

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

**February 23, 2006  
Alexandria, VA**

**Approved May 10, 2006**

## **ATTENDANCE**

### **Board Members**

George Lapointe, ME DMR  
Sen. Dennis Damon, ME Leg. Appte  
John Nelson, NH F&G  
G. Ritchie White, NH Gov. Appte.  
Peter Whelen, NH, proxy for Rep. Mary Ann  
Blanchard  
William Adler, MA Gov. Appte.  
Paul Diodati, MA DMF  
Vito Calomo, MA, proxy for Rep. Anthony J. Verga  
Jerry Carvalho, RI, proxy for Rep. Eileen S.  
Naughton  
Eric Smith, CT DEP  
Dr. Lance Stewart, CT Gov. Appte.  
Pat Augustine, NY Gov. Appte.  
Erling Berg, NJ Gov. Appte.  
Peter Himchak, NJ DF&W  
Jeff C. Tinsman, DE Div F&W  
Howard King, MD DNR

Russell Dize, MD, proxy for Sen. Richard Colburn  
Bruno Vasta, MD Gov. Appte.  
A.C. Carpenter, PRFC (Vice Chair)  
Jack Travelstead, VMRC (Chair)  
Catherine Davenport, VA, Gov. Appte.  
Niels Moore VA, proxy for Sen. John Chichester  
Preston Pate, NC DMF  
Damon Tatem, NC Gov. Appte.  
Jimmy Johnson, NC, proxy for Rep. William  
Wainwright  
Robert Boyles, Leg. Appte.  
Mel Bell, SC DNR  
Malcolm Rhodes, SC Gov. Appte.  
John Duren, GA, Gov. Appte.  
Gil McRae, FL FWCC  
April Price, FL Gov. Apte.  
Steve Meyers, NOAA Fisheries  
Wilson Laney, USFWS

### **Ex-Officio Members**

William Windley., Advisory Panel Chair

### **Staff**

Vince O'Shea  
Robert Beal

Nancy Wallace  
Toni Kerns

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## **Summary of Motions**

**Move to nominate Pat White as the Vice-Chair of the Atlantic Menhaden Board.**

Motion made by Mr. Lapointe, second by Mr. Nelson. Motion carries.

**Move to approve Technical Addendum I to correct the reference of 1999 to 2004 on pages 2, 10, and 12 to 2000 to 2004, which is consistent with the motion passed by the Board in August.**

Motion made by Mr. Lapointe, second Mr. Nelson. Motion carries.

**Move to approve Jeff Reichle to the Atlantic Menhaden Advisory Panel.**

Motion made by Mr. Lapointe, second by Mr. Berg. Motion carries.

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**ATLANTIC MENHADEN MANAGEMENT  
BOARD**

**DoubleTree Hotel Crystal City  
Arlington, Virginia**

**February 23, 2006**

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**CALL TO ORDER**

The meeting of the Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the DoubleTree Crystal City, Arlington, Virginia, on Thursday, February 23, 2006, and was called to order at 8:00 o'clock, a.m., by Chairman A.C. Carpenter.

**APPROVAL OF AGENDA**

CHAIRMAN A.C. CARPENTER: Good morning, ladies and gentlemen. This is the Atlantic Menhaden Management Board meeting. I'm A.C. Carpenter. I'm the chairman of the meeting. And we have got a few items on the agenda this morning to try to get through. First is approval of the agenda. It is as it was submitted to you in the packet. **Without objection we will consider the agenda approved.**

**APPROVAL OF PROCEEDINGS FROM MAY  
2005 AND AUGUST 2005**

The next item is approval of the proceedings from the May 2005 and August 2005 minutes, the meetings. Both of these proceedings were in the packet. Are there any corrections, additions, or deletions to the minutes? Seeing none, **unless there is an objection they will be approved.**

**ELECTION OF VICE-CHAIR**

The fourth item on the agenda -- and we're moving right along ahead of schedule this morning already -- is the election of a vice chair. I recognize George Lapointe.

MR. GEORGE LAPOINTE: Thank you, Mr. Chairman. **I would like to nominate Pat White to be vice chair.** And in doing so we know he's not

here but I have his permission to do it, just so people don't think I'm victimizing him without his permission.

DR. JOHN I. NELSON, JR.: Second.

CHAIRMAN CARPENTER: It's seconded by John Nelson. Are there any other nominations? Yes, go ahead.

MR. PATRICK AUGUSTINE: No, there are not, Mr. Chairman. **Move to cast one vote and close the nominations.** Thank you, Pat White.

CHAIRMAN CARPENTER: And in what I learned from the chairman yesterday I think I can pull a Gordon Colvin and call Pat White to take over the meeting because I can leave now. Is that right?

MR. LAPOINTE: Because that means Bob has to take over the meeting so I'm okay with that.

**PUBLIC COMMENT**

CHAIRMAN CARPENTER: Thank you. The motion was approved. I was in such a hurry to get out of here, Joe, you know how that goes. Public comment, the public comment period we would welcome public comment on items that are not necessarily on the agenda.

For items that we will be taking action on later if there are any motions or approvals or anything in that nature we'll take it at that time. Mr. Price, I see that you have raised your hand.

How many people here want to make public comments, just so that I can get an idea of time? It looks like three so I think we can handle that. If you would step to the public microphone, identify yourself for the record and then you can make your comments. Thank you.

MR. JAMES E. PRICE: Thank you, Mr. Chairman. My name is Jim Price with the Chesapeake Bay Ecological Foundation. And I'd just like to mention that after I received the landings for 2005 I was a little more concerned about the direction things are going in because they were 146,000 metric tons.

And according to the National Marine Fisheries Service they're the lowest landings since 1940 when the records began to be kept. And reviewing some of

the recommendations by the peer review panel I felt it was maybe proper to bring back up what the 1998 peer review panel recommended.

They made numerous recommendations to the commission concerning the management of menhaden because of recruitment declines and stock contraction. And in 2001 the commission adopted Amendment 1 to its Menhaden Fishery Management Plan for the purpose of reducing the chance of stock collapse from overfishing, reducing the risk of recruitment failure, and reducing the impacts on species ecologically dependent on menhaden.

Following this revision of the Menhaden Fishery Management Plan, the management board failed to adopt important recommendations made by the peer review panel and including those recommendations were, one important one was to establish a total allowable catch and consequently the menhaden population has continued to decline.

And I just thought it was maybe proper at this point to remind the commission that under Amendment 1 I think that they do have authority to do something and it was recommended by the peer review panel. Thank you.

CHAIRMAN CARPENTER: Thank you, Mr. Price. The next gentleman with his hand up.

MR. CHARLES HUTCHINSON: Thank you, Mr. Chairman. My name is Charlie Hutchinson. I represent a small group of elderly fishermen from the eastern shore of Maryland. At previous meetings of this board I've been a strong advocate of a significant reduction in the allowable industrial catch of menhaden.

Many of us were quite disappointed in the cap that was imposed because we felt it did nothing to enhance the health of the stock or the numbers available in the upper areas of the Chesapeake Bay. So it's a bit of a role reversal to stand here today and defend the present cap.

One thing that certainly caused me to come forward today was the letter from Virginia's Attorney General concerning his views about the enforceability of the cap. Probably the line that most angered me was the statement that the commonwealth did not recognize the commission as a regulatory authority.

Apparently it's okay for Virginians to help regulate the activity for fourteen other states but such regulations don't apply to them. Such colossal

arrogance. For something of this nature to take place one needs to examine motivation.

It doesn't take much to figure it out. Omega Protein has engineered this challenge for its own purposes and has put the state of Virginia in the position of paying the cost for whatever legal actions might arise from the commission's actions. No dummies in that bunch.

The immediate purpose for Omega's creating the state's position is two-fold. One is to get another season with no restrictions. Considering the damage done to their processing facilities in the Gulf an increase in catch from the Atlantic area would be a reasonable expectation. After all, 2005's financial results will be dismal.

The second reason, and perhaps the most important one, is that Omega is for sale. And having restrictions on their operations doesn't enhance the marketability of the company. For a long time now I've said that the basic issues surrounding the Atlantic menhaden harvest are economic, not fish science.

It could not be more clear that this is what you are up against now. The current challenge to your authority is driven by money and unfortunately as it is framed goes well beyond menhaden. The ASMFC was designed as an interstate regulatory body for valid reasons.

If you as a body do not move forward and take the necessary steps to effectively regulate this or any other species, then there is real concern as to why your existence should be continued.

It would not surprise me to have Omega put forward another deal so that you might avoid a potential court challenge of your authority. Don't get sucked in by any such measure. If you do, you can forget your commitment to science or even common sense. It then just becomes a game of negotiations. Thank you.

CHAIRMAN CARPENTER: Thank you for your comments. There was one other hand in the audience. Yes, ma'am.

MS. BUFFY BAUMANN: Thank you, Mr. Chairman. Good morning. My name is Buffy Baumann. I'm an oceans campaigner with Greenpeace, an environmental organization with nearly three million members.

The ASMFC's decision last August to put a cap on the menhaden reduction fishery in the Chesapeake Bay was a response to concerns about localized depletion in the most important spawning area for what is left of the Atlantic menhaden population.

In fact, menhaden stocks have experienced serial depletions starting with overfishing in the Gulf of Maine and moving down the Atlantic Coast. In 1999 the NMFS Peer Review Panel recommended that the ASMFC set a firm limit on the coastwide catch.

This depletion is not just a problem for menhaden. It is a problem for the many species that feed on menhaden as well as the substantial commercial and recreational industries that depend on those species.

Of further concern is the impact the decline of menhaden stocks has had on water quality. With the collapse of the Chesapeake oyster population, the importance of maintaining healthy populations of filter feeders cannot be overstated.

Numerous reports over the past several years have highlighted the need to move from the type of single-species management currently practiced by the ASMFC to an ecosystem-based approach. And perhaps the most relevant example of precautionary, ecosystem-based management involving the U.S. is the Convention on the Conservation of Antarctic Marine Living Resources' management of krill.

Given the critical role that krill play in food webs, CCAMLR sets fishing levels such that median krill spawning biomass is predicted to be 75 percent of its pristine size. As menhaden and krill fill the same role in their respective food webs, it is hard to understand the ASMFC's unwillingness to take ecosystem concerns into account.

As Virginia Governor Tim Kaine said in October while running for his current office, "If the menhaden are harvested too vigorously, then it reduces a source of food that can be helpful to a healthy rockfish population, for example. It's a question of balance."

Greenpeace maintains that the bay cap, passed by a twelve to two vote last August does not go far enough to strike this necessary balance to protect coastal ecosystems or fishing communities. However, by the commission's recognition that limits on the fishery are overdue, it is an important step in the right direction.

Now that the Virginia General Assembly has bowed to pressure from Omega Protein and refused to ratify

the cap, the buck has been passed to Governor Kaine. If the state of Virginia fails to comply with the ASMFC's decision we hope that the commission will urge the Commerce Secretary to place a moratorium on the reduction fishery in Virginia waters.

And in the end, Omega's refusal to honor the ASMFC's decision may well provide the commission with an opportunity to do, at long last, what is necessary to protect coastal ecosystems. And I thank you for this opportunity to comment.

## **REVIEW ADDENDUM II IMPLEMENTATION PLAN**

CHAIRMAN CARPENTER: Thank you very much for your comments. And are there any other public comments? Seeing none we will move on to the next agenda item which is review of Addendum II implementation plans and I will call on Nancy Wallace to bring us through that.

MS. NANCY E. WALLACE: Thank you, Mr. Chairman. The plan review team met by conference call to review Virginia's implementation plan. We received a series of three different letters from Bill Pruitt, the Virginia Marine Resources Commissioner, about the implementation of Addendum II for menhaden.

I'll just go through — actually, all these letters were sent to you via the subsequent mailing and they should be on the back table if anybody needs additional copies.

The plan review team reviewed the original letter by Mr. Pruitt that was sent in on January 11<sup>th</sup> and these included three bills: House Bill 749, Senate Bill 84 and House Bill 252. The PRT reviewed these bills and concluded if implemented the Commonwealth of Virginia would be in compliance with Addendum II.

The PRT did have concerns about language in House Bill 749 that referred to the National Marine Fisheries Service as the agency that would announce when the harvest limit of Atlantic menhaden would be reached. The PRT felt that the commonwealth of Virginia should be involved in monitoring the quota.

The National Marine Fisheries Service will continue to maintain the captains' daily fishing report program but, which are the analytical database for generating catch at age matrices, although at the end of the fishing season. They are used to estimate removals, catches by area.

The PRT recommends that the National Marine Fisheries Service works in partnership with Virginia to develop an adequate monitoring system. However, subsequent to that January 11<sup>th</sup> letter the ASMFC received two additional letters from Bill Pruitt regarding the aforementioned bills.

Two of these bills had been tabled by a subcommittee and in his words essentially eliminating them from further consideration. And it appears that Senate Bill 84 would be withdrawn as well. The PRT noted that the governor of Virginia with proclamation authority could adopt these measures.

The PRT concluded that if Virginia does not take action by July 1, 2006, to implement harvest controls on the reduction fishery in Chesapeake Bay the commonwealth will not have fully and effectively implemented Addendum II.

CHAIRMAN CARPENTER: Thank you, Nancy. I guess I'd like to call on Jack Travelstead to see if you have any additional information or update to the status of the Virginia situation, Jack.

MR. JACK TRAVELSTEAD: Not really. I think Nancy pretty much updated where we are. The Senate Bill 84 did not move forward. That was the one remaining bill before the General Assembly.

The General Assembly is still in session, however, and will be in session until March 11<sup>th</sup>. So to say that they might reconsider those issues, I don't know. But certainly they're in session. There is that remote possibility available.

A little bit more information on existing law, Nancy mentioned a provision that currently exists within Virginia state law that authorizes the governor by proclamation may comply with any menhaden fishery management measure required by the ASMFC for compliance with its fishery management plan.

That is an existing part of law. That is available to the governor. There are some conditions place upon his ability to issue such a proclamation. He may not do so while the General Assembly is in session.

That gives the General Assembly the ability to act if it is their desire to. The General Assembly will go out of session for 2006 on March 11<sup>th</sup>. So thereafter the governor would have the ability to issue a proclamation.

The law also says that a proclamation cannot be

issued within 30 days of the start of the menhaden season in Virginia. This year the menhaden season starts on May 1<sup>st</sup> so 30 days before that would be April 1<sup>st</sup>.

So it's my reading of the law that the governor therefore has proclamation authority for the period of March 12<sup>th</sup> through April 1<sup>st</sup>. At this point I cannot tell you where the governor stands on this issue.

I know he is quite aware of the issue and his staff is thoroughly evaluating it and will be advising him in the days ahead. But certainly I think by April 1<sup>st</sup> you will have some clear indication of Virginia's actions on the addendum.

CHAIRMAN CARPENTER: Thank you, Jack. Are there any questions for Jack? Seeing no questions, it appears that Virginia still has several opportunities ahead of it to consider this matter. And in light of that I think we'll move on to the next agenda item which is an update of the 2006 menhaden stock assessment, calling on Nancy again to present us with that.

#### **UPDATE ON 2006 ATLANTIC MEHADEN STOCK ASSESSMENT**

MS. WALLACE: This year the Menhaden Stock Assessment Subcommittee will be conducting a stock assessment. This was not a benchmark assessment. This is a kind of what we call a turn-of-the-crank assessment from the 2003 peer reviewed assessment.

The time frame for that assessment is the Menhaden Technical Committee will be having a data workshop in March, March 16<sup>th</sup> and 17<sup>th</sup> up in Providence, Rhode Island. All the data will come in at that point and they can discuss it.

Then we'll have an assessment workshop down in Beaufort, North Carolina during the middle of July. After that the full technical committee will review the full assessment in August and we are prepared to present that final assessment to you at the annual meeting.

CHAIRMAN CARPENTER: Are there any questions of Nancy? Howard.

MR. HOWARD KING, III: Thank you, Mr. Chairman. Maryland is co-funding a project to look at the stomach contents and dietary requirements of the Age 8 and older striped bass off of North Carolina in the winter. We have some material that

would be available for that data workshop in March and we would like to have that presented there at that time.

CHAIRMAN CARPENTER: Yes, I think we can handle that. And who would be presenting that, do you know?

MR. KING: The principal investigator, Dr. Anthony Overton.

CHAIRMAN CARPENTER: We'll see that we can try to get Dr. Overton there. All right, Nancy.

MS. WALLACE: Just one more note on this stock assessment, because it is a turn-of-the-crank and not a benchmark assessment we will be using the same data sources that we used for the original 2003 assessment and also the same methodology so there won't be any new data or new ways of doing things for this model, just so the board is aware. It's pretty much just a standard update of the last model.

CHAIRMAN CARPENTER: Thank you very much. Any other questions on the stock assessment update? Bill Adler, go ahead.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. And as of right now the stock status which has been reported up to now is that the stock is not overfished. Is that correct?

MS. WALLACE: On a coastwide basis that is correct.

MR. ADLER: Thank you.

#### **OTHER BUISNESS**

CHAIRMAN CARPENTER: Under any other new business I have three items that have been brought to my attention. First, there was a letter just passed around from Derek Orner with regard to some menhaden research. And if Nancy -- or is Derek here? Derek, would you like to brief the commission on the work being funded in your letter here, please?

#### **UPDATE ON CHESAPEKAE BAY RESEARCH**

MR. DEREK M. ORNER: Thank you, A.C. My name is Derek Orner. I'm with the NOAA Chesapeake Bay office in Annapolis. I am coordinating a fisheries research program in Chesapeake Bay and what I supplied for Nancy is a letter summarizing the number of projects that we

funded in FY2005.

It's about I believe 14 projects, about \$1.2 million. The number of projects address all four of the technical committee research priorities that were adopted June 2005 or 2004, I don't remember the exact date.

But each of those four research priorities were addressed through our research program. Most of the projects were just initiated in fall of 2005 so they're just now getting underway so unfortunately pretty much the list of projects is what we have at the current time.

Our plan is to hold quarterly research reviews which, you know that way we can get each of the PIs on kind of a conference call or web-based presentation or conference to present the results of the research addressing those four research priorities.

#### **TECHNICAL ADDENDUM I**

CHAIRMAN CARPENTER: Thank you. Are there any questions for Derek? Thank you very much, Derek. The research is going to be an integral part of continuing the management of this particular species.

The staff has just passed out a draft technical Addendum I. It is a, to correct an oversight or a typing error that was in the Addendum I and quite simply -- I mean Addendum II, excuse me. And quite simply the addendum refers to the time period of 1999 to 2004. It should more properly refer to the period 2000 to 2004.

The motion which was passed and supported the addendum was, it said to use the five-year period and referred to the period ending in 2004 so it is simply a typographical error that we need to correct. I am looking for someone willing to sponsor a motion. George Lapointe.

MR. LAPOINTE: I asked staff actually to write something up and it is **move to approve Technical Addendum I to correct the reference from 1999 to 2004 on Pages 210 and 212 to the years 2000 and 2004 which is consistent with the motion passed by the board in August.**

CHAIRMAN CARPENTER: Second to that, John Nelson. Any discussion of the motion? Mr. Windley.

MR. BILL WINDLEY: Mr. Chairman, does

this represent any change in the actual number?

CHAIRMAN CARPENTER: No it does not. The actual number itself was calculated on that time period from 2000 to 2004. This is simply a correction of a typing error. That's all this is. Is there a need to caucus for the motion?

Seeing no need I'll call for the vote. All in favor please raise your right hand; all opposed, same sign; are there any null votes or abstentions; one abstention. Virginia already voted.

There is only one vote to the state. Therefore the motion passes and we thank you very much for clearing that up. One last thing that we have is a request to add a member to the AP. Nancy, you want to go over that?

#### ADVISORY PANEL NOMINATIONS

MS. WALLACE: Sure, thank you. We had a nomination from New Jersey to appoint Jeff Reichle, a commercial fisherman, to the Menhaden Advisory Panel.

CHAIRMAN CARPENTER: Have copies of his application been distributed?

MS. WALLACE: I think they're being passed out right now.

CHAIRMAN CARPENTER: Okay. Yes.

MR. LAPOINTE: **I would move that we approve Jeff Reichle for the Menhaden AP.**

CHAIRMAN CARPENTER: I have a motion to approve Mr. Reichle by George Lapointe. Is there a second to that motion? Seconded by Mr. Burke. Is there any discussion of the motion? Any need for a caucus? Without objection to the motion the motion will be approved. The motion is approved. Is there any other business to come before the Menhaden Board at this time? Wilson Laney.

DR. WILSON LANEY: Mr. Chairman, while I was at the AFS meeting last year, the annual meeting, Dr. Rob Latore of VIMS gave a very interesting presentation which consisted of a sort of a historic dietary analysis of, I believe it included striped bass and bluefish and weakfish from Chesapeake Bay.

And at the end of that presentation my sense was that he concluded that there was possible scientific basis

for local depletion as a result of his dietary analysis.

And I indicated to him at the time that I thought it would be very useful for him to make that presentation to the Menhaden Board so I would suggest that you might ask Mr. Travelstead on behalf of the board to extend an invitation to Dr. Latore to make that presentation, perhaps at the May meeting.

CHAIRMAN CARPENTER: I think that we would very much welcome that but it should probably be presented to our technical committee first. And I think that we can arrange to have an invitation extended to Rob to attend the next technical committee meeting in order to make that presentation. And I think that that would be the proper place. Is there any other business to come before the board? Do I hear a motion to adjourn?

#### ADJOURNMENT

MR. LAPOINTE: **So moved.**

CHAIRMAN CARPENTER: So moved. We are adjourned. Thank you.

(Whereupon, the meeting adjourned at 8:35 o'clock A.m. on Thursday, February 23, 2006.)

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