, and they feel that they're still aggrieved by a decision, and they need to bring it back to an appeal to be readdressed. So there's some concern about abusing the appeals process or using it for something that it is not intended to be used for.

Issue 6 is preventing an appeal chain reaction. The concern here is that many of the issues that may be appealed -- if the regulations are changed in one state, it may negatively impact a series of other states or one other state.

The concern is that will kick up another series of appeals that those states don't feel that they may have been handled fairly, or the decision had a

severe negative impact on their state, so it just needs to be addressed and a way to prevent that from happening.

The seventh issue is very straightforward, What sort of timeline needs to be developed to allow for sufficient time for all the background documents and appeals discussion to take place?

CHAIRMAN NELSON: Thank you, Bob. Let me go back to Pres.

MR. PATE: Thank you, Mr. Chairman. Before I state the committee's motion, I'd like to explain that I think it's important for the board to understand that the charter already includes a provision for appealing commission decisions or board decisions.

This process that we're into now is to try and put some clarity to what that process should be and will be by identifying mainly by the action that you will be asked to take today, that the ISFMP is the body that will serve as an appeal body.

The details of how an individual state or group of states would get an appeal to the ISFMP will be worked out in further detail and presented to the commission for their consideration.

So, with that as background and stated intent, I'd like to, on behalf of the Administrative Oversight Committee, make a motion that the ISFMP Policy Board continue to serve as the deliberative body that will address appeals from aggrieved states.

The Administrative Oversight Committee will be charged with developing the details of the appeals process for presentation to the ISFMP Policy Board at the March 2004 ASMFC meeting week.

CHAIRMAN NELSON: Thank you, Pres. All right, again, the focus of your discussion should be on whether the Policy Board is the appeals panel, or is there some other recommendation that you would like to have. Tom and then I'll get to Pat.

MR. FOTE: I've been thinking about this over a

long time and trying to figure out the best place to basically do an appeal. I'd like to know what the discussion was at the AOC, whether deciding at a full commission would not be the appropriate place to do that, saying that the full commission is made up of the members of the Compact.

It doesn't have any members that are not members of the Compact. And that has always been historical, when we approve a final amendment to a plan or something like that, that's the body it would go with.

I'm leaning just one way or the other, but I would like to know what the discussion was and why was that eliminated from the consideration that was where we go, because actually there is where the Compact is the strongest, because that's the 15 states along the coast. It doesn't count jurisdictions; it doesn't count agencies. It's basically the body of the states.

MR. PATE: Tom, that's a good question. There was a lot of struggle with the idea of having a body that made the same decision serve as the appeals body of a decision that was brought forth by an aggrieved state.

With the limited options that we had, the ISFMP was chosen as the best one, because it had the broadest representation or the greatest potential of including in the decisions resulting from an appeal those groups that did not have an initial role, a role in the initial decision.

So you have some, conceivably at least, opinions or judgments that could broaden the consideration beyond that that was made for the original decision.

CHAIRMAN NELSON: There is also history of this board being used as a, if you will, "appeal" or "sounding board" for a grievance in the past, Tom, so it was really a question of whether this board would be used, or should a smaller group be utilized that -- some type of representation associated with that.

I think if you remember, probably a couple

meetings ago, that we put out another scenario, and we were told to go back. We had gone through the appeal process of the Massachusetts one, and that was before the Policy Board.

So, we're dealing with history as well as trying to be as all-inclusive as possible versus should we do something that's on a narrower makeup.

MR. FOTE: To address those points, I understand what you're saying, Preston, but I think just the opposite is going through -- when you go through the Policy Board instead of going through the full commission. I'll give you my reasons why.

At the Policy Board, say, let's look at one of the boards, let's pick out any board, Weakfish Board. The members that sit on that board are made up of the agencies and the jurisdictions, so the votes will be only three states difference or four states that don't sit on the Weakfish Board or maybe it's only -- well, actually, weakfish is a bad example because almost all the states sit on the Weakfish Board except New Hampshire and Maine.

But, if you went to the commission, three or four of those people would actually be eliminated from that board, and then two more would come on, so it might be a difference of a vote there, because the agencies are not different from when they come from the Policy Board to the regular - - from the Management Board to the Policy Board.

Maybe I'm not stating it right, but when you go to the commission, it actually does make the pool smaller plus it makes the disinterested parties larger on that board, larger than it is at the Policy Board. That's all I was looking at.

CHAIRMAN NELSON: Okay, thank you. Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. In reading the two options we have, whether we use the ISFMP or establish another appeals board, it doesn't seem to me, based on what you pulled out as the possible issues that would be discussed or reviewable are limited to those things that, quite frankly, are mechanical,

if you will -- I'm sorry -- failure to follow process, shortcomings of technical information, historical landings period adequately addressed.

It just seems to me to establish another body to make those decisions, which you already make at the ISFMP level, does not seem to make a whole hell of a lot of sense. The problem I see, if you were to address any of those other issues that are not appeasable, then I'd say we might have a problem.

You also make a statement at the very end of the first page, a potential drawback of having the Policy Board consider appeals that the majority of the members may only -- there may only be a few people or groups that do not have access to the hearing material before. How many could that be, two or three?

Again, the issues that you have clearly described here as what could be appealed are so clear, it doesn't seem as though there really would be anything beyond that that the ISFMP Policy Board could not handle directly, so I would definitely stick with the ISFMP Board as the sole arbitrator.

CHAIRMAN NELSON: Thank you, Pat. Paul.

MR. PAUL DIODATI: I think the very nature of an appeal is to get an unbiased judgment from a third party. Personally, I just can't see how this Policy Board would be able to provide that, given that a lot of the boards that would be passing the initial judgment -- most of us would be -- it's the same membership.

So, although this provides an opportunity for the commission to close another administrative loophole, and it's an easy thing to do, I think it's the wrong thing to do.

CHAIRMAN NELSON: Okay, thank you, Paul. Gil.

MR. POPE: I have to agree with Pres and Paul here on this, because a case in specific that we had with the lobster was the Lobster Board and a lot of the same people in the next board and the same people, and the decisions basically were

the same as it went down through the appeals process.

The only idea that I had during that whole thing was the fact that, in the case of, say, weakfish or maybe not weakfish but red drum, say, for example, the people who are either de minimis in red drum or don't have any interest in the red drum itself might be the right kind of people that you would want for an appeals process board.

In the case of lobster, you would have the people who are either de minimis in lobster or don't have lobster who are also part of the regular commission, who don't really have a "dog in the fight", so to speak.

They might be a good source to draw from and might be a little bit less biased than some kind of turf war or something that's going on where you needed that appeals process. Thank you.

CHAIRMAN NELSON: Thank you, Gil. Gordon.

MR. COLVIN: I can appreciate the dilemma the AOC has here, and I understand exactly what Paul Diodati is getting at. The difficulty and dilemma is that at the end of the day, I do not believe that we could ever agree to surrender our decision-making authority and all that it conveys to an independent arbitrator other than a judge. I just don't see it happening.

I'm wondering whether there's some other process that could be folded in. For instance, did the AOC look to the possibility of establishing and appointing an independent review panel, a fact-finding panel, if you will, to hear and evaluate and attempt to independently assess and report to the decision-making body, in this case the Policy Board, what could be a more independent and objective set of recommendations than might then be developed otherwise.

MR. PATE: The short answer is no; not to say that is not a good recommendation, though, Gordon, and that's something that we can consider when we're developing the details of how this process is going to work and bring it

back to the board at the March meeting.

MR. COLVIN: I hope that you would, because I think it could go some distance down the road to addressing the concern that Paul made.

In looking at, as Pat pointed out, the issues that would be appropriate, shortcomings of technical information, for example, it might well be possible to appoint a small panel of independent fisheries scientists not involved in the species in question to look at the specific issues addressed by an appeal, and address what would be completely independent de novo evaluation and fact-finding recommendations. I think it would be helpful to all of us to get at this underlying problem.

CHAIRMAN NELSON: Thank you, that's a very good suggestion, Gordon. Pete.

MR. JENSEN: I think it's probably premature to make this judgment, because I think we can easily envision how the discussion that has gone around the table as we develop the details might lead us to a different conclusion as to how it ought to be done.

So, I think it would be appropriate to have the Administrative Oversight Committee continue to develop the possible details of an appeal process without taking action on making the Policy Board the body at this point, because I think the details are going to tell us a whole lot more about what we ought to do than what we know now.

CHAIRMAN NELSON: All right, thanks, Pete. I recognize you, Dennis.

MR. ABBOTT: Thank you, Mr. Chairman. I think that we should move the question and see where the consensus of the body is right now and find out whether we're happy where we are, or if the vote is negative, then we'll send it back and do some more with it.

CHAIRMAN NELSON: Okay, Tom.

MR. FOTE: I'm looking at this and I'm talking about it, and I'd like to talk to the legislators about this and sit down and discuss it a little

further, and I'd like to get my written comments. I would move it forward to be discussed at the next meeting, but I really don't want to move it forward as a recommendation.

CHAIRMAN NELSON: Go ahead, Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. One bit of information that the Administrative Oversight Committee was given that I'm not sure the rest of the body has, but I did raise this topic with Jack Dunnigan and indicate to him that we were looking at it, and he pointed out that we had an appeals process in the Policy Board that had been used effectively in the past, and his strong recommendation was that we stick with that process.

I'm not advocating one side or the other. I'm just providing this board the same information that we gave the AOC from Jack Dunnigan. Thank you.

CHAIRMAN NELSON: Thank you, Vince. I had tried to provide that type of insight. I didn't use Jack's name and I appreciate you providing that.

All right, what's the pleasure? I mean, the AOC has been doing this based on the recommendation from the commission to deal with this. What's the pleasure of the Policy Board? Ritchie.

MR. WHITE: In the motion we're just authorizing the AOC to continue on, so I don't see where we're locking ourselves into anything by passing this, and I think the AOC ought to continue to develop the details of the appeals process and see how that unfolds.

CHAIRMAN NELSON: All right, having said that, why don't you all caucus, and we'll take a vote on this and see where it goes. Thirty seconds.

(Whereupon, a caucus was held.)

CHAIRMAN NELSON: Are you ready? Okay, all in favor of the motion, please raise your right

hand; opposed, likewise; abstentions,, three abstentions; any null votes? All right, the motion passes 13 yes, 0 negative, 3 abstentions, no nulls. Bruce.

MR. FREEMAN: In the spirit of cooperation, Tom Fote agreed to move out of the room so I could vote and move this process along.

CHAIRMAN NELSON: Good place to caucus, too. All right, the next white paper, Bob.

--Parliamentary Process White Paper --

MR. BEAL: Thank you, Mr. Chairman. The third white paper that's included in the packet is the white paper on process issues regarding final actions.

The ISFMP Charter and the Compact Rules and Regulations provide that the meetings will generally be run according to the current edition of Robert's Rules of Order.

This white paper proposes making one change to that, and that would be that any final action that is taken by a management board or a section would require a two-thirds vote to change that final decision that the board or section made. Under Robert's Rules of Order, a two-thirds vote is required to amend or rescind a final action if no prior notice is given that this action is going to be undertaken on an agenda. This provision would change the fact that even when prior notice is given, it would still require a two-thirds vote to amend or rescind the action taken by the commission.

So, it's just one change to one part of the two-thirds vote provision in Robert's Rules of Order. The idea here is that if a board or a section wanted to change a final action, it's a pretty extraordinary circumstance that would justify changing a final action, and a two-thirds vote requires that a super majority of the board, some folks call it, would be required to change that action.

So, the document includes specific language in italics at the bottom of the first page and through the first half of the next page that would be

changes to the ISFMP Charter that would be made and changes to the Compact Rules and Regulations that would need to be made to memorialize this decision in the commission's guidance documents. I think with that, I can answer any questions, Mr. Chair.

CHAIRMAN NELSON: All right, Pres, do you want to add anything else on this?

MR. PATE: Nothing more than make a motion, Mr. Chairman.

CHAIRMAN NELSON: Okay, why don't you make the motion and then we'll have discussion on it.

MR. PATE: Okay, on behalf of the Administrative Oversight Committee, I move that the ISFMP Policy Board recommend to the commission that Section 4(d)(1) of the ISFMP Charter be modified to read:

Meetings will generally be run according to the current edition of Robert's Rules of Order, except a board or section will need a two-thirds vote of all the voting members (i.e., entire membership) to amend or rescind any final actions regardless of prior notice.

For this section, a final action will be defined as establishment of quotas, allocations, approval of fisheries management plans/amendments/addenda and non-compliance recommendations.

And Article 3, Section 1 of the ASMFC Compact and Rules and Regulations be modified to read: The conduct of meetings of the commission or any other body established under its authority shall be governed by the current edition of Robert's Rules of Order, Newly Revised, except a board or section will need a two-thirds vote of all the voting members (i.e., entire membership) to amend or rescind any final actions regardless of prior notice.

For this section, a final action will be defined as establishment of quotas, allocations, approval of fisheries management plans/amendments/addenda and non-compliance recommendations.

CHAIRMAN NELSON: Thank you very much, Pres. Bob, did you have anything else you wanted to add on that?

MR. BEAL: The only thing that should be noted is that the ISFMP Charter currently has one provision where a two-thirds majority is required, and that's on emergency rules. The process is the same as what's being proposed here, basically two-thirds vote of all the voting members or the entire membership of the board.

So if folks aren't in attendance, it still requires that two-thirds of the entire membership, present or not present, be required to pass an emergency rule, and this would be a similar provision. A similar vote count would be required under this provision.

CHAIRMAN NELSON: Okay, let's have some discussion on it. I had Dennis first and Jack.

MR. ABBOTT: Thank you, Mr. Chairman. Regarding the first sentence, I don't know if I have a problem at this point or not, but the statement that meetings will "generally" be run according to the current edition of Robert's Rules of Order really is too vague for me, I think.

If the intent of the term "generally" is to allow our exception that is further stated, I think that it should read "meetings will be run according to the current edition of Robert's Rules of Order with the exception of." Am I misreading that?

CHAIRMAN NELSON: Well, the existing language, Dennis, says "generally." We haven't proposed any change to that so that's the existing language.

MR. PATE: May I speak to that?

CHAIRMAN NELSON: Yes, go ahead, Pres.

MR. PATE: I think you need to try and retain the flexibility of being able to suspend Robert's Rules under special circumstances, too. I think that's the reason that "generally" is in there.

MR. ABBOTT: I think we always have that

whether we say that or not.

MR. PATE: Well, not if the Compact says you will run by Robert's Rules.

CHAIRMAN NELSON: Okay, I had Jack.

MR. TRAVELSTEAD: What is the thinking in requiring the two-thirds vote to be of the entire membership? In all of our other votes, where we go with simple majority, is it not a simple majority of members present?

I guess I'd like some explanation as to why we're now including the entire membership. It seems to me with that -- there might be some benefit, I suppose. If a state was opposed to the particular action, they could just stay at home, and that would be as good as being at the meeting and voting against.

CHAIRMAN NELSON: Let me see if we can answer your question, Jack. Go ahead, Bob.

MR. BEAL: I think the underlying concept is that requiring two-thirds vote of the entire membership -- or the use of this provision in general is to only fix either major oversights of a management board or some compelling new information that came forward that required or motivated a board to change one of their final actions.

I think the idea is that it takes a very strong majority of the board to change something, because this would only be undertaken under extraordinary circumstances was the thinking when this was developed. And it also is a consistency issue with the emergency rule provisions that are currently in the charter.

CHAIRMAN NELSON: Vince, to that point, too.

EXECUTIVE DIRECTOR O'SHEA: Yes, thank you, Mr. Chairman. The logic of the two-thirds super majority in Robert's contemplates a situation where perhaps a meeting would only be attended by half the membership, for example, in which case the criteria required to undo something that the previous body or the full

body had agreed to, that standard now would be pretty low.

It is pretty easy to envision a situation where somebody that in a six to seven vote, if those six members showed up and the seven that voted for it didn't — and remember, the two-thirds vote that's being proposed here is even with prior notice.

Implied in this is without prior notice somebody could make a run at a previous decision with a motion to amend or rescind, and if there had been some sharing of that strategy ahead of time, you would put in jeopardy the decision of the much larger body. That's the logic behind the two-thirds requirement in Robert's. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Okay, Dave.

MR. DAVID CUPKA: Thank you, Mr. Chairman. That clarification answered my question.

CHAIRMAN NELSON: Okay, thank you. Eric.

MR. SMITH: Thank you. I, too, had that question and that one is satisfied. I have another one, though. It's all relevant to the motion, Mr. Chairman. I'm going to stop with my preambles.

I thought one of the underlying issues that prompted the consideration of this was what we painfully went through with dogfish this summer, and one of those issues that tied us in a knot for a while was trip limits, not quotas or allocations.

I wonder if the list of "the definition of final actions here" is broad enough, or if it needs to include a few other things, using that as an example?

CHAIRMAN NELSON: I think that was setting an annual allocation and the trappings associated with it. I think the allocation really was the issue that created some of the problems; and then secondarily, it became the trip limits, just to use that as an example, Eric.

MR. SMITH: I think the way out of it is perhaps to add "annual specifications" to the list. It broadens it without opening the door.

CHAIRMAN NELSON: Okay, any objections to doing the annual specifications? Seeing none, that's in there. I had Bill next.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Following in Eric's footsteps, I also have a problem with reserving the two-thirds operation here to just those things listed there.

I was wondering if there were some way you could put in some wording that would at least allow a little bit of flexibility other than quotas, allocations and what you've got there. I think Vince's idea of the two-thirds is good, because you need enough people there to make the decision.

There can't be run-arounds. But at the same time, I think you ought to have some flexibility in there for things other than just what you've listed there. Right now, that's the only thing you could bring up for two-thirds, and I think there needs to be a little bit of flexibility on some other issues.

CHAIRMAN NELSON: Okay, the concern was final actions, Bill. And, if what you're thinking of are other examples of final actions, I think that would be appropriate, but if it's in the development of an addendum or amendment or some other issue that is not a final action, the commission should have the opportunity, anyone raising that as appropriate and not having to have too high a hurdle.

But if you've done the final action, it is not revisiting something that it has setting a season or setting annual specs, something like that everyone has agreed on and knows that you're going to do it at that meeting and moves on, and I think it was using an example of not getting council-like.

You don't sit on the council, so let me just say we have a tendency on the councils to revisit ad nauseam final actions, and it bogs us down tremendously.

MR. ADLER: Well, I know, but if you're revisiting things that can clog you down, you've got them up there already, and I just don't see the reason why somebody would have to reopen a final decision on an amendment or a addendum, which is what you would have to do, which would make it even more complicated, rather than just allowing the opportunity to raise something.

Remember, you've still got the two-thirds majority to protect you. If the body feels that it's not worth revisiting, then so be it, but at least allow the opportunity to bring some other things up besides just quotas and specs. Thank you.

CHAIRMAN NELSON: Okay, I'm not clear on really what you're asking, so if you want to have something specific, please, I'll come back to you and be happy to entertain it. Gordon.

MR. COLVIN: Vince made my point, Mr. Chairman.

CHAIRMAN NELSON: Thank you. Bruce.

MR. FREEMAN: I'm not that good at Robert's Rules, but I think a situation could occur where an issue could be voted on and later during that same meeting be raised.

My concern would be, hypothetically, if, in fact, a board consisted of ten members, six of which were present and took an action, then it was determined in the meeting there was a total oversight for some factual information no one considered but realized it would be a mistake and want to reconsider, it would not be able to do it with those six members, those same six that just voted, because you need seven to have your two-thirds. I'm just curious.

CHAIRMAN NELSON: I kind of muted you there. I jumped the gun. You're talking about at the same meeting; is that correct?

MR. FREEMAN: Yes.

CHAIRMAN NELSON: At the same meeting. This does not apply to the same meeting. At the same meeting, as we have seen, we can rehash

anything we'd like.

MR. FREEMAN: Okay, then that's fine.

CHAIRMAN NELSON: To that point, Vince and then Tom.

EXECUTIVE DIRECTOR O'SHEA: Yes, quickly, terminology is important here, and at times we've used incorrect terminology. A motion to reconsider is an action within the same meeting, and it needs to be made by somebody that's on the prevailing side.

A motion to amend or rescind a previous action is at a new meeting, and it can be made by anybody. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Tom, go ahead.

MR. FOTE: Yes, I was thinking this more through on the entire body vote whether it's just -- or the present vote. We're all assuming that the people not present would be voting in the opposite direction, but they might vote the other direction.

If they're not there, could the person asking for the revote, could they possibly then ask that the state not there be caucused and that vote should be also added?

Since you're requiring a body of the full to vote, then if they're not present, they left for some reason, and there was a vote and that might be a deciding vote to whether you do it because you don't have enough members present, the rest could be done over a mail ballot because they had to leave early because of planes or something like that.

That's what I'm asking. You know, it's a simple fact that if you're going to require the full body, and some of the body left during the meeting because the plane was leaving, you ran out of the room, and they said, well, you're one vote short and there are three states that left and you probably might have got three of those states to vote with you on the issue, could you ask for those states to be polled on that vote? That's something to consider. I'm not saying do it right

now, but think about it before we finally do the deliberations.

CHAIRMAN NELSON: Anyone else? A.C.

MR. CARPENTER: Yes, thank you, Mr. Chairman. This section refers to defining final action and gives you a definition. I'd like to point out that in the proxy discussion white paper, it says "final actions likely would include" and then lists certain things.

There is a slight difference between the definition of what it is and what it's likely to include. I think at a bare minimum, you need consistent language in your policy manuals so you may need to rethink either one or the other.

To Eric's point on this, I think the definition or the language which is used in the proxy action would satisfy Eric's concern about it could also include other things.

CHAIRMAN NELSON: Okay, I think that's a good point. And since we are doing these things to be consistent in what we do in the future, if there is no objection, we'll have the language for the final actions for the proxies reading the same as these final actions. Okay, is there any objection to that? Jack, do you object to that?

MR. TRAVELSTEAD: Just a question. If you're going to say a final action is likely to be such and such -- you're not going to do that?

CHAIRMAN NELSON: I think it should read - - the language should read consistently between the two.

MR. TRAVELSTEAD: I agree.

CHAIRMAN NELSON: It should say a final action will be defined as.

MR. TRAVELSTEAD: Okay, I just didn't want a situation where a board chair has to sit there and decide what a final action is and extend the length of the meeting every time a vote is taken. Thank you.

CHAIRMAN NELSON: I appreciate that, and I

thank you for pointing it out, A.C. Again, we are trying to be consistent, refine ourselves so that we are consistent and it is clear for everybody in the future. Pete.

MR. JENSEN: A clarification to make sure I'm reading this right. In the fourth paragraph, it talks about the ability to suspend the rules. So, if we adopt this, this becomes a rule, right? But suspension of the rules is by majority vote; is that true? What kind of a vote does it take to suspend the rules?

CHAIRMAN NELSON: A two-thirds.

MR. JENSEN: Two-thirds?

CHAIRMAN NELSON: Yes. All right, ready for a caucus? Bill, did you have some language?

MR. ALDER: I was just informed that I don't have to because annual specifications would cover my concerns, so that's good.

CHAIRMAN NELSON: Dennis.

MR. ABBOTT: Yes, I'm going to go back to where I was at first, at the bottom of the page it says specifically Section 4 will read "meetings will generally be run according to Robert's Rules".

As an analogy to that, something could say "golf will generally be played by the rules of golf." I think that you either do Robert's Rules or you don't, and then you can make your exceptions at the body's will from that point.

You're telling me that you can do anything. You can just "generally" do what you please. I just would like to strike the word "generally."

CHAIRMAN NELSON: Without tying us up in parliamentary procedures -- and I'm not sure, I've got to look to my parliamentarian -- I was under the impression that's our existing language, and that's how we are approaching how we conduct our meetings.

I understood it was, again, to provide flexibility to the chairs. You don't have to deal with something according to Robert's Rules if there is

a good reason not to. I think we saw in one of the board meetings that an interpretation was provided as far as the Robert's Rules and --

MR. ABBOTT: John, I think --

CHAIRMAN NELSON: If I could finish, Dennis.

MR. ABBOTT: Yes, excuse me.

CHAIRMAN NELSON: Thank you. And, therefore, the chair looked at all the facts and decided to allow the discussion to go forward.

I think the chair has to have that opportunity to use that insight. But, in general, they're running it by Robert's Rules. Now, it's a question of how rigid do we want to be. Now, go ahead, please.

MR. ABBOTT: Yes, thank you, Mr. Chairman. Excuse me for interrupting. I go back to my basic premise that the Robert's Rules are for governing meetings. Either you go by them or you don't.

If we were to pose this question to a true parliamentarian, which I don't pretend to be, I would like to see what they would give us for an opinion regarding this statement of "meetings will generally be run".

CHAIRMAN NELSON: To this point, and, Eric, was your point different? Different, okay, then Ritchie.

MR. WHITE: Yes, I agree with Dennis, because I think the problem that this can create is if it's "generally", who gets to decide when it's Robert's Rules and when it's not? It's not clear here, and a board chair could deviate from Robert's Rules when that chair decided and the rest of the body might not want to.

I agree with Dennis that I think if you take the "general" out, that doesn't mean that a board chair can't work outside of Robert's Rules if everybody else is in agreement.

CHAIRMAN NELSON: Let me get some

insight from Vince on this.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman, two points. The first is that I don't know for how many years you've operated with that word in the ISFMP Charter. In this go-over to fix a problem, this wasn't identified as a problem until right now.

The second thing, it seems to me, is the point has been made before, but Robert's Rules of Order says you will stand up before you address the assembly. It says that you will not be allowed to speak until everybody else is given the opportunity to speak. I can go on. I've got the book. It's three inches thick.

If a chair decides to deviate from Robert's Rules of Order, there is a procedure in there for the body to object to that. I'm back to my main point, which is it seems you've operated satisfactorily with that word in there. It has given you the flexibility to operate efficiently, and I think you need to consider that. Thank you.

CHAIRMAN NELSON: All right, thank you. Unless there's a motion to amend this, I'm going to go back to my original list for people who wish to speak. Okay, is this to amend?

MR. JOHN DUREN: It's not an amendment, it's a question.

CHAIRMAN NELSON: Okay, a question on this point?

MR. DUREN: Yes.

CHAIRMAN NELSON: Okay, go ahead, John.

MR. DUREN: My question relates to requiring a two-thirds majority to amend a fisheries management plan. In the last three days, almost every committee or board has dealt with some kind of amendment to a fisheries management plan, and these have come through the process, but they've been derived from technical committees reviewing new information, advisory committees and panels processing that information and then bringing it to the

management board.

Is it intended that for a modification or a change to a fisheries management plan to require a two-thirds majority to be approved once any initial fisheries management plan has ever been adopted? I would hope we wouldn't want to do that, but the language isn't clear to me, either on the board nor on the paper.

CHAIRMAN NELSON: Bob, do you want to address that?

MR. BEAL: The intent here is to not require a two-thirds majority during the development of a fishery management plan or an amendment, but if the board wanted to go back and revisit, amend or rescind a decision on an amendment or an FMP or addendum, then it would take the two-thirds vote.

But during the development of an FMP, amendment or other management documents, it's just simple majority of the board unless it's a revisitation of a previous decision.

CHAIRMAN NELSON: Okay, let me go back to my list. Eric, then Dave.

MR. SMITH: Thank you, I didn't think that was a good point until I heard the whole point, and then I realized it actually is a good one. If you voted the whole plan, but it hasn't yet been implemented, and at the next meeting someone is doing one of these recall issues, I think that was the gentleman's point.

And I think we want to be -- I think we're all clear. We understand what we mean. We should make sure that the document is clear on that.

My point, Mr. Chairman, was I thought a lot about what Vince and Gordon have said about the two-thirds, and I think Vince is absolutely right on the need for the two-thirds of all the members of the body in those instances when there has not been prior notification.

I wonder whether we should consider making our rule two-thirds of the members present and

voting for those times when there has been prior notification just so we don't, as Tom Fote and others have pointed out, have to drag people to a meeting that they might not have otherwise gone to just to make sure that we've got all the members there in order to get the whole vote.

I won't bleed and die on the thing, but it's just it troubles me -- the super majority of all the people or all the representative votes, the 19 votes in a full maximum of our votes -- it bothers me when you've announced it on the agenda. You know it's coming up. You still expect everybody to be there. That's a little troubling.

CHAIRMAN NELSON: To that point, Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thank you, Mr. Chairman. I appreciate that, but I mean I think your goal here is to set a high standard to change your mind, and this does that. I think that it gives you the flexibility where you all have made an obvious mistake, you have obvious new information, it must be a pretty important issue, and it would be, quite frankly, an extraordinary step for the commission to change course, radically change course, and this provides you a mechanism to balance both. It protects the majority, quite frankly, of the right to move forward.

CHAIRMAN NELSON: Thank you, Vince. Dave.

MR. BORDEN: Just two points, Mr. Chairman. One for my own edification is it two-thirds of all voting members, or is it two-thirds of the members with a declared interest in a particular issue? What's the intent?

CHAIRMAN NELSON: That would be the board members, those that have declared an interest in that.

MR. BORDEN: Well, I'm just pointing out you can read that two different ways; and if you want to avoid confusion at some point, I think it might be better just simply to say two-thirds of the members with a declared interest -- then it's very clear what it is -- as opposed two two-thirds

of the membership of the commission. It's under the Policy Board so I guess that's --

CHAIRMAN NELSON: It's on the Policy Board so it's --

MR. BORDEN: Yes, it's everybody. It's everybody. And the second point relates to the "generally." I think the "generally" has to stay in there. If we were to run these meetings strictly in accordance with Robert's Rules of Order: Number 1, you'd have to send everybody back to school on Robert's Rules of Order; and, Number 2, you'd bring this process to an absolutely standstill.

We consistently circumvent some of the rules in Robert's Rules in an effort to not only expedite the deliberation, but to provide minorities with more opportunity to comment than they might get otherwise.

CHAIRMAN NELSON: Thank you, Dave. Dennis.

SENATOR DENNIS S. DAMON: Thank you, Mr. Chairman. I'm wondering now if Dave didn't add to my question, because I was trying to define the membership, and it seems a minor point, but in the parenthesis on Page 2 in the top line and again on the second paragraph, it refers to it as "i.e.", and I've always regarded that as "by example." It would seem to me that a -- it is not? Then I stand corrected because I was going to suggest that it be "e.g." ergo, therefore, but perhaps that's moot.

CHAIRMAN NELSON: Go ahead, Dennis. I always forget which one of those --

EXECUTIVE DIRECTOR O'SHEA: Yes, *exemplis gratis*, for example.

SENATOR DAMON: Then that's my point, "for example", and it seems to be stronger if it is "therefore," ergo -- "therefore, the entire membership" rather than "by example, the entire membership." By example could it be something else? I don't know.

It's nit picks, but I was trying to get at that. But

what David brought up was whether or not it was only the membership of a certain section or committee, and therefore it wouldn't be the entire example anyway, and something may be needed to be added. Thank you.

CHAIRMAN NELSON: Well, hopefully, it's clear, but, I mean, we can look at "e.g." or "i.e." and make sure that it's correct. But the intent is, for clarity I hope, the members of a board, the entire membership of a board, the entire membership of a section.

That's what the intent is, two-thirds of those. Well, I think that's what it tries to say. If there is some reason why it doesn't say that, I think the staff would be delighted to get that language.

Is there anyone else who wants to make a comment on this motion before we call the question? And, Bill, I'll have you. And, Gil, is your hand up? Okay.

MR. ADLER: I think that the clarification could be simply that the board or section will need a two-thirds vote of all voting members of that board or section.

CHAIRMAN NELSON: Amen, brother. However, the staff needs to word it to make sure that says that, they'll do it.

MR. POPE: Thank you, Mr. Chairman. As the ideas went around, four things came up in my mind here about be sure and mark on the agendas or on what is considered to be a final action and what is not considered to be a final action on the agendas, so that people are sure exactly what that is.

Number 2, if there are going to be changes to this thing, should it be at the next meeting and not so much five meetings down the road or ten meetings down the road?

And, somebody had mentioned this, that this even applied to final plans after the plan has already been adopted, that you could go back and change it, and that was something that confused me as well.

Eric mentioned a point here about two-thirds of the members present going back here again. Vince explained why that wasn't done that way. But at the same time, there is some merit in what he said, so somewhere along the line you're not going to get all those members present or do it by proxy, maybe three-quarters of the members that are present, so that you don't run into that problem where they wait until they have a majority, which is the problem that he brought up. Thank you.

CHAIRMAN NELSON: Thank you very much. I'm ready to call the question. Please caucus for 30 seconds, and then we'll take the vote.

(Whereupon, a caucus was held.)

CHAIRMAN NELSON: Okay, everyone ready. Let me just say that the staff has modified this to reflect the changes that you requested. I'm going to read it. Bear with me.

Move that the ISFMP Policy Board recommend to the commission that Section 4(d)(1) of the ISFMP Charter be modified to read:

Meetings will generally be run according to the current edition of Robert's Rules of Order except a board or a section will need a two-thirds vote of all voting members of that board or section (i.e., entire membership) to amend or rescind any final action regardless of prior notice.

For this section, a final action will be defined as: establishment of quotas, allocations, annual specifications, approval of fishery management plans/amendments/addenda, and non-compliance recommendations.

And Article 3, Section 1 of the ASMFC Compact and Rules and Regulations be modified to read:

The conduct of meetings of the commission or any other body established under its rules shall be governed by the current edition of Robert's Rules of Order, Newly Revised, except a board or a section will need a two-thirds vote of all the voting members of that board or section (i.e.,

entire membership) to amend or rescind any final actions regardless of prior notice.

For this section, a final action will be defined as: establishment of quotas, allocations, annual specifications, approval of fishery management plans/amendments/addenda, and non-compliance recommendations.

Ready for the vote? All those in favor, please raise your right hand; no votes, same sign; abstentions; null votes. The motion passes 17 to nothing. Thank you. Vince.

EXECUTIVE DIRECTOR O'SHEA: Just a comment, Mr. Chairman. I think the strong vote here is an important signal that the commission has sent to its constituents and certainly internally about this issue.

It's a different way for doing business here, and I think it's significant that you had a unanimous vote on it. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Thank you, Vince. We have one more, an update on the process consistency white paper.

-- Process Consistency White Paper --

MR. BEAL: Thank you, Mr. Chairman. There is not a draft of this white paper in your packet, because there is not a draft of this white paper. There was a subgroup formed at the last meeting, Gil Pope, Eric Smith and Paul Diodati.

They've sent some input down. I've been putting it together, just haven't had time to work on it a whole lot. I've been working on these other white papers, so we're going to get a draft of that paper together for the Policy Board to review in March.

This paper is being developed to address or ensure consistency essentially the way the commission does business. There are a number of examples that the members of the working group have provided as things that they have concerns with that things may have not been handled consistently either between management boards or the way -- one board did

things one way, another board did things another way -- or different procedures that were used by different groups in the commission that they felt we may have some internal inconsistencies.

We're going to try to give some examples and some potential solutions for those as those issues are developed and the white papers put together. You can expect a draft of that paper for the March meeting of this board.

CHAIRMAN NELSON: Pres, is there anything else from the AOC?

MR. PATE: That concludes the committee's report, Mr. Chairman.

CHAIRMAN NELSON: Okay, let me just say that I want to extend my appreciation to the AOC, to Pres and the rest of the members of that.

They've done a lot of work, as you can tell, some issues that I think will help us provide that transparency that we're all looking for in our process, make sure the process is very clear to not only ourselves but everyone outside of this.

I think perception is obviously one of the things that we want to make sure we're aware of for the future and that people have the right perception of what we're doing. I think these are steps in the right direction, and I commend the AOC for their fine work, so thank you very much, Pres.

The next item is our Habitat Committee report, and Bill is going to do that. Thank you, Bill.

-- Habitat Committee Report --

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman. The Habitat Committee met on Monday and had a very full agenda, but we did complete our meeting on time, I'm happy to report.

A few of those items I do want to report to the Policy Board, first in the area of strategic planning. We did review the habitat section of the draft strategic plan, and the committee is happy with that.

I recall that we undertook a habitat strategic planning process at our spring meeting, and a lot of that was input to the document that was subsequently reviewed at the commission's strategic planning workshop, so that has been a good process.

I want to report on one particular strategy in that section that is relevant to some of the current work of the committee and is certainly consistent with the commission's work, and that is a strategy to build partnership opportunities between fishery agencies and non-fishery resource agencies, researchers, conservation organizations, et cetera, to promote the use of habitat information in decisionmaking.

We had two sessions in our meeting Monday that relate to that strategy, somewhat coincidentally. First, we had a presentation from EPA Office of Research and Development on some of the work that they're doing that relates to aquatic habitat issues of interest.

That was a very worthwhile interaction, we all felt. In fact we think it would be productive to have an ongoing relationship with the EPA, that office in particular, perhaps, and we will be exploring the possibility of EPA representation on the Habitat Committee with the chairman.

Second, we also had presentations from the three Atlantic Coast Fishery Management Councils on the work that they're doing in habitat, the ways that they are approaching fishery habitat issues in the interest of identifying any ways that we could interact and coordinate our work.

Of course, a lot of that has been going on. That was a very interesting session, as well, and we'll be continuing to work with the councils in their habitat efforts.

The next item I want to report is where we stand on some pending habitat sections of FMPs. First of all, the diadromous fish habitat source document that has been underway for a long time, some of you will recall, but will, when it's completed, be quite a reference, that is actually reaching conclusion.

It will be available in the coming year, hopefully, the first part of the year. A lot of that is due to the fact that we have now been able to put our contractor/writer, Karen Greene, on that job.

You recall that she did superlative work on the beach nourishment document that was presented by the committee earlier this year. So, Karen Greene is focusing on that, and we will have a draft diadromous fish habitat source document for review in the near future.

I want to put everybody on notice that we will be seeking feedback from technical folks from various agencies, and we hope that they will have the time and energy to provide us with some feedback. We should have the final document subsequently.

Second, the winter flounder habitat section to that FMP is now in rough draft, I'm happy to report, and that's largely due to the good work of Chris Powell of Rhode Island. That's still in rough draft. I emphasize the "rough" so I don't have anything to share with you right now, but we should also have at least a draft for review available in the near future of that.

The next item to share with you has to do with our permit review protocol, the application thereof. You recall that we have a protocol for any time there is a request from a commissioner for the commission to weigh in on a habitat issue pending within a state.

We have been through that protocol on one issue recently, and the commission did write a letter. This was the Winthrop Beach nourishment project in Massachusetts where it was proposed to extract a large volume of cobble from an offshore bank and use that to nourish a beach, "nourish."

The cobble substrate would be replaced by sand, and that clearly is a disruption of an important offshore habitat. The commission drafted and sent a letter expressing our concern about that project. That letter, if you're interested, is on the CD. It went out on November 21st.

Finally, we want to update you on the status of artificial reef initiatives and our interaction with MARAD, and Carrie is going to do that.

-- Artificial Reef/MARAD Update --

MS. CARRIE D. SELBERG: I just wanted to update the Policy Board on recent communications between the Atlantic States Marine Fisheries Commission and the Maritime Administration about using ships for artificial reefs.

As you will recall, the Atlantic States Marine Fisheries Commission sent a letter to the Maritime Administration, expressing what we thought would be a good artificial reef program.

A couple of key points were that a federally run program, which chose which ships should be used for scrapping and for reefs, that would tow the ships and put them on the bottom in permitted sites by the federal government. Once the ships were on the bottom, the states would then take title of the ships is what we expressed as our desires in that letter.

The Maritime Administration wrote back to the commission just a couple of months ago, indicating their desire to work with the commission on this issue, but expressing concern about our specific requests and their ability to establish a federally run program as we had outlined.

The step that we're at right now, I'm working with the Artificial Reef Committee, is we have recently formed a subcommittee of the Artificial Reef Committee, a small working group of artificial reef program managers in the states, who have a lot of experience working with ships and whose states are particularly interested in these ships.

We're hoping that this small working group will be able to work with MARAD. We're in the process right now of setting up our first meeting, and we do have a couple of meetings and conference calls budgeted for next year for the small working group to work with MARAD.

We're hoping, through this working group, we can get a little bit closer to the same page with the commission and the Maritime Administration. I'd be happy to answer any questions.

MR. COLVIN: Carrie, how much of this is about money?

MS. SELBERG: I get the sense that it's about two things. One is about money, and the other is about the Maritime Administration's priorities as an agency and what they think their priorities are, and reefing isn't at the top of the list.

MR. COLVIN: I just want to share with the Policy Board I think the recommendations that came from the commission -- I think there was, if I recall, interaction and coordination with the Gulf Commission as well -- were very well-founded, sound, and I would hope that the Policy Board and every member of it would continue to stand behind those and task our committee and our subcommittee to continue to press that agenda and to identify to us strategies that they may perceive that might help us move in that direction.

One thing that does occur to me as a possibility is to seek the support of external partners for advancing that approach that we've advocated, particularly partners that have coast-wide interests that can help us eventually with Congress, because that may need to be where the solution is found.

You know, I think coastwide or national organizations like CCA or some other sorts of partners might be somebody that this subcommittee would want to reach out to and work with. Thank you.

CHAIRMAN NELSON: Thank you, Gordon. Pres.

MR. PATE: Thank you, Mr. Chairman. I'd agree with Gordon. I think that the approach that the staff has developed to create that subcommittee of the artificial reef coordinators within the states is sound, but I'd also ask that they be sensitive to the idea that at some point

that may fail, and we need to bring in some additional resources, as Gordon suggested, to help us politically with that effort.

I'm not real optimistic that we're going to be able to avoid doing that very thing. I don't want to miss the opportunity to have some influence with that process if that's what it takes, because this is real important to us that MARAD make every effort possible to implement the program as we have recommended that they do.

CHAIRMAN NELSON: Okay, to that, Vince.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. Very briefly, I did meet with the deputy administrator of MARAD on this issue and to report back to you all, make it very clear.

Their first priority is, frankly, operating their ship-scraping program. Their interest in reefing is driven by the limited budget that they have and keeping an option open to foreign scrapping of ships.

So, they like reefing as an alternative and to hold foreign scrapping and domestic scrapping competitive, but beyond that in terms of getting them interested in the intrinsic value of reefs and the value to supporting us, frankly, that doesn't work in their calculus right now. To get that put in has to be through the political process. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Okay, so my sense is that you'll ride herd on that and further our interests and let us know if there's anything else that needs to be done. All right. Anything else for Carrie? Bill, back to you, anything else?

MR. GOLDSBOROUGH: That completes the Habitat Committee report, Mr. Chairman.

**-- Management and Science Committee
Report --**

CHAIRMAN NELSON: All right, thank you very much, Bill. We next have our Management and Science Committee report, Chris.

MR. CHRIS BONZEK: On your agenda we have three items listed as requesting action. There are actually only two, those being peer review schedule and interstate tagging. On the multi-species report we're requesting some advice and some guidance.

-- Peer Review Schedule --

To start with the peer review schedule, you may recall that at your last meeting, I believe, we requested that the Stock Assessment Committee be given some flexibility in scheduling peer reviews aside from the strict five-year schedule.

The problem that was arising was that some years had an inordinate number of peer reviews and assessments to be done that just could not possibly be done, and you allowed the Stock Assessment Committee that flexibility.

With that in mind, the peer review schedule that has been put together for 2004 is listed in your handout, and I won't go through that step by step. There are, I believe, either eight or nine listed.

The only change, there's one item that's incorrect there. Under Atlantic croaker, starting with the word "tentatively", that should be scratched out, and actually the South Atlantic Board referred the panel report back to the tech committee for further review. And as I say, I won't read through this step-by-step unless you want me to, but we would request that this schedule be adopted.

CHAIRMAN NELSON: So the motion is on behalf of the Management and Science Committee to adopt that, is that correct?

MR. BONZEK: Correct.

CHAIRMAN NELSON: So, any question, comments?

MR. COLVIN: So moved.

CHAIRMAN NELSON: Seconded by George Lapointe. Questions, comments. Caucus. By consensus, the motion is passed. Next point,

Chris, thank you.

-- Interstate Tagging --

MR. BONZEK: Thank you very much. The second issue on which we are requesting some action is the tagging issues paper, and I'll more or less read this paragraph.

The Interstate Tagging Committee developed an issues paper on the Atlantic Coast tagging activities and the tagging certification program in response to a request from this board.

This paper provides information on tagging activities for the ASMFC species within the coastal range of Maine to Florida, provides an evaluation of angler-based tagging programs, and includes benefits and shortfalls and provides criteria for evaluation of certification applications.

The certification program is not intended to either promote or to discourage additional tagging activities; rather, it is to set some standards for certification and to try to assure that any angler-based tagging activities and otherwise based tagging activities are useful for use by fishery scientists and managers.

So the motion reads, the Management and Science Committee recommends approval of the tagging certification program and evaluation criteria for piloting in 2004. The MSC also recommends that the information on species-specific tagging programs be forwarded to the individual species technical committees for additional evaluation and appropriate sample sizes.

CHAIRMAN NELSON: Okay, Pat wanted to make a comment first.

MR. AUGUSTINE: The comment is if there were no comments I'd make a motion to move that.

CHAIRMAN NELSON: Thank you very much, Pat.

MR. CUPKA: Second.

CHAIRMAN NELSON: David seconds, David Cupka. All right, any comments, questions? Caucus? By consensus we also -- to that? Go ahead, Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I hope the committee that did all the work on what we have just approved in the last three minutes doesn't think that any of us are flip around the table.

It's obvious that you did your homework, and it's well presented and very clearly stated. I think you should know that, your work is appreciated. Thank you.

CHAIRMAN NELSON: Okay, I don't think I had a chance to say that we accept the recommendations but thank you, Pat, for that after thought. Chris, anything else?

-- Multispecies Report --

MR. BONZEK: On that issue, no. There are several other things that we'd like to speak about briefly. I refer you to the second page in your handout on multi-species update to the Policy Board.

THE MSVPA, about which I think most of you are aware and I think all of you are aware, will be reviewed internally by the Stock Assessment Committee in 2004 in preparation for SAW/SARC review in '05.

The spatial model that's being done by the University of Miami is just under halfway through its two-year schedule for development and will and should be ready for peer review in late '05.

About a year ago, the commission hosted a workshop to investigate how generic fisheries management agencies can incorporate advice from multi-species and ecosystem assessments into single-species management processes.

Workshop participants identified a schedule that takes about ten years to implement this kind of management. We approved a report entitled, "Linking Multi-Species Assessments to Single-

Species Management." I would encourage you all to read that. That report will be due early in '04.

The workshop report notes that multi-species and ecosystem models can provide additional information to support single-species assessments and management; however, there are constraints -- surprise, surprise -- to full implementation of these models, many of which also constrain single-species assessments, such as lack of data, lack of personnel and expertise and lack of funding. No new issues there.

MSC discussed the following concepts to guide development of ASMFC multi-species assessments and methods to include multi-species information in decision-making processes; mainly, multi-species models should be used as additional information to single-species assessments.

We see that in the near to the mid-term they are not intended in any way to replace single-species assessment in management, but rather to add additional information. The commission sees a step-wise progression process leading from the current MSVPA to the spatial model, possibly to ecosystem models such as ecopath, ecosym, that might be developed in the future.

All of these approaches are complementary, hopefully providing more or less consistent advice, and may provide different levels of detail in response to management questions. In the long term, the commission may need to modify committee and board structures.

We've had spirited discussions on this as to whether that might mean expansion or consolidation. You could make good arguments either way. But, it may involve fairly major realignment of committee structures in the long term.

MSC is developing a detailed implementation plan on how ASMFC, specifically, may incorporate multi-species information into the management process. And it's on this point specifically, where we would request any input and guidance from the Policy Board.

CHAIRMAN NELSON: Any questions for Chris on this particular item? Yes, Gil.

MR. POPE: Thank you, Chris. Mostly in your report is it what you would like to see in the future or what's possible in the future, what is now or what is not? In other words, is this for in the future as we're building the stocks or what you see is what we have now, predator-prey, how much bait we have available to feed what we have now and so on?

MR. BONZEK: The report doesn't address any specific stock levels as now as compared to some rebuilt stock. What it does is tries to envision a process through which multi-species advice can be considered in the single-species management context. Does that answer the question?

CHAIRMAN NELSON: Before I get any other questions, Chris, I thought I heard you say this was not going to be an action item at this point or is it? Am I incorrect on that?

MR. BONZEK: No, there is no specific action. There is no motion that we're making. We're just asking for any advice that you may have in how the commission may implement this in the future or choose not to implement this.

CHAIRMAN NELSON: Okay, well, let's give Chris as much advice as we can. Jack.

MR. TRAVELSTEAD: Not a question, a comment, Mr. Chairman. These multi-species issues, I know, are going to be very important to the Menhaden Management Board. And based on all the comments we heard yesterday in our short meeting, it seems to me it's very important that we keep the public aware of the activities that are ongoing.

I sometimes get the impression they think we're ignoring some of these issues when, in fact, there are a lot of people working on these and have been working on them for some time. I would encourage -- this is an update to us here today.

I would encourage that we somehow arrange a

way to get this kind of information out to the public as well, so that they know we are interested in these issues and working very hard on them. If something can be included in the ASMFC newsletter periodically, I think that would be helpful.

CHAIRMAN NELSON: All right, thank you, Jack, that's a good point. George.

MR. LAPOINTE: I want to follow up on Jack's comments a little bit. First, my appreciation for a very good summary of what they've been doing on the multi-species work that the MSC has been doing.

I especially appreciate their discussion about the constraints, because the multi-species interactions is one of those issues that people think there's not being work done on or that we're not implementing it because of some lack of will.

So the discussion about the difficulty of doing what we're looking at and the need for the step-wise progression is, I think, a very important part of this report.

CHAIRMAN NELSON: Thank you, George. Anyone else? Bill.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman, a question for clarification of Chris. It appears that we're embarking on a lot of work over an extended period of time on incorporating multi-species considerations. Some of the modeling work, for example, could go on for years and years and years.

Chris, if I understand right under the second general concept there about step-wise progression, that it's the recommendation from the MSC that there's nothing to preclude the commission from taking action pursuant to multi-species considerations in a single-species framework, if it is deemed appropriate, even as more sophisticated approaches continue to be developed for the future?

MR. BONZEK: The only point I would make is the very first point that I made in this part of the

discussion, being that the model hasn't been peer reviewed yet, the MSVPA model.

It is being, I believe, used as part of the Menhaden Board's discussions, but that we shouldn't get too far ahead until the models are accepted just as all the single-species assessments are peer reviewed.

CHAIRMAN NELSON: Anne.

MS. ANNE LANGE: I was just wondering, for instance, the assessments that are set up for this next year, if it might be worth including a new section -- and maybe it isn't a new section, but to identify expected or known or anticipated multi-species issues that might be worth investigating.

For instance, with bluefish, looking at some of the -- I mean, that's part of the model. I believe at least one of the models incorporates bluefish and weakfish as well.

So in those assessments that are already in line to be conducted over this next year, to sort of "beef up" a section on what the anticipated multi-species interactions might be so, again, immediately we're letting the public know that we're looking at those issues.

Even though we can't identify the magnitude of them or completely model them yet, we're specifically looking on individual species.

CHAIRMAN NELSON: So your point is outreach at this point.

MS. LANGE: Not just outreach but also to include it in the assessment reports so it's documented for the relevant boards, with more specific information maybe than just general knowledge.

CHAIRMAN NELSON: All right, and staff has got that and they will do what they can on that. Tom.

MR. FOTE: I was lucky enough to be able to attend some of the discussion up there on the Management and Science Committee when they

were discussing this issue, and I brought up the point that we know in order to do this competently we need millions and millions of dollars to basically really complete this.

There is going to be a lot of talk with the Oceans Commission report coming out and there was a lot of talk in the PEW Commission about ecosystem modeling, so maybe we should be tapping into those resources to come up with the millions of dollars that we need to do this since they are pushing this. We don't have the money available. Maybe they could provide it for us.

CHAIRMAN NELSON: Do they have a grant process, Tom?

MR. FOTE: Yes, they do.

CHAIRMAN NELSON: All right, other guidance for Chris? It sounds to me, Chris, like everyone's very supportive of what you're doing. We're just hoping and praying that we -- well, maybe after the model is reviewed and critiqued, we'll be moving right ahead. It sounds like you're on the right direction, though.

MR. BONZEK: I think everyone hopes that it provides the data that we're hoping for. Everyone has high hopes for this concept, and I hope we live up to expectations.

CHAIRMAN NELSON: I know those of us that are former scientists would really like to see some ecosystem work; and I hope before I'm all gray, that I'll get to see that, so I appreciate that.

MR. BONZEK: Of course, any thoughts that come up from board members later on can be forwarded either to myself or to Lisa. A few other items that I'll go through quickly. Item 4 on your list, technical committee meeting weeks, MSC reviewed evaluations of technical committee meeting weeks that were piloted in '03 and recommends continuation of these meeting weeks into '04 and the future.

Meeting weeks were held and should be scheduled six weeks prior to board meeting weeks to allow sufficient time for technical committees to finalize their work.

CHAIRMAN NELSON: Okay, any questions on that? I know my staff has, I think, looked favorably on the technical committee meeting weeks. Anyone else want to weigh in on that at all? Everyone is supporting my comment. Bruce wants to say something else.

MR. FREEMAN: Chris, are we getting participation from the various states? I know it's something that has been a problem in the past.

MR. BONZEK: I would have to refer that one to Lisa.

DR. LISA L. KLINE: I would say, generally, we're getting everybody to participate, and the feedback that we've gotten from all the states is positive.

CHAIRMAN NELSON: Vince, go ahead.

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Chairman. With regard to technical meeting weeks, we certainly have heard the interest in trying to improve our efficiencies and our skill levels at meetings, and we've brought in outside help to hold workshops.

We did it last spring and again we did it this past fall. I think what might help in this, if we could do a better job in identifying with supervisors of the technical people, that we're going to be holding that training and ask you all to give them some sort of signal regarding the priority or the importance of attending that training.

Quite frankly, the last one we held, I was a little disappointed. We had people that were there on Tuesday and Thursday but not there on Wednesday for the training, so I'll take the hit for that by not telling others that we were doing it.

But, if we could get your support for that, I think, in the long term, it's a good investment of their time in facilitating and getting the most out of our technical committees. Thank you, Mr. Chairman.

CHAIRMAN NELSON: All right, thank you,

Vince. Gordon.

MR. COLVIN: I think that's a good suggestion, Vince, because I think you'll find the folks here will support that. Just one more point on this. Scheduling these weeks in the way we have or we tried last year does some things that are very positive for the staff.

It enables them to plan their schedules ahead, just as we need to do. It's considerate to them to give them this information way in advance. It enables people who are members of multiple committees to participate instead of having to get jerked around ad hoc to go to meetings.

It really is the right thing to do for our staff, not just for efficiency, but in consideration of their personal situation as well as their professional situation. I think we really hit a homerun there and we should continue it.

CHAIRMAN NELSON: Thank you, Gordon. Chris.

MR. BONZEK: Okay, I think Vince essentially went through our Point 5, so I'll skip over that, which was update on the management meeting seminars, that they were well reviewed, well attended, for the most part, and should be continued.

Other items of discussion that we had -- a very important one coming up on conservation equivalency. A subcommittee of Management and Science is developing standards and protocols to guide the use of conservation equivalency in commission fishery management plans.

The draft document has been developed and MSC will review that at its spring '04 meeting, and we expect that it would come for your attention in your August '04 meeting. .

The '04 action plan, there is one item that we would suggest be added to the 2004 action plan - - and it's already been brought up here by board members as well - specifically having to do with the PEW Foundation report and the Ocean Commission's report.

We would like to be able to get out ahead of that a little bit. We have appointed a subcommittee to review how the recommendations coming from those commissions might be incorporated into the commission structure.

We've appointed a subcommittee with three members at this point from MSC, and we would request/suggest/beg for any Policy Board members that might also want to contribute their time and energy to that.

CHAIRMAN NELSON: All right, thank you. I'm sure some folks will be very happy to attend that, but it obviously is something that we all are looking at, and I think that it's important to move ahead and see what we can put into our management plans to stay ahead of this. I appreciate you being proactive on that.

MR. BONZEK: Again, any board members that wish to participate or offer any guidance can contact either myself or Lisa. Finally, we had sort of an ad hoc discussion on research funding issues.

MSC discussed concerns regarding state and federal funding for research and -- really more in the lines of monitoring rather than research -- to support fisheries management. Models are getting more and more complicated. Data requirements are getting heavier and heavier.

There are several surveys that are in danger of losing funding either over the short or mid-term. There are major programs, such as NEAMAP, that are essentially unfunded at this point. We believe that someone, a generic someone needs to take a holistic view of this and try to provide the money that's needed to actually do the monitoring that's required to support commission activities.

CHAIRMAN NELSON: I think that someone was Vince. Yes, he'll certainly look into making sure you've got adequate funding for everything, right, Vince? I see a nodding of approval. Gordon, go ahead.

MR. COLVIN: Not to be flip, but I would suggest to the subcommittee that there's a

linkage between that issue and the preceding one.

CHAIRMAN NELSON: Yes, that's a good point.

MR. BONZEK: That concludes our report and I thank you very much.

CHAIRMAN NELSON: All right, Chris, thank you very much and thank the rest of the members of the Science Committee for all of their work. I appreciate it. Paul.

MR. DIODATI: I don't know if it would be appropriate for the MSC or for some other entity within the commission, but I was hoping that at some future time perhaps the MSC could evaluate whether or not it would be beneficial for the commission to have a committee that deals with interstate conservation engineering jobs.

In Massachusetts we do host a program to develop responsible fishing gears, and if there are other states along the coast that have personnel, either biologists or engineers or fisheries technicians of some sort involved in that activity, it might be valuable for such a committee to meet occasionally and report.

For instance, the decisions made by the Spiny Dogfish Board yesterday are going to create some interesting fisheries dynamics, I suspect, and perhaps improved fishing gears might solve some of those problems. I could see us having assign this to such a committee if we had one.

I don't know the history, if whether or not we've had such a committee in the commission in the past; and if it doesn't work, I don't know, but this might be a good venue for those folks.

CHAIRMAN NELSON: All right, thank you, Paul. Let me have staff look into it and look at any mechanics that might be appropriate and how feasible that is. David.

MR. CUPKA: Yes, Mr. Chairman, it has been a number of years ago, but at one time there was a conservation engineering committee that worked with this commission and it just kind of died out,

but that was quite some time ago. It is something the commission has looked at in the past.

-- Stock Assessment Committee Report --

CHAIRMAN NELSON: Okay, and staff will look into it again and see what is feasible. All right, the next item on our agenda is the Stock Assessment Committee. Doug, nice to see you. If people don't recognize it, this is one of my premiere staffers, Doug Grout. Occasionally, we see each other in the same building, same floor, a few doors down.

MR. GROUT: The Stock Assessment Committee has met once since last spring. Our first task was to review the 2004 peer review schedule, and Chris already had you address and approve those species, so I won't go into that.

We're also looking on a long-term basis at a mechanism for breaking this occasional logjam we run into in our peer review process with the five-year triggers, as well as some of the joint managed species are peer reviewed every two or three years.

We're looking at a mechanism that we hope to bring something to you at our spring meeting with a recommendation on how to fix that system, so that we don't overload the peer review process every three or four years.

In your briefing packet, there's a brief report from our stock assessment committee. In addition to the peer review, we also have a recommendation for the commission concerning annual reports, modifications to the species annual reports that each state has to file.

I'd like to read it to you and then see if you would approve our recommendation for inclusion in the annual reports. The Stock Assessment Committee recommends to the ISFMP Policy Board that the annual reports for all species and states require data summaries in spreadsheet format — and this is the important part — with the inclusion of the full time series of data used in the assessment.

Right now, a lot of the annual reports, we've noticed, get just the current year's data, and the stock assessment committees have been recommending that when they submit these reports, if you are submitting a time series of data for the stock assessment, that you not just include the most recent years but to include the full time series that you have on that data.

CHAIRMAN NELSON: Okay, we have a recommendation from the stock assessment committee; motion please. Pat for a motion and second from Ritchie. Okay, comments on the motion, A. C.

MR. CARPENTER: I'd like to question the full time series of data. The recommendation is for the full time series of the data used in the assessment.

There are situations where an individual state's time series are much longer than what are used in the assessments. Do you mean just the period that is used for the assessment or the entire data series for the state?

MR. GROUT: I think our original intent was the full time series of the data, but, certainly, from a practical standpoint, if it was more convenient or there were some parts of the time series that were out of the assessment period that aren't really significant, I can understand -- I'd certainly be willing to modify it to that extent. But, ideally, I think the various stock assessment committees would love to see the full time series of data.

CHAIRMAN NELSON: Go ahead, A. C.

MR. CARPENTER: Mr. Chairman, in that case, I think it would be necessary for the stock assessment committee to provide the states with a date series for each species that a stock assessment or an annual report is being done. I don't know what all of the beginning dates of the assessment for the various species that we have to submit annual reports are.

CHAIRMAN NELSON: That shouldn't be a problem. I'm sure we could work with staff to get that out in good timeliness so that states have

plenty of time to deal with this. Gordon.

MR. COLVIN: Doug, can you give us some sense of the workload that might be associated with initial implementation of this.

MR. GROUT: From my own personal standpoint, I think it's already there for most of it. A lot of states already do it. It's just a matter of taking the spreadsheet that they may already have for this time series and just submitting that, just doing it as an attachment to their annual reports.

MR. COLVIN: You're not suggesting any specific spreadsheet format or software, just the entire time series?

MR. GROUT: Yes, sir.

CHAIRMAN NELSON: Okay, Paul.

MR. DIODATI: Again, I just want to make sure I understand what you're asking for, Doug. For instance, Massachusetts does a striped bass annual monitoring report where we provide a commercial CPUE index.

And rather than say in that report this year's index was "X", you'd like to see a table, perhaps, with all of the indices from whenever we develop them up until the current year?

MR. GROUT: Correct, and ideally in a spreadsheet format so that they can just plug it into the assessment.

CHAIRMAN NELSON: Any other comments on the motion? All right, any one in a disapproval of the motion? I see by consensus the motion is approved, and, Doug, we will have all the states moving ahead with those types of report for you.

As I said, we will work with staff to give any timelines that are appropriate for the states to be notified of, as well as the details as you've heard some of the details here about what people might be needing as guidance when it comes to them and ask for everything.

MR. GROUT: Thank you. Another item that

we'd like you to address, as Chris mentioned, both the Stock Assessment Committee and the Management and Science Committee have been working on this MSVPA.

We have a subcommittee of the Stock Assessment Committee that's going to be doing an internal commission review of the MSVPA. We're anticipating that will occur in 2004 in preparation for an external peer review through the SARC in 2005.

On that note, we have developed and approved, for your consideration, terms of reference for the internal review by the Stock Assessment Committee. That is on Page 3 of our report here, and we'd like you to take a look at it.

I'll go through the five terms of references that we came up with. These are all pretty basic terms of references that typically have been used for our single-species peer reviews. And, if possible, we'd like your blessing on these terms.

Again, this is initially for our internal peer review of the MSVPA that we plan to conduct this year:

Number 1, evaluate adequacy and appropriateness of the model input data, including fisheries-independent and fishery-dependent data, diet data, et cetera.

Number 2, evaluate assumptions for data gap filling when reliable data were not available. There were some cases where there wasn't sufficient diet data in the MSVPA, so we want to be able to identify the shortfalls.

Number 3, review the model formulation. Number 4, develop research recommendations for data collection, model formulation and model results presentation.

And, Number 5, develop recommendations on how to utilize the model and results in the commission's stock assessment for individual species. Do you have any comments on that?

CHAIRMAN NELSON: Any comments on those five, or are there any others that you think

are appropriate for the subcommittee to be evaluating during this peer review?

Anyone have any problems with giving their blessing to the subcommittee? I see the blessing has been given by both sides of this one and certainly by everyone else. Doug, you're all set on those. Good luck.

MR. GROUT: Thank you very much. Finally, just a couple updates. One of the things we are working on and have actually approved is a process for all commission technical committees to develop sampling targets for biological sampling for inclusion in the Atlantic Coastal Cooperative Statistics Program.

We have charged the staff with conducting a pilot study in 2004 with one of the species so that we can evaluate the efficiency of this process that we developed. We will report to you on the results of that pilot study at an upcoming meeting.

Finally, we have discussed the new commission's process of conducting data and assessment workshops in preparation for species benchmark assessments. Our committee is in the process of developing protocols and data request templates to improve the efficiency of this data collection and data workshop process.

We will be coordinating these activities with a similar process that you've heard about in the SEDAR process. That concludes my report. Are there any questions?

CHAIRMAN NELSON: George, go ahead.

MR. LAPOINTE: The information you gave about target levels for biological sampling, is that -- I mean, that's additive to what ACCSP is doing? That's not something they've already conducted?

MR. GROUT: It's in coordination. It's a process we were asked to come up with for evaluating what is the biological sampling numbers. Now there is going to be -- the process that we developed is to have technical committee input on it.

The technical committee will provide input, and then it will be reviewed by the biological review panel, so at least we're giving the individual species technical committees with the expertise in the individual species the first crack at this, and then that will go up through the biological review process.

MR. LAPOINTE: A follow up, Mr. Chairman.

CHAIRMAN NELSON: Yes, go ahead.

MR. LAPOINTE: Are you concerned about the amount of work that might take in addition to all the other things that we're asking technical committees to do? Was that raised as an issue?

MR. GROUT: It hasn't at this point. I think it would be a -- it is our opinion that it would be a wise decision, because not all the people on the biological review panel have the species expertise as to what is going to be needed for biological samples in a stock assessment. We're trying to get that portion of the input in the process of developing these sampling targets.

CHAIRMAN NELSON: Any other questions for Doug? Doug, before you leave, I just wanted to ask you, the stock assessment committee obviously is tackling a lot of great opportunities, and I trust they are all enjoying the challenge.

MR. GROUT: Definitely.

-- Law Enforcement Committee Report --

CHAIRMAN NELSON: All right, then you can stay on it. Doug, thank you and thank all the members of the Stock Assessment Committee. Next, we have the Law Enforcement Committee report. Ritchie, you're going to give that? Okay, Ritchie go right ahead.

CAPTAIN RITCHIE OTTERSTEDT: Good afternoon, Mr. Chairman. I'm Captain Ritchie Otterstedt from the New York State Department of Environmental Conservation. I've been asked to give the ISFMP Policy Board the Law Enforcement Committee briefing this afternoon because Kurt Blanchard, our chairman, was unable to remain here today.

There was a motion to accept revisions to the guidelines for resource managers. Hopefully, all of you folks are familiar with that document. We had put a subcommittee together, and we completed our annual update of this guidelines for resource managers.

One of the things that we needed to do was to include data from Virginia. Some of you folks are familiar with it. We had not previously gotten input from Virginia. We will, and that updated document will be distributed to all the states.

I want to encourage the states to use that document. There was a lot of thought put into it, a lot of effort by the Law Enforcement Committee members. Using that document will help the fishery managers develop more enforceable rules, regulations and laws, so that the enforcement effort will further help the success of those fishery management plans.

Another motion was made to have the ASMFC send a letter recognizing Special Agent-in-Charge Richard Livingston of the National Marine Fisheries Service for his years of dedicated service to fisheries management to be presented at his retirement. That motion also passed unanimously.

On summary of our meeting, the LEC conducted discussions on status of fishery management plans. Much of this discussion focused on issues relating to striped bass and American lobster.

A forensic biologist, Mr. Trey Knott, with the National Marine Fisheries Service, gave the LEC a presentation on the latest capabilities of the National Marine Fisheries Service forensics laboratory in Charleston, South Carolina.

That presentation was very beneficial to the Atlantic coastal state enforcement agencies because we learned a lot about what that forensic lab is capable of doing in the way of IDing sea turtle and marine mammal tissues, fish tissues, corals, sponges, sharks, using a variety of methods, including morphological techniques, biotoxin analysis, protein analysis, DNA.

It's an extremely sophisticated lab. Those states that use it will find it will be another tool in our tool box to effective law enforcement. There's no cost to the states to use that National Marine Fisheries Service forensic lab.

We also hope to bring that orientation back to the individual states, and the field officers will be familiarized with this forensic lab capability and service, and, hopefully, we'll see a lot of use of that service in the future.

The Law Enforcement Committee has continued its research into the feasibility of conducting a compliance study of the American lobster fisheries management. Graduate students Dale Jones and Jeffrey Randall are both officers with the U. S. Coast Guard, but they're also biologists.

One is obtaining is doctorate and the other is working on his master's degree. They have developed this idea of compliance studies. These two gentlemen presented a paper regarding the study of measures needed to accomplish this project.

The Law Enforcement Committee will continue to look into this idea. I think for many years many law enforcement managers have thought about to what degree are their enforcement efforts achieving the desired results.

Unless you can develop some meaningful data, it's very difficult for law enforcement to determine to what degree of compliance they are experiencing in the field.

This particular program that these two folks have put together, to be used as at least developing a model that might be used down the road to do some lobster enforcement assessment, could ultimately be carried over to other fisheries.

So it's an interesting idea, and, hopefully, within the next couple of years, we'll see some further development. One of the things that comes to my mind, as I sat through the presentation yesterday, it would entail a lot of data collection work on the part of a law enforcement agency.

They would have to develop a baseline, develop criteria, develop ways in which they're going to collect the data and then do some analysis of it, but it's an interesting concept, and compliance with any fishery management plan is certainly very important to the overall success of the plan.

This model, we may find very useful in the future. That's the brief, formal presentation of the Law Enforcement Committee for the last two days.

CHAIRMAN NELSON: All right, thank you, Ritchie. Questions for Ritchie? Obviously, we all extend our regrets that Dick is retiring. I wish he had hung around a little bit longer. I have a few other things to tweak him on, but, nevertheless -- no, we wish him luck.

CAPTAIN OTTERSTEDT: Also, on behalf of the LEC, I want to thank Gordon Colvin and the other staff of the DEC, Long Island and New York City office, for making this a very pleasurable conference. I know the LEC members had a great time here in the city.

CHAIRMAN NELSON: All right, thank you very much, Ritchie. I know I've been having you guys sit here for a while. Do you want to take a ten-minute break, or do you want to keep charging? Pat has already left. Take a five-minute break.

(Whereupon, a recess was taken.)

-- Protected Species Committee Report --

CHAIRMAN NELSON: All right, our next agenda item is the Protected Species Committee report. Tina.

MS. TINA L. BERGER: Thanks, Chairman Nelson. The first meeting of the Protected Species Committee composed of state fishery representatives and endangered species representatives was held on November 21st, 2003. At that meeting they formalized their goals and objectives for the committee.

I'll read the goals. Basically, it's to formalize ASMFC policies regarding protected species and

provide oversight of protected species activities, improve communication and coordination between state and federal marine and endangered species and fisheries representatives and facilitate integration of endangered species reps in the commission's fisheries management planning process.

To achieve those goals they identified five objectives. I'm not going to read them to you, but they will be in the meeting summary document that you will receive tomorrow.

A large part of the meeting was dedicated to discussing the issues surrounding Section 6 agreements and the latest action by NOAA to change the language of those Section 6 agreements as advised by their legal counsel.

At the meeting NMFS representatives indicated that for the time being any new Section 6 agreements that had not already been signed by the state would remain as they are. NMFS was going to be working with their legal counsel and the states to identify mechanisms to meet both their legal counsel's requirements as well as the states needs.

To that end, the committee passed a motion that would recommend that the commission staff and the Protected Species Committee work with the International Association of Fish and Wildlife Agencies to ensure that state needs are adequately addressed by the National Marine Fisheries Service in the developing of the new Section 6 language.

The NMFS representatives at the table indicated that they would be happy to do so. They were looking at a couple of different alternatives that would provide sort of general umbrella language that would allow for the issuance of Section 10 permits in a mechanism that's similar to the way it's being carried out now.

I'm not going to go into that any further unless people want me to go to into it in greater detail. They also received a report by Elizabeth Griffin regarding the commission's fisheries characterization project.

Most of you probably are aware of that. We will be undertaking the characterization of Atlantic Coastal state fisheries in state waters by gear type and level of sea turtle interaction. I would direct you to Elizabeth Griffin if you have any specific questions or concerns regarding that project.

Finally, the committee appointed Margaret Murphy as its chair. She is with the South Atlantic Fisheries Management Council and heads up their protected resources program. And that's it. Thank you.

CHAIRMAN NELSON: Okay, questions for Tina? Anne.

MS. LANGE: Tina, I was just wondering relative to the states' gear inventory, were they going to be looking at marine mammals as well or just the sea turtles? I know you said to ask the other person, but I thought you might know that.

MS. BERGER: It's dedicated entirely for sea turtles. It's to help National Marine Fisheries Service implement their Atlantic Coast sea turtle strategy.

MS. LANGE: Okay, because it just seems as though it would be an easy effort to ask the same questions relative to marine mammals and address that issue at the same time if they're going out surveying.

MS. BERGER: I'm not sure I would characterize it as "easy", given that we've looked at the effort that we're putting into it now and it's quite enormous. But, there have been recommendations to expand it to marine mammals and sea birds as well.

CHAIRMAN NELSON: So you are going to see if that is feasible, is that what my sense is, Tina, if you were going to expand it?

MS. BERGER: Excuse me?

CHAIRMAN NELSON: Are you going to expand the survey; is that what I understood?

MS. BERGER: No, the contract that we have with National Marine Fisheries Service is for sea turtle interactions only.

CHAIRMAN NELSON: Okay, thank you for that clarification. Any other questions for Tina? All right, seeing none, thank you very much, Tina.

-- ASMFC Role Regarding *Crassostrea ariakensis* --

Our next agenda item is at the request of Pete Jensen. Pete is going to talk to us about the possible role of ASMFC regarding the Asian oyster. Peter, go right ahead, sir.

MR. JENSEN: Okay, repeat after me, *crassostrea ariakensis*, *crassostrea ariakensis*. Thank you, Mr. Chairman, for giving us the opportunity. I'm speaking on behalf of, to begin with, the states of Maryland and Virginia and Potomac River Commission, and I will start out and they will jump in.

A little bit of background. The status of the native oyster in Chesapeake Bay is at less than one half of 1 percent of historical levels. The harvest in Maryland last year was 53,000 bushels compared to a long-term average from the '20s to the '70s of 2 million.

I think the Virginia harvest is closer to zero than that. We expect this year's harvest to be maybe 25,000 bushels, but we're headed towards zero. There are a lot of potential causes, but the primary cause is there are two diseases in the Bay, both identified some time ago, MSX and Dermo.

As a result of those diseases in the Bay, all of the oyster bars in this state are infected. I think it's true in Virginia. Ninety percent of the native oysters die before they reach age three. So that's the situation we have.

The informed opinion in our part of the country as to the likelihood of the native oyster recovering from this epidemic of diseases is that it may happen, but it will certainly be decades, and it may be a century before it would happen.

That's based on some experiences around the world where these oyster diseases, once they get a foothold, simply don't disappear. They stay there.

So what we did was the two states made a joint request to the Army Corps of Engineers to coordinate the preparation of a full environmental impact statement, following the federal guidelines, to evaluate the introduction of these oysters and alternatives.

The policy decision that the two states made was that even though there is no federal jurisdiction here, in other words, no federal permit will be required to do this, we wanted to do it in accordance with the federal guidelines and do an EIS in accordance with the federal guidelines.

The Corps accepted our request and in fact has been funded to the tune of \$200,000 to initiate that process. What I think you have before you is a copy of a notice of intent, which will be issued in the Federal Register the first week in January.

It's pretty much self-explanatory, but a couple of things I would want to cover with you and point out so that there are no misunderstandings.

Even though we are talking about introducing a non-native stock, what we're proposing to introduce is the progeny of a third or later generation of a stock of these oysters that have been in Oregon for 30 years.

That's the documented history. They actually have been there longer than that, but 30 years is the documented history. So the point is that we are not bringing in -- we don't propose to bring in any oysters from out of the country.

Everything will be a progeny of a stock, a strain of this stock that is already in Oregon. The other is that a study by the National Academy of Sciences was commissioned by several state agencies and federal agencies, and that report was issued back in October, I believe.

What they basically recommended was that no introduction be considered until we know more

about this stock. Now their orientation was on an out-of-the-country stock, not the Oregon stock. That's a decision we made after the study was commissioned.

So based on some discussions we've already had with the Corps and with the EPA, NOAA and Fish and Wildlife Service and what we call "pre-scoping," what we are proposing to do in terms of the purpose -- and this is the beginning of the decision, the basis for the decision that will be later.

And let me just read this out of the notice of intent: "The introduction of *ariakensis* would only be attempted if it is determined that the benefits of the introduction would outweigh negative impacts, giving consideration to the effects on the ecology of the Bay, the potential for introduction of new diseases or parasites, restoration of native oysters and the potential for *ariakensis* to become self-sustaining", and then we would consider alternatives to that proposed action.

Now what we have done is we have identified funds where we are going to be funding over the next year approximately \$1.5 million worth of research. We have already engaged the Center for Marine Biotechnology to do the disease and parasite work, including collaboration with the Virginia Institute of Marine Sciences, Gene Burlson in specific.

What we will be doing is funding these kind of things: predator-prey interactions, larval swimming responses, larval predation, we're probably going to fund some field work in Japan on the non-native stock, which is one of the alternatives to be identified, virus transmission.

We will be funding the preparation of a risk assessment model. One of the things in the risk assessment model that, of course, will be of interest to other states is how, if introduced, these oysters would spread throughout the Bay and possibly outside of the Bay.

Our proposed schedule is that we would do the research and prepare the EIS, have it out in early 2005 and have a decision in mid-2005. So on

that basis, one of the things in the NAS report was that there was no regional or interstate way to participate in the evaluation of this proposed introduction.

So, my letter, on behalf of Virginia and PRFC, was to ask ASMFC if the commission could, in fact, be the forum for the interstate participation in the preparation and evaluation of this EIS. Jack or A.C., do you want to add anything to that at this point?

MR. TRAVELSTEAD: Just briefly, Mr. Chairman. As Pete has said, we're very interested in having this organization participate in this process. How you go about that is up to this group, but I would certainly encourage you either to appoint one of your members, perhaps, to participate in the various meetings that will be going on over the next year or so or perhaps assign a staff person to that task.

We want it to be more than just us coming here periodically and updating you for a 15-minute period, and that's the rest of it. We really do want some serious involvement from this organization.

CHAIRMAN NELSON: A.C.

MR. CARPENTER: I would just like to echo what Pete and Jack have already said. Pete was telling you what Maryland oyster production was historically and what it is this year and what they're anticipating.

Potomac River harvest in the 1960s was averaging well over a half a million bushels a year. We dropped down after Agnes to about a quarter of a million bushels. Over the past decade that number has continued to plummet.

This is the middle of December. Our season opened October 1, and we have yet to have the first bushel of oysters harvested from the Potomac River, so that is how desperate things are in my part of the world.

We do sincerely want the ASMFC to be the lead agency, the lead coordinating role that I think this compact was set up to do the very thing that

we're asking today. We would appreciate your support and cooperation in working with us on this issue.

CHAIRMAN NELSON: Okay, before I open it up for questions, let me ask a couple. In your letter, Pete, you had asked or said the NAS report suggested the ASMFC could implement an inter-jurisdictional review of your proposal.

I think you and I both agreed that we could serve as a forum if that was the interests of the other members. But I guess I'm still not quite sure what are we supposed to do or what would you like us to do?

Jack had mentioned have a staff member or a commission member sit and help with the development of your proposal, but is there more or less, or what exactly would you be looking for us to do? I was thinking workshop or some type of other process that reviews the work, but I'm unclear and I need your guidance.

MR. JENSEN: Well, there will be several decision points as we move through this process. First of all, we will go through the scoping, where there will be a public process, and we will identify what we propose to do and the alternatives.

One of the critical parts of the process at this point is that all of the alternatives that anyone has identified that are reasonable be included, so that would be the immediate thing. Do member states of ASMFC see any other alternative that we have not identified that we ought to be evaluating?

Next, of course, in the process would be a draft EIS, and we will be putting together a team so one of the invitations is we invite ASMFC to be a member of that team to participate on a weekly-monthly-daily basis as necessary to participate in the decisions that will be made on the draft EIS.

Then when the draft EIS comes out, there will be a long period of comment on what's in the draft EIS, and then there will be a final EIS, and then at the end, in accordance with the Corps

procedures, there will be what they call a "record of decision" compiled.

So at that point, we would want to have very clear positions from the coastal states or preferably by the commission on behalf of the coastal states regarding the proposed decision. That's sort of a scenario.

If you're not able to designate a member of the project team, then I think we would like to see some specific point of contact, either an individual or a committee, where we could come on a regular basis to let you know here is where we are, here's what's happening, here are the things that could impact other states and to receive comments or suggestions.

CHAIRMAN NELSON: Thank you, Pete. Let me open it up, then. I'll have Gordon go first, then Bruce.

MR. COLVIN: I appreciate the states coming here and making this suggestion. I think it's a very constructive suggestion that the commission fulfill the kind of role that Pete has outlined.

I think there's an awful lot that's unclear to me exactly how that would work. I'm not quite sure that I envision how the process would work, but just let me suggest, for example, one approach.

We used to have an active interstate shellfish transport committee. As I recall, Dr. George Cranz from Maryland and, Jack, I think Bill Hargess was also involved and instrumental in creating that committee. It has not been active years because, like so many other things, if we don't nourish it with resources, it doesn't continue to flourish.

But a reactivation of a committee of that nature occurs to me as a possible model whereby the committee members could participate in some of these activities that Pete has outlined that will accompany the evolution of the EIS process and participate in the reviews, make recommendations to the commission for whatever positions need to be taken with respect to the content of the scope and so on and so forth

down the chain.

But let me highlight two concerns. One is that I have no idea from the information here how time consuming and labor intensive an effort this might be, and I suspect that it may very well be pretty costly on both accounts.

Until we know more, it's hard to get at that. It's hard to know what we can commit to collectively or individually, and I think we need that kind of information if we want to follow this route.

Another just totally practical issue is this -- oh, by the way Pete, I think I heard you mention it. The Corps of Engineers has committed \$200,000 to date to the EIS. Many of us work with the Corps of Engineers on things, and you heard some of that the other day at the habitat session.

\$200,000 is generally spent between breakfast and lunch. When I heard the "200" I thought you were going to follow it with "million." I have no idea what you're going to get for \$200,000 but we'll --

MR. JENSEN: Probably a good deal of grief and maybe a little bit of help.

MR. COLVIN: But, hopefully, Congress will help out, and you will get some more money. The very practical concern is this, if you conceptualize a group of people from different member states participating via a revitalized shellfish transport committee or some similar organization traveling, attending meetings, however they need to get together with the folks who are working on this project, ain't going to happen without commission funding of their travel.

I can tell you that right now. In this day and age, without that kind of support, it can't happen. So, one of the things I think the commission would need to address is, is there some way that funding could be provided, whether it's from the states or we'll take a piece of that 200 or whatever, to finance at least the travel part of the participation. I hope we can discuss that as well.

MR. JENSEN: Well, I guess a couple of responses, Gordon, and also hopefully, it will be informative. When Congress appropriated the \$200,000 to the Corps, they did it on the basis that this would be a cost-shared 50/50 endeavor.

They estimated that the EIS would cost \$2 million, and they gave the Corps \$200,000. As a matter of fact, we had already anticipated the cost, and as I indicated, we're going to be spending a million and a half on research and other money, too, so I think we won't have any trouble making the match for ourselves and Virginia and PRFC, and anybody else that comes along, because that is how serious we make a commitment and how important it is to us.

It is a governor's priority. It is a departmental priority. It is a state priority to get this done in a timely, yet a complete and comprehensive way.

I don't know that I'm able to make a commitment to funding travel; however, because the Corps is involved and I really don't anticipate that much of that money is going to escape their doors -- they're probably going manage to spend it all internally -- I will say that we will go to them with that proposal that we wouldn't mind if they used some of their money, which we don't expect to get anyway, to facilitate the participation of the coastal states, so I'm willing to go that far.

By the way, I should mention in spite of my comments, the Norfolk Corps is being extremely cooperative. They just couldn't be better, and maybe you can recognize that in terms of when did we start talking about this notice of intent, Jack? Three weeks ago? And they've got it ready to publish in January. So, I don't want anybody to mistake my comments off the cuff that they're not cooperative. They are.

CHAIRMAN NELSON: Okay, Bruce.

MR. FREEMAN: Peter, you indicated that you're going to be spending this million and a half research money. Are those projects going to be completed during 2004 for inclusion in some of these analyses?

MR. JENSEN: Yes, another interesting story. When we first went out and started talking to the researchers, they said, "Well, yes, it's going to take two or three years to do that."

We have had a hard time bringing them around to thinking about if we have the money, can you do the research in one year. They have finally come around to give us proposals saying they can do this work within one year.

One of our conditions has been we'll fund it if you can do it in on year, and so they are all promising to have deliverables in one year.

MR. FREEMAN: I see in this document the studies identified by the National Academy of Sciences, which we dealt with, I guess, a year or maybe two years ago, and you're going to include consideration of those studies as well?

MR. JENSEN: Yes, the National Academy did not make any specific research proposals. They were rather general and that is we need to know more about life history, we need to know more about diseases they might bring, we need to know about a lot of things.

We agree with all of them, and so what we have done is taken those general recommendations and worked with the researchers, both at VIMS and the University of Maryland, to boil them down to very specific research projects that would answer the more general questions posed in the NAS report.

MR. FREEMAN: Well, from our standpoint, the Delaware Bay is connected with the Chesapeake Bay, and whatever happens in the Chesapeake Bay is going to happen in the Delaware Bay, so from our standpoint, we'd be very much interested in being involved in any way we can in reviewing -- I think that was one of the requests -- or participating in some of the forum work.

The issue, of course, is going to be finding people's time; and as Gordon very adequately indicated, without travel expenses being paid, we're just out of the ballgame.

MR. JENSEN: Well, we're glad to help you out, Bruce, with this proposal. We have, in fact, established a specific Website which will be available by code only or key word, so that if you have designated people in the state that want to be kept informed, we will be posting stuff on that Website, and they can go to that Website and find out where we are.

We are having regular telephone conference calls as we develop this. In particular, I'd really like to have a staff member to participate in those conference calls. And following those conference calls, there's a written record of the things we agreed to do.

Those things would be available for people to see on a timely basis, so we are building an information system that can be available to virtually everybody to avoid expensive travel commitments but still keep informed.

MR. FREEMAN: Well, we'd be very much interested in that aspect, certainly.

MR. JENSEN: Are you the contact point, for now?

MR. FREEMAN: Well, you could contact me. I won't be the person, but we'd very much be interested in participating to the extent we can.

Again, because, well, one, if it's successful, I'm sure it will be utilized in other location;, and, secondly, just simply because of the juxtaposition of the two jurisdictions, Chesapeake Bay and Delaware Bay via the Chesapeake and Delaware Canal, we're a direct participant one way or another.

MR. JENSEN: Yes. By the way, we have engaged the Maryland Environmental Service. They will have a staff of four people working on the EIS.

I will be designating probably three people to be full time working on the EIS. Jack hasn't indicated yet exactly who is going to be doing it, but we're going to have a fairly good sized team working on the EIS full time.

MR. FREEMAN: Jack indicated Bill Pruitt will be the guy.

CHAIRMAN NELSON: All right, I do have a number of people but do I capture the sense -- and I'm not going to cut people off if they still want to talk, but my sense is that we have a request to have the commission involved in a process.

It is somewhat unclear as far as what's the involvement, but, obviously, there is concern about staff time and monies being made available to facilitate that involvement.

Is it the sense of the commission that they would like to have some type of involvement in this process, but pending the finalization of details, working with staff to come up with exactly how it would be proposed we would be involved in that process. Is that the sense that I would have out here?

Nodding. Is anyone shaking their head no? Okay, I will still let folks talk, but I am cognizant of time here. I had George and then Jaime and then Gordon. I'm sorry, I did actually have Roy first. Roy, do you still want to talk on the issue?

MR. MILLER: Yes, sir. Thank you, Mr. Chairman. This is an issue that interests us greatly in Delaware, as you can imagine, since we are a border state to Maryland.

The mechanism that Bruce suggested via the C and D Canal is one potential mechanism for introduction into the Delaware estuary. As remote as that may seem biologically, nonetheless, it can't be ruled out.

But, of equal concern to us is both the states of Delaware and New Jersey have made a considerable financial investment, as have the Chesapeake states, in restoration of the native oyster stocks.

If we are brought into this particular project, which we very much would want to be, it will divert our resources, both our dollars and our personnel, from the restoration effort of the

native oyster.

Now, another mechanism for possible introduction into the state of Delaware is what I'll call the "Johnny Appleseed" syndrome. If our fishermen perceive that introduction of diploid Korean oysters is a desirable thing, and these oysters are already introduced into Maryland, they may take it upon themselves to make an introduction, whether we like it or not, so that concerns me greatly.

We're so close that we cannot continue to manage strictly for native oysters and pretend that this work is not going on right next door to us. There will be an enormous amount of pressure brought to bear on our agency to participate in this program whether we feel it's in our best biological interests or not.

I have a staff person that I can suggest to Pete that I would very much like to be involved in whatever mechanism this body deems appropriate in this regard.

One other thing, it wasn't clear to me if the National Academy of Science was aware of the Chesapeake jurisdiction's plan to introduce third-generation Oregon versions of these Korean oysters, Pete.

MR. JENSEN: No, their study was based on the idea that a truly non-native oyster would be brought in from outside the boundaries of the U.S., and that's what everything was based on.

DR. MILLER: Well, I think I'd like to close. Maybe I've been -- I didn't have access to the secret Website that Pete referred to, but I was somewhat shocked today to discover that this is a planned introduction of diploids.

I guess in my naiveté I'd been led to believe that initial trials would be with functionally sterile triploid oysters, so that concerns me. Thank you.

MR. JENSEN: Well, Jack can address this better than I can, but that's true. The trials and the research must be triploid because you can't

use diploid. All the diploid work will be done in quarantine at existing quarantine laboratories. But, Jack can address the triploid issue.

CHAIRMAN NELSON: All right, Jack.

MR. TRAVELSTEAD: The reason the EIS is on the diploid question is that throughout all the discussions on this issue, it is repeatedly pointed out that even tests with triploids would ultimately result in the introduction of a diploid, because there's a chance that the triploid animals can go through a biological reversion process and return to the diploid state.

So, there is no need -- it doesn't make sense to do an EIS on introduction of a triploid animal that you know ultimately would result in being a diploid.

So, you do the EIS on the ultimate question, which is the formation of a breeding population of this species and then look at alternatives that are less than that.

CHAIRMAN NELSON: Okay, again, I would remind everybody I didn't hear anyone object to having staff work with the states to -- well, I didn't hear it. I might have seen it now, so let me go down my list. All right, George.

MR. LAPOINTE: I think we need to be cautious from the perspective of both state agency, staff and funding, but also commission staff time and funding as well. I didn't hear that clear distinction. I think we need to pay attention to both.

CHAIRMAN NELSON: Thank you, Jaime.

DR. JAIME GEIGER: Thank you, Mr. Chairman. Certainly, I appreciate the introduction of this proposal by Pete and I congratulate him for bringing it to the attention of the ASMFC.

But, certainly, let's call it what it is. This is an intentional introduction of a non-native species, pure and simple. Regardless of how long this has been in domestic captivity here in the United States, it is still considered an intentional

introduction of a non-native species.

Secondly, I'd like to enter into the record what the National Academy of Science did, indeed, say about adequacy of regulatory and institutional structure.

Conclusion on Page 15 of the executive summary: "The existing regulatory and institutional framework is not adequate for monitoring or overseeing the inter-jurisdictional aspects of open water aquaculture or direct introduction of *C. ariakensis*.

"There is no federal legislation that gives specific criteria for regulating the introduction of a non-native marine species. States may set their own criteria, but when an introduction is likely to affect neighboring states, there is no statutory mechanism for resolving differences among the interests of the affected states."

And, certainly, that conclusion by the National Academy of Science certainly stimulated the Fish and Wildlife Service to also send a letter to the Atlantic States Marine Fisheries Commission requesting their consideration of what their appropriate role may be.

Certainly, this body has taken on responsibility for several unique and different species. Taking on responsibility for developing fisheries management plans for horseshoe crabs, as well as American eels, has been an excellent endeavor and support by this body to improve conservation measures in the Eastern United States.

The role of the ASMFC can vary significantly in my mind. Certainly, it can vary from the proposal that Pete and Jack have put on the table to assist in the review of the National EIS. Certainly, it can take on a role very similar to the shellfish transportation group, and be more actively involved in monitoring and oversight.

And, certainly, it can go the other side, that actually even consider, how would I say, management of native oysters on the East Coast. Certainly, the realm is wide open on the abilities and roles and responsibilities of this body.

Whatever that role may be from the perspective of the Fish and Wildlife Service, I think it's extremely important that the ASMFC is engaged in some capacity and, certainly, that the appropriate members are aware of and have reviewed the National Academy of Science report before one makes, I think, some further discussions or deliberations. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Thank you. I have Bill, Gordon and then Dave.

MR. GOLDSBOROUGH: Thank you, Mr. Chairman. Two points I wanted to bring up, one in connection with the money. A clarification on the \$200,000 that the Norfolk Corps has.

This is part of the authorization language that was recently passed and signed as part of the Energy and Water Appropriation, which the Corps needed to get engaged in an EIS. It would take that \$200,000 out of existing funds for native oyster restoration in the Bay.

Those of us that are supportive of that work were accepting of that as a short-term contingency in order to get things going, but we also believe it's a bit of a slippery slope. And for future years' appropriations to support the Corps work on this, we would hope that they would find independent appropriations that would not impinge upon native oyster restoration work.

I say that because as we're scrambling for funds to support involvement of the commission and member states and look to the Corps, we don't put pressure on them to somehow designate other funds that are supposed to go to native oyster restoration for this purpose.

The second point I wanted to raise was from the Habitat Committee standpoint and remind everybody that at our August meeting the Habitat Committee did have the briefing that was mentioned in some of these documents, I guess, and had reached the conclusion that we wanted to send a letter to the Corps to put them on notice that the commission was very interested in the habitat implications of this

proposal and would like to be kept informed.

That letter has not gone out. You will recall an issue was raised by Jack about one of the points that the committee brought up proposing 100 percent triploid certification for any trials, and we pulled that out of our planned letter.

But, the main reason the letter hadn't gone out is that the Corps only just recently got its authorization, so it wouldn't have been appropriate to write them, but it is still the intention of the Habitat Committee to write that letter from the habitat standpoint.

I say that because if, pursuant to this greater discussion, the commission has other interests that might want to be expressed in a communication to the Corps, we should be thinking in terms of combining those efforts, I'm quite sure. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Thank you, Bill. Gordon.

MR. COLVIN: Mr. Chairman, I do not object to the suggestion you made, but I have a strong reservation about it, which I wanted to express, and that relates to the fact that I still don't have a clear sense of just how fast this train is moving that we're being asked to step onto.

My concern is that it's moving pretty fast, and we're going to break our leg if we're not careful in doing it. I do suggest that perhaps the commission staff could work with the Bay states to craft a written proposal that we could examine that would lay out the process by which the commission could be engaged via perhaps an intermediary committee that might be the shellfish transport committee revitalized and funded for travel, as necessary, that we could look at and assess whether, in fact, once we've got it all laid out in front of us, it's a price we can afford to pay.

I very strongly support the commission weighing in on this critically important issue. As I said before, I think Maryland, Virginia and PRFC have done the right thing in bringing that proposal here and suggesting that we take that

role on, and, hopefully, we will be able to do it.

I think that the written proposal should address - it needs to address in some detail the schedule, the nature of consultations, the expected actions that the committee might take, that the commission might take, and the process for getting those things placed on the record in a timely fashion, as this federal EIS process and partnership with the Bay states goes forward.

That's what I'm having a hard time picturing, because I just don't have enough information, and I'm concerned that -- I'm not quite sure how we're going to weigh in at all these appropriate checkpoints with the appropriate level of detailed input that needs to happen in order for our input to be credible, to make sense and to serve the best interests of the commission. Thank you.

CHAIRMAN NELSON: Thank you, Gordon. David.

MR. BORDEN: Thank you, Mr. Chairman, I'll be brief. I totally applaud both Jack and Pete for bringing the issue before us, because I really think it is a very important inter-jurisdictional issue.

I have no question in my own mind that should this project be successful and they introduce these, Roy's forecast is 100 percent on. Every state sitting around this table will be besieged by requests from their fishermen to do the same thing, because most of our oyster stocks are in similar situations.

If you just think of it in the context of the competitive advantage, Pete was talking about growth rates that are four times faster than native oysters. If that's the case, there will be large numbers of people that will want to do this in every state, including Rhode Island.

I think it's appropriate for us after two suggestions. One suggestion is that I think it's important for us as a group to look at kind of the terms of reference for the study, to actually look at the components of the study, and not with an eye necessarily toward Chesapeake Bay, more in the context of what I said before, in the context

of your own state.

In other words, make sure that some of the issues are going to get resolved and looked at and examined that we all may get confronted with.

The other suggestion I would make is that I think this is so important. I'm not willing to divert a lot of financial resources to it, but I would personally like to see this on the agenda every single time we meet and basically get a briefing on the subject.

If people disagree with that because of our other time constraints, then I would encourage us to do it in conjunction with a meeting; so that after a meeting, those that are interested in the issue could at least go to a room and listen to a couple hour briefing or an hour briefing on the subject, or have staff members do that.

I think this is very important, and I think everybody around this table is going to be very involved in it, whether they like it or not. Thank you.

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

MR. JENSEN: In response to a couple of things that have been raised, one of the things that was prominent in the NAS report is that we should all be concerned, as time goes on, about a rogue introduction.

It probably will happen; therefore, we ought to get busy evaluating what will happen when the diploids get loose some place or another.

The other is on the issue of people initially expressed a concern, will they escape the Bay, and the approach we're taking is, yes, there is no sense in debating that issue.

We might just as well provide for a modeling effort, and we will be funding that to the tune of about \$300,000, to do the actual prediction on how fast they will expand within Chesapeake Bay and the likelihood of when they will go out of the Bay through hydrodynamics or however

they get there.

CHAIRMAN NELSON: Okay, Anne, and I'd like to wrap this up. I don't want to express impatience or anything, but we've spent 40 minutes on it, and we're at the same point of basically where we were about 20 minutes ago.

MS. LANGE: Okay, just very quickly, the NOAA Chesapeake Bay office, both the Fisheries Service and the Ocean Service, are involved in this process, and If anyone needs additional information, they're working with the Corps on the EIS and with Maryland and Virginia.

If anyone needs any additional information, we're certainly willing to be participants in that, in any group, work group, or whatever that comes out of the commission.

CHAIRMAN NELSON: Any money?

MS. LANGE: I'm not sure about that, I'll ask.

CHAIRMAN NELSON: Okay, I think we've all pretty much come to the sense of we definitely want to keep track of this somehow and have some type of involvement pending, or at least that decision is pending after the staff has had a chance to work with the states and see what would be our involvement, how we would do it, how we would be covering the costs.

I would point out that in the action plan that you went over a couple of days ago, we did not have monies allocated to this particular item, so those types of things need be looked at, and the staff needs to come back to us to provide that type of information. If you would work with the states to come up with a viable plan for us to review and consider, it would be appropriate.

Anything else? All right, certainly, thank you, Pete and Jack, and A.C., for again bringing that forward to us, and let's see where it goes.

I am happy to report the next agenda item doesn't exist. That is the non-compliance recommendations. We have under other business, a South Atlantic Board update, Bill

Cole.

-- Other Business --

MR. WILLIAM COLE: Thank you, Mr. Chairman. A year ago, in Williamsburg, this Policy Board asked the South Atlantic State-Federal Board to take a look at some issues regarding blue crabs.

We have done so through the SEAMAP crustacean work group. That work group has delivered a report to the South Atlantic Board this morning, which meets your request.

They have participated with the Crustacean Society and with several other groups, and I'm going to read this from the executive summary, because I think it says it best of all.

This report seeks to define the cross-over issues been addressed by those studying and assessing blue crab stocks on the Atlantic Coast waters ranging from New York to Florida.

Many of the states in this range have been facing significant declines in blue crab numbers, and this report helps identify the issues that need to be addressed by the states in order to make progress toward improving each state's blue crab fishery.

The report does not make management recommendations but rather focuses on defining the status of blue crab stocks and on making research recommendations for all of us to use as we deal with blue crab stocks.

Mr. Chairman, the report is submitted to the Policy Board on behalf of the South Atlantic State-Federal Board for your advice and use.

I would further say that the states of Virginia and Maryland and the Potomac River advised us this morning that there is some additional status information that they will be providing to staff to complete the report.

The consensus of the board was that these new updates would not change the research recommendations and the protocols that are

provided in this report. Mr. Chairman, the report is available to the Policy Board. Thank you.

CHAIRMAN NELSON: Thank you very much, Bill. Any questions for Bill? I've got to go back. The next agenda item is a NEMAP update by Linda Mercer.

DR. LINDA MERCER: Thank you, Mr. Chairman. The activity of the NEMAP Committees and Board have been light the second half of 2003 due to ASMFC staff turnover, but we're looking forward to resuming activities in 2004 with the able assistance of Chris Maaren.

A couple items that I wanted to bring to your attention, the MOU is being circulated still. I'm happy to report that it's almost completely signed.

I think we have five states and partners that haven't signed, and progress is being made in those jurisdictions to get that signed, so we're hopeful that in early 2004 everybody will have signed the MOU.

Finally, I just wanted to mention, with all of the discussion about multi-species modeling and ecosystem-based fisheries management, that we heard from Bill Hogarth, I think it's more important than ever before that we look at fishery-independent programs such as NEMAP as important data gatherers to support those kinds of activities that are going to be incredibly data hungry.

As you know, the NEMAP program is being funded now at a level to support a planning mode, and we'll need a major influx of funds to go beyond that mode, so something for your consideration and thought. If any of the board members here would like to comment, that would be great.

CHAIRMAN NELSON: Questions for Linda? Boy, that was thorough, Linda. Gordon, you had an eel section here.

MR. COLVIN: Thank you, Mr. Chairman. I think the staff has some documents that they're

going to distribute to the board members relative to American eels. I want to thank you, Mr. Chairman, for providing an opportunity to place this issue on the agenda at this late time.

The issue is a recently emerging issue and one that came up quite recently as a result of actions taken at last week's meeting of the Great Lakes Fisheries Commission; therefore, we had little opportunity prior to then to get it identified for this agenda, but I do appreciate it.

A quick background. At the American Fishery Society annual meeting in 2003, an international eel symposium was convened, which reviewed the status of eel stocks globally and led to the adoption of a document by the collective participants in that symposium that has been characterized as the "Quebec Declaration of Concern."

That declaration is published in the American Fisheries Society's publication "Fisheries" that just hit the streets this week. What's being distributed is a copy of the article from "Fisheries", and I would just like to highlight a couple of sections.

Despite decades of scientific research, crucial aspects of eel biology remain a mystery. In recent decades, juvenile abundance has declined dramatically, by 99 percent for the European eel, by 80 percent for the Japanese eel, and recruitment of American eel to Lake Ontario near the species' northern limit has virtually ceased.

Further, the urgent concern is that the rate of decline necessitates swifter protection measures. As scientists in eel biology from 18 countries assembled at the International Eel Symposium 2003 organized in conjunction with the 2003 American Fisheries Society annual meeting, we unanimously agree that we must raise an urgent alarm now.

With less than 1 percent of juvenile resources remaining from major populations, time is running out. Precautionary action can and must be taken immediately by all parties involved; and if necessary, independently of each other.

This represents a call to action on the part of all entities, globally, who have authority and responsibility for management of eel resources to review, respond and react to this declaration of concern.

As I indicated, the Great Lakes Fisheries Commission took initial steps in response to this call for concern at their meeting last week.

Members of the commission, including Jerry Barnhardt, our director of Fish and Wildlife and Marine Resources, who is a member of the Great Lakes Commission, their vice-chairman and their public information officer were able to attend our meeting here on Monday and Tuesday.

Some of you heard Jerry's remarks on this issue at Monday night's opening reception. The commission has adopted a document which has been distributed to you. Although it says, "draft for discussion only", it is my understanding that this same text has received final approval and has been adopted by the commission.

Again, let me read a couple of excerpts. "Now they are faced with imminent extirpation. The number of young eels migrating upstream through a passage facility to Lake Ontario has declined by three orders of magnitude from the peak levels of the 1980s.

"The commission is gravely concerned that without quick action, this species will vanish soon from the Great Lakes. Recognizing that further losses must soon be stemmed and the population rebuilt, the commission declares that the eel population decline is an emergency."

And, there are four bullets, but the third one is relevant to us: "Calls on the governments of Canada and the United States, the Great Lakes basin states and provinces, the Atlantic States Marine Fisheries Commission and other partners to embark on an inter-jurisdictional, multi-national effort whose goals are to halt the population decline and begin restoration."

This document also calls for immediate action to reduce or eliminate human-induced mortality on

eels throughout the Great Lakes basin and to restrict such activities to the maximum extent practicable.

Mr. Chairman, I believe it's incumbent upon our commission to take seriously the requests that we've had from our neighbors to the north and the Great Lakes basin as well as the declaration of concern by international scientists and step back from our eel management program, as we did a few years ago with the horseshoe crab program, take a second look at where we are, re-evaluate, reassess and consider whether we should shift gears and take additional actions beyond what we have done already.

At the commission business meeting that will occur here in a few minutes, we will act on an action plan which happily includes the first steps of that gear-shifting process. We will be convening a meeting of the American Eel Technical Committee early in 2004. New York state will be providing funding for travel to that meeting.

I ask now all the member states to do what they can to assure that their technical committee members are able to participate. We are going to be working to frame -- we're going to work with Bob and Lydia and the staff and with the Great Lakes Fisheries Commission staff to frame the agenda more fully for that meeting.

But, in effect, what we're looking at the committee to do is to examine the information that is supporting both the Quebec Declaration and the Great Lakes Commission's statement and recommendations, their action recommendations, to assess the information that we presently have available in response to that and to begin to offer preliminary recommendations to the board, which will meet during the meeting week in March, on what actions we might consider taking in response to all this.

I can tell you that it does appear very likely that the Great Lakes Commission members do mean business in terms of their recommendation about reducing mortality. I've been informed that the province of Ontario is prepared to close its

commercial fishery, which is substantial and has been historically a substantial fishery.

There is concern about how to get at the issue of the commercial fishery in Quebec, which has a fairly substantial silver eel fishery on out-migrating eels, and is not a member of the Great Lakes Commission, but the Canadian government will be enlisted in that effort.

And there is a great deal of concern about hydro-electric facility mortality, which is also going to be a concern to all of us. The situation in the Great Lakes is grave and it is very important to us in the Atlantic Coast, because if you will recall eel biology, historically the St. Lawrence-Great Lakes population has been a very large component of the overall Atlantic eel stock. And, because of eel biology, it is almost entirely female.

This reduction by a staggering proportion of the magnitude of that eel population means that we are losing the females -- a very high proportion of the females that support our fisheries from the Gulf of Mexico to Maine as well, and it is of great concern to us.

It is in recognition of that that I strongly suggest that we incorporate the Great Lakes Commission as full partners in this effort. They have pledged to provide their support and their financial support to our efforts.

Lastly, many of us are struggling financially right now, and I want to offer a suggestion to each of us for an additional partnership opportunity that we're using in New York and may be available to other states.

The program administered by the Fish and Wildlife Service for the last three years for state wildlife grants enables states to identify species of particular concern, incorporate those species into state wildlife management plans and receive grant funds for planning and for implementation of management actions with respect to these species.

New York will be using its SWIG funds to support an enhanced eel program. We urge the

marine fisheries agencies and the states who have not yet gotten access to these funds, whether for eels, for horseshoe crabs or other kinds of eligible activities, to do so, to ask the Fish and Wildlife Service to assist in that effort.

I also look forward to further discussions with the Fish and Wildlife Service -- I understand we'll probably be having those discussions in March -- on other opportunities to establish partnerships.

I would, by the way, add not just the Fish and Wildlife Service but also the U.S.G.S. as a partner, an active partner, in eel management in the Great Lakes. I think they will be more than willing to engage in the Atlantic coastal process as well.

Jaime, that's a kind of a heads up for March. I hope that you guys will have an opportunity to think about eels and be prepared to propose some things at that time.

Mr. Chairman, I don't have a motion to offer, because I think the motion will come when we approve the action plan, but I wanted to take these few minutes to emphasize the importance of this. I appreciate the time and opportunity. I'd be happy to answer any questions the board members have.

CHAIRMAN NELSON: All right, thank you, Gordon. And as Gordon has pointed out, at the workshop New York had volunteered to cover the costs of a technical committee meeting, and that has been incorporated in the work plan for consideration by the commission. Also, the board meeting was going to be scheduled in March.

MR. COLVIN: And if I can, I can also convey the offer of staff assistance from the Great Lakes Commission staff.

CHAIRMAN NELSON: Okay, thank you, Gordon. All right, David, go ahead.

MR. CUPKA: Thank you, Mr. Chairman. I don't know whether the timing worked out or what, but I had an issue related to eels that I

wanted to bring forward to the Policy Board, also, and I had called Vince and talked to him about it.

It may be that the timing of this will help our situation somewhat. But like many of the states, we find ourselves in a situation where we've got significant economic and personnel problems, so much so to the point where staff is now looking on things that they can cut back on.

One of the things some of our biological staff was talking about was in terms of our elver monitoring in South Carolina. Several years ago we had a pretty active fishery. There was a lot of interest, particularly during that time period when the Japanese were trying to get elvers or glass eels to grow out in their operations because of the lack of japonica for them to use.

Anyway, what has happened is we no longer have that big fishery and so staff was looking at ways to perhaps cut back. One of the things that they suggested was that since it is now such an insignificant fishery, maybe we ought to just go ahead and go out of compliance and not do the mandatory eel monitoring that's required under the plan.

I was able to convince our leadership that was a terrible idea, that you don't deal with something like this by just going out of compliance and saying the heck with the little bit of fishery that is left.

We've never been out of compliance, and I don't want to see that happen on my watch. I told them what we need to do was try and work through the normal ASMFC process and see if we couldn't get the technical committee to take another look at this situation, particularly, in those states where there's virtually no fisheries left to see if we couldn't make a change to the plan, perhaps in terms of mandatory monitoring activities.

So, I was glad to hear Gordon say that the technical committee will be getting together to look at this much larger situation. But perhaps it would afford an opportunity for the technical committee to also revisit the monitoring

requirements on our plan and come back to the board with some kind of recommendations on whether those need to be modified; or in light of this current information, increased and how we would best go about doing that.

But, certainly, the way they were suggesting to deal with it just blew my mind. I mean, I don't want to see that happen. I do think a lot of states find themselves in the same situation we're in. We've added a lot of requirements to ourselves. In light of the budget situation maybe we do need to reexamine some of these.

I guess I would hope that Bob or the appropriate staff would bring that to the attention of the technical committee and maybe get them to revisit that issue and then report back to the board on what needs to be done or what could be done to try and address that situation. Thank you, Mr. Chairman.

CHAIRMAN NELSON: All right, thank you, Dave. Bob, just to that particular point.

MR. BEAL: Yes, I think we can get that on the agenda for the technical committee meeting early in next year, 2004, and they can do exactly as you requested, report back to the Eel Management Board at the March meeting.

CHAIRMAN NELSON: Okay, Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. The question I would have is what are the eel reports the states are doing, the monitoring showing? Are they showing the same orders of magnitude decline? I think that's something very timely to know.

CHAIRMAN NELSON: Go ahead, Bob, to that, and then George.

MR. BEAL: I think that will be part of the technical committee's review of the proposals or the declarations coming out of the Great Lakes and Canada, what is the status of the fishery and the stock in the United States. The monitoring efforts that have been going on since the plan has been implemented will be a big part of that review.

CHAIRMAN NELSON: George.

MR. LAPOINTE: In the interests of time, what Gordon has brought up and our potential action, I mean, raises a bucket load of questions. So it strikes me that in the interest of time, we should pose those questions both to our technical staff and to Bob as well, so we can compile those. As we dig into this, it will likely raise more questions and that will best prepare us for that March meeting.

CHAIRMAN NELSON: Any other comments on eel? All right, Bruce, your comment or your update, if you would, on the Summer Flounder Board meeting.

MR. FREEMAN: Yes, just a point of information. When we met earlier this week, the Summer Flounder, Scup, Sea Bass Board spoke about a meeting in January. That has been scheduled. It will be January 20.

That's the first day of the Mid-Atlantic Council meeting. We'll be in Alexandria, Virginia. The Council has acquiesced on some of their time, so we'll have four hours to deal with the scup recreational issue.

Then we'll meet jointly with the Mid-Atlantic Council to talk about multi-year specifications in the afternoon, so please put that down on your calendar -- January 20, Alexandria, Virginia. This will be piggy-backed on the Mid-Atlantic Council meeting.

CHAIRMAN NELSON: Okay, thank you, Bruce. Anything else before the Policy Board? David.

MR. BORDEN: This will be very, very brief, Mr. Chairman, just a suggestion. The Ocean Commission, as I understand it, they will be coming out with their report fairly soon. If I understand it correctly, a copy of that by statute has to go to the governor of each state for review, and there are 30 days to do the review.

I would just offer the suggestion that you consider putting together a committee that can very quickly take the report and start to flesh out

an interstate position on it.

The reason I suggest that is that then each of us during that 30-day comment period will have an inter-jurisdictional perspective on it that we can then take back to our respective governors.

CHAIRMAN NELSON: One?

MR. BORDEN: It's just a suggestion.

CHAIRMAN NELSON: Oh, it's a great suggestion. It's a great one.

MR. BORDEN: Can I ask one other question? I haven't gone back all meeting.

CHAIRMAN NELSON: Well, you can go one back, one digit.

MR. BORDEN: I'd like to just ask George when we committed to do the peer review on lobster, does that include the TAL calculation, the peer review, the methodology of the TAL calculation?

MR. LAPOINTE: That is not in the terms of reference for the fall SAW/SARC, but there's still some opportunity for a discussion of that.

MR. BORDEN: Well, I would just request on behalf of the state of Rhode Island that be included in the peer review, especially if the board, at some subsequent point, wants to consider expanding that to cover other areas or considers restricting the fishery based on that. I think it's important to have a peer review of it. Thank you.

CHAIRMAN NELSON: Any objection? Any problem with that? Okay, seeing no objections, you could pass that on to the new chair.

MR. LAPOINTE: New chair, you're noticed.

CHAIRMAN NELSON: Pat, good luck. I'll pick volunteers later on that committee. Does everyone think that's a good idea on Dave's part as far as the Ocean's Commission report? And you'll be happy to do it, too?

Okay, so Dave, George and how about a

geographic range here? That means someone from the mid or south. Okay, we'll pick somebody. Bruce has volunteered? Okay, thank you very much.

Anyone else? We'll pick Dave Cupka, also. All right, and Pete is willing to do it. Vince, will you make sure that they are able to pull that together and distribute a report? Thank you. Jaime, you had one more comment?

DR. GEIGER: Yes, sir, Mr. Chairman. I just wanted to update the board. As part of our strategic planning process with the Fish and Wildlife Service and our work with the Sport Fish and Boating Partnership Council, we are engaged now with the International Association of Fish and Wildlife Agencies to start scoping out the beginnings of a National Aquatic Habitat Plan.

This is going to be based loosely on the North American Waterfowl Management Plan. We had our first preliminary scoping meeting in association with the Mid-West Fish and Wildlife Conference in Kansas City, Missouri, several weeks ago.

The International, under Eric Schwaab, whom many of you know, is taking a lead responsibility to work with the various entities and interested partners and starting to put together and frame this important issue.

We see great support for this, at least within many, if not all the Mid-Western states. Several of the pilot areas included the Mississippi River Interstate Commerce Association, otherwise known as MRICA.

We're probably trying to get a scoping meeting arranged sometime in May or June in the Northeast. Right now we are looking at the Coastal Society meeting. I'll be talking with Tom Bickford later on about trying to get a possible scoping activity related to this as a part of that meeting.

I just wanted to make sure that I informed the commission. I see a lot of momentum building and a lot of interest nationwide on a national

aquatic habitat plan.

Certainly, I see some good support by Congress in trying to make this happen. I will try to keep you all updated and engaged as I get further information. Thank you very much, Mr. Chairman.

CHAIRMAN NELSON: Thank you, Jaime. Any questions for Jaime? All right, speaking of momentum building, we are now adjourned and we are now into the business session.

(Whereupon, the meeting adjourned at 4:05 o'clock p.m., December 18, 2003.)

- - -