

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

**May 26, 2004
Radisson Hotel
Alexandria, Virginia**

ATTENDANCE

Board Members

George Lapointe, 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
Paul Diodati, Massachusetts DMF
William Adler, Massachusetts Gov. Appointee
Gil Pope, Rhode Island Gov. Appointee
Eric Smith, Connecticut DEP
Gordon Colvin, New York DEC
Brian Culhane, proxy for Sen. Johnson (NY)
Pat Augustine, New York Gov. Appointee
Bruce Freeman, NJ DFG&W
Dick Snyder, proxy for Doug Austen, PA FBC
Eugene Kray, proxy for Rep. Schroeder (PA)

Frederick Rice, Pennsylvania Gov. Appointee
Roy Miller, proxy for Patrick Emory, DE DFW
Howard King, proxy for Pete Jensen, MD DNR
Bill Goldsborough, Maryland Gov. Appointee
A.C. Carpenter, PRFC
Jack Travelstead, **Chair**, Virginia MRC
Kelly Place, proxy for Sen. Chichester (VA)
Preston Pate, North Carolina DMF
David Cupka, South Carolina Gov. Appointee
Pat Geer, proxy for Susan Shipman, Georgia
Luiz Barbieri, Florida FWC/FMRI
Kathy Barco, Florida Gov. Appointee
Tom Meyer, NMFS
Jaime Geiger, USFWS

Ex-Officio Members

Pat Geer, GA DNR, TC Chair
Joseph Fessenden, ME DMR, LEC Rep.

Roy Stein, Great Lakes Fishery Commission
John Henry, AP Chair

ASMFC Staff

Megan Gamble
Robert Beal

Vince O'Shea
Lydia Munger

Guests

Mitchell Feigenbaum, DVF/SST
Barry Kratchman, DVF/SST
Rich Otterstedt, NYSDEC/ASMFC LEC

Peter Fanelli, NYDEC Police
Jeffrey Marston, NH F&G Law Enforcement

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

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MOTIONS

No motions were made.

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May 26, 2004

The American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Suite of the Radisson Hotel, Alexandria, Virginia, on Wednesday, May 26, 2004, and was called to order at 1:00 o'clock, p.m., by Chairman Jack Travelstead.

WELCOME & INTRODUCTIONS

CHAIRMAN JACK TRAVELSTEAD:
Good afternoon, ladies and gentlemen. If I can have your attention, I'll call the meeting of the American Eel Management Board to order. A couple of announcements, if you will, before we get started.

First, to my far right, I'd like to introduce Roy Stein, who is with the Great Lakes Fish Commission. I've asked Roy to join us here at the table to participate in our discussions today. Roy is also a member of our plan development team for the American eel.

Secondly, just to make you aware, Pat Geer, who is down at the end at the table, there is our technical committee chair, but today he is also a proxy for Susan Shipman so you will see him voting on issues today. I didn't want anyone to be concerned that our technical committee chair was voting, but he is Susan's proxy.

BOARD CONSENT

Item 2 is the agenda. Are there any changes or additions to the agenda? Is there any objection to approval of the agenda as it is presented? Seeing none, the agenda is approved.

Secondly, proceedings of the March 9th Board meeting, are there any additions or corrections to those minutes? Seeing none, the minutes are approved.

PUBLIC COMMENT

Item 3, public comment, we've allotted time, as we always do, on our agenda for comments from the public. Is there anyone who wishes to make comments at this time? Yes, sir, let us have your name and tell us what's on your mind.

MR. MITCHELL FEIGENBAUM: My name is Mitchell Feigenbaum. I'm here today with my partner, Barry Kratchman. Mr. Kratchman is the president of Delaware Valley Fish Company.

I, along with Mr. Kratchman, am a principal shareholder of that company. We've both been associated with the business, which is in the business of eels for many years -- Barry, since his childhood and throughout most of his adult life directly, myself as a teen laborer in college, and also as counsel for ten years during the '90s and as a principal in the company since 2000.

Together we own Delaware Valley Fish Company, which has been in business for 32 years and three generations. It is headquartered in Norristown, Pennsylvania, and we employ approximately 15 people in addition to casual and temporary labor.

Barry and I are also the principals of South Shore Trading Company. We're headquartered in New Brunswick, Canada, also engaged almost primarily and almost exclusively in the business of eel. In New Brunswick we have a 100 metric ton eel farm. We employ approximately 20 employees there.

And the two companies together support, we would estimate, over 500 independent fishermen and their families. I'm here to say that we do not believe that it would be appropriate at this time for this Board to recommend to any federal agency that any population of eel be listed as a candidate under the Endangered Species Act.

We think that kind of action would be premature. And here I need to deviate from my notes just a tiny bit because as I was here this morning learning about what has brought us to today's agenda, I became aware of some procedural background that is slightly troubling to us.

I say slightly because I realize that no formal action has been taken yet; and since no formal action has been taken yet, whatever procedural issues have taken place before this aren't necessarily troubling because they can be addressed now.

I hope that all the Board members here will listen to my remarks with an open mind, being fully aware of the fact that today is the first time that our company, which represents a very strong segment of the commercial eel industry, has been heard.

And the procedural issue that I wanted to mention was we have not been very active as participants in the business of this Board. Frankly, we keep abreast of the actions of this Board through your excellent Website. I mean that when I say excellent.

We receive monthly newsletters and occasional newsletters pertaining just to the eel business, in addition to the monthly newsletters. In

advance of the meeting last month -- or I'm sorry back in March where these recommendations were addressed, there was to my knowledge -- and I say this in good faith, not saying that I'm perfect, but I am speaking in good faith -- to my knowledge there was not even the slightest indication that at a March meeting, where there would be an opportunity for public input, that at that meeting anybody would be presenting motions to this Board of such a substantial nature to make recommendations to federal agencies about listing our species under the Endangered Species Act.

I spoke today to the Board's coordinator and she confirmed and explained that, of course, nothing untoward had taken place with regard to this lack of advance notice, but nonetheless that it had taken place like that.

And she explained that our friends in Ontario had made a presentation to the technical committee shortly before that March 9th meeting. And, by the way, I don't believe that the fact of that presentation by the Ontario regulatory folks was ever publicized either.

But as a result of that presentation by the folks from Ontario, the technical committee then came to this Board on March 9th without any advanced public notice and somehow inspired someone to make a motion, which then carried, to make these recommendations.

Again, at that meeting, by the way, on March 9th there was zero public input. I don't know if that's routinely the case with this Board, but in fact there was zero public input, so I just would like to make clear that I don't want to be seen as a "Johnny-come-lately" by appearing here today and raising this objection, but in fact my presence here today is sparked because subsequent to March 9th we received information and notice about the agenda item.

But, it does seem to me that a motion has already been passed saying that this Board shall communicate its concerns to Fish and Wildlife,

as well as the National Marine Fisheries Service. But, there was not -- I'm here today speaking with the fear that the fact of that recommendation is already a fait accompli.

CHAIRMAN TRAVELSTEAD: Let me respond to some of your concerns and hopefully alleviate them. The action that the Board has taken thus far was not to ask the federal services to list the American eel under the Endangered Species Act.

It was only to ask the services to conduct an evaluation of the American eel population in certain regions along the Atlantic Coast, and in fact along the entire Atlantic Coast. I mean, I think that's an important distinction.

Number 2, you're at the beginning of the process. You're here in plenty of time. There's quite a bit more work to be done on this. You're here now at the very initial discussions, quite frankly.

There will be plenty of opportunity down the road for you to make official public comments and participate in the process. I don't want you to think here today that we are close to any final decisions at all on this issue. There still will be opportunities.

MR. FEIGENBAUM: Okay, fair enough. I did understand the distinction that you point out, and I appreciate the distinction. At the same time, I hope that the various members of the Board will appreciate my concern that in this room is an awful lot of technical and historical expertise and interest regarding the eel species.

And, any recommendation by this Board to any federal panel, whether it's simply to investigate or recommending to take an action, which I know is not the case, but any recommendation carries a lot of weight.

And if in fact that recommendation is premature, if I can demonstrate or if I can persuade, you know, a majority of the members

of the Board that perhaps that recommendation, it was premature, then I hope the Board would act accordingly.

In any event, moving on, I would say that our two companies and the fishermen that we, again, don't say that we represent, but we certainly support, really reserve judgment regarding the Lake Ontario and Upper St. Lawrence populations that spawned the presentation and the recent actions by the Ontario government with regard to its address to our technical committee.

But in any event, I would like to suggest that the issues regarding that population are on the one hand very discreet, but on the other hand carry with them a concern that the problems of Lake Ontario, which I would share quite candidly in my own opinion, that the problem is one of Ontario's making and the cause of the problem, in addition to all the scientific and other factors that have been discussed, they're largely a problem of plunder.

The Lake Ontario and Upper St. Lawrence fishery has been plundered for some 30 or 40 years; and now as a result of that, the government of Ontario would use this committee to then get a process rolling with our federal agencies to lead to either a distinct population, or worse, an entire population listing under the ESA, that would be something that would be somewhat troubling.

In fact, I mentioned that we have a company -- that I'm a principal in the company -- South Shore Trading, which is engaged -- we are the single biggest exporter of eels in Canada.

We work very closely with the Department of Fisheries and Oceans throughout the entire Atlantic Maritimes, and I will tell you that the action of the provincial government of Ontario does not represent even the position of the Canadian government.

In fact, we have very close relationships with the DFO officials, including the regulators for

the Scotia-Fundy region, one David Cairns, who has been before this Board, I guess, and certainly cooperated with the committees in the past.

And there has been no indication by Mr. Cairns that the Atlantic regions of DFO are considering anything like an endangered species listing or any other kind of significant deviations from their well-established management plans.

CHAIRMAN TRAVELSTEAD: Pat.

MR. PATRICK AUGUSTINE: Just for a point of order, Mr. Chairman, we welcome the gentleman's comments, but it sounds like we've heard it again and again already. Your points are made abundantly clear to us.

As our chairman pointed out to you, this Board has not taken any overt action. We addressed the concern from the federal government by responding to them by what we did. Your comments continue to go on and on about your company and the impact of the government of Canada. We understand that.

This meeting is to address specific concerns on that agenda, and I'm not trying to shut you off. I think your comments are very pertinent. It's the first meeting you've attended. I wish we would have had the opportunity to see your comments.

I think they would have been very important to us Board members to have reviewed those before we sat here and listened to your presentation of some 10 or 15 minutes.

I would hope that as our chairman moves forward with our presentation of what we're doing, that you indeed will come back to the microphone and address those specific points that our chairman points out as we progress through the agenda.

I don't mean to offend you but we have a lot of business to cover today, and I think your point

or points to the Board are abundantly clear. I personally am very concerned about the information you presented, and I'm anxious to see how our Board reactions to your response and your concerns. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you, Pat. Can you wrap it up pretty quickly, Mr. Feigenbaum?

MR. FEIGENBAUM: Well, if you're saying that I'll have the continued opportunity to present some points as we go forward today, then I'll be glad to shorten my comments and actually wrap them up. On the other hand, I really don't want to leave here today without having gotten some substantive points out.

CHAIRMAN TRAVELSTEAD: There will be other opportunities today for you to speak. When we come across an issue and you feel like you have something to say on it, raise your hand and I'll call on you.

MR. FEIGENBAUM: Okay, well, fair enough. Thank you.

CHAIRMAN TRAVELSTEAD: Also, the staff has passed around an additional letter of public comment from a gentleman who was not able to be here today, and I assume everyone has a copy of that in front of them, if you'd take time to read that. Is there anyone else wishing to make public comment? Yes, sir, if you could be as brief and to the point as possible, we'd appreciate it.

MR. JOHN HENRY: My name is John Henry. I'm the chairman of the advisory committee. I believe I'm supposed to have a seat at this table, and I'd like to have an opportunity to be a member of this discussion.

CHAIRMAN TRAVELSTEAD: John, why don't you come up and sit right here. Do you want to say anything now at this point or just join us?

MR. HENRY: No.

DISCUSSION OF POTENTIAL MANAGEMENT CHANGES FOR AMERICAN EEL

CHAIRMAN TRAVELSTEAD: Okay, anyone else from the public? Okay, seeing none, let's move to Agenda Item 4, a discussion of potential management changes for the American eel. Do you want to say anything initially on this, Lydia?

MS. LYDIA MUNGER: Thank you, Mr. Chairman. I've prepared a brief presentation to touch on what the Board discussed at your March meeting and to spur discussion on potential changes to American eel management.

At the March meeting, the Board and subsequently the Policy Board decided to send a letter to the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. This letter requests an evaluation of listing American eel as a distinct population segment for the Lake Ontario-St. Lawrence and Lake Champlain-Richelieu Systems under the Endangered Species Act.

This letter also requests a coast-wide evaluation of the American eel stock. A draft of this letter is being handed out for Board review and discussion. If the Board wishes to stop and comment on this letter now, we can do so or I can continue with the presentation and the Board can comment at the end of the presentation.

The original recommendations of the technical committee are also being handed out now for your reference if you do not have a copy. At the March meeting, the Board decided to nominate a plan development team to develop changes to the FMP through Amendment 1 or Addendum I to the fishery management plan.

Whether the changes would need to take place through an addendum or an amendment depends on which actions the Board wished to

take. The technical committee recommendations included in this Board action were:

Number 1, a reduction in the recreational possession limit for eels. This change could take place through an addendum;

2, a closure of all directed silver eel fisheries. This change would need to take place through an amendment;

3, a seasonal closure of eel fisheries for all life stages. This change would need to take place through an amendment;

Number 4, implementation of an eel harvester and dealer permit to include reporting of the amount of harvest used for food versus bait. This change could take place through an addendum;

And, number 5, recommendations regarding eel passage. These recommendations could be added to the fishery management plan through an addendum.

All of these changes could be included in an amendment, but if the Board simply wanted to make the changes that can be accomplished through an addendum, the Board could pursue an addendum instead of an amendment.

In response to this Board action, staff circulated a memo to Board members requesting nominations to the plan development team. Two nominations were received, Vic Vecchio from New York and Roy Stein from the Great Lakes Fishery Commission.

I would like to remind the Board that the peer-reviewed stock assessment is due to be completed in 2005. The results of this assessment may spur management changes such as an amendment to the plan.

Staff has prepared a time line and an estimated budget to show the Board what would be required if an amendment were initiated at this

meeting. The time line and budget have been handed out to each of you for review.

The time line above lays out the basic steps of the process, meaning the time line on the screen. The process is laid out in detail in the handout.

Between now and August, the plan development team would draft a public information document. In August the Board would approve the public information document for public comment. Public hearings would take place in the fall followed by an advisory panel meeting to review public comment and make recommendations to the Board.

In approximately November 2004, the Board would review public comment and direct the plan development to begin preparing the draft Amendment 1. The draft amendment would be approved for public comment in early 2005 with public comment taking place in the spring.

After another advisory panel meeting and Board review of public comment, the Board would be ready to approve Amendment 1 around May 2005. This is assuming, of course, that the process were initiated today and that everything between now and then goes smoothly.

Staff also prepared an estimated budget for this process since changes to eel management were not originally part of the 2004 action plan.

Staff divided this estimated budget into the funds that would be required in 2004 and in 2005, so the Board would be able to see how much in terms of additional funds would be needed to be allocated to eels if the Board were to initiate this process now.

You can see the draft budget on the screen and received a copy of the time line and estimated budget just a minute ago. The total estimated funds needed to begin this process now and carry it through the end of 2004 are

approximately \$23,000.

Continuing through 2005, staff has estimated that an additional approximately \$14,000 would be needed to complete an amendment in the given time frame. Given the information the Board has right now, there are a few questions before the Board for discussion.

The first question is does the American Eel Management Board wish to initiate management changes for American eel? If the Board does wish to initiate changes to the management program, given the list of potential changes and the determination of whether a specific change could be accomplished through an amendment or an addendum, would the Board rather pursue changes that initiate an addendum or pursue changes that would require an amendment?

The third question is if the Board wishes to initiate management changes, when would the Board like to begin this process? And the fourth question for the Board is what issues does the Board wish to see included in the draft public information document if the Board decides to begin the amendment process at this meeting?

CHAIRMAN TRAVELSTEAD: Very good. And that being your last slide, we'll just keep that up and let that be our guide for the discussion for the next hour or so. Are there any questions of staff on the presentation or do you want to move right into discussions? Seeing no questions, again, you have the four issues on the screen for your attention and direction. George.

MR. GEORGE LAPOINTE: First, thanks for the good presentation because it walked us through it pretty well. I talked to my staff about the recommendation that came -- well, actually the discussion that started in New York and then the subsequent discussion.

I think it's moving in the right direction. I'm uncomfortable with starting today. I think I

need more information before I'm comfortable moving with either an addendum or an amendment at this point.

I don't mind the discussion of the review. I support the letter in regard to the services to find out the status, but I'm uncomfortable starting an addendum or an amendment at this meeting.

CHAIRMAN TRAVELSTEAD: Other comments. Gordon.

MR. GORDON C. COLVIN: I had a question before I got into it, which is, is there a point at which, Mr. Chairman, you would like to specifically address the draft letter that the staff has prepared in response to the motion the Board passed at the last meeting?

I'm prepared to offer a statement in support. I think the staff has done an excellent job of translating my rather confusing motion into the text of a letter that meets the spirit and intent with which it was offered.

I certainly am fully supportive of sending this letter off as an appropriate response to the motion we passed at the last meeting. I think it captures the motion well.

CHAIRMAN TRAVELSTEAD: I think we can take that issue up now. I mean, it's all part of the discussion.

MR. COLVIN: I'm not sure that we need a motion. I just wondered if there's any --

CHAIRMAN TRAVELSTEAD: Is there any objection?

MR. COLVIN: If a motion is needed, I'll offer it but I think we already passed the motion, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Right. You know, the Board has already acted to have the letter drafted. You have a copy of it in front of you. Does anyone object to it going

forward the way it has been presented to you?

MR. HENRY: I had a question.

CHAIRMAN TRAVELSTEAD: John.

MR. HENRY: I just have a question while we're not in the heat of the moment. I realize this letter came about after seeing a very persuasive presentation on the serious decline in the eel fisheries.

But over the past few years, we've had a substantial amount of data which we've had to look at that shows no serious decline that I can see in the data. The situation that exists at the Moses Sanders Dam existed at this committee's inception and nobody was jumping up and down about it then.

Now, we have some kind of thing that we have to do really fast and send something for the federal government that says we want to have eels considered to be put on the endangered species list.

I understand the difference. I understand that's not what we're doing, but we're starting the process. My question is why? What is it in the data that I'm not seeing that shows a precipitous decline in the eel population requiring such severe and immediate action from this group?

CHAIRMAN TRAVELSTEAD: George.

MR. LAPOINTE: I guess in response, I will tell you from my experience in Maine with the Atlantic salmon and the Endangered Species Act, when you have questions, it's appropriate to start now because it's going to take a long time.

I mean, the evaluation process is very deliberate. The evaluation process engages states. The evaluation process engages stakeholder groups in the public. And it is slow. I think when -- and this is an issue that

didn't come from just the province of Ontario.

I think it came from the Great Lakes Fisheries Commission as well, and they came to us and said we have a very significant problem on the St. Lawrence. And as I understand the eels, if there is a problem on the St. Lawrence, we should be concerned about a problem for us because they all go to the same place to spawn.

And so it's just asking that they begin this evaluation process so that we -- because I have concerns. I don't want to start today, but I want the information. I want to know if our populations are in trouble or we should be concerned about those populations so we then can wrestle with the management issues.

That's why the letter is going forward. I think it's a very well-written letter. I support asking the questions again, so we can have the follow-up discussion, which we'll have plenty of time for comment on.

CHAIRMAN TRAVELSTEAD: Thank you, George. It's not my intent that we re-debate the issue of whether that a letter be sent to the services asking for action to be taken. That was done at the last Board. We're not going to rehear that unless you want to go through an extensive series of motions to reconsider.

The only issue that I lay before you is whether or not the letter that has been drafted meets what you had in mind and had directed staff to do at the last meeting. That's what I need to hear your comments on. Otherwise, it's going to go forward. Bruce.

MR. BRUCE FREEMAN: I want to address my remarks specifically to this letter, and the question I have, Jack, is really the last, well, next-to-the-last paragraph, starting with "Due to the importance" and what we're asking for is a complete evaluation of the Atlantic population.

And my question, it's my understanding that

the Commission is the one that has the information. We're the ones doing the monitoring. I'm not aware of any monitoring that the federal agency is doing independent of the states. And if that indeed is correct, then what would we anticipate the federal agency doing to evaluate the population over and above what we're doing?

MR. JOHN I. NELSON: Thank you, Mr. Chairman, and that's a good question by Bruce. I kind of had the same thing, and the staff I think addressed that at least to my satisfaction in the first paragraph, the last sentence of the first paragraph, the last two, actually, where it points out that ASMFC is going to be conducting the benchmark stock assessment next year, and that the coordination between the Fish and Wildlife Service and National Marine Service working with us would probably be the most cost-effective and efficient way of conducting that type of evaluation.

So, we recognize that we're the ones with the information, and that whatever resources that they have to help us with that stock assessment I think would be an effective way of dealing with it.

CHAIRMAN TRAVELSTEAD: Bruce, follow up.

MR. FREEMAN: I accept that, and I think all that needs to do is just have the wording changed to reflect that. That was my understanding. It was somewhat confusing to me. I thought they were going to do an independent survey, so I thought Tom Meyer was ready to put his boots on and get going. I just think some slight change of wording should certainly do it.

CHAIRMAN TRAVELSTEAD: Okay, other comments on the letter. Seeing none, then the letter will be signed by our chairman and sent forward with those minor changes. All right, Gordon.

MR. COLVIN: Thank you, Mr. Chairman. With that put aside and addressing the questions before us, I wonder if staff could put back up the slide that had the recommendations, the various outputs from the technical committee.

Reported at our last meeting were a series of suggested considerations for changes to our management program that were put forth as a result of the technical committee meeting that was held early this year.

That meeting was scheduled with a request for review and preparation of recommendations to the Board for consideration of management changes as a result of the discussion that took place at our annual meeting in December and the information that was brought forward from our partners, the Great Lakes Fisheries Commission, and others.

There's a series of items here that are suggested as appropriate by our scientific advisors for active consideration for changes to our management system. I think it's appropriate that we initiate a process now to undertake a more complete evaluation of these issues for consideration via the convening of a PDT in consultation with our advisors and in consultation with our technical committee for active development this year.

Now, I think that there are a couple of logistical questions that we need to face, one of which is how do we pay for all this and another of which is if we've only got two people signed up for the PDT so far, how are we going to enlist some more support to help make that happen, because clearly we'll need it.

With respect to the first of those questions, I know that Director Jerry Barnhart spoke up at the meeting in December and indicated that New York would be prepared to provide assistance to the Commission to help it jump start this process during the period of time that it engaged it prior to an opportunity to incorporate an eel amendment into its annual

budget cycle.

And notwithstanding all the other things that I think Jerry has probably committed himself to in the meantime, I know that he intends to stand by that commitment and to try to do whatever we can to help make this happen.

I know that we'd also appreciate some other partners stepping up and providing assistance as well. I would encourage the Board not to be discouraged with the prospect that the budget might be an impediment. I think we can solve that problem. I'm confident that we will.

With respect to the PDT, I can't offer much more than we already have, and we have the active and enthusiastic support of both Vic Vecchio from our marine staff as well as the Great Lakes Commission staff. I thank Roy for being here and affirming that.

I do hope we can find some other support because we will need a few people and a variety of opinions in order to make this happen. I have a few people in mind, and I might walk around and do some arm-twisting during the course of the Board meeting.

But, Mr. Chairman, I would hope that we can indeed proceed today. There is a sense of urgency that has been clearly communicated at the Policy Board meeting in December, at the Eel Board meeting earlier this year, and I think that we have some substantive ideas by the technical committee to consider.

Nothing is etched in stone and there is no foregone conclusions about what we ought to do and when, but there is plenty of reason to begin a process of deliberation. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you. Jaime.

DR. JAIME GEIGER: Thank you, Mr. Chairman. Certainly, we are also very aware of the seriousness of this issue, primarily through also our interactions through the Great Lakes

Fisheries Commission.

As this Commission may know, Regions 3, our Great Lakes Region, as well as Region 5, the Northeast Region, are actively engaged with the Great Lakes Fisheries Commission on a variety of issues and American eels are certainly one.

We're also involved through the Lake Champlain Policy Board and Management Committee as well, so I fully am prepared to commit resources and people, primarily from our Lower Great Lakes Office in Buffalo, our Lake Champlain Fish and Wildlife Assistance Office in Lake Champlain, Burlington, and our Maryland FRO Office in Annapolis, whatever it takes to get the necessary people to assist on either the PDT or any other assistance that is necessary.

Certainly, we are following the lead of New York, and I know Jerry has talked with Marvin Moriarty, our regional director, and we're on Board with this. I, like Gordon, think that we will be able to find the resources given this outstanding partnership that we have with the Great Lakes.

All right, I think we will have the necessary, obviously, state and political support to make this happen. I think there's a lot of reasons why we need to proceed and proceed rapidly. Thank you very much.

CHAIRMAN TRAVELSTEAD: A.C.

MR. A.C. CARPENTER: Thank you. Eels are very serious to us because it's one of our major fisheries, but at this time I really believe that we've got the cart a little bit before the horse here; and if we had devoted all of our efforts to having the stock assessment done immediately, I think the other things that are on the list here would be easier to evaluate in light of an accurate stock assessment.

We are already scheduled for a benchmark stock assessment to be done in 2005. If the

urgency is that great, I think we need to have that moved to 2004 and the balance of this discussion following the stock assessment when it's complete or as soon as we can get that done. Thank you.

CHAIRMAN TRAVELSTEAD: Could the staff comment on the probability of getting the stock assessment moved from '05 to '04?

MR. ROBERT E. BEAL: I think moving the assessment may be more of a technical issue actually than staff resources or financial resources issue. Pat Geer can probably correct me on this, but I think the collection of one more year's worth of data, young- of-the-year survey and some of the other surveys that have been started under the current Eel Plan is critical to the success of that assessment.

I think 2005 was selected to generate enough time series of data to actually be able to feed into some sort of assessment. There is still not a lot of data, but it's the best that we have right now.

CHAIRMAN TRAVELSTEAD: Pat.

MR. PATRICK GEER: Okay, from the initiation of the stock assessment, we knew we didn't have enough data. Regionally we had enough data to do a stock assessment on one area or another; I mean, Chesapeake Bay, maybe up in the Maine area, but for the entire Atlantic Coast we did not have enough information.

To this date we probably still don't have enough information to do a coast-wide stock assessment because there are some areas where the data is just still missing. It has gotten better in the last five years.

I mean, we have the juvenile survey which is going on its fourth or fifth year, depending on when they started it, and that's probably our best coast-wide dataset at this point. I don't really think you can move it forward.

You know, if Laura was in the room, she'd probably be rolling her eyes right now over that because I think it may be premature to move it forward at this point without this additional information.

CHAIRMAN TRAVELSTEAD: Okay, thank you. I have John and then Jaime.

MR. HENRY: There's quite a bit of data. This group has published it. There's the charts. We've all seen them. I don't see any precipitous decline. There's two guys in the back of the room here that have data going back for 30 years on what they've shipped out of this country, and they know what is going on.

We need to harness that kind of information and people need to ask them questions, which no one has yet asked them, and they're the biggest guys on the North American continent.

Nobody has asked them any questions yet about what is going on with eels. Nobody has asked me any questions, and I'm the chairman of the advisory committee. We're moving forward with restrictions on fishermen when I can't see any precipitous decline in the data.

The data is flat, fairly. The data at Moses Sanders Dam is very bad, but the Moses Sanders Dam is at the extreme farthest range of the eel's, the area it inhabits.

If there is any fluctuation in the Gulf Stream and the bus isn't going to the St. Lawrence River, then the eels aren't going to make it to the Moses Sanders Dam. That's as far as they can go almost.

And any fluctuation at all in their territory, because of any environmental conditions at all, are going to show up there first. Why we would base serious decisions on what is happening in that spot and not on what is going on in Chesapeake Bay is beyond me.

CHAIRMAN TRAVELSTEAD: Thank you. Jaime.

DR. GEIGER: Speaking to the point of whether it would be more appropriate to do a status review or a stock assessment in 2004 and 2005, I think we would be much more successful and have better information by doing it in 2005.

I think if we tried to put it to 2004, we're going to not get the best product we can and mobilize the available resources we're going to need to have to get the best information. Thank you.

CHAIRMAN TRAVELSTEAD: Kelly.

MR. KELLY PLACE: With regard to the five categories that the PDT is charged with, I sort of think there should be maybe a sixth one on habitat and the various types of either degradation or lack of. The only thing up there that pertains to habitat now is the eel passage.

And, as you know, it's a lot more complicated than that, but I would like to see something more specific to the broad range of habitat problems included in those categories. Thank you.

CHAIRMAN TRAVELSTEAD: Okay, thank you. Other comments. Mitchell, you're going to need to be brief and to the point, but we certainly want to hear from you.

MR. FEIGENBAUM: I don't know if it's appropriate for me to address a question to the chair, but just to follow up very briefly on Mr. Henry's remarks about our information that possess, I would ask that the chairman, what would you consider the most appropriate way to have the staff be in touch with our company, which quite clearly and not to be boastful or arrogant in any way, but we're devoted to the eel fishery 365 days a year for, as was pointed out, almost 30 years.

Our reach is from Florida up to Newfoundland.

We have fishermen along that entire range, in fact almost all of them. So what would be the most appropriate way to ensure that the information that – because we see in every report ever put out by your technical staff, the information is lacking, we're making conclusions based on only - there is so much we don't know.

We see commercial landing figures that are less than the commercial export of our companies alone. We know what we're exporting on an annual basis. And in some years you have reported or your staff has reported that the American export in that year is less than our own bottom-line numbers.

So I'm just wondering, almost like a procedural question, other than to come to meetings after – because we all know that in these processes the real hard work, the important work gets done at the committees, with all due respect.

I know that you are all – I don't want to say you're humoring me, but at this point I come here, the dirty work has been done. Conclusions have been reached. Decisions to write letters have already been made.

CHAIRMAN TRAVELSTEAD: Mitchell, let me stop you again right now.

MR. FEIGENBAUM: Yes, I'm done. I'm asking a question.

CHAIRMAN TRAVELSTEAD: No conclusions have been reached at this point. That's the point I tried to make earlier. We are at the very beginning of this process, and there will be ample opportunity for you to be involved throughout that process, and you've got to trust me on that. That's all I can do is tell you that and hope that you trust me.

MR. FEIGENBAUM: I will trust you, Jack, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Now, with respect to the data that you have, I can't

respond here specifically as to how it might be used, but I could certainly ask staff and our technical committee to look in and certainly have conversations with you about how that data might be shared.

You apparently are willing to share it, and I would assume that our technical committee is interested in seeing it. Pat, if you want to comment specifically on that, please do.

MR. GEER: I'll make this real brief. You asked what can you do from your company to help the technical committee. You're saying you're getting eels from Florida all the way up. There are some states that have no landings.

That information is not getting into the databases that we have to use, so maybe what you can do as a company, if you buy eels from Florida, you make sure you report that information to the state of Florida, so that they can put it into their databases. That would help us to do our job. If the information isn't getting into a database, we can't use it. We know that has happened.

CHAIRMAN TRAVELSTEAD: Let me suggest that the two of you, after the meeting, get together and have a much more detailed discussion about that so that we don't take up a lot of time, but I think Pat will be willing to do that, Mitchell, and hope that you will, too. Yes, Bill.

MR. WILLIAM A. ADLER: Might I also suggest that Mitchell here be looked at for an advisory panel member. I think he would be very helpful. I don't know whether the seats are filled or what, but I think it would be something worthwhile. Maybe he could talk to Tina about that.

CHAIRMAN TRAVELSTEAD: I had a discussion with Dick before the meeting started. He has an application in his hand as we speak, and I think Pennsylvania is actively considering doing just that. Thank you for your

suggestion. Lydia.

MS. MUNGER: Thank you, Mr. Chairman. As is customary, when any management changes are initiated by the Board, staff will be circulating or getting in touch with advisory panel members and states who need to appoint new advisory panel members, so staff will be in touch with each of you about your advisory panel members, if you need to reappoint some, so please look for that letter from staff after this meeting.

CHAIRMAN TRAVELSTEAD: All right, further discussion. Is there a desire to get more specific than the comments that have already been made? Gordon, you commented at length, but it wasn't clear to me whether you were suggesting that we move forward with a PID or not. Can you respond to that issue?

MR. COLVIN: Well, okay, I wasn't quite sure where we left this at the last meeting. I guess that's what was holding me back, but if it's not clear, let me make it clear. I think we need to empanel a plan development team.

I think we edged a little closer today, and maybe by the end of the day we'll get all the way to having a fully staffed plan development team. The plan development team should work in open consultation with the advisory panel, with the technical committee, to put together a PID that recommends to the Board a course of action that they believe is appropriate and warranted based on the information that has already been brought forward and presented to the Board, as well as such new information as shall be developed in consultation with our advisors, with our technical advisors and with our partners.

I think that the issues that the technical committee has already brought forward are appropriate, and there may well be others for consideration and evaluation by the plan development team.

It may well be that data that is provided -- and I

think by the way, let me say that I think it's very helpful that folks in the industry offer to provide additional data that can be used to help us get a better insight as to the status of the fishery and perhaps even the status of the resource.

I think that will enable the plan development team and the technical committee to do their jobs better. I think that's very welcome.

I don't necessarily have any predisposition that at the end of the day the PDT would come back to us with a PID that specifically says each of those things that were up there on the Board before should or be implemented on the following schedule, but I think that some of them might be, and that's fine. I think we need to get started and I think that's the way to get started.

CHAIRMAN TRAVELSTEAD: Very good. Let me ask the Board, then, is there anyone that objects to empanelling a PDT at this point? Okay, then it is so ordered.

Number 2, is there anyone who objects to the PDT working with the advisory panel and the technical committee to put together a public information document? Okay, then we will proceed along those lines. Yes, Dennis.

MR. ABBOTT: Not knowing what the composition of the Advisory Board is and we know it surely hasn't been active, should we really look at reconstituting the advisory panel at this time?

MS. MUNGER: Yes, staff plans to work on that after this meeting.

MR. ABBOTT: And do you think will be able to formulate or put together an advisory panel in time to assist with the actions you're going to take as far as developing --

CHAIRMAN TRAVELSTEAD: It's going to depend on how quickly the states respond to Lydia's request for membership.

MR. ABBOTT: Right.

CHAIRMAN TRAVELSTEAD: So it's up to you all to come back with your members, right? Okay, John.

MR. HENRY: Is the plan development team to include all biologists, or is there going to be some input from user groups at all on the team?

CHAIRMAN TRAVELSTEAD: Who wants to describe a typical PDT? Bob.

MR. BEAL: Thank you. PDT membership is not limited to just scientists. However, the membership of that group is decided and nominated by the folks around this table.

The typical nominations, just because the people at this table supervise or are in the same agencies of the folks that are usually on our plan development teams, so kind of by default our membership becomes scientists and mid-level policy people within the states and within the federal government.

But, there is nothing prohibiting fishermen or environmental groups or any other person, for that matter, from being on a plan development team if it is justified.

There's quite often academics that are put on plan development teams as well. If a state would like to nominate someone from the industry or someone from outside of our normal state and federal family, that's appropriate as well.

CHAIRMAN TRAVELSTEAD: Keep in mind, too, John, that the plan development team will be working directly with the advisory panel and the technical committee to put this document together, so you and your committee will have direct input to that group. Mitchell.

MR. FEIGENBAUM: Yes, if one

member of this Board would be kind enough to nominate me to that PDT and one member would be kind enough to second the motion and a vote could be taken, I would promise this would be my last surge on up to the microphone today.

MR. AUGUSTINE: I'll do that, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Are you making a motion, Pat?

MR. AUGUSTINE: Absolutely, Mr. Chairman. I nominate Mitchell – your last name again, Mitchell?

MR. FEIGENBAUM: Feigenbaum.

MR. AUGUSTINE: You can say it; put it in, Joe.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion?

MR. LAPOINTE: Point of order, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Yes.

MR. LAPOINTE: We've got a PDT nomination process we need to follow.

CHAIRMAN TRAVELSTEAD: We do?

MR. LAPOINTE: I mean, we've got a process for going to the states for putting things together, and I think that rather than – I mean, I appreciate his offer. I appreciate Pat's humor in trying to get this forward, but I think we should go out to the states in our normal process to make sure that we do this in the right way.

CHAIRMAN TRAVELSTEAD: All right, Pat.

MR. AUGUSTINE: Thank you, Mr.

Chairman, I withdraw my motion. But, Mitchell, I would suggest that you do fill out an application or a form with the appropriate information and make it available at your earliest convenience. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD:
Dennis.

MR. ABBOTT: Thank you, Jack. As chairman of the Advisory Panel Oversight Committee, I echo what George says. I wanted to say that before he jumped in. We will be working on a method of simplifying the advisory panel nomination process so that you won't have to go through possibly the Management Board, but that's just something that's on our agenda to work on.

CHAIRMAN TRAVELSTEAD: Very good, thank you.

MR. ABBOTT: I thank Pat for withdrawing his motion.

CHAIRMAN TRAVELSTEAD: All right, we have consensus then on empanelling a PDT and their working with the other groups to put together the public information document, so I don't think a motion is necessary on that.

Are there any other actions that the Board wishes to take today to move forward at this point? Seeing none, I assume that we're finished with that agenda item. That brings us to Item 5, review and approval of nominations to the plan development team.

REVIEW AND APPROVE NOMINATIONS TO THE PLAN DEVELOPMENT TEAM

MS. MUNGER: Thank you, Mr. Chairman. The two nominations that were submitted through the nomination process for the plan development team prior to this meeting are Roy Stein from the Great Lakes Fishery Commission and Vic Vecchio from the state of

New York.

CHAIRMAN TRAVELSTEAD:
Jaime.

DR. GEIGER: Mr. Chairman, I am certainly prepared to offer at least one nomination to the plan development team at this point in time, but again also ensure that if you want this one individual, that he or she will be coordinating with at least two or three other offices of the Fish and Wildlife Service in the Northeast Region.

CHAIRMAN TRAVELSTEAD: Thank you. Is there a need for a motion and approval of those? Is there any objection to adding those two individuals to the plan development team? Seeing none, then they are appointed. Item 6, annual reports. Lydia.

ANNUAL REPORT ON STATE COMPLIANCE AND REVIEW OF THE FISHERY MANAGEMENT PLAN

MS. MUNGER: Thank you, Mr. Chairman. The plan review team prepared the 2003 PRT report on state compliance as well as the 2003 review of the fishery management plan. There were not any states out of compliance in 2003.

The states of New Hampshire, Massachusetts, Pennsylvania, South Carolina, Georgia, Florida and the District of Columbia have been declared de minimis states and continue to meet the qualification criteria.

There is no new information presented in the FMP review. However, the Board does need to approve that document. It was circulated to the Board on the meeting week CD and there are extra copies available if Board members need them.

CHAIRMAN TRAVELSTEAD:
Comments or questions.

MR. LAPOINTE: Do we need a

motion for approval of the PRT and the plan?

CHAIRMAN TRAVELSTEAD: Yes.

MR. LAPOINTE: I mean, for the PRT report?

CHAIRMAN TRAVELSTEAD: I don't think we need -- is there any objection to approval of the FMP report? Seeing none, it is approved. Thank you, George. Item 7, is there any other business for the Board? Any final comments from anyone? John.

MR. HENRY: I just have a final comment, I guess. My concern is this, it kind of sums it up, if we're serious about helping eels, whether it's by restricting fishermen from fishing, new regulations, putting them on the Endangered Species List, if somebody thinks that's necessary, eels are a unique species in the way they come to be with us, coming to the coast the way they do in incredibly vast numbers sometimes. And to me as a fisherman, to see everybody worried about spawning mass, spawning biomass, production, and to have vast river systems -- and I'll speak specifically of the Merrimack River since that's what I'm most familiar with -- and there being a dam 12 miles-14 miles up the river, that's about 50 to 60 feet high, that the eels have a tremendous difficulty getting over.

To have the numbers of eels that we have come into the coast in the volumes that they do, and to not put some of them in a five-gallon bucket and bring them above the dam and put them in the water so that they can get over that dam and inhabit that ecosystem where they won't be exploited by any traps or anything else, they will become spawning mass, spawning biostock, right. They're all female eels in the freshwater ecosystem.

And if they aren't exploited at all by man in those small ecosystems that they end up in, they're going to go back to the Sargasso Sea and spawn.

If we're so concerned about the eels, but we will not put them in a five-gallon bucket and allow them to inhabit the ecosystems, they could very easily inhabit with small effort on our part, if we aren't willing to do that, I fail to understand how we can be so concerned about them that we want to put them on the Endangered Species List.

CHAIRMAN TRAVELSTEAD: Thank you, John. George.

MR. LAPOINTE: The state of Maine now discusses upstream and downstream eel passage with every dam project we work on because we don't think it's a function, John, of using a five-gallon bucket, because we can't be there with five-gallon buckets all the time.

But, because of that concern and because dams and on many rivers multiple dams are an impediment to eel migration, that's something that we build into our discussions on every hydro project in the state of Maine.

CHAIRMAN TRAVELSTEAD: Paul.

MR. PAUL DIODATI: Just to correct the record, that particular dam on the Merrimack has about a 500-gallon fish lift so we do elevate fish every day, especially today or in the spring time, and those do include eels. We pass quite a few American eels at that site.

CHAIRMAN TRAVELSTEAD: Thank you. Any further comments for the Board? One last comment, John.

MR. HENRY: Just to respond to that, because I have fished both above and below that particular dam, the fish that get into that elevator when it's moving is insignificant. I can fish below the dam in any given year and catch the same amount of eels year after year.

I went above the dam. I fished the eels out, did very well, went back three-four years later, and caught nothing because the eels can't get there, not in any numbers that are significant.

CHAIRMAN TRAVELSTEAD: All
right, is there a motion to adjourn?

MR. AUGUSTINE: So moved.

CHAIRMAN TRAVELSTEAD: We
are adjourned.

(Whereupon, the meeting was adjourned at 2:10 o'clock
p.m., May 26, 2004.)
