

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
STURGEON MANAGEMENT BOARD**

**Radisson Hotel Old Town  
Alexandria, Virginia  
January 30, 2007**

**Approved August 14, 2007**

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## ATTENDANCE

### Board Members

Terry Stockwell, ME, proxy for Lapointe (AA)	Keith McGuire, MD ,proxy for Vasta (GA)
Sen. Dennis Damon, ME (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Doug Grout, NH, proxy for Nelson (AA)	Jon Siemien, DC
Rep. Dennis Abbott, NH (LA)	Catherine Davenport, VA (GA)
Ritchie White, NH (GA)	Kelly Place, VA, proxy for Sen. Chichester (LC)
Mark Gibson, RI (AA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Eric Smith, CT (AA)	Damon Tatem, NC (GA)
Dr. Lance Stewart, CT (GA)	John Frampton, SC (AA)
Gordon Colvin, NY (AA)	Robert Boyles, SC (LA)
Pat Augustine, NY (GA)	Malcolm Rhodes, SC (GA)
Brian Culhane, NY, proxy for Sen. Gunther (LA)	John Duren, GA (GA)
Tom McCloy, NJ, proxy for Chanda (AC)	Gil McRae, FL (AA)
Erling Berg, NJ (GA)	April Price, FL (GA)
Dick Herb, NJ, proxy for Asm. Fisher (LA)	Frank Montlione, FL, proxy for Rep. Needelman
Frank Cozzo, PA, proxy for C. Schroeder	Tom Meyer, NMFS
Roy Miller, DE, proxy for Emory (AC)	Jaime Geiger, USFWS
Bernie Pankowski, DE, proxy for Sen. Venables (LA)	A.C. Carpenter, PRFC
Howard King, MD (AA)	

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

### Ex-Officio Members

David Secor

### Staff

Vince O'Shea  
Robert Beal

Nichola Meserve  
Erika Robbins

### Guests

Roy Miller DE F&W  
Craig Shirey, DE F&W

The meeting of the Sturgeon Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Tuesday, January 30, 2007, and was called to order at 1:45 o'clock, p.m., by Chairman Eric Smith.

### CALL TO ORDER

CHAIRMAN ERIC SMITH: Okay, I'd like to welcome you to the Surgeon Management Board. And that's a reminder that we are now responsible for Atlantic as well as shortnose or shortnose as well as Atlantic sturgeon, so I would hope you would keep that in mind. Briefly, I don't see an awful lot of people in the audience so I guess I'll dispense with all my discussion from earlier on how to take comments and so forth. We'll just take that as it goes.

### APPROVAL OF AGENDA AND PROCEEDINGS

So, a couple of things we have action items for, you have the agenda. There are two matters of other business to add. They are basically status reviews of, by the services on the status of Atlantic as well as shortnose sturgeon.

So, either Tom or Jaime at the end – and I think they have other people from staff here to give us more specifics – we'll take those under business. You got the proceedings on the meeting CD. Are there any comments on the proceedings or is there a motion to approve? Pat Augustine.

MR. PATRICK AUGUSTINE: **So moved**, Mr. Chairman.

CHAIRMAN SMITH: Is there a second? Malcolm, thank you. Discussion? Seeing none, we will call the proceedings approved. This is the public comment period of the agenda. This is where we set aside time for members of the public to bring items that are not otherwise on our agenda before the board for possibly subsequent action or discussion during other business.

Are there members of the audience who would like to bring other issues before us? Okay,

seeing none then we will move on to Item 4 which is the 2006 review of the Fishery Management Plan. Erika.

### FMP REVIEW & PLAN REVIEW TEAM REPORT

MS. ERIKA ROBBINS: Thank you, Eric. I'm going to present both the FMP review and PRT report at the same time. They cover several overlapping topics and it's just a lot easier to do it that way. Currently all states and the National Marine Fisheries Service have bans on harvest and possession of Atlantic sturgeon and sturgeon parts.

These moratoria will remain in effect until stocks exhibit a minimum 20 protected year classes of spawning females and the Fishery Management Plan is modified to permit harvest and possession. In 2006 the Sturgeon Management Board voted via fax ballot to approve Addendum III. The addendum authorizes LaPaz, Inc., to import Atlantic sturgeon from Canada for aquaculture purposes.

The ASMFC hosted an Atlantic Sturgeon Bycatch Workshop in February of 2006 that evaluated genetic and mark recapture data and approaches to identifying stock composition of Atlantic sturgeon bycatch, reviewed and summarized jurisdictional reports on bycatch, and estimated fishery specific bycatch and bycatch mortality of Atlantic sturgeon during the past ten years in New England and the Mid-Atlantic waters.

In early 2007 ASMFC will host another bycatch workshop that will focus on the National Marine Fisheries Service observer dataset for the past five years. States reported information on the bycatch of Atlantic sturgeon in their commercial fisheries. The table displayed here shows the number of fish caught and the number of fish killed by different gear types.

Some of the values have been extrapolated from the numbers reported in logbooks. This graph or this table here has been updated after a clarification from Doug Grout but is not changed in the FMP review that was handed out to you. It will be available on our Website.

It's a difference of two additional fish were caught in the pound net that I had listed as fishery-independent but are in fact fishery-dependent. And the other reason why it was handed out to you today is because there have been some changes to the research recommendations and I wanted you to have an updated version.

The gears that caught Atlantic sturgeon were reportedly targeting herring, monkfish, American shad, summer flounder, striped bass, and weakfish. States reported the number of sturgeon caught in fishery-independent projects. Several states caught a large number of sturgeon. These values are displayed here.

Many of these states have fishery-independent programs directed at collecting sturgeon. Other states caught much fewer and because of the graph it didn't make sense to show them together. You would not see anything on the screen. So, Maine and Rhode Island caught one sturgeon each. And Delaware caught four. One fish that was caught in Virginia was actually dead.

Many of the research needs included in the Fishery Management Plan Review come from previous years. I'm going to highlight a few of the new research needs. The first is to determine the levels of bycatch and compare them to F<sub>50</sub> target levels for individual populations.

Bycatch mortality, particularly in coastal waters, may represent the largest threat to Atlantic sturgeon. Also, characterize Atlantic sturgeon bycatch in various fisheries by gear and season and develop markers that permit identification of bycatch by population origin.

Data collected should include fish size, health condition at time of capture, and the number of fish captured. The second is to assess losses to the population caused by ship strikes. In 2005 Delaware reported seven sturgeon that had been likely killed by ship strikes. The last is to standardize PIT tagging and ultrasonic telemetry equipment and procedures.

Upon reviewing the compliance reports the Plan Review Team finds that all state management programs are consistent with the requirements of the Fishery Management Plan. The PRT developed the following recommendations based upon their review of the state compliance

reports.

One, further sturgeon bycatch reporting from commercial fisheries to include meaningful data. One means of doing so would be to encourage the completion of the ACCSP discard module and implement the use of the discard module to record bycatch of Atlantic sturgeon once it has been developed.

Two, continue Atlantic sturgeon tagging programs consistent with current guidelines and enter the information into the U.S. Fish and Wildlife Service Tagging Database Program. All states are encouraged to include PIT tagging in their monitoring programs.

Three, continue to educate fishing communities on identification techniques to distinguish between shortnose and Atlantic sturgeon.

Four, expand upon state-initiated programs to estimate sturgeon bycatch in their fisheries. The Plan Review Team stresses the importance of mandatory reporting requirements to effectively monitor sturgeon bycatch in their fisheries. The Plan Review Team notes that bycatch estimates using self-reported data are likely largely underestimated.

Five, take tissue samples and then send them to the NOAA Tissue Repository in South Carolina. Six, utilize new technologies such as sonic and radio telemetry to get a better sense of important habitat.

Seven, develop basic techniques and provide information on the potential for population restoration using release of stocked fish as an additional management tool if wild populations do not rebound in response to the moratorium. This recommendation is specifically directed at states that are contemplating restoration and who are willing to commit time, money and facilities to do it.

Lastly, follow the reporting requirements contained in the 2006 PRT report. Thank you. Are there any questions?

CHAIRMAN SMITH: Questions on either the Plan Review or the Plan Review Team's review and recommendations? Gordon.

MR. GORDON C. COLVIN: Not really a question, Mr. Chairman, but a couple of pieces

of information that kind of relate to some of the findings in the PRT report that the board might find of interest and at least one of which that I think will be of interest and perhaps a surprise to the chair.

Last month environmental conservation officers from DEC's Region 2 office which is the New York City regional office apprehended a trawler home ported in Brooklyn off the Rockaway Beach area and escorted the vessel back to port. It had a lot of illegal fish. It had no, the vessel operator had no striped bass permit and had quite a bit of striped bass onboard which is one of the main motivators of the action.

They also found two sturgeon on the boat which was a matter of very considerable concern to us. And that case is presently pending in Kings County Criminal Court and has generated a fair amount of press attention. Some of you may have seen the recount, an account of that case, in the weekly press clippings that Tina forwards. It was in there.

Interestingly, about two-and-a-half-three weeks later the same vessel was caught again in the same location with more striped bass though no sturgeon. And the operator did make some comments to newspaper reporters about the fact that there was a black market for sturgeon in the Brooklyn area, "that you guys will never uncover" quote, unquote.

The second issue that might be of interest, and this one to the Board Chair, about two weeks ago we had a meeting with commercial fishermen to develop our quota management programs for our quota managed species. A couple of the fellows from Long Island Sound came up to us after the meeting and asked us kind of innocently, wide-eyed, when do we think the sturgeon fishery will reopen?

At which point I said, "Not in our lifetimes." And they said, gee, whiz, that's too bad because they've been seeing so many in bycatch in the Eastern Long Island Sound in the last year. There has been a big surge in their observations of sturgeon bycatch in the Eastern Sound. And I suspect that's not reflected in the data that's in this report yet. But I don't know whether those bycatch numbers are good news or bad. I suspect it's a little of both because to some degree it's a reflection of some increase in abundance.

CHAIRMAN SMITH: Thank you. I thought for a moment you were going to say it was my brother-in-law or something and that's why the chairman was interested in it. And I was just terrified at the thought. But I'm happy to receive the information.

MR. COLVIN: No, I think it's right on your doorstep over there, Mr. Chairman.

CHAIRMAN SMITH: Yes, thank you. Other comments or questions about the Review Team? Yes, sir.

MR. CRAIG SHIREY: I have a nametag – Craig Shirey of Delaware Fish and Wildlife, for Joe. Is it, am I correct that the tables associated with the review of the plan are going to be redone or just some modifications?

MS. ROBBINS: The number of sturgeon that were caught in or observed to be caught in New Hampshire were reported as fishery-independent in the tables and they have been moved to the fishery-dependent catches.

MR. SHIREY: Okay, but for the most part the tables are going to stand?

MS. ROBBINS: Yes.

MR. SHIREY: My staff tends to call me the "Table Nazi." I've got a couple suggestions that maybe you could incorporate into your table if it's not too much trouble. First, in your column with location when there is ocean that's fine since we only have one but we do have several bays and rivers.

And it might help for those who aren't as well traveled as others if we could indicate what river we're talking about or what bay. I know down in the southern part of the range you know the Edisto River is listed but for the most part it's just listed as bay and river. And Delaware does have a couple bays and so does you know some of the other states.

So if you could perhaps flesh out those locations a little more I think it would be a little more helpful. And I had a question with regards to the sturgeon that was taken in the ocean fishery for American shad in 2005. And I think the ocean fishery for shad was closed in 2005. So I was wondering if that's a mistake or an obvious violation or what that might be.

MS. ROBBINS: What's put in the tables is largely taken straight out of the compliance reports.

MR. SHIREY: Okay.

MS. ROBBINS: So, it was reported as the target fishery.

MR. SHIREY: All right, and under number of sturgeon encountered, some of the numbers have a little hat associated with them but there is no, I didn't see any definition of what that hat is associated with.

MS. ROBBINS: That has also been corrected.

MR. SHIREY: Okay.

MS. ROBBINS: That hat is, those are extrapolated from logbook data. Is it on the fishery-dependent?

MR. SHIREY: Okay.

MS. ROBBINS: So there are several states that take the numbers that get reported in logbooks and assume that they're underestimates or they only get a portion of the total fishery's logbooks and they extrapolate it to the entire fishery.

MR. SHIREY: Okay, and one last question, is there a difference between a dash and a zero and a blank under "dead"?

MS. ROBBINS: A blank should be a dash and that's an omission. A dash indicates that there was no specific information reported in there. A zero indicates that they said there were no dead fish.

MR. SHIREY: Okay.

CHAIRMAN SMITH: If I may for a minute I'd like to follow up on the American shad thing. I read this table differently. I read that to mean somebody with a mandatory logbook reported a bycatch of shad, not a landing.

But, actually that's one of the features of logbooks that some people feel are, is not very useful. But when somebody does report accurately that's probably useful information. So, it may very well be that was somebody contributing information on what he brought onboard but then went back over because it

couldn't be kept, possibly.

MR. SHIREY: It's listed under target species.

CHAIRMAN SMITH: I see your point, yes. I was looking at the type of program. Well, good point, then. Who else over there had a – you did, Doug.

MR. DOUG GROUT: What are the tissue samples being saved for?

DR. DAVID SECOR: Sure, Dave Secor, Chair of the TC. They're being saved because it's very important to identify the source material of by-caught fish. So we, in order to meet one of our agendas which is to link our reference point, our F<sub>50</sub>, to our bycatch levels, we've got to be identifying the species, the individuals that are caught with their source population. We do that through genetics.

CHAIRMAN SMITH: Okay, other – Tom.

MR. THOMAS McCLOY: Thank you, Mr. Chairman. Everybody is being very diplomatic about the targeted shad in the ocean. You can say it's New Jersey. It also caught my eye and I definitely will be inquiring at home to see if that's just misreporting or misinterpretation of the data because it was a surprise to me, also.

CHAIRMAN SMITH: Thank you. Other comments, questions, and if not a motion to approve the plan review report.

MR. AUGUSTINE: Thank you, Mr. Chairman. **I move to accept the Plan Review Team Report as presented.** I don't believe there were any additions or corrections or changes.

CHAIRMAN SMITH: Well, other than maybe some clarification in the table.

MR. AUGUSTINE: Then **change the word to "with the noted corrections."**

CHAIRMAN SMITH: All right. Okay, a second to the motion to approve the report with the suggestions Craig offered? Jaime. Okay. That's the motion on the floor. Is there any comment? Any opposition? Seeing none, we will call it approved. And that takes care of Agenda Items 4 and 5 so Number 6 is the observer data workshop. You referred to that briefly in your report. Do you want to give a

little more?

## **OBSERVER DATA WORKSHOP**

MS. ROBBINS: One of the technical committee's principal recommendations from the 2006 Atlantic Sturgeon Bycatch Workshop was a focused assessment of the National Marine Fisheries Service's Observer Database which principally covers New England and Mid-Atlantic waters. And it is our intention to hold in 2007 a bycatch workshop that focuses specifically on this database.

In the upcoming assessment workshop a stock assessment team of four to six state and federal scientists familiar with the National Marine Fisheries Service observer dataset will meet to go over that. And Dr. Paul Rago, chief of the Northeast Fisheries Science Center Population Assessment Division, has been contacted and has indicated that he and his group can assist in this effort.

The products of the workshop will be estimates of bycatch rates and numbers of Atlantic sturgeon by fishery and season for the years 2000 through 2005. The team will develop an interpolation model based upon recent fishing behaviors that allows bycatch estimates to be developed among fisheries, regions and seasons.

The other products will be estimates of bycatch mortality rates by fishery, state, season and fishing behavior. The workshop will likely take place this spring over the course of two days. To ease travel difficulties associated with NOAA staff travel the meeting may be held at Woods Hole. And David is taking the lead on organizing this workshop for us.

CHAIRMAN SMITH: David, would you like to add anything more to that or is that fine?

DR. SECOR: Yes, just that there is a little disassociation with one of the products that was intended to come out of our 2000 bycatch workshop. We didn't come up with any bycatch estimates. So this is an effort to get to that goal. And our best information, we believe, comes from the NMFS observer dataset. The fisheries, they're monitored; their behaviors have changed a lot since a previous analysis that was published in 2000 which is the reason we're focusing on the period 2000-2005.

CHAIRMAN SMITH: Okay, thank you. Any questions on that workshop? Okay, seeing none, that brings us to other business. Tom, would you like to introduce the subject?

MR. TOM MEYER: Thank you, Mr. Chairman. I've asked Marta Nammack from our Office of Protective Resources, to give an update on where we are with the Atlantic sturgeon status review and also where our, what our plans are for a status review for shortnose sturgeon which we're planning in the near future.

CHAIRMAN SMITH: If you would come up to the mic either there or next to Tom, either way. Welcome. Hit that button and introduce yourself for the record.

MS. MARTA NAMMACK I'm Marta Nammack with National Marine Fisheries Service Office of Protective Resources and I work with listing and critical habitat actions. And as far as Atlantic sturgeon goes, we're a little bit delayed on our initial schedule because we received additional genetic data to analyze and compile for the report. So, the draft status review report has finished undergoing peer review and six independent peer reviewers looked at it. And it is being finalized right now.

In Mid-February we expect that the region will submit that, well, the status review team will submit it to National Marine Fisheries Service and at that time, once it is formally submitted to NMFS at headquarters we can share it with the ASMFC Sturgeon Management Board. And they expect in Mid-June if things go along the scheduled that we'd have a listing determination published. That depends on a lot of things happening of course but.

And you know that they're looking at DPS and things like that – distinct population segments – to see whether maybe some might be in danger, some might be threatened, some might not warrant listing. Of course, I'm prejudging. We might not have any listings and we might have more than one.

And then on shortnose sturgeon they were trying to prioritize that status review. And that's going to be delayed because there has been some discussion with our Department of Commerce lawyers regarding FACA issues. Now, on the East Coast we've had the practice of including state members, even academics, on our status

review teams.

And we recently received a memo from Commerce lawyers saying that they don't believe that that's appropriate because it's consensus advice coming from the committee, the status review team, and there might be other, better options in which to involve other people.

We could have experts come in and give presentations but then they need to not be part of the deliberations; otherwise, we could run into FACA issues, unless we wanted to advertise all of our status review team meetings for the public and have a big group which is a very difficult way to run a status review.

So, therefore, we're waiting to – I think they're appealing that decision so if we get, if they listen to the appeal and reconsider their decision, we might be able to continue to keep state reps on our status review teams but if not, we'll have to go this way. So right now since it's not under a statutory deadline the shortnose review is not happening at the moment. But hopefully in the next few months we can get that all resolved and go either way. I'd be happy to answer any questions.

CHAIRMAN SMITH: Any questions from the board? Gordon.

MR. COLVIN: Well, not really a question but I'm a little concerned about what we just heard about this general counsel position. And I certainly am glad to hear and strongly encourage the service staff appeal that decision and ask for it to be reviewed. It has a lot of ramifications.

And I find myself always a little dismayed when the states are given status that is not, you know, kind of in recognition of our co-custodial role as the stewards and the responsible sovereign partners in management of these species. And I am glad to see and I hope you will press that appeal and I hope it will succeed. I – boy, we're just not another advisor. We're just not.

MS. NAMMACK: It's an ongoing issue. I mean, we have differences in our agency. On the West Coast they've always just limited it to federal representatives. But they certainly involve the state representatives as fully as possible. They, you know, have meetings, co-management meetings and things like that.

So no matter what happens there will be involvement. And we certainly value the states' and everyone else's input and more so than the public comment period. We'd certainly solicit information. But hopefully everything will work out for the best.

CHAIRMAN SMITH: Thank you. Other – Pat.

MR. AUGUSTINE: Yes, Mr. Chairman, you know, this is I think a critical issue. We are co-partners or we aren't co-partners. And I'm just wondering if we should take a position that we should have our executive director re-inform the folks on the other side that we're co-responsible for this particular species.

I don't know what words you would put together, Vince. You're very eloquent the way you present to senators and congressmen and so on. But it just seems to me this body has to speak to that kind of either control or whatever is being put on us. I mean we're either a partner, a full partner or not. I'm not saying they shouldn't review what we've done and what we've presented but we either are or we aren't. I'd like to go on record.

CHAIRMAN SMITH: Could I suggest that it may be more appropriate for the Executive Director and the Chairman and possibly the past Chairman to have a little chat about this in anticipation of the Policy Board meeting on Thursday and see if it's worthwhile? Sometimes it's better to let the agencies take the lead on something that they want to have happen, anyway. But let's have that consultation offline and see where we get.

MR. AUGUSTINE: Good idea, Mr. Chairman.

CHAIRMAN SMITH: Other questions, comments? Okay, seeing none – Kelly.

MR. KELLY PLACE: One thing I just want to mention going back to something Dr. Secor had mentioned in the sturgeon bycatch workshop that's planned, we have a rather significant number of samples taken in independent, dependent and reward program in Virginia in 2006. I might suggest that – and a lot of that genetic material has been submitted to various geneticists. I might suggest that at least the preliminary results of our 2006 surveys in Virginia might be included in the bycatch workshop as well as I think the '05 data is

already in there. Thank you.

CHAIRMAN SMITH: Thank you.

DR. SECOR: Thank you, yes. We really need to have a focused analytical workshop. This is a very complex dataset. On the other hand, it might be very well to incorporate some of the very good work you're doing in Virginia in terms of assessing bycatch mortality rates which is a big issue that we need to address here as well. So, yes, I will consider bringing somebody in from Virginia.

MR. PLACE: Sure. And just to follow up, any parameters that you want us to configure our data within, feel free to make any suggestions at all. And as far as the genetic analysis that you're going to be considering there, a number of, a lot of our genetic material has been submitted to NYU, USGS and others. So, it would be nice to have the whole, as much of the whole layers of datasets that we have included, at least as far as looking at it. Thanks.

#### **OTHER BUSINESS**

CHAIRMAN SMITH: Thank you. Other comments on the status review. Okay, seeing none, is there other business to come before the surgeon board? Seeing none, we're adjourned. Thank you.

(Whereupon, the Sturgeon Management Board meeting adjourned on Tuesday, January 30, 2007, at 2:15 o'clock, p.m.)

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