

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
INTERSTATE FISHERIES MANAGEMENT POLICY BOARD**

**Crowne Plaza Hotel Old Town  
Alexandria, Virginia  
August 15 & 16, 2007**

## TABLE OF CONTENTS

Call to Order .....	1
Approval of Agenda.....	1
Approval of Proceedings.....	1
Public Comment.....	1
Recreational Registry Update .....	2
White House Office of Science and Technology Policy Presentaton .....	10
Joint Ocean Commission Initiative Presentation .....	13
Questions and Discussion .....	17
Non-Native Oyster Activities Update .....	21
Use of FAX Ballots for Board Decisions.....	22
Non-Compliance Recommendation Review, State of Maine .....	24
De minimis Provisions .....	25
ASMFC Strategic Plan Update .....	30
Habitat Committee Report .....	31
Atlantic Coastal Fish Habitat Partnership.....	31
Alignment of State/Federal Management .....	33
Fishing Gear Technology Workgroup Membership .....	35
Response Correspondence from Southwick and Associates.....	36
Spiny Dogfish and Coastal Shark Management Board Recommendation.....	36
Other Business .....	39
Adjourn .....	40

## INDEX OF MOTIONS

1. Approval of Agenda by Consent (Page 1)
2. Approval of Proceedings of October 2007 by Consent (Page 1)
3. ....On behalf of the Atlantic Herring Section, I move that the ISFMP Policy Board recommend to the full commission that the state of Maine be found out of compliance effective September 24<sup>th</sup>, 2007, for not fully and effectively implementing and enforcing Amendment 2 and Technical Addendum I to the Interstate Fishery Management Plan for Atlantic Herring.

The state of Maine has not implemented the spawning restrictions, Section 4.3.2, contained in the plan. The spawning restrictions are necessary to protect the spawning aggregations that are highly susceptible to fishing in order to ensure continued recruitment to the stock. In order to come back into compliance, the state of Maine must implement the spawning restrictions as detailed in Amendment 2 and Technical Addendum I.

Motion made by Eric Smith on behalf of the Atlantic Herring Section. Motion carried (15 in favor, 0 Opposed, 3 Abstentions) on Page 24.

4. Move that the list presented on the Fishing Gear Technology Workgroup as presented be accepted and approved (Page 36). Motion made by Pat Augustine; Second Robert Boyles. Motion carried on Page 36.
5. Adjournment by consent. (Page 44)

## ATTENDANCE

### Board Members

George Lapointe, ME (AA)	Roy Miller, DE, proxy for P. Emory (AA)
Patten White, ME (GA)	Bruno Vasta, MD (GA)
Doug Grout, NH, Proxy for John Nelson (AA)	Howard King, MD (AA)
Rep. Dennis Abbott, NH (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Paul Diodati, MA (AA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Catherine Davenport, VA (GA)
Bill Alder, MA (GA)	Louis Daniel, NC (AA)
Mark Gibson, RI (AA)	Damon Tatem, NC (GA)
Eric Smith, CT (AA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Lance Stewart, CT (GA)	John Frampton, SC (AA)
Karen Chytalo, NY, proxy for G. Barnhart (AA)	Robert Boyles, Jr., SC (LA)
Pat Augustine, NY (GA)	Malcolm Rhodes, SC (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	April Price, FL (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Gil McRae, FL (AA)
Erling Berg, NJ (GA)	Spud Woodward, GA, proxy for S. Shipman (AA)
Frank Cozzo, PA, proxy for Rep. Schroder (LA)	Dave Perkins, USFWS
Eugene Kray, PA (GA)	Chris Moore, NMFS
Leroy Young, PA, proxy for Douglas Austen (AA)	A.C. Carpenter, PRFC

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

### Ex-Officio Members

#### Staff

Bob Beal	Vince O'Shea
Brad Spear	

#### Guests

David Perkins, USFWS	Bill Goldsborough, Chesapeake Bay Foundation
Bill Sharp, FL FWC	Steve Meyers, NMFS
Peter Hill, JOCI	Cecilia Lewis, USFWS
Stephen W. Heins, NYS DEC	Bennie Williams, USFWS
Bill Windley, MSSA/RFA	Wilson Laney, USFWS
Ken Simmers, MSSA	Dan Walker, EOP
Forbes Darby, NOAA	Arnold Leo

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 15, 2007, and was called to order at 1:15 o'clock p.m. by Chairman George D. LaPointe.

### **CALL TO ORDER**

CHAIRMAN GEORGE D. LAPOINTE: Good afternoon. My name is George LaPointe. I am the Chair of the Policy Board. We have a number of materials that have been handed out. We have an agenda and meeting overview for today and for tomorrow. It is my intention to work through as much of the agenda as we can, so that tomorrow's agenda is as short as possible. I think we can do that.

It is a new agenda. It is different than what was given to you in the CD. We have some folks coming from the Joint Ocean Commission Initiative and the Council on Environment Quality to update us on the President's Ocean Action Plan, and they were told that we will be ready for them at 2:00, so we will run through the agenda and stop whatever we're doing at that time and take up their discussions.

### **APPROVAL OF AGENDA**

Are there changes to this agenda? Given the fact we're going to meet tomorrow morning as well, if there are things that we missed, we can add those tomorrow. Seeing none, we will consider the agenda approved.

### **APPROVAL OF PROCEEDINGS**

The next item of action is approval of the proceedings from May 2007. Moved by Pat White and seconded by Pat Augustine? Does anybody have changes or corrections to the proceedings? Unless there is objection, we will consider those approved as well. I see no objection, thank you.

### **PUBLIC COMMENT**

We have a period on our agenda for public comment, and the public comment at this point is for items not on the agenda. Mr. Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Thank you, Mr. Chairman and members of the board. I have to beg your indulgence about a time-sensitive matter regarding menhaden, because there was no

Menhaden Board meeting scheduled for this week. There are three parts to my concern.

The first is that NMFS has just reported that reduction landings for the coast are 20 percent above the five-year average. As you know, we adopted a cap last year for reduction landings in the Chesapeake Bay that was at the five-year average, and yet the Chesapeake Bay landings numbers are not reported. They are considered confidential.

There was no understanding in the public, anyway, for where we are relative to the cap. By the next time you meet or when the Menhaden Board can meet again, it could be too late to consider that. I presume the state of Virginia has everything in hand on this, but I think it would be worthwhile getting on the record where we do stand, so that the public is aware of it.

The second part of the question clearly related to that is the issue of confidentiality. I understand the federal law, but it almost seems to me more relevant that they withhold their coast-wide landings, if they're concerned about competition, than withhold their Chesapeake Bay landings, which are just a subset thereof.

When we do have a public policy in place that's dependent on the Chesapeake Bay landings, it would seem important that they be regularly reviewed and reported, especially under the circumstance where the coast-wide landings, as I said, are 20 percent above the five-year average through July.

Then the third part, also related, is the matter of reporting. Back on the record of the Menhaden Board at the annual meeting last fall, there was discussion of this and how reporting becomes more important now that there is a Bay cap but not an ocean cap. As you know, many of the reduction trips, it's typical for a reduction trip to take fish in both areas on the same trip.

There was discussion made and, in fact, a point made by industry at that meeting that they were working with NMFS to develop a VMS system that would allow precise time-and-location reporting of catch, and even said on the record that equipment would be installed by Christmas. I think that, too, an update on that could stand to be provided as well. The public who, as you know, is very concerned about this issue would be very appreciative. Thank you, Mr. Chairman.

CHAIRMAN LAPOINTE: Thank you, Bill. A.C., are you still the chair of the Menhaden Board?

MR. A.C. CARPENTER: Can I resign now?

CHAIRMAN LAPOINTE: You may not.

MR. CARPENTER: Yes, I am still chair of the Menhaden Board. To my knowledge, this is not a problem at this point in time. The information that I've been provided indicates that it is not a problem right now.

CHAIRMAN LAPOINTE: It strikes me that if Bob works with you in addressing these issues and then reports back to the Policy Board, that would be a good way for us to get up to speed, so that, in fact, the questions that are being asked, we can address in a formal way, without getting too in depth about it. Does that make sense?

MR. CARPENTER: Let me work with Bob this afternoon, and we can report back to the board tomorrow.

CHAIRMAN LAPOINTE: That would be great, thank you. Bill.

MR. GOLDSBOROUGH: If I may follow up, would that be on all three points, then, we would hear something tomorrow?

### **RECREATIONAL REGISTRY UPDATE**

CHAIRMAN LAPOINTE: Sure. Are there other public comments? Seeing none, the next agenda topic is an update on the recreational registry. We have Gordon Colvin, a reforming or recovering state director, who now works for NOAA Fisheries and is here. Paul Diodati wrote us a letter as well. Paul, do you want to kick off with your letter?

MR. PAUL DIODATI: I could do that, Mr. Chairman. The letter is actually requesting that this topic be added to today's agenda, and so you've done that, and thank you. I have met with Gordon and some other representatives in the northeast relative to planning and coordination for this new initiative, this new federal law, and how it is going to be implemented.

I am beginning to become more and more concerned, as I think about it, that the law is going to require recreational registries of some type in federal waters and for anadromous fishing throughout the range. But, clearly, there are enough loopholes in that

language that will leave, I think, a mosaic of non-registered individuals or state-registered individuals or duplication.

Since the federal initiative I believe is aimed at improving our understanding of recreational fisheries in terms of landings-and-effort statistics, having this phone book of registry or of registered users is a critical component to be accomplished, and I don't think it is going to be accomplished without some high-level coordination between the states and the federal agency.

I think you have here on the agenda a possible action for consideration. I'm not prepared for that. I'm not sure what that action would be, but I think we have to have some lengthy discussion, at the very least, in order to at least provide a database, a single database of users. I don't see us getting there right now the way things are going.

I did call for a meeting that I hosted back last month that Gordon was gracious enough to come to and provide us with a valuable update, us being state representatives from Maine to New York. We seem to be a crucial element in the U.S., given that we're the primary non-licensed states.

We all, at some level, have been considering different types of state legislation to implement a program, again without coordination, nothing really mirroring each other. I think there is some value in us discussing this, and there is either a role here for ASMFC or ACCSP as coordinating agents. I would like that discussion to take place today.

CHAIRMAN LAPOINTE: Dennis Abbott, do you have your hand up?

REPRESENTATIVE DENNIS ABBOTT: Thank you, George. I attended the meeting in Massachusetts, and it was a worthwhile discussion, but I'm not sure if it left us with more questions than answers. As Paul just alluded to, there are pieces of information that would be helpful to me as I as the sole sponsor of the salt water license in New Hampshire, I would probably like to have more information as I pursue this.

Seeing how we're all going a bit in different directions in the northeast or in no direction at all, including your state of Maine with a stalled bill and me having a stalled bill, and Paul not having a bill, I have decided in New Hampshire that I am probably going to kill my own bill because I don't think it is ready for prime time yet. What I would like to see

happen is for us to develop a unified approach so that as I move back into the legislature, I will then be able to sell the idea a lot better than I have been able to.

The Salt Water License Bill, as we would call it, has met stiff resistance in my state. Because of the proximity of the borders, no one wants to see a license in our state when Massachusetts doesn't have one or Maine doesn't have one. I don't think that I could be successful in passing that legislation, but as we work together and come up, hopefully, with a unified approach, I will be much better armed to move forward in my legislature. Therefore, I've fully supported Paul's idea of writing a letter and trying to see if we couldn't get involvement from the commission to help us as we move forward in this effort. Thank you.

CHAIRMAN LAPOINTE: Thanks, Dennis. I am going to ask Gordon to give us an update. There was a meeting in Tampa last week, which I attended, where the registry was discussed. They're building this as they go along, so I think it's certainly appropriate that we continue to get updates from our states and from the National Marine Fisheries Service, so that in fact we can get the information as this moves along. Gordon, please.

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. Let me begin by saying how nice it is to be seated at this table again and to have an opportunity to talk, once again, to my friends and colleagues. I hope that we continue to have these opportunities and particularly on this important subject.

Let me back up a little bit first just so that I'm confident that when I start talking about the registry, we all have it in the same context as we go forward. All of this flows from the frustration that grew in recent years over the use and application of recreational survey-based catch-and-effort data to our fishery management problems and needs, as we all know.

We have lived through a lot of that together. At the end of the day, the kind of a driving force was the decision by Bill Hogarth to seek the support and review of those survey programs by the National Research Council. Their review and their findings were reported to all of us, I guess about two years ago now, over in Crystal City by the chairman of that panel, Dr. Pat Sullivan from Cornell.

That evaluation, critical though it was, set in motion actions by the Service and by Congress and hopefully

by a wide array of partners, including the states and fishing constituencies, to solve the problems and resolve the issues and deficiencies that were identified in that report. That effort within the Service has come to be known as the effort to develop the new Marine Recreational Information Program, or MRIP, which will ultimately replace the array of surveys, including the word that shall not be spoken, over time.

This will be a process of evolution, but in passing the amendments to reauthorize the Magnuson-Stevens Act, Congress did direct the Service to undertake this effort to specifically and affirmatively address the NRC recommendations and to embark on new programs to resolve the identified problems by January 1<sup>st</sup>, 2009.

That effort at the National Marine Fisheries Service is assigned to the Office and Technology under the leadership of John Borman. The Service has created, with John as chair, an executive steering committee that oversees this entire effort. I think it's just worth understanding a little bit about the structure of how the effort is being organized and led.

The executive steering committee consists of members both inside and outside NOAA Fisheries, including the three interstate fisheries executive directors – Vince O'Shea is a member of the executive steering committee – representatives of industry, of MAFAC, and other organizations. The executive steering committee has essentially established three major teams under it to deliver the program.

The largest team and the one with the biggest job is the operations team, which really has the fundamental job of rebuilding the surveys themselves, of doing the studies, the other research projects, the other kinds of organizational projects that will develop, evolve and implement our new survey program, or the MRIP, beginning in about a year and a half.

That team is led by Preston Pate, who has recently joined us to head up that effort, and we are, of course, delighted to have Pres working with us as well. On kind of a day-to-day basis, Rob Anders from the staff is taking care of the day-to-day functions and operations and planning for the operations team.

The other two teams are the communication and education teams, and Forbes Darby, who is the national recreational coordinator for the Service, has been tasked to work with us on that pretty much

fulltime. Forbes is heading up that team. Clearly, communications, education, engaging stakeholders, getting everybody involved in a partnership to move this program forward successfully is critically important, so that team's work is critically important.

Lastly, there is a team, the National Salt Water Fishing Registry Team, which I'm leading, that is working on this issue of the registry that Paul Diodati brought up. Stepping back to the NRC recommendations, there were clear and specific recommendations in the NRC Report about the need to replace the current process that is used by MRFSS and by a number of other state surveys of dialing randomly selected households to collect and develop estimates of fishing effort.

The NRC Panel specifically recommended replacement of that approach with an approach that is based on a universal angler registry frame. And, as with many of the other elements of their report and the subsequent work by Congress, they saw this as something that needed to be done under the umbrella of National Standards, but implemented regionally with attention to tailoring to meet regional needs.

The Reauthorization Act picked up on that requirement and contains specific language directing NOAA to develop and National Salt Water Angler Registry, and have it in place and to begin to implement it, also, on January 1<sup>st</sup>, 2009; and further stating that the Service could not charge a fee for anglers to register until January 1<sup>st</sup>, 2011; clearly implying that as of that date, fees could be charged.

The language also states that the Service is to provide an exemption to the requirement to register under this national registry requirement for anglers who are registered by a state and the state provides data that meets the Secretary's needs in that regard; or – and this is something that's important to emphasize – or that a state provides survey data, recreational catch-and-effort survey data that is also registry based.

We can exempt from the federal registration requirement anglers who are part of a state registry and the state provides that registry information to the Service in a fashion that meets the needs that the Service defines; or, that the state uses it for survey purposes that are sufficient to meet a level of standards that we must also define. Either approach is enabled by the law.

Another important thing to recognize is that despite the fact that the NRC Panel was very clear about insisting on the need for a universal angler registry,

the language of the Magnuson Reauthorization is not that. It specifically would require anglers in three categories to be registered; those who fish in the EEZ, those who fish in international waters beyond the EEZ, and those who are fishing for anadromous fish anywhere.

Fishing for non-anadromous fish in state waters and in the territorial sea is not covered by the national registry. So we have on the one hand the challenge of a defined need by the NRC Panel and science, if you will, to get all anglers into the registry or into the phone book; on the other hand we can't compel all anglers federally to do so.

As a consequence, what is of greatest importance to us is to find ways to work cooperatively with the states, the interstate commissions, and particularly the regional fishery statistics programs, ACCSP, RECFIN, Southeast and Pacific RECFIN, and others to build registries on a regional basis that come as close as possible to the ideal and that we improve over time.

That is kind of where we are. In some sense we would be just as happy to never have to register an angler federally, but to find ways to work with registries provided by states and regional partnerships. But, at the end of the day, we will create the basis for a federal registry, we will implement and enforce it January 1<sup>st</sup>, 2009, for states that are not exempted.

Now, we have just begun the work of the National Salt Water Angler Registry Team. And as Chairman LaPointe indicated, the team had its first meeting last week in St. Pete Beach, alongside the operations team and the various workgroups it has established to do the reconstruction of the MRIP.

I'm pleased to say that there are several people in this room, besides myself, who have agreed to be on that team, including Chairman LaPointe, Mr. Woodward, Brad Spear, Mark Robson from Florida is on the team, and Eric Barth from Virginia Marine Resources Commission is also on the team, along with representatives of the industry. I think Dick Brame is still in the room somewhere. Dick is a member of the team. Dick is also on the operations team that is developing this effort.

I think that is everybody that I see here. I am grateful to have the participation and support of these folks as members of the team. It is a terrific group. After one meeting, I already can see that we've got a good



working bunch and we're going to get a lot done quickly.

Our emphasis last week was trying to narrow down the range of options and approaches to the development of the registry so that we can come to closure on that issue and hopefully announce proposed rulemaking in late September or early October that will lay out the details of the process and that we will have sufficient information to inform the states about what is the target they need to be shooting at to be able to qualify for an exemption, and then looking ahead to the process of adopting that as a final rule early in 2008.

Mr. Chairman, that is about as much as I thought I would throw out today. I would say this; Paul Diodati mentioned the need for some further discussion and dialogue. We would be very happy to be part of that in any way, shape or form that the board or the commission would like us to be. If you want to follow up at other meetings and have more formal presentations, we would be glad to do that as well. We are at your pleasure because we're all in this together, and we appreciate the need to do that.

CHAIRMAN LAPOINTE: Thank you, Gordon. My understanding of your process is our committee did work last week. It goes to that executive steering committee, and then you'll have proposed rules in October, hopefully before our annual meeting. It strikes me that this conversation will have a lot more traction about what will be covered and what won't.

We discussed the issue of exemptions; we discussed those states without licenses and what they need to do, those states with licenses and some of the things they may need to do; and so when we have that next product from the National Marine Fisheries Service, it strikes me we could have a much more substantive discussion about the kind of things that Paul and others were asking about. Does that make sense to folks? Mr. King.

MR. HOWARD KING: Thank you, Mr. Chairman. Gordon, I'm pleased to say that one of our staff, Linda Barker, is, I think, chair of the data team, and we're pleased to be able to participate with the new Marine Recreational Information Program. Gordon, you mentioned that a fee could be charged January 2011. Federal agencies are really under a mandate to recover costs, aren't they, and so isn't a fee very likely?

MR. COLVIN: Yes.

CHAIRMAN LAPOINTE: Mr. Carpenter.

MR. CARPENTER: I, too, welcome Gordon back. Gordon, a number of states and jurisdictions have boat licenses that cover everybody aboard that's fishing. At this point in time, how has the committee and the steering committee begun to think about that perspective? I think it's important in this discussion, and I think it's important for us to know between now and October which direction we're headed in that.

MR. COLVIN: Thank you, A.C., that's a good question, and it is one that we spent quite a bit of time on last week. In fact, we discussed, as the chairman indicated, a number of different issues relating to the different kinds of exemptions and different scopes of coverage of state licenses around the country.

When we issue the proposed rule, we will expect that the rule will address what sorts of state license exemptions will be within the scope of what can be approved for an exemption from the program and what won't. As of the time of last week's meeting, the team was leaning towards, I think Spud actually coined the term, a hybrid approach that on the one hand is looking at trying to get as many states as possible exempted up front while at the same time securing commitments to improve the coverage and representation of their sample frame over time.

There were, however, certain exemptions that caused the team quite a bit of concern, not so much exemptions for youth or seniors or disabled people, but exemptions including those who fish on private boats and those who fish from shore, which some of the states have. I can't say today where we're going to end up, but, clearly, those were issues of concern to us.

One of the things that we thought about and will discuss further at our next meeting is to essentially exclude certain categories of exemption, but lay it out there that a state who can develop a quantitative argument that stands up or an alternative way of collecting the data that meets the standards might still be able to get an exemption.

Dr. Eric Barth, for example, specifically with respect to the question that you raised, A.C., wondered out loud if it might be possible for a state with a boat-license exemption to find a way of getting the effort data from the non-licensed participants on those trips in a manner other than by a telephone survey, to provide that data and convince a technical reviewer

that that data was sufficient and equivalent to what would have happened or what we would have been able to recover otherwise. Hypothetically that is possible.

Similarly, when we talked about issues associated some of the other kinds of state exemptions, shoreline fishing exemptions or the California Public Pier Exemption, we hypothesized that there might be ways to come up with sufficient data on the essential user-effort estimates that might get us there. So, we're not yet prepared to rule those things out, but we are concerned about them.

CHAIRMAN LAPOINTE: I have Robert Boyles and then Lou Daniel and then Roy Miller.

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman. Gordon, a real quick question – welcome back, by the way, as well. Has the team considered or will the team consider kind of the alternative approach with some incentives to states either to develop this program rather than, well, if you don't do this, you're anglers are going to have to have a federal license or be registered federally as a way to help offset the cost.

And a related question, I am concerned about the format within which the data will be used by the feds and who is going to bear the cost of making sure that data is usable by those who need it? Thank you.

MR. COLVIN: We talked about all those things. I think those are probably issues that will get more attention a little farther down the road, particularly the issue of incentives. I do think it would be helpful, as we discuss these things, for states to make suggestions about the kinds of incentives that would be helpful, because to some degree that is something the team needs to hear back and elevate up to the executive steering committee and NOAA Executive for some discussion internally, as you can imagine.

If I can, Mr. Chairman, one point that I'd like to emphasize, too, that I think will bear on both of these questions. The Service is committed to trying to make this entire process as transparent and to keep our partners informed as well as we possibly can. To that end, for example, you're going to see, shortly after the meetings are completed, the meeting minutes and a pretty complete description of things that were discussed posted on, what we're now referring to as the MREI Website as being the initiative that is in place now to put the final program in place.

Some of the issues the last two questioners addressed, you will see those referred to in the registry team minutes when they post. I know they're in there because I finished writing them yesterday, so they will be there.

The other thing is that we also talked about communication to the states, and I think one of the team's recommendations to me was that we try to get some kind of, I won't call it an electronic newsletter, but some kind of communication via e-mail out to all the state directors at least once a month and ahead of any major new decisions, announcements or directions so that you see it coming, you know when it is going to happen, and you're pretty much aware of things as they evolve.

DR. LOUIS B. DANIEL: Just to kind of follow up a little bit on what A.C. was talking about and the exemptions. We spent most of this legislative session of using the new federal registry as sort of the hammer not to make any changes to our license. I think if they do allow shore-based anglers to be exempt or boats to be exempt, then you will see at least North Carolina, more than likely, coming back with those exemptions, and we're going to lose a lot of what we've worked for to minimize the number of exemptions that we have.

MR. ROY MILLER: Thank you, Mr. Chairman. I'm going to follow up, as well, on A.C.'s remarks, if I may, and the answer that Gordon gave to A.C.. On a more generic sense, however, considering that all states that have a license frame have exemptions of some sort – I think it is fair to say that – do you envision or is too soon for you to tell whether a state will either be in compliance or out of compliance with the proposed federal registry?

In other words, let me be more specific. If the state is able to supply a registry of most of its anglers, would then the federal registry apply to those anglers that are not part of the state registry; or, would that state, we're sorry, your program doesn't meet the minimum needs of the program and, therefore, your registry is of no utility to us? How do you envision that working, if it is not too soon to make that call?

MR. COLVIN: Roy, I think, of course, until the rule is done, it is not done, and we can't necessarily foresee changes that might occur between the time of draft and final rulemaking with 100 percent certainty. However, none of the approaches that the team talked about last week would have essentially imposed a dual registration requirement in the state; one that

covered state license holders and another that covered anglers who weren't covered by the state license.

That is not something we talked about, and it is not something that I think the team is particularly interested in bringing forward. As I said, I think really our emphasis – where we have a state registry that can be provided, that can be made available – and as Robert indicated, we have a lot to do on the data end of that that we've yet to address, but, still, where we have that, that is what we want to work with.

We want to find a way to bring it into the system and then build it up by expanding the information the state can get its hands on. Remember, at the end of the day, the federal government can't register the anglers in state waters. I mean, we're trying to get rid of a biased problem that the NRC Panel pointed out with the random digit dialing; and what we have, if we just went with the federal registry, is a much bigger biased problem that excludes a huge category of anglers. We're trying to find a way to get as much done as possible from both perspectives.

MR. DIADOTI: I have a question and then some comments. The question is you can't register anglers that are fishing in state waters. What about anglers that are fishing only in federal waters that are registered by the federal program. Will those states with license programs allow them to come back into your state at the end of the day with fish? You would not. So, fish caught in the EEZ and you're registered by the federal government to catch those fish legally in the EEZ, you won't be able to land them?

That was one question I had. I think the answer is they're saying, no, that you won't be able to do that, you won't be able to register in the federal program and then land in a state unless you're also licensed by that state, so that's the answer. However, if you're licensed by the state, you would be able to fish in federal waters without being registered, okay.

I guess the incentive part that you talked about, for me, it's a million bucks, so I will get in line there. It's money. That would be the thing. On the other hand, the real difficulty I am having with all this is that it is clear that there is going to be some major loopholes in putting this program together. Where the information is collected, it is just not going to be coming together in a uniform fashion.

The problem I have is that as states we have no target that we are looking at. We have no compliance, no mandates, no requirements whatsoever to do this.

Without that, without a blueprint or a textbook or a management plan, which is how we typically work in fisheries management, I don't think we are going to get to where we need to be.

I really think that is the discussion that needs to take place; is this an important fisheries management element, and do the state representatives here believe that this is an important initiative or an important requirement to manage fisheries well? If so, then I think we have to think about having some type of state language as compliance that we could all look at and follow in some uniform way.

And if we don't feel that way, I tend to be surprised given that these are the leading fisheries representatives on the Atlantic coast, how does this get into the federal law to begin with if it is not an important fisheries management element. These are my thoughts on that.

CHAIRMAN LAPOINTE: I think those are all good questions. From my perspective of what we might require or what we might think are common elements is it is going to be difficult because in the state of Maine licensing is a purview of the legislature. So that is a sensitive issue; we all know it is.

The other thing I think about is what the registry is about and the problems that brought it forward were that we don't have the data that we need. When you mentioned an ACCSP element, I think that makes good sense, as well. I think the annual meeting is going to be a critical time. We will have information from the federal government on their proposed rules. We will talk about many of these issues in more detail than can be talked about now because they are still developing them.

It strikes me, as well, that we should ask staff to start compiling the questions that people have been raising so that, in fact, we can all have them before as the registry comes forward. Gordon and I had some interesting conversations last week about enforcement. We need our Law Enforcement Committee involved. The ACCSP Program has, for the Atlantic coastal states, spent a considerable amount of time on recreational data, and we need to make sure that those folks are plugged in as well. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. If I may ask Gordon, now you said January 2009 the federal register thing is supposed to kick in. Does that mean that if a state wants to get

exemptions, it would have to be on line with something before that time?

MR. COLVIN: Bill, I think what we envision is completing this rulemaking by early 2008, and then having most of calendar year 2008 to work with the states to try to come up with ways we can get data from them that would be sufficient to enable exemptions. Some of that may be going on right up until late in the year.

Now, obviously, states that need to do legislation or rulemaking or make major structural changes to the way they collect their existing license data, that may take them a while, or there may be periods of the year after which it is too late because their legislature has gone home of whatever. We understand that, but that is part of the reason we want to get this job done this fall.

MR. ADLER: And if I may, Mr. Chairman, let's say a state does not develop a licensing system and therefore doesn't get the exemption and gets it after that date, can they still take it over?

MR. COLVIN: Yes, that question has come up before. This will not be a one-time opportunity to get into the exemption program. We expect it to be continuing. There are eight states in the country that have no form of salt water license or registry or no form of license that covers the privileges of salt water angling, but almost all the states have licenses and permits that cover party and charterboats, and that is another part of our registry.

I wanted to make sure I mentioned that. We also need to create a complete registry of those as well, and we do anticipate I think getting good work with all of the states on that side of the issue. Could I raise one more point, Mr. Chairman, before I conclude, if you are done with me?

CHAIRMAN LAPOINTE: We aren't done with you yet. There are a couple of more questions, but almost. Go ahead.

MR. COLVIN: Two things, coming back to something that Howard said. Many of the states have contributed staff to the various teams and workgroups that are working on this entire endeavor. I would be remiss if I left here today without having expressed our appreciation for that. I think everybody knows who they are and what staff is working on it.

This is a big job, and it is going to require a lot of time on the part of the technical staff who are

working on essentially rebuilding the nation's recreational data collection programs together in a group of teams that are interactive with each other. It really is appreciated, but it also emphasizes something else. When I started this little dialogue today, I went back to the beginning on purpose.

It is very important to me and I think the team, and probably to all of us who have a stake in this, to remember that the Registry Initiative is there to serve the Recreation Data Collection Program. Our problem right now, our fundamental issue is that all of us, the managers, the scientists and the fishermen, have, to some degree, lost confidence in the recreational catch-and-effort data that we get and its use in our management stock assessment programs.

This registry effort is part of a bigger effort to rebuild that, and it is that whole effort is what we all have such a big stake in. As we go forward, we need to do it together, and we need to – and I agree with your assessment, Mr. Chairman, we need to involve our regional statistics programs that we have talked about here today. We need to remember that, first and foremost, it is all about the data.

MR. JOHN E. FRAMPTON: Gordon, I mentioned at the Fishery Directors' meeting in San Diego that the U.S. Fish and Wildlife Service had developed a Harvest Information Program for Migratory Birds. There are a lot of common elements in that program with this one. There are two points I wanted to make here.

Number one, when that program was initiated, there were some incentives given to the states. And if I recall right, the first year we provided that information, I think we got, like, fifty cents a name, then it went to thirty, and then to ten. I don't know whether that commitment was ever fully realized or not. I think they ran out of money before it got fully implemented. But, that is one consideration for you.

The other, and I think you were somewhat careful in your words earlier when you said that the states, if they met the requirements in the correct format – and I am very concerned about that because we went through a lot of growing pains with that Harvest Information Program in that states had various computer programs and software, and to be able to get the information in the right format was pretty expensive and very time consuming for some states..

Then, also, an element associated with that is to whether or not the states are going to have to segregate that information to NMFS by the type of

angling that they are doing. These things need to be really – and I know everybody is working as hard and as fast as they can, but these things need to be really put on the table in a hurry, because some states are going to literally have to change their computer programming to be able to provide this information, I suspect, in the format that NMFS is going to want it.

MR. COLVIN: John, you will be glad to know that Ken Ritchkiss of the Fish and Wildlife Service is helping us out on the team, and I have had a chance to talk to him. He sent me over the report that was done a couple of years ago, evaluating the progress on the HIP thing; and, reading the history of the development of HIP, which is the first document in that report, there are an awful lot of common terminology that are being used to what we're using now.

I think we have a lot to learn from Ken and from that program. We may end up trying to marry some of those approaches with what we have got to do to get the registry done. We understand some of the database problems, but most of the members of the team we have now are not data-based guys. In our discussion last week, it was our perception that we were going to need to get a sub-group or working group helping us out on that.

Dr. Barth, who is a member of the team, is a data manager for the state of Virginia's Hunting and Fishing License System and can provide us with good advice on that. The Service is also going to be hiring a person in the Office of Science and Technology to be the database manager for this entire effort.

When that person is hired, probably early next month, we will have an expert in-house to help us work with the states on it. It is a big problem. It is kind of the next layer of the onion, if you will, and we are well aware of it. I suspect it is a much bigger issue than we think even now.

MR. FRAMPTON: Well, the HIP Program was initiated or the process was initiated in 1991, and it is not perfected yet. I agree, it is going to be a long, drawn-out process, and I am confident, Gordon, with your leadership there, you are going to be able to do this one a lot quicker than the Service did the HIP.

MR. COLVIN: Well, at my age, I'd better. The other thing, John, is I did the math on the ten cents apiece, I think there is something on the order of about four million, if I recall, HIP numbers issued around the country. That's a little bit more

manageable numbers than the thirty of forty million salt water anglers. I am aware of that, and one of these days Dr. Hogarth will be aware of it, too.

MR. FRAMPTON: Well, NOAA's budget is a lot higher than Interior.

CHAIRMAN LAPOINTE: For those folks who don't know, HIP is Harvester Information Program. A number of people have raised their hands. We have our two folks who want to talk about the Ocean Action Plan. I would ask the board's forbearance. I think the October meeting is critical, because we will have information from the federal government that they will be able to share with us.

I think we need to consider Paul's questions and comments about the role for the commission or the role for ACCSP very significantly. I think we do need to pay attention as this moves forward from a law enforcement perspective as well. So, unless there are some final comments, I would hope we would pick it up in October.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. As I understand this moving forward, I just want to reiterate the fact that for the states that don't have a license, we have legislative hurdles to surmount. It is very important, I think, in the year 2008, as you do this, that you consider the legislative problems that the states will have. And I know you will, Gordon, provide input and provide information to us as we try to get this through our state legislatures. Thank you.

MR. BRUNO VASTA: Thank you, Mr. Chairman. Gordon, are you or anybody else involved in getting in contact with NACO, the National Association of Charterboat Operators? They have a registry, and I think you might find some of that very interesting. Thank you.

MR. COLVIN: We will do that, Bruno.

CHAIRMAN LAPOINTE: We will draw to a close, but only temporarily because in October we will all be farther along, I think, in our understanding of what we like and what we don't like and what the impacts in our states will be, and we will need to engage much more and take advantage of Gordon's offer to come when we need him or somebody from the National Marine Fisheries Service's office to help us move forward on this program together. Thanks, Gordon.

At our last meeting we talked about getting an update on the President's Ocean Action Plan, and Vince has

worked with some folks to provide an update for us, and then we can ask questions and answers. We have from the Council on Environmental Quality, Mr. Daniel Walker is with us; and from the Joint Ocean Commission Initiative, Peter Hill. They have got some powerpoint presentations. We will let them go through their presentations and then we will enter into a discussion period. Thanks to both of you for coming today.

## **WHITE HOUSE OFFICE OF SCIENCE AND TECHNOLOGY POLICY PRESENTATION**

DR. DAN WALKER: Thank you, Chair and Commissioners. It is a pleasure to be here. My name is Dan Walker. However, I am not with the Council on Environmental Quality. They kind of threw you a ringer. I am with the White House Office of Science and Technology Policy.

I just want to give you a little bit of background about myself and where I am coming from. I am very pleased to be here. Normally, Gearhart Kuska with CEQ would probably be here. Gearhart will be able to answer, I am sure, many more of your specific questions than I would be able to, but Gearhart and I are pretty much joined at the hip at the White House.

We are the oceans' team, as we like to think about, along with Emily Waghman at the Office of Management and Budget. I am a little of the cat of different stripe at OSTP. I started my career – I am a geologist, coastal geologist. I was with the North Carolina Department of Environment and what was then Health and Natural Resources for a couple of years.

I then joined the NRC's Ocean Studies Board, and I kind of spearheaded their coastal program there. We recognized that all science did not need to be bluewater, and that coastal issues were going to be a growing issue, so I was happy to kind of start that effort. I spent almost eleven years there. What I brought to it was an effort to try to engage the states in discussions about coastal and ocean policy, so I am very happy to be here.

I didn't do any fisheries' studies when I was at the Ocean Studies Board, though, so I can't answer any of those questions either. I have been at OSTP now for about 15 months. It has been a real learning curve. One of the things that I have been very happy to be involved in the real kind of, I think, a

maturation of the ocean governance structure that I am here to talk to you a little bit about.

I think as you go through, hopefully you will see how I fit into it. You will get a little bit of a sense of where I can probably answer some of your questions; and hopefully when we finish today, you will have a better sense of where you can plug into the process, because that is really what I want to try to stimulate today.

With that, this is kind of the lineage of the ocean governance structure. I have been involved, as many of you probably have been, in a number of community efforts going back 15 years, talking about ocean governance and how to move forward with our ocean governance issues. I think the real genesis of this goes way back to something called the National Ocean Partnership Act. That was an activity that was championed by Admiral Watkins when he was at CORE more than a decade ago.

Those activities kind of led to the passage of the Oceans Act in 2000, which called for the formation of a commission. That commission was formulated. They put together a crackerjack staff, including my colleague to the left here, Peter Hill. They produced a report in 2004, the U.S. Commission on Ocean Policy. About that same time the Pew Commission produced its report. It was a very influential report focusing a little bit more on living marine resources.

The legislation that created the commission required that the administration put out a formal response six months after the completion of the commission's report. That response took the form of the U.S. Ocean Action Plan, which I am here to kind of try to explain to you today and hopefully start an engagement in dialogue about how we can move forward together on.

So, these are the kind of the classic three cornerstones, if you will, of federal ocean governance policy as we are dealing with it today. This Ocean Action Plan has led to a number of different activities. I just wanted to kind of put a few of the high points up here for you. First of all, I think one of the accomplishments that we are most happy with is the reauthorization of Magnuson-Stevens Act; the creation of the world's largest marine conservation area in the Northwest Hawaiian Islands; worked with our federal-state regional partnerships, including in the Gulf of Mexico and other areas.

We have been reaching out to international partners to accomplish things like this U.N. Resolution on the

cessation of destructive fishing practices. The creation of the conservation plan in the Dry Tortugas is an activity that I think has been very well received in our circles. A lot of effort on enhancing ocean literacy and interagency cooperation, that is what I spend most of my time doing when I am not doing climate change.

Then, finally, we had a Presidential Ocean Initiative in the FY 2008 budget proposal. I there was about \$120 million in new money in that budget proposal. I think it was really kind of just the tip of the iceberg of the commitment that I think that the U.S. Government is trying to put into oceans and oceans-related issues. I really see it as kind of a starting point.

How do we get this work done? This is the coordinated ocean governance structure that was created by the Ocean Action Plan. It is like a lot of diagrams; there are a lot of boxes on there. I am going to walk through these a little bit slowly, but I think the thing that I hope you take away from this, which I think is the most fundamentally significant characteristic of this governance structure, is we are systematically, and hopefully forever, linking ocean science and resource management.

Ten or fifteen years ago, when I joined the Academy, it was all about bluewater oceanography; it was about marine geology; physical oceanography, et cetera. We didn't really like to do a lot of applied research; that was kind of messy. Those days are gone.

The commission report and some other activities that I am going to be talking about today I think make it very clear that in order for ocean science to be understood as an important endeavor, it has to be linked to societal benefits, and resource management is the centerpiece in that discussion.

I think in terms of the actual blocks here, the top-level block, the yellow block is actually a cabinet-level committee. It met once to kind of codify the structure, but its working members are the Interagency Committee on Ocean Science and Resource Management Integration, a wordy title, no doubt, but I think it captures the essence of what we're trying to do here.

I am actually a member. I represent OSTP on this body. The assistant deputy for OSTP for science, Sharon Hayes, co-chairs this, along with Marty Hall from CEQ, so you basically have a deputy cabinet-level body. This is the first time this has existed, so I think it is a significant step. Underneath that, there

are two other bodies that I think you should be aware of.

One is the Subcommittee on Ocean Science and Technology. I co-chair that along with colleagues, Rick Spenrad, head of research at NOAA; and Julie Morris, the head of ocean science at NSF. We coordinate science activities, science and technology activities.

Another body that is relatively new here that I think you should probably be tracking more closely is the Subcommittee on Integrated Management of Ocean Resources. That is co-chaired by Gearhart Kuska at CEQ; Craig Hooks of EPA; Bill Kearney from DOI; and Paul DeRemis from NOAA. That is an activity where resource management is in their title, and that is their main goal.

We work with them closely to try to make sure that the scientific and technical decisions that we make and policy guidance we issue have relevance and are going to be useful for dealing with resource management issues among a number of different societal needs. The SIMOR also has a federal-state task team. Some of you may have been involved in that.

That really represents kind of the cutting edge or the leading edge of how we're going to try to integrate work with the states. That federal/state task team reviews the vast majority of the documents that are produced here and really tries to give us that fundamental linkage to the states, so we're working closely with them.

The Joint Subcommittee on Ocean Science and Technology produced – this is another one of the mandates that came out of the Ocean Action Plan – created a National Ocean Science Priorities Plan and Implementation Strategy. It was released in January. It attempts to underscore – well, I think it successfully underscores the importance of ocean science for society. That was the theme of it.

It is organized along societal themes; it is not the classic disciplinary chapters that you might have seen in the report like five or six years ago. It has the imprimatur of the White House, including the Office of Management and Budget, so it has federal budget significance. That was one of the goals that we wanted to achieve.

As you can see, there are six themes here, societal themes. Stewardship of natural and cultural ocean resources is right at the top; increasing resilience to

natural hazards; enabling marine operations; understanding the ocean's role in climate; improving ecosystem health, which is very clearly linked with resource management both in the report and in practice; and then enhancing human health. There are seafood safety issues, et cetera, that are also linked to ecosystem health and natural resource management.

So, these six priority areas, if you will, identify 20 priorities, and they probably represent 95 percent of the federal effort in ocean science to begin with. So, in order to really try to make a document that was going to be helpful and move forward, we had to go beyond just these six kind of theme areas, the motherhood and apple pie, if you will, and get into some areas where we were really trying to set some very narrow priorities that would have some budget significance, so that we could build some momentum within the budget, federal budget. That is what we were really trying to do.

The way we did that is we tried to focus on identifying some priorities that would move the entire portfolio forward. It would make sure that the rising tide raised all boats; and in order to do that, we looked across the six theme areas, and we saw that what is really being asked for here really speaks to three primary elements.

One is understanding and predicting ocean processes in a variety of different ways. The second one is supporting ecosystem-based management by increasing scientific understanding. Then the third one is this targeted deployment of ocean observing, how do we collect data, systematically model or forecast from that data, and then produce products that are going to be useful for decisionmakers. This is really the cornerstone.

Our argument was is if we could come up with some near-term priorities, a limited number of them that spoke to these three areas, we would be able to advance the entire portfolio, so we had some success there. We identified four priorities, one of which I think should be of particular interest to this group.

The first one is forecasting a responsive coastal ecosystem to persistent forcing an extreme event – this is basically non-point-source pollution – and events like hurricanes and other less frequent events. The second one is a comparative analysis of marine ecosystem organization. I am going to talk about this one in a little greater detail.

It is really intended to try to help us to develop a better scientific underpinning to advance various marine conservation approaches. Sensors for marine ecosystems is targeted at trying to fill that void of how do we collect better data in some of these complex ecosystem settings. Then the last one is assessing meridional overturning circulation variability; implications from rapid climate change. That is the egghead physical oceanographer niche here, and we're really looking at climate changes associated with changes in the Gulf Stream in the Atlantic.

One thing I will mention here before I go to the next slide is throughout this report you are going to see a much more of a focus of building social science and behavioral science and economics into all of this work. I appreciated some of the comments that were made earlier during your discussion of trying to get a better handle on some recreational fisheries data.

We see that as an area that needs to interwoven into all of these programs, how do we get a better handle on some of the social science aspects. So, this cameo, what does cameo do and why should you care? This is really designed, as I said, to improve the basis for ecosystem-based management by developing science to better quantify ecosystem processes, dynamics and responses in relation to human activities.

Basically, what they're doing is they are setting up a series of experiments where they will work within an ecosystem, they're building bridges with the biological oceanographers to get a better handle on all the different levels in the ecosystem and how they change. But what varies across the study area is the level of marine protection afforded these areas.

Some of them are within marine sanctuaries; some of them are just within MPAs in general. Others basically are unregulated or have minimal regulation, and they are trying to get a handle on how different human activities in these different areas influence that ecosystem. I think it is going to be a very interesting area to focus on.

It is going to evaluate the effectiveness of MPAs as a tool for achieving management objectives. Hopefully, what this will do is it will allow us to kind of fine tune some of these concepts. They have been forthcoming in what they think will come out of this in the next four to five years. Their goals are to do a better job of protecting targeted stocks, defining and preserving biodiversity, understanding human behavior in relation to some of these protected areas,



get a better handle on the movement patterns and demographic impacts, predicting ecosystem succession and networking potential and dispersal of larva.

So, in other words, we're really trying to look at the entire ecosystem and not just the economic species or some of the apex predators or some of the charismatic megafauna that we all hear so much about, but really trying to build a much more coherent pattern. I think this is kind of indicative of the kind of work we're trying to do as JSOST.

It may be a little bit down in the weeds for you unless you are a card-carrying scientist, but I think it is reflective of the commitment that we're making to try to make science more germane, to try to target problems that have very real societal consequences, and resource management is right at the top of the list. With that, I will turn it over to my colleague, Peter Hill.

MR. PETER HILL: Thanks, Dan. I'll start the same way that Dan did and give you just a little bit of background on myself beyond what Dan gave you.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Peter, we have some handouts. Would you like us to get those out before you start or afterwards?

MR. HILL: I think if you have them, you can – I think I have close to enough, but not quite enough to go around the table.

EXECUTIVE DIRECTOR O'SHEA: Yes, we can do every other person.

DR. WALKER: If I can just interrupt Peter for a second, at the end of my presentation, which you're happy to make a PDF and distribute it, however it works, there is a website that includes all of this information. It is very accessible, and I think you would find it very helpful.

MR. HILL: My background goes back – I started with NOAA in 1990. Some of you are familiar to me because I spent a number of years handling legislative affairs for the National Marine Fisheries Service. Shortly after that, I went over and worked in the Chesapeake Bay a little bit and then went to work on the commission, as Dan noted.

When the commission terminated, as it did by congressional mandate, in 2004, and Admiral Watkins and Leon Panetta started thinking about how to move forward, I was asked by Admiral Watkins to

continue to work with him in whatever this forward progress going to be. So, by default and by being a slower runner, I got tapped by Admiral Watkins and have spent the past couple of years now chasing the Joint Ocean Commission Initiative.

## JOINT OCEAN COMMISSION INITIATIVE PRESENTATION

I'll start by thanking Vince and George and all of you for the opportunity. The Joint Ocean Commission, most people are aware of it, but what we're trying to do is, again, reach out to the broader ocean and coastal community and try to bring together a bigger unified voice and bring all the people together to take advantage of these opportunities.

I would say it is good to be here in particular, because knowing the fishing community, the fishing community is the base of the ocean in many senses. It is what most people recognize. They have a strong voice on Capitol Hill, and I think that a lot of the communications and a lot of what people are aware occurs by their awareness of what is happening in the fishing world, as newspaper events have proven over the past decade, almost.

As Dan said, I am also going to give you kind of the view from above in the sense of the Joint Ocean Commission Initiative. You have got Admiral Watkins and Leon Panetta are leading this, but the objectives there, which I will go into, are kind of that broader perspective of how the ocean community can come together to carry forward the recommendations that have been put forward by the U.S. Commission on Ocean Policy and by the Pew Ocean Commission; and carrying on and building on the administration's work that Dan and company have done.

So, what is the Joint Ocean Commission Initiative? As I said, the Pew Ocean Commission released its report in 2003. The U.S. Commission released its report in 2004. The members of the commission and Admiral Watkins and Panetta are all pretty savvy folks and realized that when you have a report and hand it out, most of the time gravity takes hold, it hits the floor and stays there.

I think a lesson was learned the 9/11 Commission that if you want to carry forward, someone needs to kind of pick up and carry the messages forward. Admiral Watkins, Leon Panetta and the members of both commissions got together and formed the Joint Ocean Commission. Now, again, that is full membership from both commissions are represented under the Joint Ocean Commission Initiative.

To help steer kind of that group, because that is probably pushing 35 members at this point, there is a ten-member task force, with five members from each side, as a member of that kind of guiding committee which helps lay the groundwork and vet through the process for the JOCI staff and also to work with the full members of the commission.

Most of you are aware, but Pat White, who is over here, was a member of the Pew Commission. He is also one of the members of the task force, so you have a pretty strong voice of what is going on inside our process also here, so you can ask Pat questions, too, and see how truthful I am about some of these things going on here.

The focus of the joint commission is implementing the commission's recommendations, and that is the collective recommendations of the two reports. Put together, that is probably 300 recommendations and change, 350 recommendations, so it covers a pretty broad panoply. I will get into it in a little bit, but one of the first pieces out of the box, and one which we as a community have successful at, including yourselves, is the fisheries piece.

That was that there was a strong overlap between the two commissions on fisheries management reform. Last year, obviously, Magnuson got passed, and I think a fair amount of changes were made that reflect the views of the community and views of the commissions, which were informed by the community.

What are the goals of the Joint Ocean Commission Initiative? It is pretty straightforward, but it is, again, trying to pick up the pace of change in the ocean community. We understand that it is a slow, arduous process to make changes in policy in the federal government, within the legislature, within state and federal legislatures and the local level.

The idea was to try to take advantage and leverage the access, the awareness, the interest and the folks who made up these commissions and all the individuals who contributed to the input of those commissions, and try to move some of the recommendations forward which had been made.

Again, the commission recommendations on both sides were done by a consensus process. We had a pretty diverse membership, pretty balanced when you look across the board, because you have oil and gas guys, you have shipping folks, you have fishing folks, you have academics and representative from the states, you have the scientific community. It's a

pretty broad cross-cut of individuals who made up these commissions and who make up the Joint Ocean Commission now.

Again, the last point was the idea of the Joint Ocean Commission is trying to reach out to the community and try to, again, be kind of a centralized source to be able to provide information back out to the community and bring that information forward and use it to inform the work of the commissions as they go forward and make their recommendations to congress, as well as state governors.

Some of you may have seen this before. This is a report card that was put out by the Joint Ocean Commission. This is our second. We did one in looking at '05. This is looking at what occurred in 2006. It was released in January, so it is a retrospective. Again, as a report card goes, it is a collective assessment. It is not an assessment of the federal government or of congress or of the states or of the public community but of everybody together, where are we collectively in the United States, moving towards ocean reform?

I put it up there, first and foremost, to look through the six categories which were up there because they represent the Joint Ocean Commission's priorities. In that you have national ocean governance; you have regional ocean and state ocean governance; international; research, science and education; fisheries management; and funding.

Those are the key areas that the Joint Ocean Commission is focusing on, and there are subsets and activities within each of those, but from a broad perspective that is where the focus has moved forward. I'll come back a little bit further, but to help drive this process forward, I'll bring it to your attention, if you haven't seen it.

Last year, the mid-part of the year, about ten members of the senate called Watkins and Panetta in and said, "Thank you very much for your work, you guys are doing great stuff. Thanks for the 350 recommendations. Tell us ten things we can do. We can't do 350, so give us ten key things that congress ought to do."

So, last, what was it, probably June or July we released a report called From Sea to Shining Sea. It is on our website, which I will leave it on the back there. There are a couple of copies in the back of the room which I could steal from my office. In there are ten – it is basically the legislative agenda of the Joint Ocean Commission Initiative, which, again, most of

those ten things fall relatively neatly under the categories that we have up here under the high priorities.

I will take a few minutes and walk through some of the individual categories quickly. From a governance reform side, a national ocean governance side, we are looking at four major activities. I have three up there. One is some sort of statement of national ocean policy, to make it clear that there is a national ocean policy for this nation. One does not exist.

We are looking for a codification of some of the structure in the White House that Dan laid up there for you. Right now it was put into place by executive order. A new administration is coming in, the next group to look at that and simply drop that executive order on the ground. The invaluable function that is being played by Dan and Gearhart and other individuals in there trying to integrate the activities across the federal agency could easily be lost, just in the change in administration. That was a recommendation to both commissions.

A third high priority on a national level is a codification and reorganization of NOAA. A lot of people have looked at NOAA and would like to see some strengthening of the agency. They are the lead federal agency for the federal government, but there are a lot of other activities in other places that people feel that there are better ways possibly to structure NOAA to take advantage of the resources that reach across all the line offices in there and to position NOAA better to be that interagency operator and focal point for the federal government.

The fourth piece I forgot to put up there, but which falls under the national ocean governance piece for our policy was the Magnuson-Stevens Act Reauthorization. That passed, but there is a continuation on the followup on implementation of the reauthorization of that Act. The other piece of the governance equation, obviously, is at the regional and state level.

If you recognize on the report card for the second year, the highest grade went to the states and regions for their activities. Most of you are aware of activities going on around the nation that states have stepped up in a variety of capacities. The west coast in particular, California has stepped way ahead with Governor Swartznager. The three states out there have gotten together.

The Gulf of Mexico Alliance has pulled together.

There is the Southern Governors Association meeting going on this week. Governor Barber has stepped into the leadership role down there to run that group. Leon Panetta and Admiral Watkins were talking with Barber before this started, and they are very active down there, trying to get the coordination, trying to pull those states together and focus on their activities. They have done a pretty good job.

And to the point where the administration has also recognized it, and a point not to be lost by other states, but there is \$5 million in NOAA's budget as part of that Ocean Initiative to help support that regional effort, and we would obviously like to see more regional efforts and more support coming from the administration side to support that suite of activities.

Just so that you all are aware, also, on the east coast side, Admiral Watkins and Leon Panetta have engaged with the governors in New York State and in New Jersey and in Massachusetts and stand ready to talk to anyone else – and Rhode Island, for that matter, also – to help support, catalyze whatever would be necessary to help processes going on in your regions or states to help move kind of the broader ocean reform forward, whether it is fish, whether it is governance, CZ, ocean pollution.

They are prepared to use their basically leverage, prestige, resources, whatever we can bring to bear to help move things forward. The initiative has really got to be reached out forward from the states and regions to us. We are not going to come walking in the door trying to push something without some forward momentum from you all first.

I will touch briefly on the fisheries management reform since that is closer to your immediate activities. Again, some of the most detailed and extensive recommendations from both reports were on fisheries. That is where our commonality was, which we want most of our effort. The Joint Ocean Initiative played a pretty strong role in congress trying to push the Magnuson Act Reauthorization through, and we are pleased at the result there.

We are also going to continue to follow the implementation process. Having been around for the '96 amendments to Magnuson, the implementation process can be a bit of bumpy road and take a while to move through. We also recognize, I think from a joint ocean perspective, that – and I would kind of step that from that big picture side, and it goes back to the Ocean Research Strategy Plan, which Dan had a big hand in helping pull together.

There is now an Ocean Science Research Strategy out there that the community has not had, it cuts across this panoply of science, and it cuts across the social and economic and societal values. I think the message from Watkins and Panetta is the community needs to step up behind a few big, big initiatives.

One of those, we feel, would be the ORPPIS, Ocean Research Priorities Plan Implementation Strategy. You should be able to look across that, someone needs to sit down and price it out and do some prioritizing, but you could justify hundreds of millions, if not billions, of dollars going into ocean research across the board underneath the framework put together by that plan.

I think it is that approach which Watkins and Panetta and the commissioners look at. I mean, these are guys who have been used to playing with billions of dollars. They realize that if you try to move on individual little pieces, your own little initiative, whether it is a non-point source grant or a fishery stock assessment or a national estuarine reserve or Sea Grant, it is going to be hard to get any real progress. You are going along in very small incremental pieces.

They want to pull some of these pieces together in big chunks and make arguments to move forward on the order of hundreds of millions of dollars. That will take me briefly, again, to this From Sea to Shining Sea Report. The back part of that identifies funding priorities because congress also said, "You know, thanks for the four to five billion dollars you think this is all going to cost. Narrow down your funding priorities."

There is about \$750 million in funding priorities in the back of that report. At least on the senate side, they tried to pick up about – Senators Mikulski and Shelby and Stevens and Inouye have tried to pick up four or five hundred million dollars worth of that. So, there is some purchase out there, but we have got to think about it and moving with some zeroes on the end, and community, again, has to kind of step up and collectively push pieces.

The last slide, I guess, is what are the opportunities, and I have touched on some of those out there. From a national ocean governance side, you have legislation on the Hill, and everybody should be aware of Oceans 21 or HR-21, which is a big ocean governance bill, that is being looked at by the House Resources Committee.

There are, obviously, some issues with that bill, which many people are aware of. There are some structures in there, but the fact of the matter is the committee said they are going to move it. You've got Mr. Ray Hall on board, you have got some other people who are interested. Watkins and Panetta are very interested and commissioners are very interested in moving some governance reform legislation.

So the question is it is a vehicle. That doesn't necessarily – what is in that bill can be changed; and as the commission under the Joint Ocean Initiative Process, we're going forward to develop – look at that bill and pull our own recommendations forward, working with Pat and his colleagues and task force and Watkins and Panetta.

We have a meeting tomorrow with some representatives from the fishing industry saying, "All right, what are your concerns with the bill and what are your recommendations?" We are doing that with the states, we're doing that with the oil and gas guys and other folks in the conservation community to help inform the commissioners' decisions. There is an opportunity there.

There is a regional component in that bill also, which I think many of you should be interested in. If there is some sort of regional framework being pulled together, what the hell will it look like and how would it best be designed that can help you in your process; what role do the states have; and particularly here, what role would the fisheries have in whatever might be done on the coastal and ocean side?

So, I think that should merit some attention on your behalf in weighing in. I will say that we have an informal legislative advisory group, which Vince sits on and participates in, so, again, you have a conduit if you pull together some thoughts on what needs to happen both in the formal legislative process and talking to Hill, as well as a conduit straight into the Joint Ocean Commission Initiative to put your ideas forward.

I am trying to wrap this thing up. I'll go back and touch briefly on two opportunities, two big picture pieces that really are watching the ball at the end of the game. One is climate change. You know, the ocean's role in climate change people haven't fully appreciated or understood, and Watkins and Panetta and Joint Initiative have pushed that very hard. It is the train that is moving.

There is going to be climate change legislation. It's going to address mitigation, which is a little bit out of

our bailiwick, with the exception if you're doing that mitigation, what are the impacts on the oceans that we need to know, CO2 sequestration. We don't want the oceans to be dumping ground for things without fully understanding the ramifications and impact.

The piece is the adaption piece. You know, what is going on in the ecosystem, how are changes being made, what kind of ecosystem shifts going on, what are the impacts on fisheries as they move forward? Again, there is full justification to provide funding to look at some of that big picture ecosystem impacts, which I think would of paramount interest to the fishing community, and is, because of what the implications are for the living marine resources out there, and particularly high-value economic activity such as fishing.

That brings you back down to kind of a regional ecosystem piece of saying how do you do regional ecosystem assessments, which pulls us back into this regional framework discussion. There are a lot of people who need to know what is going on on a regional basis in the ocean when you are doing EISs for oil and gas, for fishing, for aquaculture, non-point source runoff.

How can the community rally around a science base to get collective scientific information pulled together, which everybody can draw on and have some confidence in? From a JOCI perspective, kind of the big picture is governance; what do we need to do structurally to make things flow better?

From a science side, we need to pour money into science, whether it is an observing system, whether it is understanding the ecosystem across the board, whether it is socio-economic pieces; how do we have a better understanding what is going on out there?

The last piece I would look at or have you think about is in 18 months there is going to be an administration change, and this whole town is going to flip. No matter who goes into office, whether you have a republican or a democrat, you are going to clean out all the agencies, political people. There is going to be a big dynamic shift, and the ocean community collectively needs to position itself, going into that, so that oceans remain a priority.

It is going to be easy to get lost. There are going to be a lot of people pushing and a lot of people trying to get up on a – we have got budget problems, we've got health care problems. You know, we have kind of crept up a little bit on the radar screen, and it would be easy to slide back down to the bottom. So

what we are trying to do is position ourselves across the board so that oceans remain relatively high on the radar screen and maintain some of the approaches that we have had from these commission reports.

And from that side, I would look at entities such as the Atlantic States Marine Fisheries Commission and your individual states and regions and working with your governors and saying how do we keep coastal states and regional activities high on the radar screen going into what is going to be a pretty loose, fluid, dynamic situation for at least a year or eighteen months following the next administration. So, on that point, the last page has some contact information on the back for me to follow up with questions after questions and answers here.

## QUESTIONS AND DISCUSSION

CHAIRMAN LAPOINTE: Great! I want to thank you both. We put your presentations on the agenda because there are times when you don't spend as much time in Washington and it is hard to keep track. This, for me, has been very helpful in focusing for you giving us your experience on what we may look for for opportunities or pitfalls. I want to give my personal thanks to you both. Questions or comments from board members for these two gentlemen? Paul Diodati.

MR. DIODATI: I saw that funding was the last bullet that you had on there, but throughout both presentations I think you indicated that there were three major elements that were coming out of this, with four goals and about 350 or so recommendations. This is all great policy, but policy doesn't go very far without new resources either being reallocated or new resources coming to bear, and I don't see that.

You had mentioned funding was on there, but there is no funding because there is an F given for funding in your report card. So, we are working in Massachusetts on some ocean management initiatives, and all the funding we are getting is coming from private foundations. I am a little disappointed there isn't more federal support for that. I am not seeing it, at least not in my state. Before you answer it, on this report card these poor marks for international leadership in education programs, are those directed specifically to NOAA?

MR. HILL: To answer that question, no. Again, this is looking across the board. I mean, science, research, and education is looking across the board at federal activities, because the ocean pieces run across

a number of agencies. NOAA is obviously a leader; DOI is pretty heavily involved, EPA has a fair amount of money, NSF and NASA both have key ocean components in it.

The actual makeup of the Committee on Ocean Policy is, I think, what, ten cabinet members, at least, four independent agencies, something to that effect. But I will come back to the funding. Let me have Dan step up, and I will come back to the F.

DR. WALKER: Okay. First of all, our homework was late, right. The report card that Peter has alluded to actually came out several days before the FY 08 budget initiative was announced, a couple days before the release of the ORPPIS he mentioned, the Ocean Research Priorities Plan, so we're really looking forward to having better marks when the next report card comes out.

Now, specific to funding, this research effort – many of these efforts that we have been talking about here were first manifested in the FY 08 budget, which, you know, we haven't got an appropriation yet from congress. Those are still in play. The real initiative is really designed to lay the foundation for changes in federal agency budget submissions for FY 09.

So, you know, the ship of state here isn't going to turn real quickly. I would say the soonest you will see new money in some of these programs is going FY 08, depending on what happens on the Hill. But, the actual agencies programmatic activities should begin to align with these priorities in FY 09.

We are already having a series of meetings with my colleagues at the Office of Management and Budget to look at those aspects of the agency budgets and see if, in fact, we are seeing them begin to align their programmatic activities with these priorities. So, we would like to get the dollars out faster, but it is a process, and hopefully you will see some results in the next year or two.

MR. HILL: As Dan pointed out, the F in funding was looking back at FY 06, so that was the FY 07 funding, which was kind of a CR piece. You know, as for the future, looking forward, the administration had its initiative, you know, \$120 million. That's a nice piece to see coming down. You know, it is sending a signal which had not been there in the past.

As Dan is saying, if they can build on that and capitalize on that across the federal agencies, that's good. Congress, last year the House had marked – just from a NOAA perspective had marked NOAA

down a half billion dollars below – basically, I was trying to think how it goes – it was basically a half billion dollars below what it had had the prior year off, so it was a billion dollar spread between the House and the Senate.

This year, for the first time in, I would say, five, six, seven years, the House mark is actually above the president's mark. It is at \$4 billion for NOAA, so it's about a hundred million and change above the president's request; a half billion dollars and change above where it was the prior year. The Senate has a couple hundred million dollars more.

This is going to be a funky appropriations season so there are no promises on how it is going to come out, but at least you're not starting from the opposite end of the spectrum. On a positive side, there is extra money in NSF, including for ocean programs out there. There has been some extra money in congress putting in for NASA's programs for satellite activities.

We're looking for opportunities to bump up money in DOI, EPA. Navy's research funding is out there. So, when you think about the ocean funding, again, you have to pull back and just looking at NMFS and stock assessments and some of the money out there and say where are some of the big ticket, where is some of that big money going to come from?

You know, NSF funded Grow Back and running some of the pieces up there, and that is going to fade away, but you need some more of those understanding multi-year funding programs out there. As Dan said, it is a slow, painful process, and it is not going to be easy in the years because money is going to get scarce.

That goes back to my point that this community needs to think about a handful of big initiatives and ocean-funding initiatives like they pulled together last year and tried to get some more coherence and to step behind that on the order of hundreds of millions of dollars. I would say, if you look at it from experience, NSF doubled itself in five years, its funding, and that is because the science community got behind and said, "We want NSF to double, so this year we want three and half billion, and next year we want four billion."

They didn't ask for the geology program or the medical sciences or what the pieces are. They just said a top number. The friends of NOAA, which has been established, have done that, just said, "NOAA,

we need a 4.4 or 4.5 billion dollar number, and that is weather service and the wet side collectively.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. One point of information for our commissioners and our guests here, in recent years the commission has taken a position in support of the bigger side of whatever NOAA budget is in play, and that has represented a change in our strategy, quite frankly. In the past, we had been more focused on line items within the NOAA budget which were favorable to the commission.

Instead, as you know, Mr. Chairman, we have sent letters over under your signature and my signature in support of, for example, the senate mark, encouraging the senators to defend that senate mark against the house. I think that is going to be the trend, quite frankly, in our strategy. Unless we put that big number up there for the staffers to work on, we're not going to be able to get our money way down in the weeds.

My question is about six weeks ago Senator Stevens was floating the notion of converting some of the offshore oil revenue royalties that were now going into the general treasury, to make them available into an ocean trust fund; and both from Dr. Walker's perspective and Peter's perspective, whether either one of your organization have taken a position on that and sort of what your prediction is on whether that proposal has any possibility of going forward. I know there are some other issues affecting Senator Stevens at the moment that might be affecting that.

DR. WALKER: Well, you know, OSTP hasn't offered any opinion, so I don't have an opinion to state on the value of that approach. I guess as a personal opinion I think that idea has been floated out. There were calls for using some of the revenue to address relief and reconstruction efforts after Katrina and Rita. I think that is a very tough slog. I don't know what the administration's stated position is with regard to that. I am not terribly optimistic.

MR. HILL: From our side, both commissions called for the establishment of ocean trust funds. From that side, the principle, the concept of pulling together the trust funds is highly supported by the Joint Ocean Commission Initiative. There was some debate, there were some concerns in the community of using OCS revenue.

The argument is that these are revenues generated from federal waters offshore, and at least some portion of them should go back to directly support ocean-related activities. So, the Joint Ocean

Commission, on our websites – we have sent a letter to Senator Stevens supporting the concept that these trust funds are actually two trust funds.

One would go to the states. It would take 5 percent of the revenue from the oil and gas revenues coming in, which would be roughly \$400 million. It would be a direct appropriation. It would not go through the appropriations process, but every year there would a \$400 million pot, which would be spread out via kind of a model, a number to all the states. This would give the states all a pretty good crack of money to use to address ocean-related issues.

The second one is kind of an open pot that anybody can compete for, federal, state, local, NGO, scientific, for another \$400 million. You know, the idea of just getting a trust fund started, getting some money in there and trying to build on it – because there are going to be other activities in federal waters, whether it is aquaculture, you know, marine biotech, other renewable energies, any of those revenue streams ought to find some way to put back into that broader ocean community.

As Dan said, yes, you are taking money away from OMB; they are not going to like it, but I think there is a fair amount of support, and I think there is a rationale and a logic behind it to at least begin to capitalize on some of those revenues and put them back into the ocean community.

CHAIRMAN LAPOINTE: Other questions or comments? Lance Stewart.

DR. LANCE STEWART: I am very interested in, having worked with Weikert. When he was interested in the Department of Oceans, we spoke with several other senators. My question is – I didn't hear it in your whole dialogue – some of the more useful science that fisheries biologists could use, or ecosystem scientists, is in situ data and using ocean technology in an international framework in the description of our seabed, gear impacts, geology.

The old National Ocean Research Program, which I was one of the officials on for about 15 years, has suffered a setback. So, I wondered in the frame of ocean science those approaches are being championed now? They were by several senators 20 years ago, and it seems to have gone through a demise.

Some of the things that are critically important for this commission, fishermen and international ocean science is visiting our ocean bottom and mapping it,

quantifying it, and looking at changes. I am just asking from my own personal involvement for several years and my devoted interest in being undersea and not in this boardroom, but actually getting the data that this community and all of our ocean scientist community can use.

We seem to have suffered a setback. Internationally we had several programs with Africa, Japan, United Kingdom, Russia, and that program did not really follow through. You know, just as a specific point to your national ocean program, having looked at the framework of Department of Oceans, and emphasizing that approach, my question is, is that in some of the agenda?

DR. WALKER: First of all, yes, I think, you know, you are not going to get any argument from me. The Ocean Research Priorities Plan, first of all, when you look at the individual ones, like this cameo, USGS is actually involving cameo, and what they are doing is they are providing seafloor mapping capabilities to understand how habitat plays a role in ecosystem function.

At the other kind of large end of the scale, there is money in the FY 08 President's Budget to support mapping of the extended continental shelf, you know, ostensibly largely in the Arctic to support a claim under the law of the sea if we happen to accede to that international agreement. But I think it reflects this kind of need to understand the seafloor as part of the overall ecosystem.

Another thing that I would mention is there is already discussion underway, and the National Academy is going to hold a workshop in the near future, looking at the infrastructure requirements to support the Ocean Research Priorities Plan. In other words, here are our scientific priorities, what is the infrastructure that we need to support that activity?

You know, I think we're facing a number of challenges. There is a call for two new polar class icebreakers, arguably 1 to \$1.5 billion right there. We are probably a little shorthanded on satellites. I mean, we're talking major infrastructure investments over the next ten or fifteen years; not to mention just maintaining buoy networks that already exist, et cetera.

I think that is going to be the next major step in the evolution of this infrastructure or this governance structure we talked about. You know, if you think the dialogue is dynamic when you're talking about a hundred million dollars in ocean programs, you start

talking about billions of dollars in infrastructure, you're talking about a potentially contentious prioritization process.

So, we feel like we've got a framework now to work within. We have got a structure that can carry that forward. I think if we continue to work with the states and our international partners, I think we can make our way ahead. I guess the last point I want to make is I think what has really changed here is we now have a framework.

We may not all agree with everything that is in the Ocean Research Priorities Plan or what is in the president's budget, but at least it is a plan. There is coherence there. I really hope that the next administration and congress see the logic behind the fabric. If they choose to accelerate funding, if they choose to interpret it in a different way, you know, that is their responsibility.

But I think what we don't want to do is throw the baby out with the bathwater and start over again because we're all going to be six or seven years behind, and I don't know if it is going to be forty years before we do another ocean commission. We're just trying to keep all the horses pulling in the same direction for the next few years; and I think once we do that, we'll be much farther along.

MR. HILL: My relatively short answer to your question, we're trying, again, as Dan said, pull that whole ocean exploration into the broader integrated ocean observing system context; integration from the research component that everybody interprets into IUs, you know, all the way up to the education piece.

You need to look at this at what is in situ, what do you need for buoys, what do you need for bottom, you know, for ROVs, SUBs, all the way through to the modeling exercise so you can actually produce the information, synthesize and then produce the information needed by policymakers.

So, I would embed that kind of discussion – and that goes back to the community sitting in a room and saying that prioritization piece, what do we need infrastructure-wise to support an IU System, satellite-wise, in situ, below the water, and where does that fall into this broader picture?

CHAIRMAN LAPOINTE: Thank you. Other questions or comments? Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Peter Hill, you had mentioned the



Magnuson Act in the report card, and I know that through the Joint Ocean Commission Initiative, you're in close contact with both the environmental community and industry. When Magnuson-Stevens was reauthorized, there was a provision in there to provide flexibility to fishery managers, specifically on summer flounder, which affects this commission and has given very important relief to that community.

I'm just wondering if you had a sense for the willingness or the climate for similar exemptions to be made in the future as we go forward. Do you have any sense of that, whether that tool and flexibility would be available for other species?

MR. HILL: To be quite honest, I don't. I mean, fisheries is high profile, high visibility, a lot of discussion among the commissioners inside, and so the Magnuson Act generated a lot of discussion from a lot of different angles inside the Joint Ocean Initiative Process. And, again, it is a commissioner-driven process, and it is a consensus-driven process, so you need to sit in there, lay out the information for the commissioners, present it to them, and get their feedback on how they want to proceed.

So, at this point I would have to defer and wait until it came up, but I will say that because fisheries is such an important issue and will stay on the list, that the followup and the implementation process, that the Joint Ocean Initiative and commissioners will remain engaged in the whole process.

CHAIRMAN LAPOINTE: Other questions or comments? Seeing none, I want to, again, thank you both for coming. You have given us a lot of information. If you see opportunities for the commission or for the states to get engaged, and we need a little nudge or a kick in the pants, I would encourage you to give us that. Thanks very much. Our next agenda topic is Non-Native Oyster Activities. Megan is going to give us an update.

## **NON-NATIVE OYSTER ACTIVITIES UPDATE**

MS. MEGAN CALDWELL: I will make this pretty quick. Since we last met at the spring meeting, the project development team has met three times and made a little bit more progress on reviewing various sections of the environmental impact statement for the non-native oyster alternative.

In addition, last month the Oyster Advisory Panel met. This is the panel that consists of – it is basically

a Peer Review Panel that is reviewing all the science that is going into the environmental impact statement. When they met last month, they met to review the demographic model, which is providing population projections for several of the alternatives that are under consideration for the EIS.

Then the projections that come out of that demographic model feed into the ecological, economic and cultural risk assessments that evaluate the risks and benefits of the alternatives for the EIS. That panel's peer review report will be out in August and will be available. I will make that is distributed to you all when it is publicly released.

We had hoped to get the Commission's Interstate Shellfish Transport Committee together at that time, when this panel met, but there were a lot of logistical difficulties due to the number of people involved with both the panel the ISTC, so that didn't happen at that time. There are plans underway to get that group together next month.

Another group that met last month was the executive committee which is overseeing the entire EIS Process. This executive committee reviewed the Oyster Advisory Panel's findings and also some of the other models, or at least one other model that is going into that environmental impact statement.

This group also confirmed a new timeline for the delivery of the draft EIS for public comment. I sent out to all of you the press release that informs you of that new timeline for that release. They anticipate releasing the draft EIS in May of 2008. That delay is attributed to difficulties in completing the need of oyster demographic models, as well as it will allow more time for the scientifically defensible peer review of the science going into the EIS.

And then, finally, the other reason was to allow for greater input from key stakeholders as well as the public. I also wanted to let you know that we are getting the ISTC together next month. I think we're working on September 12<sup>th</sup> and 13<sup>th</sup>. They will meet in Baltimore. They are going to review some of the science that is going into the EIS, as well as some information on the demographic model and the ecological risk assessment.

We're also planning on next year to get the – I hope we're going to work into the budget two meetings of the ISTC to coincide with the delivery of the draft EIS. At one point the group will get together to review the science that is going into the EIS, as well as another time to review the draft environment

impact statement. Each time that group meets, they will report back to the Policy Board and give you guys an update. That is kind of where things stand right now.

CHAIRMAN LAPOINTE: Thanks, Megan. Any questions? Seeing none, we will move to the next agenda topic, and Bob Beal is going to discuss the use of FAX ballots for board decisions.

### **USE OF FAX BALLOTS FOR BOARD DECISIONS**

MR. ROBERT BEAL: Thank you, Mr. Chairmen. On the CD there was a brief document about two-thirds of a page long that kind of provided some background on this issue. As everyone around the table knows, the commission uses FAX ballots at the management board level quite a bit to make decisions that are essentially expected to be unanimous or nearly unanimously approved by a management board.

They don't fall in line with a scheduled face-to-face management board meeting, so we employed a FAX ballot to approve or make decisions at the board level in the interim between meetings. The Charter doesn't give a whole lot of direction on the use of FAX ballots. The Charter does recognize FAX ballots are a tool that the commission can use, and it provides some flexibility and efficiency to the boards.

I am going to run through three quick examples of the use of FAX ballots and give a little bit of background as to why this issue came before the Policy Board. Tautog Addendum V, this was an issue where the Tautog Management Board noted the need for an addendum. During the board meeting, there was a clear description of what should be included in that addendum.

Staff went back to the office and drafted the addendum and circulated a FAX ballot for the approval of this document. This allowed the board to essentially approve the idea that we needed to develop this addendum at one meeting and then actually have the final approval of that document at the very next meeting, and it accelerated the process quite a bit. It was a pretty straightforward document, and I think in that case it worked very well.

The next example is Atlantic sturgeon. The Atlantic Sturgeon FMP requires the addendum process to be used for aquaculture facilities that will be importing sturgeon. We have developed a couple of those addenda through FAX ballots. There usually of

minor impact, only impacting usually one aquaculture facility in their limited scope, so those have been approved via FAX ballot as well.

The third example that is here is really the issue that sparked this conversation or this agenda item for the Policy Board. At the last Policy Board meeting, the state of Maryland brought forward a proposal to modify the Susquehanna Flats Management Program. There was not a Striped Bass Management Board scheduled for the meeting week that was held in May. The Policy Board had a lengthy discussion on should this be considered via FAX poll. They did have some concerns.

The members of the Policy Board at the last meeting indicated that the content of the proposal wasn't the concern, but it was the process of having the Policy Board approve a FAX poll that a management board would be taking at a later date. So, again, the process was the concern here rather than the content of the proposal.

A FAX ballot was developed for this Maryland Proposal, and Maryland's Proposal was not approved via FAX poll. Many of the responders and states said that their concern wasn't with the content; it was with the process so they couldn't approve through the process that was selected by the Policy Board.

Based on that one example, I received a number of e-mails saying we should really talk about this at the next Policy Board meeting and maybe consider some sideboards on the use of FAX polls and more clear direction on how they should be used and what type of issues can be considered via FAX poll. That is the quick background, George.

CHAIRMAN LAPOINTE: Thank you, Bob. Questions or comments from board members? Eric Smith.

MR. ERIC SMITH: I forget if I was the one of the ones who sent an e-mail, but I do have a fairly strong view on this, and it goes to the transparency of our process and also the fact that after we've made a decision on something contentious, we still all have to be partners and colleagues and have a collegial view.

When we deal with contentious issues and we don't have the opportunity for face-to-face interactions, sometimes we can abrade ourselves and maybe not be so satisfied and collegial after the fact. To me, that means we ought to guide ourselves into a position that if there is any hint that something is going to be either contentious or we're going to

suffer from lack of public review of the process, even if there is no public comment, we should refrain from using a FAX ballot, even if it means we have to rebuff what otherwise, even on a technical basis or a logical basis, we think is a good idea, the process in that case ought to prevail over the desire for speed in getting something approved.

I hope this never comes back to haunt me on one of the things I want, but the fact is I would probably say the same thing that if in doubt, don't use it. But the other side of that coin is we are even becoming a cumbersome process, and thank God we're managed under the Magnuson Process, which is much more slow.

That said, any way we can economize or be efficient in our process and do the right thing without being criticized for it, we should. That's why I like the process. To me, the dividing point is contentiousness and transparency and where is the place where we make the decision that – and it may have to be case by case.

That is what we did with Susquehanna, and I think it actually worked out pretty well in that respect, because we weren't going to have a striped bass meeting. We've got some signals that people didn't like that. We had a Policy Board meeting scheduled. The Policy Board made the call on whether we would do it or we wouldn't do it.

And even if we err in that one sometime and we get criticized for either deciding to do it not to do it, I think that is the right place for us to have that switch that said, yes, we can do it; or, no, we shouldn't do it. So, I think we kind of have the process that I am satisfied with as long as we all do our due diligence to use that filter I talked about.

CHAIRMAN LAPOINTE: Thanks, Eric. I have Dennis, and then I put myself on the list, and then I will get Howard.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chair. As you probably noted some months ago, I did send an e-mail out, and I was particularly concerned about how things had been done. As Eric said, transparency is very important to us. In addition to the transparency, for someone like myself who works in a legislative process, it is very important to me that we have a true discussion of the issue.

Many of us that sit around the table have different understandings of fisheries management. There are laymen like myself, there are agency people, and it is

very important for me to have the ability to sit and listen before I make my judgment, and that was principally where I was coming from in my objection to the Susquehanna issue.

Also, having it done on the Policy Board on the day that most of us are traveling – I had already headed home. We all arrive here on Thursday with our suitcases in hand and have different flights. Depending on the length of the Policy Board, some of us stay, some of us have to leave. Again, I think that anything of this nature must go to the management board first for a fair and transparent hearing on the issue at all times.

CHAIRMAN LAPOINTE: Thanks, Dennis. What I was going to add, the FAX ballots certainly are very useful. What struck me in the case of the Susquehanna Flats – and I know it was an issue of timing – it was the passing by of the board and going right to the Policy Board, which is something that I think we need to either not do or be extremely cautious about. Howard.

MR. KING: Yes, thank you, and I do agree with Dennis. Having prompted and experienced this, I would certainly never suggest doing it again. You know, the FAX ballot seemed to work well for voting on advisory panel members and administrative matters, but except for rare exceptions, for species management it probably shouldn't be used. There is no substitute for a face-to-face conversation. Thanks.

MR. MILLER: Thank you, Mr. Chairman. Just let me follow up on what Howard said. I think the criteria – and also following up on what Eric said – the criteria for me is would I benefit from a face-to-face discussion either to better understand the issue or benefit perhaps from my colleagues or members of the audience insights on a particular issue?

So, from my standpoint, if it falls into that category, then I think it should be handled at a meeting and not by a FAX ballot. Those issues where no added benefit and no added value would be generated by a face-to-face contact, then, fine, let's do it by FAX ballot. Thank you.

CHAIRMAN LAPOINTE: Other questions or comments? I hear a general consensus that we use FAX ballots sparingly, and we use them in the context that has been discussed so that they are decisions that won't materially benefit from a face-to-face discussion or that need public input. I see heads shaking up and down, great, thank you very much.

**NON-COMPLIANCE  
RECOMMENDATION REVIEW,  
STATE OF MAINE**

CHAIRMAN LAPOINTE: The next agenda topic is a review of non-compliance measures. Since the state of Maine is part of that, I'm going to turn it over to Robert Boyles for this agenda topic.

VICE-CHAIRMAN BOYLES: Let the record show that George has relinquished the Chair to me for this section of the agenda. We do have a recommendation coming out of the Atlantic Herring Section. I believe Mr. Smith has that report. Eric.

MR. SMITH: Thank you, Mr. Chairman. The section met Monday afternoon and discussed this issue. I want to say at the outset it is apparent to the section, very clearly, that this is a subject of intense and proper interest in the state of Maine, both within the halls of government as well as the interested parties that constitute the herring fisheries in Maine.

Many of us have been in that position before where there is a legitimately proper decision made by the commission, but it doesn't ring true back home right away, and it becomes a source of consternation. We try and work those things out and sometimes they just don't. Now most states, like Maine, have a procedure for adoption of regulations that includes not just the agency but also a so-called fishery management council.

Maine has that process. Their council balked at this idea for what they felt were good reasons; and, clearly, that set us on the stage where the state of Maine was out of compliance with the required provision of the plan that dealt with spawning area closures. Through some continued negotiations and discussions through the summer, the Maine Fisheries Council – I probably have the name wrong – came to the conclusion that that probably was a decision that needed to be reconsidered, and they have set the stage to do so, and to revise and ultimately adopt the regulation that is in compliance with the plan.

The section heard all this, and we appreciate that effort, particularly on the part of DMR folks, but also with their council and with the industry, because part and parcel of this agreement is a voluntary agreement on the part of the industry to obey the dictates of the commission plan even before the formal regulation actually becomes effective.

That said, the plan required the spawning area closure and the zero tolerance provisions to be adopted essentially by the first of the year, and that was not done, and it still hasn't been done, pending the process that Maine has to go through. The section did recommend to the Policy Board and to the commission that the state of Maine be found out of compliance, and I will read the motion, which is also on the board:

On behalf of the Atlantic Herring Section, I move that the ISFMP Policy Board recommend to the full commission that the state of Maine be found out of compliance effective September 24<sup>th</sup>, 2007, for not fully and effectively implementing and enforcing Amendment 2 and Technical Addendum I to the Interstate Fishery Management Plan for Atlantic Herring.

The state of Maine has not implemented the spawning restrictions, Section 4.3.2, contained in the plan. The spawning restrictions are necessary to protect the spawning aggregations that are highly susceptible to fishing in order to ensure continued recruitment to the stock. In order to come back into compliance, the state of Maine must implement the spawning restrictions as detailed in Amendment 2 and Technical Addendum I.

Now, that is on behalf of the section, Mr. Chairman, so it does not need a second, but I would like to expand a little bit on the dates embodied in the motion so that you understand that process. Maine's regulatory process requires them to not only go through their council, but then there is a 30-day comment period and then a little bit more of a procedural time, five days, I believe, from the end of the comment period until the date that the filed regulation goes into effect.

When you take all those dates from where they started their process to when they end with the procedural timeline, it is September 24<sup>th</sup>. What this motion does is on that date, if their process has not produced the desired effect, which is an implemented regulation, then they would be automatically recommended or be found out of compliance.

Our staff would send the letter to the National Marine Fisheries Service. They would have their time period to review and decide on compliance with respect to the provisions of the ACFCMA. That is why we have a date deadline in there. We're confident that between the voluntary compliance that the industry members have signed on to and the process that the state of Maine has already initiated, that they are

going to hit that deadline and have the required regulation.

We did not want to burden the National Marine Fisheries Service with all of the effort that needs to be done to justify and review and approve a non-compliance finding, knowing that in good conscience we thought we were going to hit that date. That is why we have a deadline that is six weeks off into the future. Beyond that, I will be happy to answer questions, but that is the motion of the section.

VICE-CHAIRMAN BOYLES: Thank you, Eric. As you pointed out, we do have a recommendation and motion. It does not require a second. Before we get into discussion, I would like to provide Maine with any opportunity to comment on this. George.

MR. LAPOINTE: I won't comment very much, Mr. Chairman. I want to thank people for working with us through this process. It hasn't been easy for us. A couple of clarifications. I got the regulatory process started again. The DMR Advisory Council can only approve or disapprove. I got that started after an industry meeting we had on the 3<sup>rd</sup> of August.

It is our intention, and talking to a number of advisory council members, it is their intention to approve this on the 19<sup>th</sup> of September. It shows the 24<sup>th</sup> because after they are filed with the Secretary of State, they go into effect five days later. Thank you.

MR. PATTEN WHITE: I, too, would like to thank everybody. I have had great conversations with people and have shared their concerns and understanding, and I again want to thank everybody. It has not been an easy situation, and I think the commission has handled it admirably. It is a policy that we have to stick to.

REPRESENTATIVE ABBOTT: Thank you. George, you didn't mention the fact, or I don't think it has been mentioned yet that Maine has instituted a voluntary closure with your fishermen and they are not fishing right now in the spawning areas.

MR. LAPOINTE: Maine worked with the industry on a voluntary compliance measure. I mean, it is a gentlemen's agreement that the industry members have signed. We worked with them on that. One of the reasons we haven't pushed that a lot is that is outside of our regulatory authority, but that is what they have committed to because many people in the industry, some of the cooler heads realized that the implication of not doing that could be severe.

VICE-CHAIRMAN BOYLES: Any other questions or discussion? Vito.

MR. VITO CALOMO: We appreciate everything that Maine is trying to do. You know, from Massachusetts and New Hampshire, it puts us in an awkward situation where we battle for market from time to time. But, did you have a hundred percent agreement of all the vessels that fish now? On this gentlemen's agreement, are they all signed on the dotted line?

MR. LAPOINTE: I don't know if it's a hundred percent, Vito, because there may be a couple of small operators I am not aware of, but the vast majority have signed, and all the big operators we're familiar with have signed that agreement.

MR. CALOMO: Thank you very much, and I appreciate your keeping me posted throughout.

VICE-CHAIRMAN BOYLES: Any other questions or comments? Seeing none, the question has been called. We've got a motion; it's been read into the record. Is there any need to caucus? Okay, all those voting in favor of the motion, raise your right hand; all opposed, same sign; null; abstentions. The motion carries; 15 for, zero against, zero nulls, 3 abstentions. Thank you, I will now re-relinquish the Chair.

## DE MINIMIS PROVISIONS

CHAIRMAN LAPOINTE: Thank you, Robert, and thank you all for that. The next agenda topic is a discussion of de minimis provisions. Bob Beal is going to lead us through this.

MR. BEAL: This is an issue very similar to the FAX poll issue that we talked about a few minutes ago. At the last Policy Board meeting, I believe Roy Miller brought up the idea that he would like to have – or at least hear a little bit more about the de minimis provisions within the commission's plan.

I put together a brief background paper on this issue; again, a couple of examples at the bottom with a little bit of background on the top. It is being passed around right now. I think as everyone around the table knows, the interstate plans that the commission develops do have de minimis provisions within those plans. The de minimis provisions within those plans vary quite a bit with respect to qualification criteria, the management measures that a state is relieved from if they are de minimis, as well as the sectors of

a fishery that are included in the de minimis provisions with the FMP.

The ISFMP Charter does include a definition of de minimis. It is included in this paper that is being passed around. I won't read it, but it simply notes that a de minimis state is a state that its fishery has a minimal impact on the overall conservation of the species in questions. The Charter also includes the requirement for FMPs to include de minimis criteria, and it also requires that specific language be included with respect to exemptions and qualifying criteria and all the other dimensions of de minimis.

Obviously, the Charter recognized de minimis and has some requirements that in fact it is used in interstate fishery management plans. Moving on to the examples down toward the bottom half of the page, these are just sort of four randomly picked species that the commission manages. As you will see, there is quite a range within the way de minimis is handled within these fishery management plans.

The Shad and River Herring Plan, the qualification period is less than 1 percent of coast-wide commercial and recreational landings for the preceding year. The Shad and River Herring Plan allows states to declare de minimis status for recreational or commercial shad fisheries. If a state is granted de minimis, they are exempted from sub-sampling catch and collecting of biological data.

American eel, again, the qualification threshold is less than 1 percent of commercial landings by weight for the preceding two years. American eel actually states can qualify for de minimis status based on the life stage of American eel. An individual state can be granted de minimis just for silver eels, for example. That is different than any other fishery management plan. You can see the exemptions down at the bottom. States are excused from recreational and commercial management measures as well as fishery-dependent monitoring elements for the life stage that a state is granted de minimis.

For Atlantic striped bass, the qualification threshold, again, is 1 percent commercial and recreational landings. The Striped Bass Plan, there are no sectors. You are either de minimis or you are not. It is not broken down into recreational and commercial or anything beyond just the overall Striped Bass Fishery Management Plan.

In striped bass, the state actually requests what they would feel is fair to be exempted from; so, if a state qualifies at less than 1 percent of the overall harvest

for the Atlantic coast and they would like to request de minimis, they also, as part of that request, need to notify the management board of what they would like to be excused from within that fishery management plan.

Atlantic menhaden, there is not a criteria or a threshold. The plan simply states that if a state wants to apply for de minimis status, they need to make a case that it's appropriate for them to be granted de minimis. They also need to describe what they would like to be excused from.

These are just, again, some examples. The 1 percent number varies by FMP. I think summer flounder is one-tenth of 1 percent for the preceding year. I think weakfish is the average of the preceding three years to prevent states from kind of going in and out of de minimis status from year to year. The bottom line is there a wide range of provisions within our fishery management plans. A lot of these were negotiated at the time the plan was developed. A lot of these have valid reasons and a lot of history and were negotiated during the time of the plan.

CHAIRMAN LAPOINTE: Questions or comments?  
Eric Smith, Roy Miller and Dennis..

MR. SMITH: Sometimes there is a good reason for standard rules, but in this case I kind of like the idea that these are fishery management plan specific. The fisheries are different, and one rule probably isn't going to fit all of them. As long as we're up front and clear and it is available for the interested parties to hear the debate and understand why we have the rules we have for a particular fishery, I think that is a preferred way to go than to try and standardize these things. I kind of think we're on the right track with the way we have them right now. Thank you.

MR. MILLER: Thank you, Mr. Chairman. Although I agree with what Eric just said, I do think some standardization is practical and possible, specifically with regard to what a particular jurisdiction might be de minimis from. My suggestion would be commercial or recreational or both, and with each plan it should be specified which de minimis component the particular jurisdiction is applying for.

For example, if Delaware applied for de minimis consideration, let's say, for tautog, it would be on a commercial basis and not a recreational basis; whereas, for another species like red drum, it would be de minimis for both commercial and recreational. My de minimis request would reflect my desire in that regard. That is my suggestion. Thank you.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chair. Related to de minimis but not particularly to the paper just presented, this week we had an issue with the state of New Jersey regarding lobsters. We had a reconsideration motion in which the state of New Jersey was required to muster two-thirds of the voting members.

I think they were put at a disadvantage of the fact that there were de minimis members of the board who did not attend the board meeting. I think that it caused them to have to leap over a higher hurdle. Though I am not recommending that de minimis states don't vote, I think somehow we should consider the fact that there may be situations where de minimis states, for good reasons, don't attend a board meeting if it was held at a different place, and in this case could have affected the state of New Jersey's ability to advance their situation.

You could also have a situation a little bit different where, as you were trying to achieve a quorum that may be at a different location, because of de minimis states not choosing to travel to the state or to the meeting location, that your ability to assemble a quorum would be affected like it is for me in the legislature at times. Having quorums are important, so I just raise those matters for everyone's thoughts or consideration of what would you like to do, or are you happy with the way it is?

CHAIRMAN LAPOINTE: Thanks, Dennis. Other questions or comments? Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Just maybe for general information, in the case that was just cited, there were two members of the board that were not present. I can't remember what the vote was, but it was substantially greater than two votes.

CHAIRMAN LAPOINTE: I see the two issues a little separately. The issue that Dennis raised, if we got in a situation or if there is a concern about de minimis states or any of the states not being there, we could consider changing it to not states on the board but states present at the time and still use the two-thirds standard to get past that hurdle. Go ahead.

EXECUTIVE DIRECTOR O'SHEA: And the other option is the state that does have an important issue might think about fully informing all the members of that board, whether they are de minimis or not, that there is an issue of substance coming before the board.

CHAIRMAN LAPOINTE: I am going to set that issue aside a little bit. The issue that brought us this agenda topic, and that is standardization of the de minimis criteria, the one suggestion that Roy made that I saw some heads shaking up and down at the table was that when a state requests de minimis status, that they specifically request whether the commercial or recreational components of the fishery are being requested for de minimis status. Does that make sense to folks? I see some heads shaking yes. A.C., you have a comment?

MR. CARPENTER: More a question than a comment. If that were the wish of the board, would it be put into the ISFMP Charter or would you put it into each – that requires the consideration of de minimis be put in the plan or would you put in each separate plan if you were going to go down that road?

CHAIRMAN LAPOINTE: I was just whispering the same question to Bob, so I am going to let him talk about it.

MR. BEAL: I didn't whisper an answer back because I am not sure I have one. I think the way we have done it in the past is by modifying the individual plan. As we go through the addendum process for certain FMPs, if those management boards want a change in the provisions of the de minimis status within a fishery management plan, that may be one avenue to do it. Rather than starting an addendum on a number of species just to modify the de minimis language, we can do as addenda come up for certain species. That would be one approach.

DR. DANIEL: I kind of like what Eric said about having the flexibility within an FMP. I mean, I remember back in the days with weakfish, and there were de minimis states, but they were all very interested in the plan. They were de minimis not because they traditionally didn't have a lot of activity in that fishery.

They were de minimis because the range of the stock had contracted. So there is a difference in just the board mentality when Connecticut and, Massachusetts were interested in weakfish that is a lot different than North Carolina's interest in tautog as a de minimis state. I think you have to have those levels of flexibility within the plan to determine how you do it and not have it set for everything.

CHAIRMAN LAPOINTE: I think people would pretty much agree with that. And, again, the one question that Roy asked or idea he put forward was

when de minimis status was requested, you would just say the state of Maine wants it for the recreational tautog fishery in Maine – of course, I don't have that so that is a blessing this morning – just to identify whether it is commercial or recreational components of the FMP. Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. Maybe I'm missing something here, but what is standing in the way of us doing that now? Is there something that prohibits that from happening?

CHAIRMAN LAPOINTE: I don't think so. It is just the discussion came up in the context of the use of de minimis, and we do have different plans with different standards. It was just a conversation about whether that is a good place to me. My general sense is most people say it is a good place to be with maybe some minor adjustments. Mr. Miller.

MR. MILLER: Just to follow up on Vince's comments, certainly, Vince, we have the ability to do that now. I am just suggesting that as a policy or a procedure in the future, if you will, that when a state declares for de minimis, they say what that covers, whether it is recreational, commercial or both.

EXECUTIVE DIRECTOR O'SHEA: Well, I guess maybe my question to Bob, if that is the sense of this Policy Board, that the boards proceed in that direction.

MR. BEAL: Is the question whether we can do it now as the plans are written or is the question can the boards modify language to accommodate that de minimis request based on recreational or commercial sectors? In other words, do the plans currently allow states to request de minimis status for recreational only? If you're asking if we can do that the way the plans are written, I don't think we can. Some of the plans are written specifically, such as striped bass, that says you are de minimis for all or nothing, so I think some plans would have to be modified to accommodate that.

CHAIRMAN LAPOINTE: And the suggestion was to modify those as addenda and amendments come along. Doug, did you have your hand up?

MR. DOUGLAS GROUT: Yes. Could this be adopted as a general policy by the Policy Board and then at the time that the Charter is next revised that – well, I mean, add that in the Charter at that particular point, so then it is written down in the Charter, but at this point it is just a general policy?

CHAIRMAN LAPOINTE: I think that would work. Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. That was my thought. If the board decides to accept this as a standard way of operating in the future, why not just make it a policy statement now that all addenda or amendments, as the case may be, in the future will be addressed accordingly by species, but right now the board agrees and understands that will be an ongoing policy until written into each one of those FMPs.

CHAIRMAN LAPOINTE: Is there any disagreement with that approach? So we would change addenda and amendments as they come along; and when the ISFMP Charter is amended next, that would be in the list of things that would be considered for inclusion. Dennis Abbot.

REPRESENTATIVE ABBOTT: I would like to suggest that Pat Augustine offer a motion.

MR. AUGUSTINE: Mr. Chairman, should we do that? I move that we – do you mean I've got to say it all over again? Dennis, why don't you repeat it; you're good at this. I move that the operating procedure in the future relative to de minimis status be treated as a policy issue that each state understands that as they come forward with a request for de minimis, they determine which sector it refers to, either commercial or recreational or both; and that be effective until such time as an addendum or amendment is developed for each specie of fish and then implement that or incorporate that into the new process. If someone wants to clean it up, please do, make it simple.

REPRESENTATIVE ABBOTT: I will second the motion.

CHAIRMAN LAPOINTE: Can you repeat the motion when it is written? I think the essence of the motion would be move that the policy board implement a policy of requiring states requesting de minimis status, to identify which sector is being asked for de minimis status, and that be implemented through addenda and amendments. Does it include consideration in the Charter the next time as well?

REPRESENTATIVE ABBOTT: Yes.

CHAIRMAN LAPOINTE: And that the issue of sector identification be included in changes to the ISFMP Charter when it is next amended.



MR. AUGUSTINE: That is what I thought I said.

CHAIRMAN LAPOINTE: All right, Bob is saying we should perfect the motion and do it at the annual meeting, which makes great sense to me. Is that all right with the mover and the seconder? Thank you. Pat.

MR. WHITE: I am a little confused as we got deeper into yours.

CHAIRMAN LAPOINTE: You're the guy who has been handling billions, so go ahead.

MR. WHITE: You were referring to the sector being de minimis, and isn't it a state that is de minimis and not a sector?

CHAIRMAN LAPOINTE: That is what Bob is going to tell us in October. Mr. Miller.

MR. MILLER: Mr. Chairman, one other issue, and perhaps you can offer me guidance as the Chair or call upon people as you see fit. Is it understood by all that when a jurisdiction is declared de minimis, that does not exempt them from recreational measures such as creel and bag limits, or is that not the general understanding? In other words, is a de minimis state, as a general rule, required to implement any common recreational size and creel limits?

CHAIRMAN LAPOINTE: It would be my understanding that when a state requests de minimis status, they would have to ask for and the board would have to grant those provisions of the plan they are exempted from. If it was the prerogative of the board to exempt them from everything, that could be the board's decision, but I don't think that is the general practice. You have a furrowed brow.

MR. MILLER: Well, I'm thinking of examples and Bob brought up other examples. I'm thinking of examples of plans where in some cases the states are required to implement the minimum size provisions or maximum size provisions, as the case may be, and/or creel limits and other plans where they aren't. I am afraid our plans run the gamut in that regard.

CHAIRMAN LAPOINTE: And my sense would be is that goes back to what Eric talked about having flexibility in plans, but I think it is incumbent on the board to consider carefully which provisions are or are not contained or exempted by de minimis status. Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I think we are really going down a path here that I am scratching my head about, because some of the reasons to some of the species – and we discussed it this morning – was by creating a loophole for delivery of species to the de minimis state if they don't change their rules, and in other cases that is totally ridiculous because the species never show up. So, it is really arguing the case-by-case basis, and I just don't see the – I am having a hard time figuring out the value of consistency here.

CHAIRMAN LAPOINTE: Dennis Abbott and then Bill Adler.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chair. We are having a board discussion, and with due respect to our executive director, I think we have to let the board go through this process. I appreciate the executive director's help, but earlier you said that here is the other option to something I said. That is not necessarily so. This board has enough wisdom to proceed, and I would like you to allow the board, to the best of your ability, to do its work. Thank you.

MR. ADLER: Thank you, Mr. Chairman. I am getting confused here, too. I don't know why this is needed. The boards seem to do fine making the arguments at a particular time and making decisions on addendums or whatever on the de minimis thing. Would this motion in any way impede a board's ability to work on a de minimis situation and come up with something that they feel is right? Would this in any way impair it because it came from the Policy Board?

CHAIRMAN LAPOINTE: Well, we don't have a motion yet – that will come in October – but I think the sense of the motion would not – well, it was withdrawn because Bob is going to clean it up for the annual meeting. I think the sense is that it would not impede a board's ability to be flexible. It would just require the specific identification of a de minimis request saying the jurisdiction in question wants to be exempted from commercial provisions or recreational provisions or both of a plan.

MR. ADLER: But is even that restrictive and restricting a board's – maybe they will come up with some different things that they want for de minimis. I am not saying they will, but if they do, and you go, we can't do that because we can only do this. Does that restrict it?

CHAIRMAN LAPOINTE: I don't think it does, Bill, but when the question comes forward to the annual

meeting, people should look at the motion that is going to be presented. If the board thinks it is a good thing, obviously, they should vote for it. If they think it does cause restrictions that are unwarranted, obviously, we should consider that pretty thoroughly.

DR. KRAY: Mr. Chairman, I make a motion to table this motion.

CHAIRMAN LAPOINTE: I thought it was withdrawn? I think we are all trying to cut off the discussion, but –

MR. AUGUSTINE: We're just on discussion now, aren't we, Mr. Chairman?

CHAIRMAN LAPOINTE: We're just discussing a policy board issue, and I think we have kind of played out, but we want to make sure we have.

MR. AUGUSTINE: It just seems that in the final analysis, if we come up with any guidelines that relieves any state from having similar controls on minimum sizes or maximum sizes or poundage control, for that matter, on the commercial side for any catches they make, then I think we do create that instant loophole.

In that regard, I'm not sure how much flexibility we really should allow states to have relative to de minimis status. It seems to me that the standards that apply to all species from a recreational side, again, a minimum size, a minimum length, or maximum length, or pounds on a commercial basis should be kept in each one of those plans to control those loopholes, as we did with tautog. I won't beat it to death, but that is my position. Thank you.

MR. BEAL: I think something that would be helpful, too, is we put together a comprehensive table of de minimis provisions in all the fishery management plans and attach that to the motion that we're going to bring back in October, and everyone can see what they require, what this motion would change, and it should, hopefully, be pretty straightforward.

MR. CARPENTER: Just to get the mud a little bit thicker here, can staff also review the difference between de minimis and being declared interested in a species? I am not declared an interest in the Lobster Board, for obvious reasons, but if I wanted to declare that I wanted to be interested in lobsters, would that give me a seat at the table?

MR. BEAL: Bob says he would be glad to do that. Is there any other discussion on this topic? Dennis.

REPRESENTATIVE ABBOTT: One final point, Mr. Chairman. When I asked for a motion, it was precisely for what we just went through. We were going to have a policy put in by a statement; and once we got to the motion business, we got down to brass tacks, and the process took us through to where we are now, and I am pleased with that, really. Thank you.

## ASMFC STRATEGIC PLAN UPDATE

CHAIRMAN LAPOINTE: I agree. Any other hands up? I am going to move quickly to the next agenda topic before you have chance. Agenda Topic 10 is discussion of updating the Strategic Plan. Bob Beal.

MR. BEAL: At the beginning of the meeting, essentially this slide was passed around that is up on the screen right now. It includes a proposed timeline for updating the Strategic Plan. At the last Policy Board meeting, the idea was introduced that the current Strategic Plan that the commission has expires at the end of 2008, so the commission will need to develop a new five-year Strategic Plan – or assuming it is five years, I guess.

Up here is the proposed timeline based on the discussion that we had at the last Policy Board meeting. The proposal is to have the first planning workshop in February of next year at our winter meeting. During this workshop we would review the progress that was made under the current Strategic Plan. We would also review the status of the provisions within that document and highlight some things that may need to be reconsidered, and just kind of generally go over that Strategic Plan to re-familiarize everyone with it.

At the last Policy Board meeting, there was some discussion whether this should or should not be facilitated. I think one point was made that it should be facilitated, and there was also a point made that this workshop should be facilitated. There is probably a decision that needs to be made here prior to the February meeting approaching.

In May we're proposing to pull together a summary of the workshop and a discussion on what occurred at the workshop. Also, during the May meeting we will provide direction to staff to go back and develop the first draft of the Strategic Plan. A year from now, at the summer meeting, we will have the Policy Board review the first draft of the new plan, and the Policy Board can offer recommendations for changes. Final approval is proposed to take place at the annual meeting next year, 2008.

## **HABITAT COMMITTEE REPORT**

CHAIRMAN LAPOINTE: Thank you, Bob. Questions for Bob? We will see everybody in February. The next agenda topic is an update on habitat activities. Jessie is going to give that to us. Eric Smith.

MR. SMITH: I may have missed something, but I thought Bob was asking whether this group wanted to comment on facilitated or not facilitated, or did you have enough clarity on that from other discussion?

CHAIRMAN LAPOINTE: I don't think he had the clarity on it, so I apologize for skipping over it.

MR. SMITH: Well, I had a comment on it the last time, but I'm not wedded to it. I didn't particularly like the idea of the facilitator, but then I thought back on how Vince did it in '03, and I thought that was pretty useful. I'd be happy if the chairman and the incoming chairman and Bob and Vince caucused and decide what the right thing is for the body. I don't care to weigh in any more than that.

CHAIRMAN LAPOINTE: Is that acceptable to board members? It will be done, thank you. Jessie.

## **ATLANTIC COASTAL FISH HABITAT PARTNERSHIP**

MS. JESSIE THOMAS: Thank you, Mr. Chairman. I'm just going to give you guys an update on the Habitat Committee's recent activities and then also on the Atlantic Coastal Fish Habitat Partnership.

I am going to start with the habitat program. Recently the Habitat Committee elected a new chair, Karen Chytalo, who is actually now sitting at your table, and yesterday also nominated a vice-chair, Wilson Laney. This spring we completed the shellfish document and were able to publish it, so it is now available both in hard copy and PDF, if anyone is interested in seeing it, if you haven't seen it already.

We're also in the process of completing the Diadromous Species Source Document, which has been around for a number of years now. We're still waiting on a few chapters in their final form, but this is a document that the Policy Board had previously approved, I believe, at some point a year or two ago. We hope to bring the final version of that document to the Policy Board in October for you guys to see before it is published.

We also have initiated the development of the energy source document that was a result of the efforts of the energy workshop last fall. The sort of options of action were brought to the Policy Board at the annual meeting last year, and one of the choices that you all made was to initiate the development of a source document looking at different alternative energy resources. As a result, the Habitat Committee and Management and Science Committee have started to develop a detailed outline of what that document will look like and, hopefully, will be able to initiate the writing of that next year.

We have also had a number of developments in the issue of Habitat Committee program planning. As far as membership goes, we now, on the Habitat Committee, have one member from every state except Pennsylvania. We have two representatives from the NOAA Fisheries Service, Office of Habitat Conservation; two representatives from the U.S. Fish and Wildlife Service; one from the National Ocean Service; one from USGS; one from EPA; one from Army Corps; and two NGO's, one being Environmental Defense and one being Chesapeake Bay Foundation. We have a pretty complete committee at this point and a really knowledgeable group of experts on habitat, which is wonderful.

We've also been in the process of developing a Habitat Program Operational Procedures Manual. This includes a number of – it essentially outlines the program structure on policies that relate to habitat program activities. Last year, when we revised the Habitat Program Strategic Plan, the old plan had a lot of procedures that we took out that weren't really relevant for a strategic plan that we have now turned into a procedures manual.

That includes something like a habitat section for the fishery management plans. In 1998 there was a document completed that essentially outlined what a habitat section of a fishery management plan should look like, and we're incorporating new sections that are part of the current FMP outline, so that we have a guidance document for all the different sections that relate to habitat that may be included in fishery management plans.

We also are in the process of revising the Commission Permanent Comment Protocol for Habitat Impacts, so that is something to sort of be aware of. That is something that will be coming around. We hope to bring this document to the Policy Board in October for approval. At that point in time, we will definitely have a discussion about these changes in Habitat Program Procedures and be

seeking your approval for those different changes in protocol.

Additionally, at the Habitat Committee meeting, on Monday we had a tribute to Bill Goldsborough, who was the chair of the Habitat Committee for the past ten years. The Habitat Committee has been very grateful to him. That is something that I just wanted to let you all be aware of, that he was actually chair of the Habitat Committee for ten years, and we appreciated that very much.

As far as the Atlantic Coastal Fish Habitat Partnership is concerned, we have been quite busy this year; just in the past six months or so, really, getting this partnership up and running. In February we held listening sessions in five locations along the coast, and those were very successful.

As a result, sort of coming out of those, we generated enough interest in order to be able to have a coast-wide workshop in Baltimore in May. At the coast-wide workshop we had approximately 80 attendees. These came from federal agencies, state agencies, non-governmental organizations, one or two representatives from academia, a couple of other different types of organizations, all getting together to decide what an Atlantic Coastal Fish Habitat Partnership should look like.

The objectives of that workshop were, first of all, to engage the partners in developing and implementing an Atlantic Coastal Fish Habitat Partnership; also, to collaboratively discuss what the focus should be according to issues such as species focus, habitat focus; and also what regional components should look like for a partnership that spans the entire Atlantic coast.

We also collaboratively discussed the administrative structure of this type of partnership and what that might look like and have the different discussion groups come up with ideas of what an appropriate administrative structure would be for this type of partnership. We also collaboratively discussed strategies for addressing the next steps to move this type of partnership forward, so that we had an idea before we left the room of who might be doing some of the activities to really try to kick this off the ground.

The preliminary list of species and habitat targets that we came up with for the partnership are very broad at the moment, and they include structurally complex habitats; diadromous fishes; macro crustaceans; tidal river systems; non-tidal river systems; marshes;

estuarine-dependent fishes; SAV, which is submerged aquatic vegetation; water, both quality and quantity; and near-shore coastal habitat, so pretty much everything.

We're in the process now, we have a group that is specifically working on trying to narrow that list down in order to really identify what are the critical areas that we need to focus on in the Atlantic coast with regard to fish habitat.

At the workshop there wasn't any decision made on a regional breakdown for the partnership. That is something that we're going to have to sort out. As we refine the focus of the partnership, it should become clearer what different regional components would work best, whether it is three being like a New England, Mid-Atlantic, South Atlantic, or maybe it is a lot more regional divisions that would make the most sense to keep this partnership moving and organized.

We also created four working groups. One was the steering committee working group; also a science and data working group; a communications working group; and a joint southeast working group that is trying to coordinate with the Southeast Aquatic Resource Partnership, which is another partnership under the National Fish Habitat Action Plan. They operate in a similar area of the southeast, but not really as much on coastal habitat.

Each of those working groups developed a work plan for the relevant next steps, and most of them at least have been making some progress on moving forward with some of those next steps. Yesterday we had our first interim steering committee meeting here in one of the other rooms in this building.

That group elected George Shuler, who works for the Nature Conservancy and has been helping me sort of facilitate and organize the workshop in particular and also some of the other activities of the partnership. The group felt that he would be an appropriate chair for this interim steering committee.

That group yesterday discussed what the role of the steering committee should be, who should participate on the steering committee, a timeline for action for the partnership, the mission and vision of the partnership, discussed funding issues, which are pretty large, and also talked about a method to narrow the focus of the partnership and begin to initiate a habitat assessment of the coast, which is a necessary thing for the partnership to do in order to

be recognized as an official fish habitat partnership under the national effort.

They also discussed the fact that we need additional funding outside of the commission to further the partnership next year. However, they would like to continue to have ASMFC support in the coming year. Additionally, in the past two or three months, we have applied for a number of other funding opportunities. One of them included a multi-state conservation grant, which was for more than \$250,000, to support the partnership, and we find out how much of that money we might have gotten by the end of September, hopefully.

We're also working on a contract with NOAA for \$50,000 to support the partnership, and we're hoping obtain a dedicated 7.5 thousand pledged by the U.S. Fish and Wildlife Service to support the partnership. That is just a start, so we're definitely going to need to pursue other avenues of funding in order to get especially the organizational structure of the partnership off the ground, because that is the most difficult place to find money.

People will fund projects, but it is difficult to find money to get the organization going, so that is a big challenge for us. In June I gave a presentation at the American Fisheries Society's Diadromous Fish Conference on the partnership, trying to spread the work and let people know what has been going on with the partnership and get them involved.

I also hope to give a joint presentation with Susan Marie Stedman from the NOAA Fisheries Office of Habitat Conservation in October at Wetlands and Watersheds Workshop in Ocean City, Maryland, where she will be talking more about the national effort, but in relation to coastal areas, and then I'll be talking about our partnership specifically. So, hopefully, we will be reaching out to another group that hasn't been exposed yet to the partnership.

Also, I will be giving a presentation at the National Habitat Action Plan Board Meeting in October to explain to them the progress of what we're now referred to as a candidate partnership under the national effort, and we hope that will give the national board a better idea of what we have been working on and the direction that we're going and the progress that we've made up to this point.

For some of the major issues that we have been dealing with as far as involvement in the partnership go, and something that you all may take home and think about as you work with the other agencies in

your states, we really need more southern involvement. We're pretty weak especially outside of the habitat committee on getting other agencies and organizations in the southeast involved in the partnership, so that is something that we really need to work on getting more people involved down there.

We also need more freshwater fishery and coastal management agency involvement. Right now, because the habitat committee has sort of kicked the partnership off, we have the marine fisheries aspect, but we're lacking a lot of the other habitat and freshwater fisheries aspects that we will need if we're going to have a focus as broad as we've proposed. We also need more NGO involvement, the non-governmental organizations. We have a few, but we could definitely use more, and in some ways they are able to attack some of those funding opportunities that some of the states or federal agencies are not. I guess that is about it, so that's what has been going with the habitat and with the commission.

CHAIRMAN LAPOINTE: Thank you, Jessie. Questions or comments for Jessie? My only request would be you mentioned a protocol for giving comments on projects, and the best way for the board to consider that will be if we get it in advance.

MS. THOMAS: That will definitely happen.

CHAIRMAN LAPOINTE: Thank you. Other questions or comments for Jessie? Seeing none, I want to thank Bill Goldsborough personally for his ten years as habitat committee chair. Both as a commissioner and outside, we have benefited greatly from both your knowledge and your passion, so I think you a lot, Bill. (Applause)

I am going to try to plow through the agenda. There is a striped bass meeting that starts at 5:15. We're going to do the business meeting to try to get that out of the way. So if people want a break, I will keep going through the agenda until 4:45 and then switch to the business meeting, we should done by 5:00 people, and that will give people a 15-minute break. Does that make sense?

We're now on the draft agenda for tomorrow, and the next discussion topic is discussion of alignment of state and federal management. Bob Beal.

#### **ALIGNMENT OF STATE/FEDERAL MANAGEMENT**

MR. BEAL: Thank you, George. As a brief introduction, I put together a couple of paragraphs on

this issue that are being handing out right now. Really, the idea or this concept came up through a number of discussions at individual management board meetings and prior policy board meetings.

The commission has, I believe, seven either joint or complimentary management plans with the federal marine fishery management councils. During 2007, at one point, five out of the seven of those management programs were out of alignment at the state and federal level. This lack of alignment and in light of the new Magnuson-Stevens reauthorization, some of the provisions in there restricting the flexibility, so to speak, of fishery management councils, as far as setting quotas and scientific and statistical committee advice, it appeared to a number of commissioners that this issue of alignment probably needed to be discussed at the Policy Board.

In the example that I have, scup, black sea bass, and spiny dogfish, Atlantic herring, the commission had higher quotas for all of those species at one point. During 2007 I think the Atlantic herring quota was modified to be consistent with federal process. Last week the scup, black sea bass, and summer flounder quotas for 2008 were set consistent between the federal and the state program.

Those quotas still need to be approved by the regional administrator, so there is a question whether we're going to remain consistent or not. This notion was just brought up and worthwhile for discussion in that should there be some ASMFC standards on alignment between state and federal fishery management plans?

CHAIRMAN LAPOINTE: Bill Adler.

MR. ADLER: By standard, do you mean that we automatically go with the federal decision, like we usually do, or does a standard mean that we make the National Marine Fisheries Service come to us?

CHAIRMAN LAPOINTE: Standards could mean either, depending on which one we pick. Jack Travelstead.

MR. JACK TRAVELSTEAD: I'm not sure about the question on standards, but, clearly, the process that we have now, particularly with the summer flounder, scup and black sea bass management plan, doesn't necessarily allow us to act jointly so that we end up in the same place. I mean, when we meet jointly with the Mid-Atlantic Council, we operate and have operated for many years under a provision that when one group makes a motion, we don't move forward unless the other group makes the identical motion.

That automatically puts us in a situation where you would think we're operating in concert, but then you have to realize that the motions of the council are simply advisory to NOAA, who ultimately makes the final decision somewhere down the line, several months. By that point, ASMFC has already voted in alignment with the council, so the process that we have automatically, particularly in periods of declining quotas, puts us at odds with the National Marine Fisheries Service.

So, if we're serious about getting in alignment – and I am not of the mind that we necessarily have to follow the lead in every instance of the National Marine Fisheries Service, but if we're interested in having more dialogue that we hope leads us to that conclusion, we are going to have to change our procedures as to how we operate.

MR. DIODATI: I guess if we have about seven joint plans and we're out of alignment on five of them, it's obvious that joint planning doesn't work very well. I guess I'm more comfortable thinking about getting away from joint plans altogether. We actually have sections, like the Northern Shrimp Section, which doesn't include any federal plan. It's a pure interstate plan. In my view that is the approach that we should be pursuing for all seven or eight of these programs.

CHAIRMAN LAPOINTE: I have actually had a conversation with a fair number of people, and I might suggest that I work with Vince and Bob and coming back with a number of options for the annual meeting. I have some of these written from the conversations. One of them is in the Pacific states – first of all, I agree that if you've got five out of seven that are out of alignment, guess what, we have got to figure out what alignment means.

In the Pacific states, as I understand it, there are decisions between the states and the councils for who manages a species from shore to 200 miles, you know, they pick sharks; we do striped bass, or something like that. I think that is one consideration. Another thing that has been suggested is getting the commission out of the TAL-setting process; do joint planning for other parts, but rely on the federal system for setting the TALs.

I don't think there will be a lot of stomach for that, but that is an option I think that we need to consider. So I think there are other options, and I would like to work with staff on developing the list for further discussion, just so that in fact we can move on the issue, because they are tough issues.

In the case of herring, we have a Herring Section, but we still have a joint plan, so we end up in the same soup. I think regardless of the kind of change that is made, it will take a lot of tough work and introspection. The process will be made all the tougher by the recent Magnuson Act amendments which are going to require annual catch limits and accountability measures as well. I think that will take away the degree of flexibilities that the federal service has now, and we obviously argue that they don't have much to start with. Does that make sense to people; we will give people something to chew on? Eric Smith.

MR. SMITH: Yes, that process makes sense to me. I would just offer as food for thought that the issue about we make a final decision at the same time the council is making a recommendation to the Service is key. What we really need to do is find a way that we can communicate and collaborate with the Service, with the council's involvement, so we co-align – if we stay in this joint process, we co-align the decision-making of the Service and the commission, with the council's involvement at the right time.

And, having said that, to the point of the section or the North Pacific, how they divvy up the workload, the way I see that, the Fishery Service would have to withdraw their involvement in any one of these seven plans in order for us to be the sole management authority, and I don't see that happening. So, we're sort of embedded in it.

Nobody is going to want to say they will walk away from that one, because we all have an interest in those seven plans, and the Service can't very well say they're going to give up the Magnuson responsibility for those plans, so we probably have to find a different way than that. But I agree with let's make a list and check it twice and then talk in October.

MR. DIODATI: Just in response to that, they don't completely withdraw their involvement on a section. They simply don't have a vote on the management action. They are still involved with developing recommendations and research and stock assessments and that sort of thing. And look at what a big gain they get towards recovering fisheries when they lose these seven, so it is a win-win.

## **FISHING GEAR TECHNOLOGY WORKGROUP MEMBERSHIP**

CHAIRMAN LAPOINTE: Other questions of comments? I am sure the list will generate a lot of questions or comments when people see it at the

annual meeting. Our next agenda topic is approval of Fishing Gear Technology Workgroup Membership. Ms. Caldwell.

MS. CALDWELL: Back in November of 2005, the Policy Board approved the formation of this Fishing Gear Technology Workgroup. This group is intended to focus on fishery-dependent aspects of gear conservation, such as BRDs, TEDs, and other gear modifications, rather than addressing fishery-independent projects, such as fish passage, impingement and entrainment.

The Fishing Gear Technology Workgroup is intended to report to the Management and Science Committee and is charged to – and this is all on the sheet that you guys are about to get. They are charged to identify and evaluate studies of fishing gear selectivity, bycatch reduction, gear effects on habitat and impacts of single gear used in multi-species fisheries, to develop comprehensive report of gear work along the coast, evaluate the work to see if it is ready to be implemented in the management process, and identify research recommendations, and then, finally, determine the transferability of such studies to other species and geographic areas.

We intend to get this group together in September during the commission's technical committee meeting week. What I've put before on this handout is the list of individuals that have been nominated thus far to serve on this working group. At the bottom you will see there are three states that have told us that they do not wish to nominate anyone at this time.

There is also a couple of states where I haven't heard either way, so there is a hold right there, just leaving the states open in case those states do want to add someone at a future date. At this time, these are the individuals that the states have nominated to serve on this working group.

CHAIRMAN LAPOINTE: Questions for Megan?

MR. AUGUSTINE: Do you need a motion?

CHAIRMAN LAPOINTE: Sure.

MR. AUGUSTINE: Thank you, Mr. Chairman. I move that the list presented to us on the Fishing Gear Technology Workgroup – do you want all the names read – as presented be accepted and approved.

CHAIRMAN LAPOINTE: Second by Robert Boyles. This is with the understanding that those

states that have not responded, if they do, we will take care of it. We have a motion and a second. The motion is to approve the list as presented. Is there any opposition to the motion? Seeing none, the motion carries.

### **RESPONSE CORRESPONDENCE FROM SOUTHWICK AND ASSOCIATES**

The next agenda topic is discussion of response letter from Southwick and Associates on Striped Bass Fishery Economics. You will recall Southwick and Associates, I think on behalf of Stripers Forever, did a study of the economics of the Striped Bass Fishery. Our Committee on Economics and Social Sciences commented on that.

We got a letter from Rob Southwick, the president of Southwick and Associates, raising a number of concerns about what was presented by the Committee on Economics and Social Sciences. I have referred that letter back to the Committee on Economics and Social Sciences, so we will hear their response, and we can figure out what we want to do next at the annual meeting.

### **SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD RECOMMENDATION**

The next agenda topic is a recommendation from the Spiny Dogfish and Coastal Shark Management Board about a letter to the Gulf States Commission. I believe Eric Smith is going to take care of this.

MR. SMITH: Thank you, Mr. Chairman. The board met yesterday; and among a lot of business, there was a recommendation that a letter be sent to the Gulf States Marine Fisheries Commission, alerting them to the fact that we have a Coastal Shark Fishery Management Plan under development, so it is kind of a heads-up for them, because many of these species transit between the Gulf and the Atlantic, and ultimately effective management is going to require or hopefully will provide for some involvement from that region, also.

It is really two letters. The first one would be simply here is what we are up to, we want you folks to be aware. The second letter would go after we approve our plan, theoretically in February or so, that would say here is our plan; we hope you will see fit to develop and adopt a complimentary plan. We don't need to worry about that letter now.

We just would like this Policy Board, because it is an issue bigger than just a shark management effort, it is a board-to-board communication, so we wanted to

have this Policy Board agree with the concept that we would draft that letter, send it out, and it is nothing more than to tell them that we are under development with this plan.

CHAIRMAN LAPOINTE: Questions or comments from board members? It rose from the Shark Board to this Policy Board because of the commission-to-commission communication. I believe there wasn't any opposition at the Coastal Shark Board. Is there any opposition from board members? Seeing none, we will do – Dr. Daniel.

DR. DANIEL: I know we probably have time today, but I would like to have on the agenda at some point a continuation of the discussion that Pat Augustine stopped rather quickly yesterday with the Shark Board on the proprietary data, and the issue that we all agreed was a Policy Board issue, and it came from the Shark Board. I would like to have some discussion on that at some point.

CHAIRMAN LAPOINTE: All right, I wasn't following enough to know –

DR. DANIEL: Well, we got into a discussion with Jack about proprietary data being used in management decisions, and Chairman Smith raised some issues and concerns that came around the table. Then, rightly so, we stopped that discussion with Jack at a board meeting. The idea was that we would have that discussion at the Policy Board meeting, and I just didn't want us to forget that topic and make sure that it was on at least some agenda, this time or next time.

CHAIRMAN LAPOINTE: All right, Eric Smith.

MR. SMITH: I believe the term is I stand reminded. We did have a lively discussion on this subject, and Pat, rightly, brought us back to the attention that we were in the process of approving issues for involvement in a draft fishery management plan for public comment. The issue that arose was the desire to be able for all interested parties to be able to access the data that goes into a stock assessment.

Apparently North Carolina had a problem getting some information from VIMS. Pat I think, quite rightly, said we were off target here. I, frankly, don't remember or recall that we were going that we were going to raise this issue to the Policy Board; and if that is the case, I've simply forgotten and I apologize for that.



I was hopeful that the last word on it was Jack Musick saying, "Just tell me what you want, and I will try and work with you any way I can to get it to you." I think we ought to give that some opportunity to work itself out; and if it can't, then maybe we need to weigh in. I mean, people who were there, does that kind of sound right? Maybe we want to have the Policy Board discussion in October if you guys can't get what you need from Jack.

DR. DANIEL: And let me just make it clear that it was an issue that was brought to me. We haven't had a problem with Jack, but these issues have arisen in other areas as well, particularly with the sharks. That was why I thought it was a bigger issue when we talked about it yesterday, and that we had said that it would be more appropriate as a Policy Board discussion. I think that is what Pat said. That was my understanding; and if you all feel comfortable that it has been handled, then that is fine with me.

MR. AUGUSTINE: Thank you, Mr. Chairman. No, you're not putting words in my mouth at this time. What I said was that I thought it was the wrong place to be discussing an issue that really involved the state of North Carolina and other entities who wanted that so-called, as Dr. Musick said, proprietary information.

He, on the record, as I recall, said, "Tell me exactly what you want, and I will give it to you," and he had said it a couple of times. At a later time, as the meeting was over, I had a brief conversation with Jack, and he said he would present to you or make available to you – his concern, as he stated on the record, was he has got 27 years of his life tied up in some of this proprietary information.

He called it proprietary. I don't know why; I guess maybe he hasn't had it published, but I think it is his livelihood. If he is paid for something, as he said on the record, he will gladly make it available, and it is available as mentioned in the appendix in these documents. So, I agree with what Eric said that if you don't get what you want, I think you need to notify the board, and let's go through a Policy Board and then have the Policy Board – or at the meeting in October either get in touch with him or draft a letter to him asking for that information.

But, it was the wrong venue. I think you made your point, Dr. Daniel, and it was a valid point that you lacked information, but it wasn't the place for us to continue to expand on that conversation. Thank you.

CHAIRMAN LAPOINTE: I have got Paul Diodati and then I'm going to propose something.

MR. DIODATI: I am just guessing that this discussion is relative to sharks other than spiny dogfish? Then, I think that is an important point because we have a management plan for spiny dogfish, and I think we tend to continue to overlap both our efforts and discussions on what we are doing with sharks. I think we dilute a lot we could be doing with sharks other than spiny dogfish.

Some of them are growing in importance in Massachusetts waters. I had proposed this once before, and that is splitting this board up into a Spiny Dogfish Board and in an all-other sharks board, and I think it will help us focus better on the issues. The last time we talked about it there was concern about the cost of adding another board.

You know, if I have to contribute more money to this organization, I will consider doing that or we could all consider doing that. But I think in order to improve the way we do business, we should reconsider that recommendation maybe for the annual meeting.

CHAIRMAN LAPOINTE: And we can do that during the work plan. But, in regard to data, I asked Bob if staff could ask the states if they've had problems with the issue of getting data for which they have questions about, because it is not an issue of who pays for it; it is an issue that the data is being used in the plan. I think that is a valid question. We ran into – and, thank goodness, it is not an Atlantic States Commission issue.

When we were battling with the two services about the Atlantic salmon listing, we had the same kind of issue; can we get some of the data; well, it is not published yet, so it is proprietary. So I think it is a valid thing to consider, so if staff could inquire of the states and states could then filter that down as they see fit to groups in their state to see if the issue is broader than this, I think that would be worthy of bringing it back to the Policy Board.

We'll also be interested to see if the little colloquy you guys were subjected to yesterday is put to bed between now and then. Does that make sense? Good. The only other issue we have before the Policy Board, and we will hold it off until tomorrow, is A.C. has the issue of the questions that were raised about the Menhaden Board.

There may be something from the Striped Bass Board; I don't know if there is. It would be my intention to leave that slot open at 11:00 o'clock for a very short continuation of the Policy Board meeting and move to the business meeting now. I had A.C.'s hand up and Doug Grout's as well.

MR. CARPENTER: I can give you the information right now that I would be able to give you tomorrow if you want to take the time.

CHAIRMAN LAPOINTE: Is Bill Goldsborough here anymore? Do you mind holding off until tomorrow; it shouldn't take long?

MR. CARPENTER: Fine.

CHAIRMAN LAPOINTE: With that, unless there is objection, I will adjourn the Policy Board meeting.

(Whereupon, the meeting was recessed at 4:45 o'clock p.m., August 15, 2007.)

---

#### THURSDAY MORNING SESSION

August 16, 2007

---

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 16, 2007, and was called to order at 11:05 o'clock a.m. by Chairman George D. LaPointe.

CHAIRMAN LAPOINTE: We have a quorum. We have an agenda, and we're just continuing it. There are two items and then an announcement I want to make. The first one is A.C. is going to tell us about the Menhaden Issue. The second item is dealing with the Striped Board's request for Wave 1 coverage. Mr. Carpenter.

MR. CARPENTER: Thank you, Mr. Chairman. As a result of the questions yesterday, I have asked Jack Travelstead from Virginia to report on the monitoring effort in Virginia and the status of the menhaden catch at this point, and then I'd like to come back and address the other two questions that were raised yesterday.

CHAIRMAN LAPOINTE: That would be great. Jack.

MR. TRAVELSTEAD: Thank you, Mr. Chairman. I wasn't here for the few minutes that Mr. Goldsborough addressed the board yesterday, but it is my understanding that he reported that the coast-wide harvest of menhaden by purse seine was about 20 percent ahead of the five-year average. I think those are accurate numbers.

The board needs to be aware that the National Marine Fisheries Service in Beaufort is monitoring this fishery very closely, and on a monthly basis Joe Smith forwards to Virginia a very detailed report of harvest and landings along the Atlantic coast. Of course, those data are confidential at this point, but he does keep us well informed of landings or harvest inside Chesapeake Bay so that we can compare that to the cap that controls the fishery.

Without revealing any confidential numbers, I can report to you that the harvest in the Bay is not showing the same trend that the coast-wide harvest is showing. It is not on any kind of trajectory that would place it at or above the cap. In fact, I would identify it as significantly below – the trajectory is significantly below the harvest cap.

We will be glad to keep the board apprised of those numbers every time we meet, if that is your desire. Joe Smith does an excellent job of keeping us informed. It is a very detailed report, and we can very easily report, without revealing the confidential data report, that to the board.

CHAIRMAN LAPOINTE: It strikes me that would be a good report to have just so when people ask questions, we can respond without getting people's attention cranked up too much. A.C.

MR. CARPENTER: I think one of the other questions that were raised dealt with the VTRs. We do know that Omega did apply for a grant through the NOAA Chesapeake Bay Office to equip several vessels with that technology, but, as far as I know, they haven't gotten that grant. The status of that remains a little bit questionable at this point in time.

The final issue that was raised dealt with the confidentiality of the data. I think we view that as an issue that the National Marine Fisheries Service has this confidentiality requirement, and I don't see where this board can get in the middle of that.

CHAIRMAN LAPOINTE: I would add on the confidentiality, as a state who is trying to get mandatory reporting on lobster, if we lose the confidentiality protections or if we try to erode those,

it could impact a lot of programs beyond menhaden. So I would be opposed to any changes to the current confidentiality laws. Louis Daniel and then Robert Boyles.

DR. DANIEL: I agree with that. Would it be all right if I took one minute to update you on another menhaden issue or would you rather wait until later?

CHAIRMAN LAPOINTE: Robert had his hand up. If we can continue this and then we will get your update, that will be great.

MR. BOYLES: Thank you, Mr. Chairman, just quickly. I agree completely with the issue on confidentiality. I will say in South Carolina we have seen some legislative action that has been designed to compel us to release some of these landings' data. We have successfully defeated that; again, on the premise that we need good information and we rely on the fishermen, and they need to be able to trust that system. I just wanted to echo your comments. Thank you.

CHAIRMAN LAPOINTE: Other comments on menhaden in regard to what Jack and A.C. have said? Can we just send an e-mail to Bill Goldsborough with what has been reported, just to kind of close that loop? Dr. Daniel.

DR. DANIEL: Thank you. Robert's comments were a good segue in terms of legislation. I just wanted to let the board know that despite our objection, the General Assembly in North Carolina closed the area off of Brunswick County off of North Carolina from inland to out three miles for the harvest of menhaden with purse seines.

That is just off Brunswick County, so it was a local bill gone bad. We had hoped that it would go through our Marine Fisheries Commission and us, but I think the fact that since we probably wouldn't have done anything, that is why the legislation was put in and approved. It brings up an interesting question, though, to think about when states act unilaterally like that and impact an interjurisdictional fishery. While menhaden may not be that big of a deal, it could set a precedent that we don't want to set.

MR. CARPENTER: If I can ask Dr. Daniel – I'm not familiar with the county boundaries in North Carolina, but what area is this?

DR. DANIEL: That is in the extreme southern part of the state. It is down below Wilmington. It had

historically been an area where they've gone down very infrequently; and where every now and then the Gulf boats that came around would stop there on their way up to Jules, but now that Jules is gone – in fact, the Coastal Mariner was just sunk last week as an artificial reef off of Brunswick County.

CHAIRMAN LAPOINTE: Anything else on menhaden. The second agenda topic was the Striped Bass Board wanted to request that Wave 1 be sampled. I will let Paul talk to you; he will get it better than I will.

MR. DIODATI: I probably won't do that, Mr. Chairman, but, yes, there is a request that the Policy Board send a letter to – well, to is really the question. I would suggest it go to Dr. Borman with a copy to Dave Van Voorhees. But the request is basically to give some strong consideration to revisiting the Wave 1 sampling requirements as they enter into their reorganization of recreational survey statistics.

I don't know if Doug wants to add anything to that, but Doug, as chair of the technical committee for striped bass, has a draft letter for the Policy Board to consider. We think it is a Policy Board issue and not a striped bass issue because there are other species besides striped bass that are targeted during Wave 1 that are currently not observed very well in the current survey.

CHAIRMAN LAPOINTE: Given the fact it is broader than a striped bass issue, it makes sense that we are here. Is there anybody who opposes a letter being written? We can have Doug share the draft letter with staff and perfect it and send it out. Vince.

EXECUTIVE DIRECTOR O'SHEA: I am wondering for some species that there is also a similar issue with Wave 6?

MR. SMITH: I think every region has full recreational fishery Wave 6 sampling. Wave 1, it was a deliberate decision years ago. In the North and Mid-Atlantic they said there is not enough effort, so we cut those out. Now we are finding there are fisheries there, so they are trying to recapture that, so I think the letter is appropriate. I don't think Wave 6 has that problem.

## **OTHER BUSINESS**

CHAIRMAN LAPOINTE: Is there concurrence with that; I think there is. Good, it will be done. The last issue, unless other people have other agenda topics, is today is Patrick Kilduff's last day with the Atlantic

States Marine Fisheries Commission. He is going to be replaced by a Patrick, too, who I hope does as good a job.

Patrick is heading off to a PhD Program at the University of California. Hopefully, they won't ruin him out there. He has helped the commission immensely in his three years in the science program. He was heavily involved in the shad assessment that we all complimented this morning. So, Patrick, best of luck with the future. (Applause)

### **ADJOURN**

If there are no other issues for discussion, this board is adjourned, and everybody travel safe.

(Whereupon, the meeting was adjourned at 11:17 o'clock a.m., August 16, 2007.)