

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

**February 8, 2005
Radisson Hotel Old Towne
Alexandria, Virginia**

ATTENDANCE

Board Members

Lew Flagg, Maine DMR
Sen. Dennis Damon, ME Leg. Appointee
John Nelson, New Hampshire F&G
Dennis Abbott, proxy for Rep. Blanchard (NH)
Ritchie White, New Hampshire Gov. Appointee
David Pierce, Massachusetts DMF
William Adler, Massachusetts Gov. Appointee
Mark Gibson, Rhode Island DFW
Eric Smith, Connecticut DEP
Fred Frillici, proxy for Sen. Gunther (CT)
Lance Stewart, Connecticut Gov. Appointee
Gordon Colvin, **Chair**, New York DEC
Brian Culhane, proxy for Sen. Johnson (NY)
Pat Augustine, New York Gov. Appointee
Bruce Freeman, New Jersey F&G
Eugene Kray, proxy for Rep. Schroeder (PA)
Roy Miller, Delaware DFW

Bernard Pankowski, proxy for Sen. Venables (DE)
Pete Jensen, Maryland DNR
Bruno Vasta, Maryland Gov. Appointee
Larry Simns, proxy for Sen. Colburn (MD)
Jon Siemien, DC Fisheries and Wildlife
A.C. Carpenter, PRFC
Jack Travelstead, Virginia MRC
Kelly Place, proxy for Sen. Chichester (VA)
Ernest Bowden, Jr., proxy for VA Gov. Appointee
Preston Pate, North Carolina DMF
John Frampton, South Carolina DNR
Robert Boyles, proxy for Sen. Drummond (SC)
Spud Woodward, Georgia CRD
John Duren, Georgia Gov. Appointee
Tom Meyer, NMFS
Jaime Geiger, US FWS

Ex-Officio Members

Steve Gephard, TC Chair

Joseph Fessenden, LEC Representative

ASMFC Staff

Lydia Munger
Bob Beal

Vince O'Shea
Brad Spear

Julie Nygard

Guests

James Trossbach, PRFC
Bob Evans, MWA
Mike Howard, ASMFC LEC
Pete Eldridge, NMFS
Bill Cole, US FWS
Kevin McGrath, NYPA
Ted Colburn, Ocean Technology Foundation
Keith Whiteford, MD DNR

John Field, US FWS
Laura Noguchi, US FWS
Steve Minkinen, US FWS
Heather Bell, US FWS
Bob Ross, NMFS
Harold Mears, NMFS
Dan McKiernan, MA DMF

There may have been others in attendance who did not sign the attendance sheet.

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MOTIONS

Move to elect A.C. Carpenter as Vice-Chair.

Motion made by Mr. Freeman, second by Mr. Augustine. Motion passes unanimously.

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The American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Radisson Hotel, Old Towne, Alexandria, Virginia, Tuesday, February 8, 2005, and was called to order at 1:00 o'clock p.m. by Chairman Gordon C. Colvin.

WELCOME & INTRODUCTIONS

CHAIRMAN GORDON C. COLVIN: Would the members of the Eel Board please take their seats. Thank you and welcome to the meeting of the American Eel Management Board. We have had distributed the proposed agenda.

BOARD CONSENT

I have not yet received any proposed changes or additions to the agenda. I have been informed that the Commission has received a letter from Delaware Valley Fish Company which staff is passing out for the information of the members of the board.

Are there any changes or additions to the agenda at this time? Seeing none, without objection, we'll approve the agenda and proceed.

The first action on the agenda is the

proceedings from the November 2004 board meeting. Are there additions or corrections to the proceedings of the November meeting? Is there objection to adoption of those proceedings? Without objection, they are approved.

PUBLIC COMMENT

The next agenda item is public comment. Is there any member of the public or guest who wishes to make a statement at this time, recognizing that we will entertain public comment on any of the specific agenda items? Yes, please.

MR. MITCHELL FEIGENBAUM: Mitchell Feigenbaum. I'm here from Delaware Valley Fish Company together with my partner, Barry Kratchman, who is behind me. I would also like to say welcome to the new chairman. At least, from our perspective it's our first time getting to say hello.

I also would like to thank the PID Committee for reflecting the changes that you all talked about and I had some comment on at the last meeting.

I see that although it wasn't clear from the minutes of the meeting, that in fact the PID now does reflect the question of whether size limits should at least be considered as one of the possible tools in helping to conserve the species.

It was not clear whether that was actually going to make it onto the PID, and it did, so I did want to thank Lydia or whoever it was who put together the PID.

One thing I see did not make the PID document was the question of whether enhancement should or is a tool that ought to be investigated in terms of helping to

conserve or protect this species.

I do realize there is a catch-all phrase in the public information document that says should other conservation measures be considered if it wouldn't be administratively cumbersome, though, I would ask if the board would consider to actually specify the idea of enhancement specifically as opposed to in the catch all.

Finally, I just wanted to share very quickly the fact that two weeks ago I was in Quebec City with the Canadian eel science working group. They had a two-day symposium during which they really reviewed the status of the eel fishery in Canada and had great interest, of course, in what was happening in this group.

I shared with them some of my perspectives and the information that I was able to share from having attended the last three or four meetings of this board.

But I just wanted to point out one thing, with particular emphasis to the members of the science committee, that they released a study of -- a major stock assessment took place this year on the St. Jean River -- that's J-e-a-n -- which is the last river in the Gaspé system before the St. Lawrence.

Everyone expected that. Because of all the problems, we know that there is with eel recruitment into the St. Lawrence River, that this river system, which is a fairly sizeable one, would be depleted or at least significantly diminished.

There's no fishery on this river so it provided an interesting laboratory to study the recruitment of eels. On the St. Jean River it turned out, after a fairly extensive, summer-long survey, a stock assessment this past summer, that the population on that

system is very healthy, and in fact the population is healthy not only in terms of adult eels but also in terms of the juvenile eels, indicating that there is a significant recruitment as far north as the Gaspé Peninsula.

The conclusion is not to take lightly the concerns about the eel population along its entire range, but I think it left that group with the renewed emphasis on studying why it is that eel is not recruiting into the St. Lawrence.

And to the extent that so much of the decision making that is guiding our own efforts here is based on the very serious problems that are being reported in the Great Lakes and the St. Lawrence, I just hope that the members of the board will take note of this study.

And, of course, I have references in my notes and on my computer that I'd be glad to share. I won't burden the group with those comments now.

In any event, in closing, I just want to remind the board and its various committees that as the largest commercial interest in eel in North America, Delaware Valley Fish Company and South Shore Trading continues to volunteer to be completely cooperative with all the efforts of this board in sharing information and also in helping to formulate responsible positions so that the species will be preserved for the future. So, thanks for your attention and time.

CHAIRMAN COLVIN: Thank you, Mitchell. Is there any other public comment at this point? Seeing none, we'll proceed on the agenda. The next item is an update on public comment on the PID. Lydia.

UPDATE ON PROGRESS OF PUBLIC COMMENT ON THE PID

MS. LYDIA MUNGER: Thank you, Mr. Chairman. The public information document has been amended per the board's comments from the November meeting. The board did approve that document in November. Staff is coming around with copies if you don't have the copy you received.

This document was recirculated to the board for comment on the edits that were made, and the deadline for that comment was February 3rd but, again, if you don't have a copy, there are copies coming around.

At this point, since that document has already been approved, staff would like to remind the board that it's going to be time to schedule public hearings, so if the board could direct staff on which states are going to request public hearings as well as which states require staff presence at these public hearings, that would be greatly appreciated so that we can get going on scheduling those.

CHAIRMAN COLVIN: Thanks, Lydia. I want to thank Lydia and the other members of the plan development team. They did an excellent job of putting together a final PID based on the guidance that was provided by the board's action at the annual meeting in November.

I believe they very effectively incorporated the directions from the board into the final text of the PID. Is it reasonable to give ourselves a deadline to communicate back to the staff our interests in the number of public hearings by state and the number of public hearings for which the individual states are going to seek a staff presence at the public hearings of, say, the end of

February? I see most people seem to be suggesting that's ample time to get that information back so without objection. Preston Pate.

MR. PRESTON PATE, JR.: Thank you, Gordon. I'm assuming that we would want to have all of these hearings and the public input prior to the next board meeting; is that correct? Is that the timeline we're working on?

CHAIRMAN COLVIN: I'll offer the chairman's opinion. I think there is also the issue yet to be addressed on our agenda of the timing of the stock assessment, that before the board takes further action and makes any further decisions on where we go from here, we will want to review not only the comments — and I think these are actually public information meetings on a PID, to be very clear about it, but the comments and the input from the public on that as well as stock assessment update information if it's available.

I'm not sure there is quite that sense of a need to do this by May. In fact, we may not need to meet again as a board until both of those processes are complete and that may not be until August.

MR. PATE: Okay, thank you. That's helpful in how we want to time our hearings or meetings.

CHAIRMAN COLVIN: Thank you. That said, then, I don't see any objections. Let us all try to communicate back to staff by the end of February our information about the number of public hearings and staff support for those hearings in each state.

Is there anything further on the public information meetings? Then let's move to the updated stock assessment. Lydia.

REVIEW TIMLINE FOR 2005 STOCK ASSESSMENT

MS. MUNGER: Thank you, Mr. Chairman. The stock assessment subcommittee has been formed but has not had a chance yet to meet. And, this is just a question for the board, I suppose. Since the board chose an external peer review for the American eel stock assessment, we do have some flexibility in that we're not limited to the SARC schedule.

The assessment was due to be completed and peer reviewed by the end of 2005. At this point we're just looking for board input. We don't have a schedule drafted at this time, but I expect that by the next time the board meets the stock assessment subcommittee will have been able to convene and draft a schedule and terms of reference for board review.

CHAIRMAN COLVIN: Questions or suggestions with respect to that report? What did we have in mind I guess in the action plan for the current year?

MR. ROBERT E. BEAL: We did not have a timeline included in the action plan. Prior to the end of the calendar year, we would get the eel assessment finished up, with the peer review and the assessment completed.

I guess part of this discussion feeds into the later agenda item regarding the ESA listing and the review by the federal government and how those two processes should mesh together.

If the Commission is taking the lead on the assessment and the federal government is waiting for our peer-review results, then the board may be interested in accelerating that process to accommodate the federal

government. If the federal government is not waiting on the Commission, then there's not as much urgency to get the document done earlier in 2005.

CHAIRMAN COLVIN: Lydia, do we have a sense of when the stock assessment subcommittee is scheduled to meet to make that first attempt at terms of reference?

MS. MUNGER: The stock assessment subcommittee will be convened at least by a conference call as soon as possible after this meeting.

CHAIRMAN COLVIN: Are there any questions or comments on this? I was going to suggest that we may wish to hear the report from the service, but the service just took a little stroll on us.)

UPDATE ON FEDERAL EEL STATUS REVIEW AND ESA PETITION

MS. HEATHER BELL: He's looking for me, actually. Did you want to hear from us?

CHAIRMAN COLVIN: Yes, please. I think that might be helpful to all of us.

MS. BELL: I'm Heather Bell. I'm with Region 5 of the U.S. Fish and Wildlife Service. And as you're probably aware, on November 18th we received a petition from the Watt brothers to list the American eel as endangered under the Endangered Species Act.

We are in the process of completing what is called the "90-day finding." That's a fairly internal process in coordination with our sister agency, with NOAA. It's at the conclusion of the 90-day that we reach out

to the public, the industry, academics, et cetera, on preparing for a status review if the 90-day finding is what we call “positive.”

As you know, we’ve already committed to a status review so that will be going forward regardless of the results of the 90-day finding. The 90-day finding is a reasonable person test meaning that the 90-day finding is reviewed from the petitioner and the information that they have included.

The ASMFC eel management document was included by reference in that petition, so we take that petitioner’s information pretty much at face value and use NOAA’s or the Service’s information to update and clarify.

We’ve begun laying some groundwork for the status review but haven’t sort of completed pulling that together. We are very interested in the stock assessment. The stock assessment will be a critical component of the status review.

Particularly, as I understand it, because the information is out there, we’re very interested in seeing it analyzed by those who are the experts in analyzing that type of data. Our 12-month or status reviews, whether they be under the ESA or sort of separate from the ESA, typically would have some form of peer review involved in that.

The status review involves not only understanding the trend that the species population is under but also the threats which have been identified in the petition as potentially acting on the species. So, part of our status review includes investigating those threats to the maximum extent we can.

CHAIRMAN COLVIN: Would I be right in concluding, then, that it would seem that it might be of assistance to the service if we were to do what we can to accelerate the development of the stock assessment so that

the peer-reviewed results of that assessment could be available to you before you come to conclusions in your status review?

MS. BELL: Correct.

CHAIRMAN COLVIN: Thank you. I guess the last question is do we have a target date for completing the status review?

MS. BELL: If the 90-day finding is positive, under the ESA we technically have nine more months to complete that. We often miss that date, but we would certainly like to have a good reason for missing it, for example, to be awaiting information that’s under peer review or something of that sort.

If we’re just going forward with a status review and it’s not under the ESA timeline, then our timeline is certainly more flexible. But, of course, because you have requested the status review, we’d like to get it done in a timely manner and not let it drag out too long.

CHAIRMAN COLVIN: Thank you. Dr. Geiger.

DR. JAIME GEIGER: Thank you, Mr. Chairman. I think regardless of whatever we find, I think we are going to try to expedite the status review in as timely and as effective manner as possible. I think that’s our commitment that we made to the board, and we certainly intend to carry out those responsibilities. Thank you.

CHAIRMAN COLVIN: Thank you and thank you both for that report. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. If I could ask Jaime for just some background. If this process develops into being listed under ESA, does

that bring forth the issue of possible problems like under the pesticides, dams, the water quality issues, which I think has been a serious threat to the eel population? Does the ESA then go into those avenues and not just the fishing avenues?

MS. BELL: Yes, correct. Under ESA protection, we try to reduce take of the individual to the maximum extent practicable regardless of what that take is. And so, certainly, in looking at the eel and what the threats are, we would work with agencies or private individuals to reduce that take to the maximum extent, so it covers the range of what the threats are that are identified in that status review.

MR. ADLER: If I may, what about predation, how do you handle that?

MS. BELL: Predation is an interesting one. If it's a non-native, then we certainly go at it more aggressively. If it's native predation, it would need to be looked at very carefully to see if the predation is acting on the species sort of in and out of balance fashion.

In other words, is it predation heavier because they're sitting at the base of a dam that they can't get up or is the ecosystem out of balance, in which case the natural predation is no longer "sort of natural" on the species, it's gotten out of whack.

That's probably at least at this point how I can answer that predation. Those kinds of questions are answered sort of as the species is listed, if that happens, and also within the next two and a half years when a recovery plan is written.

So those threats, they try to identify the threats during the status review and then figure out how best to handle them in the

next two and a half years so that we kind of get off the ground and get moving.

CHAIRMAN COLVIN: Dr. Pierce

DR. PIERCE: If I may I'd like to pursue that question a little bit more, because I wasn't sure you addressed his principal concern, which I think relates to the fact that, as indicated in the PID, access to upstream habitats has been dramatically reduced.

And there is a figure here of about 84 percent of all the upstream habitats are now not off limits, but the access is hindered to about 84 percent of those upstream habitats. That's for all diadromous fish which, of course, includes eels.

So, my question to you would be, if indeed you have a positive finding, to what extent would the Act enable the federal government to deal with these problems of reestablishing access to these upstream habitats so that we could get ourselves into a situation where the species could be taken off the list, assuming it was put on to begin with?

MS. BELL: Under Section 7, if the species were listed under the ESA under Section 7 of the Act is where we address our cooperative work with our other federal agencies. If they are federal facilities, we would work with those federal facilities perhaps when they come for relicensing or anytime they then -- and including management of a facility.

If there is a large take in eel because of a federal-funded or permitted action, then we would work with that federal agency to limit that to the maximum extent practicable. That's kind of where that word comes in. The dams won't necessarily disappear, but they may change in their features.

CHAIRMAN COLVIN: Thank you. Is there any further discussion or questions on the federal review status? Seeing none, let me thank the service representatives for that update.

I think it's very clear from their comments that it would be useful for us to try to accelerate our stock assessment and peer review, so that we can provide timely and useful information to the service for their status review.

We'll proceed accordingly to schedule the conference call of the stock assessment subcommittee, and our next board meeting I think will need to be scheduled depending on the progress they make in the meantime.

Does that seem reasonable to the members of the board? Thank you. Is there any further desire to discuss either the timeline for the stock assessment or the status review? Yes, Bob.

MR. BEAL: Just two quick points, the first one is that we're currently working with Rutgers University, Ken Able in particular, to secure some funding. Ken has indicated that he has I think a 15-year weekly time series of glass eel data from Little Egg Harbor in New Jersey, so we're trying to square away some money for Ken to do some analysis on that data, look at trends over that time series.

It seems to be a very complete data set and one that we may be able to glean a lot of information on eel populations, so just an update to the board.

And the other point is that once the terms of reference are set, the board will probably have to get back together at that point to approve those prior to the assessment being

completed and the peer review being initiated.

CHAIRMAN COLVIN: Thanks, Bob. I guess that brings us to the next item of business, which is the election of a vice chair. I recognize Bruce Freeman.

ELECTION OF A VICE-CHAIR

MR. FREEMAN: Thank you, Mr. Chairman. I'd like to nominate A.C. Carpenter.

CHAIRMAN COLVIN: Pat Augustine for the ritual.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I'd like to second that motion and close the nominations and cast one vote for Mr. Carpenter.

CHAIRMAN COLVIN: Without objection, A.C. is elected vice chair. Thank you. Is there any other business to come before the Eel Management Board today? I see Mitchell. You know, Mitchell, I almost made it before we got to where we were supposed to begin here, now, almost.

MR. FEIGENBAUM: I thought we started a half -- no, okay, I'm sorry.

CHAIRMAN COLVIN: That's my point.

MR. FEIGENBAUM: Real quickly, I guess I'm addressing the question to Bob. I'm really glad and interested to hear about the time series that the fellow in Rutgers has to offer. My question is -- and I don't know who here is from Maine, but, of course, we know that there has been a very active glass eel fishery in Maine for some years.

I know firsthand that their recordkeeping requirements are quite extensive and fairly diligently enforced. I was wondering whether any effort has been made to coordinate receiving that information for the purpose of stock assessment, because, needless to say, that information is the most compelling indicator of recruitment that there is.

CHAIRMAN COLVIN: Well, let me recognize Lew Flagg.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. Yes, we do have a great deal of data on the various life stages of the eel in terms of commercial harvest. All of that information will be available to the Eel Board.

In fact, Matt Cieri is a member of the stock assessment subcommittee. Matt actually did his Ph.D work under some eel funds that we had back years ago when we had a very, very large elver fishery, so I think we will be able to provide some valuable information to the board.

MR. FEIGENBAUM: I'd also like to point out that up in Nova Scotia there is Rod Bradford. He is the scientist from the Maritimes Region. He has a time series on the glass eel fishery that takes place in that province, Nova Scotia.

He has also indicated to me, as well as Dave Cairns, the co-chair of the Canadian science group, that he is very interested to get that information from Maine, and I'm sure they'll be very interested to get the information from New Jersey as well.

But at the same time they have offered to provide and share with the stock assessment committee the elver harvest information from Nova Scotia, so I would hope that

someone on the stock assessment committee will reach out to Rod or reach out to me, and I'll be glad to provide the contact information for Rod. Thanks.

CHAIRMAN COLVIN: Thank you. Is there any further business to come before the board? Without objection, we stand adjourned.

(Whereupon, the meeting was adjourned at 1:35 o'clock p.m., February 8, 2005.)

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