

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD**

**Radisson Hotel Old Town
Alexandria, Virginia
January 29, 2007**

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ATTENDANCE

Board Members

George Lapointe, ME (AA)	Sen. George Gunther, CT (LA)
Pat White, ME (GA)	Gordon Colvin, NY DEC (AA)
Rep. Dennis Damon, ME, (LA)	Pat Augustine, NY (GA)
G. Ritchie White, NH (GA)	Brian Culhane, NY Chair/ Proxy for Sen. Johnson
Douglas Grout, NH, proxy for J.Nelson (AA)	Peter Himchak, NJ DFW, proxy for Chanda (AC)
Rep. Dennis Abbott, NH, (LA)	Erling Berg, NJ (GA)
Paul Diodati, MA (AA)	Roy Miller, DE, proxy for Emory, (AA)
William Adler, MA (GA)	Bruno Vasta, MD (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Everett Petronio, Jr., RI (GA)	Jack Travelstead, proxy for Bowman VA MRC (AA)
Mark Gibson, RI (AA)	Fentress Munden, proxy for Pate, NC DMF (AA)
Gil Pope, RI, proxy for Rep. Naughton (LA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Eric Smith, CT (AA)	Harry Mears, NMFS
Dr. Lance Stewart, CT (GA)	

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

Ex-Officio Members

Bob Baines	Joe Fessenden
Penny Howell	

Staff

Vince O'Shea	Toni Kerns
Robert Beal	Brad Spear

Guests

Terry Stockwell, ME DMR	Denise Wagner
Mark Alexander, CT DEP	George Doll, Jr.
Bob Ross, NMFS - NE	Arnold Leo
David Spencer	Bonnie Spinazzola, AOLA
Bob Baines, LAP	Chip Lynch, NOAA
Geoff White, ACCSP	John German, LISLA
Mike Cahall, ACCSP	N. Keith McGuire, MSSA/CCA
Elizabeth Kordowski, RI LA	

The meeting of the American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Radisson Hotel Old Towne, Alexandria, Virginia, on Monday, January 29, 2007, and was called to order at 2:45 o'clock, p.m., by Chairman Brian Culhane.

CALL TO ORDER

CHAIRMAN BRIAN CULHANE: Okay, welcome to the American Lobster Board meeting. I'm sitting in for John Nelson today. Apparently our chairman had pressing business in Disney World or something. The first item on the agenda is to approve the agenda. Does anybody have anything to add to the agenda? You should all have it in front of you.

APPROVAL OF AGENDA & PROCEEDINGS

Okay, well, without hearing anything to the contrary, **the agenda will be approved.** Could I get approval of the proceedings from the October meeting? **So moved.** Any objections? The proceedings are adopted. We'll take public comments now on any issues that are not on the agenda.

PUBLIC COMMENT

As items come on the agenda there will be additional time for public comment. Do I see anybody in the audience now? Okay, moving right along we will go to Draft Addendum X and Toni can lead us through.

DRAFT ADDENDUM X

MS. TONI KERNS: Thank you, Mr. Chairman. Once I'm through with going through the written and hearing summary comments from Addendum X I'll ask Bob Baines who is our LCMT vice chairman, our advisory panel vice chairman, to go through the advisory panel recommendations on Addendum X.

There were a total of 17 written comments on Addendum X which is the monitoring and reporting for the lobster fishery. Eight of those comments were from groups or organizations and nine of them were from individuals.

Those groups and organizations included the MLA, the Mass Lobsterman's Association, and the Maine Lobsterman's Association, the New Jersey Diving Council Club, the Rhode Island Lobsterman's Association, the Korea Lobsterman's Cooperative

which includes 45 harvesters and members, the Cobs Cook Bay Fisherman's Association, the Downeast Lobsterman's Association, and the Atlantic Offshore Lobsterman's Association.

The written comments were varied in terms of favor, favoring monitoring and reporting from the individuals. Most of the individuals were against having any monitoring and reporting in the addendum or for the lobster fishery. People wanted to see us go back from where we are at status quo which is 10 percent trip level reporting and the rest is annual summaries and annual monthly summaries of lobster data to doing nothing.

There were five individuals who were in favor of Option 3 which is ACCSP compliant trip level reporting with the addition of fishery independent data collection. In the groups and organizations the majority of the commenters were against any type of monitoring or reporting, again.

One group was in favor of the status quo option. There was one group in favor of Option 2 which is mandatory trip level reporting that's compliant with the ACCSP standards, and one in favor of Option 3 which is the, with the addition of the fishery-independent data.

Some of the comments that I heard were keep the dealer and harvester forms as similar as possible and combine reports with all entities, both state and federal, to eliminate duplicate reporting. They wanted to have clarifying, clarity between single and multiple day trips. And we should be using technology such as VMS reporting to collect the data. All the data that is collected should be kept confidential. And that was very important to many of the commenters.

Voluntary data collection could be initiated through the states for the recreational fishery. The New Jersey Lobster Diver Clubs had suggested that they would be willing to set something up with that state. There was support for data collection only if it improves the understanding of the lobster resource. And so only the data that is needed to do so should be collected.

There is support for sea sampling, port sampling, and fishery-independent programs. Harvesters should not have to report because the dealers are already reporting so why should we have duplicate reporting as well as the data collection is too costly and there is not the funding to collect it, especially in Maine. And the data collected will be inaccurate. And there is concern for those with reading and writing disabilities to be able to complete the data collection

forms.

Four of the public hearings -- there was a total of six hearing. One hundred twenty-six people attended all the hearings. In Massachusetts there were 0 attendees; Rhode Island, 3; and Maine held four hearings with a total of 123 attendees. The Maine hearings were very well attended.

There was a mixture of support for and against, mostly against, data collection. The, most of the summaries from the Maine hearings were the group was not in support of any type of mandatory data collection program. They were not in favor of even having status quo which was put in place to be a viable option. They wanted to do absolutely nothing.

They were concerned with the accuracy of the data collected, that we would be getting a lot of false data. And there was also concern that any type of data collection would lead to the initiation of quotas into the lobster fishery.

There is also a lot of concern for funding at the hearings and whether or not the states would be able to have the support within the agency to collect and compile all the data. And that is a summary of all the comments that were handed to me. I will turn it to Bob to go over the AP summaries which have been passed out to you.

MR. BOB BAINES: Thank you, Toni. For those of you who don't know me, which is most of you, my name is Bob Baines. I'm a lobster fisherman from Mid-Coast Maine. I'm the current vice chair of the advisory panel.

Before I go through our report I think, the reason why I'm sitting here today as opposed to David Spencer is the fishermen in the state of Maine, as Toni just reported, are very adamantly opposed to mandatory reporting.

I just though it would be more important for me to come down and address that as opposed to David just so if I can help fill in any, fill in any questions later on as I go through this document it might work a little bit better.

As far as the advisory panel is concerned, we addressed only Addendum X. Toni's comments certainly showed what the fishermen feel about it. But the advisory panel, we had a little bit different take on it. So I'm going to read the discussion first and then go to the recommendations.

Staff reviewed the data collection issues contained in Addendum X. Concerns were raised about 100 percent mandatory harvester reporting, particularly in states with large numbers of fishermen. The amount of paperwork created by this requirement along with the administration of such a large-scale program seemed problematic and burdensome.

There was agreement that having dealers report trip level data rather than each harvester made more sense. This type of program would reduce the amount of paperwork and make the system more manageable.

Dealer reports would include trip, would include unique trip IDs, species, quantity, state and port of landing, market grade and category. It was understood that a certain percentage of harvesters, determined by the technical committee, would be required to report at a trip level to ensure that the technical committee receives the necessary data.

There was agreement that port sampling is not a good substitute for sea sampling. Port sampling does not recognize the discards, shorts, eggers, v-notch, oversize, that are observed with sea sampling. Concern was also raised that the technical committee was not in possession of valuable data from the National Marine Fisheries Service fishing vessel trip reports. Agreement was reached that there needs to be a better way of conveying this data to the ACCSP.

Okay, now I'll go down through the recommendations and certainly if you have any questions I'd be more than happy to try and answer them for you. Working from the document, the addendum, what we recommend is under Number 1, dealer and harvester reporting, to adopt Option 3 of Addendum X with the following modifications: dealer and harvester reporting, 1a would be changed to read, "A percentage, to be determined by the TC, of harvester reports includes" and then it would go on as it is written.

And the rationale behind that is in the state of Maine with roughly 6,000 commercial license holders it would be extremely difficult to collect that amount of data and process that amount of data. I know many fishermen who wait for their dealer at the end of the year to give them their summary just so they keep their own books. So keep in mind that there are a lot of fishermen who would have great difficulty doing this. And you want to have good data.

1B would be changed from deleting the last phrase, "areas fished and hours fished". A sentence would

be added stating that collected data would have to be in a verifiable form. In other words, the harvester would have to verify at the end of the year submitted by his dealer.

A suggestion would be at the end of the year the dealer, the co-op, would then send each fisherman a statement saying it has been reported to DMR or whoever it is that's collecting it, that X-thousands of pounds was landed in your name.

The fisherman would look at that and compare it with his records. If it didn't agree then they'd get it corrected and that would verify the system. So it seems like a significantly simpler system to collect the data and also get good data. Anybody have any questions on that or should I move on? Okay.

CHAIRMAN CULHANE: Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Bob, so the, would the fishermen basically be sending in something once a year? Is that how I'm reading this?

MR. BAINES: No, the way I envision it, Bill, would be a percentage of the fishermen would be reporting trip level data that would include catch per unit effort. You know that's what the technical committee is looking for. But only a percentage of them would be doing that so it wouldn't be so burdensome to the system.

The other fishermen's landings would be reported by their dealers or co-ops. And that would be reported on a daily basis and what that would include would be, you know, the fisherman, how many pounds he landed that day, that data, price.

MR. ADLER: Okay, so in other words, there would be a percentage of fishermen that would give a detailed report in. The rest wouldn't have to do anything other than verify with the dealer. Is that right?

MR. BAINES: That's right. That's exactly right.

MR. ADLER: Okay.

MR. BAINES: And --

CHAIRMAN CULHANE: We have one more. Dan.

MR. DAN McKIERNAN: Bob or maybe Toni can answer this one. How is this recommendation any different than what we approved in Addendum VIII?

MR. BAINES: In my opinion – and Toni probably understands it better than I do – this clarifies it a little bit more. The way I read Option 1 it didn't do a very good job defining exactly what would be required in data collection. Option 2 and 3 certainly spells it out a little bit better. I think the advisory panel is just taking it one step further and tried to articulate it, you know, what we feel is the best system to do that. Toni.

MS. KERNS: The other thing that it does is that the fishermen would have to verify that their landings are correct as to what the dealers had sent in. So when the AP had talked about it, that the state would send a report to the fisherman of what his landings were and then that fisherman would send back a, "yes, this is correct" or "no, this is not correct and here is why" so that that would also be in addition

MR. BAINES: What we were hoping to do is try and have the data collected that the technical committee feels it needs but in a little bit more simpler and more commonsense fashion because in the state of Maine what we're trying to do is get this data.

But you have to remember that we have no data collection by the fishermen right now and we'd rather go you know 0 to 50 as opposed to 0 to 100 at this point and see how this system works and it can always be added to or taken away from in the future. Okay, then I'll move on.

The second recommendation, the advisory panel does not agree with the last statement of the port sampling section. The consensus of the AP is that sufficient sea sampling can replace port sampling but not vice versa. I'm not sure why that was put in there but you know what I know about sea sampling and which I participated in and port sampling which I participated in, one does not substitute for the other.

MR. McKIERNAN: Can I ask you a question, again?

MR. BAINES: Yes.

MR. McKIERNAN: Going back on Addendum VIII, and Addendum VIII would require us to do both.

MS. KERNS: Yes, Addendum VIII requires you to have a component of sea sampling and port sampling. But sufficient sea sampling could replace port sampling but not vice versa. I think the intention of having the vice versa there was at the time this addendum was developed there was some states that

were having significant difficulties in getting on boats to sea sample.

MR. BAINES: The advisory panel supports both sea sampling and port sampling, both. We just didn't, I think we were just pointing out a technicality there, maybe. Okay, I'll move on to Number 3.

When states are designing their reporting programs, consideration should be given to situations where a harvester is also classified as a dealer. In such situations we recommend that reporting requirements, both harvester and dealer, be completed using only one form. Okay, and the last recommendation.

There needs to be an easy mechanism for the ACCSP to receive the lobster reporting data from the National Marine Fisheries Service fishing vessel trip report database. This data should be forwarded to the ACCSP on at least an annual basis.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Are any of the items on here listed by the advisory panel, will any of those create or clarify any of these issues for the enforcement department division? Will enforcement have an easier time with one or two of these items or will it create problems?

COLONEL JOSEPH FESSENDEN: I don't envision law enforcement getting involved with collecting and reporting. The only thing in Maine that we might do is not issue a permit to somebody if they don't report. I'm not sure what the other jurisdictions will do.

MR. AUGUSTINE: Thank you.

CHAIRMAN CULHANE: Any other questions? Okay, well it's – Harry, go ahead.

MR. HARRY MEARS: Thank you, Mr. Chairman. I guess it's more a generic question I have for the advisory panel report that builds upon the question that Dan asked earlier. In reading over the options it would seem that arguably Option 3 includes potentially 100 percent coverage of landings, whether it's a one-ticket or a two-ticket system whereas Option 1 at least with harvester data called for a 10 percent level as we currently have in place under Addendum VIII.

And what I'm trying to do is match the earlier comments that there was widespread disagreement with mandatory reporting and trying to match that with the comment that the advisory panel is supporting Option 3 which on face value to me could

be more intensive in terms of data collection than Option 1. Could you respond to that comment?

MR. BAINES: Option 3 would require 100 percent reporting of all the landings but it wouldn't be, it would be the dealers who would be reporting the landings not the fishermen is the way we recommend having it done.

Only 10 percent or a percent recommended by the technical committee would be reporting catch per unit effort landings, in-depth landings; whereas, the dealers would be reporting 100 percent of all the landings but it would just be the port that they're landed, who the fisherman is and the amount of pound landed that day.

So there would be two different things. The catch per unit effort data would be by a percentage of the fishermen. The total landings by individual would be the dealers reporting that information. So you still get 100 percent of the landings, of total landings broken down by fisherman. The 10 percent gives you the catch per unit effort landings.

MR. MEARS: Thank you.

CHAIRMAN CULHANE: Pat.

MR. PATTEN D. WHITE: Possibly just a point of clarification because to address what Massachusetts is currently doing they get their landings data 100 percent from the fishermen. So that could be done either way, I would think, in the proposal that you're talking about, Bob.

MR. BAINES: Yes, that's correct.

MS. KERNS: The other clarification that I didn't point out to Dan earlier in terms of what the difference was is that in Option 1 it's, the fishermen's reporting is annual reports of monthly summaries where here it would just be 10 percent trip level reporting and then the dealer reports. And there would no longer be this monthly summaries, annual submissions of monthly summaries.

CHAIRMAN CULHANE: Dan.

MR. McKIERNAN: Toni, would you clarify that? Are you suggesting that under this modified proposal the annual summary of monthly totals would not have to be reported, including effort?

MS. KERNS: As the advisory panel put together, yes.

MR. McKIERNAN: Okay, but I think, I think we have to address the issue of effort and that's what the technical committee struggles with, trying to come up with a comprehensive description of effort in the lobster fishery. And I don't think it would be prudent to take that out of this data collection system. One of the objectives of this addendum is to collect effort data.

CHAIRMAN CULHANE: Pat.

MR. P. WHITE: Well, again, I'd like to go back to what Bob was talking about and it wouldn't preclude Massachusetts to get the total mortality rate or landings in the method that they're doing if they don't have 100 percent dealer reporting. We're getting the catch per unit of effort data extrapolating from a 10 percent or whatever figure the technical committee deemed necessary.

We've been talking 10 percent up to now. But I would maintain that the total landings data can be collected either totally from the dealers or totally from the fishermen. It wouldn't change what we're doing and it wouldn't necessarily, wouldn't change what you're doing. Does that make it clearer?

CHAIRMAN CULHANE: Bill.

MR. ADLER: Thank you, Mr. Chairman. The way I would understand this is that if something like this proposal were to go through it wouldn't preclude any of the states from, that have actually a more detailed reporting system, from doing what they're doing now. Am I correct in that thought? So Rhode Island, Connecticut, Massachusetts, whatever, whoever has it, if it's more detailed than this that they could keep on doing it and still be okay. Right?

MR. BAINES: From the advisory panel's perspective what we were recommending was to allow the states to devise and implement the program that worked for them that would provide the information that the technical committee and management is looking for. So the simple answer to your question is, Bill, yes from the advisory panel, yes, definitely.

CHAIRMAN CULHANE: Ritchie.

MR. G. RITCHIE WHITE: Would your proposal meet ACCSP standards?

MS. KERNS: No, it does not.

MR. G. WHITE: It does not.

MR. McKIERNAN: Did the technical committee review this proposal?

MS. KERNS: No, they did not.

CHAIRMAN CULHANE: Anyone else on the AP report? Bob. Well, we have Draft Amendment X, Addendum X in front of us and it's up for discussion. Does anybody have a motion they would like to make? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. We skipped over the answers to the questions –

MS. KERNS: Pat, there's a lot of feedback from that mic.

MR. AUGUSTINE: Maybe it's this new gear they gave me to work with.

CHAIRMAN CULHANE: Pat, close your laptop.

MR. AUGUSTINE: Is that better?

MS. KERNS: No.

MR. AUGUSTINE: Now my new ear won't work, so there you go. They're trying to get me better, folks. If you haven't seen it, they have this new advanced machine that works well for us folks that are hard of hearing. But we use that as an excuse for old age. Let me see what I was going to say.

Okay, we passed over that question that was just asked about the technical committee reviewing the advisory panel. And I almost had the sense that we just kind of passed it off and says, "Okay, let's just let it go at that." And I'm not sure that's a fair thing to do.

It just seemed to me if the technical committee hasn't had an opportunity to review this or if they have looked at it did it raise any questions as far as they were concerned? And if they haven't seen it, it would just seem to me that we put the advisory panel through an exercise to come forward with a document that isn't worth the paper it's written on.

So I guess my question is, do we have to rush forward to make a decision on coming up with final action and consider approval of Draft Addendum X, and please understand I'm not trying to delay the process. I'm just asking, Mr. Chairman, is it important that time be allotted for the technical committee to look at the advisory panel report?

CHAIRMAN CULHANE: Do you want to respond?

MS. KERNS: The addendum is all cases, whether we do status quo or whether we move forward with a new option, has implementation January 1, 2008. And I think that there is, potentially could be some states that will need to move forward. It would behoove their legislative process that they need to go through to move forward with this. But I would leave that to the group to discuss.

But that is some of the feedback that I have received. I think Penny could speak in general to some of the recommendations that the TC has made prior, in the past on data collection and monitoring and with respect to how this proposal meets those general recommendations that they have made before.

MS. PENNY HOWELL: Yes, this isn't anything new that we didn't know was coming. I'm not sure how the TC is going to determine the percentage because we would like to have the highest percentage possible but there is logistic things.

But the effort data is what we're really pushing to have complete enough so that we can use it. But that all has to be worked out, you know, with logistic – we'd like to have something rather than nothing I guess is what it amounts to.

MR. AUGUSTINE: Thank you.

CHAIRMAN CULHANE: Ritchie.

MR. G. WHITE: And I thought part of this process was to get the ACCSP standards which, you know, if that doesn't then are we not wasting time?

CHAIRMAN CULHANE: Eric.

MR. ERIC SMITH: There is no question in my mind that in the long-term vessel trip reports are the way to go. That is the ACCSP standard and this is the most valuable fishery we have on the coast. And it's inconceivable in a long-term mode that we wouldn't just simply get to the point of getting this type of data.

We need catch and effort by the water body that it comes from. That's the basic reason that you have this kind of reporting instead of dealer reporting, because you can't get that from dealer reporting. They don't know what area it came from. You could design things to after-the-fact have the dealer and the fisherman get together and provide the information.

There are ways to do that. They're all very cumbersome. So I stress again in the long-term this is the way to go. But I don't know how you force, I don't know how you force 6,000 Maine fishermen to do this before DMR is ready to do it or in fact before the fishermen are into a better comfort zone.

And I think trying to force that process, you know, may build a more of a resistance than if we just go a little more slowly. I think maybe what we need to do is back up a step and see if there is a way to start out with a sub-sample design whereby we get – I grant you, I understand what Penny just said.

They're not quite sure what percentage to use but statisticians do this all the time. You know, how large a sample do you need knowing what the universe is to give you the kind of information you need to have with a certain amount of confidence. I mean that's a question that a statistical design person would probably be able to answer.

As long as – I wouldn't mind doing that as a fall-back process. Spend a few months, try and get an answer to that type of question, as long as we understand and the people in the audience and who read our meeting notices and summaries understand that in the long run fishery management needs 100 percent coverage.

And that's the goal we're going to end up having to get to because then you don't have to worry about whether your statistical design was right or wrong or whether the fishery changed in a way that hadn't been anticipated. And that's the other problem statisticians have when they end up with small sample sizes and trying to apply that to what really happened in the universe.

And you don't need a better example than to think about the problems of MRFSS. When we try and use it for something that it wasn't designed to do. The sample size from MRFSS was exactly right for the purpose it was intended in 1979 and it doesn't work now because all of a sudden a new need came along.

Those are the problems we would have with a statistical sub-sampling approach. Having said that, I still think maybe there is some value in that as we lead up to the day where we finally are able to be persuasive enough that the people who resist this idea of 100 percent coverage finally say, "Well, I see their reasons and I guess we need to do this."

And that's a part agency and part fishery. And it's not just Maine. I use them as an example because

they're the 800-pound gorilla but there are other states that have that same type of problem. Logistically they can't put the people on that they would need to deal with 100 percent coverage of logbooks coming in once a month with daily records in them.

I mean, do the math and figure out how many records you have for a fishery that has 6,000 participants. I mean that's an army of data entry operators if nothing else. So I think we have to walk before we can run. Thanks.

CHAIRMAN CULHANE: I think the 800-pound gorilla had a couple of hands up. George or Pat, I don't know who was first. I'll take George.

MR. GEORGE LAPOINTE: I'd first like to make a clarification of what Toni said about the public record. People weren't against absolutely everything; they were against pretty much everything. We had a little more wiggle room than that but not much.

The dilemma we're in, the dilemma the state of Maine are in – me, Larry, Curly and Moe over here – are that we want to get this started. And when people talk about the difficulty of 100 percent, they're absolutely right. And I thank people for their indulgence on that. Ten percent would be hard enough at this point but it would get us started.

When people ask the questions about Option 1, which we did approve in Addendum VIII, it doesn't say the monthly recall or 10 percent reporting. It says both. And it strikes me that that confusion, you know the veneering of those two options is what people did not like about Option 1.

So the, I think Bob relayed what he's heard in Maine and in discussions with the industry is that people are grudgingly looking at some percentage of reporting. And that would make it much easier for us. I have to be honest in saying that if we get to 10 percent the move, the step-wise progression up is going to take some time.

You know, if we get 10 percent in 2008; if people think we're going to go to 25 percent in 2009 we're going to need a little bit of cultural acceptance before that happens. And I hope when Eric made the comment about the department not wanting to do this, the department doesn't want to do this not because we don't want the data. It's because of the political and logistical things that people mentioned.

CHAIRMAN CULHANE: Pat.

MR. P. WHITE: Well, again, to that same point and I'll go back to trying to make my point of at least starting off. And I appreciate where Eric is coming from because if, and I talked with Carl Wilson who hasn't had a chance to talk with the technical committee but he felt especially initially if they could get 10 percent that's 600 license holders which is more than what most other states have for their total license holders.

If they can get that data that's more complete from 600 license holders multiplied by the 6,000 license holders' landings that is currently done by dealers, he would have the information that he felt he would need in the state of Maine.

Whether that passes the muster with the rest of the people on the technical committee, I don't know. But for now I think that's a huge first step for us in the state of Maine, both as a state and as the harvester go.

And if everybody knows like jury duty or – that's not a good example but you know that they're going to have to do their 10 percent reporting or 8 percent or 12 percent or whatever the technical committee decides on, it seems for now that that would be a better fix than trying to beat a horse with three broken legs. It just, I think we could get the data that we need.

CHAIRMAN CULHANE: Bill.

MR. ADLER: Thank you, Mr. Chairman. Without asking for an absolute answer right now one of my problems with this is the technical committee has said that "woefully inadequate" is the information that we have now. And I don't really know why that's "woefully inadequate," particularly if we get some form going here.

And what I'm trying to do here also is make it realistic so that you'll get the information from the fishermen. And if you make it too onerous the whole thing comes unraveled. And I'm sympathetic to Maine in this respect. I know that information is needed.

Maybe my big problem is the how fast it has to come in from the fishermen who have other things to do besides sitting down and writing out reports all the time. And I doubt that all the sea sampling, port sampling, trawl surveys, all that information that the technical committee also uses, I don't think they get that every month from the researchers in the states that are doing that.

I think they – I'm pretty sure they don't get it every month. And even if they did get information from the fishermen, who have other things to do, every month, I doubt that that would make a big difference as the world turns in lobster because chances are you're going to wait until you get more information in before you do any judging.

And so I have a problem with every month a fisherman having to put that paperwork in. If we could find out exactly what it is that the technical committee could use and what they're looking for, maybe we could find a way to get that information to just make it easy, a keep-it-simple type of thing.

Putting in once a month daily reports is not simple, not in the fishing world. And the other thing is it was stated by the technical committee that this is improved management. Now, the fishermen in Massachusetts look at that with a jaundiced eye. What do you mean "improved management"?

In other words, you have, whatever we give you, you're going to use it against us is the rationale they've got behind their head right now. It isn't like to make my life easier; it's to make my life more difficult. And if I catch more lobsters you're going to come at me with a pound hammer because I'm taking too many and the resource is in trouble.

If I take too little, you come at me because, whoop, they're not there to catch. So, we've got to do – and that's the perception, the perception out there to some of these comments. So I know you need information. To get exactly at what you want, good, we can probably try to do that. Just keep it simple. Thank you.

CHAIRMAN CULHANE: Penny, did you want to respond?

MS. HOWELL: I'd very much like to respond to that, although it was very long so I'll have to kind of back up a little. I'd like to think that all of the fishermen would appreciate the fact that if they got a more precise and accurate assessment that it would not be, we would not be acting against them. I'll just make that statement. We're trying to make the best assessment and let everyone else decide what they want to do with it.

What we need is the most accurate landings data and the most accurate effort data to go with it. I think that if a fisherman can remember what they've done over the last month that they're doing, that's a lot to remember. And so if they could get it in on a

monthly basis, then it can be data entry processed and everything on a monthly basis and maybe, maybe we might see it on an annual basis.

But the annual summaries, which is even more recall and more difficult for people to remember everything and get it all together, you know, several months back, just means it's going to be that much more work for them, in my mind, but, you know.

What we need is very accurate information. Since the stock lines and the management lines don't line up, we have to have it by statistical area. That means the landings need to be broken out by statistical area as accurately as possible.

We need to have the effort data to make sure that that breakout is accurate and because we're going to have to do gap filling and all of that in order to make sure we've divided it all up right so that we can get the fishery and the stock biology lined up.

It's an arduous thing that takes a lot of number shuffling. If we can get that on a, coming in on a stream it won't be monthly, no. We might be able to get it with only an annual lag because there is a lot of processing that has to go on.

CHAIRMAN CULHANE: Bill, did you want to respond?

MR. ADLER: Yes, and I won't go into another diatribe. However, simply to say that I agree with some of the things you said and I think they're workable. I disagree with you on some other things and I'll leave it at that for now. Thank you.

CHAIRMAN CULHANE: George.

MR. LAPOINTE: Thank you, Mr. Chairman. I want to mention one thing we heard at the Machias hearing. When Bill talks about people, fishermen, being worried about data, I had a fisherman at that hearing whose name I won't mention who said, "All the fisheries with a lot of data go to hell. And we don't have a lot of data in lobster and we're doing okay so let's keep it that way." It's kind of the "ignorance is bliss" hypothesis. And it's alive and well.

I am going to, I had talked to staff beforehand and I was waffling between Option 2 and 3. I'm going to make a **motion that we accept Option 3 and under 1a I would insert the following language and it would be: at least 10 percent of harvesters reporting and then in parenthesis "with the**

expectation of moving to complete reporting in time”.

CHAIRMAN CULHANE: We have a motion. Is there a second? Seconded by Eric Smith. Let’s give them a second to get that up on the board and then we can go to discussion. George.

MR. LAPOINTE: If I may, I talked to some folks about – and people may have heard we were leaning towards Option 2 but I heard a number of people on the board were interested in having some of the biological standards, too, and that’s why I used, moved Option 3 rather than Option 2.

CHAIRMAN CULHANE: Eric.

MR. SMITH: As George was talking I was writing and fortunately we’re on the same wavelength. I would only ask him so we don’t get tied in a parliamentary knot if we could **add two other things to this motion. One would be the advisory panel’s recommendation on 1B which was “strike areas fished and hours fished” from the dealer reports. We can ask them that if we want but they don’t really have a basis to know that.**

And the other one would be an oversight that was brought to my attention that in 1b the dealer reports for the ACCSP standards and for good fishery management information needs to have price per pound and it’s just an oversight. It was left out. So I would suggest both of those as friendly.

MR. LAPOINTE: I’m fine with that.

MR. McKIERNAN: I have a concern that I think in some ways we’re actually turning back the clock here. When Addendum VIII was passed it required every harvester to report an annual recall log and 10 percent of the harvesters to report on a trip level basis. Now, this addendum, I was under the impression, was brought forward to make it more burdensome, more data, better data on a trip level.

But now we seem to have wavered on the issue of having all harvesters report anything. And now we’re only getting 10 percent of the harvesters to report. So I think that Addendum VIII in some ways was a better addendum for the purposes of assessment.

My second question, if we, if this does go forward, it refers to “harvester reports” or 10 percent of the harvesters. I think that needs to be clarified,

“harvesters” versus “permit holders” because we have many permit holders who don’t fish.

And so if we want to get data from 10 percent I think we probably need to get 10 percent of the active fishermen or people who are actually in the fishery. Anyway, but I’d like to have my first comment responded to by whoever is supporting this motion.

CHAIRMAN CULHANE: George, would you like?

MR. LAPOINTE: Sure. Again, the reason that I thought what was passed in Addendum VIII wasn’t what we wanted to do was it, Number 1 which is the monthly recall or the yearly summary of, yearly recall of monthly reports, my concern was that like the ACCSP, I mean the MRFSS process that I was concerned about the accuracy of annual recall of monthly report.

It strikes me that that – again, it’s more than Maine had, has. And I don’t mean to say that you guys haven’t done more than we have but I’m concerned that we would end up getting data that wasn’t as useful as something more. And the sub-sampling was that. And then when we passed Addendum VIII the two were mashed together and I saw those as conflicting and that’s why I see this as different.

CHAIRMAN CULHANE: Dennis.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chairman. I think I can understand George’s problem, obviously, in getting 6,000 lobstermen to comply with this. But my problem with the amendment, I mean the motion on the board is the parentheses part, with the expectations of complete reporting in time.

I don’t think there is any necessity to have that there. I don’t think that’s language that should be in a plan. I’d just leave it out if you want to go that way but that’s not the right language to have in an addendum, I don’t believe.

CHAIRMAN CULHANE: Okay, well, apparently that is, the ultimate goal is to be expressed in this – Gordon.

MR. GORDON C. COLVIN: First, I just wanted to express slight disagreement with Commissioner Abbott’s last comment. I think those words are helpful. They’re helpful to me because they represent an on-the-record policy commitment to proceed a pace towards the ACCSP standard.

And in the absence of those words that commitment doesn't exist at all so I think serves as setting a goal out there for a state to work with its fishermen and with its legislature and with whoever it has to work with to acquire the resources over time to get from 10 percent to 100 percent. So I think something, some language would be helpful.

Sorry about that. I thought that was on vibrate. Secondly, I have a question for George. Coming back to this issue on the 10 percent, the, I assumed that the 10 percent referred to trips so I do think we need to get some clarification on the record since, obviously, Dan and I had different impressions what the 10 percent refers to.

MR. LAPOINTE: I think my intention was 10 percent of active fishermen. Again, we can talk our way through this. Because you would want to – in thinking about this with staff, take the 6,000 fishermen and figure out how many of them are active because we have a number of fishermen who hold licenses who don't fish, although we don't know that exact number, and then do 10 percent of those folks.

Let's make up 5,000, you know, who are active fishermen and you get 10 percent of those. So the intention wasn't to get reports from somebody who has got their permit and their tags in, you know, in their kitchen drawer at home.

CHAIRMAN CULHANE: Ritchie.

MR. G. WHITE: Correct me if I'm wrong but when we started talking the 10 percent weren't we talking 10 percent or a percentage that the technical committee said would be a proper sample? Wasn't there wording something to that effect?

MS. KERNS: The last time we discussed this addendum that was the wording we had used. That was the discussion that we had when we were trying to move forward with Addendum VIII.

MR. G. WHITE: Follow up.

CHAIRMAN CULHANE: Ritchie.

MR. G. WHITE: Thank you. Would the maker of the motion be willing to put that, include that into the motion so that we know? I mean I don't think it makes much sense to go ahead and do a sample if it turns out that that's, the data we're getting is not, you know, enough of a sample to use.

MR. LAPOINTE: Well, and I don't recall in response what the technical committee's response was about how they could come up with a number. The 10 percent, I mean, to be completely honest, is let's get this thing started. You know we've got a date of 2008.

You know when Pat Augustine raised the issue of delaying, if we delay discussion of Addendum X we'll have it hang fire for a while and then 2008 will become 2009 because even, we can do this through regulation but we've got some ground work to do, as you can read, hear and read.

And so we're going to need the bulk of the year to get through this process. And so the 10 percent is, you know, an arbitrary number. If the technical committee came back and said 25 percent rather than 10 that would put me in a dilemma so that's why I put the 10 percent in.

CHAIRMAN CULHANE: Penny.

MS. HOWELL: The only thing I'd respond from the technical point of view is we'd like to be involved in how the percentage was chosen, randomized, you know, the selection technique just to make sure that we know what we're getting.

MR. LAPOINTE: And that's a fair enough comment and I would expect that to happen so that in fact the system that is put in place gives us the best information with all the bells and whistles you guys need stratified over time and the size of harvesters and zones and all that stuff.

MS. HOWELL: Exactly, yes.

CHAIRMAN CULHANE: Okay. Eric. Eric, did you have your hand up before?

MR. SMITH: Yes, I did. Thanks. I like how all this is still evolving. I appreciate Gordon's point because I thought that was very important wording in there to show the direction we're going. But as he asked or made his comment I realized that all of these words mean different things to different people.

So the ones I want clarification on – and I think I know where George is coming from – “complete reporting” in my view is catch and effort reporting by all permit holders not somebody a year from now saying well, we thought complete reporting meant that those 10 percent of the people had to report all of the data elements and start to bog down that way.

What we really want to do is get to the ACCSP standard which is each permit holder reports the information that's needed for management. And I think that's the sense of the way I read the motion, just to be sure.

MR. LAPOINTE: If, I think if with the concurrence of the seconder if we changed "harvesters" to "active harvesters" and then with the expectation of 100 percent, reporting by 100 percent of active harvesters in time.

CHAIRMAN CULHANE: Okay, I had Red.

MR. RED MUNDEN: Thank you, Mr. Chairman. I have a question for the staff relative to clarification about this option. Does it apply to de minimis states? The reporting requirement?

MS. KERNS: The board would need to address that because currently in the plan de minimis states have to comply with coastwide regulations. This would be, either be put in under the – at the prerogative of the board it would either be for coastwide or it would be just commercial reporting because the board needs to decide whether or not they want to have any sort of reporting for the recreational fishery.

So if it's under commercial then, no, de minimis states would not have to comply with it. If it is under, unless the board decides that they would like them to. If it's under coastwide then, yes, de minimis states would need to, as the plan is outlined right now.

CHAIRMAN CULHANE: Okay –

MR. MUNDEN: I would ask the maker of the motion to clarify his intent relative to reporting by de minimis states.

MR. LAPOINTE: I think, to answer shortly, no, I don't think, I mean this isn't about North Carolina. This is about Maine and the other states. And so it wouldn't be my intention to have de minimis states do this level of reporting.

I mean asking North Carolina to report to Maine's level on lobster is like asking Maine to report to some other state's, you know, level on black sea bass. It just doesn't make sense. We aren't worried about their – how many pounds did you even land last year? Two hundred fifty?

MR. MUNDEN: Zero last year I think. The average has been 250 for the past three years.

MR. LAPOINTE: So, I mean, that's – exactly.

CHAIRMAN CULHANE: I'm trying to stick to my list here. I think I have Bill Adler next on my list and Dan I've got you.

MR. ADLER: Thank you, Mr. Chairman. I just have to make note of this with regard to the ACCSP standards which I want them to get the information; however, we've got to sort of stick to the fishermen's standards, too.

And also the idea that I, as much information as you want from the fishing sector, you still, on the research sector where you have trawl surveys and samples and stuff like that, I think that that is not up to standard, in other words, enough of it. You're asking for a lot from the fishermen but those other surveys would need to be brought up to every day, too, I mean. And I'm just making note of this, that I think that they're woefully inadequate.

CHAIRMAN CULHANE: Toni.

MS. KERNS: Bill, I just want to clarify that the Option 3 does have standards for sea sampling and port sampling as well as fishery-independent data which brings those measures up to par to the TC's recommended standards.

MR. ADLER: And they have to be put in once a month?

MS. KERNS: As soon as they're done. It's a different system.

MR. ADLER: Correct. And I'm just making the point here that when you figure out a stock status it's not just what the lobstermen hauled a trap and caught a lobster. There are other things that determine the stock health, as I know you know. It's just that those things need to be done – and they are. But are they being asked to do at the quantity that the fishermen are. That's just a note that I wanted to make.

MS. KERNS: To clarify the timeliness of their reporting, this, all of the sea sampling, port sampling and fishery-independent data sampling is available on an annual basis. How the state itself processes that internally I cannot answer but I do know that that information is available usually prior to the landings being available. So it is done in a very timely fashion.

MR. ADLER: The landings by fishermen could be annual, too. Thank you.

CHAIRMAN CULHANE: Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I had a, just a real quick question maybe for Harry Mears, Mr. Chairman, but what's the requirement for federal permit holders, groundfish and people that may be catching lobsters?

CHAIRMAN CULHANE: Harry.

EXECUTIVE DIRECTOR O'SHEA: For reporting.

MR. MEARS: I know it's trip level information. I believe it's – I'd have to double-check it. It has to be submitted monthly, by the 15th of the following month. I'd have to ground truth that. Bill might know for sure.

MR. ADLER: It's daily.

CHAIRMAN CULHANE: Go ahead, Bill.

MR. ADLER: It's a daily report submitted once a month. The questions they ask have no relevance to the fishery. And lobstermen with federal lobster permits do not have to report that at all. It's only if you have a groundfish permit that you have to report the fact that you caught a lobster. And that form is useless – excuse me.

CHAIRMAN CULHANE: On my list I had Mark.

DR. MARK GIBSON: Thank you. I wanted to return to a comment that actually Dan had made some time ago and I think he was on the right track, that this as currently formatted is an erosion over what we had before because I don't see how if you don't have an end-of-the-year harvest report from everyone that you can do anything with your 10 percent sample because you'll have sampled 10 percent of the harvesters and presumably have detailed attributes of those but you won't have the number of people to expand it over if you don't have the number of harvesters.

I understand in some cases you don't even know how many people are fishing or are generating your landings. And you can't get that unless you have an end-of-the-year general harvest report from everyone. I also think it's a mistake to strike the area fished requirement out of the dealer reports.

I would be, it would be, I would be skeptical as to whether the technical committee could properly prorate landings into all these statistical areas based

simply on a sample of 10 percent of the population that's fishing. I think that's a critical need and I think you'd be making a mistake.

Hours fished I wouldn't be concerned about but areas fished I think you would be relying very heavily on a sample size that maybe there are not even people fishing on some of the strata in question. Thank you.

CHAIRMAN CULHANE: Doug.

MR. DOUG GROUT: I agree with Mark in the sense that we have to at least have area fished in there. The other question I had which related to how we were going to sample that 10 percent, it sounded like I heard some off-handed comments by you, George, that we'd be doing it stratified by how much you land and by area of the coast.

But the other question I have, would you be randomly choosing people from your sample or would you be expecting people to volunteer to try and get up to the 10 percent? And if you did randomly choose, would there be some consequence for not reporting?

CHAIRMAN CULHANE: George, go ahead.

MR. LAPOINTE: First to Mark's comment. I think the expansion from the 10 percent would come through the dealer reports which is not 10 percent. That's everybody and so you know except for those people who aren't going to report. And I don't know how that happens. I think you would have the population for which you have to expand to from this option.

And then to Doug's and Penny's comments, I'm not a statistician and most of the people around this room aren't except Mark and Doug are probably closer than the rest of us. And so as this developed I would hope that rather than figuring out exactly how all of that would be done is when plans – if this passed and when plans, state plans were put together to implement the technical committee would review those kind of things.

But my thought would be to randomly sample the 5,800, you know, lobstermen and the consequence, as Joe said, of people not reporting would be they wouldn't get their permit the next year.

CHAIRMAN CULHANE: Next I had Dan.

MR. McKIERNAN: **Yes, I suggest in the motion that the expression "active participants reporting**

in time” be replaced with “permit holders” because I’m not sure, well, I imagine that someone in the office will have to decide what is active. I know in Massachusetts we call actively fished 1,000 pounds or more in a year because we figure anything less is essentially a non-commercial operation. So I would suggest that we need to move toward all permit holders reporting, including those who don’t fish. They need to tell us they didn’t fish.

MR. LAPOINTE: I actually thought I had said “active harvesters” and I wasn’t paying attention to the word “participants.” I’m fine with that. I guess, you know, in this realm I would argue that we would want the people who get less than 1,000 pounds, you know, even if it’s a sub-sampling of them.

But the term “permit holders” is fine. Permit holders, licensees, you know, we’ve got to use, give ourselves a little bit of discretion here about what that means but those people who have a permit or are licensed to harvest lobsters and do.

CHAIRMAN CULHANE: Next I had Eric.

MR. SMITH: I also wanted to follow up on Dan’s point that by picking Option 3 as a basis to form a motion we were losing a part of Option 1, the status quo, that had been desirable. I don’t know how much of a loss it is so I need some help on this because as I look between the two things, the two options, the thing that seems to be missing is the annual recall log.

And it seems to be replaced by having a dealer report of landings, price per pound. I agree, you know, I would, for George’s edification I would take out areas fished and hours fished from the motion if that makes people more comfortable.

The point is in Option 3 1b is the dealer issue, report issue. And if you add, simply add price per pound to what was in that item that takes care of the dealer requirement that was in Option 1. And then George’s motion already deals with the proportional sampling of the active harvesters so that motion, the motion takes care of that.

The thing that’s missing is what about the other 90 percent? Do we have a need – if you get 100 percent of your landings through dealers, do you also need all the people who don’t provide you that 10 percent of the people that provide you with catch and effort by area, do you also need something from them as an annual report, as Mark said, sort of to ground truth what your sample gives you to the total?

And frankly that’s where I need help. I mean, if we think, as I listened to Dan make that comment a little while ago it occurred to me that if we think we need something from the entire universe that’s bare bones, I guess as they do it as an annual recall at the end of the year, that alone I don’t think is worth a whole lot unless you have something on an area and a time specific basis.

But if we have that out of George’s motion, do we then need that bare bones of annual recall from the fishermen? Or is it sufficient to get what we get out of the dealer system? I wish I could answer that question but all I can do is ask it and say I don’t want to vote for this motion and lose the thing that Dan was talking about losing.

CHAIRMAN CULHANE: George.

MR. LAPOINTE: I’m not, I don’t have an exact answer yet but did not the AP address this issue in their recommendations under 1b where they talked about some kind of verification system – and Bob can probably do this better than I – where George Lapointe harvester if he wasn’t in the 90 percent, the 10 percent would get a form at the end saying your dealer says you landed a million pounds, is that true or not.

MR. BAINES: Yes, the way we discussed it was at the end of the year, after all the dealer reports are in, then DMR would send each license holder a report stating what was reported in his name.

That license holder would then look at the statement and if it matches up to what his records show then he has nothing to do but the report, if there is a discrepancy there, then it would be the harvester’s responsibility to have that corrected in one direction or not. Personally, if I’m having landings reported in my name I want them to be accurate. And I think that would work for a verification process.

MS. KERNS: I’d just like to state that for purposes, for clarity purposes that it would be beneficial to set a timeframe in which that verification process would need to occur if that’s something that you want to move forward with so that it would happen in a timely fashion so that the TC would be able to use that data in updating statuses of the stock.

MR. LAPOINTE: If I look at the last statement in the last recommendation in the AP report there needs to be a mechanism for the ACCSP to receive lobster reporting data from NMFS VTR database. Is there a

disconnect? Are we going to get the dealer data in time for Bob to verify his landings from, with a letter from DMR?

You know I'm just thinking about the mechanics of that and how you'd make it work. And I'm not sure that all the calendars would put together to make that an easy process but I'd be interested in what other people's views were.

MR. BAINES: I've been told that Mike would be the best person to answer that question. Mike, do you want to take a shot at it?

MR. MIKE CAHALL: Assuming that Maine proceeds – Mike Cahall. I'm the IS manager for ACCSP. Assuming that Maine proceeds with the reporting mechanism they are currently putting in place, which is a hybrid electronic reporting system, the data are generally available within days of them being loaded into the system.

The electronic system that captures dealer reported data in most of the New England states has three different mechanisms to get data put into it. It could be keyed directly by the dealers, flat file out put from local electronic systems can be imported, or it can be uploaded from a custom piece of software that was developed by the state of Maine.

Generally these reports are available within minutes of them being loaded into the system. Nothing exists currently to do immediate feedback to the fishermen but those reports could pretty easily be built into the system.

CHAIRMAN CULHANE: Gil, did you still have a comment?

MR. GIL POPE: Yes, thank you, just a little minor wording here, minor, "active harvesters" and "license holders" tied together in a percentage. There is a difference there, isn't there, technically?

MR. LAPOINTE: Not technically, absolutely. The expectation is, with this is that we would want 10 percent of the active harvesters to report and then in time the goal would be to have 100 percent of license holders reporting so that in fact we would get all of the active harvesters but we would also get the issue of what percentage of our licenses aren't fished.

CHAIRMAN CULHANE: Ritchie.

MR. G. WHITE: Thank you, Mr. Chairman. I'd like to pass to Doug if I could. He is going to help me

with a question.

MR. GROUT: He's relying on his technical member here. And I'm going to put a technical committee chairman on the spot. Sorry, Penny.

MS. HOWELL: That's all right.

MR. GROUT: Do you think this motion as written would provide sufficient data to improve the stock assessments?

MS. HOWELL: This is an improvement. I agree with the statements that have been made that we need, something is better than nothing. Until we get to work through the data and find out exactly how much we're going to get and how fast, I don't want to be critical of the intent to move off Square 1.

What we're getting now is not enough. It's not fast enough. It's not defined enough. And it's not divided the way we need it. So if we can move toward getting landings and effort data identified by statistical area – that's what we need and that's what we want – anything that gets us in that direction will be an improvement. I can't address the 10 percent. I don't know whether that will be good enough or not. "Good enough" is in the eye of the beholder.

MR. GROUT: Well, it says "at least 10 percent," at least 10 percent, so.

CHAIRMAN CULHANE: Okay, next I had Dan.

MR. McKIERNAN: I just wanted to make a comment that we've had mandatory dealer reporting for two years. We've had fishermen reporting going back decades. And we've been finding incomplete reporting on both sides, some of it honestly just not fulfilling their requirements or oversights. But my point is you shouldn't expect the dealers to be giving you a full universe of harvesters.

There is a lot of data being missed by dealers. Massachusetts, we have the catch reports being submitted by fishermen. We ask them to list the dealers they've sold to and we've called the dealers up saying, hey, what's up with this lobster data. It's missing. So I would urge caution if that's going to be the strategy.

CHAIRMAN CULHANE: George.

MR. LAPOINTE: I don't think any data collection system gives us perfect data. I think a number of

people have said this moves us in the right direction. And 10 percent is a lot, way lot better than 0 percent which is what we have now.

CHAIRMAN CULHANE: Harry.

MR. MEARS: Just a question on that last comment and this is the main I guess facet of this addendum where I'm most confused. Right now we have Addendum VIII. We have a status quo.

We've heard the chair of the technical committee respond that the motion on the board is better than we had during, would give us a database that's improved over the database we had during the last stock assessment. I guess my question is, does the motion on the screen give us, would that motion give us a better database than the status quo in Option 1?

CHAIRMAN CULHANE: Is that a rhetorical question?

MR. MEARS: Not really. I mean in all seriousness we currently have an Addendum VIII. And as I understand one main difference between Addendum VIII and what we're talking about now is we no longer have monthly summarized catch data of the resolution that we've been trying to attain to be provided annually.

Now it's no longer annually. It's to be provided monthly. So I'm still trying to understand the degree of resolution that we're gaining or losing if we should vote for the motion on the screen over what's in place at the current time under status quo.

CHAIRMAN CULHANE: Do you want to take a shot?

MS. HOWELL: I'll attempt to answer your question. I think the data is going to be – this is my opinion from the technical side of things – the data will be better if it's a monthly reporting rather than an annual recall. I think it's very, very difficult for fishermen to keep track of everything and then recall over 12 months what they've done. I'm very suspicious that that's going to be correct.

I think if you could do it on a more timely basis over a shorter time lapsed you also get the data brought in faster, error corrected faster. I can't imagine somebody having to call back a fisherman and question something 18 months after it happened. They're just not going to remember. So in that aspect the monthly reporting is far superior.

To the extent that it's going to be a better line up of landings and effort, we use that as a check, one against the other. So that's an improvement if that indeed happens. But some of this is just hypothetical at this point. So I guess that's the best I can say.

CHAIRMAN CULHANE: Go ahead, Harry.

MR. MEARS: Thank you. That does help. I just have one follow up question, then. When we look at 1b to the motion or to Option 3, I think we still have a disconnect with the expectation that we're asking dealers to give a unique trip identifier to yet to only 10 percent of the harvester reports. Does, well, I guess that's a question for the maker of the motion. Is there another change that's needed in the wording on 1b relative to the unique trip identifier and the dealer reports?

MR. LAPOINTE: My thought is that it wouldn't because that will still get us a lot of useful information. What the harvesters will get us is the effort information that goes below the trip level, the number of traps hauled, etcetera. And so I think the two can work together as stated.

CHAIRMAN CULHANE: Pat, you had your hand up before. Well, I don't see any other hands going up right now so if I act quickly enough maybe I could go to the audience for public comment. Do I see any hands in the back? Okay, let's go back to the board. Eric.

MR. SMITH: I did have one suggestion that never got reconciled to George's motion. In the third line from the bottom Mark Gibson had suggested striking, **take out "areas fished" and just say "strike hours fished"**. In other words, Mark's point I think was it's useful to have the dealer, even if he has to kind of know where the fisherman fished generally, to have that to map back to your 10 percent sample.

I'm reading Mark's mind a little bit here. That's a dangerous thing. But I wanted to – it made sense when he said it and I just wonder if we could just take those words out. You want to strike "hours fished" so you want to just take the words that are highlighted, take those out. I thought that was Mark's point. Yes.

MR. LAPOINTE: And this is under the section under dealer reporting, right?

MR. SMITH: Yes.

MR. LAPOINTE: Well, it was your suggestion and not mine so I'm okay with that. I really haven't, I

haven't thought about that as clearly as much as you have. And if that works by leaving area in and hours out, I'm okay with it.

MR. SMITH: If I may, Mr. Chairman, the only reason I had suggested it in the first place is because as I read the AP report it made sense to me. A dealer doesn't know exactly what piece of water they fished but he is probably going to know generally where and that's where I thought Mark's point changed my mind, which is why I think the area issue ought to stay in there and the hours is irrelevant because no dealer is going to know that.

MS. KERNS: Eric and Mark, can I have a clarification so that I can word the document correctly? In terms of areas fished, do we want to give it a qualification so that the dealers will have something to work with? Is it statistical area?

Is it LCMA area? To get that effort information it would be most useful to have the statistical area from the technical point, side of things. To have to expand that by LCMA area it will be harder to proportion those landings. So I think it would be useful to have that information in the addendum.

MR. SMITH: That's fine with me. It should be as small an area as possible that the dealer has any reason to be able to estimate it because, again, he's not out on the water. But if he knows he has to ask the fisherman, were you in 521 or were you in 524, maybe that's what we ought to shoot for.

MS. KERNS: **I will write it in as statistical area.**

CHAIRMAN CULHANE: Pete.

MR. PETER HIMCHAK: I just have a question. If the fisherman is reporting that on his own log sheet, the statistical area, why is it necessary for the dealer?

MS. KERNS: It would be a cross check and then it would also give more information. Since we are only getting 10 percent right now we would get more effort information.

CHAIRMAN CULHANE: Dan, go ahead.

MR. McKIERNAN: Does this mean that under this proposal if adopted that all dealers are going to have to ask all fishermen what statistical area the lobsters were caught in? If that's the case I think that's a mistake because I don't believe dealers, especially in Massachusetts we've got Gulf of Maine, Outer Cape Cod, Southern New England, overlap zones, three-

four different NMFS statistical areas. I don't trust that data coming from the dealers.

CHAIRMAN CULHANE: Mike, would you like to respond?

MR. CAHALL: Just a comment, many of the local jurisdictions that are using the SAFIS system are collecting fishing areas for various species and specifically I believe in Massachusetts you're collecting the shellfish areas now. Others are collecting statistical areas for horseshoes crabs, things like that. So it's already being done to some degree.

MR. McKIERNAN: Oh, I want this one.

CHAIRMAN CULHANE: Go ahead.

MR. McKIERNAN: Excuse me but in shellfish all product has to be labeled under the ISSP guidelines. And it's a non-starter if somebody tries to bring in shellfish without an area designation. And lobster, it's not a necessary element to collect on the part of the dealer. I just think we're going to get weak data.

CHAIRMAN CULHANE: Okay, we have a dealer in the back who has her hand up. Maybe you'd like to add something to this?

MS. DENISE WAGNER: Denise Wagner from New Jersey. As a dealer and a harvester first of all I fill out a logbook and I send it monthly to NMFS. That is a lot easier. You put your statistical area, the number of traps lifted, the amount of pounds, and all your information is on that logbook.

For the dealer, to take on the added responsibility of finding out what area the lobster are coming from is burdensome. Not only that, but I believe you said that you wanted the dealer at the end of the year to send a report to its fishermen of how many pounds of lobster were landed by that fisherman.

Not only does the dealer work with lobster, they've got sea bass, flounder, all that reporting to do. You're adding that much burden to a dealer when the fisherman has to keep track of it anyway in order to compare the, what the dealer sends him. So why shouldn't the fisherman just send it in anyway? Thank you.

CHAIRMAN CULHANE: Mark.

DR. GIBSON: Again, my reason for bringing this up was because we weren't going to get complete

harvesters reports. I mean that's why they do a vessel trip report so that you have every day, every trip you have to put down what you caught and where you caught it so you can pro-rate the landings.

We're not getting that. In fact, as Bill brought up, we don't get a vessel trip report from lobster fishermen and who knows why that decision was made. But you're not getting them from the harvester reports in this proposal. I don't think that percent of the sample of the fishermen is going to be enough to pro-rate the landings. If you can't get it from dealers, then you're not going to get it.

CHAIRMAN CULHANE: Pat.

MR. P. WHITE: Can I call the question?

CHAIRMAN CULHANE: The question has been called. Let's take 30 seconds for a caucus. Okay, are we ready to take the vote? All in favor indicate – right, George, could you do us the honors of reading the motion.

MR. LAPOINTE: I'd be happy to, Mr. Chairman. Moved to accept Option 3 under 1a, the language was changed, at least 10 percent of active harvesters reporting (with the expectation of 100 percent of license holders reporting in time) and under 1b strike hours fished and add price per pound. Motion by Mr. Lapointe; second by Mr. Smith.

CHAIRMAN CULHANE: Thank you, George. All in favor please indicate by raising their right hands; all opposed; any null votes; any abstentions. The motion passes 5 to 4. Okay.

MR. LAPOINTE: Do we need a motion for approval of Addendum X as modified? I see a headshake from staff so I would **move to approve Addendum X as modified by the motion we just passed.**

MR. AUGUSTINE: Second.

CHAIRMAN CULHANE: Do we need any discussion on this?

MR. LAPOINTE: Pat Augustine.

CHAIRMAN CULHANE: Pat Augustine, as usual. Okay, is there any need for any further discussion on this? Okay, then all in favor please indicate by raising your right hand; okay, could we all raise our hands if you are in favor of approving Addendum X; thank you; any opposed; any null votes; abstentions. The motion is approved. Okay, now we're on to

Agenda Item 5, review and approve Draft Addendum XI for public comment. And Toni will lead us through that.

DRAFT ADDENDUM XI

MS. KERNS: Before I go into – sorry, Addendum, it's not Addendum V. We're moving on to Addendum XI first. I just want to remind states that for Addendum X implementation will be January 1, 2008. So we'll be moving along with that data collection process fairly quickly.

All right, staff has just passed out two documents. One is the TC review of the LCMT proposals as well as Area 4's LCMT proposal. All the other area proposals were on the CD with the exception of Area 5 and I still have not received a final version of that. We worked off the draft version so I did not pass out their proposal because I never received a final version of it.

You also received a copy of Draft Addendum XI. How I'm going to go through this document is to go through the addendum by parts. When I get to the proposal section for the rebuilding program for each area within Southern New England I'm going to go over the LCMT proposal, give the LCMT chair if they are here an opportunity to speak to the proposal.

Then I will go over the review that the TC gave of that proposal and then how those proposals were fitted into the addendum through the options. And I would like to go through each area-by-area so we'll take questions by area so that people can follow along a little bit better.

Okay, **DRAFT ADDENDUM XI**, the timeline that we would be looking at would be going out for public comment if approved here today, for public comment in February through March, ending March 30th. And then the board would review the public comment and take final action at the Spring 2007 meeting.

The purpose of Addendum XI would be to explore setting a rebuilding period for Southern New England. It would explore setting, explore establishing a rebuilding program for those areas within Southern New England. And it would also explore a delayed implementation strategy.

The delayed implementation strategy is something that is following up through a policy board motion that the Summer Flounder, Scup and Black Sea Bass Board did the first addendum and this is following

that skeleton that the Summer Flounder, Scup and Black Sea Bass Board approved last year.

The 2006 American Lobster Stock Assessment presented a mixed picture of the stock with stable abundances in Georges Bank and Gulf of Maine and decreased abundance and recruitment with continued high fishing mortality in the Southern New England stock. The Southern New England stock is relatively low compared to the 20-year average time series for fishing there and fishing mortality is relatively high.

The assessment advisory panel found that further management restrictions are warranted in this area. The panel believes that the declining trend and population abundance is well established and warrants a reduction in fishing mortality. However, because the decline is not known, the cause of the decline is not known or in fact what natural mortality was in recent years, how much of a reduction in fishing mortality needed to allow for stock recovery cannot be estimated.

The Southern New England stock is in poor condition based on the biological reference points. And the stock is below the abundance threshold and at or near the fishing mortality threshold. In terms of the reference points it is a depleted stock and overfishing is occurring.

The delayed implementation strategy is intended to provide a species-specific mechanism of ensuring that a state meets its obligation under the plan in a way that minimizes the probability that a state delay in compliance does not adversely affect the state's fishery or conservation of the resource.

The measures that are proposed in this addendum are, these measures that are delayed are deemed critical for the long-term conservation of the species. The addendum does not propose to modify the existing compliance review and sanction process that is described in the commission's guidance documents and ACFACMA.

The addendum also does not propose to modify the existing conservation equivalency procedures that are outlined in the FMP. The states would still have the option to adopt measures that are more conservative than those approved by the board.

In terms of setting a rebuilding timeframe for the Southern New England stock Option 1 would be status quo. The current option under Addendum II to Amendment 3 is that the, we would have to restore egg production by the end of 2008. And as you all

know we've updated the reference points to move from egg production to a fishing mortality and abundance reference points. So this status quo option is outdated in that sense of our new current reference points.

Option 2 is to look at a 10-year rebuilding schedule. Both the abundance and fishing mortality reference points would need to be met by the year 2017. Option 3 is similar to Option 2 but instead of the fishing mortality reference point being met by 2017 it falls under the new Magnuson rules.

And to end overfishing immediately the abundance reference point would be allowed to extend to 2017, and overfishing, we would implement a plan within the first two years of overfishing being declared and end overfishing as soon as possible thereafter.

Option 3 is looking at a 15-year adaptive rebuilding program. The fishery management program would seek to restore abundance and fishing mortality by the year 2022. The rebuilding process would be evaluated every two year. If no measurable progress has been made within the first five years the rebuilding plan could be adjusted.

And then the rebuilding plan would then be looked at again and after ten years if no measurable progress had been met the biological reference, met for the biological reference points then the rebuilding program would again be adjusted and the appropriate management measures would be considered to reach the rebuilding target. Pat.

MR. P. WHITE: I think that should read, "Option 4" not 3.

MS. KERNS: I apologize. Then this one should read Option 5. I apologize. This is looking at the same 15-year adaptive rebuilding program but would take into account the new Magnuson rules to end overfishing immediately. And so therefore within the first two years of the overfishing declaration we would implement a plan to end overfishing as soon as possible.

Okay, now we're looking at the Southern New England rebuilding program. For this document I'm going to ask that you look at both the addendum as well as the 2007 evaluation of the Southern New England management proposals by the technical committee.

The technical committee had a couple of general recommendations for looking at all of these LCMT

proposals. And some of those are that the majority of the v-notch programs proposed have the potential of reducing F in the short-term but the long-term sustainability of a reduction in F and the compliance rate of v-notching is questionable.

To increase the likelihood of rebuilding the resource the board should consider programs to reduce the catch and the harvest rate. And what this means is putting in some sort of measurable output controls such as TACs.

The current reference points cannot be used to compute a quantified rebuilding schedule because they have no time steps, meaning rates of change, or absolute population associated with them. Simulated fishing rates and population sizes would require the use of population models that Young Chen has developed.

With the tools available now the TC cannot determine the effects of input controls such as gauge increases but we can give advice on output controls such as percent reductions in landings that can be equated to a short-term reduction in fishing mortality.

For the Southern New England stock where large improvements in N is called for, output controls are more effective than input controls because substantial changes in F will have modest and at this time unmeasurable leverage effect.

The current F generated in the last assessment cannot be used to project percentage drops in F. However, in reviewing the LCMT proposals the TC felt that the most useful evaluation would be to state whether or not the proposed management program has the potential to meet the rebuilding targets.

So for Area 2 the Area 2 LCMT proposal was that they have met their F target. They've met this target through the v-notch program and then in the North Cape the gauge increases that have gone through, the effort control program that they've implemented, the changes in vent sizes, and the v-notch possession definition that they've changed to 1/8 of an inch.

And the Area 2 LCMT chair is not here so I don't know, Mark, if there is anything you wanted to say since you would be the closest person that – does that capture the reasons, the implemented measures that have caused you guys to reach your F? Okay, excellent.

The TC's review of the Area 2 proposal is that they've, that Area 2 has appeared to have decreased

fishing mortality based on the analysis provided by Mark Gibson and Tom Angel. The report indicated that a decrease in F from 1997 to 2001 and to the 2002 and 2005 period. The TC wanted to note that these results are based on changes in female F only, not as combined sexes as was done in the last assessment.

Most of the analysis attributes the largest change in abundance and reduction in F to the production of female lobsters associated with the North Cape Restoration V-notch Program. The TC concluded that this report provided a reasonable argument to substantiate the positive conservation effects of the program.

Through minimum gauge changes the increase in minimum size from 84.1 millimeters in 2002 to 85.7 millimeters in 2004 has also contributed to the increased egg production and survival of animals in that newly-protected size interval. The TC is concerned that the v-notch program which may have had the most impact in the reduction of F is no longer in place.

The short-term effects gained through this v-notch program will not have long-term gains so the efficacy of the management program will not be sustained unless there is substantial reproduction by sub-legal size classes newly protected by the recent gauge increases.

The TC would recommend if this were to go back to the LCMT that they should consider programs to reduce the catch and the harvest rate and if the TC is going to consider a v-notch program that that v-notch program be a long-term, sustainable and mandatory program.

And the TC's recommendation to the board is that the board recommends further development of the LCMT proposal in Area 2 to increase the likelihood of rebuilding the resource. The LCMT should consider programs to reduce the catch and harvest rate as well as implementing a v-notch program that is long-term and sustainable and mandatory.

The options that are identified in the addendum for Area 2, the first option would be status quo which would be no changes to the current management program that's outlined in Addendums I through IX. Option 2 would be the TC recommended output controls. These output controls would be programs that would reduce the catch and harvest rate. If the board wanted to move forward with this option the TC would have to go back and calculate what types

of TACs that we would implement for Area 2 and the rest of Southern New England.

And the third option is the TC recommended input controls. If you look on the last page of the addendum, Appendix A outlines the suite of input controls that has been presented to the board before that includes trap reductions to the 2006 to 2015 as well as minimum gauge that goes from 84 millimeters up to 89 millimeters and a maximum gauge of 5 inches.

This also includes a closed season from August 1st through October 1st. And this would be instituted during the time period of high water temperatures. This also is also a time of year when lobsters concentrate in isolated, deep, cool areas which may make effort more effective or stressed animals more susceptible to disease or death.

The closed season by itself would not have a substantial effect on increasing abundance. If closed season is instituted it should be effective immediately. This suite of input measures will be the same for all areas except for Area 5. Does anybody have any questions pertaining to the TC review of the Area 2 LCMT proposal or the options outlined in the addendum so far?

Okay. We will move on to Area 3. The Area 3 LCMT proposal included a transfer tax, 20 percent for a partial transfer of traps and 10 percent on a transfer of a full allocation, also included trap reductions in 2009 and 2010 of 2.5 percent, being a total of 5 percent. There was a maximum gauge to go in place that starts at 7 inches and drops down 1/8th of an inch each year, ending at 6 3/4 of an inch.

The proposal also included the previous, since 2003, minimum gauge size changes, the change in the v-notch definition or proposed change in the v-notch definition to the 1/8th of an inch. There is a buy-out program that's being implemented but details were not provided at this time. And they also would like to delay the vent increase until 2010.

David Spencer is here as the Area 3 LCMT chair and I don't know if he wants to speak to any part of the proposal if this captures everything. You have an opportunity.

MR. DAVID SPENCER: Thank you. David Spencer, Area 3 LCMT chair. It's petty self-explanatory. I just want to make sure it's clear that the current proposals that we, that the LCMT came up with are meant to be included or added on to

everything that we have done which will get us up to 3.5 inch minimum size in the 2008 fishing year.

And I think it's important to emphasize this isn't five years from now, not ten years or fifteen. In two years from now we will meet the minimum size requirement or recommendation as stated by the technical committee.

Also, in the Area of trap reductions, the two years at 2.5 percent is on top of two years starting this year and next year 5 percent across the board and in the last five years I believe we've had sliding scale trap reductions. These are all active trap reductions. And at the end of these, at the end of 2010 it will account for 30 percent overall trap reductions.

We are trying to reach the 50 percent goal. We have a transferable program about to take place. And we have conservation tax associated with that. And we are crafting currently an industry-funded buy-out that if we can get this to move that will also help take a significant number of traps out of the water.

Our goal is to get at least 50 percent as per the recommendation of the technical committee. So I understand there is some concerns. We have, we share the same concerns that the technical committee has. There is a problem getting what we consider to be very valuable and timely data to the technical committee from the FVTRs.

We have nearly 80 percent compliance of reporting in Area 3 of their fishermen by the FVTRs and we really want to get that information in the hands of the technical committee. Any questions, I'll be happy to take. Thank you.

MS. KERNS: Okay, I'm moving on to the TC's review of the Area 3 LCMT proposal. The TC at this time does not have the data to evaluate the Area 3 LCMT proposal in terms of whether or not it's going to reach the fishing mortality and abundance targets. The Area 3's proposal is the only proposal that was submitted to meet both reference points targets. All the other areas are just looking to meet their F target as was allowed through the addendum or through the memo to the LCMTs.

But the TC did want to comment on the, on each individual measure themselves to not say that what they're doing is not positive. It's just that they can't evaluate whether or not they've reached their fishing mortality and abundance targets.

The trap reductions, if there were long-term 15 percent trap reductions the area would meet the TC

recommended trap reductions. But due to the fact that the effort can shift through the range of Area 3 the long-term decrease in traps cannot be guaranteed. The TC cannot predict how the changes in traps would impact fishing mortality.

Minimum gauge changes, the increase in minimum size from 84.1 millimeters in 2002 to the 87.3 millimeters in 2006 contributed to increased egg production and survival of animals in the newly-protected size interval. An increase to 88.9 millimeters will also provide additional protection.

The maximum gauge changes. A decrease in the maximum size for trap-caught lobsters from 177.8 millimeters to 171.5 millimeters is only relevant for the Georges Bank population. Lengths greater than 130 millimeters, which is 5 inches, have not been recorded in the Southern New England trap landings data for this area since 1984.

The v-notch possession definition, a consistent 1/8 definition will provide protection for lobsters for one to two, additional protection for one to two molts. And areas of concern that the TC has, that the TC cannot meaningfully assess the data needs of Area 3 without first-hand knowledge of the existing data quality and quantity.

Due to the structure of the management area even with the proper data the TC would only be able to evaluate the proposal with respect to meeting the instantaneous rebuilding targets. The efficacy of future programs can only be evaluated if assumptions about shifts in effort between all three stock assessment areas are made.

In terms of recommendations to the board, the TC wanted to reiterate that the current mismatch in boundaries of Area 3 and the three lobster stock units prevents the TC from being able to provide meaningful advice on the efficacy of proposed management.

This mismatch places all three stock at risk because it prevents the ability to promulgate stock-specific management measures within Area 3 and also, because it does not prevent the shift of fishing effort among stocks that falls within Area 3.

So looking at the addendum and the rebuilding program options, Option 1 would be to remain status quo. And the Area 3 management program that has been established in Amendment 3 and Addendums I through IX would remain in effect.

Option 2 would be the TC-recommended output controls as outlined before. Option 3 would be the recommended input controls as outlined before. And Option 4, the rebuilding program that's been established for Amendment 3, Addendum I through IX would remain in effect with the following additions:

Trap reductions, an active trap reduction of 2.5 percent per year in 2009 and 2010 that would immediately follow the 2007 and 2008 trap reductions. This would be for all Area 3 fishermen. And then in here I have the TC note that was one of their concerns as read before and I will not reread those notes from the TC.

The gauge size and vent size changes, they would implement a maximum gauge of 7 inches, reducing 1/8th of an inch per year for two years, resulting in a 6 3/4 maximum size. We would delay the implementation of the vent increase that corresponds to the implementation of the 3.5 gauge until 2010, again noting the TC concerns with the maximum size.

Conservation tax, the conservation tax in the Area 3 transferability plan would be changed to read a 20 percent conservation tax imposed on any partial allocation transfers and a 10 percent tax imposed on any full allocation transfers, again with the TC note.

The v-notch possession rule would read the Area 3 v-notch definition would be changed to 1/8th of an inch. Under this option a v-notch lobster would be defined as any female lobster that bears a notch or indentation on the base of the flipper that is at least as deep as 1/8th of an inch with or without setal hairs.

A v-notched female lobster also means any female which is mutilated in a manner which could hide, obscure or obliterate such a mark. This definition is designed to create an acceptable standard among all lobster conservation management areas. And this is the definition that is being used in Area 2 in Massachusetts and Rhode Island currently. Any questions on the Area 3 proposal, TC recommendations or options as outlined in the addendum?

Okay, moving on to Area 4. The Area 4 LCMT proposal proposed a mandatory v-notch program for all egg bearing females. The v-notch possession rule would be changed to 1/8th of an inch. The moratorium on licenses would be put in place for the New York landing licenses. Currently there is a moratorium on all other licenses in New Jersey and

New York except for this New York landing license.

The area also would like to receive credit for the changes in minimum gauge sizes since 2003. The Area 4 LCMT chair is not here. I don't know if any, either states would like to speak to this proposal, if this reflects to your –

MR. HIMCHAK: Yes, neither Don – yes, the LCMT leader isn't here and our technical committee people gave us very little feedback, just the report.

MS. KERNS: The TC review of the Area 4 LCMT proposal, the Area 4 program has the potential to meet the fishing mortality targets. A mandatory v-notch program should reduce fishing mortality on mature females. Diligent enforcement is required to ensure compliance rates high enough to measurably reduce F. For the v-notch possession definition a consistent one-eighth definition will provide additional protection for females for one to two molts.

In areas of concerns the TC, to increase the likelihood of rebuilding the resource the LCMT should consider programs that reduce the catch and harvest rate. And if the LCMT is going to move forward with considering a v-notch program for Area 4, a long-term, sustainable and mandatory v-notch program is necessary to gain those benefits.

And in order for the effectiveness of this program to be evaluated a sea sampling program must be instituted in New Jersey and expanded in New York. The v-notch program should be evaluated through examination of its sea sampling and trawl survey data. I believe through just recently passed Addendum X that this concern would be answered for the New Jersey sea sampling and expanded New York's sea sampling program.

So the TC would recommend to the board that the, first, as in all the other proposals that we have, programs that would reduce catch and harvest rates such as output controls but, and if that proposal included a v-notch program that the program be long-term, sustainable and mandatory as outlined in the proposal as well as sea sampling be instituted in New Jersey and expanded in New York.

So for the options that are outlined in the addendum, Option 1 would be status quo. All the measures from Amendment 3 and Addendum I through IX would remain in effect. Option 2 would be the TC recommended output controls. Option 3 would be the TC recommended input controls.

And Option 4 would include all the current management programs with the following additions: a mandatory v-notch program for all Area 4 lobsters fishing with trap gear would be required to v-notch egg bearing female lobsters caught in the process of lobstering with traps with the TC note: the v-notch possession rule would change the 1/8th of an inch as the same definition as read under the Area 3 LCMT proposal.

And there would be a moratorium on licenses for – New York would implement a moratorium on lobster landing license. Any questions on the Area 4 proposal or options as outlined in the addendum?

CHAIRMAN CULHANE: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Not a question. If you would look under – and I'm sorry if you just came in late – under the second section here, I'm sorry, under the first section, mandatory v-notch, and they went on to describe a consensus of the group, very adamant about it: felt uncomfortable – this damn thing is going to drive me crazy – they felt uncomfortable about not saying this but they did say it and they – here it is: the conservation benefits would be increased if bycatch fisheries had to also v-notch lobsters.

And I have not heard that in any of the meetings that we've attended before. And I'm wondering if the technical committee would take that under consideration or whether it would require a look-see at other FMPs whereby non-directed fishermen, no matter what sector they're in, they would love to see all folks abide by the v-notch program.

Now this may be an education process on their part but they really felt strongly that it would carry out the conservation effort to all fisheries. So I'm not sure, I just wanted to get that on the record. I participated in this and they were very strong about it.

The second is there is a very strong commitment on the lobstermen from Area 4 and commitment by them to participate in sea sampling. I believe there are at least four vessels that have committed to join in that process so thank you.

MS. HOWELL: The only comment I would add to that is the TC has discussed getting better information from the non-trap fishery. Right now we don't, we haven't, we don't have the data. So the first thing is to estimate what the percentage is. And of course if the percentage is not high and not changing then that puts it in a much lower priority.

If it's not high but is changing and going up, then we need to look at the length frequency and sex ratio. And those kinds of information I'm afraid, almost positive, is going to be very hard to come by. So it's a nice thought but I'm not sure we could really address it very well.

MR. AUGUSTINE: Thank you.

CHAIRMAN CULHANE: I thought I saw a couple more hands. I'll take Eric and then Dan.

MR. SMITH: Just a question right now, as I understand the v-notch part of this plan boats out five or ten miles from shore, captains onboard, crew men on board, we take it on faith that they come back to shore and they say, "I notched 150 egg bearers today." The only other, that's all we get on the input side.

The only other thing we get is however many lobsters you observe in trawl sampling surveys, trawl surveys or sea sampling is the after-the-fact monitoring. So, theoretically if you see 100 lobsters a year in your trawl sampling and 2 or 3 or 50 or however many are v-notched, then that after-the-fact is a measure of somehow you try and figure out how many were done originally in the population.

But there is no verification at the outset. And this would be instead of some other measure that you could enforce at shore. Because the big weakness of v-notching is you never see those lobsters at the shore side so it can't be enforced at shore. I just want to be sure I understand the mechanism is we accept what fishermen are telling us, that they v-notch. And that's the count of egg bearers that were v-notched. That's the thesis of this plan. Is that correct?

MS. KERNS: That is correct in that that would be verified through sea sampling and trawl surveys as is in the Area 1 v-notch program.

MR. SMITH: Well, but there is a difference there, though. Verification is different from after-the-fact figuring out you know what proportion you think you have of protected lobsters out in the population.

The difference is if we increase the minimum length we know how many lobsters we can expect to have been protected and we can enforce against that by the fact that short lobsters have to come across the dock. With a v-notch program we don't have that luxury. And that's, that's a key point. And I got my answer. Thank you.

CHAIRMAN CULHANE: Pete, did you want to respond to that as well?

MR. HIMCHAK: Yes, I mean when I heard the recommendation of the LCMT Area 4 that was my question too, that does not Addenda VIII and X with the at-sea observer cover whether or not they're v-notching the lobsters? Does that not run the check on whether they're doing it or not?

MS. KERNS: I mean the compliance comes from law enforcement. The sea sampling program just helps to evaluate the benefits from that v-notching program. But the compliance would come from law enforcement out on the water checking that they're notching, as they do in the Area 1 program.

CHAIRMAN CULHANE: To that point, Eric.

MR. SMITH: Yes, that's now back to my question. There's no law enforcement program alive that can enforce whether a person is notching the lobster at that point because there is not an officer onboard the boat during the whole trip. It's just through random event that you would catch those lobsters.

You would have to have close to 100 percent observer coverage to be able to do that. And that's why I asked the question that I did. I was pretty sure I knew the answer to it and I won't comment on the plan provision itself now. I don't want to. I just want to be sure that I understood that there is, it's not observer based; it's not law enforcement based. It's, nothing tells us how many lobsters actually got notched. Okay, thank you.

CHAIRMAN CULHANE: Dan.

MR. McKIERNAN: Yes, to that point, I'd like to see that language struck. I mean I don't know if we're going to go out to hearing after this meeting but that language is troubling. I'm not sure I can face the industry and explain to them what "diligent enforcement" is of the v-notch measure.

I think if you really mean "diligent monitoring" you know through at-sea sampling or something but you can't enforce this and in fact experience tells us that mandatory v-notch programs become rather unpopular with time as landings decline and people realize that they're basically taking a whole lot of lobsters out of the harvestable portion of the catch.

And I guess I have a real problem with Southern New England going into a whole-hog v-notch program

because what works in Maine is logical. About 10 percent of the lobsters at minimum size or at the smallest minimum size are sexually mature. So, you know, egg bearing lobsters are not as common.

You get into Southern New England and every lobster is sexually mature, whether or not they have eggs on it at a specific time then, you know, wait nine months and you'll see the eggs. So you're really talking about taking large amounts of females out of the harvestable catch. And you can do that by just raising the minimum size on females. To mutilate those lobsters in the name of conservation I just think should be re-thought. There is other ways to protect females.

And getting back to the other measures, our TC recommended management strategies, output controls. I'd like to have the TC explain to me how we can have output controls given that the bulk of the fishery in Area 3 and Area – or Area 1, Outer Cape, are not going to be quota managed or TAL managed and how we as managers are going to be able to work in output controls within a portion of the fishery in one portion of my state, Southern New England.

I really think that needs a lot more discussion before I face the music of the industry. And I just don't mean to pick on LCMA 4's proposal. I cut across the other Southern New England areas as well. So I have some real concerns there. So I'll stop.

MS. KERNS: Okay, moving on to Area 5, the Area 5 LCMT proposal asks for no changes in their management program. They want to have some credit for their prior increases in the minimum gauge sizes from 2003 as well as that the landings in Area 5 are insignificant. Most of the landings are less than 1 percent of the coastwide total and less than 3 percent of the New York south total of landings.

Any changes in management measures would have no biological benefits to the Southern New England stock. And Denise Wagner is here as the Area 5 LCMT chair as well as – Pete, let me let Denise go as---

MR. HIMCHAK: Just as a setup, you had mentioned about not getting the complete report and Denise, I mean subsequent to the LCMT Area 5 meeting, the – and we invited four other states to the meeting. They're all de minimis. Subsequent to the meeting we did receive a letter.

I don't know if it was sent to the ASMFC but it's representing the thoughts of Maryland, Delaware and

Virginia – 7 lobster fishermen—that essentially is an add-on to that Denise is going to report for Area 5. So, we only had one representative at the meeting from Maryland in Cape May. We took the draft report and got a multi-state consensus for Area 5.

MS. WAGNER: The LCMT for Area 5 summary was that we don't feel that we need any additional restrictions because it would not provide any rebuilding of the lobster resource and there is no biological benefits. And there is an insignificant directed fishery of lobster in Area 5 and the harvest mainly occurs as a bycatch in the sea bass fishery.

Due to NMFS' regulations with the Area 5 waiver the directed lobster fishery is discouraged. NMFS recognized our area – I can't remember when it went into effect – but with the Area 5 waiver because of the size of the fish in the sea bass fishery they recognized the hardship we would have by putting vents in our sea bass pots for lobster.

So they came up with the Area 5 that we could make a choice whether we were sea bass fishing or if we were lobster fishing or we were doing both. If we were strictly sea bass fishing we did not have to follow the lobster regs. If we were doing both, our sea bass gear and our lobster gear had to follow the lobster regs.

So therefore with the Area 5 waiver our fishermen went for the sea bass fishery with the lobster as a bycatch. So because of the lack of landings we don't feel that any more restrictions would be beneficial to the lobster fishery. And so we would like to be left the way it is, status quo. Thank you.

MS. KERNS: Thanks, Denise. The TC's review of the Area 5 LCMT proposal, the TC concurs with the Area 5 LCMT that landings in this area are too small to have an effect on the, a significant effect on fishing mortality and/or abundance. One area of concern that the TC has is that we should still continue to monitor and report landings even from those states that are de minimis so just having an overall annual report of landings from those states.

The TC recommended to the board that the Area 5 LCMT proposal be further developed to include a maximum gauge that is consistent with the Area 4 gauge size which is 5 ¼ for females only currently. The Area 5 is at 5 ½ inches. And they also recommended to consider a change in the v-notch possession definition to be consistent with Area 5 and that would be at 1/8th of an inch. And that would have consistent regulations in all of New Jersey state

waters since Area 4 and 5 split New Jersey straight down the middle.

So, the options in the plan would be, read, Option 1, status quo, no change. Option 2 would be, which actually should read Option 3, I apologize, should read maximum gauge of 5 ¼ for females only and a v-notch possession rule of 1/8th of an inch as defined in the Area 4 and Area 3 proposal.

The last proposal we have is the Area 6 LCMT proposal. This proposal included a voluntary v-notch program, a v-notch possession rule of change for 1/8th of an inch, a credit for the minimum gauge changes since 2003 as well as accounting for attrition in the fishery through trap reductions and changes in licensing.

And George Dahl is here. I don't know if he wants to speak to the Area 6 LCMT proposal, if this accurately reflects that as co-chair of Area 6 LCMT. Nick Crismale is not here as the other chair.

MR. GEORGE DAHL: I'm George Doll, the co-chair of Area 6 LCMT. I'm going back and forth here with the recommended strategy from the technical committee. And I know in some language here it says would v-notch all mature female lobsters 3 inches and greater. Does that include egg bearing females or non-egg bearing females?

We discussed v-notching non-egg bearing females. I did receive today when I came here a copy of what I recommended, which is sort of news to me. And we discussed all things on this proposed management strategy but we did not come to a conclusion on all these things. And especially with this, as an example, this wording here, "would v-notch all mature females."

To me that sounds like egg bearing and non-egg bearing. So I think that the Area 6 LCMT has to reconvene and straighten out some of the language. But basically you know we were going forward with a v-notch program. I know that it, at this point, is, you know, has limited funds so it's not a permanent thing.

And with you know some further discussion perhaps we can acquire more funding to make it permanent. And we also agreed to go from a ¼ inch v to a 1/8th v which would be consistent with Area 2, I believe, and would also make whatever v-notching we do more effective. So, is anyone, can anyone tell me about the v-notching all the females? Is that with eggs or without eggs?

CHAIRMAN CULHANE: Eric.

MR. SMITH: That's a discussion, to include the eggers is a discussion point. The Connecticut plan that this came from, the thing that I've talked about that our legislature funded and we had this 11-member committee to form is, did not include eggers.

It came up at the September LCMT meeting and as close as we got to it we said, "Look, if we can determine that it's not going to have an adverse reaction on egg-bearing lobsters, then maybe in the future year we'll include it." But that wasn't part of our plan to begin with.

And the reason is we just suffered a big die-off of lobsters and everybody is a little skiddish about you know poking extra holes in lobsters that might actually cause some stress to a lobster that's already carrying eggs and already to do what you want them to do. That was why our state committee, not the LCMT, the state committee was reluctant initially.

We're going to talk about that. Maybe we only do them in the cold water periods when we can be more certain that there is not an adverse biological reaction like there might be in May or October when the water hovers around the edge.

MR. DAHL: Well, my question was more to the technical committee since they wrote the recommendations. And I know that we discussed amongst the LCMT not v-notching the egg bearing females but anyway I think that the LCMT needs some more discussion on some of these things. But basically that's our plan, to move forward with the v-notch program and go to the 1/8th v.

MS. KERNS: Thank you, George. The, for the TC's review of the Area 6 LCMT proposal the Area 6 program does not have the potential to meet the fishing mortality targets due to the length of the v-notching program. Any short-term effects gained through the v-notch program will have no long-term effects.

Through the analysis of the v-notch program the proposed v-notch program has the potential of reducing harvest by the amount required if the proposed number of females is successfully notched in the same manner as the Area 2 proposal.

However, to increase the size and potential age structure of the population you have to moderate the exploitation rates in the remaining stock. This

program could have a positive effect but may not achieve the required F, reduction in F.

The minimum gauge changes, the increase in minimum size from 2004 to 2006 has likely increased the egg production and survival of animals in the newly-protected size interval. Areas of concern, the Area 6 program has the potential to meet the fishing mortality targets if it's continued long-term. The efficacy of the program will not be sustained unless there is a substantial reproduction by sub-legal size classes newly protected by the recent gauge increases.

The TC again would recommend that the LCMT should consider programs to reduce the catch and harvest rate. And if a v-notching program is considered then a long-term, sustainable and mandatory program is necessary in order to gain all the benefits from v-notching. Does anybody have any questions on the Area 6 program? Dan.

MR. McKIERNAN: If the Area 6 LCMT didn't recommend output controls, I'm kind of surprised that it's in there. But having said that, why shouldn't we insert a gauge increase in Area 6 to make a uniform gauge increase in Southern New England? And I'm surprised the technical committee didn't consider that. Any comments from Penny?

MS. HOWELL: We were only told to review what the LCMTs gave us.

MR. McKIERNAN: Did they give you output controls?

MS. HOWELL: No.

MS. KERNS: Okay, the rebuilding program as outlined in the addendum, Option 1 would be status quo, no changes. Option 2 would be to recommend output controls. Option 3 would be the recommended input controls as stated through Appendix A. Option 4 would be to institute a v-notching program.

The Area 6 lobster fishers would v-notch all mature female lobsters 3 inches and greater carapace length. If the program goals seem to be covered adequately during the first year consideration would be given to notching only legal sized females in subsequent years.

Once water temperatures exceed 20 degrees v-notching of all female lobsters – degrees Celsius, v-notching of all female lobsters would stop until the

water temperatures drop below 20 degrees Celsius. This would be approximately from July through August. Again, there is the TC note, the v-notch possession rule would change to 1/8th of an inch as outlined before. Any questions? Okay.

Moving on to the delayed implementation program, the first issue under the delayed implementation program is the failure to adopt commercial regulations. So it would be failure to adopt annual adjustments of minimum gauge sizes, maximum gauge sizes, v-notch possession rules, minimum vent sizes or adjustments to trap allocation programs.

For Option 1 would be status quo, do not compensate for failure to implement the appropriate commercial management measures. And the management board would continue to utilize the existing compliance procedures. And Option 2 would be to have season closures.

For each day that a state did not implement any of the above commercial measures an equal number of days during the same or equivalent time period would be closed in the following fishing season. For example, if a state did not implement an appropriate minimum gauge size for the first two weeks of the fishing season, in the following year the season would be closed for the first two weeks of the fishing season.

Issue 2 is looking at recreational regulations. Some of these regulations are not in place but were potentially in Amendment 5 so I went ahead and included them in this addendum. Failure to adopt board approved maximum or minimum gauge sizes, board approved trap allocations for lobster, approved v-notch possession rules or vent sizes. Again, Option 1 would be status quo, do not compensate for the failure to implement the appropriate recreational management measures.

And Option 2 would be to implement a delayed implementation measure that is the same as the commercial. For each day that a state does not implement the appropriate recreational measure, an equal number of days during the same or equivalent time period would be closed in the following fishing season in the following year.

For Issue 3 the required notification period for states to notify the commission of regulatory changes, currently we have annual reports that are due on March 1st. And most regulatory changes are included in this annual report. The board requires notification of other measures on a case-by-case basis if necessary.

Option 2 would require states to notify the commission within seven days of management changes. And the states would also have to continue to submit annual reports on March 1st. Lastly, we would recommend that National Marine Fisheries Service adopt all necessary regulations to implement the measures contained in this document.

I think it's important to note due to the timeframe of the LCMTs getting their proposals to the TC, which was only two weeks ago when we got the final proposals from some of the states, the TC only had a short period of time to review these proposals, come to consensus and then this document was created last week.

Friday was when we finally come to consensus with the TC on these proposals. So the plan development team has not had the opportunity to review this document. And there are concerns from some members of the plan development team that this document not move forward because they have not reviewed the document itself.

I think that the plan development team also would find concerns in the delayed implementation strategies where we need some more work on determining how a state would look at a delay in a measure for an area that two states occupy. So, for instance, if Massachusetts did not implement a minimum gauge in Area 2 but Rhode Island did, how would we close that season? Would it be just for Massachusetts fishermen or would it be for both Mass and Rhode Island fishermen?

Also, you may, there may be some clarity needed the opposite when a state has multiple management areas within its waters and how you close fishing to fishermen with different area permit allocations. So some more clarity may be needed in that section of this addendum. So if the board decides that we do need more clarity in that section, that section of this addendum could be taken out and the other sections could be left in. Are there any questions?

MR. COLVIN: Well, I don't have a question. And I don't have a question in part because of the rather extraordinary presentation we just got. I need to say that I am awestruck by the work that Toni did in pulling together this addendum out of what she had as little as three or four days ago. I'm just completely awed by this, Toni. This is unbelievable work on your part.

Mr. Chairman, I'd like to **move that we approve this Addendum XI for public hearing. I'd also like to**

include in my motion the ability for the plan development team to introduce to it such additional editorial and non-substantive changes as they believe are warranted and necessary to complete it and perfect it for that purpose.

CHAIRMAN CULHANE: We have a motion. Do we have a second? Seconded by Dennis Abbott. Discussion. Bill Adler had his hand up from before.

MR. ADLER: Thank you, Mr. Chairman. I'm not going to support this motion. For one thing I, we usually have a document that we can sort of go over and I'm not, you know, Toni did a very good job of putting it together; it's just that to sort of digest what it is that we're proposing here to take to public hearing because usually when we do an addendum we know what we're – we've read it over and then we come to a meeting like this and we take this out or we change that. We don't even both to take that out to hearing or whatever.

And I, quite frankly, I just haven't had time to digest all this and to see whether or not some of this stuff should be in there or not. I know it's only going to public hearing but then the process starts. And I'd rather send something out that has been thought about a little bit more by us than this did.

And for once I agree with the PDT, I think. I think it's probably the first time I agreed with the PDT that they need a little bit more time. And I don't see it's so earth-shattering that it can't wait until the next round here. Thank you.

CHAIRMAN CULHANE: Doc.

SENATOR GEORGE L. GUNTHER: I sit here and I listened to the pros and the people that work in this field. And you know I am amazed that I have to sit here and listen to what I consider the gobbly-gook that we just got through. And I think my friends from New York there put it right on the barrel top.

Now even to go on to a public hearing, you know, do you know how much complication this is for me to sit here? I'm not a marine biologist. I'm not a professional fisherman and that type of thing. But you know we had a problem in Connecticut where we were going through – in fact, it went up on the gauge and I still have a serious doubt that you had the legal right to do that and that sort of thing, but, anyway.

Right now you've kicked out about half of the fishermen in the state of Connecticut. You've lost half of the pots or better. I think it's 60 percent of the

pots that are being fished in Connecticut. Now you're talking about a potential of another gauge increase. You know, why don't you just say let's stop fishing in Long Island Sound, in my book, when it comes to the fishermen.

Maybe that's not 100 percent what you presented but I'm going to tell you, to sit here and listen to every one of the districts and the modifications you're talking to and these people, the professionals have never even seen this thing in this form and to bring it in here, I think it's a hell of an imposition to even put this up to a public hearing.

So maybe I'm a little bit off base but I'm going to tell you, five commercial lobstermen are left, really, that I know of that are catching a majority of all the lobsters in Long Island Sound – five people. Pardon? Well, all I can say, you know, if you want to put them out of business, what the hell, pass a, have a public hearing and pass them some of the ridiculous regulations and tell them to go.

We've got a notch program we have great faith in that it's going to be run and run properly. And this is with observers. This is bringing in the educational system and that type of thing. And you know I hear such a little involvement on the part of you people with your statistics and all that sort of thing that you know – maybe it's me.

It might be my age. Maybe I better borrow your hearing aid. Maybe I missed half of this. But I've been sitting here all day and I think there is an awful lot of gobbly-gook in other areas but this is the best. So, as far as I'm concerned – I don't know what my fearless leader, Eric, here is going to come up with, if he's going to come up with something. But I'll tell you, I am absolutely opposed to whatever you're presenting at this time.

CHAIRMAN CULHANE: Do I have any other comments from the board? Eric.

MR. SMITH: The first thing, Joe, I'd like the record to show that Senator Gunther finally has acknowledged that I am his fearless leader. And Senator Gunther's --

SENATOR GUNTHER: I have to rethink that.

MR. SMITH: I thought you might. I have to say candidly there are very few things that Senator Gunther and I disagree with each other on. And even though he is a retired senator I'm glad he's here. We may disagree on this one but as the remarks of the

chairman, if you will recall, from the annual meeting, nobody has been more conscientious about marine resource management, conservation in Connecticut than he has been over 40 years.

Having said that, I actually have a different point of view but I share some of the frustration that the senator expressed. It is frustrating to have this at the last minute, if I could say it that way without being offensive. But I happen to know the kind of work that Toni went through to put this together and the conference calls with Penny and the other members of the technical committee.

I mean they just literally moved a mountain. And the reason they did it is because management board members like me were pushing them to do that because you have to think of the calendar. In the fall of 2005 we got an assessment that said the Southern New England stock, frankly, is in terrible shape.

That was based on data through 2003 or 2004. Our next assessment is scheduled for the year after this one, next year. If we keep delaying this, frankly, we run the risk of going through a five-year period knowing that the stock is in terrible shape, just deplorable shape, and not having done anything of substance in this management cycle since that assessment came out.

And if you recall – I know you all hang on my every word and you remember the things I said last year – last year I really stepped in it and then I slipped and fell on my back because I was ambitious and aggressive and I tried to get something in the addendum last year that was the common gauge size that Dan talked about a minute ago.

And I lost that vote and probably it was a good thing, you know, a justifiable thing. At least the people who voted against me thought it was justifiable. But the fact is I was impatient. I wanted to get this thing going. And I still feel that way. There is a risk two ways.

You know, okay, we haven't had a chance to read all of this and really mull it over. On the other hand, if we wait that's May and then we go through May and into the summer and people are busy. Our LCMT has said don't call us to a meeting in the summer; we won't come. They're busy trying to make a living and I respect that.

We're going to lose an opportunity and we're going to be back here in February of '08 still trying to figure out what we want to take to the public to

simply get comment and try and hone in on what we ought to do to begin to rebuild this stock. So as much as I can understand the frustration, I guess I won't even say I share it you know because, again, I kind of knew what was going on in the development of this and so I got my licks in, in that way.

It is, it's a shame. It's unfortunate. Toni's got lobster and she's got fluke. I mean those are the two 800-pound gorillas. She's carrying one on either shoulder and she's doing a great job on both of them. We got this, you know, today, essentially. But as Gordon pointed out, it's a darn good job.

It captures a whole lot of things. It lays out alternatives. The technical committee in their conference call was able to give it a first shot. And I think it's ready to go to public comment, to LCMT meetings. It's an ideal time in the winter and spring. Let's go and get the public comment and see where we lie as we approach the May meeting.

Because, let's face it, with this kind of fishery if we adopt something in May probably it's not going to go into effect until January 1st, 2008, maybe the fall, you know. But it takes a few months for states to go through their process and get things in place. And I don't think we are justified in delaying.

So, I hear the senator. I understand some of it but I think we have to move forward. So that's my view on whether we delay or whether we go forward. If we get into discussion of details of this I have some views to offer but, you know, I look at the clock and I don't want to take too much of other people's time so I'm going to leave it right there for now. Thank you.

CHAIRMAN CULHANE: Harry.

MR. MEARS: Thank you, Mr. Chairman. I can't support the motion, not withstanding the magnificent amount of work that did go into preparation of this for the board at this time. It has some unbelievable implications. And we just went through an entire addendum which we didn't have to if we took the time with the previous addendum to really understand what we were doing going out for public comment and what we were voting on.

To go out for public comment without myself as a board member having had an opportunity to read it, not to mention the PDT or even the technical committee, I think would be a disservice to the way that we're trying to manage the resource. However, I also recognize the urgency.

If there is a need to meet not when we're schedule to meet for the next lobster board meeting, but four weeks from now, five weeks from now, just for the purpose of moving forward, I would favor that. But to vote today on this document without having had a chance to read it, I, in good conscience I can't do that. Thank you.

CHAIRMAN CULHANE: Lance.

DR. LANCE STEWART: Yes, I have my reservations, too. And one of the problems I have being specific to Area Management 6 is the technical committee's evaluation of a population, a confined population that we think we know the characteristics of, but they give very little credit to long-term effects.

If you v-notch animals in our area, 100 percent of them, almost 100 percent were mature at 3 3/16 inches. So at our current gauge it's 100 percent. We have very little loss of the larval lobster production we're getting from v-notching to retain in the south. Our survival rates are greater.

So when I see the technical committee giving very little credit to the resource enhancement potential in a particular region it bothers me. You know that's my specific concern so you know I concur with Doc.

Our fishery, our constituents have to give it a little bit better look, as George Dahl reported to you. They haven't really seen the essence of this document, although it's good. You know it has all the elements there but I think it definitely demands a little more digestion and analysis.

CHAIRMAN CULHANE: Everett.

MR. EVERETT PETRONIO, JR.: Thank you, Mr. Chairman. I think it's important to note that not supporting the motion is not the same as not recognizing the incredible amount of work that Toni has done in putting this together.

What was just presented to us in tremendous detail and in very informing, informative fashion, nonetheless constitutes one of the most significant pieces of lobster work that I think we've done here. And I know I'm uncomfortable moving forward with it without having had the opportunity to review it so that I can make intelligent comments on to what's going out to the public for comment.

You know, Lord knows we're going to get comments from them one way or the other and Lord knows they should given what we're talking about doing here.

But I'm fairly uncomfortable myself just taking this out without having had the opportunity to make suggestions on how it should be tweaked before it goes to the public. Thank you.

CHAIRMAN CULHANE: I've got John Germane in the back of the room. Come on up, John.

MR. JOHN GERMANE: Thank you, Brian. My name is John Germane. I'm an Area 6 fisherman, president of the Long Island Sound Lobsterman's Association. I would like to first respond to Eric's comment that the fishing is deplorable. I don't know when the last time he was out on a lobster boat and seen the stock but the last time I was out there was yesterday.

I fish hard. I'm a fisherman 100 percent. I think the stock is in pretty reasonable condition. This is coming from a fisherman. This isn't coming from a biologist, a paper pusher, a civil servant, nobody. This is a fisherman out there pretty much every day. That's my assessment of the stock from somebody who sees it.

And on this amendment here, addendum here, I think we are, it's got in there to v-notch short lobster, 3-inch lobsters. This to me these, this program is a paid program. Guys are being paid to catch short lobsters. I think it's deplorable. I don't even know if it's legal. But nowhere on the coast do we have a short fishery, short lobster fishery that men are being paid for.

I think it should just be legal lobsters and that's it. Leave those shorts alone and let's not start a trend of guys relying on this stuff to catch shorts and get paid for it. It's just the idea of it. We do it no place else and this particular document creates that fishery. Thank you very much.

CHAIRMAN CULHANE: Vince.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I'm not sure if this is the right time to bring this up while you're looking at this addendum and deciding what to do with it but I think I want to put the idea out there.

And one of the reasons you're not seeing this in as much advanced time as you would like, quite frankly, is because the LCMTs didn't have the proposals in. And that's a function of our relationship between this board and the LCMTs. The staff is caught in the middle of that, quite frankly. So those that say, "We need more time" and want to keep things, need more time I think need to recognize

that the way we've set this management structure up your timelines are somewhat set by the LCMTs' willingness and commitment to sit down and do their part. And if they can't get their work done on time, our staff can't get their work done on time.

And in fact the board, then, will, their schedule is going to be driven by that. So, I think folks need to keep that in mind. And I'm, if this is postponed I'm wondering what happens in the springtime when LCMT guys are too busy fishing to meet and talk about this. Thank you.

CHAIRMAN CULHANE: Gordon.

MR. COLVIN: A couple of issues. A lot of this discussion since the motion was made focuses on the issues in the plan relating to the Area 2 rebuilding program. And there is a lot more in this addendum than that. There is the development of a rebuilding timeframe, a delayed implementation program.

And these are in fact important matters and matters on which the board, frankly, has given the staff little guidance in the past. And it is something that the staff and the PDT, presumably, have, I think, done a remarkable job of pulling together some useful and distinctive options for purposes of obtaining comment and engaging the debate. And I'm comfortable taking them out in that fashion.

With respect to the rebuilding program I think I kind of see it as a work in progress in any event. And you know, witness George's comments earlier. Clearly there is at a minimum some Area 6 LCMT review and discussion and reengagement on the issue of the specific details of a v-notching program in the area that is clearly warranted and necessary. And it's going to happen.

And so I think you know some of the details will continue to develop as the LCMTs talk about them. But I think that I wouldn't want that dialogue to be put off because we're, you know, we're seeing something for the first time today. I would like to see that dialogue get underway. And I sort of agree with Eric's point on that.

But I think it can without recognizing that none of these specific things are etched in stone. And the LCMTs will continue to polish them and perfect them. And I'm sure that they'll make some changes. And that's fine, you know, as long as we can go forward together. So you know if there really is a reluctance on the part of the board to approve it as is, then I'd like to see

some mechanism – and we’ve done this in the past sometimes with addendums where the board members can submit comments, the staff can kind of digest them, edit the document and then we do a mail ballot. I would much prefer that to just putting it off until May. So I would throw that out there for people to think about.

CHAIRMAN CULHANE: George.

MR. LAPOINTE: My suggestion was going to be kind of a hybrid of what Gordon and Harry said was. Could you give, if in fact you want to get moving on this but you want to give people a time to look at it, come up with an aggressive and accelerated schedule for review. You know give the LCMTs two weeks to meet and review it and then have the board get together.

We could either, you know, get together by conference call. We’ve done that, I don’t know if we’ve done that with this board but I’ve done it with multiple parties. And it would be a pain in the butt and extraordinary but it would get people moving. So that might be something to consider.

CHAIRMAN CULHANE: Anybody else? Pete.

MR. HIMCHAK: Yes, I’d just like to comment that being new in this lobster arena it was very difficult to pull off these LCMT meetings for 4 and 5. They don’t have a history of too many meetings. I don’t see what is necessarily to be gained by delaying putting this out for public hearing since they will continue to interact on the options. So, and I’m talking about Area 5 with five states. The likelihood of getting another meeting together in short order is remote, to be honest with you.

CHAIRMAN CULHANE: Do we have anybody else from the board? Okay, I’m going to, I will take comment from the public specifically to this motion. And I’m going to go to the Nelson rule of one in favor and one opposed. So, do I have anybody from the public that would like to speak in favor of the motion on the board. I don’t see any hands. Do I have anybody from the public who would like to speak in opposition to this? Denise.

MS. WAGNER: I’m against this proposal only because I see problems sitting in the back with all the different areas. One of my concerns for Area 5 is also the fact that it has been mentioned that they would like for us to be consistent with Area 4. And I am not for that. I want to be recognized as my own area.

Just because we’re Jersey in Area 4 and 5, Area 5 is different and I want to be recognized as such. And I have, I have problems with the gauge size recommendation for Area 5 and because of the lack of participation we have in our area. I don’t see why we need an increase in our gauge. So, therefore, I can’t support this motion. And I’m sure I’m not the only area that has a problem with this. Thank you.

CHAIRMAN CULHANE: Okay, it’s back to the board now. We’ve had some suggestions here. This is only for a document that’s going out for public comment. It’s not a final action. I think there is some consensus here that there is work we could do to perfect this before it goes out for public hearing. And with that in mind I’d like to call this for a vote and get it on the table. Caucus for one minute. Thank you.

We need to take a vote on this. Toni, are you ready for this? All in favor please indicate by raising your right hand; all opposed, raise your right hand; any null votes; any abstentions. **Okay, the motion passes 8 to 3.** Thank you. Vince.

EXECUTIVE DIRECTOR O’SHEA: Mr. Chairman, just for clarification, it would be my understanding with this motion that the board just passed that we would work with the PDT to let them look at this, entertain their ideas for editorial changes, and that it would be the sense of the board that the staff would evaluate whether they’re editorial or substance and that if there is a question about that we’ll consult with the chair of the board in resolving that.

And I guess the only other question would be how long to allow this open. And I’d propose two weeks, two weeks time for the PDT to get that done.

CHAIRMAN CULHANE: That sounds good to me, Vince.

EXECUTIVE DIRECTOR O’SHEA: Thanks, Mr. Chairman.

CHAIRMAN CULHANE: The next item on the agenda is an update on the, oh, I’m sorry, the Draft Amendment 5 for public comment and Toni will help us out with that.

DRAFT AMENDMENT 5

MS. KERNS: I promise this presentation will be much quicker. The plan development team reviewed

Draft Amendment 5 for public comment and recommended delaying approving Amendment 5 for public comment until the spring of 2007. There is a couple issues that the plan development team needs further clarification from the board on in order to put together complete options.

The first option that we need clarity on is looking at the limiting transfers of permits into Area 1. Under this option the plan development team sees this as a limited access program. First, we need to make sure that this was the intent of the board to put together a limited access program. And if so, what types of criteria are we looking at to establish such a program. Is it historical participation, pounds landed, number of trap tags purchased? Or is there some other criteria that we're looking for?

And, secondly, looking at the splitting of permits – this is also under the effort control section of Addendum 5. We have continued to work with National Marine Fisheries Service on working on a consistent program for permitting for, because National Marine Fisheries Service permits vessels while we permit individuals.

And to resolve this issue we need to put up, come together with some sort of consistent program to resolve this. And we're still working on that and then continue to have dialogues with the service on that issue. And lastly, we are still compiling data to better report the impacts and benefits of some of the options in the plan development team, including impacts on maximum gauge sizes and v-notching rules.

So what I would like from the board is some clarity on was it the intent of the board to implement a limited effort control program by having an option in the amendment to limit the transfers of permits into Area 1? And if so, what kind of criterion?

I would, the plan development team would suggest that we put together a working group of people who are involved in permitting processes through the states to look at that, maybe three or four people to work with the plan development team in setting that together if that is in fact the intent of that option in the amendment.

I'm seeing some nodding heads but no, is it the – okay, I will solicit some help from the states to implement a working group to look at this issue. And so is that nodding heads that it was the intent to put together a limited entry program into Area 1 of some sort? And we can have several options identified in some, in setting criterion to do so.

CHAIRMAN CULHANE: George.

MR. LAPOINTE: I'm not so sure that was the express intent but if that's the kind of questions that have been raised it still, you kind of end up at the same spot and we should explore it further before we make a decision on something like this.

CHAIRMAN CULHANE: Anyone else? Okay, well, with that guidance from the board I believe we're ready to move on to Agenda Item 7, update on Addendum VII implementation.

ADDENDUM VII IMPLEMENTATION

MS. KERNS: Thank you. Staff is going to pass out the plan review team's report to the board on the regulations for Addendum VII from the state of, the commonwealth of Massachusetts and the state of Rhode Island.

The plan review team found that the regulatory language for the Area 2 effort control plan both in Massachusetts and Rhode Island are consistent with Addendum VII, although there is some differences in the language between the two states that could cause some concern.

The first language that there is a difference in is material incapacitation. Material incapacitation refers to the medical and military exemption that we put forward in the addendum. The Rhode Island section states that there, for material incapacitation it has the potential to be more liberal than those efforts that are intended by the addendum.

And it reads material incapacitation is to make legally ineligible or disqualified. That being – all right, so their regulations read: "if the permit holder had" -- I'm sorry. So the Rhode Island reads to reduce fishing "any material incapacitation that reduces fishing performance". Nearly all fishermen had reduced fishing performance during 2001 and 2003, the time that is allocated for the qualifying period for the trap reduction program.

So the number of permits eligible to the appeal may be far greater than intended by the exception or exemption program for medical and military leave. If a higher number of traps are allocated through this exception then additional trap reductions would be necessary as outlined in Addendum VII.

The plan review team recommended that the phrase "adversely affected his or her fishing performance"

be replaced with “prevented the fishing permit holder from fishing”. And you can see how that is struck in the memo if you’d like to see directly what it should read.

The other difference in the material incapacitation program which is not outlined in this memo is that material incapacitation can, in the state of Rhode Island can be for not only the permit holder but also if the permit holder was the primary care giver of someone in his immediate family that had a medical condition.

That also could lead to increased number of traps allocated than may have been intended by the board. But it’s still within the allowances of Addendum VII because Addendum VII doesn’t state specifically that it has to be the permit holder who had that medical incapacitation.

The second difference in language that is substantial is under the reported traps fished definition. In the Rhode Island regulations the reported traps fished definition includes the word “sustained” so, which is not included in the Addendum VII. This has the potential to result in a different formula for the allocation of traps.

Currently as it stands, as I’ve spoke with Mark, they are using the same regression and dataset analysis that Massachusetts fishermen or that Massachusetts used in allocating traps to fishermen. But the word “sustained” adds a little more leverage in their ability to change the dataset used and therefore has the potential to allow for inconsistency of Addendum VII.

So the plan review team recommends that the word “sustained” be stricken from the definition of reported traps fished. Instead it would read, reported traps fished values consisting of the maximum number of lobster traps reported in Area 2 for 2001, 2002, and 2003. Does anyone have any questions about these differences? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. How long do we have to gurgitate this, I mean regurgitate this? How long do we have to review this? Is this an action we have to take today, having gotten all of this in one fell swoop? And I asked Everett if he wrote it and he said, “Hell, no.” So I guess the next question would be, have we had an opportunity to review it other than to the extent we now have?

MS. KERNS: You haven’t had the opportunity to

review it. The plan review team was asked to review it for the board. The next thing that the plan review team was going to ask the board was if you agreed with this information then would it be the prerogative of the board to forward this to Rhode Island as part of their public comment process in setting their regulations because they are still in the public comment process?

It was supposed to end on Thursday but that period has been extended and I don’t know what the final date for submission is in that. Mark could answer that.

MR. AUGUSTINE: A follow-on question, Mr. Chairman. Would Mark Gibson have something to say about this in terms of enlightening us a little more than the fact that we’ve had our PID review this, our PRT review this? And there is just a lot here, Mark. Mr. Chairman, can he respond, please?

CHAIRMAN CULHANE: Mark, would you like to?

DR. GIBSON: Seems to me the PRT has made two fairly straight-forward recommendations related to the material incapacitation. They want to see, you know, a written prevent of the permit holder from fishing as opposed to having a reduced fishing performance. That’s pretty clear to me.

And they want to take the word “sustained” out so that we work exactly with the max traps reported in the logbooks in the way that Massachusetts has. So, in the first case there was an attempt to broaden the applicability of the medical hardships to the, you know, the immediate family.

And, as Toni has said, I don’t think that’s necessary a problem because Addendum VII is silent on that particular issue and that conforms with our Family Leave Act so it’s something we really needed to do. The reduced fishing performance, I understand the point there and my recommendation was not to do that. It appeared in the regulations over my objection. The recommendation of the committee is pretty clear, the PRT is pretty clear on that as to how that gets rectified.

The max trap, the sustained max traps, that was an effort for us to retain the ability to do outlier detection in the logbook datasets such that any unusual values which, for example, some men reported fishing 400 traps for 32 months out of the three-year record and then there was a couple of 800 traps that popped in there.

That was our retaining some ability to look at these logbooks records with some scrutiny and do some data smoothing in them. If we were to employ that approach we would allocate less traps than we would under the, you know, strict interpretation of the max pot rule.

So it's more conservative in that sense but I recognize there could be inconsistency treatment inconsistency issues. But the two PRT recommendations are pretty clear to us. I wouldn't have any problem if the board were to endorse those and so that they could be taken back to the agency for consideration.

MR. AUGUSTINE: Thank you, Mr. Chairman, for that clarification.

CHAIRMAN CULHANE: Any other comments? We have one commenter in the back of the room. Please step up to the public microphone and identify yourself.

MS. ELIZABETH KORDOWSKI: Elizabeth Kordowski, Rhode Island Lobsterman's Association. I just wanted to say that industry had the same concerns as the plan review team and we support the recommendations. Thank you.

CHAIRMAN CULHANE: Thank you.

MR. LAPOINTE: Mr. Chairman, do we need a motion to accept these?

CHAIRMAN CULHANE: Do we need a motion on this?

MR. LAPOINTE: **I move that we accept the PRT recommendations on this issue and that those recommendations be forwarded back to the commonwealth of Massachusetts and the state of Rhode Island.**

CHAIRMAN CULHANE: Thank you, George. Do we have a second? We have a second, Pat Augustine. Any further discussion? Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman, for the opportunity to speak on this. I think it covers quite a bit. And my major concern here may be a little off the charts but my major concern is always to make sure whatever we do that we treat all permit holders or license holders, as was stated today, fair and equal. And that's a major concern in the fishery of the commonwealth of Massachusetts and other

areas. That's my point. Thank you.

CHAIRMAN CULHANE: Thank you, Vito. Any other comments? Shall we take a vote? All in favor please raise their right hand; any opposed; any null votes; abstentions. The motion carries 6 in favor, 1 opposed and 4 abstentions.

OTHER BUSINESS

That concludes everything we have on the agenda. We go on to **other business**. Does anybody have any other business to bring before the board?

ADJOURN

A **motion to adjourn**. Do I hear any objection? The meeting is adjourned. Thank you.

(Whereupon, the American Lobster Management Board meeting adjourned on Monday, January 29, 2007, at 6:05 o'clock, p.m.)