

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

**Crowne Plaza - Old Town
Alexandria, Virginia
February 5, 2014**

Approved May 2014

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ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Leroy Young, PA, proxy for J. Arway (AA)
Steve Train, ME (GA)	David Saveikis, DE (AA)
Rep. Walter Kumiega, ME (LA)	Roy Miller, DE (GA)
Doug Grout, NH (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
G. Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Bill Goldsborough, MD (GA)
Paul Diodati, MA (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Robert Ballou, RI (AA)	Louis Daniel, NC (AA)
David Borden, RI, proxy for B. McElroy (GA)	Bill Cole, NC (GA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)	Robert Boyles, Jr., SC (AA)
David Simpson, CT (AA)	Ross Self, SC, proxy for Sen. Cromer (LA)
Dr. Lance Stewart, CT (GA)	Spud Woodward, GA (AA)
James Gilmore, NY (AA)	Patrick Geer, proxy for Rep. Burns (LA)
Pat Augustine, NY (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Brandon Muffley, NJ, proxy for D. Chanda (AA)	Kelly Denit, NMFS
Tom Fote, NJ (GA)	Bill Archambault, USFWS
Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)	Martin Gary, PRFC
Loren Lustig, PA (GA)	

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Staff

Bob Beal	Kate Taylor
Toni Kerns	

Guests

Mike Millard, USFWS	Derek Orner, NOAA
Michael Pentony, NMFS	Charles Lynch, NOAA
Arnold Leo, E. Hampton, NY	Wilson Laney, USFWS
Raymond Kane, CHOIR	Kevin Chu, NOAA
Sally Campen, Global Guardian Trust	Joe Grist, VMRC

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crown Plaza Hotel Old Town, Alexandria, Virginia, February 5, 2014, and was called to order at 3:25 o'clock p.m. by Chairman Louis Daniel.

CALL TO ORDER

CHAIRMAN LOUIS B. DANIEL, III: All right, what I would like to do is we have some guests that have arrived. Our new NMFS folks, Eileen Sobeck, and I think Sam Rauch is with her; so if they would join me at the table, we will go ahead and move right into our Policy Board meeting.

MR. SAM RAUCH: Thank you, Louis, for allowing us to come up here and having a chance to speak. I have known many of you. I am Sam Rauch. I have always been the Deputy Director of the Fisheries Service for Regulatory Programs; at least for the last eight years or so, but for two years I've going through this difficult position where I held two jobs. I am very glad that I don't hold those anymore.

I am extremely pleased to be able introduce the new Director of the National Marine Fisheries Service, the Assistant Administrator, Eileen Sobeck. She has a long history. She started with NOAA. She worked at the Justice Department where she was, ironically, my first boss over there. She stayed there after I left to come over here.

She did a brief detour with Interior and we will forgive her for that. She is here now; and we were pleased that this opportunity arose to have an opportunity to get together and talk with you as our relationship with the states is very important. We want to make sure that conversation continues. Eileen.

REMARKS OF MS. EILEEN SOBECK, ASSISTANT ADMINISTRATOR FOR NOAA FISHERIES

MS. EILEEN SOBECK: Great, thank you very much, Sam. It is great to be here, Louis and Bob. I'm not going to speak very long. I'm

here to listen and participate. I do think it is ironic that I gave Sam his first job and now I'm doing the job that – I'm learning the job that he has been doing for the last two years. It just proves what goes around comes around.

I have been involved in fisheries and natural resource issues in one form or another for a long time. I am a recovering lawyer just like Sam. I try not to be a lawyer anymore. I've learned my lesson that litigation and legal interpretations aren't necessarily the best way to solutions. I know that I'm not supposed to mention my time at Interior, that it is not very popular, but Interior is actually in a lot of realms very good at partnerships and recognizes the importance of states and has a lot of both regulatory and non-regulatory programs that involve partnerships.

I learned actually a lot there about the value of working with state and regional entities in solving common resource issues. This is sort of Day 8 into the job. I am humbly learning how much I don't know. I'm trying to remember that even things that I used to know something about 20 years ago have really changed a lot. Every day, again, I learn more and more about how little I do know and how much I have to learn.

One of the great things is that Sam and his team have made a priority for me to get out and meet people and rather than hearing your issues framed by the great NOAA Fisheries staff, I get to hear them you guys. I've had a couple of meetings already from a variety of stakeholders; and being able to sit in on one of your meetings and participate in this part of the program is going to be really valuable. At the break you can ask me anything you want.

At this point I have no answers to anything. I am only collecting questions. I just wanted to really say thank you to Sam. I have heard nothing but great things about his leadership. I'm really happy that he is not moving on somewhere else, that he is actually going back to what seems like the job he would prefer to do. It is making me extremely nervous how happy he is that I'm here. I feel like I have a great team in place. I don't have a personal agenda. My job is to carry forward the mission of the agency and

try to accomplish the goals that I think that we all share. Thank you.

CHAIRMAN DANIEL: We appreciate you being here; but we did think we were going to get some resolution on sturgeon and striped bass in the EEZ. (Laughter) No! Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman, and welcome, Eileen. We appreciate you taking on this big responsibility. I would be remiss if I did not congratulate and thank Sam for two hard years. I tease him every time he comes back or has come back. He always has a new title; and I think maybe they're going to allow you to have permanent ink on this card for maybe six months or a year. Sam, you've done an outstanding job.

I think you have been very open to the public. I know your blog or your piece in the Commercial Fishing News, for those people that get that document, have been very timely and upbeat; and you have driven the system. I think even without leadership at the time, where you took over what you had to do and made things happen, you're to be commended for a great job. You have got a great staff man there, Eileen, and we hope he doesn't go away for a while.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I would just like to echo what Pat said. Eileen, welcome. We are thrilled that you are here. There are no easy answers anymore; there doesn't appear to be. We're looking forward to working with you and trying to find some of the solutions to these very, very difficult and complicated problems.

I especially would like to echo Pat's comments about thanking Sam for a thankless job and your willingness to step up to the conn there in the interim. I'm grateful for your leadership in the interim. Eileen, I'm looking forward to working with you and your leadership as well, so welcome to the commission. Thank you for what you will do for the states, and we're looking forward to working with you.

MS. SOBECK: Thanks; and I did want to say that I'm going to try to get out and about to as

many of these meetings and as many of the things that Sam covered as I can; but I don't know that I'll need to or want to or that you will want me to be doing them all myself. I have a great team and Sam is number one on that team on a lot of these issues, and so he may well continue to have the leading role. We will discuss that with him and with you all. If he continues to have some of these roles it won't be because he is not keeping me informed but that he has been doing two jobs and now we're going to be splitting those jobs between us.

CHAIRMAN DANIEL: Well, I think you come in at a good time with a lot of issues facing this commission. We had a very good meeting last night with the Mid-Atlantic Council folks in trying to work out ways to collaborate, cooperate and work between the Mid and the Atlantic States. We talked a little bit about reaching out to the South Atlantic to try to do the same thing with Roy and Bob. I think they will be amenable to that.

You always have a good team here representing the Service on the commission. I hope it can be a very open and forthright relationship. It has been rocky in the past, but it hasn't been under Sam's leadership. We do hate to see him go but are glad to see somebody in the position now permanently and set; and so we'll look forward to working with you in the future.

MS. SOBECK: Well, I still have more hair than Sam does; so we're not exactly the same, but I think – well, Sam knows a lot more than I do about these issues, but I think one thing we do share is that I want you guys to be open with me, and I'm going to be open with you. As far as I can tell, Sam has been very – you know, not hiding the ball and being very forthright and not dancing around the issues, as some say.

I can't speak to the substance of any of the issues before this group at the moment, but I think you hit the nail on the head; there are no easy issues anymore in fisheries, if there ever were. I think there only ever were because it was a lot harder to communicate with each other so we didn't. Geography, you know, people in Florida didn't find out what was going on in

Alaska for a few weeks or months or whatever; but I just think that means the need to communicate, the need for transparency and to be honest and frank without being hostile is necessary.

CHAIRMAN DANIEL: It works better usually. All right, if there are no further questions or accolades for Sam – I think we all agree with those – I would like to take a ten-minute break to give some folks a chance to say hello; and then hopefully you will stick around in the audience and stick with us for another couple of hours as we go through our Policy Board.

(Whereupon, a recess was taken.)

EXECUTIVE COMMITTEE REPORT

CHAIRMAN DANIEL: All right, I'd like to get everybody back at the table to continue with our Policy Board meeting. I'm going to take care of one item of business right off while everybody is bright and bushy tailed and give you just a quick update on some discussions and issues that were dealt with at the executive committee this morning just so that everybody is aware of what we are recommending to the Policy Board.

We are still working on – I think we've got one more iteration of our draft plan for conflict of interest that we will be prepared to circulate soon. Bob is going to start passing out our declaration of interests forms. We would like for everybody to start taking a look at those and make sure that the plans that you have declared an interest on are still pertinent and up to date and that you are indeed involved in the plans that you think you are. If you're involved in plans that you didn't think you were, go ahead and remove yourself from that or however you deem it appropriate for your state.

We didn't do a motion for the board issues so I guess I'm just going to bring up our suggestion and hope for a motion. I guess that would be the way to handle it. A couple of issues came up; and you probably are all familiar with New Hampshire brought up an issue about being on the Black Sea Bass, Scup, Flounder Board, but really only have an interest in black sea bass.

There may be other jurisdictions that only have an interest in summer flounder or scup or whatever. We talked a lot about how the South Atlantic Board works and how that has worked in the past. Generally speaking, that is Florida, Georgia, South Carolina and North Carolina, but then Virginia oftentimes is at the table. With black drum we had folks all the way up to I guess Delaware and maybe New York involved with the South Atlantic Board.

Generally, those states that have an interest in that individual species on that South Atlantic Board really don't participate or become involved in issues that don't really pertain to their state. What we thought would be a good idea is if folks would like to declare an interest in one or two of the three species in the Summer Flounder, Black Sea Bass, Scup Board, that we would agree to allow that to happen. Do you have a comment?

REPRESENTATIVE WALTER KUMIEGA, III: I do, Mr. Chair. We never did the approval of the agenda or proceedings or public comment as we went from one meeting to the other.

APPROVAL OF AGENDA

APPROVAL OF PROCEEDINGS

CHAIRMAN DANIEL: We sure didn't; thank you. Does anybody have any comments about the agenda or the proceedings for our October meeting? Seeing none; we will accept them by consensus and move on. Thank you. Okay, what we recommended was that the Policy Board consider allowing a state to declare an interest in one of those three species.

They would really not be involved in the deliberations on summer flounder and scup. There was a request I think from one of the states that if a state – that if they do that, have the black sea bass issues first on the agenda so that those poor folks don't have to sit through what we did yesterday on flounder. Does that adequately represent what we talked about this morning? Is there any objection to that suggestion; does somebody want to make a motion to that effect? We can just add it into

policy or we can have a motion to accept it or reject it if you don't like the idea. Pat.

MR. AUGUSTINE: Mr. Chairman, if there are no negative concerns around the table, I would suggest that you assume that we agree and just add it to the document.

CHAIRMAN DANIEL: Thank you, Pat; is that agreeable to everyone around the table? The other issue that we wanted to suggest to the board was splitting up the Coastal Shark and Spiny Dogfish Board. There is a lot of interest back and forth in doing that. The Coastal Shark Board really works more with the National Marine Fisheries Service and Highly Migratory Species; and so we thought it would be a service to both of those species groups if we had a Spiny Dogfish Board and a separate Coastal Sharks Board.

Smoothhounds, which I don't like the name "smoothhounds", but that is what they call them, would be in the Coastal Shark Plan because they're HMS, for whatever reason we still don't quite understand, but they are HMS species. The smoothhounds would be in the Coastal Sharks Board and spiny dogs would be a standalone. Likewise, is there any objection or concern around the table from splitting out up those two boards? Great!

CONTINUATION OF EXECUTIVE COMMITTEE REPORT

CHAIRMAN DANIEL: Mr. Vice-Chairman, did we have any other items at the executive committee?

MR. DOUGLAS E. GROUT: We formed a subgroup to help develop a workshop at the May meeting on Magnuson-Stevens Reauthorization, potentially getting the commission's input and wanting to make comment on the reauthorization plans.

CHAIRMAN DANIEL: Thank you; I did let that one slip. We've got a couple of versions of potential Magnuson Reauthorization Issues; and we felt it would be a good idea to convene a working session at the May meeting, have a

workgroup to work out some of those details for our meeting if we want to come up with some specific recommendations on the Magnuson Reauthorization. We will be moving forward with that approach for the May meeting. Dennis.

MR. DENNIS ABBOTT: And also on the conflict of interest, there are some revisions that are going to be incorporated based on what was done this morning. At the May meeting, prior to the full commission meeting, there will be a meeting of the LGAs to go over those changes prior to final approval.

MR. WILLIAM A. ADLER: Mr. Chairman, that working group; do you have that established for the Magnuson?

CHAIRMAN DANIEL: We do. Tom.

MR. THOMAS FOTE: Since I wasn't at the executive committee, who are the members of the working group and is the working group going to – I'd like a little more information about what the working group is going to do.

CHAIRMAN DANIEL: Doug is going to be heading that up so I will let him speak to that.

MR. GROUT: The group will be Paul Diodati, Pat Keliher, Robert Boyles, but all we're doing is organizing a workshop that is going to be at the May meeting for the full commission to weigh in. Some of the concepts that we have is there is some draft Magnuson Reauthorization Plans that came out in the House and we want to put that out and explain that to people.

There may be some input from other people and other organizations that suggest changes to Magnuson that we may want to make the commissioners aware of and then get the commissioners' input on whether we can come to any kind of agreement or consensus on input. Clearly, if we don't have a consensus on an issue or agreement on an issue, I don't think we should go forward with any kind of comment on it. That is the plan.

MR. FOTE: That means if commissioners have ideas of what should be changed or what should be done in the Magnuson Act, they should be forwarding it to you, Doug?

MR. GROUT: Sure.

CHAIRMAN DANIEL: And I will tell you that I have been in contact with Dr. Brian Rothschild and several other folks. He has put together some information that is very similar to the Hastings Draft that has some very good information. We're trying to put together all the information that we have between now and the May meeting so that we can have an informed discussion on that issue. Robert.

MR. BOYLES: Mr. Chairman, I think we've got a little miscommunication here. My understanding is we're going to have a workshop for all commissioners at the May meeting. The subgroup is simply to organize how do we do that. Tom, I think the direction of your comments were if you've got ideas on what we would recommend about Magnuson, give them to Doug.

I believe maybe the more appropriate place would be to let all of us at the workshop have the benefit of that. In other words, the subgroup is not coming up with the commission's position on Magnuson Reauthorization. The subgroup is simply putting the mechanics together of what the workshop would look like. Did I misunderstand the discussion, Mr. Chairman?

CHAIRMAN DANIEL: I think that was a good pick up, Robert. I think there was some confusion there. Tom.

MR. FOTE: Well, I'm wondering then if we do have some position papers that we've already written and do you want to do that before we basically come to the May meeting so we have some ideas from commissioners that already have some ideas. Who do we get them to and should we circulate them before the meeting so we have a base to start working on like public comment?

CHAIRMAN DANIEL: That would be helpful; yes.

MR. FOTE: So who do I send those ideas to and is Doug the person to send those ideas?

CHAIRMAN DANIEL: Doug and copy to Bob, please. Roy.

MR. ROY MILLER: Mr. Chairman, I have a question on your previous item, if I could come back to that when you're done with this discussion.

CHAIRMAN DANIEL: Is there any further discussion on that issue? If not, Roy.

MR. MILLER: Thinking about the previous agenda item regarding declared interest in a species or species subgroup, Mr. Chairman, do we have a general policy with regard to, say for an example, implementation of minimum size limits for spotted seatrout?

Even though states to the north of Maryland haven't declared an interest in spotted seatrout, is that species plan specific what the states who do not have a declared interest would be required to do with regard to species and seasons and that kind of thing? Thank you.

MS. TONI KERNS: I'm going to try to answer it; and if I answer it incorrectly, I think Bob will correct me. Each FMP states what states are within the management board, and those are your declared interest. Those states have a declared interest make up that management range and you then abide by the rules within the FMP.

You can have exceptions under de minimis criteria, et cetera; but if you are not a part of the FMP or have declared interest, then you are not obligated to follow the FMP. For example, current New Hampshire is not a part of the Black Sea Bass FMP but they do have black sea bass in their waters and they are not required to put any management measures in place.

MR. MILLER: A brief followup; that may be a change in emphasis on where we were years

ago. I remember when the South Atlantic Board proposed spotted seatrout minimum size limits, for instance. Just about every state implemented minimum size limits – even Delaware did so and we had no spotted seatrout to speak of – so it hasn't always been that way; but what you're saying is that is how we will proceed?

CHAIRMAN DANIEL: I'm not totally sure, Roy. Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: I think the South Atlantic Board is somewhat unique and there have been examples where states have been asked to implement size limits. I think New York was asked to implement a red drum size limit or something fairly recently that they followed through on.

They're not really full participants on the board, but there was concern by the states to the south that a lack of a size limit in those states may create a loophole of some sort, and they were asked to implement very minimal management measures. It has usually been more of a request that they do it than a compliance criteria. I think it has generally worked out.

It is again one of those things that we talked about at the executive committee this morning as kind of more of a practice of a way of doing business than an actual requirement within the Charter or any other guiding documents. It is just kind of how it has been working. Part of this whole discussion is do we need to solidify those practices in some sort of guidance document.

MR. FOTE: If I remember right, if you had a fish in your area, even though you weren't part of the board, you would have to do the minimum that was put in. You couldn't skirt the issue. I think that's where we were many years ago, and I never knew that it had changed. We do that with all the South Atlantic species even though we don't see them or see them very occasionally.

If you're seeing any species on a regular basis and you have an opportunity to catch them, then you really are compelled to go into the

regulations and the minimum regulations need to be put in place. You might not have to do reporting or anything else, but you need to put the regulations in place. That is how we've always operated. I don't see change there. Unless we're going to change that, I guess that is going to be a change then.

CHAIRMAN DANIEL: Well, I think from my understanding everybody that has limits on, for example, speckled trout or red drum had a declared interest in that fishery. Now, there may be one or two that didn't, but from my understanding most have had a declared interest.

MR. FOTE: That's not true.

CHAIRMAN DANIEL: Okay. Well, then we'll do a workshop on that the next meeting. I'm kidding! I'm not totally sure, Tom. What I do know is that in the discussion this morning, New Hampshire falls outside of what we thought was the range of black sea bass. Two years ago they started seeing black sea bass and waited for a year to see if it was just an anomaly and it wasn't.

They saw them again; so what they did was preemptively go in and set some minimum size limits and regulations in order to prevent there being a loophole in New Hampshire and causing problems for other New England states. Now the question is New Hampshire believes it should be a member of the black sea bass part of the Black Sea Bass, Scup and Flounder Board. They don't want to sit through the scup stuff and the summer flounder stuff nor do they believe it is appropriate for them to be discussing and deliberating on the scup stuff and the summer flounder stuff. What they're asking for is the opportunity to sit on the black sea bass part of the board.

I'm not aware of any other issue that we have right this minute other than that one; and certainly I'm unaware of any nefarious intent to shirk responsibilities or anything like that. That is one of the reasons why we're going to send around the list of declared interest, and that way we'll know and have a better – because I think

we're still listed as having an interest in lobster and I'm going to take that one off.

I don't have any regulations on lobster and don't anticipate implementing any regulations on lobster. Just take a close look at those. This is all subject to change, but we just felt like I was an appropriate discussion for the policy board to make sure that everybody was comfortable with it. Is that a fair characterization?

MR. BILL COLE: Mr. Chairman, I believe Tom is right. Historically – and I think it comes from the Charter that the board, once the Policy Board agrees to do a plan, that the board will define the scope of the range and ask each state or each entity if they have an interest in the species and want to be included on the board.

Now, if a state has the species and doesn't show an interest, then the board can do a plan, but that plan is applicable to that state because the plan applies to the range of the species. So it is smart business if you've got some in your state, you probably should declare interest in that board's activities rather than suffer other consequences.

Now, that is the reason that we have this de minimis and so forth and so on for those states who have so little of those species, but to keep them inclusive if we can within the range of the species. Now, I will stand corrected but I believe that is in the Charter and in the Operating Procedures. Certainly in my long-time experience with the commission, it has been the operating experience.

CHAIRMAN DANIEL: Well, we've got the spreadsheet of declared interests for all the states if anybody is interested in looking at that. Dave.

MR. DAVID SIMPSON: Bill pretty well summarized my point that you can envision boards seeing a need for a state or jurisdiction to participate in their management. Whether or not they want to participate in the development of that management might be a different question. I think that is where we end up in coastal sharks.

Because of the federal management to have seamless enforcement and implementation of

their plans, they need Connecticut to do that and so that is our involvement. Withdrawing from the Coastal Sharks Board as much as I might want to, I don't think would relieve me of Connecticut's responsibility – relieve the state of the responsibility to implement the plan.

CHAIRMAN DANIEL: Okay, anything else on that issue? If not, the final issue that was discussed – and this is why we were making fun of workshops because it looks like the next meeting is going to have several workshops in it – one of the things we discussed was we had a discussion on how states are going to be implementing the Marine Recreational Information Program and felt like it would be a good idea to have that discussion in May so we can see all the various aspects of how that is going to be implemented from states that are very involved and active in implementing MRIP to those that aren't so involved or active, and maybe bring in some of our project coordinators to come in and provide presentations on how that is being done and get a sense of what we need to do in order to have more consistent maybe implementation of the MRIP Program. Dave.

MR. SIMPSON: Yes, I think it's a great idea and I'd also like to hear from NOAA. This is one that it struck me that it seemed like it came from below and came up. I would have thought that if NOAA wanted to partner with the state of Connecticut they would have contacted me or my bosses and said let's get together and have a discussion about whether we want to engage in this.

Instead it's sort of hallway discussions with the technical committee staff that, oh, by the way, you know, there is a change and NOAA wants ACCSP to do all this now and we will be part of it. It would be good to hear what the thought is for why they would like to see this partnership and what the benefits and liabilities are associated with it.

CHAIRMAN DANIEL: Yes, we felt like that would be I think a good discussion for everybody to be involved in around the table. Rob.

MR. ROB O'REILLY: I just wanted to follow up on part of the discussion this morning that it also included the idea that there could be a management board – the South Atlantic has multiple species, summer flounder, scup and black sea bass. I understand the issue about the range and that makes sense as far as inclusion and then the commitment of the state would be recommended but not mandatory to be on the board.

The inference about the black sea bass situation in New Hampshire, I thought we also discussed the idea that if New Hampshire or anyone else, for that matter, who was in a position where only one of the multiple species were of interest, then they certainly could be part of the discussion about those other species. That was also a component of today's discussion and I didn't want to let that go. I just want to put that on the record.

CHAIRMAN DANIEL: Thanks for that clarification. All just, there was just a lot going on this morning in the executive committee and we wanted to bring those issues forward to the Policy Board and make sure everybody was in the loop and comfortable with the suggestions and recommendations that we were making. Thank you for your indulgence on that.

OTHER BUSINESS ADDED TO AGENDA

CHAIRMAN DANIEL: I'll go back to the approval of the agenda. I forgot to add a piece of other business. There was a request from the Winter Flounder Board that we will take up as an item of other business before we adjourn.

NOAA MARINE DEBRIS PROGRAM DERELICT GEAR ASSESSMENT

CHAIRMAN DANIEL: Nancy, welcome back, good to see you.

MS. NANCY WALLACE: Thank you, Louis, I'm very happy to be back. I am Nancy Wallace and I'm the Director of NOAA's Marine Debris Program. As some of you may know, I started my career as a fishery management plan coordinator here at ASMFC. I think it is seven

and a half years later, and it is nice to see how many familiar faces are still here. It is really nice to see all these smiling faces, and I love the conversation. I was having memories of my menhaden days.

But now instead of focusing on fish everyday, I focus on trash. I am the Director of the Marine Debris Program. We sit in NOAA within the National Ocean Service; so we are partnering very, very closely with our friends at NMFS, but we are in a different line office. And as such, just to start us off, we are non-regulatory so everything that we do is through partnerships and incentives and education.

We do not make any rules or regulations, but we do provide a lot of good information that can potentially lead into those types of management actions. Today I'm here just to really share information about the program and make sure you're all aware of it, because we do have a lot of crossover with fishing gear. I will go ahead and get started.

We are a fairly new program within the government world. We were established in 2005, officially signed into law in 2006 and then actually reauthorized – the only NOAA Program to be reauthorized in the last Congress in 2012; and we were not given a sunset date, so we don't have to go through that process again and we're very happy about that.

Our vision is that the global ocean and its coasts are free of the impacts of marine debris, and we do that through a variety of ways. What is marine debris? It is important to know what the definition of marine debris is. It is any solid manmade material that is in the marine environment that shouldn't be there.

We don't focus on oil although my division, the Marine Debris Division, sits in the same office with our Emergency Response and Oil Division, but we focus on solid materials. It is not animal carcasses and it is not leaves or trees, so it has to be in the definition for us to be able to work on it. It actually goes everything from the smallest pieces of plastic all the way up to derelict fishing gear or plastic bags, plastic bottles and through

very large abandoned vessels; so it can be any of those things.

Our program has a number of pillars on how we address the issue. For and foremost is through removal. We give out about a million dollars a year in removal grants that go out throughout the entire country. They are community-based removal grants administered by the National Marine Fisheries Service Restoration Center.

The idea is to remove big, accumulated debris; so a lot of times that is the abandoned vessels or large amounts of fishing gear. It tends not to be the smaller cleanups but we do support those in other ways. We try to do a lot through prevention because the number one thing we want to do is to prevent the debris from coming into the marine environment in the first place.

We do that through a different set of grants through communities. We work with aquariums and zoos and universities to share information about behavior change and how each individual person can actually have an impact on this issue. We do a lot about research. We try to look at what the impacts of marine debris is; so things like micro-plastics and fishing gear and vessels, what are they doing to the natural resources, to the habitat; looking at transport models of marine debris to try to locate where the debris will be coming so we can have that or prevention methods as well.

In the past few years we've become a lot more engaged in the emergency response aspect of marine debris, all the way from Hurricane Katrina, the Japan tsunami in 2011 and now Super Storm Sandy in 2012. All of those different efforts we have been very engaged in; because unfortunately anytime there is a severe event like that, there is a lot of destruction and with destruction comes debris; and especially in coastal areas that debris ends up in the marine environment.

The way that we accomplish a lot of our goals is through regional coordination. We recognize that there are different challenges and different solutions in different parts of the country. This is a national program. We are focused from

Guam to the Ocean Islands, the Gulf of Mexico, the Caribbean, up to Maine and everything in between, including the Great Lakes.

We have to tailor our responses to the different areas and what is happening there. Our program mandates; one of the mandates in our Act is to address fishing gear; and that is why I'm here today. The language itself is to undertake efforts to reduce adverse impacts of lost and discarded fishing gear on living marine resources and navigational safety.

In the Act it gives us three ways to do that; by researching and developing alternatives to gear that pose threats; developing methods for marking gear to enhance tracking, recovery and identification; and developing non-regulatory measures and incentives to reduce the volume of lost and discarded fishing gear.

Here is a sample of our regional folks. These are the different folks all over the country. We have folks in Alaska; Pacific Northwest; Hawaii; Mobile, Alabama; Ohio. We do have a new person, a new Northeast Regional Coordinator who sits in the Northeast Regional Office in Gloucester. Then we have our Southeast and Caribbean Coordinator who sits here in Silver Spring. We have recently hired a Sandy Coordinator with some of our supplemental funds, so he is leading the charge on the debris removal for Sandy.

Why do we do this work? I don't have to tell all of you; I'm sure you know way better than I do what the impacts of lost and discarded fishing gear are. The reasons we're concerned about this is because of entanglement of animals, the ghost fishing, habitat destruction, destruction to active fishing gear and vessels and then, of course, the economic impact that is associated with that.

In terms of entanglement, one of the concerns that we have especially on the east coast is the North Atlantic Right Whale. In 2010 there were ten new right whale entanglements that were recorded. This is a concern. As you all know, there are only 400 of those whales left. It is an endangered species; so what we want to try to do

is mitigate the amount of debris that could be in the environment that would be affecting those animals.

In terms of ghost fishing, fishermen are great at developing gear. It is going to continue to fish for a long time whether it is pulled out or if it is not pulled out. This is something we're concerned about because the amount of critters that are left in that gear is quite a lot. One of the things we're doing is trying to look at what those impacts are, how exponential is it?

I will talk a little bit more in a few minutes, but we've provided some funding to the Virginia Institute of Marine Science, different groups in the Chesapeake Bay, actually all over in Alaska, Puget Sound to really start to quantify what the impacts are in terms of how many species are being caught. Another area that our program really focuses on is the plastics, microplastics in particular, so much of the marine debris that we come across is made up of plastic, whether it be the plastic bag or the plastic bottle. A lot of fishing gear has plastics in it or just the toys and toothbrushes and the amount of things that we find on the beaches. One of the real concerns is that plastic breaks down, but it never breaks down all the way so the pieces get smaller and smaller.

Unfortunately, there is a lot of pollution in the ocean environment. There are toxins. A lot of those toxins are hydrophobic; so if there is a piece of plastic that that pollutant can absorb to, it will; and so that happens. We are sure of that. Then what happens – and we're sure of this, too – is that those plastics are ingested by fish, by birds, by turtles.

What we don't know is what the transfer is then; so are those pollutants then releasing into the tissue of those fish. If so, what is the chain through the bio-accumulation, through the trophic chain, there are potentially some human health impacts? We don't but we are starting to do a lot of research on the science behind that; because unfortunately this plastic is just pervasive throughout the marine environment.

To give you a couple of project highlights of what we've done in our career since 2005, since the program started. We have funded over a hundred different derelict gear fishing projects nationwide. A lot of that is removal; some of it is research. But just to give you a couple of examples of what type of work we've done within the program, we've funded the Virginia Institute of Marine Science to look at biodegradable crab pot cull rings to see how long it takes for the cords to degrade.

We've worked with the Gulf of Maine and Maine Lobster Foundation to actually go out and collect derelict gear and look at the assessment of where that gear is ending up. We worked with fishermen in New Jersey, with the Richard Stockton College, to do derelict gear removal. We have also done some pilot projects in North Carolina to look at recycling derelict crab pots into oyster reefs.

One of the main things we've really tried to do is to employ the fishermen to do this work because they know the area best and they know the gear the best. For research, I mentioned this before, but we did do some pretty comprehensive work in the Chesapeake Bay. We funded a contractor, Versar, to work in the Maryland portion, and then we've also partnered with VIMS in Virginia's section to be able to see how many pots are out there and what they're catching.

In the Versar Study in Maryland they estimated that more than 84,000 traps were collected in the Chesapeake Bay. They did 285 side-scan sonar transects and found that there were 20 dead crabs per trap per year that were being caught; so that is a pretty significant number. The Virginia Institute of Marine Science did a study from 2009 through 2012 and their results are actually – I think they became public today.

I wasn't going to come and share their results because I didn't want to scoop them on their study. As I was leaving I saw the e-mail that it came out, but you can follow up and look at that, but it is pretty significant the amount that they were finding in the Bay. In terms of removal, some of the projects that we funded are with the

Provincetown Center for Coastal Studies, going out and doing – this is a side-scan sonar track to be able to locate where the debris is. With this program, we employed four different fishing vessels; and the lobster boats were on the water for 32 days. They actually collected over 40 tons of gear in that time. It is pretty substantial. Another program that some of you may be familiar with is our Fishing for Energy Program. In 2008 and prior to that we did a lot of workshops with fishermen and said we're finding a lot of derelict gear; can you help us understand why we might be able to find that gear? We've heard that there are a lot of reasons. There are storms; there are propellers that cut off the buoys that are lost; there is accidental loss.

But one of the other things we heard is that disposing of derelict gear is costly, it is expensive; and so we worked with our partners at the National Fish and Wildlife Foundation, with Covanta Energy and at Schnitzer Steel. We were able to say how can we provide a free or no-cost option for fishermen to be able to dispose of their gear and then do something with it?

What we were able to do is that we have bins set up at ports where fishermen can go throw either their old derelict gear in the bins that they're not going to be able to use anymore or if they're out at sea and they find gear on the beach that they can get rid of; that is a free place for them to put that, too.

Schnitzer Steel takes the metals out, recycles the metal, and then Covanta Energy takes it to their waste energy facilities and it is incinerated and it is put back into the grid. We're really excited about this because it is a win-win situation. So far we have collected over 2.2 million pounds of nets at 41 different bins across the country; and more than 250 tons of gear has been removed by fishermen through grants.

We do a Fishing for Energy Grant Program as well that NOAA helps provide support for. These are our bin locations. As you can see, the majority of the bins are in New England. We've had great success especially in Massachusetts

where we've heard from the fishermen that they're really excited about this.

What we hear more and more from fishermen is that they would love to see more bins in more locations. We would love that, too. We are trying to think about how to make these more self-sustaining so to be able to provide seed money to new ports and then have those ports kind of self-sustain over time so we can expand the program.

I wanted to show just one slide on our work related to Super Storm Sandy since it does affect many of the states that you all are from. We received about \$5 million in the Sandy Supplemental. That was to survey and assess debris that was generated. We want to be able to do a little bit more than just survey and assess. We want to give money to the states to actually remove that debris.

NOAA through our Office of Coast Survey and some of our other offices are able to do a lot of that now mapping. We're taking that information and, we're providing it to our state partners. Rhode Island, Connecticut, New York, New Jersey and Delaware are the five that we're focusing on right now.

We're developing agreements and we're going to be transferring money to those states to be able to actually go out and remove the debris. All of the funding will be transferred by September 30th of this year, hopefully much sooner, and a lot of the work will be done by that time. For Fiscal Year 2014 we just recently got our budget. It is not the final number, but luckily things are looking okay.

We are taking a new approach to our research this year. We've funded, as I mentioned, a hundred different derelict fishing gear studies all across the country in the last seven or eight years. What we want to do now is instead of kind of putting a little bit of money into a lot of different projects; this year we're going to put as much as we can into one big project.

We are going to try to look at the comprehensive impacts of derelict fishing gear in the

Chesapeake Bay. We chose the Chesapeake Bay because there is a lot of data that has already been collected there. There are a lot of great partnerships with the watermen there. We did look at other areas of the country; and after a lot of discussions and research, we focused in on the Bay.

What we're going to be doing is looking at kind of the amount, the abundance, the location, the impacts from an economic standpoint as well as a natural resource and habitat standpoint and come up with a final answer. We're going to be doing that through an external contract. We have a Statement of Work ready to go; and as soon as we get the final okay on our budget, we're going to send it out the door.

We are hopeful that the contractor will work with the different groups that have been doing this work already. We're pretty excited. Now, as I said, we're not regulatory so we're not going to be suggesting any changes, but what we can do is provide the information to you. What I'm hopeful is that through this study we'll also be able to really hone in on why this derelict gear is happening and to look for solutions to prevent it from occurring in the first place.

As I mentioned, we're a small program; and the partnerships that we work on are really important, and we would not be able to do any of the work that we do without our partnerships. The non-profits; the state, local and federal agencies that do a lot of this work; the fishermen and other industries that we work for; and our researchers and the academic community have been critical to the success of the program to date. We are thankful for that.

This is my last slide and I just wanted to say thank you very much for the time and sharing what we do. I have a different turtle for every region I'm in. This is the east coast turtle; the Maryland, the diamondback terrapin. I don't know how we're doing on time; but if there is time and you have any questions, I'd be happy to answer them; or if you have any interest after, I can always be reached to follow up.

CHAIRMAN DANIEL: Thank you, Nancy. Are there questions for Nancy? Rob.

MR. O'REILLY: Hello, Nancy; and I wish you had mentioned Atlantic croaker, which you were so much involved with for its first SEDAR; but that's okay. What I wanted to ask was I wasn't sure what NOAA is doing dovetails with something coming up very soon, which is a Virginia Marine Debris Reduction Plan, which spun off I guess last year. At the marine aquarium, there was a Marine Debris Summit, which I didn't get to attend but one of our staff did; and I was wondering how those were linked and is that in turn linked somehow back to the initiative for the Chesapeake Bay.

MS. WALLACE: That is a great point. Yes; we are very engaged in the Virginia effort. I have to say Virginia I think is taking the lead on developing a regional plan. NOAA provided funds through the Coastal Zone Management Program to the state of Virginia. Virginia said marine debris is an issue and we want to work on it. They have developed a working group to develop an action plan. I actually was on the phone yesterday with Katie Register. She interviewed me to kind of cull down on some of the main issues

They're doing that with I think 20 different partners. Our east coast coordinator has attended all of those meetings and is very linked. One of the things that we have been able to do as a program is help facilitate the development of regional action plans. We have a Hawaii Marine Debris Action Plan; there is a West Coast Plan. We're going to finalize a Great Lakes Plan in the next few weeks.

What we don't have is any east coast or Gulf of Mexico plans. I have to say I have been really impressed by Virginia especially because they are the first state to come out and say we want to do our own plan without NOAA kind of prodding and facilitating. What we're able to do then is provide funding through our grants' process to help implement the actions that are in these regional plans.

Now that we have a northeast coordinator, we're going to try to develop some sort of northeast regional plan and continue down. We have a workshop scheduled in Florida in May and one in South Carolina in June that will be addressing North Carolina, South Carolina and Georgia issues for a plan. That is a great point; and, yes, we will absolutely be linking those efforts with the Chesapeake Bay Research Study. Our coordinator is kind of the connecting piece between all of that.

MR. LOREN W. LUSTIG: Thank you for a very, very interesting report. I really support what you're doing. I was very interested when you were speaking about derelict gear being used to enhance an oyster reef I believe in the Chesapeake. Can you comment about the use of derelict vessels that might be used and the cost thereof for cleanup and the like to actually sink those vessels and make them into an artificial reef. About five years ago I went on coast guard vessel that was moored at Key West, Florida, from World War II and was interested to find out about six months later that it was actually sunk off of Sarasota, Florida; so I know the opportunity is there. Thank you.

MS. WALLACE: That's a great question because marine debris is abandoned vessels, but we have worked closely with the state historic preservations offices. There are a lot of historic wrecks that we would never ever touch. We don't consider those the same type of debris. I know in the Gulf of Mexico and Florida there are a lot of rigs – not rigs.

There is a Rigs to Reef Program in the Gulf of Mexico but vessels as well that are sunk. From our standpoint, we try to keep things out of the marine environment that shouldn't be in the marine environment; but anytime there is an artificial reef developed, there is quite an extensive permitting process.

We work with the EPA; with the states; NOAA is involved; and so there is a lot of assessment to see if there will be benefit to those types of – you know, will the habitat that is being created be more important than perhaps putting the debris in the ocean in the first place; and so in

some cases that is acceptable. In other cases, I can tell you one of the programs that we're working on and that we're funding right now is in Broward County, Florida, where in the seventies there was a decision to put a ton tires down on the habitat, on the benthic habitat to develop reef.

Now the tires are completely breaking up; the reef was never – this one was in Broward County, Florida, and so now we're spending a lot of money to try to remove it. There is always kind of the give and take of any of these decisions and the long-term sustainability of anything we're putting in the ocean. The oyster one was in North Carolina; the oyster pots; the habitat, yes.

CHAIRMAN DANIEL: Yes; after every hurricane, sometimes we'll have as many as 5,000 tires wash up on our beaches and we've got to go pick them up; thanks to really an idea back in the mid-eighties to put them out there. Are there further questions for Nancy? She will be available afterwards, right, Nancy?

MS. WALLACE: Absolutely, yes.

CHAIRMAN DANIEL: Okay; it was great to see you and thank you very much for an excellent presentation. Next is we have Mike Pentony for a review of the proposed rulemaking on Special Management Zones for five artificial reefs off the coast of Delaware.

**REVIEW OF THE PROPOSED
RULEMAKING ON
SPECIAL MANAGEMENT ZONES FOR
FIVE ARTIFICIAL REEFS OFF THE
COAST OF DELAWARE**

MR. MICHAEL PENTONY: My purpose here today is just to give the commission a brief update and background on an action that we are currently considering. We're in the process of developing a proposed rule; but we have not published a rule yet. We intend to continue to consult with the commission throughout our process before we make a final decision on these proposed special management zones.

Those of you on the Mid-Atlantic Council may recall this has been developing for the last several years. In 2011 the state of Delaware petitioned the Mid-Atlantic Council to consider requesting that NMFS designate five artificial reefs off the coast of Delaware as special management zones.

That is a term of art that appears in the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan that authorizes the Mid-Atlantic Council to request the agency to designate artificial reefs as SMZs and essentially create gear-restricted areas within those special management zones to facilitate recreational fishing or really to facilitate or address and remedy gear conflicts that can occur on some of these reefs.

As I mentioned, in 2011 the state of Delaware requested the council to consider this. The council undertook the process that is required in the regulations under the Black Sea Bass FMP. They appointed a team to review the information, develop a proposal for the council to consider, and held a series of public hearings on the issue.

In June of 2013, just last year, or actually February of last year – it has been about a year – the Mid-Atlantic Council formally requested that the agency consider designating these five areas that you have up on the map there as these SMZs under the authority that we have in the Black Sea Bass FMP.

As I mentioned, we are reviewing that request and developing a proposed rule. We are developing an environmental assessment under NEPA to go along with that proposed rule. I expect that we will have a proposed rule out in the next two to three months. We will probably have an extended comment period, maybe 60 days, because of the unique aspects of this issue.

What the council has requested and that we are entertaining is that the areas there would be restricted to hook-and-line fishing and hand harvest. There would be a 500 yard buffer around each reef; so those would essentially become gear-restricted areas where pot fishing

and mobile gear fishing would be restricted from those areas.

I do want to point out that the interpretation or what we're hearing is people are perceiving this as a recreational versus commercial fishing action. The council did not request and we are not considering prohibiting all commercial fishing from these areas. We are simply proposing or intend to propose that the areas be restricted to hook-and-line fishing be it recreational or commercial.

The primary intent of this is to reduce gear conflicts that the state of Delaware and others have heard have been occurring on these reefs. It also, as you probably know or may not know, is an attempt to by the state of Delaware to ensure that it does not lose any sources of funding under the Sportfish Restoration Act the Fish and Wildlife Service administrators.

New Jersey, as you know or may know, lost access to some funding for its reef program because the state did not have any mechanism to address gear conflicts on those reefs; and so this is an attempt and effort by the state of Delaware to ensure that it can continue to be eligible for funding under that program in order to maintain and enhance those reefs. Unless there are any questions, I'll stop there and see if there are any questions that you may have.

MR. BOYLES: Mr. Chairman, no question and just a comment just for the board's edification. The state of South Carolina has requested similar actions from the South Atlantic Council, and that has been the case. Our reefs have been designated special management zones for a number of years.

Most recently the state requested and the council approved and NMFS subsequently implemented regulations to prohibit of species in snapper grouper and coastal migratory pelagics in excess of the personal bag limit. For what it is worth, I support this effort and think it is a good step and a good move for the state of Delaware to do this, recognizing that we're going to have more and more gear conflicts as habitats become further constrained. For what it's worth, I'd just offer

moral support. I'm not sure you're looking for a position from this body, Mr. Chairman, but I certainly support the effort.

CHAIRMAN DANIEL: I may be completely off here, but as I recall the South Carolina SMZs were granted or the council agreed to the recommendations from the state of South Carolina. One of the reasons was because all of your reefs were constructed by Wallop/Breaux funds and were not funded by taxpayer dollars.

I guess that would be my question of the Delaware reefs is are those fully funded by recreational dollars or they taxpayer dollars, because that is where we ran into a problem in North Carolina where we had Wallop/Breaux money, but we also had appropriated state dollars that went into building those reefs. That created a problem for us when we went in that direction, and I don't know if you've run into the same issue with Delaware or not.

MR. PENTONY: I can't answer that question directly, but it is something that we're looking at.

MR. DAVID E. SAVEIKIS: Yes; Delaware's program is funded exclusively with Wallop-Breaux funds and matching state recreational license money.

CHAIRMAN DANIEL: You shouldn't run into a problem, then. Robert.

MR. BOYLES: Mr. Chairman, initially, not to put too fine a point on it, but I think our initial issue in South Carolina was bangsticks. It started out as a gear conflict issue; and only in the last several years when we started getting gear conflicts and user conflicts did we pursue this effort to limit possession to the personal bag limit. Again, that is something that has been implemented by a lot of discussion at the council level. Again, I support the effort.

CHAIRMAN DANIEL: Yes; if it is all recreational money and they are actually going to allow a commercial hook-and-line fishery on those reefs, I would be hard pressed to find an objection for what Delaware is trying to

accomplish. There may be others that feel differently, but that would be my general sense. Tom.

MR. FOTE: What are bangsticks; I never heard that phrase?

CHAIRMAN DANIEL: Sticks that go "bang". They're exploding spears. They are actually a shotgun shell on a stick and you pop the fish with them and it explodes and kills them.

MR. FOTE: We used them for shark fishing. They used to use them for shark fishing; but I thought you had some other gear that was called a bangstick. I understand what a bangstick is.

CHAIRMAN DANIEL: Yes; they created quite a stir in the South Atlantic eight or nine years ago down in Jekyll Island. That was a very interesting meeting. Dave Simpson.

MR. SIMPSON: I just wondered if someone from Delaware could just give us the like one-minute lowdown on what the reefs are made of and how this came about and all that.

MR. MILLER: Dave, the Delaware Reefs are derelict vessels, the most recent one. Particularly the most recent one is a fairly large derelict vessel that is about 20 miles offshore. Other reefs are made of materials of opportunity, including New York subway cars, concrete culverts, that type of material. Was that good enough, Dave?

CHAIRMAN DANIEL: Is there anything else on this issue? If not, thank you very much. Next on our agenda is Toni is going to review the survey results from our 2013 Commissioner Survey that I know everyone filled out and submitted in a timely way.

ASMFC 2013 COMMISSIONER SURVEY RESULTS

MS. KERNS: Well, if everyone you mean 27 commissioners, yes, everyone. The survey is included as part of our 2014 Action Plan. The purpose of the survey is to measure the progress towards the commission's goals. As I just said,

27 out of 45 commissioners responded, which is up from last year.

I think we had 24 so we're moving in the right direction and maybe next year I'll provide a free incentive for those of you that fill out the survey and actually tell me that you filled out the survey. I think we only had about 15 people tell us they filled out the survey. The survey asked for your input on responses of a scale from one to ten. It has five topics, 20 questions.

You range your answers on not supportive all the way to very supportive. There are five open-ended questions to finish up the survey. Overall there seems to be increased satisfactions from commissioners. Almost all responses are at a six or above. I'm just going to go through a couple. I'm not going to go through each question.

The results of the survey were in the supplemental materials. The graph just shows you how our responses have been over time since 2010 when we started this survey. It seems like folks have had an increased confidence that we can achieve the commission's vision as well as we're fairly satisfied with the cooperation between commissioners to achieve our vision.

We're moving in the right direction towards cooperation with our federal partners, which in the past two years had gone down, so I'm glad to see that we're doing a better job there. One of the areas where we had a slight declining trend is the satisfaction with our efforts to describe progress to the public and stakeholders as well as showing transparency in the commission decision-making process.

The other two areas where we had declining downward trends which were similar in scale here was how comfortable we are with the performance in reacting to new information and adapting accordingly to our commission goals as well as due to our limited scope of authority how comfortable are you with the commission spends the appropriate amount of time or appropriate amount of resources on issues within its control. There was also a slight downward trend there.

To the open-ended questions, there were a lot of responses so I just pulled out some that seemed to have a little bit of repetition in those responses from what is the most significant problem the commission could and should solve: improve stakeholder transparency; depleted and overfished commission fisheries; time in responsive management decisions; equity and allocation of our resources; multi-species and adaptive management in light of the changing environments; and having a high level of confidence in monitoring, research and stock assessments.

What is the most important challenge the commission could make to improve results: have meaningful and effective reform of the recreational catch and effort data collection systems; making hard decisions; have more staff resources and commission staff to conduct stock assessments; have adaptive management to changing resource distribution and abundance; and rebuild and restore fisheries.

The open question is what is biggest obstacle to commission success: lack of resources – those were about funding – having political pressure from stakeholder, states and other areas; the Endangered Species Act; environmental changes and limited control over those – there is a consistent message that we could only manage our fisheries and we have no control over habitat and other such areas – as well as data collection.

Then is the commission using the appropriate metrics to measure progress; and in general it sounds like, yes, we are; that we may want to start looking into ecosystem approaches. They should not change according to the status of the stock, so our current metrics do change sometimes in an FMP according to the status of the stock and that they shouldn't. We are shortsighted to look at success just on a rebuild status and that we should be looking at the bigger picture more and have an emphasis on fishery mortality metrics over biomass.

Then with the additional comments that we received, we have a lot of accolades to the staff and our leadership here at the commission; that

we should use the cut-off button less at board meetings and that we should have equitable allocation of restored fisheries. Based on the results of the survey; does the commission want to react to these survey results; and if so, what are they? Secondly, is the survey an effective tool and is it something that you want us to keep doing in the future?

CHAIRMAN DANIEL: Are there questions for Toni? Do you want to keep doing this? All right, I think it is a good pulse measure. I really don't think there is a whole lot we can discuss about it other than please fill out the daggone thing. It doesn't take any time, really, so it would be helpful. Everybody that didn't fill it out, I want you to raise your hand. Dennis.

MR. DENNIS ABBOTT: Looking at the trend charts, I don't think you can rely much on those because you really don't know who is filling out the survey every year due to attrition or people's choice in filling them out or not. I don't think it shows you a whole lot that you can rely on. You really need some way of knowing who is filling out the survey.

MS. KERNS: One of the things that we can do in Survey Monkey I believe is say "fill in your name". We haven't done in the past to allow you all to be anonymous and be comfortable about saying whatever you want in the survey; but if you would like us to have you put your name in the Survey Monkey Survey, we can do that so we know who is filling it out for sure. Right now you're supposed to e-mail me or Deke. There were several people that filled out the survey that did not tell us.

MR. O'REILLY: I'm not sure it is significant that there are changes in those who fill out the surveys or even if 27 out of 45 filled them out, although it would help for much better. It may be important to know something about the downward trends regardless of what is causing them. On a couple of figures where you see that there is less transparency, for example, is one of them, it might be good to know something about that. I don't know how you would do that. I don't think anyone is going to tell us right now

why they think that or maybe they would, but that is something worth paying attention to.

CHAIRMAN DANIEL: Absolutely, especially that one. Jim.

MR. JAMES GILMORE: Just as suggestion, if we don't want to go to actually putting names down, maybe the number of years you have been sitting as a commissioner. I think the first couple of years I filled it out, I had very different responses than I have now. You could tweak that a little bit and people that have been sitting five or longer years may have a different perspective.

REPRESENTATIVE KUMIEGA: Anything over 50 percent is a pretty good return on a survey. I don't think the variations in those trends are significant enough given that 50-something percent or 60 percent response to be worried about. I think the responses to the open-ended questions are probably more useful to us. I don't who has an issue with the cut-off button, though.

CHAIRMAN DANIEL: I can't imagine because it is used very infrequently and it is usually on Pat. (Laughter) Did you fill out the survey, Pat? Tom.

MR. FOTE: Yes, 50 percent is really great on a survey. In order to get even close to that, we used to have to give away a \$500 prize for filling out the survey. Maybe if you gave out a prize, you would get more survey responses just by telling people that they did it.

CHAIRMAN DANIEL: When you've got a group of 45 people that are dedicated to this cause, I would hope that we would have much higher than 50 percent. I realize 50 percent is great in like a mail-out survey or surveying the public; but when you're surveying the commission, I would expect to see 45 responses out of 45 people. Then we don't have to wonder, Dennis, if the results are meaningful or not. Rob.

MR. O'REILLY: I can't help but saying it is really 60 percent so we've already progressed quite nicely.

CHAIRMAN DANIEL: It sounds like weakfish. Is there any further comment on the survey?

MS. KELLY DENIT: I appreciate the slight uptick in the survey responses that relates to the engagement with the feds, but I would greatly appreciate any additional comments that you all want to provide that are suggestions for way that we can continue to improve that. Whether that is as part of this discussion right now or over a beer at the bar, I think we are very interested in moving that up much higher than it is right now and so suggestions on how to do that would be greatly appreciated.

DISCUSSION OF DEFINITIONS FOR THE ANNUAL FISHERIES PERFORMANCE OVERVIEW

CHAIRMAN DANIEL: Is there anything else on the survey? All right, discussion definitions for the Annual Fisheries Performance Overview. This sounds like an exercise in wordsmithing again.

MS. KERNS: It could be an exercise in wordsmithing. Back in August we went over the annual performance of the stocks. Just to remind everybody, the purpose of that is to support the Policy Board's review of the stock rebuilding performance and management board actions and to provide direction to management boards for our action plan each year.

We want to validate the status or rate of progress; and if it is an acceptable versus non-acceptable; and if not acceptable, identify appropriate corrective action. That document has a lot of words in there that we did not define. The Policy Board asked me to go back and get some definitions for the categories that are in the document.

I've put together a white paper that was in your supplemental materials that suggests adding some language in there as part of the annual

performance of the stock that describes the five categories that we use for each of the stocks and those definitions. We would also include those definitions as a part of our stock status overview, which is the one-pager that has the up/down for each of our species that you see often in the back of the table that we take to tradeshows, et cetera.

We have six categories in the performance document. The first is rebuilt; rebuilt is biomass is equal to or above the biomass level set by the FMP. Rebuilding is biomass is approaching the target level established by the FMP to ensure population sustainability. Overfished; biomass falls below the threshold set by the FMP. It reduces the stock reproductive capacity to replace fish removed through harvest.

Depleted reflects low levels of abundance though it is unclear whether fishing mortality is the primary cause for the reduced stock status. That is where the difference between overfished and depleted is that we don't know where that mortality is coming from.

Concerned is stocks that are developing emerging issues prior to the completion of a stock assessment. This is going to range the scope of stocks that we're looking at. It will only be those stocks that we have assessments that are ongoing are right about to be upcoming and there seems to be some hot-button issues that we want to look at. Unknown is stocks that have no accept stock assessments. That's all.

CHAIRMAN DANIEL: Very good. Can you go back to the first two? Dave.

MR. SIMPSON: I have a sheet that Toni gave me and it doesn't have the concerned one on it; but I think that could be a really useful addition.

MS. KERNS: The concerned in the paragraph language; it is not in the table. We can add it to the table. The table we were just going to use in the quick overview; and I don't believe we actually have concerned as a category on that. If it is, I'll add it in; but if it's not, I didn't think that we would want to throw it in there because then I thought it would add confusion.

MR. SIMPSON: So for overfished, we might want to expand that definition to include or reduce the stock's capacity to produce optimum yield. If you just added "or produce optimum yield" I think that would cover both the textbook definition of growth overfishing and recruitment overfishing.

I wanted to ask if it was intentional to say "significantly reducing". In other words, right now if the target biomass is a hundred and we're at ninety-nine, we say we're overfished. Is the intention here to say, well, we wouldn't call it overfished if at ninety-nine but some other level? Was that the intention of that?

MS. KERNS: I'm going to ask Katie Drew to come to the microphone because she and I worked on these together as a team effort from the Science Department to make sure we were on the same board here.

MR. SIMPSON: I guess that's where I was thinking concerned might fall in; that in between overfished and not overfished, it would provide that little area of, okay, we're a little below where our target is, but we're not prepared to call it overfished.

DR. KATIE DREW: Part of the reason that we include sort of a biological component to these definitions here is to make this more I think accessible and transparent so that overfished isn't just crossing a line. It is not just about what is in management. It is that management has a scientific purpose behind these designations; and so we wanted this definition to explain you're crossing this line, but this is bad because there the scientific reason is not an arbitrary threshold.

I think species of concern is more in the unknown section. If we wanted to create a category for species that are somewhere between the target and the threshold or whatever in terms of trying to explain that we have concerns about that; I think that would be a separate designation from what this structure has already created.

MR. SIMPSON: Okay, I appreciate the transparency thing, but this would be the

interpretation guide for performance on our FMPs, and those do have definitions and do kind of have lines that if you're one inch to the left of the line, then you're overfished in some of our FMPs, right?

DR. DREW: Yes.

MR. SIMPSON: So are we looking to change that?

MS. KERNS: No.

CHAIRMAN DANIEL: Let me try here. If you're below the threshold, you're overfished whether it is one inch or twenty-four inches. If the biomass falls below the threshold or when you do the assessment and you determine in an unknown stock – let's say you do the assessment and it comes out you're at 0.99 and trying to get to 1, you're still overfished. Your goal is the target, so you've got it up above the threshold in order to start rebuilding towards the target. I don't know if that gets to your concern or not.

MR. SIMPSON: I think it would if all of our plans have thresholds and targets. Do we like for tautog; I don't remember a threshold, for example?

MS. KERNS: All the plans do not have thresholds and targets.

CHAIRMAN DANIEL: Then that is a problem.

DR. DREW: In that case then we would be more in the unknown because if we don't have it, it is usually because there is no assessment or that part of the assessment did not pass peer review; so the status would be unknown in terms of overfished versus overfishing.

CHAIRMAN DANIEL: Yes; that makes sense.

MR. SIMPSON: Well, I don't want to belabor it because I think this is great. Toni gave me a definition of depleted, so I really should leave here happy today; and I will. But, still with tautog, because we don't have a threshold, the latest status is still overfished and that is kind of that line in the sand with no gray between

threshold and target; so maybe as we amend plans, we want to incorporate more of that zone of good, warning and bad.

MR. PENTONY: Toni, I just have a quick question for you on the rebuilt and rebuilding. What do you call a stock that has never been overfished or depleted and is above its biomass target?

MS. KERNS: Unique; we don't have any of those.

MR. PENTONY: Well, I raised this because we deal with this sometimes in the agency that if it is not under a formal rebuilding program and it has not ever been declared overfished, its biomass is going to vary around your target. It doesn't go from rebuilt to rebuilding and rebuilt to rebuilding, you know, flip-flop back year and year. It is what it is; and so I'm just wondering if these are terms meant to apply only to stocks that have at one point been overfished or they're meant to be terms of general applicability to clarify that they may not – do you see what I'm saying?

MS. KERNS: Yes; I see what you're saying and I don't think we have any fisheries that actually fall into that category.

CHAIRMAN DANIEL: I understand what you're saying, though, and I think the way we do it at home is our rebuilt category is actually called "viable"; and then that is a stock that is producing sustainable harvest and it may have met this rebuilding trajectory; but I think rebuilt and viable from my perspective are kind of interchangeable in this context.

MR. PENTONY: Yes; and that is helpful. I would point out summer flounder. We declared that rebuilt a few years ago. It is no longer above the biomass target; so you can't call it technically rebuilt this year, but I wouldn't call it rebuilding because it is not under a rebuilding program. We're just varying around the biomass target and "viable" sounds like a good term for something like that.

CHAIRMAN DANIEL: I understand what you're saying.

MS. KERNS: I guess my question would be summer flounder is categorized as rebuilt by the Service as well, right?

MR. PENTONY: Well, it is categorized as rebuilt because we had a formal rebuilding plan and we rebuilt the stock; but that doesn't mean that the biomass is going to always stay above the biomass target. In fact, it is not above the biomass target this year. It is not overfished; it is not under a rebuilding plan; so we can't really call it rebuilding. That is why I'm raising this. There is this gray area that trips us up sometimes.

MS. KERNS: We can create a seventh category if that is the will of the commissioners.

CHAIRMAN DANIEL: We found "viable" to work in North Carolina because we started with "healthy" and then there started to be some connotations towards public health. The mercury and all that stuff came up and then that is when we went back to "viable". I think we can work on a "viable" definition. I'm not going to take the time to wordsmith it right now, but I think it would probably behoove us to have that to address that gray area.

I did have one comment. We ran into some problems with this at home. We have the same category of rebuilding; and biomass doesn't necessarily have to be approaching the target, because a lot of people misinterpret what does "approaching" mean? That means you're really close, that is what some people think; but you might have a stock – I don't know; I don't want to use an example – that is progressing towards the target.

I would suggest changing that to biomass is progressing towards the target and not necessarily approaching it. That gives you that flexibility because some of these rebuilding plans might be ten, fifteen or twenty years; and they might be in a rebuilding situation for a long period of time. That was just hopefully to be a clarifying statement. Rob.

MR. O'REILLY: I guess we're looking for – is the word “transparency” that I'm hearing a lot, but consistency is what grabs me. With these particular definitions, the rebuilding and also the rebuilt, I think they're tied together, obviously, and so I don't know why we wouldn't say the biomass target – instead of the word “level” use the word “target” in the top definition; and instead of the word “level” use the word “target biomass” in the part of that. I think that is a little clearer. I think everyone recognizes about targets. Once we start talking about levels, we're losing the consistency there.

I wanted to comment just briefly on the summer flounder example. That is a tough one because it was rebuilt but each year it is treated as if it really still is rebuilt or there wouldn't be efforts to have the full ACL assume to be taken; and also when the SSC has the risk policy, you know, everything we're doing while we're falling behind by 39 percent since 2011 is because it is treated as rebuilt still in a way. It is not a clear-cut situation, that's for sure, because it is not as if the council or us or the SSC are just saying, well, we'll just go forward and we won't worry about the fact that it was just recently rebuilt. It is almost being treated as if it is still rebuilt.

REPRESENTATIVE KUMIEGA: I hope we do get a definition. I don't know if “viable” is the right word, but I can't think of a better one so we will go with that. Like lobster in the Gulf of Maine is in good shape and we don't want to be making people think that it isn't or that it wasn't; so I don't think we want to use “rebuilt” for it because it has never been overfished. Well, by some definitions it has.

MR. ROBERT BALLOU: Mr. Chairman, I would just note with interest that in Dr. Rothschild's paper that he wrote that I read in preparation for the executive committee meeting on Magnuson Reauthorization issues; if I'm not mistaken, he is suggesting replacing in Magnuson “overfishing” with “depleted” because of the pejorative nature of overfishing and the notion that a stock's maximum biomass may be lower than its target due to factors other than fishing.

I just thought it was interesting to see the two side by side on I guess it is the next slide meaning we're continuing forward with the two terms; the second one being I guess where you really don't know what is causing the depletion; and I guess overfished being – I guess I'm just sort of stuck on he has peaked my interest in this issue of whether it is fairer and more appropriate to use the word “depleted” versus “overfished”. I just offer that up for comment and consideration.

MS. KERNS: Bob, I actually had read through the House Bill on Magnuson and saw that they were replacing it. The rationale that we used for leaving both definitions there is that we have a couple of stock assessments where our technical committees are pretty adamant that those stocks are depleted in the sense that they really aren't clear what is causing the downward trend in the biomass. There are other assessments where it is much more clear of what is going on; and we wanted to be able to have a distinguishing category between those two. That was the rationale for having both there and the unknown of what would come out of Magnuson.

MR. BALLOU: If I could follow up; so is it implied or should we make it explicit that by overfished we are in fact referring to fishing mortality and fishing pressure being the result that the maximum biomass is not being achieved. I think I heard you just say that; that is essentially why we want to keep the two terms. In some cases we know or we think we know that we aren't achieving our biomass targets based on fishing pressure; therefore, we need to reduce it; versus a depleted status, in which case we just don't know what is causing it.

MS. KERNS: Or where we think the major source of pressure is coming from fishing. It may not be all, but –

CHAIRMAN DANIEL: I don't know how comfortable I feel leaving this discussion. I don't want to keep saying the way we do it, but we have one definition that is depleted and indicate in the definition of “depleted” that it may be due to fishing, it may be due to other

things, it may be due to a combination of those things; but we really don't know.

I mean ecological variability and recruitment success is a factor that can lead to a depleted status as can overfishing. It is not going to be one or other. I'm almost rather work with you to take another look at this and bring it back in May if there is not an objection especially from our vice-chairman. Doug.

MR. GROUT: Well, you said you're not comfortable leaving this discussion so I'm going to discuss it some more. I appreciate the way Toni went forward with this because there is a new term in Magnuson or at least in the draft of "depleted"; and I think it is good that we try and put a definition to it.

We have also in some of our management; we've had some concern northern shrimp that we're calling it overfished when there is some pretty strong evidence that it is temperature that is driving it right now. There has been a call on some part of our commissioners to have a depleted status for them because of that.

I think the gray area here where we have overfished, which is primarily but not totally the result of overfishing, and then a depleted where it can either be primarily the result of some other factor, although we recognize there may be some overfishing that occurred at some point; or, as was mentioned, something that was unknown.

We don't know for sure whether it is because of fishing or because of other factors. There is no way you're ever going to have a black-and-white definition of both of them; but I think it is clear that we need two definitions; and it seems like there is some potential other people feel that we need to have some second definition for something that isn't directly and primarily caused by overfishing.

MR. STEPHEN R. TRAIN: Mr. Chairman, I was one of the people that Doug spoke about at the shrimp meeting that has a problem with some of the terminology; and I'm glad that we're looking at "depleted". Even with the

definition of overfished we have and if we continue to use it, the problem I have with the term is it blames the wrong people.

It has the connotation that it is the fishermen's fault; and it is the managers' fault if something is overfished, but people target the people that are fishing the resource. If we allow it to continue to be harvested beyond its capacity, that is our fault and probably it should be mismanaged and not overfished.

CHAIRMAN DANIEL: What was that one comment, we don't know that we don't know that we are overfished. "Depleted"; depleted stocks are those stocks where the spawning stock abundance is below a predetermined threshold or where low stock abundance precludes an active fishery. Factors than can contribute to depleted status included but are not limited to fishing, predation, competition, water quality, habitat loss, recruitment variability, disease or a combination of these factors. Determination is based on approved stock assessments.

That covers everything and then you don't have that negative connotation of overfishing being suggestive that is the sole factor because of the decline. We can work on these definitions and come back with some additional options; and I will work with Toni on that. We will get something out to you. Is there anything further on our definitions?

DISCUSSION OF CANCER CRAB FISHERY IMPROVEMENT PROJECT

CHAIRMAN DANIEL: Next is cancer crabs from Toni.

MS. KERNS: We have been discussing the possibility of conducting a Cancer Crab Fishery Management Plan based on the recommendation from a Fishery Improvement Project that has been coming out of the New England states that has been I guess moderated by the Gulf of Maine Research Institute.

We were hoping that they would have a set of recommendations for us in time for this meeting;

but we do not and so therefore we will put off this discussion until the May meeting. Between now and May we will be putting together our 2014 Budget based on the Action Plan and the newly approved Strategic Plan. I am asking the Policy Board if you want me to go ahead and put a placeholder in that budget for meetings for an FMP if we went ahead and did do one. It can be easily removed from the budget if the board decides not to initiate an FMP.

CHAIRMAN DANIEL: Is everybody comfortable with that approach? Okay. Steve.

MR. TRAIN: Mr. Chair, I fully expect to have what we expected to have this month at the next meeting. The members of the Fisheries Improvement Project did not feel that the information that we had assimilated had a proper review and had time to get here in time for everybody to review that; so we want to hold off. We didn't want to give a half-done request.

CHAIRMAN DANIEL: But you're comfortable with this approach?

MR. TRAIN: Yes.

MR. DAVID BORDEN: Mr. Chairman, I'm also a participant in that process with Steve; and I'm very comfortable with the strategy. The documentation that has been put together I think is fairly comprehensive. It is about 45 pages long. It lays out everything that is known about Jonah crabs. There are a couple of sections that are still being worked on.

These include the minimum size, size at sexual maturity information, a characterization of the processing industry and how much it is worth. I think of significance is the fact that my understanding is the National Marine Fisheries Service in the next couple of weeks will announce the S-K grants. Massachusetts DMF put in a proposal to do research on Jonah crabs, and it will be very helpful to know whether or not they actually get that grant. I think that will lend a lot of credibility to the information that comes out of this group. I support the delay; and I think you will get a much better product as a result of it. Thank you.

CHAIRMAN DANIEL: Thank you, Dave. Is there anything further on the cancer crab issue? If not, I'm going to move into other business and call on Ritchie White.

OTHER BUSINESS

MR. G. RITCHIE WHITE: The Winter Flounder Board has requested the Policy Board to task the commission leadership to work with the New England Fishery Management Council leadership for more inclusive winter flounder management at the NRCC Meeting this spring.

EXECUTIVE DIRECTOR BEAL: Ritchie, was that a motion or just seeking consensus of the Policy Board?

MR. WHITE: Seeking consensus. We can do a motion but I figured if there was consensus, we wouldn't need a motion.

EXECUTIVE DIRECTOR BEAL: Is there any objection to the proposal that Ritchie has put forward on behalf of the Winter Flounder Board to seek greater cooperation with the New England Council and the commission on winter flounder management? I wouldn't think there would be any.

All right, we will take that forward to the NRCC Meeting in the spring and talk with the representatives from the New England Council. Terry Stockwell is one of them, who is their chair, so I think the communication has already started so we're in good shape. Is there any other business before the Policy Board? I do not think there was any on the agenda. Rob.

MR. O'REILLY: Mine is very quick. In the document handed out, the one-page document for the declaration of interest, I see future planning activity, blue crab; and I guess I was just wondering what that is all about.

EXECUTIVE DIRECTOR BEAL: Are you volunteering to write the FMP, Rob?

MR. O'REILLY: No.

EXECUTIVE DIRECTOR BEAL: That is a list that has been sort of a carryover for at least a decade. Black drum used to be on the list and now it is moved on to the completed list. There is blue crab and smelt and a number of other things on there, but there is really no priority of intention to initiate any of those FMPs right now. Those are just ones that have come up in the past as something the commission may want to consider in the future, but there are no plans right now. Bob Ballou.

MR. BALLOU: Mine will also be quick. At the annual meeting this Policy Board supported the writing of a letter to the Mid and to the Service, I believe, regarding black sea bass. I'm wondering if we've received any response. Thank you.

EXECUTIVE DIRECTOR BEAL: Toni can handle that one.

MS. KERNS: We did write a letter and we have not received a response.

EXECUTIVE DIRECTOR BEAL: Is there anything else? We will follow up on that, Bob, to get a response. Is there anything else for the Policy Board? Mr. Chairman, anything else?

CHAIRMAN DANIEL: No.

ADJOURNMENT

EXECUTIVE DIRECTOR BEAL: All right; this Policy Board stands adjourned.

(Whereupon, the meeting was adjourned at 5:25 o'clock p.m., February 5, 2014.)