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ATLANTIC STATES MARINE FISHERIES COMMISSION

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SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS

MANAGEMENT BOARD

WEDNESDAY, MAY 1, 2002

at

Omni Newport News Hotel

1000 Omni Boulevard

Newport News, Virginia

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P R O C E E D I N G S

[3:20 p.m.]

ANNOUNCEMENTS AND INTRODUCTIONS

BOARD CHAIR PRESTON PATE: I'll call the meeting of the Summer Flounder, Scup and Black Sea Bass Management Board to order, and let the record note that we have a quorum and that Bob Pride is joining us today as a Board member with a proxy from PRFC.

APPROVAL OF AGENDA

The first item on our agenda is approval of the agenda, and unless there's objection I'll note that -- Jack.

JACK TRAVELSTEAD: Mr. Chairman, we have some people here who are interested in the Virginia flounder issue, and I was hoping that we could take that close to the beginning of the agenda so they can be on their way. I don't think it's going to be a terribly lengthy item, and that would allow you to then proceed with scup for as long as you want into the night.

BOARD CHAIR PRESTON PATE: Thank you, Jack, and God forbid we go into the night with scup.

1 But I'm certainly agreeable to that and my plan
2 would be to ask Steve Doctor when he presents the
3 Technical Committee Report to present the segment
4 dealing with Virginia's proposal and then move
5 directly into the discussion on that, if that's okay
6 with you and the rest of the Board.

7 So, with that change noted, I will
8 deem the agenda approved. And we need some
9 recognition of approval for the minutes of our
10 February 21st meeting. Absent any objection, I'll
11 do that by consensus of the Board, if that's
12 agreeable to everyone.

13 (No response audible.)

14 BOARD CHAIR PRESTON PATE: Are there
15 any comments from the public at this time?

16 (No response audible.)

17 BOARD CHAIR PRESTON PATE: Seeing no
18 interest in that, we'll move to the Technical
19 Committee Report by Steve Doctor. And Steve, if
20 you'll jump right into the Virginia flounder
21 proposal, please.

22 _____
23 TECHNICAL COMMITTEE REPORT

24 STEVE DOCTOR: Thank you, Preston.

1 As regards the Virginia summer flounder regulations,
2 the plan that was submitted to the Board at the last
3 meeting had not been reviewed by the Technical
4 Committee.

5 After the meeting the committee
6 member from Virginia explained that the initial
7 options developed by Virginia in February assumed
8 that the coastal bays and inlets were included in
9 the ocean ed (phonetic). This error resulted in the
10 landings associated with the ocean ed being set
11 lower than they should have been and the resulting
12 regulations not achieving the required reduction.

13 Virginia's committee representative
14 planned to develop some new options using post-
15 stratified data and present them for review via
16 conference call prior to the Board meeting.

17 On April 25th, a limited number of
18 committee members participated in a conference call
19 to review the options developed by Virginia. The
20 consensus opinion was that the techniques used were
21 correct. Some committee members have concerns
22 regarding the ability to evaluate the likelihood of
23 the proposed regulations constraining Virginia's
24 harvest to the specified limit. Those concerns are

1 based upon possible transfer effort between areas
2 and seasons and the absence of compensation for any
3 resulting recoupment.

4 It is important to note that the
5 analysis of effort transfer and recoupment is not
6 specified as a criterion in Addendum 7. In
7 addition, there is some question as to whether
8 sufficient data and proven methodologies exist to
9 accurately reflect the effect of area specific
10 regulations within the state.

11 I would add, though, that the plan
12 was -- the plan that was most recently submitted on
13 April 25th and the consensus opinion does meet the
14 requirement -- or the opinion of the technical
15 committee is that it does meet the requirements
16 specified.

17 BOARD CHAIR PRESTON PATE: Jack, do
18 you want to --- the handout?

19 JACK TRAVELSTEAD: Everybody has a
20 handout. Let me just take you through a little bit
21 of the history to remind you. There were four
22 options that were presented to the Board at our last
23 meeting and they are on this first sheet listed as
24 1, 2, 3 and 4. Two are statewide options, which use

1 the standard methodology that everyone has always
2 used. And Options 3 and 4 split the coastal area
3 from Chesapeake Bay and its tributaries.

4 When we -- and you approved those
5 options 1 through 4. We then went to the Marine
6 Resources Commission in Virginia. They held a
7 public hearing. And following that hearing, they
8 adopted -- they did not adopt any of those four
9 options. They adopted a combination of those
10 options, which is listed in your handout as Option
11 5.

12 We now know, as Steve has told you,
13 that the methodologies used to calculate all of
14 these options, including the one my Commission
15 adopted, was in error. The error was rather simple
16 in that we believed that the harvest of flounder
17 that occurred in the coastal bays, behind the
18 barrier islands in Virginia, was included in the
19 oceanside harvest numbers. We now know that's not
20 the case. Those harvests are included in the
21 Chesapeake Bay harvest.

22 When we learned that, we got in touch
23 with NMFS and learned that it was possible to break
24 out the harvest from the coastal bays using a SASS

1 program. In fact, Alexie Sharof did that for us up
2 in Maryland. The data were provided to us and the
3 options were recalculated using the correct data.

4 And what you see the new options as
5 7, 8 and then if you flip over, 9 and 10, the
6 methodologies -- once the data are separated and
7 corrected, the methodologies used to calculate these
8 options is identical to what it was before.

9 What you'll see, however, is because
10 the ocean harvest is now -- or the oceanside harvest
11 is now much larger than it was in the first four
12 options that were presented to you at the last
13 meeting, the lengths of the closed seasons for the
14 coastal area are significantly longer. In fact, in
15 one of the options, I think it goes to the end of
16 the year. Yeah, from -- the coastal area would have
17 to be closed from June 27th to December 31st to meet
18 the necessary reductions.

19 Options 7 and 8 were reviewed by the
20 Technical Committee, I guess over -- in a conference
21 call that was held last week. Now, consistent with
22 Virginia's past performance, we have two new ones, 9
23 and 10, which are on the back of the sheet, that the
24 Technical Committee did not look at, but they used

1 the exact same methodology as 7 and 8.

2 You'll see Options 7 and 8 make use
3 of a 15 and a half inch minimum size in the coastal
4 areas. But when you go to 15 and a half inches, you
5 have to have these long closed seasons. To avoid
6 that, I asked Rob O'Reilly to calculate options that
7 raised the minimum size to 16 and 16 and a half in
8 the coastal area. And that gets you obviously a
9 shorter closed season as a result of that, June 10th
10 to June 24th or June 10th to June 16th.

11 So, again, Options 9 and 10 have not
12 been reviewed by the Technical Committee, but they
13 utilize the new data set and the same methodology
14 that follows as Options 7 and 8 that the Technical
15 Committee has seen.

16 The Marine Resources Commission will
17 meet on May 28th and will be made aware of this
18 issue and whatever action you decide to take today,
19 what options you choose to approve, and we'll move
20 forward to adopt a corrected option.

21 So, that's the explanation. If there
22 are questions, I'll be glad to try and answer. Rob
23 O'Reilly is here, as well, if you have technical
24 questions.

1 BOARD CHAIR PRESTON PATE: I have --
2 not a technical question, Jack. You may have said
3 this and I missed it in your opening comments, but
4 what's the current status of your season? What has
5 happened from January 1st until now?

6 JACK TRAVELSTEAD: We have -- the
7 Commission has adopted Option 5 on the front sheet.
8 That's what they adopted. We now know that will not
9 achieve the required 43.8 percent reduction, because
10 it utilized the wrong data set. In fact, we
11 recalculated that same option. That is what is in
12 Option 6, if you flip back through the sheets,
13 you'll see with the new data set that it does not
14 meet the required reductions. So, we know we must
15 change the regulations from what they are now.
16 We're not in compliance with the management plan.
17 We've got to go through a procedure to change those
18 regulations.

19 The question is do we adopt a
20 statewide measure that you see in Option 1 and 2,
21 which are still valid, or Options 7, 8, 9 or 10,
22 which continue to separate the coastal area from the
23 Chesapeake Bay.

24 GORDON COLVIN: Follow-up, Mr.

1 Chairman?

2 BOARD CHAIR PRESTON PATE: Yes, Mr.
3 Colvin.

4 GORDON COLVIN: Jack, Option 5 is in
5 place. Option 5, as I see it, is 15 and a half size
6 limit in quote, all coastal. Could you just
7 elucidate on what that all coastal consists of?

8 JACK TRAVELSTEAD: Again, all coastal
9 is defined exactly as it was at your last meeting.
10 All the barrier islands -- all the waters behind the
11 barrier islands, coastal bays, as we call them, as
12 well as the three-mile limit or that portion of
13 territorial sea.

14 GORDON COLVIN: Okay. And 17 and a
15 half inch is inside Chesapeake Bay. Each of those
16 areas having a closed season from January 1 to March
17 28.

18 JACK TRAVELSTEAD: Right.

19 GORDON COLVIN: And a second closed
20 season beginning on July 22nd?

21 JACK TRAVELSTEAD: That is what we
22 currently have, yes.

23 GORDON COLVIN: All right. You know,
24 just a couple of questions relating to this. When

1 did the fishery open this year? When did fishing
2 begin in Virginia this year?

3 JACK TRAVELSTEAD: It began on March
4 29th.

5 GORDON COLVIN: Consistent with that
6 then. And at 15 and a half and 17 and a half?

7 JACK TRAVELSTEAD: Yes.

8 GORDON COLVIN: Which would create a
9 complication, would it not, Jack, for Options 9 and
10 10?

11 JACK TRAVELSTEAD: It would create a
12 complication in that fishing is now going on, so
13 that --

14 GORDON COLVIN: Yes, that's my point.

15 JACK TRAVELSTEAD: Yeah. Yeah.

16 GORDON COLVIN: Has the Commonwealth
17 considered what it might do if it chooses those
18 options to compensate for the fish between 15 and a
19 half and 16 or 16 and a half that might have been
20 taken during the intervening period?

21 JACK TRAVELSTEAD: I think what
22 you're asking is -- you know, what kind of
23 additional penalty would be imposed, because we're
24 fishing now at something that's -- that doesn't

1 comply.

2 GORDON COLVIN: And considering that
3 it is also something that this Board didn't approve.

4 JACK TRAVELSTEAD: Right.

5 GORDON COLVIN: Both those
6 considerations.

7 JACK TRAVELSTEAD: We have not
8 contemplated that in any of these options, simply
9 because we don't have data for this year that
10 basically tells us what has really happened. We
11 know that May and June are the principal months of
12 harvest in the coastal area. If we can get the
13 regulations in place on May 28th when the Commission
14 -- then we will have at least stopped fishing during
15 the month of June under the old size limits.

16 BOARD CHAIR PRESTON PATE: But Jack,
17 that's not a problem with any of the other options,
18 6, 7 and 8, since you're fishing at 15 and a half.

19 JACK TRAVELSTEAD: No, I think --

20 BOARD CHAIR PRESTON PATE: In all
21 coastal. That same problem would not be created
22 with those options; is that right?

23 JACK TRAVELSTEAD: That's right.

24 BOARD CHAIR PRESTON PATE: Okay.

1 Pat.

2 PAT AUGUSTINE: Thank you, Mr.
3 Chairman. Follow on question. I was going to ask -
4 - elaborate upon what Pres just asked. If in fact
5 the number 9 and 10 have not been approved, although
6 it would give you a different scenario here, have
7 not been approved and they are different sized fish,
8 15, 16 and a half -- 16, 16 and a half, as compared
9 to some of your other options that would compensate
10 you -- well, you have to compensate -- you're
11 actually at 15 and a half, you would still have an
12 open season. Let's go to Option 5, although it was
13 not -- oh, I'm sorry, it was not valid. Let's go to
14 Option 6. All coastal, 15 and a half, January 1st
15 through January 28th, and the season again would
16 still be open, as it is now, but it would carry
17 through to July 22nd.

18 The question is if that will keep you
19 within your overall quota and keep you from going
20 over, as you did unfortunately last year, would it
21 not be more appropriate to follow that scenario as
22 opposed to trying to get 9 and 10 approved, which
23 has to go through I believe your legislative body
24 and also has to be approved by ASMFC. I just need

1 the first options, we had data that showed us what
2 the harvest was in inland waters and what it was in
3 ocean waters, and we made the incorrect assumption
4 that the harvest in the coastal bays was included in
5 the ocean number, when in fact it is not, it is
6 included in the inland number.

7 We have now corrected the data by
8 teasing out the harvest in the coastal bays and
9 adding it to the ocean number, which you can see in
10 Table 1.

11 BRUCE FREEMAN: All right. Well, the
12 issue that I'm confused about, relative to
13 Virginia's regulations, the coastal lagoons and the
14 ocean is considered ocean, and how MRFSS collected
15 the data was different. But from your standpoint --

16 JACK TRAVELSTEAD: That's correct.

17 BRUCE FREEMAN: -- coast -- I mean,
18 what concerned me originally, Jack, from Virginia's
19 proposal was the enforcement issue, because there
20 was such a discrepancy in size, people would claim
21 they're fishing one area and be burden on your
22 enforcement to prove --

23 JACK TRAVELSTEAD: I think we've
24 solved that problem by -- the coastal area, which is

1 now defined as the coastal lagoons, plus the three-
2 mile limit, would all be under the same size limit
3 and closed season.

4 BRUCE FREEMAN: Okay.

5 JACK TRAVELSTEAD: You run into
6 enforcement problems if you have to draw a line
7 across the mouths of all of those lagoons --

8 BRUCE FREEMAN: Oh, yeah.

9 JACK TRAVELSTEAD: -- and have one
10 size limit in the lagoon and one out in the ocean.
11 That's an enforcement nightmare. We've solved that
12 problem by making both sides of those lines -- and
13 we are enforcing the regulations as possession rules
14 so that if you left the York River, the Chesapeake
15 Bay, and rode your boat all the way to the eastern
16 shore and fished on 15 and a half inch fish -- of
17 course it would be enforced as a possession limit
18 there, but it would also be enforced as a possession
19 limit when you got back to the dock.

20 BRUCE FREEMAN: Okay. Well, bear in
21 mind there was a lot of -- at least let me speak for
22 myself, there was apprehension on this issue because
23 of different size limits in the state. And I think
24 we've all considered that at times, and for various

1 reasons have found out it was very difficult for one
2 reason or another, but enforcement is certainly one
3 of the reasons. And that there is considerable
4 attention being paid to Virginia to see how it works
5 out, quite frankly, this year.

6 And if it does work to any degree,
7 there may be other states thinking about doing the
8 same thing. So, I think it's very critical that you
9 can separate the areas for recording purposes and
10 you can enforce it because of enforcement issues.
11 And so that's one of my concerns.

12 While I have the floor, I understand,
13 Jack, you're asking the Board to approve 9 and 10,
14 but the Technical Committee has not reviewed it, but
15 you use the same techniques for calculation.

16 I would indicate that if in fact this
17 Board agrees to approve 9 and 10, and you're asking
18 for that action today, that at very least our
19 decision be based upon that returning to the
20 Technical Committee and get their review. One is it
21 sets a precedent. I mean, it's never been done
22 where someone submitted something to a board and it
23 approved it before Technical Committee had a chance
24 to speak on that. And even though you may be right,

1 it may simply be the same calculation, just on a
2 different area, I would submit that it should be
3 submitted to the Technical Committee either before
4 or after we vote, just to make sure --

5 JACK TRAVELSTEAD: I don't have any
6 objection to that at all.

7 BRUCE FREEMAN: Yeah, I just -- the
8 concern is -- you know, you're bringing something to
9 our attention and trying to do this and organize
10 your fishery and notify people, I think we all have
11 been in a position like that and understand your
12 position, but I still think from a procedural
13 standpoint, the Technical Committee has to look at
14 even those calculations.

15 JACK TRAVELSTEAD: Sure. You know,
16 without Options 9 and 10, quite frankly I think
17 we're going to end up with a statewide rule, because
18 I just can't see anyone on the eastern shore of
19 Virginia supporting 7 and 8 with such a lengthy
20 closure. Six months of the year being closed in
21 Option 8 and virtually all of June, which is their
22 best month, being closed under Option 7. And that's
23 why I asked Rob to work up Options 9 and 10 to see
24 what they looked like.

1 BOARD CHAIR PRESTON PATE: Pat.

2 PAT AUGUSTINE: Thank you, Mr.
3 Chairman. Is there any way at all possible in that
4 the season closed on -- I'm sorry, it was open --
5 closed till March 28th, it opened on the 29th -- is
6 there any way to go back historically over the last
7 two or three years -- I guess you were fishing on 15
8 and a half inch fish in the last two or three years
9 -- and come up with some guesstimate as to what you
10 might be harvesting.

11 If this goes forward, and it should
12 go forward, and I agree with Bruce that we should
13 move it forward, but it would seem to me one of the
14 Technical Committee's questions might be what do you
15 anticipate having harvested during that period from
16 March 29th to June whatever it happens to be, and
17 how will that be taken into consideration, so you
18 won't go over the quota during the end of the year?

19 JACK TRAVELSTEAD: If you don't mind,
20 I'm going to ask Rob O'Reilly to address that, but I
21 -- you know, if it is possible to be done, I
22 certainly wouldn't object to -- in a sense adding a
23 penalty which would result in some additional
24 closure under 9 and 10.

1 ROB O'REILLY: It certainly could be
2 done. We already know that from last year the third
3 WAVE is a big WAVE, now that we've got the data
4 oriented the correct way. The second WAVE
5 traditionally you're looking at a very small
6 percentage. I think it's a bad idea to make such a
7 requirement on the basis of what I've seen over the
8 years, of the performance of these systems since
9 1999.

10 What you should look at are if we do
11 go to a higher size limit, then the -- my
12 expectation, unless I heard differently from Doctor
13 Moore, would be that for next year we would be
14 effectively getting zeroed out at that higher size
15 limit.

16 If you recall these tables, the size
17 limit you had in 2001, you essentially are zeroed
18 out for 2002. That would also occur. So, there's
19 already a penalty built in in that respect.

20 The second thing that was done for 7,
21 8, 9 and 10, which was not done for any other
22 options from any other states, are if you look in
23 the packet, we didn't work on the percent that we
24 were supposed to derive from 2001 closed season. We

1 actually took 15 days, which was our closed season,
2 out of 61 days for that WAVE 4, and we proportioned
3 that amount of landings and added it back into these
4 proposals and then resumed for a closed season.

5 We know that's very representative
6 and very reliable way to account for 2001. So, I
7 think it might be a bad idea, overall, to try to
8 start guesstimating, really, what the effects were.
9 Because as we're also seeing, each year brings new
10 problems. And it's more than just the closed season
11 at work here. It's availability. It's many factors
12 that you've heard Doctor Moore and others talk
13 about.

14 PAT AUGUSTINE: Thank you.

15 BOARD CHAIR PRESTON PATE: Ernie.

16 ERNEST BECKWITH: Thank you, Mr.
17 Chairman. I just want to address the issue of the
18 penalty. If I recall, we all had -- we all have a
19 target number of fish that we're supposed to meet,
20 and I think all we do is look at the end of the year
21 and see if the state of Virginia exceeded that
22 target number. And if they did, they will pay the
23 penalty next year by taking a larger percent
24 reduction. So, at this time I don't think it's an

1 issue we can deal with. I think it will take care
2 of itself.

3 BOARD CHAIR PRESTON PATE: Rick.

4 RICHARD COLE: From the standpoint of
5 the Technical Committee, Jack, when this information
6 was broken out by area, it met the PSE requirements
7 that we use, the 30 percent; is that correct?

8 JACK TRAVELSTEAD: That's correct.

9 RICHARD COLE: So, there wasn't any
10 problem there when you broke it out by area, even
11 though they refined it the way that Jack indicated,
12 that they broke it out, they had to break out the
13 coastal from the Chesapeake Bay landings. They
14 still had the proportional standard error that was
15 30 percent.

16 JACK TRAVELSTEAD: I wasn't there for
17 that discussion. Did they look at the PSE after the
18 data was reportioned? Or was it even calculated?

19 RICHARD COLE: I mean, that's one of
20 the criteria that we use as qualifying criteria.
21 Gordon shakes his head no.

22 STEVE DOCTOR: Let me say that the
23 stand-alone, the data before it was separated met
24 the criteria and the number of -- the amount of

1 landings that are in there would make me believe
2 that as separated, it would also meet the
3 requirement. I have no reason to believe it
4 wouldn't.

5 RICHARD COLE: Okay. Let me just
6 hear what Gordon had to say.

7 GORDON COLVIN: Quite frankly, I
8 think that's an issue here, because the only
9 situation in which I am aware that the Board has
10 specifically established a PSE evaluation criterion
11 is with respect to the prospect of a mode split
12 management system for scup, which is going to come
13 up later.

14 And I'm not aware that we established
15 any statistical evaluation criteria for summer
16 flounder. I will also say that our Technical
17 Committee member is troubled by that and that
18 frankly one of the points that I wanted to make in
19 the course of this discussion is that this Board by
20 golly needs to work towards -- before we go through
21 this exercise again next year, establishment of some
22 standards for review of state conservation
23 equivalency proposals, for all -- both these managed
24 species.

1 Further, that contrary to what the
2 Technical Committee Chairman just said, I know that
3 our Technical Committee member is troubled, very
4 troubled, by what she believes are a relatively
5 small number of intercepts and length measurements
6 in the underlying database that supports the area
7 specific size and possession limit tables that
8 Virginia generated and used to develop their
9 regulations and suspects that they would -- because
10 of the low numbers of measurements that support the
11 tables, that a statistical review would show quite a
12 range of potential variability.

13 Now, be that as it may, that's not a
14 rule that we applied to anybody, and --

15 BOARD CHAIR PRESTON PATE: Were you
16 through, Mr. Colvin?

17 GORDON COLVIN: Well, --

18 BOARD CHAIR PRESTON PATE: Rick.

19 RICHARD COLE: Gordon, if you'll
20 think back, the State of Maryland brought -- I think
21 for two consecutive years, they brought options
22 before this group asking to break out their landings
23 by coastal areas and by Chesapeake Bay.

24 And as I recall, this collective body

1 indicated to the State of Maryland that their
2 information did not meet the statistical
3 requirements, the 30 percent PSE, that we felt were
4 required. Am I right, Pete?

5 PETER JENSEN: Right.

6 RICHARD COLE: So, that precedent has
7 been established amongst this group.

8 BOARD CHAIR PRESTON PATE: Jack.

9 JACK TRAVELSTEAD: Mr. Chairman, Rob
10 O'Reilly has some numbers on this that I think will
11 help clear up some of it.

12 ROB O'REILLY: I hope you can
13 appreciate that it took until April 15th for the
14 National Marine Fisheries Service to get the raw
15 data available so that Doctor Sharof could
16 thankfully do this analysis for us.

17 We don't have exact CV's. The way
18 the Technical Committee conference call was
19 conducted, that point was brought up as concern
20 until I pointed out that the inland component
21 contained 1,253,894 fish before it was split. It
22 had a CV or a PSE of 7.9 percent.

23 The ocean component had a mere 71,284
24 fish, and had a 22 percent CV or PSE. 800,000

1 pounds of the 1.25 million were added to the ocean
2 component. So, you know what happens to that 22
3 percent when 800,000 numbers -- excuse me, not
4 pounds, numbers of fish, are added to 71,000. And
5 there was no one after that information was talked
6 about who had distinct reservations about the CV's.

7 We could still get the CV's. It
8 would be an exercise, but that's not a problem to do
9 that. But I think if you have any attention for the
10 data, you can see that it makes sense that if the CV
11 in the ocean went down substantially, the one in the
12 inland would not have increased by an extent from
13 7.9 percent to bring it over 30 percent for the
14 Chesapeake Bay, which has landings distributed
15 throughout the season. And that's the basis that I
16 provided to the Technical Committee.

17 GORDON COLVIN: Can I ask Rob a
18 question?

19 BOARD CHAIR PRESTON PATE: Yes, sir,
20 Mr. Colvin.

21 GORDON COLVIN: And Rob, those CV's
22 relate specifically to what?

23 ROB O'REILLY: The 7.9 percent relate
24 to the combined data from the inland and the coastal

1 bays.

2 GORDON COLVIN: But that relates to
3 the variance around the total estimate of the number
4 of fish landed?

5 ROB O'REILLY: I think it's a little
6 more complicated than that. We had National Marine
7 Fisheries Service at our last Technical Committee
8 meeting, but that's pretty close to the idea, yes.
9 It's really, from what I understood from our meeting
10 briefly, it's a 95 percent confidence interval and
11 then and it's the spread around that interval
12 further.

13 GORDON COLVIN: Specifically what
14 we're looking at is a statistical measure that
15 relates to the --

16 ROB O'REILLY: Right.

17 GORDON COLVIN: -- number of fish
18 caught?

19 ROB O'REILLY: Right.

20 GORDON COLVIN: As opposed to the
21 number of fish caught at different size intervals,
22 for instance?

23 ROB O'REILLY: That is my
24 understanding.

1 GORDON COLVIN: Or at different times
2 of the year, or in different locations?

3 ROB O'REILLY: My understanding, it's
4 on the landings and I think what would bear that out
5 is 71,000 fish from the ocean with a CV of 22
6 percent.

7 GORDON COLVIN: That gets to the
8 underlying concern, is that we talked about a CV or
9 a PSE, but the reality is that that's examining the
10 statistical reliability, as I understand it, and
11 believe me, my understanding is very limited, of the
12 number of fish caught, the estimate of the number of
13 fish caught, period.

14 And it doesn't necessarily address
15 all these other issues that go into our rules about
16 the geographic distribution, the seasonal
17 distribution, or the size distribution, or for that
18 matter the catch frequency distribution, all of
19 which are part of what we're doing.

20 So, to some respects, the application
21 by the Board of a quote, 30 percent CV or a 20
22 percent CV or a 30 percent PSE or anything else that
23 we might have done either specifically this year
24 with scup or in the past ad hoc on fluke apparently,

1 it may in fact be a somewhat naive act on the part
2 of the Board in terms of really addressing the
3 reliability of the data and the statistical
4 variability of the data that's being used to select
5 regulatory options and implement them, and our --
6 and what our confidence ought to be, that those
7 measures if implemented and enforced, will in fact
8 achieve the quota targets that we're trying to
9 manage for.

10 And my point here isn't to pick on
11 Virginia. To the contrary. My point is to pick on
12 us as a Board for not perhaps being as thorough and
13 consistent about this as we ought to be.

14 We have made the decision, for better
15 or for worse, and I'll say it again that I did not
16 support to adopt state specific recreational quotas
17 for summer flounder and scup.

18 We have a whopping one year of
19 experience under our belt with fluke, and zero under
20 our belt for scup. But what we've already observed
21 is that there are a lot of questions being raised by
22 our own technical people about whether or not we
23 have appropriate ground rules and side boards for
24 the evaluation of all elements of the proposals that

1 we're developing. And I would like to suggest --
2 and strong reservations being expressed by some of
3 the members of our technical advisors about how
4 we're doing things.

5 Now, having established these state
6 specific quotas, as we've said before, raises the
7 bar a great deal in terms of our need to be
8 accountable to each other for hitting the targets
9 that we've been assigned, because now if Virginia
10 goes over or New York goes over, that overage comes
11 out of everybody else's hide. Comes out of
12 everybody else's commercial and recreational quota
13 for next year. And we need to be much more
14 confident than I presently am that the quotas that
15 we approve and the regulations that we approved, we
16 administer those quotas, are not going to exceed the
17 recreational targets state-by-state.

18 And I will tell you right now, Mr.
19 Chairman, I am not at all confident that what's been
20 approved for fluke for the three big states, New
21 York, New Jersey and Virginia, is going to fall
22 within their assigned quotas for this year. I don't
23 believe it will. I certainly don't believe it will
24 for New York. And frankly, as of today, with the

1 season opening tomorrow, we haven't decided yet
2 whether we're going to fall back to 16 and a half
3 inches as the Board approved or stick with 17,
4 because of our reservations about what might happen.

5 And hopefully by the time I get home
6 tonight, we will have decided. I guess I'll know if
7 the armed guards are posted in front of my house
8 when I get there.

9 But -- and that's part of the
10 problem. If we approve things that because of the
11 rules we've established are really not technically
12 appropriate, then it's very difficult when we get
13 back home not to make the tough choice that we have
14 to make. And frankly, I think we've got to toughen
15 it up.

16 Now, you know, enough of the
17 monologue. I think the action that we need is to
18 assign our Technical Committee, which has really
19 only been revitalized within the last six to 12
20 months, to really get down to figuring out what
21 sorts of evaluation criteria we ought to apply to
22 state specific proposals and come back to us with
23 some recommendations so that we have an opportunity
24 to really address all these issues and get -- for

1 want of something better to say, the components of a
2 compliance manual, thinking back to weakfish many
3 years ago, for evaluating state specific
4 conservation equivalency proposals for summer
5 flounder and scup.

6 Now, I don't think a motion is
7 needed, but I'll be happy to offer one if that's
8 what it takes to get that process kicked off. But I
9 don't -- and I don't think we've done the job we
10 need to do as a Board.

11 Frankly, you know, when we passed
12 that motion on fluke for 30 percent CV, a lot of the
13 Technical Committee members -- scup, we passed that
14 motion -- a lot of Technical Committee members don't
15 know -- didn't know and still don't know what they
16 were supposed to apply that to. It was a very vague
17 motion. And it didn't make sense to them.

18 They did their best with it, and
19 they've come back with recommendations, which we'll
20 hear, but we didn't do a very good job. And I think
21 we need to do better. We owe it to each other.

22 BOARD CHAIR PRESTON PATE: And I
23 agree with a lot that you said, Gordon, and I'd like
24 to address Virginia's request and then get back to

1 your idea about the charge to the Technical
2 Committee and it might be best to have a motion on
3 that. But we'll move forward with that.

4 Bob, do you want to make a comment?

5 Okay, Jack.

6 JACK TRAVELSTEAD: Are you ready for
7 a motion?

8 BOARD CHAIR PRESTON PATE: Yes, sir.

9 JACK TRAVELSTEAD: Okay. Just again
10 to remind the Options 1 and 2 you've already
11 approved. They're the two statewide options. So,
12 we don't need anything further on them. However, I
13 would move approval by the Management Board of
14 Options 7, 8, 9 and 10 that have been presented to
15 you today.

16 BOARD CHAIR PRESTON PATE: Is there a
17 second?

18 PAT AUGUSTINE: I'll second for
19 discussion.

20 BOARD CHAIR PRESTON PATE: Second by
21 Pat Augustine. Discussion on the motion? Gordon.

22 GORDON COLVIN: Mr. Chairman, I'm not
23 going to vote in favor of the motion, and I just
24 wanted to indicate for the record what my reason

1 was. If you review the first paragraph of the
2 discussion the Technical Committee report, you will
3 see these disconnected sentences. Four of these
4 options included -- involved the separation of
5 inland and ocean fisheries using MRFSS data to craft
6 separate regulations for each area, and then later
7 the Committee was unable to reach consensus on
8 approval for these options due to concerns regarding
9 potential effort transfer. I think those concerns
10 persist in the minds of some of the Technical
11 Committee members. They certainly persist strongly
12 in the mind of New York's Technical Committee
13 representative, and for that reason we'll -- I at
14 least will not vote in favor of the motion.

15 BOARD CHAIR PRESTON PATE: Further
16 discussion? Rick.

17 RICHARD COLE: Thank you, Mr.
18 Chairman. I'm not going to vote for the motion
19 either. The main reason that I'm not going to vote
20 for it is because Options 9 and 10 have not been
21 through the Technical Committee. When we went
22 through this process at the last Board meeting, I
23 was one of the two people that voted against the
24 initial Virginia approach here, and again primarily

1 because I didn't -- I felt that those options had
2 not been ruled on by the Technical Committee.

3 So, I would feel much more
4 comfortable if 9 and 10 were not in the motions.
5 So, as long as they're in there, I can't support it.

6 BOARD CHAIR PRESTON PATE: Howard.

7 HOWARD KING: That was essentially my
8 comment.

9 BOARD CHAIR PRESTON PATE: Any more
10 discussion on the motion? Jack.

11 JACK TRAVELSTEAD: What I'd like to
12 do is get a vote on this motion, and if that fails
13 allow me to come back with another motion. Is there
14 any objection to that?

15 BOARD CHAIR PRESTON PATE: No, not
16 from the Chair.

17 JACK TRAVELSTEAD: Okay.

18 BOARD CHAIR PRESTON PATE: Then I'll
19 call for the vote on the standing motion. Since
20 there are not many people here to caucus, I guess we
21 don't need to do that today.

22 (Motion as voted.)

23 {move approval by the Management Board of Options
24 7, 8, 9 and 10 that have been presented to you

1 today.}

2 All those in favor of the motion,
3 please signify by raising your hand.

4 (Response.)

5 BOARD CHAIR PRESTON PATE: Two in
6 favor. All opposed?

7 (Response.)

8 BOARD CHAIR PRESTON PATE: Seven
9 opposed. Abstentions?

10 (Response.)

11 BOARD CHAIR PRESTON PATE: No
12 abstentions. No null votes. The motion fails. Mr.
13 Travelstead.

14 JACK TRAVELSTEAD: I would then move
15 approval of Options 7 and 8, which have been
16 approved or reviewed by the Technical Committee.

17 BOARD CHAIR PRESTON PATE: Is there a
18 second? Second by Pat Augustine. Any discussion?

19 (No response audible.)

20 BOARD CHAIR PRESTON PATE: No
21 discussion? Yes, Bob.

22 ROBERT PRIDE: I would like to offer
23 a couple of pieces of information that might help
24 with the decision here. Maybe needed, maybe not.

1 Number one, on the enforcement issue. We've clearly
2 identified the bodies of water where these will be
3 enforced. If I leave from the Chesapeake Bay and
4 fish on the sea side, I can't bring 15 and a half
5 inch fish back into the bay legally. It is a
6 possession limit in the bay.

7 If I fish from the sea side, I can't
8 possess eight fish and go back to a sea side port.
9 So, we've got that pretty clearly delineated. Our
10 enforcement people understand it very well.

11 As far as transfer of effort, one
12 major barrier to that is a ten dollar toll on the
13 Chesapeake Bay bridge tunnel. Actually, it could be
14 as low as 16 now, because they got a discount if you
15 do it within 24 hours. But that's still a pretty
16 substantial financial barrier to transferring effort
17 from area of the state to the other. To get to the
18 eastern shore, you have to cross that bridge or go
19 all the way around Maryland. So, it's a pretty big
20 barrier to transfer effort. Thank you.

21 BOARD CHAIR PRESTON PATE: Any
22 further comments? Ernie.

23 ERNEST BECKWITH: Just a question, so
24 I understand what's going on here. Jack, you had

1 made a comment before about if one of the options --
2 I forget which one it was -- or combinations, didn't
3 pass, you might fall back on the statewide
4 alternatives, which is Options 1 and 2. You're not
5 asking for approval of 1 and 2?

6 JACK TRAVELSTEAD: You've already
7 approved 1 and 2. The Management Board approved 1
8 and 2 at the --

9 ERNEST BECKWITH: Okay.

10 JACK TRAVELSTEAD: -- last meeting.
11 And there's no change in how they're calculated
12 because they're statewide options.

13 (Motion as voted.)

14 {move approval of Options 7 and 8, which have been
15 approved or reviewed by the Technical Committee.}

16 BOARD CHAIR PRESTON PATE: Okay.
17 Then we'll take a vote on this motion. All those in
18 favor, signify by raising your hand.

19 (Response.)

20 BOARD CHAIR PRESTON PATE: Eight in
21 favor. Opposed?

22 (Response.)

23 BOARD CHAIR PRESTON PATE: One
24 opposed. Abstentions?

1 (No response.)

2 BOARD CHAIR PRESTON PATE: No
3 abstentions. No null votes. That motion passes.

4 JACK TRAVELSTEAD: I appreciate that,
5 Mr. Chairman. Thank you.

6 BOARD CHAIR PRESTON PATE: Thank you.
7 Now, Gordon, let's -- while that issue is still warm
8 in our minds -- get back to your discussion and if
9 you're willing to make a motion, we'll entertain
10 that.

11 GORDON COLVIN: Does the Chair
12 believe a motion is necessary to convey that
13 instruction to the Technical Committee? I'd be
14 happy to do so.

15 BOARD CHAIR PRESTON PATE: I think as
16 a matter of clarity, I would prefer it.

17 GORDON COLVIN: Sure.

18 STEVE DOCTOR: Excuse me. I have
19 some discussion that the Technical Committee went
20 through that would be very relevant to this subject
21 that we might want to consider before we go forward
22 with a motion.

23 BOARD CHAIR PRESTON PATE: Okay.
24 That will be fine.

1 STEVE DOCTOR: Okay. At the last
2 Technical Committee meeting, we had Alan Lowther and
3 Tom Sminkey from MRFSS came, and we went over a lot
4 of items, including CV's, percent standard error,
5 and the interchangeability of them.

6 What you get when you do a landings
7 estimate from MRFSS is you get a PSE, which is a
8 percent standard error. I'm going to run through an
9 example to see what that actually means.

10 Say that you had an estimate of
11 100,000 fish that were captured and you have a CV --
12 you have a PSE of 25 percent. To get to the 95
13 percent confidence interval, that would mean that
14 that estimate is good plus or minus two standard
15 deviations. So, in this case, your standard
16 deviation, your percent standard error, is 25 --
17 250,000 fish.

18 So, a PSE of 25 percent would mean
19 that that 100,000 estimate is plus or minus 500,000
20 fish. A 30 percent PSE would be plus or minus
21 600,000 fish. That's for a 95 percent confidence
22 interval. A PSE of 20 percent would be plus or
23 minus 40 -- 400,000 fish.

24 So, I think a lot of people thought

1 when you had a PSE of like 25, that meant it was
2 plus or minus 25 percent. But it's not. For a 95
3 percent confidence interval, puts you out two
4 standard deviations.

5 A lot of people that I work with use
6 an 80 percent confidence interval. An 80 percent
7 confidence interval would be plus or minus 1.3 --
8 1.3 standard deviations. So, I hope that adds some
9 light to the discussion.

10 MRFSS themselves uses a 20 percent
11 PSE for reliability of data. Mr. Lowther and
12 Sminkey were asked and they said they didn't see
13 anything completely objectionable with a 30 percent
14 PSE, but then themselves used a 20 percent PSE.

15 So, the PSE's that we use are
16 applicable to the landings data, but when we go
17 ahead and we craft regulation, we use a two-part
18 test, and that is also we use length frequency
19 charts that give you reductions as far as how many
20 fish are caught at different lengths.

21 Determining the appropriate use of
22 length frequency data has been a longstanding issue,
23 and as it is right now, we have no way of judging
24 the reliability of those size creel tables.

1 When we had the discussion, Mark
2 Terceiro, we asked him what does NMFS use to judge a
3 length frequency table or the reliability of a
4 length frequency chart, and his suggestion was that
5 they use 30 -- they try to capture 30 individuals
6 from each age class. So, in the case of summer
7 flounder, most of your harvest is within four age
8 classes -- the first four age classes. So, to go
9 along with that, you would probably try to get 30
10 individuals from each of those four age classes and
11 you would make your length frequency chart robust.

12 As Gordon said, there's a lot of
13 debate right now about breaking this stuff down to
14 WAVE's, how to judge whether those length frequency
15 tables are appropriate or not, and they're robust
16 enough to use. So, that's what I have to add on
17 that.

18 BOARD CHAIR PRESTON PATE: Thank you,
19 Steve. Gordon.

20 GORDON COLVIN: I was wondering if
21 Mark's recommendation on the number of measurements
22 was, you know, per WAVE, per mode, per area --
23 management area per whatever. And then everybody
24 stopped to think about it a minute. That's a lot of

1 ages.

2 What I'd like to do is offer a fairly
3 simple motion and it may take some additional staff
4 work to -- and Technical Committee work to really
5 kind of define it, but I'd like to simply offer a
6 motion that the Board charge the Technical Committee
7 with the development of standards for the review of
8 state-by-state conservation equivalency proposals
9 for summer flounder and scup, and to address in the
10 proposed standards the levels of assurance that if
11 implemented and enforced -- the level of confidence
12 that the proposals will attain the required state
13 specific quota targets.

14 And let me say not part of the
15 motion, that my intent would be that we would work
16 with the Technical Committee to kind of iteratively
17 and then on a back and forth discourse to develop
18 those sorts of -- that sort of a guideline so that
19 it can be applied for the specifications for 2003.

20 And that -- I mean, I didn't say
21 this, but let me tell you that from experience one
22 of the tough issues is going to be addressing the
23 process by which we look backward when the time
24 comes that we can relax our regulations. And while

1 Mike's working on this, let me reiterate what
2 happened in New York this year with fluke, so that
3 you have an idea where I'm coming from, because this
4 is going to get worse over time.

5 When we confronted the prospect that
6 we could actually consider relaxing our regulations
7 and including lowering our size limit, it was
8 immediately evident that we could not use the table
9 that Chris Moore and our Commission staff have
10 traditionally generated, which is the standard size
11 limit, creel limit table, because that only --
12 that's only valid for the size limits that are
13 higher than the one in place in a given year.

14 And as a consequence, we had to find
15 some way to figure out how to look backwards.
16 Ultimately, it was suggested to us -- and this Board
17 approved -- that while the table that was prepared
18 using 2001 data for application in 2002 couldn't be
19 used, the preceding year's table could. And we did.
20 And you approved a 16 and a half inch size limit
21 option based on that, based on data that was derived
22 from the -- in part, the length -- the measured
23 length frequencies from MRFSS of summer flounder
24 landed in New York in the year 2000 or two years

1 before the fishery that was being regulated is being
2 prosecuted.

3 Now, does anybody think that the
4 length frequency of fluke in New York in 2000 and
5 2002 is alike? Absolutely isn't. Not even close.
6 And we've already seen big changes last year when we
7 had the first year we went to 17 inches.

8 Now, to make matters worse, if we're
9 fortunate enough to have the opportunity to further
10 relax next year, we'll be yet another year further
11 removed. And the only table that's out there is
12 still the one from 2000. And now we'll be three
13 years down the road. And on and on and on.

14 So, one of the things that we have
15 not at all come to grips with is what's the right
16 way and what's the right basis for determining with
17 a reasonable degree of reliability that we can all
18 feel good about, that we can roll back when the time
19 comes, when the happy time comes. And I think it's
20 going to come for many next year with fluke,
21 hopefully for us again, and quite possibly, based on
22 what Chris has been saying, on scup, as well -- very
23 high apparent abundance of scup.

24 We've got to know how to do this, and

1 we need the Technical Committee to give us some
2 advice, because believe me, two-year-old tables is -
3 - three-year-old tables, four-year-old tables is not
4 the way to go.

5 BOARD CHAIR PRESTON PATE: Thank you,
6 Gordon. Is there a second to Gordon's motion?
7 Second by Mr. Travelstead. Bruce.

8 BRUCE FREEMAN: I was ask for a
9 modification of that motion, Gordon, to include sea
10 bass.

11 GORDON COLVIN: Sure.

12 BRUCE FREEMAN: You had fluke and
13 scup and I think we're going to get into this issue
14 with sea bass, as well.

15 GORDON COLVIN: Gee, you're making my
16 day, Bruce. Sure.

17 UNIDENTIFIED: (Inaudible.)

18 GORDON COLVIN: Not yet.

19 BOARD CHAIR PRESTON PATE: Okay. The
20 motion seems straightforward, so let's go ahead and
21 take a vote, unless someone really needs to discuss
22 it any further.

23 (Motion as voted.)

24 {that the Board charge the Technical Committee with

1 the development of standards for the review of
2 state-by-state conservation equivalency proposals
3 for summer flounder, scup and black sea bass, and
4 to address in the proposed standards the levels of
5 assurance that if implemented and enforced, the
6 level of confidence that the proposals will attain
7 the required state specific quota targets.}

8 BOARD CHAIR PRESTON PATE: All those
9 in favor, please signify by raising your hand.

10 (Response.)

11 BOARD CHAIR PRESTON PATE: Ten in
12 favor. Opposed?

13 (No response.)

14 BOARD CHAIR PRESTON PATE: None.
15 Abstentions?

16 (No response.)

17 BOARD CHAIR PRESTON PATE: None. No
18 null votes. The motion passes. Thank you.

19 Steve, can you continue with the
20 Technical Committee report, please?

21 STEVE DOCTOR: North Carolina brought
22 forward -- their proposal needed to be amended
23 because the opening date they weren't able to get it
24 open by a certain date, and so they amended their

1 days slightly. The Technical Committee reviewed it,
2 unanimously agreed that the proposal met the 32.2
3 percent required reduction recommended for approval
4 by the Management Board.

5 Black sea bass shares? Would you
6 like me to continue? Should the Board approve --

7 BOARD CHAIR PRESTON PATE: Okay.
8 Yeah, if everybody understood from Steve's
9 explanation what the changes were in our
10 regulations, that will be sufficient. Otherwise,
11 I'll answer any questions that you might have.
12 Motion by Mr. Augustine to approve North Carolina's
13 proposal for recreational harvest of summer
14 flounder. Second by Mr. King. Any discussion?

15 (No response audible.)

16 (Motion as voted.)

17 {to approve North Carolina's proposal for
18 recreational harvest of summer flounder.}

19 BOARD CHAIR PRESTON PATE: All those
20 in favor of the motion, signify by raising your
21 hand.

22 (Response.)

23 BOARD CHAIR PRESTON PATE: Nine in
24 favor. All opposed?

1 (No response.)

2 BOARD CHAIR PRESTON PATE: No votes
3 in opposition. Any abstentions?

4 (No response.)

5 BOARD CHAIR PRESTON PATE: None
6 registered. Null votes?

7 (No response.)

8 BOARD CHAIR PRESTON PATE: None
9 registered. Thank you.

10 STEVE DOCTOR: Black sea bass state
11 shares. Should the Board approve state-by-state
12 quota management for black sea bass? The committee
13 may be asked to reevaluate state allocation
14 percentages to account for any changes in landing
15 data and effective historical regulations.

16 The committee reviewed a methodology
17 that Doctor Pierce referred to previously developed
18 by Massachusetts that adjust landings to account for
19 different size limits in various states.

20 The consensus of the committee that
21 if the adjustment of state shares is required, the
22 methodology might be useful. Further discussion
23 would be required, however, to determine how to best
24 determine state shares.

1 2002 recreational scup fishery.

2 Proposals for the 2002 recreational scup fishery
3 submitted by the states of Rhode Island, Connecticut
4 and New York were reviewed and recommended for
5 approval by the committee. The proposal submitted
6 by Massachusetts separated the scup recreational
7 fishery by mode and WAVE.

8 The only criteria specified in
9 Amendment 7 to the Summer Flounder, Scup and Black
10 Sea Bass Fishery Management Plan is that the PSE's
11 for mode specific landing estimates must not exceed
12 30 percent.

13 Massachusetts' proposal separates the
14 party/charter mode from the remainder of the
15 recreational fishery, then further separates
16 landings estimates by WAVE. The PSE for the
17 party/charter mode during WAVE 5 is 38.3 percent.
18 This exceeds the 30 percent maximum PSE specified in
19 Amendment 7. The Technical Committee did not
20 recommend the Massachusetts proposal for approval by
21 the Management Board.

22 Throughout the discussion, it became
23 clear that many members of the committee are
24 strongly opposed to splitting the scup recreational

1 fishery by mode. The primary issues expressed by
2 the committee included landings and landings share
3 shifts to the liberalized mode within the state, the
4 ability of the liberalized mode to capitalize on the
5 opportunity created and increase landings
6 dramatically, possible intrastate shifts in harvest,
7 enforcement of possession limits onshore and the
8 quality and quantity of the data available to
9 accurately evaluate the effect of area specific size
10 possession and season closure regulations within a
11 state.

12 One additional option was developed
13 by New York and review by some members of the
14 committee during a conference call on Thursday,
15 April 25th. Those members in attendance recommended
16 the proposal for approval.

17 BOARD CHAIR PRESTON PATE: Dave
18 Borden, you had a comment?

19 DAVID BORDEN: It's actually -- it
20 goes back to the previous agenda item, Mr. Chairman.
21 I just want to make sure that I understand that on
22 the black sea bass proposal that Mass. submitted, it
23 was not an endorsement necessarily by the committee
24 because of the word it said it might be useful.

1 STEVE DOCTOR: That's correct.

2 DAVID BORDEN: Is that correct?

3 Okay. Thank you.

4 BOARD CHAIR PRESTON PATE: David
5 Pierce.

6 DAVID PIERCE: Yeah, two points.
7 Regarding that analysis, I think it's almost moot
8 now, because we went with percent shares that don't
9 reflect any particular years. Therefore, what's to
10 analyze? The analysis that we did was credible. It
11 was good work by my staff. The Technical Committee
12 gave it a favorable review, but did point out some
13 need for improvement.

14 And the Technical Committee, as far
15 as I understand it, was willing to pursue that if
16 indeed the Board said state-by-state quota shares is
17 the way to go, and certain years were picked. Well,
18 that didn't happen, so it was a good exercise, but I
19 don't think it needs to be pursued at this
20 particular point in time, unless for some reason we
21 decide to pick specific years to adjust percent
22 shares. But I'm not so sure that's going to happen.
23 If it does, then we can revisit that analysis.

24 So, a pat on the back for my staff

1 and thanks to the Technical Committee for taking the
2 time to review it. We appreciate that.

3 With regard to the recreational
4 fishery for scup in Massachusetts, specifically, our
5 bag limit strategy, the 100 fish throughout the
6 entire season, this summary of what happened at the
7 Technical Committee is a bit misleading in that the
8 analyses that we presented showed that the PSE for
9 WAVE's 3 and 4 was less than 30 percent, so there
10 was no problem with WAVE's 3 and 4. WAVE 5, 38.3
11 percent, we did it by WAVE just for -- to be as
12 descriptive as we could possibly be. There was no
13 requirement that we provide the data by WAVE. As a
14 matter of fact, when you look back at the motion
15 that was made at our last Board meeting about what
16 Massachusetts needed to do to pass the test of 30
17 percent, there was no reference to WAVE's.

18 As a matter of fact, when we look at
19 the data for the entire fishing season in
20 Massachusetts, broken down for party and charter
21 boat, you see that it's 19 percent. So, I would
22 submit that we have indeed met the necessary
23 requirement. It is a 19 percent PSE, below the 30
24 percent, hence, you know, there should be no problem

1 with the Board approving the Massachusetts measure
2 for this particular year, the 100 fish bag limit.

3 And with that said, Mr. Chairman, I
4 would like to make a motion that the Board approve
5 Massachusetts' bag limit strategy for this season --
6 this fishing season.

7 BOARD CHAIR PRESTON PATE: Is there a
8 second?

9 PAT AUGUSTINE: Question, Mr.
10 Chairman. And what is that? What is it? What was
11 the plan originally submitted to the Board -- or to
12 the Technical Committee?

13 DAVID PIERCE: Well, it was the 100
14 fish bag limit. We had to make sure that with the
15 strategy we submitted, which we did submit to the
16 full Technical Committee, that we would have our
17 landings -- projected landings for the recreational
18 fishery below seven percent, I believe, for the year
19 -- am I ahead of the game here? Did I make my
20 motion too early or -- maybe I did. God almighty.

21 BOARD CHAIR PRESTON PATE: We'll be
22 getting into that a little bit later.

23 DAVID PIERCE: Mr. Chairman, you
24 should have cut me off.

1 BOARD CHAIR PRESTON PATE: Well, I
2 fell asleep at the switch.

3 DAVID PIERCE: All right. The report
4 is here, but -- all right. I'll withdraw that
5 motion until the appropriate time.

6 GORDON COLVIN (No microphone):
7 David, that's the fastest preamble to a motion I've
8 ever heard. You caught us all asleep.

9 BOARD CHAIR PRESTON PATE: Okay. If
10 there are no more questions of Steve on the
11 Technical Committee report, I'd like to move to
12 agenda item number 6, which is the review and
13 approval of proposals for the 2002 recreational scup
14 fishery. Mike Lewis.

15 STEVE DOCTOR (No microphone): I had
16 a few more (inaudible.)

17 BOARD CHAIR PRESTON PATE: I'm sorry,
18 Steve. I thought you were through.

19 STEVE DOCTOR: The Technical
20 Committee reviewed an analysis of the effect of
21 quota rollovers between years in the summer flounder
22 fishery performed by Mark Terceiro. At the request
23 of North Carolina, his analysis attempted to
24 determine the effect of rolling two percent of North

1 Carolina's quota from one year to the next. That is
2 something that the Board had charged the Technical
3 Committee with prior was the effect of rollovers,
4 because it gets really tight towards the end of the
5 year.

6 His determination, because of the
7 amount of the fish was very low, the effect on stock
8 would be inconsequential. However, because landings
9 map into biomass on the one to one ratio increasing
10 the amount of fish rolled from one year to the next
11 would at some point maybe create a problem in that
12 the F level in the second year that was mandated by
13 the plan would be exceeded.

14 But the net effect as far as biomass
15 was one to one, and therefore a small rollover of
16 two percent or less was inconsequential. A couple
17 other notes. The scup stock assessment is being
18 done by Lauralee right now and it is up for review
19 by the SARC this year.

20 The black sea bass stock assessment
21 has been moved forward because the tagging study
22 hasn't been done, so there will not be a SARC on
23 black sea bass this year. And a black sea bass
24 tagging study proposal has been developed and was

1 submitted and they're trying to attempt to get
2 funding at this point. That's the end of my report.
3 Thank you.

4 BOARD CHAIR PRESTON PATE: Okay.
5 Thank you, Steve. Pat.

6 PAT AUGUSTINE: Thank you, Mr.
7 Chairman. Just a question. I was under the
8 impression that no matter what we did in terms of
9 rollover that the plan wouldn't allow that. Is that
10 true or not? No matter what the conditions were.

11 BOARD CHAIR PRESTON PATE: That is
12 correct.

13 PAT AUGUSTINE: Okay. Thank you.

14 BOARD CHAIR PRESTON PATE: So, we
15 will have to include that as a provision in the next
16 amendment. Okay, Mike. Pat.

17 PAT KURKUL: On the tagging study is,
18 the Fisheries Service has actually just funded a
19 tagging study for black sea bass through the MARFIN
20 funds, and we have been talking with Commission
21 staff about it. So, I think we were -- we wanted to
22 make sure that there wasn't really a significant
23 possibility that the tagging study could be funded
24 through the Commission this year. That seemed to be

1 the case, so we went ahead and approved the MARFIN
2 study. It's pretty much the same study.

3 BOARD CHAIR PRESTON PATE: Bruce.

4 BRUCE FREEMAN: Thank you, Mr.
5 Chairman. Steve, based on the tagging study, how
6 long is it estimated if the study got initiated this
7 year we'd have to wait to get some results for a
8 stock assessment?

9 STEVE DOCTOR: I don't know the
10 answer to that question. Sorry.

11 BRUCE FREEMAN: If I may, it seems to
12 me, Mr. Chairman, that we're talking a number of
13 years. It's not going to happen immediately.

14 BOARD CHAIR PRESTON PATE: Bob.

15 ROBERT BEAL: The proposal in the
16 last iteration I've seen -- I'm not exactly sure
17 what has been funded, but the original proposal, I
18 guess, was to fund two rounds of tagging, one this
19 spring, coming out very soon, and the second one in
20 the fall. So, the anticipation is that even the
21 first -- let's call it useful data to come out of
22 that won't be until this time next year, even a
23 little bit later. You know, the fish -- a maximum
24 of one year at large and we can study the effects on

1 the recapture at that time.

2 So but, you know, with all tagging
3 studies, the longer the fish are at large and the
4 longer we have to potentially recapture those fish
5 is where you get the more robust evaluation of
6 mortality.

7 So, you know, it is -- we'll get our
8 first read in about a year, and then as time goes
9 on, we'll get a better read of what's going on.

10 BRUCE FREEMAN: Well, the concern I
11 have, it's going to take -- in my opinion, it's
12 going to take several years and that means we're not
13 going to have any stock assessment of sea bass.
14 When we're hearing both from the recreational and
15 commercial fishermen are just seeing larger and
16 larger quantities continuously. And reviewing the
17 struggle we just went through for Amendment 13, it
18 doesn't bode well for the attitude of the fishermen.

19 ROBERT BEAL: Yeah, I agree, Bruce.
20 The problem is there's no other data source for
21 black sea bass right now. So, this tagging study is
22 the only game in town, and if we start it as soon as
23 we can, you know, we're doing everything we can, I
24 guess.

1 But as far as the next peer review of
2 the stock assessment, it was scheduled for this
3 December. That's been bumped back one year. It
4 will go -- it's scheduled anyway to go through the
5 SARC in December of 2003. So, it's -- you know, it
6 is pushed back and it's -- you know, we won't be
7 able to use it for our quota setting purposes until
8 August of 2004, just given the timing of everything.
9 So, we are a little ways off from having a -- you
10 know, a valuable stock assessment.

11 BRUCE FREEMAN: If we're all alive by
12 then.

13 BOARD CHAIR PRESTON PATE: Dave.

14 DAVID PIERCE: Is that proposal
15 available for us to take a look at? Just curious to
16 see how it's been set up.

17 ROBERT BEAL: Pat, correct me if I'm
18 wrong. The MARFIN proposals are public documents.
19 We can definitely get them, no problem.

20 PAT KURKUL: Yes.

21 DAVID PIERCE: Okay. I'm
22 particularly interested in how the tagging would be
23 done with the pot fishery in light of the fact that
24 because black sea bass like to be caught we can have

1 an artificially high fishing mortality rate created
2 by repeated captures of the same tagged fish in
3 short periods of time.

4 I would assume that the proposers
5 have factored that into consideration since it
6 doesn't really reflect increased mortality. It's
7 just sea bass wanting to be back in the pot.

8 BOARD CHAIR PRESTON PATE: Okay.
9 Let's get Mike's report.

10 REVIEW/APPROVAL PROPOSALS for 2002 RECREATIONAL
11 SCUP FISHERY

12 MICHAEL LEWIS: Thank you, Mr.
13 Chairman. I know this is not typical for there to
14 be a presentation of the proposals, but it seems
15 that we have a tremendous number of them and I was
16 hoping that perhaps having them up on the screen in
17 front of everybody might speed the process a little
18 bit.

19 I don't have a whole lot of detail.
20 I don't have the methods that were used to generate
21 these proposals. All I have is the results, the
22 proposed regulations themselves, and anybody, you
23 know, the director or if there's any tech committee
24 representatives from each state available, I'm sure

1 they can fill you in on any details.

2 The first that I'm going to talk
3 about is Massachusetts. Massachusetts was allowed
4 under Addendum 7 to have a seven percent increase in
5 their harvest. The first scenario generated by
6 Massachusetts increases the daily possession limit
7 for charter and party mode during WAVE's 4 and 5
8 from 50 to 75 fish, and reduce the other possession
9 limit during WAVE 3 from 100 to 75 fish. The net
10 result is a 75 fish possession limit, during all
11 WAVE's, for the charter and party mode.

12 PAT AUGUSTINE (No microphone): And
13 that's been approved?

14 MICHAEL LEWIS: Excuse me?

15 PAT AUGUSTINE: And that's been
16 approved?

17 MICHAEL LEWIS: No, it has not.

18 PAT AUGUSTINE: Okay.

19 MICHAEL LEWIS: Scenario 2 is an
20 increased daily possession limit for charter/party
21 modes in WAVE's 4 and 5 to 100 fish. The net result
22 of that being a 100 fish possession limit for
23 charter/party mode in all WAVE's through October
24 6th. Excuse me.

1 So, David alluded to the whole
2 situation with the approval or disapproval or
3 recommendation thereof on the part of the Technical
4 Committee. From what I was given by Paul Caruso, it
5 was my understanding that WAVE's 3 and WAVE's 5 both
6 PSE's were over 30 percent.

7 If you combined all modes, it was I
8 think 19.6, but then broke -- excuse me, all WAVE's
9 it was 19.6, but broken down by WAVE, WAVE 4 was I
10 think 29.6 percent and WAVE 5 was 36.3 or 33.6. I
11 can't remember what WAVE 3 was, but I am fairly sure
12 that it was over 30 percent, but if you have the
13 figures in front of you --

14 DAVID PIERCE: Below.

15 MICHAEL LEWIS: It was below. Fair
16 enough. But that was what the Technical Committee
17 used as their basis for not recommending the
18 Massachusetts proposal for approval by the
19 Management Board.

20 PAT AUGUSTINE: Mr. Chairman, are we
21 going to go through all of these before we pass
22 comment or make judgement on any of them?

23 BOARD CHAIR PRESTON PATE: How many
24 do you have, Mike?

1 MICHAEL LEWIS: We only have four.

2 BOARD CHAIR PRESTON PATE: Let's go
3 through them all.

4 PAT AUGUSTINE: Thank you.

5 MICHAEL LEWIS: It's important to
6 note that a couple of them are somewhat lengthy.
7 There are ten options, for example, for New York.

8 BOARD CHAIR PRESTON PATE: Then let's
9 take them one at a time, that being the case. Are
10 you through with Massachusetts?

11 MICHAEL LEWIS: Yes, sir.

12 BOARD CHAIR PRESTON PATE: Okay. Is
13 there a motion? Pat.

14 PAT AUGUSTINE: Mr. Chairman, I just
15 wanted to ask what was going to be the alternative
16 in view of the fact that the Technical Committee did
17 not approve or recommend that we approve their
18 proposal. I would hope that Massachusetts would
19 have come forward with some other option.

20 DAVID PIERCE: This is all news to
21 me. I'm a bit surprised. Well, first of all, I
22 received this document today, so it's a bit
23 difficult to go over it now and to truly appreciate
24 everything that's been said by the Technical

1 Committee, especially since the Technical
2 Committee's review of the proposal is relatively
3 short in duration.

4 As I said earlier on, we didn't have
5 to break the data down by WAVE. We did. And for
6 the first two WAVE's the PSE was less than 30
7 percent -- that's WAVE 3 and 4. WAVE 5 was 36 or 38
8 percent, I can't recall exactly what it was, but
9 combined it was 19 percent.

10 So, we met the criteria for breaking
11 down party and charter boat vessels the 30 percent
12 criteria. We did that and we succeeded. And as far
13 as I know, from talking to my staff, the 100 fish
14 possession limit throughout the entire season does
15 have us fall within the seven percent increase that
16 we're entitled to.

17 So, I do not understand the decision
18 of the Technical Committee relative to our proposal.
19 It flies in the face of what I've been told by my
20 staff.

21 BOARD CHAIR PRESTON PATE: Mike.

22 MICHAEL LEWIS: I am not sure how to
23 respond, Doctor Pierce. Paul, of course, was there
24 and worked with me in the development of the minutes

1 from the Technical Committee. He was certainly
2 aware of the position the Tech Committee took. I'm
3 not entirely sure how it -- the question.

4 DAVID PIERCE: Well, let me ask you,
5 we have an attachment here, the full-blown analysis
6 done by my staff, Proposed 2002 Recreational Scup
7 Regulations for Massachusetts. And it indicates
8 that -- on the results page, analysis of the
9 scenarios we provided shows an expected increase in
10 the total recreational harvest of five percent for a
11 75 percent fish possession limit, and a 6.77 percent
12 for a 100 fish possession limit during existing open
13 season. The effect of the proposed regulation of a
14 100 fish possession limit is thus less than the
15 seven percent increase in harvest allowed under the
16 approved addendum and should be approvable. So, why
17 did the Technical Committee not approve this
18 analysis?

19 BOARD CHAIR PRESTON PATE: Mike.

20 MICHAEL LEWIS: Mind you, I am not a
21 member of the Technical Committee. I just reported.
22 But from what I saw at the Tech Committee meeting,
23 the Tech Committee wasn't entirely sure how to
24 review the proposal aside from what was in Addendum

1 7. What was in Addendum 7 was a guideline with a 30
2 percent PSE or CV and if it did not meet that, the
3 Tech Committee felt that that was they -- to only
4 thing they really had to go on was that guideline.
5 Because the proposal was broken out by WAVE and the
6 regulations that would follow would be by WAVE,
7 therefore, they felt as though the PSE by WAVE was
8 applicable and so therefore they rejected it.

9 BOARD CHAIR PRESTON PATE: Steve, can
10 you add to that?

11 STEVE DOCTOR: I tend to agree with
12 Doctor Pierce in that the reason that the Technical
13 Committee looked at it that way is because it was
14 presented that way. But as far as reaching the 30
15 percent PSE as the mode, from what you're
16 describing, it does meet that requirement -- and I
17 tried to get a consensus from the Technical
18 Committee if the 30 percent PSE was met whether they
19 would approve the proposal. I didn't get any
20 objections, but I didn't get a lot of concurrence
21 either. There was kind of silence on that matter.

22 But as far as what you're saying as
23 far as the 30 percent PSE by mode, it is met, except
24 that it's presented by WAVE and that's why the

1 discussion came up. I hope that clarifies the
2 issue.

3 BOARD CHAIR PRESTON PATE: Dave.

4 DAVID PIERCE: Yeah, if I may, Mr.
5 Chairman, I would submit to the Board that we indeed
6 have kept to within the seven percent with the 100
7 fish bag limit throughout the season, and for the
8 entire season PSE for the party boat and charter
9 boat fishery, we're at 19 percent.

10 I don't see it here. So, you're at a
11 bit of a disadvantage because you're not privy to
12 it, but I had Mike Armstrong of my staff -- actually
13 two members of my staff go to the MRFSS database and
14 look it up just to make sure, and it's 19 percent.

15 As I said, we submitted it WAVE by
16 WAVE, just to be descriptive and to highlight the
17 fact that it would be nice for us to have some
18 increased samples of the party boat fishery in the
19 fifth WAVE, and indeed that's what we intend to do
20 this year.

21 We've already had a meeting of our
22 staff to talk about sea sampling efforts for this
23 coming season, and that's where we're going to put
24 some of our effort.

1 But overall, for the entire season, I
2 think we're quite consistent with the guidance
3 provided by this Board -- the decision of this Board
4 at the last meeting regarding the PSE and the party
5 and charter boat fishery.

6 BOARD CHAIR PRESTON PATE: Gordon.

7 GORDON COLVIN: As I indicated
8 earlier, one of the difficulties is that the Board
9 passed a motion -- the Board frankly -- I'll speak
10 for myself, but I suspect other Board members also
11 probably didn't have it clear in their minds what
12 they intended when they said we can have a separate
13 regulatory scheme by mode if there's a 30 percent
14 CV. Well, a 30 percent CV applicable to what?
15 That's what we're talking about.

16 The motion perhaps wasn't as clear as
17 it should have been. The intent of the Board on the
18 record is not as clear as it certainly should be.
19 And it darn well is an issue that we need to
20 straighten out in the future.

21 Now, the impression I had is that --
22 and I'm getting a different impression today -- is
23 that the reason that the advice came back to us that
24 the 30 percent PSE was presented, examined by WAVE,

1 was that that's how the Technical Committee felt it
2 ought to be done, including the representative from
3 Massachusetts, who I was under the impression
4 concluded before the Technical Committee that well,
5 it looks like we don't make it.

6 The reason that this is important is
7 that up to that moment in time, New York was
8 prepared to put a proposal on the table for a 25
9 fish -- 50 fish party/charter, 25 fish all other
10 modes, knowing that the party/charter season long
11 PSE was under 30 percent for 2001, but when we
12 looked at it by WAVE, it was not.

13 So, we didn't even put the proposal
14 on the table after that discussion. So, I don't
15 know where this leaves -- you know, this issue
16 leaves us at this moment in time. Again, we're in a
17 situation because of our own sloppy work. Period.

18 Now, I guess it would be helpful to
19 me to get some clarification from somebody about
20 whether I'm wrong. Is the record of the Board's
21 action and the Technical Committee's recommendation
22 here as fuzzy as it sounds about this question of
23 whether the PSE is to be applied by WAVE? And Bob
24 is nodding.

1 ROBERT BEAL: Yeah, Gordon. I mean,
2 it's very fuzzy. If you go back to Addendum 7,
3 which is supposed to give the states and the Tech
4 Committee the guidance they need to put these things
5 together. There's a short paragraph. No guidelines
6 for separating the recreational fishery by mode have
7 been established. It will be the responsibility of
8 the individual states to justify their proposal as
9 statistically sound.

10 However, the Summer Flounder, Scup
11 and Black Sea Bass Management Board has set a 30
12 percent maximum coefficient of variation. And
13 that's really all the guidance -- that is all the
14 guidance that's included in this document to give
15 the states as well as the Tech Committee -- you
16 know, their direction on what to do with these
17 things.

18 So, I think it comes back to your
19 original point, which is okay, we set a 30 percent
20 CV, but 30 percent applied to what? And you know,
21 and that --

22 GORDON COLVIN: I mean, there was a
23 time when I know that it was -- I was asking
24 questions, it was unclear to me whether we

1 established that CV based on the 2001 MRFSS landings
2 or some other year or years. I mean, it was that
3 bad.

4 But the question at this point then
5 is that does the Board -- should the Board construe
6 the Technical Committee's recommendation on the
7 Massachusetts proposal as a Technical Committee
8 recommendation to the Board that the PSE be applied
9 by WAVE? Is that not what we've got here, in
10 effect, is the Technical Committee recommendation?
11 Else why make the conclusion that they did?

12 BOARD CHAIR PRESTON PATE: David
13 Borden.

14 DAVID BORDEN: Yeah, I mean, the
15 whole discussion here is on page 31 and 32 of the
16 minutes, for those that haven't read it. And just
17 looking at the discussion, I think the staff had
18 concluded that that was appropriate recommendation
19 because that's what we had used in a case of summer
20 flounder. And that references a third or fourth
21 paragraph down on page 32 in the right-hand column.

22 In the case of summer flounder, let
23 me ask this. Is it done on a WAVE by WAVE basis?

24 BOARD CHAIR PRESTON PATE: Steve.

1 STEVE DOCTOR: In the case of summer
2 flounder, it's broken by mode and is not broken out
3 WAVE by WAVE.

4 DAVID BORDEN: Not broken out by
5 WAVE?

6 STEVE DOCTOR: That's correct.

7 DAVID BORDEN: Okay. So, to me the
8 record then supports a position that it does not
9 need to be broken out by WAVE's.

10 BOARD CHAIR PRESTON PATE: Dave
11 Pierce.

12 DAVID PIERCE: Yeah, I totally agree
13 with David, for obvious reasons. The record is
14 clear. The vote that was taken and registered on
15 page 33 of the minutes, I think, also is clear, not
16 as crystal, but certainly clear enough.

17 So, I would move, Mr. Chairman, that
18 Massachusetts 2002 scup recreational fisheries
19 measures be approved.

20 BOARD CHAIR PRESTON PATE: Is there a
21 second? Second by Jack Travelstead. Discussion?
22 David.

23 DAVID BORDEN: Just a comment, Mr.
24 Chairman. All of this goes back to highlight the

1 point that Gordon Colvin made so eloquently early
2 on. We've got to get a system down that defines all
3 of these things, so that we don't have these types
4 of arguments. And especially if we move forward
5 with some of these programs in the future. I intend
6 to vote yes on the motion, Mr. Chairman.

7 BOARD CHAIR PRESTON PATE: Any
8 further discussion? Bruce.

9 BRUCE FREEMAN: I'm just curious on
10 the technique that was used. David, I see on
11 private boat there's a 50 fish per day I guess per
12 person, but not more than 100 fish per vessel, per
13 boat. Was the fact that that catch was restricted
14 gave additional credit to increase the catch in a
15 party boat? Was that --

16 DAVID PIERCE: Bruce, I will admit
17 that I haven't even read the analyses. I've just
18 read the conclusions. I've got a guy who's an ace
19 analyst and I have -- and he worked with other
20 members of our staff on that analysis. So, when he
21 gave it to me, I took it and I said fine. If he had
22 come up with some other conclusions, for example,
23 that we were 20 percent or whatever instead of seven
24 percent, I would have bought into that, as well.

1 And paid the price, so to speak. So, I can't really
2 -- I can't answer your question.

3 BRUCE FREEMAN: Steve, can you answer
4 that? I'm just curious. Was the fact that there
5 was a restriction on the private boat -- I mean, if
6 there's more than one person -- or there's more than
7 two people in a private boat the fish -- I mean, the
8 vessel could have more than 100 fish. The fact that
9 it was restricted, was that restriction used to
10 increase the catch in some other mode of fishing, so
11 far as the analysis was concerned? I'm just
12 curious.

13 STEVE DOCTOR: The presentation was
14 made by Mr. Caruso and as far as the methodology,
15 there was no question from the Technical Committee.
16 The only question that they had was of the mode
17 separation.

18 BOARD CHAIR PRESTON PATE: Dave
19 Borden.

20 DAVID BORDEN: Thank you, Mr.
21 Chairman. Just one quick question for Dave Pierce
22 or I guess maybe Mike. Can you put Scenario 2 for
23 Massachusetts up, please, before I ask the question?

24 BOARD CHAIR PRESTON PATE: While he's

1 boats frequently fish in Rhode Island waters at that
2 time of year and they frequently fish just south of
3 Rhode Island waters in federal waters at that time
4 of year.

5 DAVID PIERCE: So, your question
6 again was how would we -- they'd be ruled by our
7 restriction.

8 DAVID BORDEN: Okay. But let me give
9 you a specific example. A very short example, so
10 it's clear. Charter/party boat with a Mass. license
11 comes back to the dock on October 6th in
12 Massachusetts and claims that all the fish are
13 caught in federal waters. Is that a violation of
14 what you're proposing?

15 DAVID PIERCE: They would not --
16 well, the season ends on that date, October 6th, I
17 believe it is. So, they wouldn't be landing any
18 fish regardless of where they catch them. It's not
19 a regional that's specific to state waters fishing.

20 DAVID BORDEN: Okay. So, it's
21 enforced based on -- and I'm not trying to be a pain
22 here -- it's enforced based on possession?

23 DAVID PIERCE: That's right.

24 DAVID BORDEN: Okay. Thank you.

1 BOARD CHAIR PRESTON PATE: Bruce.

2 BRUCE FREEMAN: David, on October 6th
3 in the second scenario, does all the fishing close
4 or does the bag limit revert back to 50?

5 DAVID PIERCE: No, it's all closed.

6 BRUCE FREEMAN: For all modes or just
7 for --

8 DAVID PIERCE: For all modes. That's
9 the length of the season.

10 BRUCE FREEMAN: Oh, all right.

11 BOARD CHAIR PRESTON PATE: Any more
12 discussion on the motion?

13 (No response audible.)

14 BOARD CHAIR PRESTON PATE: All those
15 in favor --

16 UNIDENTIFIED: (Inaudible.)

17 BOARD CHAIR PRESTON PATE: You know,
18 if one of you all would leave, we wouldn't have to
19 do that.

20 (Motion as voted.)

21 {that Massachusetts 2002 scup recreational
22 fisheries measures be approved.}

23 BOARD CHAIR PRESTON PATE: All those
24 in favor of the motion, signify by raising your

1 hand.

2 (Response.)

3 BOARD CHAIR PRESTON PATE: Nine in
4 favor. All opposed?

5 (No response.)

6 BOARD CHAIR PRESTON PATE: None
7 opposed. Abstentions?

8 (Response.)

9 BOARD CHAIR PRESTON PATE: No
10 abstentions. Oh, one abstention. New York. No
11 null votes. The motion passes. Mr. Colvin.

12 GORDON COLVIN: Just briefly, Mr.
13 Chairman, I want the Board to know that the reason
14 that I abstained on the motion -- the state
15 abstained on the motion was that we are -- we
16 continue to be uncertain and a little bit flummoxed
17 about what happened here in terms of the Technical
18 Committee review and deliberation on this issue of
19 WAVE specific PSE's.

20 And it just left us unable to support
21 the motion, but at the same time didn't want to vote
22 against it, recognizing that there's validity --
23 great validity to what the Commonwealth has argued
24 this afternoon.

1 BOARD CHAIR PRESTON PATE: Okay.

2 Mike, continue, please.

3 MICHAEL LEWIS: Thank you, Mr.
4 Chairman. The State of Rhode Island had a -- was
5 required to have a 35 percent reduction. The
6 proposal that they brought forward to the Technical
7 Committee for review, which to my understanding has
8 been passed in the State of Rhode Island, is ten
9 inches, 50 fish, open season of August 1 through
10 December 31, and again the Technical Committee did
11 recommend that for approval by the Board.

12 BOARD CHAIR PRESTON PATE: Dave
13 Borden.

14 DAVID BORDEN: Quick comment, Mr.
15 Chairman. The proposal that we put on the table is
16 implemented by the Division and Department and we
17 filed it with the Secretary of State's office and
18 then quickly went out and started advertising it so
19 that the constituents would know what the rules
20 were.

21 We immediately ran into a buzz saw
22 from our recreational fishermen up the bay. We had
23 pretty -- the Division had pretty much predicted
24 that this would happen, but the Council chose to

1 follow this course of action.

2 Last night they got together and
3 requested that the Department take out another
4 series of proposals on scup and our staff has had a
5 chance to look at all those proposals, and all those
6 proposals meet the ASMFC standards.

7 So, what I anticipate happening here
8 is that at some point we will be coming back to you
9 with a variation of this proposal that it would
10 allow for a season to start in July, with a very low
11 bag limit, and then this season that we open on
12 August 1st would close probably after a month or
13 two, in order to be within our time constraints.

14 What I would suggest here is that the
15 Board make a motion to approve this proposal or an
16 alternative Rhode Island proposal if submitted,
17 subject to approval by the Technical Committee.

18 BOARD CHAIR PRESTON PATE: Ernie.

19 ERNEST BECKWITH: Yes, I have a
20 question for David. Because of the issue that you
21 just raised, Dave, it sounds like you're not going
22 to move -- or you can't move right away to put
23 something in place. When does your current season
24 open this year?

1 DAVID BORDEN: The current season,
2 according to the regulations, will not open until
3 August 1st. That's already been promulgated. So,
4 we have a closed season unless we come back, propose
5 something to the Commission, get the Technical
6 Committee to review it, and then go forward through
7 our APA process and promulgate it.

8 BOARD CHAIR PRESTON PATE: David,
9 were you making a motion?

10 DAVID BORDEN: I will make that as a
11 motion, Mr. Chairman. I would move approval of the
12 Rhode Island proposal or alternative submissions by
13 the state subject to approval by the Technical
14 Committee.

15 BOARD CHAIR PRESTON PATE: Second by
16 Ernie Beckwith. Pat.

17 PAT AUGUSTINE: Thank you, Mr.
18 Chairman. The proposals still have to come before
19 the Board again or just go to the Technical
20 Committee, if they review it and approve it, it's a
21 done deal?

22 DAVID BORDEN: It's done.

23 PAT AUGUSTINE: Okay. Thank you.

24 BOARD CHAIR PRESTON PATE: Bruce.

1 BRUCE FREEMAN: I suggest that Rhode
2 Island break this into two motions.

3 DAVID BORDEN: Perfectly all right
4 with me, Mr. Chairman, if it makes Mr. Freeman
5 happy.

6 BOARD CHAIR PRESTON PATE: So now we
7 have two motions made and seconded by Mr. Borden and
8 Mr. Beckwith. And we will take the vote on them
9 separately, of course.

10 All those in favor of Motion Number
11 1, that the Board approve the Rhode Island proposal
12 for the 2002 recreational scup fishery, please raise
13 your hand.

14 (Response.)

15 BOARD CHAIR PRESTON PATE: Nine in
16 favor. Opposed?

17 (No response.)

18 BOARD CHAIR PRESTON PATE: None
19 opposed. Abstentions?

20 (No response.)

21 BOARD CHAIR PRESTON PATE: No
22 abstentions. No null votes. That motion passes.

23 The next one reads that the
24 alternative submissions brought forth by the State

1 of Rhode Island be subject to approval by the
2 Technical Committee.

3 DAVID BORDEN: I think the intent was
4 slightly different, that it be -- if we could have
5 this a little larger, it would help my -- yeah,
6 that's great. Thank you. Move that approval of the
7 alternative submission brought forth by the State of
8 Rhode Island -- yes, subject to approval by the
9 Technical Committee. That's fine.

10 BOARD CHAIR PRESTON PATE: Okay.
11 Read it one more time just to make sure that the
12 record is clear. Move that the approval of
13 alternative submissions brought forth by the State
14 of Rhode Island be subject to approval by the
15 Technical Committee. Howard, do you have a comment?

16 HOWARD KING: Just curious, is there
17 a precedent for this?

18 DAVID BORDEN: Yes. We have done
19 this before.

20 BOARD CHAIR PRESTON PATE: Bruce.

21 BRUCE FREEMAN: The reason I asked
22 for the division of the motion was that this aspect
23 I have difficulty with. I don't like to preapprove
24 -- I think it's a precedent that once we get into

1 this mode it's going to come back and hurt us.

2 I could see the fact that the
3 Technical Committee could review this, but I would
4 ask for at very least a conference meeting of the
5 Board. I just see this as a dangerous precedent.

6 BOARD CHAIR PRESTON PATE: Mr.
7 Borden.

8 DAVID BORDEN: Mr. Chairman, if it
9 will aid the comfort level around the table, we will
10 try to craft our proposal and submit it to the
11 Commission prior to the May meeting. We won't be
12 able to take it out to public hearing and get
13 comments, but what I hope is that we will have a
14 position that everyone will agree to before the
15 public hearing and that the Board would be able to
16 look at and examine prior to the Commission meeting.

17 BRUCE FREEMAN: I would suggest,
18 David, even if you have some concerns, coming with
19 several proposals that you could get approved and
20 then implement which one works for you.

21 BOARD CHAIR PRESTON PATE: Any more
22 discussion on this motion? Gordon.

23 GORDON COLVIN: Just so the Board
24 knows what's coming, we're going to be in exactly

1 the same situation with a couple of our proposals,
2 and I think maybe David's last suggestion is one
3 that we could kind of work together on.

4 (Motion as voted.)

5 {Move that the approval of alternative submissions
6 brought forth by the State of Rhode Island be
7 subject to approval by the Technical Committee.}

8 BOARD CHAIR PRESTON PATE: Okay. All
9 those in favor of the motion, please raise your
10 hand.

11 BRUCE FREEMAN: Mr. Chairman, do we
12 need this motion if they're going to come back with
13 their submission? I mean, my objection was that it
14 would be vetted through the Technical Committee and
15 the Board would get to review it before we
16 commented. If David indicates it will come back to
17 the Board at our spring meeting, then do we need
18 this motion?

19 BOARD CHAIR PRESTON PATE: I'll let
20 Mr. Borden make the call. It's his motion.

21 DAVID BORDEN: I'm perfectly happy to
22 submit a proposal that can be reviewed by the Board,
23 but I'd ask Bob directly are we going to have time
24 at the May meeting to do this?

1 ROBERT BEAL: Well, assuming
2 everything's very straightforward and it's just
3 you've changed the dates and size limits on the
4 exact same methodology you're using now, and
5 assuming what New York brings forward is a variation
6 on the theme of what they've done or using similar
7 methodology to what was approved by -- you know,
8 under the Massachusetts proposal, I think it would
9 be a very short meeting and maybe we can sacrifice a
10 half an hour of our eight hours of striped bass
11 time, or something like that, make this a slam dunk.
12 I don't know if we can sacrifice that or not.

13 DAVID BORDEN: All right. So, we
14 don't -- if that's the case and we're going to have
15 a meeting, we don't need this motion then, Mr.
16 Chairman. I withdraw the motion.

17 BOARD CHAIR PRESTON PATE: Ernie, is
18 that okay with you?

19 ERNEST BECKWITH: Yes.

20 BOARD CHAIR PRESTON PATE: Okay,
21 good. Okay, Mike, next proposal.

22 MICHAEL LEWIS: Thank you, Mr.
23 Chairman. The State of Connecticut was required to
24 achieve a 39 percent reduction in the recreational

1 harvest. They brought forth three scenarios. The
2 first is preferred, but all three include minimum
3 size of ten inches and a bag limit of 50 fish.
4 Scenario 1 had an open season of July 13th through
5 September 25th. Scenario 2 had an open season of
6 July 14th to September 26th. And Scenario 3 had an
7 open season of July 15th to September 27th. Thank
8 you.

9 BOARD CHAIR PRESTON PATE: What was
10 the Technical Committee's --

11 MICHAEL LEWIS: Excuse me, I'm sorry.
12 The Tech Committee did recommend this for approval.

13 BOARD CHAIR PRESTON PATE: Okay.
14 Ernie.

15 ERNEST BECKWITH: Mr. Chairman, i'd
16 like to make a motion. Move approval of
17 Connecticut's proposal for the 2002 recreational
18 scup fishery.

19 DAVID BORDEN: Second.

20 BOARD CHAIR PRESTON PATE: Second by
21 Dave Borden. Discussion?

22 (No response audible.)

23 (Motion as voted)

24 {Move approval of Connecticut's proposal for the

1 2002 recreational scup fishery.}

2 BOARD CHAIR PRESTON PATE: All those
3 in favor of the motion, please signify by raising
4 your hand.

5 (Response.)

6 BOARD CHAIR PRESTON PATE: Nine.
7 Ten. Ten in favor. Any -- any opposed?

8 (No response.)

9 BOARD CHAIR PRESTON PATE: None
10 opposed. No null votes. Any abstentions?

11 (No response.)

12 BOARD CHAIR PRESTON PATE: No
13 abstentions. The motion passes. Mike.

14 MICHAEL LEWIS: Thank you, Mr.
15 Chairman. New York has a lengthy series of options,
16 was required a 15 percent reduction. The first five
17 options that I have on the board right now all have
18 the same minimum size and possession limit, but the
19 only variation is an open season.

20 For Option 1, July 14th through
21 November 17th. Option 2 is July 1 through October
22 24. Option 3 is May 18th through May 31st, then a
23 closure, then reopening again on July 26th and
24 remaining open until November 30th. Option 4 is

1 open from May 24th through June 14th, then closes,
2 then opens again August 1 through November 17th.
3 And Option 5 is open May 1 through May 14th, closes,
4 then reopens July 25th and remains open through
5 October 31.

6 It's important to note that in the
7 comments here for these options they wanted to leave
8 open the option to substitute any consecutive 14-day
9 period in May or June for Option 3 and 5, and any
10 22-day period in May or June for Option 4.

11 These options were approved or
12 recommended for approval by the Technical Committee.

13 Options 6, 7 and 8 also have
14 identical minimum size and possession limits of ten
15 inches and 50 fish. Again, the only variation is an
16 open season, July 15th through September 15th will
17 be open, a closure to reopen October 1 through
18 November 30th, for Option 6.

19 Option 7 is July 17th through
20 September 15th and October 1 through November 31.
21 Then Option 8 is July 17th through September 16th
22 and then October 1 through November 30. These, too,
23 were recommended for approval by the Technical
24 Committee.

1 Option 9 was presented to the Tech
2 Committee after their meeting, a couple weeks ago.
3 This was reviewed by a very -- a relatively small
4 subset of the Technical Committee. They got a
5 chance to look at this. The people who were
6 involved did not have any significant problems with
7 it, although there was some question as to the
8 percent standard error associated, but the minimum
9 size is ten inches with a 20 fish possession limit,
10 open season is July 1 through September 8th. Then
11 starting September 9th the possession limit
12 increases to 50 fish and remains so until November
13 17th. Again, this has not been subject to a full
14 Tech Committee review, but those present did
15 recommend its approval.

16 Finally, Option 10, this has not been
17 looked at at all by the Technical Committee or any
18 subset thereof. The minimum size is ten inches,
19 possession limit from July 1 through September 4th
20 is ten fish, and then starting September 5th it goes
21 to 50 fish and remains so until November 17th, at
22 which time the fishery closes. Thank you.

23 BOARD CHAIR PRESTON PATE: Thank you,
24 Mike.

1 MICHAEL LEWIS: Excuse me. I
2 apologize. These were added just a few moments ago.
3 And these, too, have not been seen by the Technical
4 Committee or any subset thereof. Option 11, minimum
5 size of 10.5 inches, possession limit of 50 fish.
6 Open season is to be derived directly from Table 4
7 in Addendum 7. It has not been set at this time.

8 Option 12, minimum size is 11 inches,
9 possession limit of 50 fish, and again open season
10 is to be derived directly from Table 4 in Addendum
11 7. That concludes my review of New York.

12 BOARD CHAIR PRESTON PATE: Thank you
13 now. Any questions of Mike or Gordon on these
14 proposals? Dave Pierce.

15 DAVID PIERCE: Gordon, are you
16 suggesting based upon previous comments you made
17 that your options -- what was it, 9 through 12, be
18 held until Technical Committee review consistent
19 with what we're doing with the State of Rhode
20 Island?

21 GORDON COLVIN: Yeah, I'm going to
22 move -- and why don't I just do that and we'll get
23 it started. I'm going to move Board approval of
24 those options that have been reviewed by the

1 Technical Committee, which are Options 1 through 8?
2 Which is 8 now? I'm actually going to move 1
3 through 9, and the reason I'm moving 9 is that
4 although a full quote unquote Technical Committee
5 review didn't occur, there was a Technical Committee
6 conference call at which the proposal was discussed
7 and -- you know, it was the same conference call at
8 which the Massachusetts proposal was discussed, and
9 as far as I know, there were not objections received
10 subsequent to that via e-mail. And as of last
11 night, I checked in on this one. Whereas, the next
12 one has -- Option 10, has not been reviewed,
13 although it was developed exactly the same fashion
14 as Option 9.

15 I'm also going to have to add an
16 Option lucky 13, which we'll get to, as a result of
17 today's discussion. But right now, I'm moving the
18 Options 1 through 9.

19 BOARD CHAIR PRESTON PATE: Is there a
20 second? Second by David Pierce. Any discussion?

21 (No response audible.)

22 (Motion as voted.)

23 {move Board approval of those options that have
24 been reviewed by the Technical Committee, which are

1 Options 1 through 9.}

2 BOARD CHAIR PRESTON PATE: All those
3 in favor of the motion, please raise your hand.

4 (Response.)

5 BOARD CHAIR PRESTON PATE: Ten in
6 favor. Opposed?

7 (No response.)

8 BOARD CHAIR PRESTON PATE: None
9 opposed. Abstentions?

10 (No response.)

11 BOARD CHAIR PRESTON PATE: No
12 abstentions. No null votes. Did you have another
13 motion?

14 GORDON COLVIN: Again, I just want to
15 alert the Board to the fact that there will be
16 Option 13 that will involve a mode split with a 25 -
17 - 50 fish for party/charter, 25 for all other modes,
18 and it will open I believe it's a July 1 opening,
19 but I don't recall any more what the season closure
20 date is, but that will be presented using
21 essentially the same methodology that others have
22 used and hopefully we'll be able to have it reviewed
23 along with the Rhode Island proposals and the other
24 three from New York and we can discuss them again in

1 May.

2 BOARD CHAIR PRESTON PATE: Bob.

3 ROBERT BEAL: Just to follow up on
4 Gordon's comments and David Borden's comments, I
5 guess given the fact that more proposals are coming
6 forward with additional Tech Committee review, the
7 staff will go ahead and work in a Summer Flounder,
8 Scup and Black Sea Bass Board meeting for the May
9 meeting. Before I half jokingly said about a half
10 an hour long, but I think -- I think that's probably
11 all it will take. Is there any -- does the Board
12 feel comfortable with a relatively short meeting to
13 approve these and get them finished?

14 GORDON COLVIN: It won't take long at
15 all.

16 BRUCE FREEMAN: My only suggestion is
17 do it just before dinner, and it definitely will go
18 a half hour.

19 ROBERT BEAL: That's where we are
20 now.

21 BOARD CHAIR PRESTON PATE: Mike, are
22 you -- Gordon.

23 GORDON COLVIN: Yeah, you know, I
24 apologize for the situation. This has been very

1 much, frankly, like the Virginia situation with
2 fluke. We have not identified a single option
3 that's acceptable from east to west, north to south,
4 and anywhere else in New York's fishery. And I've
5 kidded people that I feel a little bit like Andy
6 Rooney in that I'm collecting scup options on my
7 desk that I have here. And maybe I feel more like
8 Jack Travelstead after today. It's just -- people
9 just keep coming up with ideas that we keep running
10 and I wish I could guarantee there won't be any more
11 before all is said and done. This has been
12 extremely difficult. And I guess that's, by the
13 way, one little window of what state-by-state
14 conservation equivalency is going to be like. We're
15 going to be bombarded with proposals for designer
16 regulations.

17 BOARD CHAIR PRESTON PATE: David
18 Borden.

19 DAVID BORDEN: Yeah, I just want to
20 follow up with Gordon. I also apologize, but I
21 would just note, as he did not, that really this is
22 a function of the way we're trying to deal with
23 these things. We're trying to deal with them in a
24 very short period of time and it's very difficult to

1 get a consensus out of a constituency.

2 We have -- in our case, we had two
3 meetings with our recreational constituents, and we
4 just didn't get adequate input from the bay
5 fishermen for -- not because of a lack of effort on
6 our part, but had we had a little bit more time, we
7 would have had another meeting and discussed it, and
8 we could have avoided this whole issue of Rhode
9 Island coming in with a separate proposal.

10 So, somehow we have to figure out how
11 to back off this thing and give the states a little
12 bit more time to try to develop these proposals.

13 BOARD CHAIR PRESTON PATE: Ernie.

14 ERNEST BECKWITH: A question for
15 Gordon. The same one I asked David. Gordon, when
16 does your current season for scup open this year?

17 GORDON COLVIN: July 1.

18 BOARD CHAIR PRESTON PATE: Mike, are
19 you through? That concludes all the proposals?

20 MICHAEL LEWIS: Yes.

21 BOARD CHAIR PRESTON PATE: Okay.
22 Then that concludes Item Number 6 and brings us to
23 Other Business.

24

1 bass is not done. Going back to March and all
2 through April, some of our head boats started
3 calling us about -- you know, why hasn't New York
4 opened the closed sea bass season?

5 And I gave them a two-part answer.
6 Part one was that we hadn't gotten our rule in place
7 last year in time, and therefore I felt obligated to
8 keep it closed this year. But part two of the
9 response, what difference does it make? You all
10 have federal permits and the federal closure's still
11 in place.

12 And what I've been told is that there
13 is virtually no enforcement being undertaken of the
14 federal closure. I'm not being told that in a very
15 friendly way. This has been a real black eye for us
16 that boats from New Jersey and elsewhere, not
17 through any fault of New Jersey's, are able to fish
18 in the EEZ. They're not subject to any enforcement
19 either as they fish or when they land. Whereas side
20 by side they're fishing with New York boats that
21 have to throw all their sea bass overboard before
22 they sail home. We got to do better than that.

23 Now, that doesn't mean -- somebody
24 made the comment to me well, what -- why should the

1 federal government have done anything because, after
2 all, clearly New Jersey and Rhode Island and our
3 other neighboring states have their season opened
4 and there's a clear intent, even though the proposed
5 rule hasn't been published, to eliminate the federal
6 closure, to which I responded sure, there's an
7 intent also to raise the size limit a half an inch.
8 Should that be enforced, as well, as a matter of
9 intent? Something just doesn't add up here.

10 So, just want folks to know that
11 we're really getting hammered on this. It's not
12 pretty. And we really need to address that issue
13 affirmatively.

14 BOARD CHAIR PRESTON PATE: Pat.

15 PAT KURKUL: Just to follow up
16 quickly. Yeah, I mean, we have a terrible problem
17 in these regulations with the timing issues. We
18 don't even adopt recreational -- we don't even have
19 the first discussion about recreational measures
20 until December. It's completely infeasible the way
21 it's currently designed, and so we have to think
22 about redesigning.

23 And I know there was some discussion
24 of that at a meeting that Council staff and my staff

1 had a few weeks ago on just process issues, but I
2 don't know whether there was any kind of
3 recommendation or resolution to come out of it. But
4 you know, the setup right now is no matter what, we
5 fail, because of the timing.

6 BOARD CHAIR PRESTON PATE: Howard.

7 HOWARD KING: I'd just like to add
8 that that is a big problem in Maryland, and Gordon,
9 the Coast Guard is enforcing this off the Maryland
10 coast.

11 GORDON COLVIN: Send them up to New
12 Jersey, will you?

13 BOARD CHAIR PRESTON PATE: Bob.

14 ROBERT PRIDE: I'd have to concur
15 with what Jack said. You know, we've got boats
16 fishing probably today since the weather's so nice
17 that are fishing in the EEZ for sea bass, not
18 realizing that they're breaking the law. We did a
19 very good job of promoting the specifications that
20 were passed, but they haven't been published yet.

21 And so I think if a fisherman in good
22 faith goes out in the ocean and catches fish and
23 gets caught, you know, getting convicted would be
24 very difficult. I mean, a judge is apt to throw

1 that out of court based on all the publicity
2 associated with the specifications that we voted on
3 in December at the Council level.

4 So, you know, I would like to resolve
5 this problem in some way, but I'm sure Ms. Kurkul
6 remembers the reason that we're in this position is
7 because the August specification setting was such a
8 marathon that everyone said we had to split it apart
9 between recreational and commercial, and we did.

10 BOARD CHAIR PRESTON PATE: Any
11 further business from the Board? Pat.

12 PAT KURKUL: That's actually not why
13 it ended up in December. It ended up in December
14 because people wanted to be able to consider WAVE 5
15 data.

16 BOARD CHAIR PRESTON PATE: Meeting
17 adjourned. Thank you very much.

18
19 WHEREUPON:

20
21 THE MEETING WAS CONCLUDED AT 5:17 P.M.
22
23
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 31st, day of May, 2002.

PAUL T. WALLACE. Notary Public
My Commission Expires
October 3, 2008

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