

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

**Crowne Plaza Hotel - Old Town  
Alexandria, Virginia  
August 7, 2013**

Approved October 30, 2013

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1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of May 2013 by Consent** (Page 1).
3. **Move that the ISFMP Policy Board approve the Habitat Program Guidance Document as described today** (Page 9). Motion by Pat Augustine; second by Wilson Laney. Motion carried (Page 9).
4. **Motion to adjourn by Consent** (Page 16).

**ATTENDANCE**

**Board Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)	David Saveikis, DE (AA)
Steve Train, NH (GA)	Roy Miller, DE (GA)
Doug Grout, NH (AA)	Tom O'Connell, MD (AA)
G. Ritchie White, NH (GA)	Bill Goldsborough, MD (GA)
Paul Diodati, MA (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Jack Travelstead, VA (AA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Cathy Davenport, VA (GA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)	Louis Daniel, NC (AA)
David Simpson, CT (AA)	Bill Cole, NC (GA)
Dr. Lance Stewart, CT (GA)	Robert Boyles, Jr., SC (AA)
James Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Pat Augustine, NY (GA)	Sen. Ronnie Cromer, SC (LA)
Tony Rios, NY, proxy for Sen. Boyle (LA)	Spud Woodward, GA (AA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Patrick Geer, proxy for Rep. Burns (LA)
Brandon Muffley, NJ, proxy for D. Chanda (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)	Kelly Denit, NMFS
Loren Lustig, PA (GA)	Wilson Laney, USFWS
Leroy Young, PA, proxy for J. Arway (AA)	Martin Gary, PRFC

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

**Ex-Officio Members**

**Staff**

Bob Beal

Toni Kerns

**Guests**

Jessica Coakley, MAFMC  
Greg DiDomenico, GSSA  
Raymond Kane, CHOIR  
Mark Alexander, CT DEEP  
Ned Cyr, NMFS  
Jason McNamee, RI DFW

Aaron Kornbluth, Pew Trusts  
Rob O'Reilly, VA MRC  
Peter Burns, NMFS  
Gordon Colvin, NOAA  
Kelly Shotts  
Margaret Hunter, ME DMF

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 7, 2013, and was called to order at 3:50 o'clock p.m. by Chairman Paul Diodati.

### **CALL TO ORDER**

CHAIRMAN PAUL J. DIODATI: We're going to begin our next meeting, which is a meeting of our ISFMP Policy Board. Welcome, everybody. You have the agenda of the meeting and the proceedings from May.

### **APPROVAL OF AGENDA**

I am going to make some changes to the agenda right now by adding a couple of items.

One is a discussion about Jonah crab that will come up under other business. I have a reminder here to circle back to our discussion about whelks, which we had at our last gathering. We'll do that. Also under other business, there is a request from the Lobster Board, I believe, to do a letter to NOAA Fisheries that someone will probably present a request for us to do that.

We'll consider that. Kelly is going to be giving a few minutes to provide an update about river herring. Unless there are other changes to the agenda, I'll consider it approved. Is there any other business to go on the agenda? Seeing none; the agenda is approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DIODATI: Any changes to the minutes from the last meeting? Without objection; we'll approve the proceedings from our last meeting.

### **PUBLIC COMMENT**

As always there is opportunity for public comment. If anyone in the audience would like to come before the policy board, now would be the time to do that. I don't see any hands going up, so we'll pass that. Now before we begin with these reports, Bob, I know that you have a

couple of things you want to go over or present, so why don't you start with that.

### **PRESENTATIONS**

EXECUTIVE DIRECTOR ROBERT E. BEAL: Thank you, Paul, I appreciate the time on the agenda. Maggie, I appreciate you being here to give a presentation. Actually we have a presentation for you rather than one from you. Each year we give out the Annual Awards of Excellence. While you came down to talk about northern shrimp, which is certainly an important issue, we want instead to take this opportunity to recognize you for your years of outstanding contributions to not only the state of Maine but to the commission as well.

You served on the commission's Northern Shrimp Technical Committee for nearly 15 years, and for 12 of those you served the critical roles of leader and the chair of that group. Over your chairmanship, you directed the technical committee's work through two peer review benchmark stock assessments, annual stock assessment updates, two major plan amendments and several addenda. Further, you have provided valuable scientific advice to the Northern Shrimp Section on quota setting, monitoring, reference points and effort controls. You are one of those truly gifted scientists who not only are able to conduct sound, scientific analysis, but also able to communicate the analysis and the findings in a relatable and understandable way to fishery managers and fishermen alike. You have been a dedicated scientist for the Maine Department of Marine Resources for over 30 years, conducting field research on northern shrimp, Atlantic herring, sea urchins, groundfish, and other species, as well as providing valuable computer and analytical support for numerous fisheries projects.

Since 2000 you've been responsible for monitoring and assessment of Maine sea urchin and northern shrimp fisheries. Both programs are critically important in that they provide the scientific foundation for management of these valuable fisheries. Your outstanding work ethic and commitment to detail, but understandable

scientific advice has set an example for other scientists at Maine DMR, as well as those working on the commission's technical and stock assessment committees. It is for these reasons that I'm honored to present you with the 2013 Annual Award of Excellence for scientific, technical and advisory contributions. (Applause)

MS. MARGARET HUNTER: That's going to be a hard act to follow.

CHAIRMAN DIODATI: Maggie, you don't have to give the presentation; that is the good news. (Laughter)

EXECUTIVE DIRECTOR BEAL: If any commissioners really wanted to hear what Maggie has to say on shrimp, she will gladly send around her presentation.

MS. HUNTER: Well, I wondered why I was having such a hard time finding anybody to tell me what I was really supposed to talk about today. Thank you all. Thank you, I will keep it very short. That's it; thank you so much.

EXECUTIVE DIRECTOR BEAL: Paul, I've got one other thing to talk about real quickly before we move on to the more serious business of the Policy Board. I want to take this opportunity to recognize Toni Kerns. Would you please join me? July marked Toni's 10th anniversary with the commission.

Over this time in recognition of her in-depth knowledge of Atlantic Coastal Fisheries issues, her long-standing commitment to the commission's stewardship responsibilities and her strong work ethic, Toni was steadily promoted from FMP coordinator to senior FMP coordinator in 2006, and most recently to ISFMP Director this year.

As FMP coordinator, Toni was responsible for coordinating the management programs of several key and highly complex species, including bluefish, summer flounder, scup, black sea bass, American lobster, to name a few, and dabbled in a lot of others in between staff transitions at times.

During the past decade, she has worked cooperatively with the states and the Mid-Atlantic Fishery Management Council to craft measures that led to the rebuilding of all four Mid-Atlantic species. She also oversaw the successful completion of two American Lobster benchmark assessments, the adoption of new reference points to manage the resource, and the development of rebuilding a program for the southern New England stock.

As senior FMP coordinator for management, she assisted in the oversight and coordination of the ISFMP as well as the mentoring of new FMP coordinators. The dedication of her time, expertise and support has played an important role in ensuring the success of the new FMP coordinators, and in turn the species management programs they coordinate. For all these reasons, I am pleased to present Toni with this gift as a token of our appreciation, and somewhere there is a gift from Dr. Daniel. (Applause)

EXECUTIVE DIRECTOR BEAL: For those of you who don't know, there is an artist down in Beaufort, and he makes all sorts of semi-realistic and semi-cartoon looking fish out of old surfboard pieces that he finds from folks. That is one of those fishes from down in Beaufort where Toni went to grad school.

MR. DAVID G.SIMPSON: Yes I was going to say I think that is the biggest scup I've ever seen.

EXECUTIVE DIRECTOR BEAL: That gives her credit for rebuilding that stock, I suppose. It came right out of Long Island Sound, David.

DR. LOUIS DANIEL: When the guy started making those fish, he did, he would find the old busted surf boards in the trash can and stuff and he would reclaim them and recycle them and make them, and they are very, very popular and they are very collectable.

Now he actually goes out sometimes and buys actual brand new surf boards to make them, because he gets so much for them. He can make three or four out of one surfboard, and he makes

his money by it, but they are really special. Congratulations, Toni.

EXECUTIVE DIRECTOR BEAL: That is all the good news I have, Paul, and now you can go back to the real world.

CHAIRMAN DIODATI: Congratulations to Maggie and to Toni. With that, Toni, you do have to give a presentation and it is the review of the stock rebuilding performance report.

MS. TONI KERNS: Thank you all for that lovely gift, and it has just been fantastic working here for the last ten years. I hope there are many more.

### **2013 ANNUAL REVIEW OF THE STOCK REBUILDING PERFORMANCE**

MS. TONI KERNS: I am going to go into the 2013 annual review of the stock rebuilding performance. This is our annual check on how we're doing in rebuilding all of their commissioned stocks.

It is part of the Strategic Plan, and the commissioners had requested that we have more frequent reviews. We started in 2009 and it is a part of each of our annual action plans. We're just trying to validate the status of each of these stocks; rate how well we're progressing forward; whether that be through technical advice or PRT advice.

If the Policy Board doesn't feel like we're moving in acceptable direction for any of these management species, then we would want to discuss how we would move towards corrective action at the end of my presentation. We're also looking for any direct feedback to the management boards if necessary on any of these species, so that we can put that into next year's action planning process as we begin to move forward into that.

We have the same five categories as we have had in previous years, rebuilt, rebuilding, concerned, depleted and unknown. The rebuilt/rebuilding categories haven't really changed much from last year. I'm not going to

read them all up on the board, but I will let you know that all of these are rebuilt except for red drum and Spanish mackerel, which are rebuilding.

For species of concern, I am going to go into detail for those species that we have made some management changes to or we've had some assessment updates. For three of these species, American shad, spot, and spotted seatrout, we haven't had much change in any actions since last year.

For shad we have the sustainable fishery management plans for Massachusetts, Connecticut, the Delaware River, Potomac River, North Carolina, South Carolina, Georgia and Florida. The states will be submitting habitat plans this fall, but we haven't taken much action and we haven't taken any action in spot and spotted seatrout; except for that the South Atlantic Board today is going to have the PRT look at a new traffic light approach and have the PRT develop any possible management triggers for that traffic light approach.

We're going to go into some detail about Atlantic menhaden. Overfishing is occurring. The overfished status is unknown. There has been some poor recruitment. This past year, as we all know, Amendment 2 set a TAC for the species, and the states have implemented those quotas for this fishing year.

The MSTC is developing a multi-species assessment approach for menhaden and a couple of other species. We are currently working on a benchmark assessment for next year. For coastal sharks, the overfished and overfishing status varies by species. We did add smoothhound sharks to the complex this year. The status is currently unknown.

Our most recent addenda set a quota for the smoothhound, but we will wait to implement that quota until NOAA Fisheries puts forward a quota for that species. as well as we did set a new fin-to-carcass ratio. For horseshoe crab, the last assessment and peer review was in 2009. The Delaware Bay and Southeast Region had

shown increases while the New England and New York areas had shown declines.

In 2013 we implemented the ARM Framework Model, which what we believe is a good step forward in horseshoe crab management, because it incorporates both the needs of the fishery as well as some of the needs of other species, including needs of coastal birds. The next benchmark assessment is in 2015, but we are doing an update to the model this year and we'll have results from that at the annual meeting in October.

Something to note is that we did not receive enough funding to do a survey this year, so there will not be a 2013 horseshoe survey. For northern shrimp, the stock is overfished and overfishing is occurring. We are at 16 percent of the biomass threshold, and there is a need to conserve the spawners.

This year a TAC was set on an F threshold as opposed to the target to try to offset some of the economic impacts to the fishery. This section also approved an addendum with management tools to slow down catch rates. Just a figure of where we are in that overfished/overfishing status.

For Gulf of Maine winter flounder; a proxy F threshold was derived from a length-based yield per recruit analysis. The overfished status is based on a ratio of the 2010 catch survey base swept-area estimate of biomass. In 2010 the F was estimated at 0.23. This was in lieu of an actual Bmsy and Fmsy, because the assessment results would not solidify.

The peer review had recommended using a proxy. In 2013 we maintained the state water subcomponent total quota of 272 metric tons, and the state water trip limit remained the same. For the depleted species; American eel, southern New England lobster, tautog, river herring, weakfish, and winter flounder for the Southern New England area are all depleted.

The Eel Working Group is working on the approval of Addendum III, and for river herring the states are also in the process – they just did

the habitat plan, not river herring, but they did do the sustainable fishery management plans. The tautog fishery; we're still at the 39 percent of the target – SSB overfishing is occurring.

The states implemented new regulations to meet the new F value. It is projected that we're unlikely to meet the 2015 rebuilding target. For Southern New England/Mid-Atlantic winter flounder; we're at 16 percent of the target SSB based on the 2011 assessment, but overfishing is not occurring. The board did follow the TC advice and approved a very limited fishery in 2009.

This year we did put forward an annual specification process if we were to see any increases in the fishery that would warrant an adjustment in trip limits. Then for the unknown category, we have Atlantic sturgeon, where it was prior to. We've added black drum because it is a new species for the commission.

For Atlantic sturgeon we are at low abundance. We need river-specific abundance estimates and better bycatch information. We're in the process of working with NOAA Fisheries in doing the stock assessment to help have a better identification for the listing, and the benchmark assessment will be completed in either late 2014 or early 2015.

For black drum, the assessment will be completed in 2014; and the FMP that we adopted this year has both size and possession limits listed; and then has tools in the tool box that the board can easily respond to when the results of the assessment come out. I'll take any questions on where we're going.

CHAIRMAN DIODATI: Okay, seeing none; that was very easy, good report.

DR. DANIEL: Just a question; I guess I am a little bit concerned about the rebuilt/rebuilding croaker after the discussion at the South Atlantic Board. A lot of you weren't there, but we were reviewing the traffic light approach; and albeit not complete yet, it does indicate a lot of concerns.



The South Atlantic Board elected to move forward and directed staff to move forward and develop the traffic light approach for spot and croaker and begin looking at some management approaches that we may want to use on those two species. That was the only one that kind of caught my eye that it might be more appropriately in concern, but I would defer to you and the board on that.

MS. KERNS: We can definitely consider moving it over. We based this on the information that we had prior to; and it wasn't based on what you all saw today at the South Atlantic Board.

MR. WILLIAM GOLDSBOROUGH: I had a similar question about American shad, which is listed as species of concern; whereas, their cousins, the river herring are where I think they should be under the depleted species category. I was under the impression that we had pretty strong information to suggest American shad sort of on a coast-wide basis were basically at their lowest point on record, but I could be wrong. Is there a rationale for why they're species of concern instead of depleted? I'm not sure what the criteria are.

MS. KERNS: It is because the shad status was not determined depleted through the stock assessment; just concern through that peer review.

MR. GOLDSBOROUGH: Okay, what is the difference? What are the criteria for those categories, then?

MS. KERNS: That's a good question.

MR. GOLDSBOROUGH: I'll be happy to talk to you later about that.

MS. KERNS: If this Policy Board thinks that we should move it over to depleted, then that is something that we can do. It could have been the terminology that was used, different terminology that was used in the peer review for river herring versus the peer review for shad, but it is consistent with the language that came out of those peer reviews.

MR. GOLDSBOROUGH: A follow-up, Mr. Chairman. Do we have a regular process for making changes to the list like on an annual basis; when does that happen?

MS. KERNS: At the August meeting every year we go through this. I should have said at the beginning on your meeting CD it has a thorough review of all the different species and all the information behind why we're putting some in concern versus depleted and what types of information we're looking for.

CHAIRMAN DIODATI: I'm going to suggest, based on Bill's line of questioning, that staff takes some time and clarify the differences between concern and depleted, review the list on both sides, and see if there is any reason to alter it. If there is a reason for an altered list, then we will get that at the fall meeting.

MR. PATRICK H. AUGUSTINE: Great approach; very clear, easy to follow. Do we have somewhere in the document that we make available to the public of definition of the terms? In other words, we're all back to the word depleted. Do we have something that was acceptable for ASMFC's determination of what that means?

It just seems to me that this kind of document is really going to be helpful to the public, but they need that understanding as to what those definitions are. I like the stop light approach. I observed some of the South Atlantic stuff earlier, and it really looks like a great way to go. I think it will be most helpful.

MS. KERNS: Pat, we can get a definition for all these different categories and bring that back at the annual meeting.

MR. AUGUSTINE: Yes, but will they show up also in the document at that time?

MS. KERNS: Will do.

DR. WILSON LANEY: I just would let Bill know that his memory is correct. I pulled up the American shad stock assessment, and it does say in the second paragraph; "The stocks of

American shad in their native range along the North American east coast are currently at all time lows.” But that was as of 2007. I can’t remember where that one is in the schedule. Aren’t we coming up on a redo of American shad in the not too distant future?

MS. KERNS: It is scheduled in the stock assessment schedule for 2016 for now. You know that is a moving document, so it may change in the future.

CHAIRMAN DIODATI: Okay, any more questions or comments on the performance report? Seeing none; we’re going to move to Melissa’s report. I think that is next, and this might result in a possible action. We’re going to consider the Habitat Program Guidance Document.

#### **CONSIDERATION OF HABITAT PROGRAM GUIDANCE DOCUMENT**

MS. MELISSA YUEN: Hopefully, you have had a chance to read the one-page summary that provides an update for the Habitat Committee’s current projects and FMP habitat sections. My presentation today focuses on the Habitat Committee Guidance Document, which the Habitat Committee is presenting to the Policy Board for consideration and approval as its governing document.

This guidance document incorporates many of the elements from the Habitat Program’s Operational Procedures Manual, so we’re not reinventing the wheel. It also includes recommendations from the Habitat Program Review completed in 2012 and additional guidance for FMP habitat sections.

This document compliments the Committee Guidance and Assessment Process, which was approved by the Policy Board in February 2013. That document actually takes precedence over this habitat guidance, and any changes that the committee guidance makes will be reflected in this document as well.

Any changes to the Habitat Committee Guidance Document will require Policy Board

approval in the future. The Habitat Program Review produced some recommendations that have been incorporated into this new guidance document. Currently the Habitat Program has its own strategic plan and an operational procedures manual.

The review recommended that there be one governing document. Like all other committees, the Habitat Committee should operate under the ASMFC Strategic Plan and support the commission’s vision and mission. The Annual Work Plan describes the work that needs to be completed each year by the Habitat Committee.

This also will help the commissioners understand how the Habitat Committee’s work aligns with the goals of the commission. There is also additional clarification of Habitat Committee member descriptions, which is taken from the Technical Committee Guidance Assessment Process. Habitat Committee members are expected to represent agency expertise and not policy or regulatory abuse.

It also clarifies that while members of the Habitat Committee may not have species-specific expertise, they are best served to identify authors for FMP habitat sections and review the work. A new feature for the habitat sections of FMPs is a description of habitat bottlenecks, and these are things that may be inhibiting a species’ ability to improve its status despite management measures.

Lastly, the Habitat Committee worked with Emily Greene of ACHFP to develop some concise bullets that distinguished the primary difference between ACHFP and the Habitat Committee. In the operational manual, the Habitat Committee actually had its own vision and mission. No other committee does this.

The Habitat Committee decided that a goal is more appropriate and in keeping with the committee guidance and assessment process. The latest version of the Habitat Committee’s goal is protecting and enhancing fish habitat and ecosystem health through partnerships and education. This may be modified depending on the commission’s new strategic plan.

At the spring meeting the Policy Board approved the Artificial Reef Committee as a stand-alone committee that reports directly to the Policy Board. This guidance document mentions the Artificial Reef Committee, but the information is specific to Habitat Committee. The Habitat Committee and Artificial Reef Committee will continue close coordination.

Habitat areas of particular concern; this is an issue that the Habitat Committee had debated about. They thought of changing the term to distinguish itself from the federal term to alleviate some of the confusion from our federal partners. For NMFS and councils, for instance, an HAPC designation actually triggers a review of federal actions.

However, the HC decided not to change the term, because a change in terminology would likely exacerbate confusion. It would be modified as FMP documents are updated. At a rate of one or two habitat addenda per year, this could take a long time and create inconsistency. Instead, to address the issue, the Habitat Committee is developing a reference document for our federal partners that would be available on the commission website and distributed to interested parties.

This document would clarify all commission-managed species with designated HAPCs in an FMP document, as well as any federal management or regulations for the species. It would clearly identify the ones that are solely managed by the commission or jointly or complementarily managed by federal councils or NMFS or U.S. Fish and Wildlife.

This can serve as a reference for preparing comment letters on proposed actions. We anticipate this document to be completed later this year. In response to the habitat program review, the 2013 action plan directed the Habitat Committee to look into the concept of habitat bottlenecks, which may be contributing to some species' inability to recover despite best management practices. The Habitat Committee developed guidance for authors off FMP habitat sections to discuss whether or not there are currently habitat bottlenecks or where these

bottlenecks could develop for a particular species.

First, the committee developed a definition for habitat bottlenecks as a constraint on a species' ability to survive, reproduce, or recruit to the next life stage that results from reductions in available habitat extent and/or capacity and reduces the effectiveness of traditional fisheries management options to control fishing mortality and spawning stock biomass.

It is a long definition. The HC is developing a white paper that looks at the commission-managed species with poor stock status. We are prioritizing those. We will be identifying existing and potential habitat bottlenecks for those poor stock status species. This is still in the formative stages and probably will not be available until late 2014.

Lastly, during the program review, the Policy Board had a lot of questions about the distinction between ACFHFP and the Habitat Committee. The working group, working with Emily Greene from ACFHFP, developed a set of concise bullets to define the difference between ACFHFP and the Habitat Committee.

This was provided in your supplemental materials; but just to highlight the key difference. The Habitat Committee advises the Policy Board on conservation and protection of vital fish habitats for commission-managed species while ACFHFP prioritizes and provides support to on-the-ground conservation and restoration efforts. This concludes my presentation. Thank you.

CHAIRMAN DIODATI: Very good; any questions for Melissa? Keep in mind I'll be looking for a motion to approve this document. I don't see any questions; do I see a possible motion? There was a question over here.

MR. DOUGLAS E. GROUT: Yes, I have to admit I'm a little concerned about still continuing to use the habitat areas of particular concern in this document. I was wondering if you could define the ASMFC definition of

HAPC and what its effect is compared to what the federal HAPC designation is.

CHAIRMAN DIODATI: Wilson, did you want to answer that?

DR. LANEY: Well, yes, I'll help Melissa out on that one since I've been involved in that dialogue, Doug, for about 15 or 20 years now. You may recall, because you were around, I believe. We had a habitat manager's workshop. I think it was about 1999 or thereabouts. We had a thorough discussion of that issue of what would happen if we adopted the federal definitions when in fact there isn't any legal status associated with an ASMFC HAPC designation.

We decided that for the sake of consistency in terms of the science we would go ahead and use the same definition with the acknowledgement that it didn't result in federal review requirements as it does if it is designated for a jointly managed species or a council-managed species. We had this discussion.

I think Dr. Pace Wilbur from the National Marine Fisheries Service Southeast Region had raised the concern that it did create some confusion in their process when they're reviewing permits, and they have to speak to the status of ASMFC species that have HAPC versus federal species that have HAPC.

After quite a lengthy discussion between members of the Habitat Committee and staff, what we finally decided to do was to produce this document that Melissa alluded to a short while ago, wherein we clearly lay that all out. Pace has advised us that putting that down in black and white in that document will meet his needs as far as being able to allay any confusion that might arise.

If you look at the list of species, by the time you subtract out all the ones that are managed jointly by NMFS and ASMFC or by the councils and ASMFC, that only leaves a handful that is solely managed by ASMFC. What we did discover as Melissa and I were writing this document and going through the process of pulling out all the

HAPCs that have been designated for ASMFC species is that there hasn't been some necessary consistency in having done that.

This document will enable us to go back and basically clean up all those ASMFC designations. But you'll notice in the habitat guidance document that language to the effect that there isn't a legal ramification to ASMFC HAPCs is in bold print. Hopefully that will help also. But we decided it was a whole lot simpler to go ahead and prepare that other document and lay it all out in black and white than it would be to try and fix everything in terms of terminology in all the existing documents and any administrative record. The answer to your question is the definition of ASMFC HAPC is the same as the federal definition. It just doesn't carry any legal consultation requirements.

MR. GROUT: Just a follow-up. Now, if we're going to have commission documents that are going to refer to HAPCs – commission management plans that would refer to it and you are going to have this document identifying what the ramifications are or the lack of legal ramifications; what is the assurance that someone going up and reading that is also going to read the document that you're developing?

That is the problem with having them disconnected. Somebody can just grab something off the website and say; oh, this is an HAPC; who is ignorant of the process, the two agencies, and suddenly assume that there is some kind of federal consistency. Is there some way we can link the two documents together on the website that would somehow automatically refer them to the document that you're developing?

DR. LANEY: Well, I think the easiest way to address it in the future, Doug, would just make sure that we have the qualifying statement in any new FMP habitat sections that designate HAPC. Then the other thing I think we can do is just widely publicize the availability of this document once it is finalized. I think that is about the only fix, but again it is a relatively

small number of species for which this is an issue given the number that are jointly managed.

CHAIRMAN DIODATI: I think that is a logical approach for us to try; and if it becomes a problem, we can always circle back and fix it. Are there any other questions or comments before I consider a motion to approve the document?

**MR. AUGUSTINE: I move that the ISFMP Policy Board approve the Habitat Program Guidance Document as described today.**

CHAIRMAN DIODATI: Second; Wilson. Does anyone oppose the motion? Seeing no opposition; there are no null votes, no abstentions; **we'll consider this approved.** Emily Greene is going to give a presentation on the Atlantic Coastal Fish Habitat Partnership. Welcome, Emily.

#### **ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT**

MS. EMILY GREENE: I'm going to give a quick update on three actions which the partnership has been up to since our last meeting. The first one; in 2012 the Atlantic Coastal Fish Habitat Partnership solicited applications for on-the-ground habitat conservation and improvement projects. We reviewed these applications and submitted a ranked list to Fish and Wildlife Service at the end of the year.

Recently Fish and Wildlife Service announced those projects, which have been approved to receive 2013 funding. Two project applications submitted to the Atlantic Coastal Fish Habitat Partnership were approved. The first is restoring coastal fish habitat using oyster, mussels and marsh grass at Guana Peninsula, Florida; and the second, expanding marine meadow habitat in the Peconic Estuary in New York.

With the first project, which is up on the screen, the University of North Florida will be leading an effort to address the disappearance of oyster reef and spartina alterniflora salt marsh by preventing shoreline erosion and promoting

shoreline accretion using a combination of muscle and oyster-based living shorelines.

As you can see, there are several partners in the project, including members of the National Estuarine Research Reserve and academia. The second project; the Cornell Cooperative Extension will lead an effort to address the need to reestablish SAV in the Peconic Estuary; and eastern portions where water quality conditions are suitable, eel grass will be restored, and in the central and western reaches of the estuary, where initial water quality surveys have indicated insufficient light and temperature conditions, widgeon grass will be restored.

Again, here you see several partners involved, including local groups, again academia and one private group in the Peconic Estuary Program. Secondly, ACFHP endorsed two project proposals in the past couple of months. These are in support of the NFWF bring back the natives /More Fish funding program.

The first project, which we endorsed, is a river herring connectivity project in Connecticut on the West River; and the second is a total marsh restoration project in North Carolina. The first proposed project seeks to remove the Pond Billy Dam, which would expand the riverine migratory corridor habitat and spawning grounds for river herring.

As you can see, the partners there include the Connecticut Department of Environmental Protection and a local land trust. The second project, which again is proposed, seeks to create seven acres of salt marsh and 2,500 feet of tidal creek. This is part of a larger restoration effort, which involves removing farmland from cultivation and placing it under perpetual conservation easement.

There is also hydrology and water quality benefits to this project; and as you can see there, a large list of partners including; academia, Natural Resource Conservation Service, the states, and the North Carolina Coastal Federation. Lastly, I just wanted to make you all aware of our next funding opportunity.

The U.S. Fish and Wildlife Service and Atlantic Coastal Fish Habitat Partnership are requesting project applications to restore and conserve habitat necessary to support coastal estuarine dependent and diadromous fish species. These funds again can be used for on the ground projects and related design and monitoring activities.

We ask that these projects be geared towards meeting ACFHP's protection and restoration objectives as noted in our Strategic Plan. Applications are due by Friday, September 20. If you would like complete information or guidelines on how to apply, you can visit the website on the screen. That concludes my update. Any questions?

CHAIRMAN DIODATI: Thanks, Emily. Those projects you just presented; they are all past recipients of some of this type of funding, I take it?

MS. GREENE: The first two projects are recipients of the funding. The second two, which I spoke on, were proposals that we have endorsed. They have not received funding.

CHAIRMAN DIODATI: What is the level of funding for an average project; what could they expect?

MS. GREENE: For our funding program it is \$50,000 at the max.

CHAIRMAN DIODATI: Any questions for Emily?

MR. LOREN W. LUSTIG: Yes, thank you very much for that excellent report. I always find these projects very, very interesting, and I'm always intrigued with the partners that are developed for such projects, specifically the Peconic Area Project, I believe in New York. I was hoping to see some kind of partnership with an educational system, like a school system.

I am reminded of programs like exist in Maryland, Grasses in Classes; in Pennsylvania, Trout in the Classroom, that provides opportunities for students to actually get

involved in hands-on work like this. Can you comment about that? I didn't see them listed, but I thought perhaps I had missed partnerships that relate to educational systems.

MS. GREENE: There will be a public education component to that project. I'm not sure exactly which partner will be leading that, but there will be two land-based workshops where the public will be involved in helping to assemble the planting units, as well as learning about the importance of the marine habitat and what they can do to help preserve habitat in the area.

CHAIRMAN DIODATI: Any more questions? Yes, these types of projects always get my attention as well and we should tweet them. Oh, we don't have a Twitter account.

MS. GREENE: We do have a Facebook account.

#### **OTHER BUSINESS**

CHAIRMAN DIODATI: Okay, no more questions for Emily, we'll go on to the next agenda topic. These are the new items that were added to the agenda. One is a request to consider developing a mechanism for management of Jonah crab. One thought is that this becomes attached in some way or a vehicle of some sort of the Lobster FMP, which sounds reasonable.

The other is similar and was for channel whelk, and we had talked about this in the past relative to the horseshoe crab management plan. Since the Commonwealth of Massachusetts I think raised the topic for discussion on the whelk, I'm willing to withdraw that in favor of the Jonah crab discussion and move that up in priority.

I think based on past discussions about whelk is to close the door on that is that maybe, at least to begin with, we'll deal with that in some kind of informal, regional discussion; maybe a working group. I see some nodding heads from Connecticut. I know we've already worked a little bit with Rhode Island on this. I think that might be the better approach rather than do a formal plan. We'll pursue it that way. But

Jonah crab is another story, and I understand there might be reasonable benefits if this particular fishery is somehow recognized to a planning process. Do you want to talk to it?

MS. KERNS: I will; and before we dispense of the whelk, I have a question. I think that there were some of the southern, mid-Atlantic states that were also interested. Maybe what I'll do is start off by sending an e-mail out to the state directors trying to figure out where these regional working groups should be broke in or maybe having a couple phone calls with folks, and then help you guys facilitate those regional working groups, whether they be conference calls or we can look into the budget to see if we have funding to do that for in-person meetings or not. Does that sound like a good direction there?

CHAIRMAN DIODATI: That was the direction I was suggesting.

MR. ROY W. MILLER: Very quickly; if a working group is going to consider channel whelk, were knobbed whelk purposefully deleted from that consideration?

CHAIRMAN DIODATI: It is just that the Commonwealth didn't have a major problem at the time with knobbed whelk. Our fishery was focusing primarily on channel whelk, and that's what our regulations were dealing with. It seemed like that was the species that we had the interstate overlap with. But certainly knobbed whelk, we do have a fishery for that and interest in it, and we can combine the two.

MR. MILLER: That might be helpful, because certainly in the Mid-Atlantic area knobbed whelk and channeled whelk are dual, very often overlapping fisheries. Thanks.

MS. KERNS: Back to the Jonah crab, Steve Train actually had asked me to place this on the agenda or have brought up the topic. I had the staff pass out a paper that Steve has put together for us on Fishery Improvement Projects. I think he wanted to speak on the issue. I'm going to actually pass it off to Steve.

MR. STEPHEN R. TRAIN: If any of you actually believe I prepared this, you've got a lot more faith in me than I do. I was asked to participate in the Fisheries Improvement Project for Jonah crab, because this is a consumer-driven thing.

A lot of the retailers, whether it be Delhaize America, which owns Hannaford among others; for example Wal-Mart that wants MSC certification on anything, requiring, if at not least requesting that their seafood be proven certifiable or sustainably managed, as far as the ability to maintain the resource.

Delhaize America has presented the funding to start this Fisheries Improvement Project, because it was either that or pull Jonah crab off the shelves of all their stores. It does not fit their criteria, which would have destroyed the crab market in the short term, and I don't know what it would have done in the long term, because there are many other stores doing the same thing.

We are trying to come up with the tools we need to find out what we need to do with this fishery, to get the science we need to establish the status of the stock in the resource, and the effort level currently in the fishery. I'm here basically trying to find out what direction we go at this point, and on the assumption with the same boats and the same gear are using this fishery as are doing the lobster fishery, that it would be managed in very similar fashion by the same group.

The National Marine Fisheries has been informed, and I told Peter about it last week, but we also have had a member from Woods Hole involved in the process. We've met three times and we'll meet again in October.

MS. KERNS: If it is the will of the policy board to want to pursue this further, staff can put together a working paper similar to that that we pulled together for whelk with different ways that we can potentially bring Jonah crab into some sort of management plan through the commission; either through its own management plan or whether it be somehow incorporated into

the lobster management plan, and then be under the Lobster Board; what type of data we would need to collect from the states. We can see if we can get some of that data prior to the annual meeting and have a further discussion at the annual meeting.

CHAIRMAN DIODATI: Does that satisfy your request, Steve?

MR. TRAIN: That sounds good to me. Is there anything I can answer in bringing this forward to anybody here?

MR. AUGUSTINE: Where is it prosecuted; is it primarily federal waters, 50, 60, 80 feet deep, or does it border on state waters? I know you have the offshore lobstermen, and I know that is where you go, but is that where we primarily find these? Then again; does the range go all the way down to the Mid-Atlantic or is it primarily concentrated in New England area? The question begs to be asked whether it should be a council issue or a state issue. Can you help me with that, Steve?

MR. TRAIN: The range of the resource appears to be primarily the same range as the lobster fishery, but the primary harvest is occurring in Area 3.

MR. TERRY STOCKWELL: Just a quick question for Steve; is this going to remain specific to Jonah crab or how about any of the other crab stocks?

MR. TRAIN: The working group is specific at this point to Jonah crab. There are other crab stocks, but, for example, the red crab is already MSC certified and managed. The other crabs are carried on a different basis by the stores. The consumer that is driving this didn't request it of any other.

CHAIRMAN DIODATI: Why don't we ask staff in doing the background work if there are other crab species that they think should be combined, and then they'll make that recommendation? Likewise, on whether this should be an ASMFC versus federal council management plan, which is essentially what

we're talking about, I think we should progress as an ASMFC plan, given how closely linked these two are, lobster and Jonah crab. I don't think it would be productive to have something that closely linked outside of the commission.

MR. ADAM NOWALSKY: Two questions hopefully you can answer, Steve. One is that the harvest in Maine – I know in New Jersey this is primarily a bycatch in the lobster fishery from fairly far offshore – is this a state waters harvest in Maine or is it more of a deeper water, federal waters harvest in Maine?

MR. TRAIN: First of all, Maine has become a smaller player in this fishery, and it is a bycatch. It is harvested throughout the range where we fish. We catch Jonah crabs up in the bays and we catch them in deep water. The majority are further off, not nearshore.

MR. NOWALSKY: The second question would be the consumer that is driving this; is there a willingness to support funding for assessment work in your opinion or are they looking for us to foot the bill and then reap the benefits of us announcing its stock status?

MR. TRAIN: It may have been – you may have slightly misstated it. The fishermen would reap the benefits of maintaining markets, but I think they expect the stock of fishery to be managed as any other sustainable fishery is managed, at a cost of whoever is going to manage the fishery. We don't even know where to go from here right now. This is a very valuable fishery, and it is a directed fishery by some lobster boats during certain parts of the year. It is considered a bycatch, but for a big portion of the year it is a directed fishery. Did I answer you?

MR. NOWALSKY: Not really; I guess that would be a question. Maybe one question to consider as you're going through these working groups to get some feedback potentially where they think the funding for assessment is going to come from.

MR. WILLIAM A. ADLER: Down in Massachusetts, yes, the Jonah crab is right up to the beach. When we're catching lobsters, we



will be catching – we will be getting Jonah crabs. I know that, as Steve had said, certain times of the year the offshore lobster boats – and it is usually; I think this year it was pretty much in the late spring, early summer.

They were actually concentrating on crabs. Their catch of lobster from the offshore canyons was almost the bycatch for that time; then that dies off and they really get into heavy lobster landings. But I know in Massachusetts we've had some of these offshore boats that have come in, in late spring and early summer, and they are concentrating on – and their major catches are these crabs from the offshore waters.

MR. STOCKWELL: Maine DMR has done some preparatory work in anticipation of developing a Jonah crab or other Crab FMP. Each time we've moved it ahead, the crab population has crashed. There is some preliminary work done, Toni. I would contact either myself and/or Carl.

CHAIRMAN DIODATI: Okay, so why don't we sit back and wait until the staff has an opportunity to do some work on this, and we'll hear back a report at the annual meeting. I guess the other take home message is watch what you ask for. Because with this kind of an action, typically comes conservation needs and management in a style that fishermen or harvesters typically don't appreciate. These stamps of approval are more than a stamp. It is going to be a real program of regulation and management.

MR. WILLIAM A. McELROY.: In the southern region, it absolutely is an important part of the lobster fishery. Steve is absolutely right and Bill that the predominant catch comes from the offshore fleet, although the inshore fleet does catch crabs. Almost to a man down in my area, they take your advice and are they are very careful of what they ask for and are scared to death of opening up this can of worms.

Quite frankly, I'm a little bit surprised when I came here this week to find out that things had moved along this far, because there had been very little contact with the Southern New

England component of the lobster industry. I'm not sure that this is a direction that we want to go. There is an awful lot of marginal lobster fishermen where the crab catch is extremely important to them staying in business. To open up a can of worms and not know where we're going is a scary adventure down my way.

CHAIRMAN DIODATI: Okay, I think we've heard as much input as we need on that to get moving on it. We'll see what the report is in the fall. One other issue relative to the last Lobster Board meeting was a request for the commission to send a letter to National Marine Fisheries Service about one of the proposed rules, I believe it was. Is someone going to speak to this? Go ahead, Doug.

MR. DOUGLAS E. GROUT: On behalf of the Lobster Board, we had comment provided that – I think some of you may remember we had recently implemented a management action to try and implement an agreement that was put together between the groundfish mobile gear fleet and the offshore lobster fleet.

As National Marine Fisheries Service was looking at allowing the groundfish fleet into areas that had typically been closed to mobile gear, there was concern about the impacts from mobile gear on egg lobsters as well as the gear conflicts that could potentially occur. The upcoming habitat management action may open up a habitat area to the scallop fishery, and we have the same concerns about gear conflict and the impacts on egg females.

There are a large amount of egg females that are caught out there in June, July and August. The request of the board to the Policy Board is that the Executive Director write a letter expressing our concern about this to the council and the National Marine Fisheries Service. We would like approval for the Executive Director to craft that letter and send it out.

MS. KERNS: I was actually thinking about the letter that we need to send to NOAA on the proposed rule. The commission submitted comments on the lobster proposed rule that NOAA Fisheries has out that catches them up

with several addenda that the commission has passed regarding the allocation of several lobster management areas in the transferability program.

There were a couple of issues that did not align with the commission plan that were in the proposed rule, and the Lobster Board had discussed this at the meeting and agreed upon how we wanted to respond. We were going to send that letter on behalf of the commission, and the other letter I thought was on behalf of the Lobster Board to the council. Both should be from the commission, so there is just a second letter; two letters then.

MR. GROUT: Yes, I was going to get to that after the first one. As Toni so eloquently stated, there is a comment letter on the proposed trap transfer rules that NOAA had put out that we also wanted to have come out from the commission. Again, we needed a concurrence from the Policy Board on this.

MR. ADLER: Do you need a motion for that?

CHAIRMAN DIODATI: Not really; there is no opposition to sending these letters? I know you discussed this at the board. There seemed to be consensus to do this. I see heads nodding. Without objection, we'll prepare those, and those will be letters sent probably signed by the Executive Director. Kelly, are you ready to give your presentation? Do you want to do it from there? That would be fine.

MS. KELLY SHOTTS: This is on the River Herring Endangered Species Act listing. After reviewing the available data and information, we have concluded that listing alewife or blueback herring, collectively known as river herring, as either endangered or threatened under the Endangered Species Act is not warranted at this time.

The findings as well as the information that was used by us to make this decision will be posted on the Northeast Regional Office's Website, and I will be happy to provide that website link to the commission for you guys to post that and make sure that is circulated for folks to look at.

We plan to collect further data and information to fill in key data gaps for these two species.

Of course; we will be working with you all in the commission and our other partners in order to do that and have a coordinated coast-wide effort. We intend for this to lead to the development of a conservation plan that would focus on addressing the key data gaps and conserving river herring and their habitat.

I think we need to not necessarily right now, but talk with the commission about what's the format for that group to be able to have those conversations. The idea would be for this group to attempt to quantify the impact of ongoing restoration and conservation efforts and new fishery management measures that are being developed, such as catch caps in two federal fisheries; review any new information produced from ongoing scientific studies, such as genetic analyses, ocean migration patterns and climate change impacts, and assess available data to determine whether recent reports of higher river counts in many areas along the coast in the last two years represents sustained trends.

We're committed to continuing to work with partners and tribal governments to implement important conservation efforts and fund needed research for river herring. We intend to revisit the status of river herring within the next five years and are hopeful that the work we will be doing with the commission and our partners in the next few years will provide additional information for us to consider at that time.

We would really like to thank the Commission, the Fish and Wildlife Service, the states and tribal governments for their assistance in the status review process and hope to continue our collaboration as we move forward with the development and implementation of the conservation plan for these important forage fish. I would be happy to do my best to answer any questions.

CHAIRMAN DIODATI: Any questions for Kelly? That is excellent news, Kelly, and I really thank you for bringing that to us even

before it was posted although you know we're live on the internet right now.

MS. SHOTTS: I do.

CHAIRMAN DIODATI: Okay, but that is good news and I'm sure that the work that is done here or has been done here and our respective councils weighed into that decision. I think this means we have to continue to keep up our end of the bargain and continue to work hard with river herring.

MR. ADLER: There were two things; river herring and did you mention something else that was not warranted for listing; what was it?

CHAIRMAN DIODATI: Alewife and blueback; the two species that make the composite of river herring. Any other questions for Kelli?

EXECUTIVE DIRECTOR BEAL: Not a question, just a comment. I think when the sturgeon decision came out, there was a lot of fairly strong comments came out of the commission, and one of those comments centered around involving our technical folks at the commission and at the state level in some of the technical meetings that lead up to the decision whether to list or not to list a species.

I just want to thank NOAA Fisheries for involving the states and the commission a lot more in those technical meetings leading up to this river herring decision. It was a much more inclusive and open process of the technical work. The decision still has to be made by the federal government, but including the states and the data that the states can provide leading up to those decisions I think is helpful to the states. Hopefully it's helpful to the federal services as well. I just wanted to thank them for responding to the commission's concerns with the sturgeon process.

CHAIRMAN DIODATI: We should react in a similar way. When we're unhappy, we're quick to write letters, so maybe we should send a letter of thanks and appreciation and let them know

that we're standing by to continue our work on this. Bob, that will be three letters that we need.

EXECUTIVE DIRECTOR BEAL: I'll get my typewriter going.

CHAIRMAN DIODATI: There is a fourth letter coming; you had to mention sturgeon.

DR. DANIEL: My letter was not related to this or sturgeon. I am not going to go there today.

CHAIRMAN DIODATI: Unless there is something else; okay, go ahead, Louis.

DR. DANIEL: I just wanted to know what you all thought about perhaps sending – when the South Atlantic Board met the University of Florida graduate student intern that wrote the habitat section – Wilson, help me out – the red drum habitat.

DR. LANEY: I'll have to ask Jim to help me out. Was it the University of Florida or Florida state; one or the other, I think, or maybe was it Florida Atlantic. I don't remember. We'll determine that, Mr. Vice-Chairman.

DR. DANIEL: That would be a nice letter for some young start in the field to get a letter of appreciation from the commission for a lot of work directed towards developing our habitat addendum for red drum. If there is no objection, I would like to see a letter sent to that graduate student as well.

CHAIRMAN DIODATI: Well, we'll consider that done, then, a fourth letter, fifth letter. Unless there is something else, and I don't think there is, I know we have other meetings on the agenda. Bob, do you want to – are we going to get a reprieve? I guess there is no way. Go ahead; I'll let you refer to the next couple of meetings.

EXECUTIVE DIRECTOR BEAL: I think the Summer Flounder Board probably does need to meet today. There are some folks that came in just for that meeting. David Simpson and Toni talked a little bit. I think they can pare down a

couple of the agenda items and hopefully speed it up a bit.

Then concurrent with the Summer Flounder Board meeting, the ACCSP Executive Committee is going to meet down in the boardroom down the hall. That is where you are going to need to be, Paul. Then the Coordinating Council will meet immediately after the Summer Flounder Board. Hopefully, both these meetings can be done efficiently and expeditiously, because I know folks are more than worn out.

**ADJOURNMENT**

CHAIRMAN DIODATI: If there is no objection, I will consider this meeting adjourned.

(Whereupon, the meeting was adjourned at 5:05 o'clock p.m., August 7, 2013.)