

PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERS COMMISSION
SPINY DOGFISH AND COASTAL SHARK
MANAGEMENT BOARD

October 15, 2001
Samoset Resort
Rockport, Maine

ATTENDANCE

Board Members

Gordon Colvin, New York DEC	Ken Haddad, Florida FWCC
Brian Culhane, proxy for Senator Johnson (NY)	David Cupka, South Carolina DNR
Ernie Beckwith, Connecticut DMR	Jack Travelstead, Virginia MRC
David Pierce, MA DMF	Gilbert H. Ewing Jr., proxy for Assemblyman Gibson (NJ)
Bill Alder, Massachusetts Gov. Apte.	John Connell, New Jersey Gov. Apte.
Lewis Flagg, Maine DMR	Bruce Freeman, New Jersey DFG&W
Harold Mears, NMFS	Dennis F. Abbott, proxy for Representative Blanchard (NH)
Bill Cole, USFWS	John Nelson, New Hampshire DMF
Preston Pate, North Carolina, DMF	David Borden, Rhode Island DEM
Ralph Balkcom, Georgia Gov. Apte.	Jerry Carvalho, proxy for Representative Naughton (RI)
Representative Bob Lane, Georgia	Charles A. Lesser, Delaware DFW
Susan Shipman, Georgia DNR	
Pete Jensen, proxy for Delegate Guns (MD)	
Eric Schwabb, Maryland DNR	
Kathy Barco, Florida Gov. Apte.	

Ex-Officio Members

William McKeon, LEC Representative, MA Environmental Police

ASMFC Staff

Megan Gamble	Lisa Kline
John H. Dunnigan	Joe Desfosse
Tina Berger	Heather Stirratt

Guests

Patricia Kurkul, NMFS	John Merginer, NMFS-SEFSC
Eugene Bergson, Atlantic Coast Fisheries	Eric Smith, CT DEP
Dana E. Wallace	Byron Young, NY DEC
Howard King, Maryland DNR	Janice Plante, Commercial Fisheries News
Tia Pullen, NH	Peter Burns, NMFS
Herb Drake, ASMFC Consultant	William Hogarth, NMFS
Tom McCloy, New Jersey DF&W	Bob Ross, NMFS
Dan Furlong, MAFMC	Jack Ferrera, New York FTFA
Craig Whitfield, South Carolina DNR	Stu Kennedy, Florida FWCC
Dale Theiling, South Carolina DNR	Linda Mercer, Maine DMR
Wade Hughes, US Coast Guard	George Lapointe, Maine DMR
David Pacci, CCA – Maine	Nanette Redmond, Graham Verbatim
John Phillips, The Ocean Conservancy	John Pappalardo, CCCHFA

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

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MOTIONS

- 1. Move that the Board extend the current Emergency Action for an additional year (January 31, 2003) unless replaced by management measures in the ASMFC spiny dogfish plan.**

Motion made by Dr. Pierce, second by Mr. Nelson.
Motion passes unanimously.

- 2. Move to include options 1, 2 (minus F=0), 4 & 5 in the Draft FMP for Spiny Dogfish.**

Motion made by Mr. Nelson, second by Mr. Adler.
Motion passes unanimously.

- 3. Move that the Board pursue a joint FMP planning process in 2002 with the New England & Mid-Atlantic Councils.**

Motion made by Mr. Colvin, second by Mr. Borden.
Motion passes

- 4. Move to nominate John Connell as the new Chair of the Spiny Dogfish and Coastal Shark Management Board.**

Motion made by Mr. Freeman, second by Ms. Shipman.
Motion passes by acclamation.

**ATLANTIC STATES MARINE FISHERIES
COMMISSION**

**SPINY DOGFISH AND COASTAL SHARK
MANAGEMENT BOARD**

**Samoset Resort
Rockport, Maine
October 15, 2001**

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Rockport/Camden Room of the Samoset Resort, Rockport, Maine, on Monday, October 15, 2001, and was called to order at 10:35 o'clock a.m. by Executive Director John H. Dunnigan.

WELCOME & INTRODUCTIONS

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Good morning. I would like to welcome everybody to the meeting of the Spiny Dogfish and Coastal Shark Management Board. And, right off I think we need to address the issue of the chairmanship.

And for that, I would like to first tell you that your Chair, Pat Augustine, is recovering from surgery, and those who know him and have talked to him will probably share with you, if you ask, the nature of it, but he seems to be doing very well now by latest reports.

However, his doctors have not permitted him to travel, so Pat will not be able to be with us this week. The vice-chair of the Board is David Pierce, and at this time I would turn to him for a comment on his status today. David.

DR. DAVID PIERCE: At the last Board meeting a similar situation occurred. The chairman, Pat Augustine, could not attend and Jack took over the chairmanship of the Board and did an admirable job.

I did not step in as vice-chairman because of my dealings with dogfish and the need for me to be an active participant in the debate, maker of motions and all of that.

So it caused me to reflect on my future on the Board relative to the chairmanship since I knew I would be stepping into the chairmanship after this meeting. And, I've concluded that it would be inappropriate for me to take over the chairmanship

role for a number of reasons; one being that it likely will be perceived that I'm not an unbiased chairman, and the chairman should indeed have that as a first priority, an unbiased representative of the Board to enable the Board to carry out its business.

So, with that said, I feel it's more appropriate for someone else to take on the chairmanship of the Board and I would ask the Board to elect a new chairman for the Board.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, David. Given that, I think the way we should proceed today, it's the Commission's common procedure that if the chair or vice-chair of a board is not in attendance at a meeting, the senior staff person at the meeting serves as the chair.

We will follow that practice for today unless there's any objection. I don't see any, so we will move ahead. At the end of this meeting, we will elect one of the Board members to become the new chair of the Board effective at the end of the meeting today, which is the Commission's standard transitional procedure.

Moving ahead, then, we have a couple of other things I want to introduce to you. The Fishery Management Plan Coordinator for spiny dogfish and coastal sharks, immediately to my right, is Megan Gamble.

Megan's introduction to the Atlantic States Marine Fisheries Commission was at the July meeting week. We hired her and she showed up. She flew down from New England on Monday to be with us and watch our proceedings.

And, lo and behold, as soon as she got here for real, she found out she was going to take over spiny dogfish and sharks, immediately decided she wanted to go back to New England and we wouldn't let her.

So this is Megan's first Board meeting, and I'm sure that you'll congratulate her and show her all of your normal, wonderful courtesies.

APPROVAL OF AGENDA & MINUTES

EXECUTIVE DIRECTOR DUNNIGAN: We have the agenda before you. It was in the briefing materials that were distributed. Basically the agenda sorts itself out into a couple of major discussions. Points number five and six we will be treating as a unit, and Megan will be making a presentation to you basically to bring you up to date as to what has happened with the

information on spiny dogfish since your last meeting.

And then we will take up item number seven which is a review for issues to go into the Spiny Dogfish FMP. And then lastly, we will deal with item eight, which is the scientific display permits before getting into the question of election.

I am going to try to move ahead. We are behind schedule. I want to try to get us back on the schedule as conveniently as possible.

The only other thing I would note for the record that we've looked around, it's apparent that all or virtually all of the states who are members of this Board are represented.

So I will ask Megan to note for the record those members that are around the table today and we will dispense with the roll call. We obviously have a quorum. Any problems with proceeding that way on the agenda? Bill.

MR. WILLIAM A. ADLER: No, I was going to just move the approval of the agenda and the minutes at the same time.

EXECUTIVE DIRECTOR DUNNIGAN: Are there any objections to the minutes? You've had a chance to look at them. They've been distributed. Are there any comments? If you have any detailed comments, just get those to Megan and she'll incorporate them.

Is there any objection to the approval of the agenda and the minutes? Seeing none, they are approved.

We move ahead now to item number five which is basically going to be five and six. We will do these things together, and for that I turn to Megan Gamble.

PUBLIC COMMENT

EXECUTIVE DIRECTOR DUNNIGAN: Oh, I'm sorry. You see, it's her first meeting and she's already making me do it the right way. Normally management boards do allow an opportunity for public comments, any general comments or anything on the agenda that members of the public would like to make to the board at the beginning of the meeting.

We will, as time permits, allow for public comment on issues during the meeting today as they come up, as well. But at this time I would like to ask are there any members of the public that would like to make a statement to the Board as the meeting starts? Yes, sir. Can you come to this microphone on the corner and state your name and affiliation, please.

MR. EUGENE BERGSON: My name is Eugene Bergson and I'm with Atlantic Coast Fisheries. Atlantic Coast Fisheries is one of the three processors of dogfish still working on dogfish.

I wanted to urge the Board to take seriously the study into the constant harvest approach. I'd really like them to set up a scientific organization or whatever to look at it so that they could move along and take care of it before our next fishing season starts up, which will be in May.

It's going to be very important for us and for the boats so that fishing is going to be available in a constant harvest approach so they'll have enough fish to fish on and be able to make it a sustainable business. Thank you.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Bergson. Any other general comments from the public at this time? Okay, seeing none, we will move ahead, then, to items five and six together. Megan.

STATUS OF THE STOCKS UPDATE

MS. MEGAN GAMBLE: Thank you. On September 11th the Monitoring Committee for both the New England and the Mid-Atlantic Councils met to review the status of the stocks update which was performed by Dr. Paul Rago.

You, I believe, received a copy of that presentation in the mail. The copy that you have now was updated and was presented to the Joint Committee on September 28, the Joint Spiny Dogfish Committee.

So this presentation that I'm going to show you here is just a summary of Paul Rago's presentation that he gave to the Monitoring and the Joint Committee. Dr. Rago's presentation goes into much greater depth, and I hope only to give you a general idea or the take-home message of Dr. Rago's presentation.

So, with that, this slide shows the landings of the spiny dogfish in the Northwest Atlantic. The red indicates the foreign landings. The blue is the U.S. landings. Throughout the 1980s landings varied around 5,000 metric tons.

In 1990 the landings increased to about 15,000 metric tons in the U.S. In '96 the landings peaked at about 28,000 metric tons. And in 2000, the total landings were about 12,000 metric tons.

In the commercial landings, the length of the spiny dogfish declined from about 97 centimeters in '98 to 78 centimeters in 2000. This is the length

of the female spiny dogfish. The dotted line on the graph indicates 80 centimeters which is the length at which 50 percent of the females are mature.

This graph shows the weight of the female spiny dogfish in the commercial landings. In '98 the average weight of the female was about 4.3 kilograms. And the weight of the spiny dogfish has also declined in recent years to about 2 kilograms, which is just below the weight at which 50 percent of the females mature.

The biomass of all spiny dogfish, males and females, steadily increased throughout the 1980s and peaked in about '92 with about 580,000 metric tons which is just -- I'm sorry, after '92 the biomass continues to decline below 400,000 metric tons.

The dotted line on this graph indicates SSB max at 200,000 metric tons, which is the Council's proxy for B_{MSY} . The biomass of the mature females peaked in the late 1980s but has been on a downward trend since 1990. Currently the biomass is much lower than SSB max.

The females in the 36-to-79 centimeter range are important because they will produce the recruits in future years. These immature females were steadily increasing throughout the 1980s and the biomass peaked in 1995. Since 1995 the biomass of these females has declined just below 100,000 metric tons.

Less than 35 centimeter dogfish are recruits or pups. The recruits are also declining and have been on a downward trend since 1990. The length of the mature female spiny dogfish in the NMFS trawls has also declined.

The length of the mature females is important because the larger the females the greater the number of pups that can be produced in a litter. The female's fecundity increases as the size of the female increases.

Okay, this is a little confusing so I'll walk you through it. The blue line shows the female dogfish caught in the 1985 to 1988 trawls when landings were less than 10,000 metric tons. The red line indicates the females caught during the '96 to '98 trawls when landings were about 30,000 metric tons. The pink line indicates the females caught during the '99 to 2001 trawls when landings were less than 9,000 metric tons in the U.S.

The 1985, which is the blue line, to '98 surveys, there's a high abundance of mature females. That's the peak off to the right, meaning that those mature females that are greater than 80

centimeters. And, also, the peak to the left on the blue line is showing strong recruitment.

The '96 to '98 survey, which is the red line, the presence of females and recruits are suppressed. We don't see those peaks on either side. Rather, there's a peak in the middle which shows a large number of pre-productive females.

And then to the pink line, in more recent surveys the presence of mature females further declines, and in addition the peak of pre-productive females has also decreased. There's evidence of recruitment failure advancing to larger sizes.

Dr. Rago's analysis, his risk analysis which is included in the packet that you just received rather than the one that you received in the mail -- and it's towards the end of the packet -- compared four different management strategies, but here I'm only going to show you the fishing mortality at 0.03 and the constant harvest strategy.

The other two that he compared were the fishing mortality of zero and status quo which is fishing mortality at 0.28. The dotted line here indicates the SSB target, which is 90 percent of SSB max. It's 180,000 metric tons.

Under the current management measures in the Council's FMP, the fishing mortality is set at F equals 0.03. And it is projected that the spiny dogfish stock will reach the target SSB in about 2016.

Again, the dotted line indicates the target SSB, and under the constant quota plan the stock will reach an SSB target in 2018. There's a two-year rebuilding difference between the two different strategies.

It is important to note, however, that here the constant quota is set at 8 million pounds whereas the plan proposed by Massachusetts was 8.8 million pounds. And if the analysis was done over again, I think Dr. Rago said it would stretch the line out by a couple of years.

So, in summary, the fishing mortality is high and it's believed to be at about 0.27 in 2000. The average size and the weight of the mature females is declining. And the three-year average of the adult female biomass is 34 percent of that SSB max.

The pup production is the lowest on record for the fifth consecutive year, and the intermediate sizes are now showing a decline.

MEETING UPDATES

MS. GAMBLE: The recommendations that were made by the Monitoring Committee at the September 11th meeting -- which, by the way, I will state that there were a handful of Technical Committee members that attended to listen to the presentation by Dr. Rago.

The Committee proposed to maintain the current commercial quota of 4.0 million pounds in 2002-2003 fishing year to achieve a fishing target of 0.03. They also recommended that the seasonal allocation remain the same, as well as the trip limits.

They did caution at the end of their meeting that they were very concerned about the current management strategies in use, and they were worried about the length of time it would take to rebuild these stocks.

The Joint Spiny Dogfish Committee met on September 28th, and they met to also receive an update of the stock information and to set fishing year specifications for 2002-2003 and to review the Amendment 1 issues paper.

Their recommendations were to take whatever means necessary to revise the 2002-2003 specifications so that the target F would correspond to a quota of 8.8 million pounds.

They also recommended a trip limit of 7,000 pounds and the seasonal allocations would alternate. So with the 59 percent in the first season, it would be switched to the second season, second half of the season.

The Mid-Atlantic Fishery Management Council met on October 10th. They reviewed the recommendations of both the Monitoring Committee and the Joint Committee. Their recommendations were to maintain the commercial quota at 4.0 million pounds for the 2002-2003 fishing year, as well as to maintain the 600/300 trip limit.

They also approved the Amendment 1 issues paper. And the time for which that will be completed is not determined yet because the Councils have to set priority for their species.

The New England Council will be also reviewing the recommendations of the Monitoring and the Joint Committee, Spiny Dogfish Committee, during their November meeting. I think November 5th is their meeting. And that's the conclusion of my update.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Megan. I think what we would like to do right now is to allow some opportunity for reflection and reaction to what we've heard, and any questions that you might want Megan to try to answer, or

others who were there might want to make comment on what you saw at these meetings.

But, remember, this is Paul Rago's analysis so Megan might not be able to answer all of the questions that you have. And let me also say that the relevance of all of this for the Board is that you really need -- before we leave today, you're going to end up focusing on two decisions.

One is whether to extend the current emergency action and the second is what action are you going to take in moving forward on an FMP. And so right now what we're trying to do, we're not going to make any recommendations to the National Marine Fisheries Service, but we are trying to inform ourselves a little so that we'll be able to address what those two issues are. Dr. Pierce.

DR. PIERCE: Yes, thank you, Megan, for your presentation. First, I prepared a September 14 memo, actually a rather long document, that describes what happened at the Monitoring Committee meeting. I attended that meeting in Baltimore. Was this document forwarded to all of the Board members, Megan?

MS. GAMBLE: It was mailed out in a separate mailing from the briefing booklet.

DR. PIERCE: Okay, good, thank you. Briefly, I'd like to add a couple of points and a few clarifications. First of all, the Monitoring Committee was held on that very fateful day, September 11, you know, the day of the World Trade Center attack and destruction, that horrendous act of mass murder, so, clearly, the Monitoring Committee, everybody present at that meeting wasn't exactly focused on business at hand.

There were too many other important things happening at the time. Nevertheless, Paul Rago did give his presentation. He did a rather good job. And the Monitoring Committee then reacted to the advice, the update given by Paul.

I was present, as I said, and that gave me an opportunity to get the document and then to bring it home with me and to chew on it for a while because Paul, as always, gives a very detailed and a very thorough presentation. In this particular case on dogfish, it was another excellent job by Paul.

A couple of points do need to be emphasized, however. And that is -- and this follows up on your report, Megan -- it was indicated that fishing mortality on dogfish is still too high. I think everybody understands that.

It's still around 0.27, as best it can be judged. It's a length-based method of calculating a fishing mortality and it is too high. However, part of that mortality is caused by discards, discard mortality.

And Paul admitted at the very beginning of his presentation that he did not have time to do an analysis of discards to come up with some revised estimates of what's being discarded, and dead discards at this time.

Nevertheless, his analysis that he did does have a method by which he can calculate so-called "implicit" discards, and he noted that in year 2000 approximately 35 million pounds of dead discards occurred -- 35 million pounds, which is a significant amount of source of fishing mortality for dogfish.

In addition, he did note that, as you indicated, Megan, the intermediate size dogfish that we hope will be the dogfish to spur us on with the rebuilding of this population, that abundance had dropped somewhat.

He did admit, however, that the peak that you show, the colored peaks, the peak around 50 centimeters, it dropped dramatically from last spring to this spring, and it was a rather unexplained drop because the fishery doesn't focus on those sizes of dogfish, and they wouldn't have had time to grow to get out of that size range and into the size where they would be subjected to a fishery.

So, consistent with the fact that dogfish is assessed using a swept-area biomass estimate, it was an uncertainty that the intermediate sized dogs have declined in abundance for an inexplicable reason.

Also regarding another point that you made that's quite important, the drop in female biomass, the mature biomass of females, that has dropped, and once again it's a drop that's unexplained in that there is an unaccounted for drop of about 83 million pounds of female biomass, and that's considering the amount of biomass that's been landed by the fishery year 2000, that 12,000 metric tons or so.

So there's a lot of uncertainty, still, with regard to the assessment, a lot of information that was presented that doesn't make sense, and I'm hoping that our Technical Committee, our Dogfish Technical Committee that was present at the time but didn't meet, didn't really discuss the assessment itself, I'm hoping that the Technical Committee will have an opportunity to take a look at Paul's work and to give the Board some guidance as to what it all means and to give us

some recommendations as to how we should proceed.

We have a new chairman of that Technical Committee, Steve Correia. He's done a lot of work on dogfish. He's a member of my staff. He's the chairman of the Monitoring Committee for the New England Council on Groundfish.

So, I can assure you that we'll be getting some excellent information from him as chair and, of course, from all of the Technical Committee members themselves.

And then, finally, I'll make one other point regarding the Monitoring Committee recommendations. They were pretty much told by the staff of the Mid-Atlantic Council -- Rich Seagraves who always does a great job on dogfish -- they were told that they had really no choice but to make the recommendation that they did make, that the plan calls for a fishing mortality rate of 0.03 and that those were the ground rules.

And as a consequence, the Monitoring Committee had no choice but to make the recommendation it did. Frankly, I thought that in light of those ground rules, the Monitoring Committee could have phoned its recommendation in because there really wasn't any room for debate on this issue.

The plan was pretty much dictating the nature of the advice coming from the Monitoring Committee. And then, finally, with regard to the pups, Paul Rago did indicate that the number of pups being produced by females has dropped dramatically and continues to be at a low level, and I think we all can appreciate why.

The biomass of the large females has dropped dramatically because the fishery was intense in the '80s and early '90s. Nevertheless, he did admit that it's still difficult for us to understand why we're not finding pups in the bottom trawl survey, the federal survey, because we're working with an estimated biomass of around 86,000 metric tons, about 190 million pounds of females, mature females, and they should be producing pups.

So, relatively speaking, we have far fewer pups than what we had when the biomass of dogfish was sky high, mature females, and that, of course, was in the mid-80s.

So that's my accounting of what I witnessed at the Monitoring Committee meeting, and everything I've said plus a lot more is provided in my own report of the Monitoring Committee meeting with commentary.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, David. Any other comments or questions? Ms. Shipman.

MS. SUSAN SHIPMAN: Thank you. Is someone going to go over the risk analysis for us? I mean, is there going to be a discussion of that? That's one of the things we, I think, had been waiting to hear from following that meeting. And that's question number one.

The second question is can someone explain to me or any of us the divergence between the recommendation coming out of the Monitoring Committee and the recommendation that came forward out of the Joint Committee meeting, because they are divergent.

MS. GAMBLE: To your first point, explaining the risk analysis, the last two graphs that I showed do come out of that risk analysis. And for the sake of trying to save some time while also trying to give you the general message, I only showed you two slides of the many that are included in Dr. Rago's presentation.

If the Board would like to go into greater depth with that risk analysis, I think I would feel more comfortable asking to refer this to our Technical Committee and having them come back and discuss it with you.

And as to the divergence between the different recommendations, I would say a lot of it is accounted for in the brevity of our meeting on September 11th and not being able to discuss the information at length; in addition the Monitoring Committee did not have the risk analysis to review. That wasn't completed at the time. If you have anything else to add, Dr. Pierce.

EXECUTIVE DIRECTOR DUNNIGAN: Dan Furlong.

MR. DAN FURLONG: Thank you, Mr. Chairman. Susan, as to the second part of your question, the divergence between the Joint Committee or the Monitoring Committee and the Joint Committee, I think that had to do with a function of geography and timing.

The Joint Committee convened late in September, like the 28th, and it was in Providence. And the Mid-Atlantic Council representation, which normally numbers five, only two people from the Mid-Atlantic attended the meeting.

And the New England Council, I think Dave was there, had the opportunity because of numbers to support a different approach. And as you know, there has been a philosophical difference between

New England and the Mid-Atlantic on management of this resource.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Dan. David.

DR. PIERCE: If I could add to that, Dan is quite right and the vote was five to one with the only opposition being the chairman of the Board, chairman of the Committee representing North Carolina. Red Mundon was there.

There were two Mid-Atlantic Council members and the rest were New England. So, indeed, it does represent a philosophical difference in how the two Councils would like to manage dogfish.

I think another reason why the vote went the way it did is that after looking at the rebuilding scenario, the rebuilding curves to get to our target of about 160,000 metric tons of mature female biomass, there wasn't a significant difference between the two rebuilding curves, similar to what you saw back at our meeting in Florida, I believe -- maybe it wasn't Florida.

Well, anyway, you've seen rebuilding curves before comparing the status quo versus the constant harvest strategy, and the difference between the two curves is not that great. In this particular instance, with the new rebuilding curves that we looked at, again, not too great although it would take a couple of more years to get to the target with the 8.8 million pound constant harvest strategy than the constant mortality strategy. So that, I think, was some of the thinking behind that vote.

EXECUTIVE DIRECTOR DUNNIGAN: Ms. Shipman.

MS. SHIPMAN: So in essence this Table B, comparison of management alternatives, probability of exceeding the threshold SSB, that has not been vetted through the Technical Committee; am I correct?

MS. GAMBLE: No, it has not gone through the Technical Committee.

MS. SHIPMAN: To me that's a very important thing to be done before we make a decision of going one course or another. I mean, I think it's very important for this risk analysis to be run through the Technical Committee. And I understand the timing of everything. It was unavoidable circumstances.

MS. GAMBLE: Right. At the Mid-Atlantic Council meeting there was a graph, such as what you're talking about, presented, but it didn't go through our Technical Committee so I didn't want to present it here.

But we do plan on having the Technical Committee meet, at which time we can have them review the information that was presented at the Mid-Atlantic Council meeting.

EXECUTIVE DIRECTOR DUNNIGAN: Other questions or comments? From the public? Mr. Phillips.

MR. JOHN PHILLIPS: Thanks, Jack. My name is John Phillips. I'm the fairly new regional director for the Ocean Conservancy for New England. The Ocean Conservancy until recently was called the Center for Marine Conservation.

I notice that we and other organizations, including National Audubon, Environmental Defense, the Wildlife Conservation Society, the Mote Marine Lab, and the National Resources Defense Council, has sent a letter dated October 12 to Jack Dunnigan.

And basically, we are obviously concerned about the precipitous declines we've been hearing about in Megan's presentation. I just wanted to highlight our concerns and to reference just a couple of portions of this letter, which is that any increases in the dogfish quota or trip limits at this time would be premature, inappropriate and would seriously undermine the cooperative state-federal management process.

And we urge you to continue the current emergency action until more permanent federally compatible state dogfish limits are in place. Frankly, it's sort of interesting in looking at the slides and so on, because I was involved about five-plus years ago in promoting and marketing the dogfish fishery in Massachusetts.

And there were a few naysayers at the time that we were concerned about the dogfish biology and the concern that the population would go down substantially. And those people, obviously, were correct.

So, in conclusion, we're just obviously supportive of a precautionary approach and obviously want this population to rebound as soon as possible. Thank you.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, John. Other comments from the public or questions? Back to the Board, any further comments or questions on the presentation before we move ahead to make some choices here? Dr. Pierce.

DR. PIERCE: Megan, you indicated that the New England Council has not yet met to discuss what to do for the next fishing year and they will meet in November so, you know, this Board

doesn't have the benefit of those discussions which I'm sure will be quite long and interesting.

We do, however, have the decisions by the Mid-Atlantic Council. Would you or Dan Furlong, who is here, executive director of the Council, give us a feel for what the Mid-Atlantic Council is thinking regarding the need to revise the rebuilding schedule?

I know that at the Monitoring Committee meeting Rich Seagraves said that that would likely be a change in the next amendment to the plan because it's impossible for us to meet our rebuilding time frame even with the fishing mortality equal to zero over the duration of that time frame.

So where is the Mid-Atlantic Council going with that right now because it is important for us to consider that since if, indeed, the Mid-Atlantic Council and then the New England Council change the rebuilding schedule, it has implications for what ASMFC would want to do.

MS. GAMBLE: Well, I know they voted to include that in their issues paper to go out for discussion for draft Amendment 1. And I think the reason or the motivation behind including that in the issues paper was because of these projections we've seen from Dr. Rago's presentation.

EXECUTIVE DIRECTOR DUNNIGAN: Dan, do you want to add to that? No. Thank you. Okay, no further comments or questions, we will move ahead.

EXPIRATION OF THE EMERGENCY ACTION

EXECUTIVE DIRECTOR DUNNIGAN: Looking at the next agenda item, the next agenda item is seven which are options for Spiny Dogfish FMP. There are two bullets that are underneath this. One is a decision document which has to do with where the Board wants to go with its long-term management program, and the other one is what to do about the pending expiration of the current emergency rule which will expire on July 31, 2002, unless extended by the Board.

And this is probably your best opportunity to consider whether you want to do that. Let me suggest that it might make more sense to deal with the emergency action first.

So at this point I would like to ask whether there are any comments or suggestions from the Board members about whether or not you want to move today to extend the emergency action which will otherwise expire on July 31, 2002?

And just to remind you, your emergency action is that states are required to close state waters whenever the federal fishery is closed. Dr. Pierce.

DR. PIERCE: Yes, Jack, regarding the extension of the emergency action, are we pretty much obligated to consider a one-year extension or can we consider an extension for some other duration of time, less than one year?

EXECUTIVE DIRECTOR DUNNIGAN: It cannot be longer than one year.

DR. PIERCE: It cannot be longer than one year. All right, in that case, I would move that the Board extend the current emergency action through April 30, 2002, which would bring us through the end of the current fishing year as established by the Councils.

EXECUTIVE DIRECTOR DUNNIGAN: The motion is to extend the current emergency until April 30, 2002. Is there a second to the motion?

MR. JOHN I. NELSON: Second.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Nelson seconds the motion. Comments? Dr. Pierce.

DR. PIERCE: Yes, I make this motion with my understanding that the Board intends to move forward with the development of a Spiny Dogfish Management Plan. We've had a public information document developed. It's gone out to public hearing.

We've got comments on that document. We're going to act on it today. And unless the staff advises me otherwise, I would assume that we would be in a position to make a decision as to how we want to manage spiny dogfish through the interstate management process before the end of the current fishing year that has been established by the Councils, that we could get something in place before that deadline of April 30th.

With that understood, I think the April 30th deadline would be appropriate. And I turn to you, Jack, for some advice. If indeed something happens with our progress, if we get set back and we're not in a position to have a final plan ready to go before that time, would the Board be in a position to extend the emergency action even further? Let's say at our February meeting.

EXECUTIVE DIRECTOR DUNNIGAN: The Commission's emergency rules allow for the Board to take an emergency action that requires the states to do something. It is effective for an initial 180-day period. It may be extended twice for periods not to exceed one year each.

We have gone through our initial 180-day period. We are now in our first one-year

extension. If you extend the emergency rule, I think the better reading of our process is that that is your second extension, and once it's over it's over.

So I believe that the better way to look at this is that if you extend the emergency through April 30 today, that becomes a final drop-off-the-cliff point. I don't think you could extend beyond that.

DR. PIERCE: In that case, Jack, in order to make it easier for the Board and especially in light of the fact that time is short, I'd like to, if no one objects, if the seconder doesn't object, I'd like to revise this motion so that it would be to extend the current emergency action for an additional year until replaced or unless replaced by management measures in the ASMFC Spiny Dogfish Plan.

EXECUTIVE DIRECTOR DUNNIGAN: Is there any objection to that revision of the motion offered by Dr. Pierce? Seeing none, it will be incorporated. And just so that we all understand the motion, then, is to extend the emergency until January 31, 2003, unless it's replaced first by an ASMFC Fishery Management Plan. Mr. Colvin.

MR. GORDON C. COLVIN: The change to the motion addresses my comment.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Mr. Cupka.

MR. DAVID CUPKA: That's one year from the time that the current emergency action is over, not one year from the date this motion is passed, correct?

EXECUTIVE DIRECTOR DUNNIGAN: That's what the motion says and I think that's the right reading of our rules. Mr. Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. The National Marine Fisheries Service strongly supports this motion. It's not only appropriate, but it's critical to the type of complementary regulatory actions which need to be considered and evaluated through both the Council process for federal waters and through this process with the development of our own management measures through the Commission plan for state waters.

I believe this is in full accordance considering all perspectives in terms of options on how to manage the resource. And as the Council continues to deliberate with its own issues paper, I would assume, as our next conversation will probably take us, we will continue our own consultation with the Council to ensure that the various options are fully evaluated. Thank you.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Harry. David.

DR. PIERCE: For the benefit of those in the audience, especially those who are in the dogfish industry, I want to make it very clear that it's my desire, my strong desire, to have the Board, with staff assistance, of course, move forward very rapidly with the development of this plan so that we put ourselves into a position where, if we choose to do so, we can have something different for at least part of the next fishing year that would begin May 1, 2002.

I don't want the industry to leave this room thinking that it's all over and done with for the next fishing year and any opportunity to harvest spiny dogfish would be postponed until May 2003, going through the rest of that year.

So my intent is for us to move forward quickly, to rely on Technical Committee advice that will be coming to us fairly soon, I hope, and also for the Board to rely on advice coming from our industry panel.

It has been told to us a number of times, especially by industry representatives, members of our panel who have attended the Monitoring Committee meetings and the committee meetings of both Councils, that they want to have a meeting of the Advisory Panel and we have yet to have one. So in the interest of being fair to them, we need to have that meeting soon, too.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, David. Other comments or questions on the motion? David Borden.

MR. DAVID V.D. BORDEN: Call the question, Mr. Chairman.

EXECUTIVE DIRECTOR DUNNIGAN: Is there any objection to calling the question? Seeing none, we will go to a vote. Do you need time to caucus? Nobody seems to need caucus. Let me remind you this is an emergency action. It requires an affirmative vote of two-thirds -- okay, thirty-second caucus, but you're going to have to have a two-thirds vote to pass the motion.

(Whereupon, a caucus was held.)

EXECUTIVE DIRECTOR DUNNIGAN: Okay, are we finished caucusing? We will move to a vote and I think because of the nature of the majority that's required to pass this, I will ask Megan to take a roll call.

MS. GAMBLE: The state of Maine.

MAINE: Yes.

MS. GAMBLE: The state of New Hampshire.

NEW HAMPSHIRE: Yes.

MS. GAMBLE: The state of Massachusetts.

MASSACHUSETTS: Yes.

MS. GAMBLE: The state of Rhode Island.

RHODE ISLAND: Yes.

MS. GAMBLE: The state of Connecticut.

CONNECTICUT: Yes.

MS. GAMBLE: The state of New York.

NEW YORK: Yes.

MS. GAMBLE: The state of New Jersey.

NEW JERSEY: Yes.

MS. GAMBLE: The state of Delaware.

DELAWARE: Yes.

MS. GAMBLE: The state of Maryland.

MARYLAND: Yes.

MS. GAMBLE: The state of Virginia.

VIRGINIA: The Commonwealth votes yes.

MS. GAMBLE: Sorry, Commonwealth. Massachusetts is also a Commonwealth. (Laughter) The state of North Carolina.

NORTH CAROLINA: Yes.

MS. GAMBLE: The state of South Carolina.

SOUTH CAROLINA: Yes.

MS. GAMBLE: The state of Georgia.

GEORGIA: Yes.

MS. GAMBLE: The state of Florida.

FLORIDA: Yes.

MS. GAMBLE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Yes.

MS. GAMBLE: And the U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. All members of the Board having voted in favor of the motion, it is passed.

REVIEW OPTIONS FOR THE SPINY DOGFISH FISHERY MANAGEMENT PLAN

EXECUTIVE DIRECTOR DUNNIGAN: We will now move ahead to the other decision item that you have to make today and this has to do with the decision document that was in the materials that was sent out to you.

And it is the beginnings really of what we need to do to decide where to go with this fishery management plan. From the staff standpoint, it has been a little frustrating for some time now. We have had our first round of public hearings.

We've developed comment. And we should have been moving to a draft FMP stage, but the Board has had to spend a lot of time dealing with short-term and other issues and so we haven't gotten on with it.

And from my standpoint either as your chair or as your executive director, I'd like to see this

morning if we can finally get the Board to decide where it wants to go with the management of spiny dogfish.

And that's really what the issue is here. There are a couple of major alternatives. I'm going to ask Megan in a minute just to walk you quickly through the decision document, but essentially we can decide to forego management.

We can decide to have our own completely independent management program. We can have a program, if we want, that tracks what the federal government is doing or we can decide to make decisions as we go along.

And those are some broad alternatives, but one way or the other starting today we have to get moving on this. It has been two and a half years since we started down the road of spiny dogfish management and we ought to go forward.

So let's begin this. Let me ask Megan to walk you quickly through the decision document that was in the materials that was laid out, and then we'll come back for some discussion and see where the Board wants to go.

MS. GAMBLE: The first section are the major management alternatives that we have to consider. The first alternative or Option 1 is status quo, which means the state waters are open with no interstate regulations for the spiny dogfish fishery until there's a federal closure due to the spiny dogfish fishery obtaining the total allowable catch.

And when the federal spiny dogfish fishery closes, the state waters will be closed to the commercial harvest landings and possession of spiny dogfish.

Option 2 is a complete closure of the fishery. The commercial harvest landing of possession of spiny dogfish will be prohibited at all times in state waters.

Option 3 defers management authority to the regional fishery management councils. And Option 4 would implement the management measures based on a constant fishing mortality strategy. Option 5 is to implement management measures based on the constant harvest strategy.

There's some additional options to be included in the draft FMP, and I would like to ask if the Board has anything else they want to see included, please indicate that. But for now the alternatives are the fishing season, trip limits, size limits, annual versus multiple-year specifications, and the issue of biomedical scientific supply.

And then the final section on this decision document -- oh, actually not, it's second to last,

second to last are the quota management options which deal with seasonal or regional quotas versus state-by-state quotas, male/female and size quotas, quota overages and underages, transfer of quotas.

And then the last section is just a couple of items that have come up in the past that there has been some interest in exploring further and they are uniformity of management measures between state and federal waters, bycatch which we discussed, the discard mortality rate and development of gear modifications, measures to reduce the level of discards in problem fisheries and mortality of discards, incentives for redirecting effort away from mature females, monitoring landings and biological sampling and recreational measures if necessary.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Megan. The staff would like to proceed as expeditiously as possible to draft you a fishery management plan and bring it back so that we can go through our second round of public comment. What we would like you to tell us is what you want included in it.

Let me begin the discussion or suggest -- maybe it won't go that way, but suggest that perhaps we ought to focus on these large strategy issues first that were included at the beginning part of the presentation that Megan just made.

Any or all of this information, these options, can be included and probably should be to some extent. We would want to make sure that we were able to highlight and fully analyze all of those that you clearly wanted considered as preferred alternatives or at least as non-preferred alternatives or not non-preferred alternatives. So let's move ahead with the discussion. Mr. Colvin.

MR. COLVIN: I have a question and then I may, depending on the answer, suggest an Option 6. Can we get some indication on the record of this meeting of the status of amendment of the federal FMP and the schedule for doing so?

EXECUTIVE DIRECTOR DUNNIGAN: I think as a part of Megan's presentation, originally she indicated that the Mid-Atlantic Council has put together an issues document that will form the basis for the Council to move ahead with Amendment 1, but that right now, having just elected new officers, the Council and its Executive Committee will need to do some prioritizing. I don't know that they have a good sense of what their schedule is yet but I would ask Dan Furlong to comment, if he would, please.

MR. FURLONG: That's true, Jack, we do have new officers and we will be meeting next week to establish priorities. I feel confident, based on the Council's action at its meeting last week, that the staff will present to the Council at its January meeting a suite of options for the Council to identify in terms of its preferred alternative to go forward with an Amendment 1 to the management plan. And from that point in time, I would expect 18 months to regulation.

MR. COLVIN: Thank you, that's helpful.

EXECUTIVE DIRECTOR DUNNIGAN: Can I ask Dan a follow up on that issue? Dan, our last shot at an emergency in this fishery will expire on January 31, 2003. Do you think that the Council is going to be in a position to have its amendment sent to the Secretary by then?

MR. FURLONG: I believe that the submission will have been made during calendar year 2002 of a secretarial plan for the agency's approval. At that time, as you know, it would be the agency that would promulgate the regulations to implement that. But I'm confident that in 2002 the Council will be done its work.

EXECUTIVE DIRECTOR DUNNIGAN: That's very helpful, thank you, Dan. Gordon.

MR. COLVIN: Thank you, and some of this discussion may kind of suggest where I'm headed and that is that rather than go with Option 3 here or any of the other options that take the Board and the Commission in a separate direction on its own, my own sense would be that the best option would be another option that attempts, as we have done with other fishery management programs such as bluefish and fluke, scup and sea bass, to convene ourselves jointly with the Mid-Atlantic Council to develop an FMP coincident with the effort the Council is making to development Amendment 1.

I think otherwise the risk of ending up in different places is too great. I think the demand on our resources will be collectively and individually greater than we can afford to expend. If we come to a point where our roads must diverge, so be it, but why start there? And right now I'm not sure that any other option here is frankly one that I can support at this time.

EXECUTIVE DIRECTOR DUNNIGAN: David Pierce.

DR. PIERCE: I think Gordon -- well, Gordon, let me restate what you just indicated, that you are recommending that an option be put in place that relates to process, process as to how both ASMFC and the Councils move forward with the

development of the next amendment; am I correct?

It's a process question. Is that really an option to be considered? Well, I suppose it is. It's a process option that could be included in the list. It doesn't relate specifically to how spiny dogfish would be managed.

Status quo, Option 1; Option 2, Option 4 and Option 5 relate to specific strategies for managing dogfish. Option 3 relates to process, and the option you just suggested, Gordon, relates to process, too.

So I understand what you're saying and I agree with you. I just don't know how it would fit into this particular list because there's a blend of process and specifics.

EXECUTIVE DIRECTOR DUNNIGAN: Well, that's true although I think the implication from what we just heard from Dan is that it will take all of 2002 to do that. Other comments on general strategies? David.

DR. PIERCE: The options we have before us, option one through five, we've seen them before. In the interest of speeding things up and making it easier for the staff in terms of the analyses that they must do, unless there's some legal requirement, I would suggest that we delete Option 2, complete closure, F equals 0, because that's impossible in light of the discards that occur in other fisheries.

I think it's been acknowledged many times over by Paul Rago and the staff of the Mid-Atlantic Council that that's unachievable, so there's no sense having an option that is impossible for us to achieve.

And Option 3, I would also suggest that we delete this. We've discussed it before. I believe I stated my opinion on Option 3 before; that being it's not wise for us in any particular instance to defer our authority to the federal government through the Councils.

We should maintain our ability to manage our fisheries, set our own course, and not let others dictate that course for us. So I would suggest the viable options that we have are one, four, five and the one that Gordon just suggested.

EXECUTIVE DIRECTOR DUNNIGAN: Ms. Shipman.

MS. SHIPMAN: Gordon's suggestion certainly could potentially achieve some economies, and we're later this week going to be looking at the action plan. In fact, that will be presented to commissioners.

Jack has that and will be giving it to you today and we want you to take a look at it because we have limited resources. We have a number of priorities and we have to make a decision where does this management and this species fall within priorities we actually already have on the platter.

It could be with joint management planning, depending on the work that's already been done and being done by our federal partners, this may be an efficient way to go.

It seems an underlying philosophical -- the philosophy between New England and the Mid-Atlantic has got to be resolved. And the same players are going to be involved in the resolution of that at the Commission and at the Council level, to some extent.

There will be some different players as well but certainly the states' interests. Gordon's suggestion appeals to me, as I say, from an economic efficiency standpoint and a process efficiency if we can indeed achieve that with a commitment from everybody around this table to resolve this.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Other comments? Mr. Mears.

MR. MEARS: Mr. Chairman, just a minor editorial correction. I believe Option 4 is inadvertently mislabeled. It reads the same as Option 5 -- or no, it doesn't. Is it in fact the proper label for Option 4 is my question?

EXECUTIVE DIRECTOR DUNNIGAN: It's intended to reflect what's in the federal fishery management plan today, so I think it is labeled properly unless I misunderstand the Council's FMP. John Nelson.

MR. NELSON: Mr. Chairman, I don't see anyone rising to include two and three, and I do sense that there's certainly a support for the other options, including the one that Gordon has put forth. I didn't recall whether Dave had made the motion or not, but if he has not, then I would so move so that we could move ahead on this.

I would move that we include one, four, five; and, Gordon, if he would be so kind to give the staff his writing for option six, we include that in the FMP.

EXECUTIVE DIRECTOR DUNNIGAN: John, thank you for the motion. Motion by Mr. Nelson, seconded by Mr. Adler. Let me comment on the relationship of what Mr. Colvin's suggestion was. I think as it has been characterized, it really is a process issue.

It's a question of whatever we're going to do, are we going to do it on our own and expedite it

probably, or are we going to try to move as much as we can in tandem with the Mid-Atlantic and New England Fishery Councils during 2002.

And so I think it's not really a strategic option that's in here, it's more a question of process about how we're going to go about pursuing these options. So I don't think it needs to be included in your motion. Mr. Nelson.

MR. NELSON: Okay, as long as -- well, do we need to decide on that, Jack, to make sure that we all are in concert with the desire to move ahead in as much unity as we can with the Councils?

EXECUTIVE DIRECTOR DUNNIGAN: I think if anything, that's the one thing we really have to decide today is are we going to be moving in tandem with the Councils or are we going to do it on our own, because that tells the staff what it is we have to do when we get back next week.

MR. NELSON: Well, do you want to decide on that first? I mean, I don't mind tabling my motion and just dealing with that.

EXECUTIVE DIRECTOR DUNNIGAN: I think we can deal with your suggestion first because the range of options may indicate to us whether we want to do it independently or with the Councils.

MR. NELSON: Okay, then mine would be one, four and five.

EXECUTIVE DIRECTOR DUNNIGAN: Comments on the motion for strategies to include in the draft FMP? Mr. Freeman.

MR. BRUCE FREEMAN: Yes, I have a question on Option 2. The way it was characterized is that it's impossible to obtain a fishing mortality of zero because bycatch will occur, but that's also true of the federal plan.

Whatever we do, bycatch will occur. And the reason given for taking out Option 2 was that you couldn't reach that zero level.

Now, I just want this clear. From my perspective or our perspective in New Jersey, I would agree to take it out but it's not because we don't equal zero.

It's just that all the states would agree to prohibit the taking of spiny dogfish in their waters at all times and I object to that, but not to the fact that we don't reach the zero.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Colvin.

MR. COLVIN: It occurs to me that the deletion of Option 3, while I do agree with doing so, it is causing me to think about whether there is another option, and maybe it's -- I mean, we're getting confused here now between process

options and substance options and I'm just going to maintain that confusion.

I don't know how else to deal with it. It seems to me that an option before us that is different, substantively different than Option 3, but not stated here, is an option to make the decision to adopt the same fishery management plan the federal government has already adopted.

That doesn't defer to the federal government. It simply decides that plan is fine, and we're going to adopt it on behalf of the states. I think that option exists. I think it is a substantive option that does not require a major investment of the resources of the Commission and the Commissioners. And, I am not necessarily willing to set that one aside for further consideration.

EXECUTIVE DIRECTOR DUNNIGAN: I think that's Option 4.

MR. COLVIN: Well, Option 4 reads, "The Board would instruct staff and the PDT to draft a Commission FMP that maintains a constant fishing mortality."

And while that's equivalent to the federal plan, it doesn't simply say the Board would instruct the staff to prepare a document that adopts the federal FMP, and those things mean different things to me in terms of the investment of resources.

If we could do it, Jack, as you've suggested, then I'd be comfortable leaving it at that with this discussion on the record. But from the very outset of this entire process, I have been concerned and continue to be concerned about what resources we have to commit here, and that's what's motivating most of what I'm saying here this morning.

EXECUTIVE DIRECTOR DUNNIGAN: David.

DR. PIERCE: I believe Gordon's suggestion basically is the same thing as Option 3 because if we adopt the federal plan in its totality, then we have deferred management authority to the Regional Fishery Management Council.

They developed the plan and then we adopt it. That's the same thing from what I can see. And that's, of course, not an option that I would suggest we pursue.

I'm also sensitive to Gordon's concerns about resources available to devote to this interstate plan, but frankly I don't think it's going to take that much work. Much of the boilerplate has already been completed.

It all comes down to our getting some technical advice from our Technical Committee, advisory input from our panel, and then our making a

decision as to which option to select. And when we do get to discussion about how to interact with the other Councils, I have a point I'd like to make on that as well.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Other comments? My reaction, Gordon, to the point you're making is that Option 3 and Option 4 both show various phases of a decision that would essentially leave the existing federal leadership in developing the management program in place.

Option 3 would, it seems to me, put the states in the same position that we often ask the federal government to be in relative to things like weakfish and striped bass and perhaps lobsters. It's just that we would acknowledge their leadership in this area and we would agree ahead of time that it would be our intent to follow their lead.

Option 4 is a little different in that it adopts the existing federal FMP as the state FMP. So, I mean, I think we've covered both phases of that in the options that are here. Gordon.

MR. COLVIN: I'm not going to beat this any longer, but I will say for the record I disagree with Dr. Pierce's belief that Option 3, the adoption of Option 3 and my suggestion that we make the affirmative decision to adopt the federal FMP are the same thing. In my mind they are not, and for the reasons I previously indicated.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. David.

DR. PIERCE: Yes, I'm not going to get into a debate. That wouldn't be productive. However, I need to make an important point and that is with Option 3 deferring management to the Regional Fishery Management Councils -- in the plural -- or following the leadership expressed by the federal government, be careful with that because there is a difference of opinion regarding how dogfish should be managed -- Mid-Atlantic Council versus New England Council.

So the Board could find itself, ASMFC could find itself in a position, if it were to go with Option 3, for example, if that was on the list, of following the lead of the Mid-Atlantic Council and the National Marine Fisheries Service and ignoring the desires of the New England Council, because I suspect that the New England Council will eventually vote to continue with the strategy, pursue the strategy of the constant harvest.

But, the way the management system is set up federally, when two Councils disagree as to which approach to select, the tie is broken by the federal

government, and I think we know what the views are of the National Marine Fisheries Service.

Those views were expressed very clearly by Pat Kurkul in formal NMFS comments on the public information document where she says very specifically, very clearly, that NMFS cannot support a directed fishery for dogfish.

And that flies in the face of what I suspect the New England Council will want. So, that's another reason why we should be careful with Option 3 and why I don't support Option 3.

EXECUTIVE DIRECTOR DUNNIGAN: The motion is to include Options 1, 4 and 5. Are there other comments on the motion? Ms. Kurkul.

MS. PAT KURKUL: Thank you. I just wanted to comment on taking out Option 2. In fact, in light of the scientific advice presented to the Mid-Atlantic Council at their October 10th meeting, which was essentially that all of the indicators for dogfish continue to decline, the Mid-Atlantic Council voted to include Option 2.

And that was in recognition of the fact that as we go through these analyses, we may in fact find that the reason why the other options look so much alike is because they're all in fact inadequate. Especially if the interest here is in moving forward together with the Councils on this public hearing document and amendment, then it may make sense to leave that option in there.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Pat. Other comments on the motion? Mr. Colvin.

MR. COLVIN: Well, just to respond to Pat Kurkul's comments and the one that Bruce Freeman made earlier, does it make sense to leave Option 2 in but delete F equals 0 from it? As Dr. Pierce pointed out, F won't equal zero, but one can prohibit harvest, landing and possession.

And if that's what the Mid-Atlantic is including in its range of options, I think perhaps we should do so. And I'm wondering whether those who have offered the motion are amenable to an amendment to that extent?

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Nelson.

MR. COLVIN: Otherwise, I'll make it.

MR. NELSON: Mr. Chairman, I do not object to a range of options being considered. I guess if we do remove F equals 0, that does give Option 2 a little bit more flexibility, and so therefore I would agree to include it in my motion.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Adler.

MR. ADLER: Yes.

EXECUTIVE DIRECTOR DUNNIGAN: Is there any objection from the Board? Without objection, we will add Option 2 to the motion, but eliminating the reference to F equals 0. David.

DR. PIERCE: I was objecting, Mr. Chairman, because I don't know what that option means. A complete closure of all landing and possession of spiny dogfish at all times in state waters, there's nothing complementary to that in the federal plan right now.

Maybe it will eventually be in the federal plan, but not right now. And it just seems nonsensical to have a complete closure when right now and in the foreseeable future bycatch allowances will be - the fishermen fishing in the EEZ will be allowed to land 4 million pounds yet now a fisherman in state waters can't land anything, can't possess any dogfish -- plus the Canadians.

The Canadians have a fishery right now that is operating and they're fishing on the same stock. I don't support it but I understand why some members would like to have it in there. They're anticipating the future.

I just can't see that as a viable option for the future that would be pursued by the Councils. It's absolutely nonsense. Canadian catch, bycatch and discard, other sources of fishing mortality, this strategy would have absolutely no affect but impact state water's fishermen.

EXECUTIVE DIRECTOR DUNNIGAN: I understand that. We do have an indication that it has been included in the issues paper at least for the Council. So, the suggestion here is to leave it in as one of our options. Is that okay with you?

DR. PIERCE: All right.

EXECUTIVE DIRECTOR DUNNIGAN: Or we'll vote.

DR. PIERCE: Let's leave it in. I've made my point. Leave it in. It will go to public hearing. It will be debated and my points will be reiterated by many others.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. The motion has been revised. Are there any other comments on the motion? Questions? Are you ready to vote? Do you need a caucus? I see no request for a caucus. One vote per state.

All of those in favor, please raise your hand. There are fifteen votes in favor. Are there any opposed? Are there any abstentions? It is unanimous and the motion is adopted.

The next thing I would like to ask the Board to turn its attention to is the suggestion made by Mr. Colvin about process, about how we go about preparing our fishery management plan during

2002. Do we move ahead on our own or do we get in touch with the Councils and move in tandem with them as they develop Amendment 1. Mr. Colvin.

MR. COLVIN: I would move that the Board express its intent and proceed as possible to develop a joint FMP in a process that involves the Council's initiative to develop Amendment 1 to the Federal FMP.

MR. BORDEN: Second.

EXECUTIVE DIRECTOR DUNNIGAN: Can I make a suggestion that you revise that a little -- that the Board pursue a joint FMP planning process during 2002 rather than say we will develop a joint FMP?

MR. COLVIN: Okay.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you.

MR. COLVIN: Works for me.

EXECUTIVE DIRECTOR DUNNIGAN: Motion by Mr. Colvin, seconded by Mr. Borden. Comments? Dr. Pierce.

DR. PIERCE: I certainly see the merits of pursuing a joint FMP planning process; however, I need to be convinced that we have the ground rules properly designed, properly identified, because if we use the same sort of a voting mechanism that we now use with scup, with sea bass, with fluke where the Board meets with the Committee, and if we don't get the Board and the Committee to second the same motion, there is no motion.

If that indeed is the process we'll be obliged to follow with this process, then ASMFC may as well hang it up right now because we'll never have a motion that will have everyone saying, yes, that's the way to go. The New England Council has also a complication where we have a New England Council Committee and a Mid-Atlantic Council Committee both meeting together. The Board now would be present with the Committee.

You're aware of these problems, Jack. I'm not sure how it would work, how we would handle the procedures whereby we could effectively do business.

And I look to you for guidance as to how we can have such a process without finding ourselves always behind the eight ball, never being able to express and pursue an ASMFC initiative if indeed the Board feels a separate initiative is warranted.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, David. That's why I made the comment that I made when Mr. Colvin made his motion. We have for summer flounder, scup, black sea bass,

bluefish, maybe another, we have a joint plan with the Mid-Atlantic Fishery Management Council and the New England Council.

I think my intention in asking for the clarification was to indicate that rather than do that, we would pursue a mutual and tandem process which is more like how we do in Atlantic herring where we meet with the Council, we consider information together, but we're preparing separate FMPs so that we can go ahead and be able to make decisions without having this sort of overlay of process that sometimes causes us difficulties, minor difficulties in summer flounder, scup and black sea bass. Mr. Adler.

MR. ADLER: All right, so, Jack, what you are indicating is moving along in this process here, we would end up with an ASMFC Dogfish Plan?

EXECUTIVE DIRECTOR DUNNIGAN: You know, that is the Board's choice but that was my suggestion.

MR. ADLER: I mean, that I would support but I would not support a joint plan between the two as one plan because I may want to be a little different than them.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Ms. Shipman.

MS. SHIPMAN: This basically follows the course we started out on this summer. I mean, we had a group that went and met jointly, if you will, in September. We also expressed our interest in extending an invitation to the Councils to be a part of this process, so I think it just carries us forward in the direction we've already started.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Mr. Colvin.

MR. COLVIN: Mr. Chairman, thank you. In honor of our absent chairman and because I have to tell him I did it at least once, I would like to respectfully call the question.

EXECUTIVE DIRECTOR DUNNIGAN: Is there any objection to calling the question? Seeing none, we will proceed to a vote. One vote per state. Do you need an opportunity to caucus? I don't see any need to caucus being expressed, therefore, all those in favor, please say aye; all those opposed; abstentions; null votes. In the opinion of the Chair, the ayes have it. The motion is passed.

What I would like to do next, and briefly, is give you an opportunity to look at and comment to the staff about the other items that are included in the draft decision document in terms of additional management tools, the possibilities for quota management measures and the other issues.

All of these we can deal with and we can include and get language put together in a strawman that you'll be able to react to. But, I want to make sure you have the opportunity here this afternoon to be able to point out concerns you've got or opinions you've got about any of these things specifically so that we can make sure, in doing the drafting, that we deal with them.

So I'm just going to proceed through these things one by one and see whether any of you have any reactions; and if so, just raise your hand and we'll get all of that on the record.

Looking at the additional management tools, are there any issues or thoughts or comments about fishing seasons? And, again, we're looking at this particularly from the perspective of state fishery managers. Bruce Freeman.

MR. FREEMAN: Jack, although the seasons in the initial plan are as stated here, there's a differential percent taken by one of the other seasons. As indicated at the joint meeting of the Mid-Atlantic and New England Spiny Dogfish, there was a consideration given of changing those percents so it would be equal between north and south.

Now this doesn't mention that percentage, it just talks about the season. Is there another area in here where you talk about that percent or is that just assumed to be in there or included? All right, it's under "seasonal and regional closures."

EXECUTIVE DIRECTOR DUNNIGAN: Right, it's under "quota management measures," Bruce.

MR. FREEMAN: All right, okay.

EXECUTIVE DIRECTOR DUNNIGAN: Comments on trip limits; again, specifically from our perspective as states. Size limits; annual versus multiple-year specifications; biomedical or scientific supplies?

Okay, looking at quota management measures, any particular thoughts you want to express right now about seasonal or regional quotas as opposed to state-by-state quotas? Bruce.

MR. FREEMAN: Let me just back up a minute.

EXECUTIVE DIRECTOR DUNNIGAN: Sure.

MR. FREEMAN: On the biomedical-scientific we talk about the scientific supply. That number can be sizeable based upon what we know about the present demand.

It would seem to me there could be an additional way. The issue with this whole bycatch is that at the present level of bycatch it's not economical to deal with it. But for biological supply, there may be considerably more value, and, therefore, there may be the possibility of

using the bycatch to meet the scientific supply side of it. I would just include it as a possibility.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Other comments there? Male and female size quotas. Bill McKeon.

MR. WILLIAM McKEON: I would just like to point out from a law enforcement perspective, as far as additional management tools and the fishing seasons, it is beneficial to have federal and state open and closed seasons compatible, if possible. Thank you.

EXECUTIVE DIRECTOR DUNNIGAN: Very good, thanks, Bill. Comments on quota overages and underages; transfer of quotas among states? All of this will be in the plan as choices.

The other issues that are listed there, anything you want to point out to us right now? Okay, seeing none, what the staff will do, based upon the two motions that you passed this morning, is get with the staffs of the Mid-Atlantic and the New England Fishery Management Councils and as best we can, depending upon how the priorities do end up finally being set for 2002 at the Council level, map out a schedule that will allow us to proceed in tandem with the Councils during 2002 towards a management program.

As I said earlier, our emergency will have to expire by January of 2003, so in doing that planning and based on what Dan said today, I'm going to be looking at the latest of having a final decision for the Board and the Commission by this time next year.

That will be my operational planning as I deal with the Councils in laying out this schedule. And from the standpoint of the Commission's options, we will use the guidance that you have given us and the other motion you passed this morning in putting that together.

And I think we've got some direction to go on the FMP now. Dr. Pierce and Mr. Borden, Mr. Freeman.

DR. PIERCE: Would you repeat what you said, Jack, that you're looking at the completion of a plan to be implemented at this time next year -- October 2002?

EXECUTIVE DIRECTOR DUNNIGAN: No, it seems to me we will be bringing a plan back for final vote by the Board and the Commission at the annual meeting next year, and I would assume from that, that implementation would be after that, January 1 or for the next fishing year, I'm not sure.

DR. PIERCE: That's not my intent, Jack. Again, if we implement a plan in the fall, let's say, late October of 2003, then we've missed the next

fishing season. We will have missed the fishing season from May through the end of October or middle of October.

It's my hope that we would be in a position to have something ready to go and adopted by no later than late spring. Otherwise, we lose the fishing season and we need to tell the industry that because they need to make plans, the processors, the fishermen, and that's a big step to go that long without having a plan in place.

EXECUTIVE DIRECTOR DUNNIGAN: I think the question is the one that we decided in this procedural motion that we passed before is are we going to continue along the process of working during 2002 in tandem.

And I said it at the time, what this means is it will take us all of 2002 to write the FMP, and I thought that was the decision that the Board had made. Am I missing this or -- Board members, where are you on this? Ms. Shipman.

MS. SHIPMAN: You are absolutely right, and we can adopt a plan at the end of next fall. We do not have the constraints of having to send it through a 145-day review through the National Marine Fisheries Service.

I mean, it's as you just stated, whatever date we would decide would be the implementation time, and that could either be February 1 of 2003 or it could be earlier than that. It will be developed in this plan, and it seems to me there would be something in place for May 1 of the 2003 fishing season.

DR. PIERCE: All right, then I completely misunderstood because, as I indicated earlier in my discussions, I supported the continuation of the emergency action for another year, until replaced by the FMP, earlier.

And I made the point I was hopeful that we would have something ready to go at least for some time during the next fishing season, which would be mid-summer of next year. And you're telling me now, Jack, that that is something that cannot be accomplished?

EXECUTIVE DIRECTOR DUNNIGAN: I'm saying I think that's not what the Board decided about 20 minutes ago.

DR. PIERCE: I'll have to have that decision reviewed. Is that it? That's one option.

EXECUTIVE DIRECTOR DUNNIGAN: That was adopted by the Board.

DR. PIERCE: Right, that was -- wasn't that adopted as one of the options to pursue regarding how we move forward.

EXECUTIVE DIRECTOR DUNNIGAN: No, you remember we separated out, and we said let's deal with the strategic options, and we decided which ones to include and then we separately considered the process that we would follow during 2002, and this is what the Board passed.

DR. PIERCE: All right. Well, just for the record, I misunderstood the intent of that motion because it was clear to me from previous discussion and what the Board seemed to be intending, that we would move forward as quickly as possible with the development of this plan to get something in place for 2002; and now through the passage of this motion, I'm being told that 2002 isn't possible, that we have to wait until 2003, and that's unacceptable to Massachusetts, certainly. And, again, it just seems inconsistent with -- well, I've said my piece.

EXECUTIVE DIRECTOR DUNNIGAN: Any other comments from the Board about process? Okay, we'll move ahead. I think we have gotten -- from my standpoint, thank you, we've gotten the direction from you that I hoped we would.

We will proceed accordingly and keep the Board informed during this interim period until we can meet again in February about how much progress we're making in pursuing this.

SCIENTIFIC AND/OR DISPLAY PERMITS

EXECUTIVE DIRECTOR DUNNIGAN: The next agenda item we have is -- we still have two items we have to deal with. One is to discuss the status of the scientific and public display joint permitting issue between the states and the federal government.

You referred that to the Management and Science Committee. Dr. Kline is going to present that, and we may have a little bit of discussion about it. I don't think there's any decision you have to make today. And then we will have an election. Dr. Kline.

DR. LISA KLINE: Thank you. I'll just give you a brief update of where we are. Following the last meeting, Megan had sent out a survey to the Management Board and she has compiled all the responses.

There still appeared to be some confusion about what issues were being addressed and the process that we were looking at. We put together some background information that was included on the CD-rom that hopefully will answer some of those questions, what the issues are, what the

magnitude of the problem potentially is and what's being proposed.

Just to clarify one point, one question that was raised by several states was whether or not this was going to be one single permit that would be issued up and down the coast, and that is not the case.

The National Marine Fisheries Service and the individual states will continue to issue their own permits under their own authorities.

What's being proposed is a central tracking system so that all the state and federal information will come into one system and that can be used to track the issuance of the permits and how many sharks are collected under those permits. So, that's the intent.

One of the questions that was raised, when staff reviewed the responses, was some discrepancy in what the role of the National Marine Fisheries Service would be versus the role of the individual states and the role of the Commission.

And I think that if the Board would like, we can refer that back to the Management and Science Committee and get some input from them or if you would like to have some discussion here. But that seemed to be the one point that seemed to be raised in the survey responses.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Lisa. Are there any comments or questions for Dr. Kline? Mr. Mears.

MR. MEARS: Thank you, Mr. Chairman. Lisa did a very good job of summarizing the status of this particular issue. I would only add that the National Marine Fisheries Service in the near future intends on issuing a proposed rule that would address various ways to streamline at least the federal permitting process.

And it's very important at this time to have this group as well as the Management and Science Committee aware of the intent and the type and scope of issues to be addressed during the proposed rule.

So, once again, there will be another opportunity for public comment.

But it is our interest at this time to make sure you're aware of the process and that you have an opportunity to provide input at this time for streamlining an accounting system for the permits issued by both state and federal agencies for capture of live sharks for display. Thank you.

EXECUTIVE DIRECTOR DUNNIGAN: Bill McKeon.

MR. McKEON: Just one question here. It says "voluntary input of the state permit data", will it be voluntary or will it in fact be mandatory?

DR. KLINE: Those are still the details that would have to be worked out. Where we are right now is trying to figure out how this cooperative program would be put together and how either the individual states and/or the Commission would work with the National Marine Fisheries Service to develop those details.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Bill. Other comments or questions for Lisa? As she says, this has been referred to the Management and Science Committee and we will be trying to get some law enforcement input as well so that we can come back to the Board with the National Marine Fisheries Service with a more complete sense of how this will operate, and then the Board can decide where it wants to go with it in the future.

ELECTION OF NEW CHAIR

Moving on to the next agenda item, the Board needs to elect a new Chair. And at this time the Chair declares the floor is open for nominations. Don't everybody volunteer at once. Dr. Pierce.

DR. PIERCE: Just a question for clarification. Is this the Chair of the Spiny Dogfish Board or the Chair of the Spiny Dogfish/ Coastal Shark Board?

EXECUTIVE DIRECTOR DUNNIGAN: The latter.

DR. PIERCE: The latter. All right, just so that we all understand.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Lunch is awaiting. Mr. Freeman.

MR. FREEMAN: To move this along, I'll nominate John Connell.

MS. SHIPMAN: Second.

EXECUTIVE DIRECTOR DUNNIGAN: John Connell has been moved and seconded to be the new Chair of the Spiny Dogfish Management Board. Are there any other nominations?

I see none. Is there any objection to electing John Connell unanimously to be the Chair of the Spiny Dogfish and Coastal Shark Management Board? I see no objection and the Chair therefore declares John Connell has been elected. (Applause)

Thank you, John, very much. We will get to know you real well here, John. I think that completes our agenda. Are there any other items to come before the Spiny Dogfish and Coastal Shark Board?

We will elect a vice-chair at the next meeting, John. We'll let you take care of that item of business once you get there. David Pierce.

OTHER BUSINESS/ADJOURN

DR. PIERCE: Yes, in the interest of making it clear to all of our advisors and to the dogfish fishing industry that has been watching these deliberations closely for the past few years, I hope that in the announcement that is the press release put together by ASMFC, it's made clear that the Board has decided not to go with the constant harvest strategy for next year and that the federal measures will be in place for all of 2002.

And that way no one is misled into thinking that this Board actually is going to work to provide that opportunity for next summer and early fall.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Any other items to come before the Board? Is there any objection to adjourning? Dan Furlong.

MR. FURLONG: Thank you. I will cause you to suffer for 30 seconds, but I would like to thank the Board for extending the emergency rule through January 31 of 2003 and reaffirm the invitation to work hand-in-hand with the Commission's Board chairman and appropriate staff in development of what we do in 2002. We look forward to doing that.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Dan. And let me indicate that in response to the decision you made at your last Board meeting, Dan and I have talked briefly a couple of times about extending an invitation to the Councils to have somebody sit as a voting member of this Board on their behalf, and we just haven't had a chance to get with Paul Howard and work all of those details out, but I think that we both intend to have that done by the next Board meeting.

Any other items of business to come before the Board? Any objections to adjourning? The Board is hereby adjourned. Thank you.

(Whereupon, the meeting adjourned at 12:15 o'clock p.m., October 15, 2001.)
