

ATLANTIC STATES MARINE FISHERIES COMMISSION  
AMERICAN SHAD AND RIVER HERRING MANAGEMENT BOARD

Swissotel Washington, The Watergate

Washington, D.C

February 19, 2002

- - -

The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Monticello Room of the Swissotel, The Watergate, Washington, D.C., on Tuesday, February 19, 2002, and was called to order at 3:00 p.m. by Chairman Jack Travelstead.

CHAIRMAN JACK TRAVELSTEAD: Ladies and gentlemen, let's take our seats if you're here for the shad meeting. If not, if you could carry your conversations outside, we'd appreciate it.

Thank you and good afternoon. This is the American Shad and River Herring Management Board. The agenda has been distributed to the board members. Each of you has that. Are there any changes anyone wishes to make to the agenda at this time? Hearing none, we'll move right along with that agenda.

Each of you was provided with copies of the minutes of the October 18, 2000, board meeting. Are there any corrections or deletions to those minutes? If not, they'll stand as presented. Thank you and the minutes are approved.

At this point we'll entertain any public comments from those of you in the audience. Is there anyone who wishes to make any public comment at this point? We will certainly accept public comment throughout the agenda. Those of you wishing to make public comment should raise your hand at the appropriate time.

We're now on agenda item number four, the report of the plan review team. Keep in mind we have two hours for this meeting and there are a number of action items that we'll have to deal with today. I don't think any of them are extremely complicated but we do want to make sure that we get through the entire agenda today. Megan is going to handle the PRT report.

MS. MEGAN GAMBLE: For those of you who want to follow along and have printed out what was provided on the CD, the plan review team is entitled review of the annual state compliance report for shad and river herring.

On August 27, 2001, the PRT convened in conference call to review and discuss the annual state compliance reports for 2000. All the

states have implemented and enforced the required provisions of Technical Addendum I and Amendment 1 to the Shad and River Herring Fishery Management Plan.

The PRT had two issues it wanted to highlight. The first was several states did not report all the monitoring requirements listed in the technical addendum and the amendment. Those states have since submitted an addendum to their annual compliance reports which included the absent information.

The second issue we wanted to highlight were there are seven states with an ocean intercept fishery for American shad. Amendment 1 to the Shad and River Herring Fishery Management Plan requires states to phase out the effort in this fishery starting with a deadline for state compliance with a 40 percent reduction effort by December 31, 2002.

And this is followed by a 100 percent reduction effort by December 31, 2004. Five of those seven states have not yet submitted a plan for reducing that effort. This issue will be further dealt with under agenda item six.

On a final note regarding the state compliance reports for 2000, the PRT just wanted to commend the state of North Carolina for a very thorough and well-written report and also the joint effort between New Jersey, Delaware, Pennsylvania and New York resulted in a thorough and well-written report for the Delaware Basin.

The PRT commends this multi-jurisdictional effort. That concludes the PRT's report for the annual compliance.

CHAIRMAN TRAVELSTEAD: Any questions of Megan? Yes, sir, Bill.

MR. WILLIAM A. ADLER: In this report you did hear from D.C.?

MS. GAMBLE: Yes.

MR. ADLER: They surfaced?

MS. GAMBLE: D.C. actually did turn it in on time.

MR. ADLER: They did put something?

MS. GAMBLE: Yes.

CHAIRMAN TRAVELSTEAD: Any other questions? Is there a motion to approve the compliance report? Made by Dave Cupka.

MR. ADLER: I'll second.

CHAIRMAN TRAVELSTEAD: Seconded by Bill Adler. Is there any

objection to the motion? The motion is approved; the report is approved. The FMP review is next.

MS. GAMBLE: A document called the Review of the Atlantic States Marine Fisheries Commission, Fishery Management Plan for Shad and River Herring was also discussed and updated for 2000 during the PRT's conference call.

The FMP review includes updated commercial and recreational landings information by state for the 2000 American Shad Fishery. This information is also categorized by river, ocean and total landings for a commercial fishery.

The commercial and recreational landings information for hickory shad and river herring were also included in the report. Under the status of research and monitoring sections, there is detailed information regarding shad restoration efforts in several states, specifically, the stocking of hatchery cultured American and hickory shad in several different river systems.

This section also reports the American shad fish passage count at select fish passage facilities in 2000. In reviewing the Shad and River Herring FMP and the state compliance reports, the PRT and the technical committee are recommending several changes.

These changes are explained in the document referred to as "Recommended Changes to Technical Addendum I and Amendment 1" and will also be dealt with further on in the agenda.

CHAIRMAN TRAVELSTEAD: Any questions on the FMP review? Is there a motion to accept the FMP review?

MR. DAVID V.D. BORDEN: So moved.

CHAIRMAN TRAVELSTEAD: Moved by Dave Borden; seconded by Cathy Davenport. Is there any objection to the motion? Seeing none, the motion is approved and the FMP review is approved.

Agenda item five is the technical committee report and there are some action items here that you'll need to be aware of. John Olney is the chair of the technical committee. We'll hear from John.

MR. JOHN OLNEY: Thank you, Mr. Chairman. I'll make a brief statement about the technical committee activities; and then as the meeting proceeds, I think there are additional agenda items that actually constitute recommendations from the technical committee and we'll take them up one at a time.

The technical committee met in September of last year in Baltimore, somewhere in Baltimore. You have in your meeting package a list of the twelve or eleven primary items that

constituted the discussion by the technical committee.

You can refer to that document if you wish. I'm not going to hit everyone of them but just a few of the highlights. The first two items, numbers two and three, dealt with the technical committee's charge to recommend a stock composition, a method to estimate stock composition of the intercept offshore fishery.

As you recall, that was one of the original charges in the amendment. And with this report, the technical committee believes that we fulfilled that request.

The technical committee heard presentations from a number of individuals. The most notable one was Dr. Simon Thorrold who is currently at Woods Hole Oceanographic Institution, but was previously at Old Dominion University.

The technical committee considered the four primary methods which we believe should be on the table for discussion to estimate mixed stock contributions in the offshore intercept fishery -- they are listed here in your document -- Natal River tagging, genetic analysis, hatchery evaluation and otolith microchemistry.

We discussed in detail all four of those methods, noting their most serious constraints and I've listed them here in your document. I'd like to concentrate, however, on the otolith microchemistry method since in the end the technical committee made a recommendation that this is the appropriate method to use in such a study.

I did not bring sufficient numbers of handouts for every individual since they were expensive color prints, but you might pass this document around. I think there are four or five so you can spread them out.

The study was titled, "Geochemical Signatures and Otolith Natural Tags of Natal Origins in American Shad", and the investigator was Dr. Simon Thorrold. The study was funded by the Virginia Marine Resources Commission, the Commercial License Board. And it dealt primarily with a study of the stocks in the Chesapeake Bay and adjacent systems.

Juvenile shad made up the material. Juvenile shad were collected from eight rivers in the Chesapeake Bay, including the Delaware River and the Chiwaun.

And Dr. Thorrold used some new laser technology and mass spectrometry techniques to look at the chemical and isotopol composition of the satutal otoliths that had been extracted from those specimens. The work was conducted at Woods Hole.

The juvenile American shad in the study were collected from the Delaware, Susquehanna, Potomac, Rappahannic, the York River System, the two tributaries, the Pomonkey and Mataponi and the Chiwaun River in North Carolina.

And the results were impressive as presented by Dr. Thorrold. If you've had a chance to see this color figure here, it's essentially an ordination diagram and the separation among the datapoints; that is, the clusters of datapoints that are color coded is indicative of whether or not the American shad juveniles in those collections were easy to classify as to their natal stream origin.

Dr. Thorrold looked for major chemicals such as calcium, magnesium and barium and he also analyzed isotops of oxygen and carbon in the analysis.

And as you can see, visually, almost all of the river systems that he analyzed were easy to classify. In fact, he was able, through his mathematical algorithms, to show 95 to 100 percent correct classification for all but two of the rivers; those two rivers being, interestingly, a tributary of the York River, the Pomonkey, and the Chiwaun River.

And so he concluded that the geochemical signatures appear to be almost unique signatures of natal rivers for juvenile shad throughout the coast. Now you may recall that Dr. Thorrold had previously published similar results for the Connecticut and Hudson Rivers.

So these data added to his previous results and he presented these to the technical committee, and the committee accepted these results feeling confident that a recommendation of otolith microchemistry was the most appropriate method to apply to the question of mixed stock composition.

I'll move on to item number four. The technical committee also discussed the upcoming required peer review and the need for a coastwide stock assessment. The first question that came up was where was their stock assessment subcommittee?

It wasn't clear at that time so we reformulated the stock assessment subcommittee. The names of those committee members are listed in your document. That committee met by conference call in December to formulate some recommendations based on the questions that the technical committee asked of it; those questions being can state compliance reports serve as the stock assessment for this upcoming peer review? And if not, what is needed?

And I believe that we return to that item as soon as I'm done with this. Okay, so I'll pass on that. I'd like to note in item

number seven that Dr. Richard McBride of the Florida Fish and Wildlife Conservation Commission was elected as their vice-chair and will serve as chair of the technical committee at the end of my term.

We also had a -- this is item number eight -- a presentation by Mike Hendricks, who is chair of the OTC Task Force. Mike presented results of the hatchery efforts that are underway along the coast and brought our attention to requirements in the amendment for unique marking by each hatchery and each river system.

The technical committee discussed his presentation. The primary premise of Mike's presentation was that requiring unique marks for each river system adversely affected hatchery production. And if we could remove that requirement, then hatchery production could increase.

The technical committee was convinced by his arguments that that was a reasonable idea although there were some questions concerning that. And, again, I believe that that's an item that we take up later on in our agenda.

And lastly, item number eleven, the technical committee discussed the guidelines for the upcoming 40 percent reductions in effort for the offshore fishery, the first of which is upcoming.

And we debated this issue a bit, but after some discussion the TC unanimously recommended that states reduce effort in this upcoming round based on the best available data on effort in each jurisdiction between the time periods 1992 to 2001.

That was a recommendation from the TC, and, again, I believe that comes up in later discussion. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Any questions of John on his report on any of the issues? We are going to take up several of these almost immediately following on the agenda, but are there any questions? Seeing none, John, are you going to talk about the recommendations of the stock assessment subcommittee?

MR. OLNEY: I have them in front of me. I can do it or you can do it, Megan.

CHAIRMAN TRAVELSTEAD: Yes, why don't you go through those as well.

MR. OLNEY: Okay. I understand that you also have the summary of the conference call by the stock assessment subcommittee in your meeting package. I won't go through each of these items but just hit on the two primary ones.

The first question that the committee considered was should the shad assessment be delayed? Of course, the issue there is that the commission requires that American shad undergo a peer review stock assessment every five years, and the last assessment for American shad and river herring was prepared in 1998, so the year 2003 is the anniversary.

The discussion centered around data availability and the need for an updated assessment. You can read through the discussions but cutting to the bottom line, the recommendation from the stock assessment subcommittee was that this scheduled stock assessment should not be delayed solely on the basis of data availability. I'll come back to that in a moment.

There was discussion in the conference call about the calculation and concept of natural mortality and a recommendation to include natural mortality as estimated by Pauly's or Hoenig's methods.

There was a discussion of the ocean harvest data and a recommendation that every feasible effort should be made to tabulate landings and collect adequate biological data to characterize the ocean fishery harvest. Of course, that's one of the mandates.

And they considered the question of whether or not current annual state reports would serve adequately for this upcoming stock assessment. The answer was simply, no, the state reports will not be adequate.

And, lastly, how should this future assessment be updated? The discussion centered around the idea of regional work groups, assessment of individual stocks by individuals that were particularly familiar in a regional sense with those individual stocks. And that was the primary recommendation on that question.

And then, lastly, the stock assessment subcommittee continues to recognize technical problems that we're having on aging American shad, and they recommended another workshop to address those methods.

CHAIRMAN TRAVELSTEAD: Any questions of John on the stock assessment subcommittee report? Yes, Bruce.

MR. BRUCE FREEMAN: Thanks, Jack. There's an issue that the commission has been involved with, this Power Plant Subcommittee which is looking at the additive impacts of fishing mortality -- shad is one of the species -- the mortality contributed by power plant mortalities on a river-by-river system.

Is this somehow meshed within the stock assessment subcommittee?

How is that? Is there an interplay there?

MR. OLNEY: Well, I guess I don't know exactly what you're talking about. Most of those power plant related -- excuse me.

CHAIRMAN TRAVELSTEAD: Byron might have a -- do you have an answer to that, Byron?

MR. BYRON YOUNG: What Bruce is referring to is a Management and Science Subcommittee related to power plants. That committee has been active in looking at that. We were going to look at American shad and winter flounder.

American shad, we didn't feel there was enough data. Winter flounder, there were some problems with the stock structure and how to look at that on a larger basis. So, we have chosen menhaden as the species we're going to work with, so shad has come off the table as the species that, I think, we were all familiar with when it started.

MR. FREEMAN: Byron, didn't New York do work on the Hudson for shad?

MR. YOUNG: Yes, we have some work for the Hudson River on shad.

MR. FREEMAN: Right.

MR. YOUNG: And I don't know if I can tell you exactly where that is. I know Andy and Kathi have a stock assessment for the Hudson River that they have been working on, and I don't believe it has been out for a complete peer review. I don't think they are finalized with it.

CHAIRMAN TRAVELSTEAD: Other questions. Does that answer your question, Bruce?

MR. FREEMAN: Yes. I don't like the answer but it answers it.

CHAIRMAN TRAVELSTEAD: Right, not much we can do about it. Let's go back to one of the recommendations in the original technical committee report that we need to provide an answer to today, and that is the question of the baseline that would be used by the various states with ocean fisheries, a baseline that would be used to determine the 40 percent reduction which is due at the end of this year.

The technical committee has recommended using the time period 1992 to 2001 for determining that degree of effort from which the 40 percent reduction is determined for the ocean intercept fishery. Is there any discussion on this item? Yes, Roy.



MR. ROY MILLER: Mr. Chair, and John, perhaps, I'm wondering if the year 2001 included some reduction in effort on any of the jurisdictions involved in the ocean intercept fishery since that was the first full year of implementation of the revised shad plan schedule.

If in fact 2001 included some reductions in effort, then it probably should not be used as one of the base years. Coincidentally, I examined our effort estimates over the past ten years, and our effort for one reason or another was down appreciably in 2001.

I think I understand why that is. I suspect it has a lot to do with the implementation of the harbor porpoise compliance issues, the changes in gear type and that kind of thing. So, I'm just wondering if the technical committee considered that when they accepted 2001 as one of the base years.

MR. OLNEY: I do not think so. In our discussions we focused more on the earlier date, how far back should we extend the time period? I think those are good points.

CHAIRMAN TRAVELSTEAD: As far as I know, only one state has actually submitted a proposal as to how they will go about achieving the 40 percent reduction, and that's North Carolina.

MS. GAMBLE: Rhode Island recently submitted a plan, also, for reducing their effort.

CHAIRMAN TRAVELSTEAD: So I can tell you Virginia has not begun to implement any regulations. Roy.

MR. MILLER: We have not begun either. In conversation with Dale Weinrich from Maryland, Dale was looking into the concept of seeing if they could gain some credit for the Harbor Porpoise Reduction Act that took place, in which case 2001 would be one of those years.

CHAIRMAN TRAVELSTEAD: It would certainly make sense to me. I don't know how others feel about it. Bruce.

MR. FREEMAN: I interpret this two different ways when I read it and I just need clarification. Is this meant to be that the landings, the average landings between 1992 and 2001 or are those two specific years?

MR. OLNEY: Not landings but estimates of effort.

MR. FREEMAN: All right, then effort. Is it the period '92 through 2001 or is it just '92 and 2001, those two --

MR. OLNEY: No, it's the entire time period.

MR. FREEMAN: And is it that a state chooses the best information or it uses that period, because it indicates here that the best data be used.

MR. OLNEY: As we framed the recommendation, each state would decide which way to approach their plan as long as the baseline for historical effort fell within that time period.

MR. FREEMAN: All right. So, as I understand the issue Roy has, Delaware, if that was an unusual year, could choose not to use it but the other years within that period they could; is that correct? If for some reason a state took some action or some circumstance occurred where their catches were severely depressed, they would be given the option not to use that particular year. Is that so or is that my interpretation?

MR. OLNEY: That's correct.

MR. FREEMAN: Then I think, Roy -- and, again, I'm not sure if we have a similar situation, but so long as a situation arose and it could be explained, then a state would have the option to use the best data they have.

CHAIRMAN TRAVELSTEAD: Keep in mind, too, that each of these plans, as the states come forward with them, will have to be reviewed by the technical committee. So, questions that arise will be answered eventually.

The point here is that we are putting everyone on the same ground level to start with and that's the recommendation of 1992 to 2001. The Chair will accept a motion on this matter if anyone is prepared to make one. David, question?

MR. BORDEN: Thank you, Mr. Chairman. Kind of along the lines of Roy's question in terms of the calculation of baseline, it's a little bit unclear to me how we're going to factor in all the changes that have taken place.

If you were to look at almost any of the New England states, Massachusetts, New Hampshire, Maine, certainly Rhode Island, because of the fleet of groundfish restrictions that we've imposed up there, the fisheries that have been affected up there are ocean intercept fisheries where there is a legitimate bycatch that is taking place.

We've implemented a whole series of restrictions like harbor porpoise reductions, blocks of days out of groundfish, closed areas, closed seasons. We've increased the mesh size very substantially.

It's a little unclear to me how we're going to factor those types of changes in what the metric is for factoring those types of changes into it.

And then I have to apologize because it has been so long since we dealt with this issue in particular, it's a little unclear to me whether the reduction is for the directed fishery or the bycatch fishery, and if I could just get some guidance on how bycatch fisheries are affected.

And I know I've raised this concern before but if I can get that clarification, I've probably got one more point I need to make.

CHAIRMAN TRAVELSTEAD: There is, further back in the material that was provided to you, a quote directly out of Amendment 1 to the plan that's found on page 50, and I'll read it to you. Well, it does, I think, perhaps address your question.

It says, "Begin a phase-out reduction plan for the commercial ocean intercept fishery for American shad over a five-year period. States must achieve at least a 40 percent reduction in the first three years beginning January 1, 2000.

"States with directed ocean intercept fisheries will determine how to achieve this effort reduction and submit a proposal per certain sections of the plan." So it's directed.

MR. BORDEN: Thank you very much, Mr. Chairman. This, I think, points out what my original confusion was when we adopted this. I voted for it when it came up, but I think I pointed out the same thing that I don't think there's a definition in the plan of what constitutes a directed fishery. Is there a definition in the plan? I see someone shaking her head.

MS. GAMBLE: In the plan --

MR. BORDEN: Please correct me.

MS. GAMBLE: -- it doesn't define directed but it defines what an indirect or a bycatch fishery is. And the definition, "States with non-directed harvest of American shad in ocean fisheries can permit the landing of this shad bycatch provided the American shad do not constitute more than 5 percent of the total landings in pounds per trip."

MR. BORDEN: Okay, and I'll just use Rhode Island as an example of this. Our shad catch is predominantly in the fish trap fishery, which might land somewhere between 3 and 4 million pounds of fish in six weeks.

Last year I think the total catch was somewhere on the order of 17,000 pounds, which probably is about 1/10 of 1 percent. It's my analysis.

So, I mean, is my assumption here that Rhode Island falls in -- and I use this to make the point for the other states -- is my assumption correct that Rhode Island is a bycatch state and therefore needs to do nothing? We've eliminated the directed fishery in rivers and streams of the state. That we've done.

MS. GAMBLE: I came across this issue when I was preparing for the board, and two states came to mind that had requested bycatch status in the past. One was New York and one was Rhode Island.

The board has discussed this issue and found that Rhode Island could not qualify as bycatch because it wasn't per trip, and, therefore, they decided it was a directed fishery.

CHAIRMAN TRAVELSTEAD: So we'll look forward to your report, David, in the next few months.

MS. GAMBLE: And Rhode Island has submitted a plan for reducing their effort.

CHAIRMAN TRAVELSTEAD: You've already submitted a plan; why are you asking these questions?

MR. BORDEN: I know, Rhode Island has already -- and I won't belabor the point -- Rhode Island has submitted a plan, but I would be deluding my good friends around the table if I thought that that was necessarily going to be implemented by our Marine Fisheries Council.

I think there's a low probability that it's going to get adopted. But, I can assure you that we'll probably be back discussing this issue in the future.

CHAIRMAN TRAVELSTEAD: We will look forward to your comments. Thank you. Bill.

MR. WILLIAM GOLDSBOROUGH: I think Dave raises a pretty important point, at least one that I don't fully understand, and that's the potential for fisheries essentially to continue but just calling their catch bycatch. Is that scenario possible under the current plan? Do we need to do something about that?

CHAIRMAN TRAVELSTEAD: Well, yes, I think it will be possible for some catches to continue in the form of bycatch, but there's apparently a 5 percent provision per trip that would be the limit on those that would be allowed under the current management plan. Does that address your concern?

MR. GOLDSBOROUGH: Yes, I suppose it does. I guess I need to reread that section. Is that 5 percent of the catch per trip?

CHAIRMAN TRAVELSTEAD: Five percent of the total catch on board the vessel per trip, yes. All right, any other questions on this? Yes, Paul.

MR. PAUL DIODATI: Megan, you just mentioned that two states were recognized as bycatch status states. Is that different than de minimis?

MS. GAMBLE: Yes, it is different from de minimis. There's different definitions for those two.

CHAIRMAN TRAVELSTEAD: A.C.

MR. A.C. CARPENTER: When you're finished with this issue, I have another issue with the report that I want to bring up.

CHAIRMAN TRAVELSTEAD: Okay, we need to get a motion on this issue that would relate to the appropriate years to be used as a time frame. Bill.

MR. GOLDSBOROUGH: Yes, I'll move to accept the technical committee's recommendations.

CHAIRMAN TRAVELSTEAD: All right, very well. Is there a second?

MR. LEWIS FLAGG: Second.

CHAIRMAN TRAVELSTEAD: Yes, we have a second. Are there any comments on the motion? Preston.

MR. PRESTON PATE, JR.: Thank you, Jack, just a matter of clarification because I didn't follow very closely the conversation earlier about the impact that our efforts to reduce efforts -- actually it was landings since that was the only measure of effort that we had -- in not only 2001 but 2002 would affect our analysis.

I'm sorry to make you do that again. I just didn't understand what the conclusion was on that point. I mean, our landings, our efforts, if you want to call it that, were skewed by the reductions that we put into place in 2000 and 2001. So when we take those into account in establishing our baseline, do we just take those two years out?

MR. OLNEY: The technical committee recommendation can be very liberally interpreted, so any years of data between 1992 and 2001 could be used to establish this baseline.

So if you chose to ignore 2001 and 2002 and use other years, then the technical committee would consider that within the original recommendation.

CHAIRMAN TRAVELSTEAD: Does that help you, Pres?

MR. PATE: Yes, it does. That won't be hard to do. I've tried to ignore the whole requirement, so ignoring the years will not be very difficult at all.

CHAIRMAN TRAVELSTEAD: You and me both. I've got Roy and then John.

MR. MILLER: Mr. Chairman, do we need to amend this motion to include some wording such as John just proposed? If so, I would offer this amendment or addition to the motion, as you will: "Unless a jurisdiction can justify a different array of years to the satisfaction of the board".

CHAIRMAN TRAVELSTEAD: Okay, let me go back to the maker of the motion and see if he has a problem with that. Bill?

MR. GOLDSBOROUGH: Not at all.

CHAIRMAN TRAVELSTEAD: Okay, so he will accept that as a friendly amendment. And, who seconded the motion? Was it Roy Miller? I mean, Lew, you don't have any problem with that? Okay, we have a new motion, then. Lew Flagg seconded the motion. We have an amended motion. John Nelson, you had a comment?

MR. JOHN I. NELSON: Well, again, I guess it's relating to what Pres was saying and that is are you using -- in that time frame are you using X number of years and X could be one or two or three or four or five?

And it seems to me we're saying that you're using your -- well, this says "best", but I guess from the standpoint of if I was a state, I'd be looking at my heaviest landing year and then saying, well, okay, I'm using that as my base year and, therefore, any reductions that I concede from whatever measures are going to be counted against that baseline. Is that what the intent is for us, that we could pick one year out of that if we needed to?

CHAIRMAN TRAVELSTEAD: From my perspective, it's not the intent of the motion. Recognize that these plans must be reviewed by the technical committee and approved ultimately by this board. I think if we saw a state was attempting to do something like that, we might draw attention to it. Bill and then Roy.

MR. GOLDSBOROUGH: It was my impression that the amendment of the motion addressed that concern. In other words, the motion means

you use the ten-year time frame unless the jurisdiction justifies the use of a different array of years the way it is written.

CHAIRMAN TRAVELSTEAD: It certainly makes it clearer. Roy.

MR. MILLER: I think Bill covered what I was going to say. I was going to suggest unless a jurisdiction can justify the use of a different ten-year array of years, but if that's understood, then I'm okay with it.

CHAIRMAN TRAVELSTEAD: Any other comments on the motion? Preston.

MR. PATE: Again, just for a point of clarification, Mr. Chairman, Bruce was corrected earlier in his use of the term "landings." I just want to make it very clear that when it comes time for the technical committee to review the states plans, that North Carolina has no other measure of effort than landings.

And I made this argument when the amendment was adopted originally, that it's improper -- in our sense, anyway, it's an improper use of terminology. The only data that we have is on landings and the reductions that we've made so far are in landings.

CHAIRMAN TRAVELSTEAD: I think several of the other states are going to find themselves in the same situation. I guess Virginia probably will.

And, you know, I would just note that in other management plans where we have had to make reductions -- and they are generally referred to as reductions in effort -- we have always used landings as a proxy for effort. Any other comments? Bruce.

MR. FREEMAN: I understand the statement, Jack, of using landings, but I'm just curious of the feeling of the board if in fact you could use season as a surrogate. For example, if the season is two months long and you reduce it -- if you need a 50 percent reduction you reduce it to one, if in fact it can be demonstrated that the same amount of nets or the same amount of fishermen are operated over that period.

CHAIRMAN TRAVELSTEAD: I don't think we need today to begin to decide how a state needs to do this and that's why it's going to go to the technical --

MR. FREEMAN: It would be up to the state to make the argument?

CHAIRMAN TRAVELSTEAD: Absolutely, sure. I mean, right now you have all the flexibility you need provided you're within this time period or can justify a different one. Lew.

MR. FLAGG: Thank you, Mr. Chairman. Might I suggest that for clarification, we might consider adding in there that landings reductions may be used in lieu of effort reductions, if that would make people feel more comfortable, that in fact that would be understood that landing reductions could be used in lieu of effort reductions.

CHAIRMAN TRAVELSTEAD: Any other questions? Yes, sir.

MR. DICK SNYDER: Dick Snyder, Pennsylvania. Is it a given that that different array of years is still within that ten-year window, or will we revisit that a year from now when all the exceptions come in?

CHAIRMAN TRAVELSTEAD: Well, it's my understanding that you're within that period of time listed there. Is that everyone else's understanding? Then we will make sure that the record so states so that we don't have to readdress the issue next year.

Any final comments? Seeing none, are we ready to vote on this? Do we need a caucus? Apparently not. I'll read the motion: The motion, "Move to approve the technical committee's recommendations for using the 1992 through 2001 time frame for determining the degree of effort in the commercial shad ocean intercept fishery unless a jurisdiction can justify the use of a different array of years."

Are we ready to vote? All those in favor, please raise your right hand; keep your hands high, please; opposed, like sign; abstentions, one abstention; null votes. The motion carries. Thank you.

Before we move on to the next agenda item, there were a couple of issues in the report from the stock assessment subcommittee, and I'm not sure if the board wants to take any action on these or not. The first was should the shad assessment be delayed? A.C.

MR. CARPENTER: Mr. Chairman, before you get to that, there is an item on the technical committee's report, item 9, letter D, requesting a change in table 2 designating the PRFC as responsible for the spawning stock survey in the Potomac.

This is part of an ongoing project that the Maryland Department of Natural Resources has been doing and will continue to do, and we do not need to be named in this particular document for that particular study. I would move that you strike "PRFC" from that section.

CHAIRMAN TRAVELSTEAD: Okay, we have a motion to remove PRFC from the language that is found in Amendment 1, table 2. Is there a second to the motion? Seconded by Eric Schwaab. Comments on the



motion?

MR. CARPENTER: Eric has got to do the work.

CHAIRMAN TRAVELSTEAD: Okay, comments on the motion?

MR. OLNEY: Thank you, Mr. Chairman. I guess I'd just make a comment of clarification here. The technical committee notes that of all of the major stocks of American shad in its native range, the stock inhabiting the Potomac River is the one stock for which we do not have a monitoring program for the spawning stock run.

So all of the other states and all of the major stocks are mandated to conduct spawning stock assessments. But, unfortunately for the Potomac River and the Chesapeake Bay system, we at present do not have an ongoing monitoring program for the spawning stock run.

So that really is the primary concern of the technical committee and one which we would like to see it addressed at some point. Thank you.

CHAIRMAN TRAVELSTEAD: Any other comments? Ernie.

MR. ERNEST E. BECKWITH, JR.: Thank you, Mr. Chairman. And in the same 9 section that A.C. was just referring to, Item F, this change is going to establish a five-year time line for the state of Connecticut to do a recreational creel survey in the Connecticut River.

The issue here is that a good portion of the total rec harvest in the river occurs in the state of Massachusetts. Will this change include that for Massachusetts they'll have to do that creel survey, also?

CHAIRMAN TRAVELSTEAD: Ernie, this is an item that's going to come up a little bit later on the agenda. I think there are several of these types of changes that will need to be made or are going to be suggested to be made.

MR. BECKWITH: Okay.

CHAIRMAN TRAVELSTEAD: So I'd like to take that up at that point. Thank you. Any other comments on A.C.'s motion? John.

MR. NELSON: Yes, I'm a little confused. If A.C. isn't going to be able to get out in his boat and do the survey, is it the District of Columbia or has he got Eric going out there? Who should show up on this, who's name should show up here to go out and do the survey?

CHAIRMAN TRAVELSTEAD: Eric.

MR. ERIC SCHWAAB: Well, I seconded the motion on the assumption that our juvenile index would suffice, and the existing striped bass spawning stock survey.

CHAIRMAN TRAVELSTEAD: So the answer is Maryland will show up out on the river.

MR. NELSON: Well, D.C. has some problems in showing up with reports, so I just wanted to make sure that we weren't putting an additional burden on them.

CHAIRMAN TRAVELSTEAD: I understand your point now.

MR. NELSON: No, I just wanted to make sure that we -- is the great state of Maryland who is showing up here on this table to --

CHAIRMAN TRAVELSTEAD: I'm sure they will.

MR. NELSON: All right.

CHAIRMAN TRAVELSTEAD: Other comments? Are we ready to vote on the motion? All those in favor of the motion, please raise your right hand; opposed raise your right hand; abstentions; null votes. The motion carries.

Okay, let's take a look at the stock assessment subcommittee report. There were a number of issues that were discussed there and each of them contains a recommendation. It's not clear to me how significant you believe each one of these issues is and whether or not you want to discuss them individually.

For instance, if we agree with all of the recommendations of the stock assessment subcommittee, we could possibly deal with this with a single motion to accept their recommendations. Okay, Megan says we don't even have to do a motion as long as there is consensus to accept the recommendations.

On the other hand, if some of you feel strongly about one of these issues and want to discuss it, we've got three minutes on the agenda to do that. Yes.

MR. SNYDER: Dick Snyder from Pennsylvania. Jack, there's a couple in there I think we at least need to have some commentary because as I hear from my colleagues, many of the staffs are getting inundated with things that a few of these things may merit some discussion, and I'd hate to lose the flavor of it by one broad, sweeping vote.

CHAIRMAN TRAVELSTEAD: Okay, do you want to bring up those that

are of concern?

MR. SNYDER: Well, the first one is a good one.

CHAIRMAN TRAVELSTEAD: All right.

MR. SNYDER: At least the mandated stock assessment -- and granted maybe on the Delaware, we have a slightly twisted view, but we're optimistic that the four jurisdictions will pull off a major monitoring and evaluation of the recreational catch this coming season from March through the fall.

We'd hate to get into a stock assessment work without that good kind of data. Just to go through it because it's mandated, we wonder if a year wouldn't be better spent, but, again, it's only one system.

And I know where John's coming from that we have good data elsewhere, but we're concerned about overwhelming staff with perhaps a review that is based on some really scanty data.

CHAIRMAN TRAVELSTEAD: John.

MR. OLNEY: I'm not exactly sure how to answer that. I understand completely your point, and I think that point is reflected in some other areas, too. With respect to estimating recreational landings and effort, for most of the jurisdictions that's a mandate that's on a five-year cycle, and this coming year is the first year of that cycle. So, I understand your point.

I guess I would also like to say at this time that even though this was the stock assessment subcommittee's recommendations, the technical committee has not unanimously endorsed all of these recommendations.

In fact, the technical committee has not had an opportunity in a gathered meeting to discuss the stock assessment subcommittee's recommendations.

Megan distributed them by e-mail and we did receive some e-mailed comments, but there are some minority opinions, mine being one of those, that a delay in this upcoming stock assessment is warranted, partly for the reason that you just pointed out and also for the reason that a delay in the assessment might be appropriate, given the fact that we are now beginning to reduce the ocean intercept fishery.

The stock assessment subcommittee identified the unknown stock composition of the ocean intercept fishery as being one source of uncertainty in our past stock assessment and in this future one that is planned.

That seems to me, personally, a minority view, perhaps, to argue to delay the stock assessment until after the ocean intercept fishery is fully closed; thereby, we could avoid at least one source of uncertainty that has plagued the technical committee in the past. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: John Carmichael.

MR. JOHN CARMICHAEL: Yes, John Carmichael on behalf of the stock assessment subcommittee. There's kind of a subtlety in the recommendations that the stock assessment subcommittee has regarding this issue.

It really centers around the fact that this is a mandated assessment based on a five-year trigger. So in looking at the data that's there and looking at the assessment that was done last time, the bottom line is that assessment could be updated.

But, that assessment was probably somewhat controversial and difficult to create in the first place. If the board is aware of that and is satisfied with the assessment as it was and thinks there's some useful information to be had, if that's simply updated, then we can meet the mandate and update that.

But the stock assessment subcommittee also recognizes all of the shortcomings of that assessment and realizes that the additional data have not really been collected in earnest to this point. So if you wanted something better than that assessment or to address some of the shortcomings in that assessment, then you have reason to delay.

You really don't have a reason to delay just based on simply data availability. We feel it's more like something the management board should really discuss relative to what they want and what their management goals are since it is an ASMFC-mandated deadline.

And the issue with the ocean intercept fishery is interesting because eliminating the fishery will still leave the data question there. The fishery occurred. It has been going on. There is some unknown level of landings. There's an unknown age structure associated with those landings.

If you think about our assessment techniques, we work back in time, typically. So the fact that fishery ever existed is going to present us a problem.

And we did talk a lot about the ocean intercept and what we might do when that's closed, but it might eliminate the problem getting bigger when the fishery is closed but we're still going to have an analytical problem to resolve from that fishery.

The fact that it occurred is going to affect our results since we don't know the magnitude of its landings. So I don't want you to get false expectations that when that fishery is closed it will go away as a problem. It will still be a problem analytically for us to resolve.

CHAIRMAN TRAVELSTEAD: Other comments? It may be appropriate that we send these subcommittee issues to the full technical committee and ask for a report back -- I believe we're going to be meeting in August -- before we make a final decision. That's just a thought. Is there any objection to doing that? Yes, Bruce.

MR. FREEMAN: I don't have an objection but just clarification. When the report was given originally by John, the subcommittee report was provided to the technical committee but there was no time for discussion; was that correct?

CHAIRMAN TRAVELSTEAD: John.

MR. OLNEY: No, that's not exactly correct because, as I said, Megan distributed the recommendations from the stock assessment subcommittee to the technical committee for review and comment.

All of this, unfortunately, occurred in a rush over the Christmas holiday season, so that the members of the technical committee have had an opportunity to comment on the recommendations but we haven't heard from every individual.

MR. FREEMAN: And was that comment simply on an individual basis or is that going to be in a conference call or a technical committee meeting?

MR. OLNEY: As I understand what the Chair is recommending is that we take up the recommendations from the stock assessment subcommittee at the next technical committee meeting.

I personally favor that approach since it would give John Carmichael and Andy Kahnle and others an opportunity to perhaps explain to us what methods they might use and whether or not our particular concerns are reasonable.

MR. FREEMAN: Well, the question I ask is rhetorical and apparently it was sent to the committee members, but there wasn't a committee period for discussion. It was just sent to individuals and those individuals asked to comment, some of which did and some of which didn't; is that correct?

MR. OLNEY: That's correct. I think there may have been five or six committee members who were in favor of the recommendations and there were two committee members who had questions.

CHAIRMAN TRAVELSTEAD: Is there any objection, then, to sending the subcommittee report to the technical committee for review? Seeing none, then that's how we will proceed. That takes us to the next agenda item. Yes, Eric.

MR. SCHWAAB: I'm sorry, there is another issue in the technical committee report that I wanted to make sure we covered, and we seem to have slipped by it and maybe going back to it is unnecessary, but item number eight in the technical committee report that deals specifically with marking protocols for restoration --

CHAIRMAN TRAVELSTEAD: Yes, that will be an issue that -- the unique mark concept?

MR. SCHWAAB: Yes.

CHAIRMAN TRAVELSTEAD: Yes, that's going to come up shortly.

MR. SCHWAAB: Oh, thank you.

CHAIRMAN TRAVELSTEAD: Okay, immediately following in your packages, the stock assessment subcommittee report is a document entitled, "American Shad Commercial Ocean Intercept Fishery State Effort Reduction Plans", and you will see two action items listed on page one.

We have dealt with the first action item. The second has to do with a schedule for the states to achieve the 40 percent reduction. Megan is going to take us through the two options that are presented there, but this is an action item for the board today.

MS. GAMBLE: The first section of this handout -- well, the first section is the words from the amendment that states the ocean intercept fishery needs to be phased out over a five-year period.

The second section of this document refers to a staff memo that was sent out that clearly states the states need to comply with the 40 percent reduction by December 31, 2002, and that the 100 percent reduction, the states need to comply by December 31, 2004.

The second page of this document -- I'm going to skip over some of this -- the second page of this document summarizes the effort reduction plans submitted in 1999 within the fishery recovery plan.

The exception to this generalization is the state of North Carolina which has established a total allowable catch divided among the northern and southern portions of the state. In conjunction with that total allowable catch, North Carolina is

setting up a permitting system for the American shad ocean intercept fishery.

Rhode Island has also recently submitted a plan that would reduce the number of days the floating traps would remain in the water because the traps are assumed to have a constant fishing effort.

The remaining five states have not submitted an effort reduction plan. Rather, they have submitted possibilities for achieving the reduction in effort. The technical committee has not reviewed any of the reduction plans or ideas for reducing effort in the ocean intercept fisheries.

As mentioned earlier in the PRT's compliance report, the PRT was concerned about the states achieving this requirement. To facilitate compliance with this portion of the amendment, the PRT offers two different time lines for meeting the 40 percent effort reduction by December 31, 2002, also allowing time for the technical committee and the advisory panel to review these plans.

The major difference between the two time lines are that Option 1 provides a little less than two months to develop the effort reduction plans and a greater time to implement those plans, allowing states more time to make whatever regulatory changes are necessary.

Option 2 provides more time to develop the effort reduction plans, about four months to implement the effort reduction plans. I'd also like to point out that the budget for shad and river herring is tight this year.

The second option also coincides with the plan's annual compliance report deadline, which means this year's technical committee meeting would accomplish, well, now three purposes: reviewing the annual state compliance reports, the effort reduction plans.

Finally, the PRT submitted these two options to the technical committee members that have an ocean intercept fishery in their state and asked which time line seemed feasible from their perspective.

Of those seven states, three didn't respond, one thought it was inappropriate to respond and three felt that Option 2 provided them with the necessary time to develop an effort reduction plan.

CHAIRMAN TRAVELSTEAD: So much for consensus. Well, I think Megan has made it clear that the budget is tight for this management board. There will be only one meeting of the technical committee for the remainder of the year and at that meeting they must not only review these plans, but all of the other responsibilities we've given to them.

The staff seems to prefer Option 2. I prefer Option 2. I don't know how you all feel about it, so we need to have some discussion on the item.

The thing that jumps out to me is the deadline for the states to submit phase-out plans. The dates are either April 12 or July 1, and I can tell you it would be very difficult I think for some of the states to prepare plans of this nature by April 12. David.

MR. BORDEN: Move we adopt Option 2.

CHAIRMAN TRAVELSTEAD: We have a motion to adopt Option 2 made by Dave Borden; seconded by Byron Young. Comments on the motion? Everyone ready to vote? Do we need to caucus? Apparently not. Can we do this by a voice vote?

All those in favor say aye; opposed, no; any abstentions, one abstention; any null votes. The motion carries. Option 2 is approved. That was easy enough.

Okay, the next agenda item is a request from the state of Maine for de minimis status.

MS. GAMBLE: The state of Maine has submitted a request for de minimis status in the American shad recreational and commercial fisheries.

Included in your briefing materials, you should have come across a letter from the state of Maine. Attached to the letter are two tables that show Maine's commercial and recreational shad landings are 1 percent of the coastwide total recreational and commercial landings for the past ten years.

Although the PRT has some problem with the interpretation of de minimis status as it is currently written in the plan, the PRT recommends that the board approve Maine's request for de minimis status in both the commercial and recreational American shad fisheries.

The PRT would just like to ask the state of Maine provide the same tables attached to this letter of request in their annual compliance report updated with the current year's landings.

CHAIRMAN TRAVELSTEAD: Lew, would you like to add anything?

MR. FLAGG: Thank you, Mr. Chairman. I think the letter is pretty self-explanatory. Basically what we're asking for is to be exempt from the requirement to sub-sample commercial and recreational catches for biological data.



We have no commercial fishery in Maine. It was closed four years ago, in 1998. We have a two-fish recreational creel limit and hook-and-line fishery only in all state waters.

I would also add that we are going to, obviously, continue to do biological sampling at fish passage facilities on the Androscoggin and Saco Rivers. The Saco River actually has a fairly good recreational fishery in the estuary so in a sense we will be biologically sampling.

The utility does the work at that site because there's a hydro-electric dam, and they are biologically sampling the run for age and sex composition. So, in effect we will be getting good data in that area where we do have a recreational fishery.

CHAIRMAN TRAVELSTEAD: Would you like to make a motion, Lew?

MR. FLAGG: I would move that the state of Maine be granted de minimis status.

CHAIRMAN TRAVELSTEAD: Second to the motion by Vito. Any discussion on the motion? We're ready to vote? Roy.

MR. MILLER: I just had a question for Lew. In your handout, Lew, there's a table there, "commercial and recreational landings in Maine". Those recreational landings, the second set of columns, they're for the entire Atlantic coast, is that correct?

MR. FLAGG: That's correct.

MR. MILLER: Then I have a question for John Olney. I'm struck by the paucity of information in regard to the recreational landings, particularly in some years when Maine superficially appears to represent a high percentage of the total, such as '96 and '95. How do you explain the paucity of information in those years?

MR. OLNEY: We don't sample the recreational fishery very well.

MR. MILLER: It's just a reflection, then, of hit or miss with the MRFSS, in other words, is what you're suggesting?

MR. OLNEY: Yes, that's one of the problems. The other problem is -- we spoke about it earlier -- many of the states are not required to conduct these surveys except on a five-year cycle, so the recreational data are sparse. And, frankly, the technical committee doesn't have a lot of confidence in these data.

MR. MILLER: Thank you. Mr. Chairman, I have no further comments on the motion.

CHAIRMAN TRAVELSTEAD: Lew.

MR. FLAGG: Just a little bit of a further clarification. Those landings are all taken from the MRFSS data. And the landings, recreational landings for Maine, from MRFSS, the PSEs are 70 percent so the landings aren't very good.

CHAIRMAN TRAVELSTEAD: Okay, we have a motion. Are there any further comments on the motion? Seeing none, are we ready to vote? Do we need a caucus? Apparently not. All those in favor, say aye; opposed, no; abstentions; null votes. The motion carries.

That takes us to the next agenda item, addendum changes. Megan is going to take us through this. I just would note, Ernie, the issue that you raised earlier and, Eric, the issue that you raised earlier can be found in the document.

Keep in mind we are not approving this addendum today. The purpose of this agenda item is to ensure that all of the changes that need to be made to Amendment 1 or to Technical Addendum I are found in here. I would hope that after we go through it we could direct staff to draft an addendum that could be sent out for public comment. Megan.

MS. GAMBLE: There were several issues raised with both the technical addendum and the amendment, and they were raised during the PRT's conference call. When the technical committee met several weeks later, these same issues were brought to their attention.

The document called, "Proposed Changes to Amendment I and Technical Addendum 1 of the Interstate Fishery Management Plan for Shad and River Herring" addresses the issues raised during both meetings.

If the board directs staff to develop a document for public hearing, it's likely that this document will need to be approved via fax poll because the Shad Board isn't scheduled to meet until August.

One other option is to have a very brief meeting for the purpose of approving this document in May, something the board will want to discuss afterwards.

The first proposed change is from Amendment I on page 39, Section 3.5.1.1. The proposal to make this change was brought to the technical committee's attention by the OTC Task Force which is part of the Chesapeake Bay's program.

Included in your briefing materials is the letter from Mike Hendricks of the OTC Task Force requesting this change is made to

the amendment. This first change regarding the OTC marks is just some wordsmithing and is mostly related to the next proposed change.

So before we discuss any of this, I just want to take a look at the next slide. This section is also found in Amendment I on the following page, page 40, and specifically addresses the concerns of the OTC Task Force.

The Marking Task Force assigned several different combinations of unique marks to each hatchery or restoration program. These unique marks allow the programs to determine the stocking site or river of release.

Some use the marks to determine the known age of fish to validate aging techniques. The unique marks were initially assigned to detect strays from other river systems and to determine the river of origin for hatchery fish caught in the ocean intercept fishery.

Studies have shown that the straying is limited. If the removal of the unique marks is approved, there will likely still be uniquely marked fish in the ocean intercept fishery until 2004 to 2008 and beyond due to the fish that are stocked during and prior to 2001.

Unique fish can still be used to determine the composition of the intercept fishery for hatchery-reared fish. The OTC Task Force would like to remove the wording "unique marking" because there are several new shad hatchery or restoration programs coming on line and not enough unique combinations of the OTC marks.

In order to create unique marks, the shad larvae are tagged with an OTC mark at three-day intervals, so the number of marks available is limited by age at release.

With the number of unique combinations currently distributed to operating hatchery programs, the new programs would have to wait until 21 days of age until the shad can be tagged with this mark.

This proposal removes the wording "unique marking" but ensures there is still coordination between the hatchery programs so that the goals of one program don't conflict with the goals of another.

CHAIRMAN TRAVELSTEAD: Let's take these one at a time just in case you have comments. The question is, is this something you want in the addendum? Is it adequately described? Is there some other option that needs to be in here? If you're happy with this, then we'll move on to the next item. A.C.

MR. CARPENTER: If you could extend Eric the courtesy, he did ask that this issue be discussed. He has been called out for phone

calls. Maybe you can take another issue and come back to this one when he comes back in, please.

CHAIRMAN TRAVELSTEAD: All right. Does anyone else have any comments on this issue? We will come back to Eric. Paul.

MR. PAUL PERRA: Since we do have a minute, I initially had some concerns that there would be double-marking and confusion, but I do believe there are other methods if you are suspicious of the mark that you could then use such as the otoliths and other things. So I don't have a problem with this at all.

CHAIRMAN TRAVELSTEAD: Okay, any other comments? Let's move on to the next item then and we'll come back when Eric arrives.

MS. GAMBLE: Okay. This change was raised by the technical committee and is only an editorial change. The proposal is to remove the word "juvenile" from the outline of the states' annual compliance reports.

The outline refers to some text found on page 40 of Amendment 1 which does not specify that only juveniles need to be screened. Some states would like to screen adults and juveniles in order to fine tune the hatchery's work and check for hatchery marks.

Removing "juveniles" from this section provides the states greater flexibility and consistency within the text of the amendment while still screening the hatchery marks and conducting a hatchery evaluation.

CHAIRMAN TRAVELSTEAD: Comments on this item? Okay, seeing none, let's go back to the OTC marking. Eric, while you were out we had a very brief discussion on that item; and since you're back we wanted to hear if you had any comments on that. The question is does this adequately describe an issue that we want to go forward in an addendum?

MR. SCHWAAB: I believe we're certainly supportive of this. It addresses a problem that we have in our restoration program.

CHAIRMAN TRAVELSTEAD: Okay, thank you. Next item.

MS. GAMBLE: Okay, the definition of de minimis status in the shad fishery is defined on page 61 of Amendment I, under Section 4.8. A discussion on how to interpret de minimis status was initiated by the PRT during our conference call.

Currently de minimis is defined as "States that report recreational or commercial landings of American shad that are less than 1 percent of the coastwide recreational or commercial total are exempted from sub-sampling this catch for biological data, as

outlined in Section 3.3.3, paragraph 1."

And that section, that 3.3.3 outlines the catch composition data, sex, size and age, that must be gathered by all the states with an in-river or coastal commercial fishery, directed or not. This information is used to calculate the fishing mortality rate.

Therefore, achieving de minimis status due to either the recreational or commercial landings means the state does not need to sub-sample the commercial catch for biological information.

Currently the PRT is operating under the idea that a state can apply for de minimis status based on either the recreational landings or the commercial landings. This assumption is based on two letters from two different states that have applied for de minimis status in the past.

The problem with defining de minimis status this way is if a state achieves de minimis based on its recreational landings, the commercial landings are not sampled, and a state may have a large proportion of the coastwide commercial landings. This is lost information because they aren't sub-sampling.

So the PRT is offering four different options for redefining de minimis status. The first option devised by the PRT is to remove recreational landings from the definition of de minimis.

This removes the possibility of losing the information from the commercial landings due to a relatively small recreational fishery in a particular state. Also, the states have five years from the implementation of Amendment I to report their recreational landings in their state. This is the creel survey that we spoke of earlier.

So, until the annual reports for about 2004 are submitted, each state's recreational landings as a percentage of the total coastwide recreational landings cannot accurately be determined.

With this option de minimis status would be based only on a state's commercial landings as it compares to the coastwide total for commercial landings.

Under Option 2 a state can still qualify for de minimis status based on either the recreational or commercial landings. Qualifying for de minimis due to the level of recreational landings in a state means it would have to sub-sample the recreational catch.

Changing de minimis in this manner also means changing Section 3.3.3, paragraph 1, the sentence that requires the states to collect catch composition data in the same fashion as the

commercial sub-sampling. This would be a new monitoring requirement. This is also something that the PRT has discussed as a potential for some valuable information regarding the American shad stocks.

Option 3 is very similar to the original wording of de minimis status, and it just adds the word "commercial" to define which catch is actually being sub-sampled so that de minimis is still interpreted to mean a state can qualify for de minimis status based on their recreational or their commercial landings. They will still be exempted for sub-sampling the commercial catch for further biological data.

Option 4 makes achieving de minimis status more restrictive. De minimis would be based on a combination of a state's recreational and commercial landings. And if those states are less than 1 percent of the combined coastwide recreational and commercial total, those states are exempt from sub-sampling that commercial catch.

This means that this option has the same problems associated with Options 2 and 3, which is the actual recreational landings for each state will not be reported on until 2004. That's all the options for de minimis.

CHAIRMAN TRAVELSTEAD: Okay, comments on this section? Do we have all the options we need in there? Apparently. I don't hear any comments. Everybody's feeling good or getting ready to go to tonight's function or something. A.C.

MR. CARPENTER: I got thoroughly confused with all the options, but if you leave it where they can apply for de minimis based on either recreational or commercial, whichever one that they choose to be de minimis on is the one that they would not have to sub-sample but they would have to sample the other one? Is that one of the options in here?

CHAIRMAN TRAVELSTEAD: I think so. The point now is you can be de minimis recreationally and not have to do something commercially. Correct?

MS. GAMBLE: Yes.

CHAIRMAN TRAVELSTEAD: So that's the problem we're trying to correct.

MS. GAMBLE: In addition to we don't have very accurate recreational landings and we won't for a couple more years, and yet states are qualifying for recreational de minimis status. So removing "recreational" from the wording would eliminate any sort of question. That's one of the options.

CHAIRMAN TRAVELSTEAD: Roy.

MR. MILLER: Is that, in fact, Option 1?

MS. GAMBLE: That is, in fact, Option 1.

CHAIRMAN TRAVELSTEAD: Okay, I think everybody's perfectly clear on that, at least the point where they don't want to ask any questions. There are a number of technical or changes to the technical addendum, too, and I think, Ernie, these might get at some of your issues you had earlier. And, do you want to go through those?

MS. GAMBLE: Sure. Okay, shifting gears slightly, the remainder of the proposed changes are from the technical addendum, and the technical addendum includes those tables 2 and tables 3 which are the monitoring requirements that the states need to comply with.

Both the PRT and the technical committee discussed and recommended removing the requirement to report recovery of visibly marked animals from table 2. There are specific states required to report the recovery of these visibly marked fish.

All states should report the recovery of these visibly marked fish if one is caught. This requirement would still remain within the text of the amendment but it would be removed from table 2. Removing this requirement from the table eliminates any confusion the part of the PRT when determining compliance for each state.

CHAIRMAN TRAVELSTEAD: Go ahead, that's the end of that one. Any comments? Okay, that one is pretty easy. Go on.

MS. GAMBLE: Okay, also included in your briefing booklet is a copy of a letter from the state of New Hampshire. This letter is a request to remove the Lamprey River from table 2 and its mandatory requirement to perform several independent monitoring programs on the Lamprey River.

New Hampshire has focused its American shad restoration efforts on the Exeter River. Until the shad returns in the Lamprey River are larger, New Hampshire would like to remove the mandatory monitoring requirements for the Lamprey River.

CHAIRMAN TRAVELSTEAD: John.

MR. NELSON: Yes, Mr. Chair? I agree.

CHAIRMAN TRAVELSTEAD: Okay.

MR. NELSON: Well, we've been stocking the various rivers for a

number of years and we were focusing our efforts in the Exeter River over the last, really, about ten or twelve years. The last stocking really was about in the late '80s in the Lamprey and we get about zero to four.

I think the average was about four returns over the last five years in the Lamprey, so it's just not really worth it to us right now. And when we start up again with the stocking in the Lamprey, we will be happy to monitor it once the returns start up again.

CHAIRMAN TRAVELSTEAD: Thank you. Any other comments on that item? Moving right along, Table 3.

MS. GAMBLE: In table 3 of the technical addendum, the recreational fishery monitoring requirements for both Maine and New Hampshire are different from the other states on this table.

The technical committee was concerned about the coverage of the MRFSS data for American shad for river systems that are further inland and did not want the two states limited to using the MRFSS data to reflect the recreational landings in these two states.

Making this change to table 3 provides consistency in the monitoring requirements and provides flexibility to New Hampshire and Maine, allowing the states to choose whether the MRFSS data or a recreational creel survey would more accurately reflect their recreational landings.

CHAIRMAN TRAVELSTEAD: Any comments? Okay, keep going. If we see them jumping up and down, we'll stop.

MS. GAMBLE: Again, this change was recommended by the technical committee to provide consistency to table 3 and the recreational fishery monitoring program.

The Connecticut River would be required to monitor recreational landings catch and effort every five years instead of biannually monitoring the recreational landings and conducting the additional sampling for age and sex ratio.

The Connecticut reported 2,358 American shad caught in 2000, which is greater than the 1,000 fish mentioned on table 3.

CHAIRMAN TRAVELSTEAD: Ernie, do you want to add anything?

MR. BECKWITH: Yes, I'd just like to add that it's important that Massachusetts conduct a creel survey so we can get a total estimate of the harvest in the Connecticut River.

I understand -- and perhaps Paul can speak to this better than I can -- there's an issue here because that is under the



jurisdiction of another agency within another division within the state of Massachusetts.

Also, a somewhat similar issue occurred at the Sturgeon Board in terms of what Massachusetts should report in terms of lifting over the Holyoke Dam, which is on the Connecticut River.

So perhaps Paul can speak to that, but I think for our management of sturgeon and shad in the river, it's very important that we get good, good estimates of what's happening with those two species.

CHAIRMAN TRAVELSTEAD: Paul.

MR. DIODATI: I think Ernie is correct in that the Commonwealth would have some problems in meeting this type of compliance requirement for the Connecticut River.

Not only does this get at the issue of allocating resources over years as a default allocation of resources by the commission, but the Connecticut River, as some of you know, runs up about 100 miles before we get to this particular dam.

The Massachusetts portion of that is only in that last one-third before you get to the dam. So we're about 75 miles inland so it falls under the jurisdiction of a non-ASMFC partner agency. So jurisdictionally, I certainly wouldn't have the ability to instruct that non-partner agency in how to conduct studies in that area.

And I would be out of my jurisdiction to have my own staff do it, not that I would be agreeable to doing that, either, so I think there are some issues with this. I see this as a technical addendum.

I guess I would question the need for the creel survey, how that information would be used. I know that the fishery is catch and release up in that area, although we do have a six-fish creel limit.

That I do have jurisdiction over. I could lower that creel limit, making this even a less-effective fishery, but I'm almost certain that it's a catch-and-release fishery as it is.

So I'm not sure other than catch effort information that you would get below the dam, how valuable that would be given that we have passage information of fish that are being lifted over the dam.

CHAIRMAN TRAVELSTEAD: Did you want to respond to that at all, John?

MR. OLNEY: Not really.

CHAIRMAN TRAVELSTEAD: Okay. Other comments on this item, Ernie?

MR. BECKWITH: Yes, I just want to make one final comment. I really understand the situation that Paul is in and perhaps Connecticut can work with the state of Massachusetts, not only Massachusetts Marine Fisheries but also Inland Fisheries and perhaps we can work something out here.

But one final comment as to the status of the fishery. I currently don't know what the status of that fishery is in terms of whether it is catch and release or what portion is a harvest fishery because we don't have any recent data because nothing has been collected recently.

But historically, a major portion of the recreational harvest of shad in that river came from the Massachusetts portion of the river, and so that's why I'm somewhat worried about it.

CHAIRMAN TRAVELSTEAD: Okay, any other comments? Okay, let's move on to the next item.

MS. GAMBLE: We jumped the gun a little bit here but I just wanted to specifically state this recommendation on the part of the PRT. The PRT's recommendation was to include both the Merrimack and Connecticut River to table 3, and for these two rivers Massachusetts would be responsible for monitoring and reporting the recreational landings catch and effort every five years.

The reason this recommendation was made is because currently in the Massachusetts compliance report, it's reporting there are five river system supporting an American shad recreational fishery. Three of those rivers are very small neighborhood catch-and-release fisheries.

The recreational fisheries on both the Merrimack and the Connecticut are also reported as catch-and-release fisheries. Although not required, Massachusetts includes the recreational catch data from MRFSS in the annual report.

The technical committee's concern was that the MRFSS data was not capturing all of the recreational catch in the Connecticut River because it is an inland river, and using a recreational creel survey may better capture the recreational fisheries occurring on these two rivers.

When the PRT was doing their compliance review, they noticed that both Massachusetts and D.C. were not on table 3. So this recommendation is to add the Potomac River to table 3, meaning that D.C. would be required to monitor and report the recreational landings catch and effort every five years.

It's understood that there's no directed fishing or possession of American shad permitted on the Potomac River in D.C., Maryland or Virginia, but there is a small catch-and-release fishery on the Potomac within D.C.'s jurisdiction.

I'm also told by D.C. staff that they perform a creel survey every year on the Potomac and this information would be helpful in evaluating the health of the resource in this river system.

CHAIRMAN TRAVELSTEAD: Any comments? A.C.

MR. CARPENTER: Editorially, in your discussion you need to put a period after D.C. in the first and second sentence.

CHAIRMAN TRAVELSTEAD: Okay, got it, thank you. Any other comments on any of these items? It then would be appropriate for the board to direct the staff to prepare an addendum to incorporate all of these various changes.

But before we do that, I'd like Megan to, again, just take us back through the schedule that we would use to move forward with that.

MS. GAMBLE: Today the board would direct staff to develop a draft addendum, and then it could be handled in either of two ways. We could do a fax poll to approve the draft addendum for public hearings or we could have a very short meeting during the May meeting week to approve this draft addendum.

Between May and August there would be public hearings or a public comment period. And then at the August meeting week, the board would select the management options and approve this document.

CHAIRMAN TRAVELSTEAD: Okay, Bill.

MR. ADLER: Thank you, Mr. Chairman. This is just a procedural thing. I don't have the amendment in front of me but under these changes, an addendum can change an amendment?

CHAIRMAN TRAVELSTEAD: Yes.

MR. ADLER: I know an addendum can be changed by an addendum. But, these particular things that you mentioned were in an amendment. There is the procedure that you can change it with an addendum?

CHAIRMAN TRAVELSTEAD: We'll let the director of the ISFMP answer that.

MR. ROBERT BEAL: We'll see if we can find him but I'll do in the meantime. Yes, the changes that are included in this document are

relatively minor, and they can definitely be changed via an addendum to the amendment as well as the technical addendum. There's no problem.

CHAIRMAN TRAVELSTEAD: Any other comments? Can we get a motion to move forward to direct staff to prepare. Bill.

MR. ADLER: I'll make that motion to direct staff to develop a draft addendum.

CHAIRMAN TRAVELSTEAD: Thank you. Is there a second to the motion? Seconded by Eric Schwaab. Comments on the motion? John.

MR. NELSON: It didn't seem like we had very many issues or bones of contention here so do we need to include in this how we would approve it? Do we need it associated with the fax poll? I would suggest the fax poll.

CHAIRMAN TRAVELSTEAD: We can make that part of the motion or I was just going to try to get consensus on that if this passed. We can do it either way.

MR. NELSON: Consensus is probably fine.

CHAIRMAN TRAVELSTEAD: Okay, comments on the motion? Hearing none, do we need to caucus? Apparently not. All those in favor of the motion, say aye; opposed, no; any abstentions; any null votes. One abstention?

MR. FREEMAN: I had a question.

CHAIRMAN TRAVELSTEAD: Okay, the motion carries. Bruce.

MR. FREEMAN: What happens if we don't get four public hearings for this?

CHAIRMAN TRAVELSTEAD: Do you want to address that, Bob?

MR. BEAL: Since this is an addendum, we actually don't need four public hearings. That's only for an amendment. All we need to do is make this document available for public comment. If any of the states wish to have a public hearing, then we can facilitate that.

CHAIRMAN TRAVELSTEAD: Okay, so it's not necessary that we have the four public hearings. On the issue of do we have a short meeting in May to view the draft addendum before it goes to the public or do we do that by fax poll, John has suggested we do that by fax. Is there any objection to that? Then we have consensus and we will conduct it by fax.

Moving right along on the agenda, Item 9, discussion of habitat

restoration efforts. Several months ago there was an effort by e-mail to discuss with each one of you whether or not the states might want to prepare a document that describes the restoration efforts related to American shad and river herring that are ongoing in each of our states.

I think a number of the states are making some great strides in this area. And since habitat restoration is such an important part of this plan, the question was should we direct staff to prepare such a document.

Ron Michaels, the past chairman of this board, initiated those discussions. Ron, I don't know if you want to add anything to that but that is the question now before the board today. Ron.

MR. RON MICHAELS: The only thing that might be added is that there was some concern expressed earlier about the time and labor involved in putting this thing together by a certain date. I'm not sure whether it was staff or was it the individual states that were supposed to provide the reports?

CHAIRMAN TRAVELSTEAD: Well, I think that is the question. The only concern that I have heard from anyone would be both the burden that it places on the ASMFC staff as well as our own staff, you know, back home to help prepare that.

I think it would take an effort on both groups to do it, but it may still be worth it. I don't want to say that it's not worth doing. Do you have anything else on that? Any comments? Yes, Ernie.

MR. BECKWITH: Thank you, Mr. Chairman. I'm trying to recall but in our annual report that we submit isn't there a habitat section in there that we update every year?

CHAIRMAN TRAVELSTEAD: Megan?

MR. BECKWITH: Well, let's go back. Didn't we have to do -- perhaps it's not in the current compliance report but didn't we -- I don't know what it was called, but I can recall about four or five years ago we submitted a report on shad.

I forgot what it was called but there was a rather extensive section in there that dealt with habitat efforts and all the states had to document that. Do you know what I'm talking about? I remember writing it and approving it, but I guess my --

CHAIRMAN TRAVELSTEAD: Megan hasn't been around long enough to remember that.

MR. BECKWITH: Yes. I guess my point is that perhaps we should

look and see what information you already have and then perhaps updating it isn't that much of an effort.

But I can tell you writing it from scratch, the amount of work that we've done in Connecticut dozens of fishways we've put in and stocking programs over the past ten years, it would be a major undertaking for someone to do.

MS. GAMBLE: This whole issue came about when we were doing a five-year planning schedule for all of our species at the commission. And, when I asked each of the board chairs for the species I cover, you know, what are the issues you want to address, what do you see coming up, it was pointed out that habitat restoration efforts is a major goal of this management plan and it hasn't really been addressed.

I think that there was a section on habitat submitted with the state fishing recovery plans right after the amendment was approved, so that was a couple of years ago.

And some of the responses we received on whether or not this was something the board wanted to hear was some of the states said we have some great efforts that have been made and it might be beneficial to the other states to hear what's going on.

And as to the amount of work, it sounded like this was mostly for informational purposes to other board members, to let other people know what sort of efforts are being made in this area.

CHAIRMAN TRAVELSTEAD: Any comments from the board?

MR. BECKWITH: Just one, I think it's a good effort. It's worthwhile doing. I'd just like to know a little bit more about how it fits into the program, how much time would we be given, is this going to be a mandatory issue.

CHAIRMAN TRAVELSTEAD: I don't think anyone was envisioning it as a mandatory element, just something that would perhaps be useful to other people around the table and to the public in general. Roy, you had a comment?

MR. MILLER: Yes, just a quick question. Is this relative only to American shad or does it include the other elosids as well?

CHAIRMAN TRAVELSTEAD: All of them. Yes, this is a multi-species plan. Paul.

MR. PERRA: Perhaps we could start small. Oftentimes a little guidance, an example, maybe, could be sent to the technical committee which would have a one-page or a two-pager where they could list dams removed, different projects that were done, stream

mileage improvements, different things like that.

And from that somebody could probably take it and write a pretty good habitat report. And if you do something like that, I would bring it over to our habitat office and maybe they would be interested in fleshing it out.

CHAIRMAN TRAVELSTEAD: Megan has suggested that perhaps she could put together sort of a one page, very brief outline that could be distributed to the members of the board and sort of fill-in-the-blank kind of thing, at least as a start, like you say, Paul, and then we could take it from there as time allows. Any objection to doing that as a start? Apparently not, so we'll proceed in that fashion. Bruce.

MR. FREEMAN: The only point, Jack, if we're going to do this, we need to emphasize it's not only for shad.

CHAIRMAN TRAVELSTEAD: Right.

MR. FREEMAN: Because there's considerable work in our area on river herring.

CHAIRMAN TRAVELSTEAD: Absolutely, sure. Okay, anything else on that item?

It has been suggested that we delay the election of a vice-chair until our next meeting. Apparently there is still some arm twisting that is going on. Is there any other business? Yes, Lew Flagg.

MR. FLAGG: Thank you, Jack. David Cupka talked with me -- and my math is terrible -- if you look at my table on the recreational landings, it's actually 3 percent so we're really not de minimis with respect to the recreational fishery, at least for the year 2000.

I don't know what the data is for 2001. It may very well be that the catch in 2001 1 percent or less. What I would like to do, if possible, to indulge the board, I would like to request that we be granted an exemption for just this year from the biological monitoring for the recreational catch.

We'll report at the August meeting with respect to the 2001 data with respect to whether or not we are de minimis. And if not, then we will conduct that survey in 2003.

The reason I ask that is because we're not staffed to do that work. We have a really, very heavy workload in the spring time with stocking. And so if we could get an exemption for this year only from the biological sampling requirement, it would be

helpful.

CHAIRMAN TRAVELSTEAD: First of all, let me say I think you deserve the exemption based solely on honesty. If it had been me, I'd have been out the door by now, I think. I think Megan has something on this item.

MS. GAMBLE: I don't think the board needs to exempt the state of Maine for this because you did qualify for de minimis status based on your recreational landings, according to the way de minimis is currently worded.

CHAIRMAN TRAVELSTEAD: Yes, so, see, it's that screwed-up definition that is in the plan that we're trying to correct with the addendum. Yes, so it's "Loop Hole Lew" from now on.

Any other business for the board? Is there a motion to adjourn?

MR. FREEMAN: Yes, moved.

CHAIRMAN TRAVELSTEAD: We are adjourned. Thank you.

(Whereupon, the meeting adjourned at 4:55 o'clock p.m., February 19, 2002.)

- - -