

ATLANTIC STATES MARINE FISHERIES COMMISSION

Royal Pavilion Resort Atlantic Beach, North Carolina

WINTER FLOUNDER MANAGEMENT BOARD

May 17, 1999

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Attendance

Winter Flounder Board Members:

Pat Augustine, NY Gov. Appte.,
Doug Grout, proxy for John Nelson, NH Fish&Game
Stee Driscoll, NH Gov. Appte.
Vito Calomo, proxy for Rep. Verga, MA Leg. Appte.
Dick Sisson, proxy for D. Borden, RI DEM
Dr. Lance Stewart, CT Gov. Appte.
Byron Young, proxy for Gordon Colvin, NYS DEC
Brian Culhane, proxy for Sen. Johnson, NY Leg. Appte.
Bill Cole, USFWS, proxy for Dr. Jaime Geiger
Tom Fote, proxy for Sen. Bassano, NJ Leg. Appte.

Lew Flagg, ME DMR
Dennis Abbott, NH Leg. Appte.
Phil Coates, MA DMF, Chair
Bill Adler, MA Gov. Appte.
Ernest Beckwith, Connecticut DEP
Bruce Freeman, NJ DF&W
John Connell, NJ Gov. Appte.
Charles Lesser, DE F&W
Harry Mears, NMFS

Ex-Officio Members:

Lt. Kurt Blanchard, RI DEM, LEC Rep.

Steve Correia, MA, TC Chair

Other Commissioners:

Susan Shipman, GA DNR, Coastal Resources
Melvin Shephard, Jr., proxy for Rep. Redwine, NC Leg. Appte.

Staff:

Dr. Joseph Desfosse
Tina Berger
Dieter Busch

John H. Dunnigan
Dianne Stephan

Guests:

David Simpson, CT DEP
Herb Drake
Dick Brame, CCA

Artie Odlin, ME
Bob Ross, NMFS NERO
Dr. David Pierce, MA DMF

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

Winter Flounder Management Board

May 17, 1999

SUMMARY OF MOTIONS

1. *Motion to approve the minutes of the January 11, 1999 Board meeting.*

Motion by Mr. Augustine, second by Mr. Adler The motion carries by voice vote.

2. *Move that*

ATLANTIC STATES MARINE FISHERIES COMMISSION

Royal Pavilion Resort Atlantic Beach, North Carolina

WINTER FLOUNDER MANAGEMENT BOARD MEETING

May 17, 1999

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The Meeting of the Winter Flounder Management Board of the Atlantic States Marine Fisheries Commission convened in the Nassau Room of the Royal Pavilion Resort, Atlantic Beach, North Carolina, Monday morning, May 17, 1999, and was called to order at 8:10 o'clock a.m. by Chairman Philip G. Coates.

INTRODUCTIONS

CHAIRMAN PHILIP G. COATES: This is a meeting of the Winter Flounder Board and the first meeting of our Spring Meeting. We have an agenda, and this is the first meeting of this week's meeting, so we have the agenda. It's Tab 1 of your voluminous binders. Are there any changes to the agenda at this time? Okay.

And by way of introduction, I think everybody knows everybody. Anybody from the visitors gallery want to -- no, we know everybody over there, too. I don't see anybody I don't recognize. Does anybody else see anybody they don't recognize. I guess no introductions are in order.

APPROVAL OF MINUTES

All right. Why don't we move right into the minutes of the January 11th, 1999 meeting. They're in your binder. Has everybody had a chance to look these over? I'll accept a **motion to approve the minutes**.

MR. PAT AUGUSTINE: **Motion to approve.**

MR. WILLIAM ADLER: **Second.**

CHAIRMAN COATES: All right. Any discussion? All in favor, signify by saying Aye. **The minutes are approved.** All right.

PUBLIC COMMENT

The next item on our agenda is the public comment. There are microphones situated strategically throughout the room. Does anybody from the public want to make a comment at this time? This is our normal practice. Individuals during motions and at other appropriate times, members of the public, will certainly be encouraged to speak at that time. Anybody any public comment at this time?

Okay. Moving on, we are now going to get a stock assessment update. Steve Correia, chairman of the Technical Committee is, I think, down there. If you could provide an update, we'd appreciate it, and I think you'll be joined by Joe at the appropriate points. Thank you.

STOCK ASSESSMENT UPDATE

MR. STEVE CORREIA: I have a couple of documents here to hand around. I only made 15 of them, so you may have to share them. Okay. There's two sets of documents that I've handed out. One is called "Supplemental Information Presented to the ASMFC Winter Flounder Management Board", and the other one is a series of overheads that I'm going to present today.

Last time we met, Terry Smith presented the SARC results for the assessment, and at this point, the SARC report was in a draft form, and this Board was told that the winter flounder Southern New England stock was both overfished and overfishing was occurring relative to the Amendment 9 overfishing definition. Subsequent to that, there was a reinterpretation based on the National Standards, where this was determined not to be overfished and not overfishing. Now, the assessment numbers did not change; it was just based on legal interpretations from Amendment 9.

On the supplemental letter, you can see where it's highlighted, where it says "Additional analyses indicated the stock is not overfished and the mortality reduction is not necessary." Unfortunately, the second line about the mortality reduction not being necessary is incorrect. And what I plan to do is to walk you through the overfishing definitions and the different National Standards, how the error occurred, and then give you the update for the Southern New England stock.

I would like to start with National Standard Number 1, and this is for the Magnuson Act, and that the overfished, the definition of being overfished is it's a stock or stock complex with sizes sufficiently small that change in management practices is required. The minimum stock size threshold should equal whichever of the following is greater: either one-half the stock size that yields MSY or the minimum stock size at which rebuilding to the MSY level occurs within ten years. And I'll have a graph of these overfishing definitions for you.

The definition -- so overfished relates to how large the biomass is. Overfishing relates to the fishing rate that gives you, that yields maximum sustainable yield. We'll call that FMSY. And overfishing is defined as the fishing mortality rate that exceeds this for a period of one year.

All right. So you can look at this two-dimensional chart, if I can get it all on there, and along the top you can think of it as biomass, so this would be low biomass, this would be high biomass. And where this dotted line is is the biomass threshold. So if you're below this dotted line to this side here, you're below that biomass threshold, then you would be overfished. If you're above it, then you're not overfished. For winter flounder, this biomass threshold is one-quarter of the biomass that gives you BMSY.

And if you look at this, which you could think of as like the Y axis, this relates to the removal rate, the fishing mortality rate. And again, we have this dotted line, and this is the F threshold, which for winter flounder is the fishing mortality rate that gives you maximum sustainable yield. If you're above it, then you are overfishing; if you are below it, then you are not overfishing.

So these are the four blocks that can occur. You can be overfished, the biomass is too low; and overfishing, the biomass, the fishing rate is too high. In that case, you have to have a rebuilding plan. You can have biomass that is too low, be overfished, but you can have a fishing mortality rate that is below the threshold, in which case you are not overfishing, but you are overfished, and you have to rebuild.

You can be not overfished, that is, the biomass is sufficiently high, but you can have a removal rate that's too high, in which case you have to have a remedial action to eliminate the overfishing, bring the fishing mortality rate down. And finally, you can be not overfished and not overfishing, which is where you want to be.

In that case, you use the precautionary target. Now, this is not the threshold. This target is below the threshold, and it's cautionary because it takes into account the uncertainty in the fishing mortality thresholds, both biomass and mortality.

Now, this is from the Draft Amendment 9 document to the Northeast multi-species ground fishery, and you can see that within this document a stock is defined as overfished when its biomass is less than that which can produce maximum sustainable yield, BMSY, on a continuing basis.

Notice that this is different than what's in the National Standards, because the National Standards talk about a biomass threshold, which can either be one-half BMSY or that biomass that can get you there as BMSY, within ten years, whichever is greater. And overfishing is similar to National Standard 1, in that when F exceeds the F threshold.

So this led to confusion in the SARC report, so when the draft report came out, the biomass was less than BMSY, and the F was above the target. So in the draft document, the draft said the stock was overfished and overfishing was occurring. However, when they reviewed the draft document in light of National Standard 1, they had to change that stock status.

So the stock status for winter flounder is that it's not overfished, and overfishing is not occurring.

In the SARC document, they re-looked at the biological reference points. The B target, which is the biomass you want to get to, is equal to BMSY, which is about 28,000 metric tons. The B threshold, which, for the overfishing definition, was one-quarter BMSY, gives you about 7,000 metric tons. And the half BMSY is roughly 14,000 metric tons.

Now, there is an error in the overfishing definition, despite the fact that it was certified, because National Standards call for that biomass threshold to be at one-half BMSY or the biomass allows you to rebuild to BMSY in ten years, whichever is greater. In this overfishing definition, they actually reversed that. They picked the biomass that can rebuild in ten years, which is less than the half BMSY, but despite this, overfishing definition was certified.

There is a control rule. The F threshold, when you are at BMSY, is .59 fully recruited. Now, if you read the SARC document, you'll see a couple of different fishing rates, and most likely you're going to see a .33. That .33 refers to the fishing mortality rate on the whole population as opposed to .59, which relates only to the fully recruited fish. They're

equivalent to each other; it's just a different unit.

When biomass drops below the B threshold, quarter BMSY, roughly 7,000 metric tons, then the fishing mortality rate should be zero. If biomass is above the quarter BMSY level but below the half BMSY level, then the control rule says that you choose a fishing mortality rate that allows you to build the BMSY within five years.

If the biomass is above one-half BMSY but less than BMSY, then you can choose a fishing mortality rate that builds the stock up to MSY within ten years. Because the stock size is large, there's not as much urgency to rebuild.

In graphical form, the control rule looks like this. This is your F threshold. You can see that above BMSY, it's constant at 0.59. Actually, this is fully recruited over here, so it will be .33. You can see once you drop below the BMSY, the curve starts to drop down.

So this upper line here represents the threshold at ten years. So that's between a half BMSY and BMSY. And then you can see the second line here, and that's the five-year threshold. So that fishing mortality rate allows you to rebuild within five years.

But there's uncertainty relative to these thresholds, and so we have these F targets which you're supposed to be shooting for. So again, when the stock is at BMSY, you want to be at this F target. And again, this upper line represents the ten-year rebuilding schedule for F target, and this bottom line represents the five-year rebuilding.

So if you were in this area, the curve between that quarter BMSY and the half BMSY, you want to be on this bottom target here. If you're between half BMSY and MSY, then you want to be on this ten-year target. And again, if you're below a quarter BMSY, then the fishing mortality rate goes to zero.

So again, this shows graphically that you have fishing mortality rate here, biomass here. Any time where you see these blue lines, you are above the threshold, and you are overfishing. Any time you're below this quarter BMSY, you're overfished. And if you reach a point where you're below quarter BMSY and you have fishing mortality rate above zero, you are overfishing.

Now, here's a little bit more language about F target from Draft Amendment 9 to the Multi-Species Plan. And that is, the Council should set F target safely below the threshold level that will produce MSY. But, they put a caveat in that the Council will consider the social, economic and ecological factors in setting the F target in addition to considering the risk of not achieving stock recovery.

So what happens is legally you have to take action if you're overfished or if you are overfishing and you have to rebuild to get to the MSY, but you don't necessarily have to go to the target, although that's preferred.

So, what I would like to do is go over the stock status for 1998.

MR. BRUCE L. FREEMAN: Steve, a question. When you talk about the ten-year -- I know on your various graphs -- that ten-year period cannot be exceeded, it could be less than that.

MR. CORREIA: It can be less than that. That's the maximum.

MR. FREEMAN: I'm just assuming, for purpose of illustration -- your handouts, you just say ten years, but --

MR. CORREIA: Well, that's with the control --

MR. FREEMAN: It couldn't be longer than ten years.

MR. CORREIA: It can't be longer than that. So these lines are designed to get you there, like the ten-year line is designed to get you there in ten years. Five-year line's designed to get you there. And what happens is, because of that uncertainty, for instance, like recruitment, if you ran into a streak of bad recruitment, these lines may be overly optimistic.

And that's why you have the F target, which gives you a little bit more room. For instance, like, if I look at this .59, I tend to think that that .59 is awful high in terms of giving you sustainable yield, despite the model results. And I look at the F -- I think the .59 is risky. But if I look at the .33, I feel you can't really go wrong with that ten year, because even if you've missed a little bit, you're going to get there.

MR. FREEMAN: Okay.

MR. CORREIA: Okay? Does that answer your question?

MR. FREEMAN: Yes. The only point that I think's important for the Board is to keep in mind that at ten years, although used for purposes of illustration and a point estimate, under the act cannot be longer than ten years. It could be anything -- ten or less.

MR. CORREIA: Yes. This here represents the control rule as it's written in Amendment 9.

MR. FREEMAN: Right. Okay.

MR. CORREIA: Okay. So, let me give you stock status in 1998. These numbers will not have changed from what you saw in January. The 1998 total biomass is roughly 20,000 metric tons. That's 73 percent of BMSY, so you're above the half BMSY in terms of biomass.

We have a projected F in 1998 fully recruited of .39. Now, this projected F has landings that go from January

through August 1998, and September through December landings were projected, based on the ratio of landings in 1998 to 1997.

And the biomass will continue to rebuild towards BMSY based on the projections. Now, the projections only ran through the year 2000. Some of them bring you up to around 98 percent. Like the F40 rate would have brought you to about basically BMSY in the year 2000. The .39 probably brings you up to around 85, 88 percent.

Okay. So the ASMFC plan only has fishing mortality rates for determining overfishing, and here you see that the 1998 F was .39. This is above the F25 overfishing definition in the ASMFC plan. You need about a ten percent reduction to hit the F25.

The F30, you are above that. You need a 26 percent reduction in order to achieve your F30, which I believe we're supposed to achieve by 1998 or 1997 something like that. And then you see with the F40, which you have suspended going to, you would have needed roughly a 49 percent reduction to achieve the F40.

So according to this definition for the ASMFC, overfishing is occurring.

Relative to the Council's Amendment 9, the biomass is above the threshold, one-quarter BMSY, so it's not overfished. The F is below the F threshold, which is .59, so overfishing is not occurring. So stock is not overfished, overfishing is not occurring. An action plan is not needed. A rebuilding plan is not needed. But you need a reduction of F to the target.

And I'll put this graph up again, so you can see where we are. This is 1997. The biomass increased. You can see the squares move this way. The F has increased. It's gone up to there. You can see that you're above the quarter BMSY. You're below the threshold, but you still need to reduce in order to go to the target F in order to get up to the BMSY.

So what needs to be done relative to Amendment 9? Well, you don't need to reduce to get up the BMSY. The F target at BMSY is .33, and actually that should be reading the threshold. The F threshold at BMSY is .33. You need a 15 percent reduction to get to the F target.

The F target for a ten-year rebuilding is similar; it's .33. You need a 15 percent reduction to get there. And if you chose to get to the F target to rebuild you in five years, you need a 28 percent reduction. But again, these reductions aren't required, they're just recommended to get you to the point where you can be on the target.

And, of course, no biological presentation would be complete without giving you some caveats, and the caveats are this: This assessment is for the entire stock unit. Individual stock components may not be doing as well. For instance, we know that the Narragansett base stock, the bottom has fallen out on that stock. If you look at what's happening inshore in Massachusetts state waters, our biomass basically has leveled off since about 1995, and it's just bouncing along. It's a little bit different signal to what's given for the entire stock.

The second thing -- and this is very important -- is that there's a short time series that was used in the surplus production model that gave these biological reference points. The reason why it was short is because we have no recreational catches beyond 1981. And so, if you look at these model results, they will tell you that the Southern New England winter flounder stock was above BMSY in 1981, 1982 and 1983, and dropped below that and is now heading back up again.

We don't know what would happen if you had taken all the recreational data prior to 1981 and put it in the model. Would the stock have done better? I tend to think that the stock was probably higher in the sixties just based on the anecdotal success rates that the recreational fishermen had.

And I ask, I say, "Did you see that kind of recreational fishing in the early eighties? And you're three-quarters of the way to MSY right now. Are the recreational fishing doing better?"

As we get more data, we'll be able to refine these reference points, and that's another reason why you should go with the target and not the threshold, because we'll be able to refine these reference points as the time series gets longer.

So finally, the recommendation is that the F target provides a precautionary approach for the uncertainty in the F threshold and the BMSY. Just a little point that I want to make about the F threshold, and that is if you looked at some of the advice that was given relative to overfishing definitions prior to the surplus production model, we were told not to let the SSB drop below 20 percent. That was the rule of thumb for these flatfish stocks. This .59 puts you a little bit below that 20 percent. To me, that argues for a cautious approach. That's the essence of my presentation this morning.

CHAIRMAN COATES: Any further questions for Steve? Some of what he presented was similar to the material that Dr. Smith presented at our January meeting, which is summarized in the minutes. He's gone over that, because this controlled rule business is complicated and, of course, we're dealing with two different plans with two different goals. And if you recall from our last meeting or at least our January meeting, we agreed that it was time to try and reconcile the differing plans and come up with a single methodology for achieving rebuilding.

Also, the latest SARC does provide some good information, good news with regard to the overall stock in the Southern New England, but I would only add to Steve's comments, reiterate that there may be overall health in a sense,

but the results of individual stock components that are not doing well.

And I think from the standpoint of looking at the recruitment patterns and the production patterns of Southern New England flounder, I think that's a very interesting situation, because if you recall from the literature and everything, winter flounder are produced in the estuaries. And if the estuaries -- and I do note that our '98 survey, young-of-the-year index, Steve, was one of the lowest we've seen as well?

MR. CORREIA: Yes, it was quite low.

CHAIRMAN COATES: So I think that there's room for concern here with regard to the future of this stock in the future recruitment. Bruce?

MR. FREEMAN: Thank you, Mr. Chairman. I think the issue that I would have is so far as the federal rules are concerned, they appear not to deal with the fact that there are different spawning populations, as you had indicated, Phil -- within states, within estuarine systems, there may be differences -- and tend to look at it on a coastwide basis, because most of the other marine fishes are open-water spawners and perhaps it does make sense.

But there seems to be no provision, nor was there any consideration given in the federal definition to cover such a situation as we find in summer flounder. And a question I would have to Harry, since he's representing the agency, seeing no one else here, has there been any discussion within the agency relative to the situation we're facing in winter flounder, how we deal with perhaps separate spawning populations that would contribute to a combination of the stocks in federal waters?

MR. HARRY MEARS: I think one of the issues here, in fact, goes back to the statement which Steve made that the stock assessment is predicated on what has been defined as stock under the fishery management plan, specifically Southern New England, Mid-Atlantic.

And there is an acknowledgement in much the same way as there are similar acknowledgements for other species that each one has potential stock components, and it's not to downplay the importance over time or at the current time of any particular declines that may be occurring now or could occur in the near future.

And it's not that that issue is ignored or not acknowledged; it's essentially a situation where the assessment, when we're looking at the Southern New England/Mid-Atlantic stock, is predicated upon the conglomeration of the subcomponents, you know.

And this leads back to a lot of the conversations we've had as a Board in terms of, given that situation, what can be done at the Commission level to further manage and to upgrade the data base that would either subdivide that Southern New England/Mid-Atlantic stock complex or manage it in such a way that it maintains its integrity, knowing that these changes are likely occurring in state waters.

So I think the issue is not whether or not the National Marine Fisheries Service has considered the importance or the influence that local changes could have on the stock complex. It's necessarily an issue which both the federal and state authorities have to deal with in terms of managing that particular stock complex into the future.

I know I'm not directly answer the question which you raised, Bruce, but I think probably some of the comments which Steve made during his presentation come as close as there can be to an answer to that particular question.

MR. FREEMAN: Well, if I may, Mr. Chairman, it was somewhat of a rhetorical question, because I think we all know the answer, and perhaps not satisfied with that answer. But I think the real concern is that a particular state or even a portion of a state may completely close its state's fishery because of the condition of the stock -- and perhaps what we have close to that is in Rhode Island -- completely shut down the fishery.

However, those fish that do survive, once they enter the common pool in federal waters are subject to very high mortality rates. So I think the issue may be a state could completely close its fishery, and to the benefit of its public simply to have these move into federal waters and be subject to capture at a very high rate.

And I think politically that simply ends up being unacceptable, politically and socially. I mean, there has to be a better way. The system we have now essentially doesn't account for such a situation.

CHAIRMAN COATES: Dick might clarify the situation in Rhode Island, because I understand that -- well, I'll let him explain it, because I think it's even a more micro-issue than what you described, Bruce, in terms of a state closing its waters and then having fishing on possibly components of that closed stock taking place in the EEZ. I think it's even a more micro-issue in Rhode Island. But if Dick could --

MR. RICHARD SISSON: Thanks, Phil. I was going to ask how important is the statement that the Council will consider social, economic and ecological factors in setting the F target. What happened was we proposed a closure of all of Narragansett Bay, because our trawl surveys are practically showing no winter flounder at all.

We took it to public hearing, and our Marine Fisheries Council, against the division's advice, closed only a portion of Narragansett Bay, and the portion that they left open was the portion where we feel, from tagging studies, the fish stage before they move into Narragansett Bay. So you're fishing in a barrel at that particular point.

And my question was going to be -- their rationale was social, economic and safety features, not ecological features, safety of fishermen. How important is that statement in the management plan? Because what we've asked the Winter Flounder Monitoring or Technical Committee to look at is the proposal to see whether or not we have liberalized regulations rather than become more conservative by closing the remainder of Narragansett Bay.

Maybe I've confused the issue, but that's what's going on. We did propose a complete closure of Narragansett Bay, and we got a partial closure.

CHAIRMAN COATES: Okay. So I guess the question you posed the Board was how important are these other aspects of the planning, you know, the --

MR. SISSON: Yes. In light of this statement, have we really liberalized the regulations or haven't we? We haven't protected the fish, but have we liberalized the regulations that we have?

MR. CORREIA: It's clear that the F40, which we were supposed to attain this year, would have been much more conservative than what the Amendment 9 is allowing now, particularly if you look at going up to, you know, allowing this .39 to continue. Where it's less conservative is if we get to a point where the biomass starts to go down, then you can end up with fishing mortality rates that could be below what the F40 is, including going all the way to zero.

So right now, it's less conservative than where we were going, but it long term has a better built-in safety factor than what the plan had.

CHAIRMAN COATES: Okay. Anybody else have any comments? I guess that was an answer. Dick, did you have any comment to that?

MR. SISSON: Yes. The statement that Bruce made about fish, when they're migrating being available to everybody, whether we close areas or not, was one of the points that was brought out at public hearing. And we agree that there's no way of doing anything about that. Maybe what I'd like to do is ask the Board to instruct the Technical Committee to look at our new proposal before we promulgate the regulations so that we stay within the plan?

CHAIRMAN COATES: I think that would be appropriate. Does anybody object to that review by the Technical Committee of the latest Rhode Island proposal? Recognizing that everybody knows from our actions in January, we've suspended the attainment of the F40 target, and I guess we're still at F30, which was due to have been implemented some time ago, and we may not even be at that.

But the mitigating factor, of course, is the results, the information from the latest Southern New England assessment under SARC 28.

I see no objection from the Board on that issue, so we can ask for the Technical Committee review of the latest Rhode Island proposal.

MR. CORREIA: A question on that. I'm not quite clear what you're asking for. Are you asking to see whether this new proposal brings you in line with the F30 or the F25? I'm just not clear. Right now, we don't have Fs on a state-by-state basis, although I guess Mark Gibson may perform some type of VPA for your state. But I'm not quite sure what you're asking for.

MR. SISSON: Okay. We had made a proposal to reduce fishing mortality, and Mark has done an assessment, and without knowing the details of the assessment, it might be best, Steve, for you just to talk to Mark. But I can't recall what his target was. But the proposal that we took to public hearing would have given us a mortality reduction.

MR. CORREIA: Now, this is just for state waters, or --

MR. SISSON: This is just in Narragansett Bay. But because we came up with less than what we thought was necessary to get the reduction we were looking for, we were wondering how important that area that was not closed is to the overall reduction? I guess I'm confusing things even more.

MR. CORREIA: Yes.

MR. SISSON: I think it would be best for Steve to talk with Mark Gibson and get the particulars on the proposal and the data that he used to calculate the mortality reductions.

MR. CORREIA: Yes. I guess based -- I mean, I've had conversations with Mark relative to your assessment. Not to prejudge what the Technical Committee would say, but based on what we've seen that's happening within that bay, I think that, you know, Mark would probably argue that the fishing mortality rate should probably go down to zero within that area.

And I suspect that the Technical Committee would probably agree with that and say anything that you can do to get that down to zero, given that stock's status, would be useful.

MR. SISSON: That was our intent in proposing to close the entire bay, to go to zero. But now we're not at zero.

CHAIRMAN COATES: Bruce.

MR. FREEMAN: I think we all know what the answer's going to be from a technical standpoint, and certainly we should go through that exercise, but I think the dilemma that's going to be faced is that once we recognize what happens

to those fish when they leave state waters subject to high rates of capture, the question's going to be, well, you know, why is Rhode Island prohibiting this catch when in fact, once it gets out of state waters everybody's going to jump on it?

It brings to mind the issue of how to deal with this problem, and is that going to be spoken to under Item 7, where we talk about topics to be addressed under Amendment 1? Is that --

CHAIRMAN COATES: I would certainly hope so.

MR. FREEMAN: Okay. Because, I mean, this is very distressing. We all recognize this, I think, on the Board, since the Commission plan now is at odds with the federal plan, and not so much that, but the consequences of those actions. Again, I mean technically, if we carry this to extreme, all states could completely close their fishery in state waters in order to have a sufficiently high stock, but that stock would be fished only in federal waters. And I think that's unacceptable.

CHAIRMAN COATES: Absolutely.

MR. CORREIA: Just a couple of comments that may or may not help. One is that for most fish stocks, even for ones, you know, like say, fluke, there are components to it, you know. The stock unit is based on the management and our ability to assess it. But, you know, there are components to all these stocks. There's components to cod, even within Georges Bank. There are components in there, and subcomponents can be overfished.

The plan itself -- if you're looking, like that .33 target, that's very reasonable. You still could have overfishing occurring. But remember, when the fishing is occurring in the EEZ and it's occurring at these low rates, all these stocks are mixed together. When a state implements something like Rhode Island is recommending to close down Narragansett Bay, that's all Narragansett Bay fish, so you're doing something special to that component.

You could lose, without doing -- if you allowed the fishery, say, to go wild within state waters and maintain the F in the EEZ, you could have your overall stock doing all right, but you could really push down that subcomponent, because all that mortality in the state waters is occurring on that component, as opposed to the EEZ where the F is diffused over the entire stock component.

MR. FREEMAN: If I may, Mr. Chairman. I think we all recognize that, Steve, and I'm not arguing for the fact that if it's not controlled in federal waters, don't control it in state waters. My point is, in order to manage a species across these arbitrary borders that we've set up politically from zero to three and three to 200 -- and it's nothing to do with the fish; that's our rule -- that that mortality needs to be shared over both state and federal. It can't be one or the other.

And I'm not suggesting, again, because we can't or we don't control it to some degree in federal waters, that we allow it to occur in state waters to aggravate a situation, but there has to be some mechanism to modify either the federal side or the state side of the plan so that we do have some fairness in the system.

I see no way -- and I can't speak for Rhode Island -- but I would assume there would be no way politically they would shut down their fishery in state waters and allow a high mortality to exist in federal waters. I mean, politically, it's just not -- the citizens will not tolerate that.

And therefore, there has to be some modification. And again, I'm assuming the chairman will want to discuss that under Agenda Item Number 7. How do we deal with this issue? This is a serious issue.

MR. CORREIA: I guess, you know -- as we say, the mortality's high -- I'm assuming that, you know, you're going to want to fish at these F targets, and so you won't have high mortality in the EEZ. The question is whether that mortality in the EEZ may be too high for a stock that seems to be collapsing for whatever reasons, either because the mortality's too high or, you know, something environmental going on within the bay or, for instance, like I know they're looking at some of the power plant effects in the bay, and all those things in combination.

And so you can look at it and say, well, you know, what are we going to do, because you don't want to let that stock component collapse. You don't want that to go away. You want to protect it. And it may mean that you have to do more in state waters until you can reverse that trend and get it back to where it is in the EEZ.

MR. FREEMAN: Mr. Chairman, just one last comment. Relative to what this Commission has done in other species, shad, for example, we've done just the opposite. We've essentially shut down fishing in the ocean in order to look at each population in its estuary or its river system.

Here we have just the diametrically opposed. I mean, we have fishing in offshore waters if, in fact, we carry this situation to its extreme, and a prohibition of fishing in state waters. I mean, it's just exactly opposite as to what we've been doing in other plans. And the point is, there has to be some reconciliation to this.

CHAIRMAN COATES: That's a good point, Bruce, and obviously winter flounder are rather unique in their migratory patterns. They probably -- this is a species of fish that we deal with that most exhibits characteristics similar to anadromous fish in that it is very estuarine dependent in its production based on what we know about the resource in Southern New England anyway.

MR. FREEMAN: I think it's true, Phil, throughout its range. It's been very well demonstrated.

MR. CORREIA: With the exception that you also have a stock component that's completely offshore --

MR. FREEMAN: Yes, Georges Bank.

MR. CORREIA: -- which is Georges Bank, and you also have another component, the Gulf of Maine stock. And so that leads to where if you were to, say, close the winter flounder fishery in the EEZ in order to have a fishery in state waters, you would basically lose the Georges Bank fishery, and you'd run into all the bycatch problems there. So it's a little more difficult problem than, say, you know, some of the shad and herring.

CHAIRMAN COATES: I don't think anybody's proposing that at this point, Steve, but, I mean, it is interesting --

MR. FREEMAN: Again, I'm using this simply as a point of illustration, not necessarily advocating one or the other.

CHAIRMAN COATES: Okay. Do we have any other questions on Steve's presentation concerning the current stock? Harry.

MR. MEARS: I have a clarification and a question. For the clarification, one concern I have, Steve, in terms of the handouts made for your slide presentation, in the event they were taken out of context. There was one item which indicated a rebuilding plan is not needed. I'm assuming what that really indicates is that a new rebuilding plan is not needed, and that the continuation of the measures in place in the EEZ are in fact crucial to the rebuilding of the stock. Is that a fair --

MR. CORREIA: Right, yes. I mean, basically that particular handout was taken from Terry Smith's presentation, and what it means is you don't need additional rebuilding measures to take place.

MR. MEARS: And I believe this is very important relative to the motion which was passed by the Board at this last meeting that current regulations, current restrictions that are in place in state waters should continue in light of how we further evaluate and identify whatever additional management measures would be needed or implemented under Amendment 1 to the Interstate Plan. That was the comment which I had for the clarification.

The question essentially is one that we've so far had discussion at this morning's Board meeting that is very similar to previous Board meetings on the integration of state actions in the territorial sea and how well they dovetail or do not integrate with federal action under the Magnuson Act for that part of the fishery which is found under federal jurisdiction.

And it's my recollection that at the end of the last Board meeting, there was to have been a letter put together by staff to be reviewed by the Board to be submitted to the National Marine Fisheries Service during the public comment period for Amendment Number 9. That last Board meeting was in January. The comment period went through May.

My question is was there in fact a letter which very specifically expressed the continuation of the type of comments we've heard again here today this morning?

DR. JOSEPH DESFOSSE: To answer that question, there was not a letter put together. It was my understanding at the end of that Board meeting that there was not agreement that a unified letter could go forward from this Board. There were differences of opinion, so staff never followed up on that.

CHAIRMAN COATES: Anybody have a similar recollection? I do recall there was some discussion, yes. I think it was left up to -- Joe's recollection, it was left up to the individual states.

All right. Any other questions on Steve's presentation? I guess we can move to Item 6, the Update of Recent New England Fishery Management/Federal Actions, since the Secretary has now acted on part of Amendment 9, and by now you all know that the size increase, the proposed one-inch size increase from a 12-inch minimum size to 13-inch minimum size has been disapproved by the Secretary.

In addition, under Framework 25 or -6, I can't remember which one, the proposed mesh size change for federal waters in the multi-species fishery from six inch square to six and a half-inch square has been approved effective, I believe, June 10th?

MR. MEARS: Yes. Twenty-seven, I believe.

CHAIRMAN COATES: Framework 27. Yes, that was the annual adjustment. I'm sorry. I missed that one. So that we do have a -- and, of course, that was approved for reasons beyond just winter flounder. There were other species that will certainly benefit by that adjustment, and we've had the long discussions about when people have an option to fish with a mesh that works, i.e., six inch diamond, for flounder and six inch square, which may not be the optimal mesh, then people were opting to maximize their productivity, which is human nature.

And the six and a half inch square mesh now basically puts people in the mode of making a decision whether or not they want to use -- which of the two meshes they want to use in the pursuit of their fishery, and may provide the considerations beyond winter flounder, but will certainly afford a much more significant measure of protection for winter flounder.

I just have to make the observation that the irony of this is that, of course, the winter flounder size increase began

because of concern about people tending to use liners in their nets because they were unsatisfied with the escapement or the high levels they perceived escapement of legal winter flounder.

So now, by further eliminating the smaller of the two meshes in reality, the escapement issue is going to be exacerbated, and we might be encouraging perhaps more misuse of mesh sizes. I hope not. I hope people will take it for what it's worth, use the six inch diamond as it was originally intended and allow the escapement process to operate.

There's nothing in the rules that say you have to catch and retain every legal fish. I wish selection worked like that, but it doesn't.

Okay. So, Harry, do you have any additional things you want to add to the Council actions and federal actions? I think those are the two main things that affect winter flounder. Well, no, I should add there are additional things, a number of area closures that have been implemented.

Certainly under Framework 25, the February through March closure of the internal portions of the Gulf of Maine, rolling closures, so called, will have some effect on exploitation rates of flounder. Fishermen were precluded. It was a cod closure, but it had a spinoff because it was in reality a multi-species closure.

So the flounder in those areas that normally would have been targeted during that period, winter flounder, were not targeted. They're now a source of some attention, obviously, in the southern part of the Gulf of Maine. The northern part still remains closed.

So the measurability of those kinds of impacts in this proposed closure off Chatham for July under a new framework, Framework 30, that will no doubt have an effect, too. These are all incremental actions that are very difficult to assess until you look at them holistically. But those are actions that will certainly have an impact in terms of perhaps slowing down exploitation on flounder and the rest of the multi-species matrix.

Anybody have any questions, further questions on the Council actions? Oh, for the good of the order before I leave, I've got a sign-up sheet. We didn't take a formal roll call, and obviously the sign-up sheet will be the basis of whether or not you get paid for this meeting, or whatever.

And I do want to note there are two proxies among us. Dick Sisson is probably our first proxy that's ever received a proxy letter via Bermuda, and Vito Calomo has reached verbal agreement that he's going to be Tony Verga's representative, but the letter didn't come forward, so I'm sure nobody objects to Vito sitting in for Tony Verga from the Massachusetts delegation. Byron Young is here for Gordon; and Doug Grout is here for John; and Tom Fote here for probably Senator Bassano, but he's not at the Board yet. And Bill Cole is here for Jaime Geiger. Now that we have a majority of proxies attending this meeting, I guess the rest of us can retire.

All right. Any other comments on the Council action? Does anybody need any further clarification? Joe.

DR. DESFOSSE: I have two questions before the Board moves forward addressing Amendment 1 to the Winter Flounder Plan. Has the New England Council decided on what an F target for 1999 will be for winter flounder for the Southern New England Mid-Atlantic stock? And what effect will the new measures have in attaining this target towards the F reduction? I don't know if Steve can answer that.

CHAIRMAN COATES: Steve, has there been technical discussion yet?

MR. CORREIA: Well again, we know what the F target should be, and I guess this is one other thing that I probably skipped over and can be confusing relative to these overfishing definitions. According to the control rule, because you're in this half BMSY and below BMSY, then you can rebuild over a ten-year period.

And so, if you look at where you are in 1998, you would drop down to this line here, which happens to be fully recruited .33. And then you stay at that .33 until the biomass gets up to the BMSY, and so it's not a ratcheting effect. It doesn't work as you would kind of think it would that you come over here, and then next year the biomass is over here, and so you can liberalize the F over time.

The way these control rules work is, once you make that determination, you hit this level, you stay there until the stock crosses the BMSY, in which case you'd come up to here on the F target. You can see that the curve is very shallow over this portion here for this ten-year rebuilding period, and so this F target is .33, which is just about equivalent to what that F target would be if you were fully rebuilt.

CHAIRMAN COATES: So that's all we've got so far. Quite honestly, the attention of the New England Council has not been focused on winter flounder, other than, you know, the response of the Secretary with regard to Amendment 9. We've been directing our attention on codfish, but fully recognizing some of the actions, i.e., the mesh size increase will certainly have a positive spinoff with regard to winter flounder and the other species in the stock complex.

All right. Anything else under the Council actions? That brings us up to Item 7, the Identification of Topics to be Addressed under Amendment 1. We have already agreed to move forward with Amendment 1, and I believe the Board was charged, informally at least, with coming back with ideas, things that they felt needed to be included in the amendment.

And I don't know if Joe has had a chance to put together some additional thoughts. I think he's looking for input from the Board members and the public as well, advisors -- is this a joint meeting? Oh, okay. But some of the advisors are here, although we are missing Bud Brown, and I do want to make some comment about the Gulf of Maine stock before we leave it. But certainly the amendment is designed to encompass the Gulf of Maine stock as well as the other stocks under our purview.

So I'd open up by asking if any Board members have any initial perspective at this point in terms of which would be the components of this new amendment. Obviously, the reconciliation of the two management units and a greater understanding of how we could reach unity in terms of rebuilding targets is a major aspect of that amendment. But I'll go from there. Bruce, you had your hand up.

MR. FREEMAN: Yes. Thank you. One of the issues, obviously, is the one we have been discussing here for the last hour, and it seems to me there needs to be in Amendment 1 some identification of perhaps separate components, whether it's estuarine system by system, but the present system is going to cut the legs out of any state, such as Rhode Island, that believes it needs to take action to preserve the fish that occur in its area, or at least part of the state.

If that's not reconciled, it'll be virtually impossible for any state to take action that it believes is absolutely necessary because of what we believe the consequences will be once they leave state waters. So I think that issue needs to be looked at.

I don't fully know or cannot provide an answer to this, but perhaps from a technical standpoint it has been identified that Georges Bank stock, which appears to be the only stock that spawns in ocean waters -- the rest of them are estuarine dependent. And whether Narragansett Bay can be looked at separately from the coastal salt ponds, or Connecticut can look at theirs differently or separate from New York, I don't know. But I think that needs to be addressed somehow in Amendment 1.

One other thing I would suggest also from the standpoint of the plan making sense, there has to also be some reconciliation of conditions such as we've experienced where we cannot have a plan that seemingly is different in state waters than federal waters. We need to address something in the plan, Phil, that would either require cooperation prior to putting regulations in place, because we're all running into problems now in how we deal with this on a statewide basis versus what happens in federal waters.

And there is no mechanism to address it. There needs to be. And whether that can be addressed in the body of the amendment or whether there needs to be specific actions -- but what's occurring right now is not meant to be noncooperative, but it's creating a situation where it's driving the states and the federal management apart. It's not what we are to do.

CHAIRMAN COATES: Steve.

MR. STEVEN J. DRISCOLL: Wouldn't it really be better to manage winter flounder under ACFCMA, where we could recommend to the Secretary what to do in federal waters, rather than have these hodgepodge plans where you have the Council doing one thing and the Atlantic States doing something else?

CHAIRMAN COATES: That discussion, that issue has been brought up before about who should have the -- I think from the previous Board meeting, there was discussion about a possible joint plan, and I think somebody might have even mentioned with a reversal in the normal roles, where the ASMFC would take the lead and the Councils would basically take the secondary roles.

That's a good point. The recent stock trends, landing trends would indicate, however, that the majority of the harvest is taking place in the EEZ waters, so I'm not sure how willing the Councils would be, or the Council, because this is a New England plan, to relinquish that authority. I'm certainly amenable to bringing it up as an issue before the Council as chairman of the Multi-Species Committee.

The other issue, of course, is this so-called stock complex issue in the multi-species fishery where, in many instances, winter flounder are caught as a component, a bycatch component of other fisheries and trying to deal with that. But I think that's manageable, because I think at the last meeting we did identify that most of the fishing recently for winter flounder seems to be more directed than a species mixed type of fishery because of the abundance, perceived abundance, particularly in the Southern New England area.

So these are all issues that could certainly be brought up.

MR. DRISCOLL: Well, I bring this up simply because, I mean, I believe that winter flounder basically do most of their spawning in state waters and the estuaries, etcetera. I mean, I'm sure they do some in the shore water on Georges and probably Cashes, but, you know, it just makes sense that managing the spawning area is important.

And then you can also, with the law that we have, we can recommend to the Secretary what to do out in federal waters, which seems to me would be the least redundant way of doing things. Thank you.

CHAIRMAN COATES: Thank you. That certainly is an issue we can -- why don't we just start putting down a list

of issues at this point, and then we can keep getting ideas from people, and then we can narrow them down. We do have still over an hour, almost an hour left in our discussion, unless you want to run into lunch. Yes, Lew.

MR. LEWIS FLAGG: I was going to ask, is there very much good information available on inshore/offshore movements of winter flounder? I mean, I guess what I'm saying is, is there a resident stock of winter flounder that typically stays in state waters year round, or is there some proportion that moves into federal waters?

I think if we had some of this kind of information, it would lend a lot of strength to the need for us to appeal to the Councils to have complementary regulations, if in fact whatever data is available suggests that a very large proportion of the majority of fish at a certain age move into the deeper waters within the EEZ.

CHAIRMAN COATES: Well, there was a definitive analysis conducted back in the sixties by a renowned group of scientists that did a lot of tagging of winter flounder off of Massachusetts -- I'm only kidding, of course -- and there's been other tagging studies done along the coast that certainly indicate and document these movements.

I don't think there's any question in people's minds that, you know, there is a definite nearshore dependency of winter flounder, with the exception of the Georges stock. And then, to the degree depth contours and water temperatures having a factor, the more Southern, you know, the Southern New England stock seems to have a much greater EEZ migratory component, which is the basis of our major concerns here being expressed.

So I think it's well delineated, defined. I don't think there's probably been many changes in that pattern. But, you know, I think it's well documented and defined. Byron.

MR. BYRON YOUNG: Just a follow-up question on that. I'm wondering if some of the stock, substocks that are in Narragansett Bay or Long Island Sound, if those stocks are depressed, are doing the same sort of things that the literature might suggest? I think it's a good idea that the Technical Committee take a look at that to see if, you know, in a depressed stock state they're still migrating at the same rates, the same levels? Are they all leaving Narragansett Bay and going outside? Or are they all leaving, you know, Long Island Sound and going outside?

Certainly there's a concern, too, with, you know, if Rhode Island declares a closure in Narragansett Bay, some of those flounder are going to cross multi-state lines before they even get into federal waters or straight into federal waters. I think there's a lot of complexities there that should be addressed and explored.

CHAIRMAN COATES: There's no doubt that these migratory patterns are certainly complex. My recollection, for example, is that the Buzzard Bay component of the spawning component which was tagged in the sixties demonstrated movement both through the Cape Cod Canal into Massachusetts Bay as well as south through Buzzard's Bay and into the Nantucket Shoals, Southern New England area. You know, it was tagged as spawning stock. Yes, Steve.

MR. CORREIA: A few years ago when we started to move towards this assessing as a single stock, we went over all the available information that we have. As far as I know, there's not really any new work that's been done that will allow us to address those kinds of studies. There's been some tagging done up in Montauk Bay. There's been some tagging done off of Plymouth, Massachusetts in a very limited fashion.

But we're not going to have any more information to put on the table a year from now. Basically you're talking about having tagging studies.

CHAIRMAN COATES: Okay. Other components of Amendment 1? Go ahead.

DR. DESFOSSE: Dick, do you know if Mark was still tagging any winter flounder in Narragansett Bay? I thought he had been.

MR. SISSON: We're attempting to do that. The population is so depressed that we can't find fish to tag in the sizes that we want to tag. We are tagging at the mouth of the bay in Rhode Island Sound. And Rhode Island Sound was not part of our proposed closure. The stock from our trawl surveys seems to be in fairly decent shape in Rhode Island Sound. So we're looking at other reasons for the size of the stock in Narragansett Bay. And I think Phil mentioned power plants, and we're also looking at some other environmental factors.

CHAIRMAN COATES: Okay. I went through the minutes and had some discussions with people. Let me just run through some issues, if I may. I don't want to pre-empt anybody's input at this point. But it seems to me from the last meeting and some subsequent discussions, we certainly want to, among other components of this amendment, redefine our targets and rebuilding goals.

And I think that was the genesis of this amendment. We could not really deal with the redirecting our target and rebuilding goal initiative without a new amendment. We certainly want to deal with the issues of Gulf of Maine rebuilding goals, and that's a subcomponent of the first one. We want to standardize the parameters between ASMFC and the Council, the various rebuilding and stock assessment parameters and objectives.

We want to build in simplicity. And this was just a thing I thought I had. It would seem to me that the more we get into these rebuilding initiatives, the matrix Steve showed us that has now been presented to people several times --

and it's a fairly understandable way of addressing the SFA issues. But then you get into the aspects of the curves and things. Beyond that, I think it gets kind of dicey for people to understand, the lay public. And I think we need to look at the issue of simplicity, and this may be a more cross-cutting issue.

The Winter Flounder Plan was the inaugural plan that significantly defined habitat and the role of habitat if you recall back when it was implemented. And I think we're going to lose our lead with all the interest in habitat, and I just want to make sure everybody's aware of that as a major habitat initiative over all essential fish, protected fish habitat.

And winter flounder, you know, I just want the Board to think about the fact that there are many other stocks now and many other plans now that are building in habitat concerns big time. Do we want to take it to the next level if it's possible to maintain our lead? That's just kind of a side-bar.

And the issue of the joint plan that was brought up briefly the last time around at the last Board meeting, how do we want to provide that perspective? It would seem to me that, you know, what I've heard from the Board is perhaps the -- and Steve made that point very strongly -- maybe this should be an ACFCMA plan and the Council just basically does things to complement our initiatives.

So, that's just a few things. Any reaction to those, recognizing that some of those are subparts of, you know, maybe two or three major issues that I think we've all agreed should be in this amendment? I'm just trying to stimulate some initiative here, folks. Come on. We know we want to rebuild the stock. We know it's doing well in some areas, not well in others. And, you know, we want to make sure everything comes up to speed as soon as possible.

Do you want to charge the -- oh, we've got to deal with the Plan Development Team. That comes next. Okay. Yes. Ernie.

MR. ERNEST E. BECKWITH, JR.: I'm sitting here listening and trying to follow all this, and I'm trying to understand what the issues are and what we should do to address the issues. And it seems to me that a sense of concern that most of the state members have had is the frustration that most of the problem and most of the issue is in federal waters.

And we're talking about changes to our plan here, and we can make our plan more similar to the federal plan, so we both have the same criteria we have to follow. But once we do that and if we do still determine we have a problem, we still have the problem of addressing how do we address that problem.

And I think that if we don't take some action or at least plan for that -- and I see only two courses of action to do that: one, to have a joint plan, or to have ACFCMA be the major way that we manage this species. So I think, no matter what we do here in terms of fine-tuning the Commission plan, we'll still have that problem.

How do we interact with -- how do we affect the Council? How do we get them to do something more similar to what we want done? Because they're managing this somewhat differently than we generally manage. We manage on a species approach, and as you said, Phil, winter flounder is one of a complex of species. I think that's been one of our problems.

On looking through the notes from the last meeting, I think Dave Borden brought up the issue that if we can't get away from that species complex problem, then perhaps we could have an -- what did Dave say? -- an absolute TAC rather than a target TAC for winter flounder.

So anyway, that's kind of, sort of a wordy way of saying that we can fix our house here, but I think we're still going to have the same problem unless we address how we're going to solve that situation with how we interact with the Council.

CHAIRMAN COATES: Bill Adler.

MR. ADLER: Exactly how different is our plan right now from the federal one, given this latest thing that they seem to have rejected, a size increase proposal that came from the Council and stuff? Is our ASMFC plan very different from theirs on this?

CHAIRMAN COATES: Mainly in right now the rebuilding goals. Our plan is far more conservative at this point, I would say. In fact, I think we, for the most part, have attained our 1997, whatever it was, '98 level of rebuilding this F30, but we agreed not to go to F40 because of the different information we got with regard to the status of rebuilding of the Southern New England stocks from the last SARC document, the things Steve just went through.

So there's quite a few differences. And, of course, there's the fact that we have a plan that's species specific, and winter flounder is just one component of an array of species in the multi-species plan under the Council. And, you know, this does necessarily result in different treatment, obviously.

MR. ADLER: Well, I echo the thoughts of the other states that indicate that I certainly don't want to go pushing forward with a state plan and have the federal plan fall far behind, and then we have big differences which we've heard around the table today. And I'm of the same mind that we've got to have the federal people on the same level here or something, otherwise we're just spinning inshore here.

CHAIRMAN COATES: Well, let me add one point that just occurred to me as we were discussing this. We're talking about Amendment 1 to the ASMFC Flounder Plan, and the Council right now is talking about Amendment 13 to the Multi-Species Plan. And interestingly enough, we're talking at the Council level about some of the same things we're talking about at this Board meeting, and that is the need to revise our whole thinking about managing this multi-species complex and perhaps creating a plan that's a little more rigorous in its rebuilding objectives.

And obviously, part of that's mandated by now the Sustainable Fisheries Act, which has tightened up a lot of the flexibility the Councils were able to utilize in the past. And it may well be a good opportunity to broach with the Council the idea of perhaps creating a little more separability or more rigorous objectives for winter flounder. And they might be amenable to that. I would certainly be willing to bring that forward on behalf of the Board before the Council as we move forward.

And the time line for Amendment 13 is probably a similar schedule to what we'd have for Amendment 1. I think they're hoping to implement Amendment 13 midway in 2001, you know, or -- I think that was the schedule that I recall. And that would not be that far off, if you figure an amendment takes about nine or ten months here, a year, Joe? A year for an amendment? We'd be talking about midway in 2000.

And I think I'm a little bit liberal on the estimation of the Council's completion of Amendment 13. So they would dovetail fairly nicely. And if we could build in -- I mean, as I said, if the Council's going to harden up things like their target quotas and say that we'll be driven more by fishing mortality or biomass targets than some of the indirect measures that we've been utilizing in the past, that would only be good for the flounder resource if they attached a multi- -- even if they got into multi-tiering where they say if you hit this level of this species then that has a greater effect than just shutting down the fishery for that species, if you know what I mean, like we did under the old International Commission, Northwest-Atlantic Fisheries, or what they're doing now in Alaska where they set a subquota for a key species, and if that gets hit, then the whole complex shuts down.

So, you know, it's not out of the question that those considerations could be perhaps developed since winter flounder, the more west you go, become the major groundfish species in Southern New England. And that isn't very far from, like south of Martha's Vineyard. And that's a major part of the winter flounder's range in Southern New England.

Of course, you get in other stock complexes, too. There is a small fluke-winter flounder overlap. I don't know how significant it is. I don't think there's much of a database that shows that. But that's another interesting one.

But I think we can perhaps look at the idea of trying to schedule changes for framework, Amendment 13, the Groundfish Amendment 13, and certainly build in some kind of additional winter flounder attention.

Anybody else have any offerings? That was good comments from Ernie's standpoint. All right. Leaping ahead -- (Inaudible comment from the floor.)

CHAIRMAN COATES: Yes, I would mention -- it goes without saying that, of course, given the Gulf of Maine, there was -- was there an assessment due for Gulf of Maine? I can't remember. Steve.

MR. CORREIA: What will happen is there won't be an assessment. There'll be a relative exploitation index based on either the Mass. survey or the NMFS survey and catch, and that's about what I see coming for the Gulf of Maine. That will be done like in August. We probably have another two years' worth of data. I suspect that the Technical Committee will again try to use the surplus production model to try and come up with F targets and the F and biomass levels. At this point, the model doesn't work for Gulf of Maine winter flounder.

CHAIRMAN COATES: And there is another side-bar here that just occurred to me. I believe that the Georges Bank stock of winter flounder has been identified as being overfished, and is overfishing going on, too? Were those figures pulled?

MR. CORREIA: I think -- well, actually it might be, because I think it's at that point where the fishing mortality rate should go to zero for Georges Bank winter flounder. So it may be both overfished and overfishing occurring. But I know the mortality rates have dropped on that stock.

CHAIRMAN COATES: The F rates have dropped, yes. But there is attention being directed to that by the New England Council or that will have to be in the next -- in Amendment 13. So again, there's a possibility of side-barring the Southern New England needs.

I think my major concern, as this discussion went on today and even in the last meeting, was the fact -- and I recall Bud Brown's concern in the Gulf of Maine -- that the effects of this management planning has not provided a great deal of benefit at this point to the recreational component of the fishery, that being a far more nearshore dependent component.

And I think that's an issue that I'm very concerned about, and you've heard me rail against this before, because it wasn't that long ago that winter flounder were as important to recreational fishermen in terms of catches as they were to the commercial fishery. It was a 50/50 deal in terms of the catch breakdown. That certainly has changed dramatically.

I can't recall the last statistics I saw on Southern New England, but I believe that a similar situation has occurred. And part of it's because of the changes in regulation. Size increases and everything do preclude access to fish that were heretofore available by the recreational fishermen. I'm sure some of the recreational fishermen that used to fish the estuaries in Southern New England don't bother any more because the 12-inch flounder is generally not available, except during its seasonal migrations in to spawn.

We understand that, but, of course, that doesn't mean there shouldn't be a large availability of fish during that period for people to work on, recreational fishermen, in the estuaries. And some of that still goes on to a much less degree. But that's an aspect of this plan. We certainly want to rebuild these stocks to a level that will provide that access to the recreational fishery. Harry.

MR. MEARS: Mr. Chairman, with regard to topics for Amendment 1 to the Commission plan for winter flounder, I would like to confirm and further emphasize whatever support has already been voiced at this meeting and previous meetings to also further look at the importance of habitat for this species.

Certainly, with the species managed by the Commission, both shad and river herring and winter flounder have been the keynote examples in terms of the critical nature of interjurisdictional habitat between states and also between state and federal waters.

And acknowledging that essential fish habitat has been recently amended into the multi-species plan to address winter flounder through Amendment Number 11, this certainly would be an appropriate time to look at how that description covers the appropriate priorities concerning habitat of the species in state waters which, in my own mind, will further identify the importance of the migratory issues perhaps from potentially inshore waters to offshore waters and how that in turn also impacts the direction that we should be taking with winter flounder.

So once again, I would hope that as we go forward to public hearing for public comment, that we would identify the extent to which habitat has been and continues to be an issue for management of this species and what further can be done in that regard.

CHAIRMAN COATES: I don't think there's any disagreement from the Board with regard to the fact that habitat should remain a major component of this plan. Is everybody in agreement on that? Bruce.

MR. FREEMAN: Harry's comments stimulated a question in my mind relative to -- we've established as critical habitat the areas where each state knows winter flounder spawns, and we're required under the plan to take action to notify our regulatory agencies of that. What have we done -- I don't recall in the ASMFC plan identifying essential fish habitat on Georges Bank.

And my question is, was that identified by the New England plan as essential fish -- I mean, do we know where they spawn and has it been identified?

MR. MEARS: I don't have that section in front of me. My sense is that it combined inshore and offshore habitat issues for all of the winter flounder stocks together, and I believe that's where some of the potential lies in terms of perhaps segregating the importance of state, federal or interjurisdictional partnership in looking at essential fish habitat for the population complex as a whole.

MR. FREEMAN: Well, I know in our instance, we work closely with the Fisheries Service in reviewing environmental reviews, and when issues come up, for example, projects, dredging or filling that may occur in an estuary, the habitat people use, as we do we, use the statement in the plan to protect the spawning habitat of winter flounder.

So I know both the Fisheries Service and I believe the Fish and Wildlife Service as well as the states use it on inshore. I'm not sure about Georges Bank. That's something perhaps that needs to be looked at.

CHAIRMAN COATES: Okay. All right. I've got more hands now. Your comments stimulated and Harry's response stimulated even more hands, so now we'll have a good time. Bill and then Steve.

MR. ADLER: First of all, Bruce, did you just say that therefore part of an amendment like this, they would be covering things such as power plant disruption to habitat involved? Is that --

MR. FREEMAN: Yes.

MR. ADLER: -- in the wording, power plant and --

MR. FREEMAN: That's presently in place in the existing plan. In other words, if there's something that's occurring in the estuary that could be impinging upon winter flounder spawning, whether it be destruction to habitat or something that would disrupt the nursery area or high mortalities in the nursery area, then we can invoke the fact that there's a statewide plan and a federal plan dealing with these species and add more emphasis on the impacts those operations may entail.

MR. ADLER: Does it also include to clean the water?

MR. FREEMAN: It could be. It's really up to -- you know, it's up to us to make the case. But I know in the instances where there would certainly be a destruction to habitat, we've invoked that. Now, I think it could be used in

other ways, Bill, certainly.

MR. ADLER: Well, I mean, as long as there's something in there that we could use or a state could use or somebody could use. As in the case of Narragansett, if they determined that the power plant situation is destroying the pattern, or in Boston Harbor, that our pool water that we have up there is not conducive to growing flounders in swimming pools, things like that could be used.

MR. FREEMAN: Absolutely. In fact, I think a statement could be made where -- power plants in particular are a very sticky issue. But as populations decline and power plants either entrain or impinge winter flounder, either eggs, larvae or the juveniles, you can make a stronger case. As the population declines, that mortality becomes more and more critical.

So there's various ways that could be used, but certainly it could -- and that was the objective of the plan is to protect those areas now, realizing that protection of those areas for winter flounder is going to help other species as well.

MR. ADLER: Yes, sure. All right. Thank you.

CHAIRMAN COATES: Steve.

MR. DRISCOLL: They've covered most of what I was going to say, but, I mean, there are other things going on. We've got landfills, capped landfills that are built on marshes all along the whole coast that are leaching out into the waters. We've got sewer plants running that are dumping chlorine into everything. We've got chlorine back-flushing tubes for power plants. So there is quite a lot of habitat destruction going on just by the general public's need for power and sewer plants. Thank you.

CHAIRMAN COATES: Okay. Lance.

DR. LANCE STEWART: Just to add one more note to the whole gamut of habitat issues. I think we've been in Connecticut really suffering -- well, not suffering, but going through a classic case of confrontation with the Millstone Nuclear Power Plant start-up, and the blame of a lot of larva loss to entrainment. It may be so. It's one of the things that's a major issue in federal court. And there's a tremendous amount of data that is available to the Commission and the Technical Committee.

But another observation I think I raised at this Board about a year ago is that major estuaries like Long Island Sound -- Western Long Sound has been found to be a tremendous producer of juvenile winter flounder to the extent there may be a hundred-fold more densities on the bottom, because you have kind of an exclusive environment for them. They're there with ampullar skid populations. They don't have many predator fish.

And then there's subsequent anoxia that we experienced about eight years ago as a major ecosystem flux that may cause a drastic change in overall population levels. Granted it's inshore, but it's something that should be recognized in context with its proportional value.

So here's an opportunity for states like New York and Connecticut to look at the real, you know, issue. I think a lot has to be done in the science community to document that. I know I'm guilty of not doing it because we never really followed through, but I know there were assessment efforts with the National Marine Fisheries Service in Milford, and some of our ROV observation transects gave us a lot of new data that isn't available by standard net assessment technique.

So, in terms of this species and again, re-emphasizing the importance of habitat and how it deals with management, again, Phil, I'd put that forth.

CHAIRMAN COATES: Okay. Good point. Byron.

MR. YOUNG: Just a word of caution with the power plant information. I think we've all dealt with power plants. We've had our history in the Hudson River with the seven or eight power plants that are on that river. It's been a 20 to 25-year process of dealing with various consultants and hearings and court hearings and the like.

To focus exclusively on power plants, I think, could be more than the Commission wants to bite off. I know we have to deal with it. It might be best dealt with on a state-by-state basis within their own jurisdictions and how they handle it, rather than the Commission putting something in a plan that says you have to control power plants. I think those laws are already in existence.

I'm just concerned about how much extra work it would cause us, how many more people would show up at these Board meetings with concerns. I think it's starting to happen in the Eel Plan at this point in time. The hydro people in New York anyway are all excited about this plan. Our technical people and Gordon, I think, get e-mails almost every day from them complaining about some aspect of the plan or other.

Just a word of caution in dealing with this issue. Yes, I recognize there's an impact there in the Hudson River. We've looked at that impact, as I said, for over 25 years. And as we've come to some agreements, we've found that, yes, there's an impact, but it's not as significant as the fishing mortality or the other habitat destructions. You want to reduce it, and that's in the federal statutes to control those things. Just a word of caution.

CHAIRMAN COATES: Thanks, Byron. Steve.

MR. DRISCOLL: Yes. I've just been reminded by my good friend, Herb Drake, that I should bring up predation by seals and cormorants, especially the cormorants. We know they're overfishing, because, you know, they're at an all-time high for population. And the seals are at an all-time high. So, has anything been thought about for this type of predation?

CHAIRMAN COATES: I do know that for this meeting there's been a scheduling of an impromptu seminar on the methodology for reducing cormorant predation by the New York DEC, but we'll get that later on. I think it's scheduled for midnight on Tuesday.

But seriously, there's obviously now, interestingly enough, a lot more focus on particularly the impacts of cormorants and the fact that there's some documentation behind some of these assertions now, at least in the freshwater arena, have created a great deal of re-interest in what might be going on. So that's a good point. I'll just leave it at the cormorants.

All right. Bill.

MR. ADLER: I'm concerned also on this predation thing about the striped bass massacre of all these little fish, and that concerns me a little bit, too. I know it's all part of it, and I hope the biologists take all of this into consideration when they aim the gun at the fishermen all the time.

And as far as the power plants go, I agree that, you know, it may not be that you want to bite off the power plant and tell them to stop producing electricity or something. That's not the idea. But at the same time, once again, it's that we always seem to aim the gun at the fishermen and try to shoot him as being the cause of no baby fish here and no baby fish there. And I think we need to consider that there are things other than the fishermen.

I would like to ask if as much as possible for this amendment, if the biologists can pinpoint as much of a breakdown in the species area as specific as possible, because at one point you said that the species is basically, I guess, not overfished overall, or it's doing okay overall, but then there was this place and this place and this place that were terrible.

And I want to know where the good spot was that brought that range up? And I didn't hear you say where that spot was where they're doing well.

MR. CORREIA: Well, again, overall they seem to be doing well. In the EEZ, they seem to be doing well. As Dick mentioned, Rhode Island says their Sound fishery has increased. The mass index has increased, and it's kind of leveled off in inshore. But when you do the whole assessment, the only thing that we can really assess at this point is the whole stock, and then we get indications, for instance, like the New Jersey survey, the Rhode Island survey, of what's happening on these very localized areas.

The second comment I'd just like to make is in terms of these predations, and that is, these are very complex issues, because it's not as simple as saying the cormorants ate X amount of winter flounder, because they also eat X amount of winter flounder competitors, X amount of winter flounder predators. And so overall, it's very difficult to measure what that impact is.

So it's difficult to do. I'm not denying that there are other factors that occur, you know, changes in water temperature, changes in plankton distribution, changes in other predator/prey. But it's a complex problem. You can't just nail it with increases in one species.

CHAIRMAN COATES: Good point. All right. Charlie.

MR. CHARLES LESSER: Did we mention water quality? Because I know we're on the southern end of that Mid-Atlantic range, and we haven't experienced any inshore fishery for maybe 20 years to amount to anything from the mid-seventies. And our deteriorating factor that we know is water quality due to the agri-business, which is a hot topic on Del-Mar-Va right now. They haven't come to grips with it, but they have to pretty soon.

But it seems to track, you know, as our water quality goes by the wayside, so did our winter flounder.

CHAIRMAN COATES: Good point. All right. While we've been busily chatting away here, Tina has been busily typing in these issues, and they're summarized as you can see on the screen. At this point, since time is becoming a factor here, I'd ask if anybody has any additional items or anything in this rather extensive and obviously overlapping in some cases shopping list that they'd like to see excised?

If not, we could go forward with that list as the initial list of components to be presented to the Plan Development Team for them to chew over some more and perhaps put some additional language in, explanations and issues. How does that look as an initial starting list for this amendment?

MR. DRISCOLL: I don't see predation on there. Maybe it's not going to be on there.

CHAIRMAN COATES: No. I think that's certainly an issue that should be looked at anyway, because it's one that always comes up. At any meeting we have, people say, "Well, you're not taking into consideration the impacts of shads and seals." So, you know, let's look at it. We can certainly look at it. We might not have the answer, but at least we can perhaps bring -- in view of some of the information that's been developed in other agencies, we might at least be able

to cast further insight into it.

Or maybe we ought to have, you know, a very honest, definitive statement that, "No, we're not going to eradicate the seal population off New England, and people should just stop talking about it until it reaches a magnitude of such and such, and just drop it." And we can focus on other things. You know, that's one possible direction. Yes, Bill, and then Pat.

MR. ADLER: Would joint planning strategy cover a review of how the ASMFC plan compares to the federal plan that's in existence to see if we were on the same line with everything, or is there a different rule for the Feds that --

CHAIRMAN COATES: A goal would be joint planning strategy, I would assume, or at least a possible goal.

MR. ADLER: So under that, would that cover getting a rule that was slightly different together as one? Would that cover it under joint --

CHAIRMAN COATES: In my view, yes.

MR. ADLER: Okay. And then the other thing might be that the Plan Development Team could make some suggestions to us of various things that might bring us to the level that we want to get to, some options? Those are always good to look at and see what we're talking about to get to various fishing levels. Can they do that?

CHAIRMAN COATES: Joe says yes, they can deal with that.

MR. ADLER: Yes. Just put down some options to consider what they're talking about would be needed.

CHAIRMAN COATES: And they could also identify some of the pitfalls that we might not have seen.

MR. ADLER: Yes. That would be good to look at. Thank you.

CHAIRMAN COATES: All right. Pat, then Steve.

MR. AUGUSTINE: Thank you, Mr. Chairman. Have we mentioned anywhere in here conservation equivalency to be a part of this overall plan, or is it already in the existing plan?

CHAIRMAN COATES: It will be. As a new amendment, it would be updated to ASMFC standards and would have all the bells and whistles and standard mechanisms that we utilize to make our plans very flexible.

MR. AUGUSTINE: One other point. In the minutes of our previous meeting, Bruce had gotten into some dialogue concerning implementation of management measures in the EEZ comparable to those enacted by the states would be essential in order to achieve effective management of inshore stocks. Have we covered that in there, too? We talked about the interaction between the Council and the Commission, but have we specifically put down anything between the federal plan and the Commission plan?

CHAIRMAN COATES: I thought we did.

MR. AUGUSTINE: It was mentioned earlier, but we never went anywhere with it. Ernie made some comment about that.

CHAIRMAN COATES: Yes. I thought we did, but put it in there again.

MR. AUGUSTINE: It's not in there, so I thought maybe if we included it --

CHAIRMAN COATES: No, that should be in there.

MR. AUGUSTINE: And then there was one more point that -- Ernie had made a comment about whatever we do in the next amendment, the states should be able to maintain existing regulations rather than trying to maintain whatever the existing F was at that time, which was F30, and is that in there, too?

CHAIRMAN COATES: Pat, restate both of those, because Tina didn't get them in the first list.

MR. AUGUSTINE: All right. Bruce Freeman had made a statement that anything we should do, the addendum should indicate that implementation of management measures in the EEZ should be comparable to those enacted by the states being essential in order to achieve effective management of inshore stocks. Again, I don't know how you would restate it in there, but it would be important.

And then Ernie had made a comment to the effect that we should -- let's see if I can find it -- that whatever goes on in this change in the addendum, however it's crafted, that the states maintain existing regulations rather than to try to maintain at that point in time -- he had mentioned F30. So I guess to clarify that, maybe it would be to say states maintain existing regulations until such time as an agreement has been made between the Council and/or National Marine Fisheries Service.

CHAIRMAN COATES: That was already passed as a motion from the previous Board meeting, a motion for it, and of course, it wouldn't rule out the possibility if something goes south that we wouldn't have to address it in the interim period between now and the time the amendment gets approved.

MR. AUGUSTINE: Good. Thank you.

CHAIRMAN COATES: But I mean, that we can deal with as a contingency. Thanks, Pat. Steve, did you -- and then Bruce.

MR. DRISCOLL: I wondered if standardized parameters between ASMFC and Council plans speaks to the issue

that I brought up where we should investigate the possibility of managing winter flounder under ACFCMA and, you know, recommend to the Secretary what to do in federal waters.

CHAIRMAN COATES: Maybe just a bullet, ACFCMA as the lead planning entity for winter flounder?

MR. DRISCOLL: That would be good. Thank you.

CHAIRMAN COATES: Okay. ACFCMA as the lead entity for winter flounder planning, similar to what's been done with lobsters, for example. Bruce.

MR. FREEMAN: I was going to mention the same thing Steve did, so I'll pass.

CHAIRMAN COATES: Okay. Are we all set? Got our list, initial list.

MR. FREEMAN: I would suggest, Mr. Chairman, that once this list is put together and perhaps modified somewhat by motions that were made at the last meeting, that it be sent around again, because I think there may be other concepts that we could help add to this list for Joe's use.

CHAIRMAN COATES: Okay. Anybody object to that? That sounds like a good plan. Bill.

MR. ADLER: Tina, did you put in the part about having the Plan Development Team develop options for us? Was that in there anyway?

CHAIRMAN COATES: That doesn't need to be part of the list. We'll do that anyway. That will be part of the charge to the PDT, which we'll now step into and find out who we've got on the PDT. Go ahead, Joe.

DR. DESFOSSE: Besides Commission staff, all we have is one nominee from New Jersey. Paul Scarlett has been nominated as a PDT member. Nothing in writing.

CHAIRMAN COATES: Nothing from any other state, including Massachusetts? Ernie.

MR. BECKWITH: Before I offer up anyone, how many additional people do you need?

DR. DESFOSSE: I'd like to keep it to, like three or four people, sort of a working level.

MR. BECKWITH: You need three or four more than Commission staff?

DR. DESFOSSE: Right. So a total of five.

MR. BECKWITH: We will offer Penny up for that team.

CHAIRMAN COATES: I haven't conferred with my colleagues yet, but suffice to say that there might likely be a nominee from Massachusetts since we seem to have a rather high stake in winter flounder. I think we talked about this. I just can't remember who we talked about. Please forgive me.

All right. So we have so far Penny Howell, Paul Scarlett, somebody possibly from Massachusetts. Anyone else? And then one ASMFC -- okay. Please get to us, get back to Joe as fast as possible with any additional, recognizing that we're going to keep it small, and we may need one additional. All right. We need a **motion to accept the PDT membership**.

MR. AUGUSTINE: **So move.** (Motion seconded from the floor.)

CHAIRMAN COATES: This is to recommend to the Policy Board this -- go ahead, Joe.

DR. DESFOSSE: Tina, if you could put up that recommendation. Just to keep the record straight, I'd like to have the Winter Flounder Board recommend to the Policy Board that Amendment 1 to the Winter Flounder FMP be developed.

CHAIRMAN COATES: Okay. Are we all set on the -- we don't have to take formal action on the PDT. This is just -- we've identified that number. Now we'll go forward to the motion that Joe feels is very critical for us to basically present to the Policy Board the fact that we're going to prepare an amendment.

MR. FREEMAN: **I'll make that motion.**

MR. AUGUSTINE: **Second.**

CHAIRMAN COATES: All right. Any discussion on that motion? Seeing none, all in favor signify by saying Aye; those opposed. Any abstentions? I'm assuming, since I heard no Nay votes, that all the delegations voted in support. I forgot we're doing the delegation thing, which is good.

Okay. Is there any other business before the Board at this time? All right, seeing none, I'll entertain a motion to adjourn. (Motion made and seconded from the floor.)

CHAIRMAN COATES: We stand adjourned. Thank you, everyone.

(Whereupon, the meeting adjourned at 11:55 o'clock a.m., May 17, 1999.)
