

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

**Crown Plaza Old Town  
Alexandria, Virginia  
August 19 & 20, 2009**

Approved November 4, 2009

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## INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of May 6 and 7, 2009 by Consent** (Page 1).
3. **Motion to approve the Habitat Program Five-Year Strategic and Management Plan, 2009-2013** (Page 34). Motion by Pat Augustine; second by Pat White. Motion carries (Page 34).
4. **Move to accept the revisions to the Charter** (Page 38). Motion by Pat Augustine; second by Pat White. Motion carries (Page 38).
5. **Move to remand the issue of the black sea bass recreational harvest for 2009 to the Summer Flounder, Scup and Black Sea Bass Board by September 1, 2009** (Page 43). Motion by Bill Cole; second by Pat White  
  
**THE ABOVE MOTION REWORDED ON PAGE 44: Move to remand the issues of the scup, summer flounder and black sea bass recreational harvest for 2009 to the Summer Flounder, Scup and Black Sea Bass Board to take action by September 1, 2009.** Motion carries unanimously (Page 44).
6. **Adjournment by Consent** (Page 47).

## ATTENDANCE

### Board Members

George Lapointe, ME (Chair) (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Terry Stockwell, ME, Administrative Chair	William Goldsborough, MD (GA)
Pat White, ME (GA)	Lynn Fegley, MD, proxy for T. O'Connell, MD (AA)
Sen. Dennis Damon, ME (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Douglas Grout (AA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
Rep. Dennis Abbott, NH (LA)	Catherine Davenport, VA (GA)
Ritchie White, NH (GA)	Ernest Bowden, VA, proxy for Del. Lewis (LA)
Paul Diodati, MA (AA)	Louis Daniel, NC (AA)
William Adler, MA (GA)	Willard Cole, NC (GA)
Rep. Sarah Peake, MA (LA)	John Frampton, SC (AA)
David Simpson, CT (AA)	Malcolm Rhodes, SC (GA)
James Gilmore, NY (AA)	Robert Boyles, Jr., SC (LA)
Pat Augustine, NY (GA)	Spud Woodward, GA (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	John Duren, GA (GA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Rep. Box Lane, GA (LA)
Tom Fote, NJ (GA)	Jessica McCawley, FL (AA)
Leroy Young, PA, proxy for D. Austen (AA)	Jaime Geiger, USFWS
Eugene Kray, PA, proxy for Rep. Schroder (LA)	Chris Moore, NMFS
Craig Shirey, DE, proxy for P. Emory (AA)	A.C. Carpenter, PRFC
Roy Miller, DE (GA)	Jed Brown, DC

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

### Ex-Officio Members

#### Staff

Vince O'Shea  
Bob Beal

Toni Kerns  
Patrick Campfield

#### Guests

John Ward, NMFS

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, Wednesday afternoon, August 19, 2009, and was called to order at 2:35 o'clock p.m. by Chairman George D. Lapointe.

### **CALL TO ORDER**

CHAIRMAN GEORGE D. LAPOINTE: Good afternoon, I'm going to start the Policy Board Meeting. Welcome, everybody, to the first session of the Policy Board.

### **APPROVAL OF AGENDA**

State has handed out an agenda. It is going around right now. The issue under other business for the Menhaden Board's Multispecies Tasking Request is no longer relevant.

Because we've got a couple of pretty tough issues or things that will take some time on stock rebuilding and the quota issue, I'm going to put John Ward up first, so if you can find him that will be good. Do folks have other items to add to the agenda? Because we have a session tomorrow, if other issues come up we can take them as well. Are there other additions to the agenda at this point? Louis Daniel.

DR. LOUIS DANIEL: Depending upon how the discussion goes tomorrow at the South Atlantic Board, I'd like to have other business to discuss lionfish, please.

CHAIRMAN LAPOINTE: Lionfish FMP; Dr. Daniel, Chair.

DR. DANIEL: Gladly.

CHAIRMAN LAPOINTE: Other agenda topics? Seeing none, we will proceed with the agenda.

### **APPROVAL OF PROCEEDINGS**

The next agenda topic is approval of the proceedings from May 2009. Do people have any changes to those? I had one minor change, Joe. I think it's a correction of a spelling. I will give it to you later because I don't know exactly where it is. Are there

other changes? Seeing none, is there objection to their approval? Seeing none, they are approved.

### **REVIEW OF STOCK REBUILDING PERFORMANCE**

Our next agenda topic and one we want to spend a fair amount of time on is a review of stock rebuilding performance. In the Briefing CDs there was some material put together by staff. This was an issue that we discussed during the strategic planning exercise and at the last meeting of looking at how we're doing on our various boards and whether we want to – well, how we're doing on various species management boards or with the management of those species and how we might want to change our priorities.

The background is this is included in our most recent strategic plan, which we just approved, and a number of commissioners asked for more frequent reviews of the status of our various fishery management plans, and it is a task in our 2009 plan so we will start that today. Again, our job is to look through the various plans and to validate the status or the rate of progress because we have the goal of rebuilding or substantial progress towards rebuilding by the year 2015; and if we don't think some of those plans are acceptable, identifying corrective action.

The outcome would be give direction and feedback to the species management board and input into the action planning process. This is included on the front page of the document. After I talk about this a little bit, I will have Bob kick the discussion off. If you look at the document that was in your Briefing CD and it shows the status in 1998 and the status in 2009.

It shows that for some species we have made – if you look at the things that are rebuilt, we've made substantial progress. In that middle category "rebuilding, overfished or depleted", we still have a lot of species there and then a fair number of species of unknown – I don't think we have the data to determine the stock status, do we, for most of those?

So, in the context of our overall planning process, the way I look at this is, how do we take species or species components listed as American Lobster in Southern New England and move them to the left and species of unknown status and move them to the left. I think we all get frustrated at different times about the rate of progress in different plans. Sometimes

we're on the side who wants to move faster and sometimes we're on the side that wants to move slower.

Clearly, people look at this. You know, we had some comments, whether I liked them or not, about the rate of progress in menhaden this morning and weakfish and people are looking. With that, I'm going to have Bob go through – I think he is going to go through those plans in the middle category. The intention isn't to dig into each plan.

He will go through those very briefly, and so I hope we don't get into arguing about the words and the numbers on the pages but we look at our overall performance and then we enter into a discussion about how, again, we advance our fishery management program to meet the goal contained in our strategic plan.

MR. ROBERT E. BEAL: As George mentioned, I'm going to go over the middle column, which is the rebuilding, overfished, depleted. These are the stocks that we have a quantitative assessment for, but the stock level isn't as high as we'd like. There is obviously a range of stock status within these species or a range of biomass relative to the target in the plan.

Some are doing pretty well and we're getting close to the target and some have got a long way to go and we're not really progressing toward that target. I'll just quickly go species by species. All this information is in the document that was on the CD so I'm just going to hit a couple of highlights for each of the species and then move forward.

Summer flounder, we're doing overall pretty well; 77 percent of where we want to be, which is the SSB target based on the assessment from earlier this year; overfishing not occurring. We're slightly below the Ftarget, which is good news; and if F rebuild is not exceeded we should meet the 2013 rebuilding requirement. This is the graph of the biomass relative to the SSB target and threshold.

As you can see, since the early 1990's the stock has rebuilt pretty well. It kind of plateaued out for the last few years, but there has been some progress in '06, '07 and '08 toward the target. We've got, hopefully, some strong recruitment events last year that is going to start showing up in the stock, and we will keep moving forward with this stock.

The next one on the list, red drum, we're at 45 percent of the target in the north or the SPR is at 45

percent of the target. The SPR in the south is 37-1/2 percent of the target. This is based on relatively old information based on the 2000 assessment. It is unknown if we're overfishing. We assume that is not occurring based on some of the signals in the stock that the stock is rebounding. There is going to be another benchmark assessment and actually peer reviewed later this month. Obviously, we will get a new read on the stock and hopefully there will be some good news in that stock assessment.

For tautog we're less than halfway to the target. We're at 42 percent based on the '06 assessment update. Overfishing is occurring based on the last assessment. The technical committee recommended an F of 0.15 to initiate rebuilding of the stock and get it back to the target levels. The board approved an Ftarget of 0.2, which is obviously a little bit higher fishing pressure than the technical committee had recommended.

It is unlikely that this stock is going to meet the 2015 rebuilding target. Again, this is just the biomass graph for tautog; pretty high biomass levels in the 1980's. It has dropped down fairly consistently through the mid-1990's and has been relatively flat ever since then. This graph doesn't show the effect of the new regulations that were put in and it may take a little while to see that response in the stock given the life history of tautog.

Southern New England and Mid-Atlantic Winter Flounder, obviously this one is in very bad shape. The SSB is at 9 percent of the target based on the '08 stock assessment. Overfishing is occurring. The Ftarget in the plan now is zero, so the idea is to cut all mortality and to initiate rebuilding of the stock.

The possession in federal waters has been prohibited so there is a complete moratorium in federal waters. It is expected that this moratorium will extend into Amendment 16 that the New England Fishery Management Council is completing right now. At the last commission meeting the board approved a limited fishery for 2009, and it discouraged the directed harvest of winter flounder.

The board at this time noted that they may need to react to Amendment 16 depending on what the New England Council does, so that will be a future discussion of the Winter Flounder Board. This is the biomass graph of winter flounder. It's pretty flat and very low relative to the target and threshold, so a long way to go on this one.

Gulf of Maine Winter Flounder is at about 30 percent of the target in the fishery management plan. The new assessment did not approve new biological reference points and it was unreliable for – the models were deemed unreliable for establishing reference points. Overfishing is occurring for this stock. We're at 0.31, which is slightly than the target of 0.28. In response to that the management board implemented an 11 percent reduction for the recreational fishery and a 31 percent reduction for the commercial fishery. Those regulations are being implemented now by the states. Again, Gulf of Maine Winter Flounder is still below the target and threshold, which are the horizontal lines on the graph.

Southern New England American Lobster, based on the '09 assessment that the board talked about earlier this week and was presented at the May meeting, we're at 58 percent of the threshold. Keep in mind that's not the target. There isn't a target established in the plan. It's just a threshold level. Overfishing is not occurring on the stock but maybe depending on the reference points that come out of the latest addendum that was just initiated.

Abundance is the lowest since the 1980's. The technical committee has recommended output controls. The rebuilding goal of the Southern New England stock is 2022 for that portion of the lobster population. This is the landings of lobster in Southern New England. Obviously, it peaked in the late nineties and has dropped off ever since and has been pretty low for the last three or four years.

Weakfish, we're at about 13 percent of the target. This is the information that was presented to the board earlier today. Overfishing is not occurring. The current removals were determined to be not sustainable by the stock assessment and peer review. Again, this stock is unlikely to meet the 2015 rebuilding target.

This is the figure that everyone saw earlier today; the biomass estimates for weakfish as well as the catch. They're both decreasing fairly rapidly and about to run into the X-axis over here on the right-hand side of the graph.

Coastal sharks, obviously, this overfishing and overfished definition varies by species, but a number of the stocks are termed overfished or depleted. The states deferred the implementation of the fishery management plan until 2010. The original date was 2009. The FMP complements the federal regulations that exist for coastal sharks through the HMS Plan.

This is a table that's in the document that summaries the status of a number of the shark species.

American shad, 86 rivers were assessed; 64 percent of those were unknown, but for the rivers that we were able to determine the population they appear to be collectively at all-time lows. They do not appear to be showing a lot of signs of recovering. Amendment 3 that the board is going to talk about tomorrow has a huge range of options as far as management goes.

The goal of that amendment is to implement a number of the recommendations that came out of the last stock assessment. That document may be moving forward to public comment after tomorrow's meeting. Improved monitoring is obviously one of the components that we need to be able to assess 64 percent of the rivers that we can't assess right now. That is a component in Amendment 3. That wraps up all the species that we know the status for but are not doing as well as everyone had hoped at this time.

CHAIRMAN LAPOINTE: Board members, how do you want to kick this off; what do we collectively want to do to meet the goals that we've all identified in the strategic plan about improving the status of those stocks? If I think about how our meetings go, and this week has gone fairly slowly from my perspective a few times, we still put – I recall a conversation I think Susan Shipman had when she was Chair about the amount of time we put into striped bass and lobster.

Ritch White earlier today mentioned we don't have enough time for some of our boards. She had tried to have less attention on striped bass and lobster. I think she failed. We've spent a lot of time on it, but we've got a limited amount of time, we've got limited staff, and so how do we concentrate our efforts? How do we change the concentration of our efforts if in fact we want to meet the goal we've identified to, again in my mind, taking some of those species in the middle or on the right and moving them to the left on the status chart? Tom Fote and then Pat Augustine.

MR. TOM FOTE: I think, also, another question to ask is because of the role of the SSC in the jointly managed plans, do we spend a lot of time on plans and quotas that we no longer have control over and go to meetings that we basically have to put a lot of time and effort where we basically are just voice a voice at a table and not really allowed to vote because of the way the joint management plans are set up.

It is different with New England, I think, but in the Mid-Atlantic I'm sitting through four boards that, really, the motions had to be what the council basically did; otherwise, we don't have a motion. That was a lot of time and effort and money spent on something where we don't have a voice until we find out a way of working out through the agreement of that. That should be part of the discussion.

CHAIRMAN LAPOINTE: That's a good reminder, Tom. I think there are a couple of issues in that regard from my perspective. One is state and federal management and alignment, and we had a conversation maybe at our last meeting or the meeting before. We had a group that got together and we came up with some ideas, but we haven't moved on those. We can certainly revisit that.

The other issue with the Mid-Atlantic species are quota-managed species, and it is the discussion we will get into next. I am going to hold my fire on it, but for those quota-managed species, the management of the quotas' underages and overages and differences among states takes a huge amount of time and is very contentious as well. I think that is a really valid point.

MR. PATRICK AUGUSTINE: Mr. Chairman, Bob has done a very good job of defining where we are in trouble with these particular stocks. The real question that has to be asked is are we satisfied with the latest action we as a board have decided to take on specific stocks? For instance, can we do anymore any quicker on tautog, for instance? If we can, then I think we should identify the action that we have to bring to the top of the pile.

I think of the eight or so species that we have listed here I think we've got to go ahead and start grappling. Can we do anymore with winter flounder; no; weakfish, we're trying to address that, albeit too slow. Summer flounder, we're kind of locked into a plan because it is a joint plan, as Tom had described. Red drum, how much do we know about it and how much effort do we have to put into that and how important is it to move it forward as quickly as possible?

We're held accountable and responsible. I know everytime I read the statement across the bottom, "well on the way to recovery by 2015", it scares the hell out of me because I'm not sure how much improvement we've made in the last five years. If we can stack-rank those and then identify if there is some specific additional action we can take, then I think we

should move along that way instead of trying to look at all of them at one time.

CHAIRMAN LAPOINTE: Well, we can certainly do that. Our job isn't to fix them because that is for the species' boards. In one of the slides that Bob put together it takes about do we want to task the boards to look at these issues again with that very question in mind; can we do better than we're doing?

DR. LOUIS DANIEL: I guess I have comment just on the way the information is presented, Mr. Chairman, just because I think we're giving ourselves short-shrift in a lot of these. By lumping everything together as rebuilding, overfished, depleted, you're putting red drum and weakfish in the same category.

I think there is a way that you can discuss stocks that are recovering, strongly recovering, depleted; but to have also Spanish mackerel and river herring in the same category, there is a lot of information on some of those stocks that are positive for the stocks that is not reflected when you just look at this chart.

I think for some of the stocks like Atlantic sturgeon, where there is a total moratorium, while they're unknown, having them in that category is misleading. It assumes that we may not be doing anything. I think the arrangement change could help you address the questions a little more about exactly what you need to deal with.

CHAIRMAN LAPOINTE: And that is a fair enough comment, and we had to get the conversation started somehow. I don't apologize for the presentation but the idea of improvement is a good one, so tease those apart. I think our job is to say for those that aren't an Atlantic sturgeon, what do we do?

Weakfish was an example this morning; for New England, winter flounder at the last meeting. Did we do enough when we took that action on winter flounder at the last meeting? I might argue yes, but it is a question to ask. For some species we are behind where we should be, and so it is to ask questions for those. If you break them down into we kind of know we need to do more and where we're kind of okay within those categories; again, how do we concentrate the effort on those that we think we can do better on?

MR. BILL COLE: Mr. Chairman, I'm going to suggest an additional way I think we can look at a couple of these. I think we all know right now that the public is hollering and screaming and we're hollering and screaming as we're setting ACLs.

What are we are hollering about; the quality of the data going in. Look at some of these species. We really don't have the numbers or the data that we need.

What I'm going to suggest, George, is that we've got – a lot of these species we really need to sit down and figure out what our priorities are if we could get, hopefully, some future resources to improve the data flow that is going into some of these things. Now, two of these in this group right here, that's their limitation. I haven't gotten to the next group yet, but we don't know. It's the unknown. I think we have some of these plans that are categorized or constrained by the available data.

CHAIRMAN LAPOINTE: That's certainly the case, and we try to get more data all the time. Using river herring for an example, we know the data is not good but we also know we need to do something. We could say, well, until we get perfect data or better data we aren't going to do anything. I don't think that is what you're saying, and we have been spending time on that. The question is when we make a decision as a management board and ultimately approve either an addendum or an amendment through the full commission, are the management measures commensurate with the job that needs to be done?

MR. COLE: To follow up, I think you and I are saying the thing. Let's just take, for instance, red drum. We would be happy, delighted, in fact, if we knew the additional management measures to take there if we had the data to guide us in some direction. I think some of these stocks, a couple of them because of the cost of the improved data flow are probably going to stay in the lower categories because of those data problems and not because we didn't take action.

MR. DOUGLAS GROUT: I agree that in moving this discuss forward it probably would be better to have some of these species that are well on their way to recovery to their rebuilding target in a different category than the ones that are sitting there flat on the bottom; 9 percent of our target such as Southern New England Winter Flounder. That's just an organizational suggestion for the future.

My second comment is I agree that I think there are ways to be a little bit more efficient. One of the things that I know we in New Hampshire have talked about a little bit, is there some way that we can tease out coastal sharks from spiny dogfish because,

clearly, coastal sharks aren't a big issue for us but dogfish are.

As far as how we're doing with some of these things, winter flounder in the Gulf of Maine, we clearly have a stock assessment that did not pass muster, so we have some data issues there, but we did take action; even though the majority of the effect is going to be from what the council does in that case, 90 percent, but we have taken action. I think what we need to focus on with winter flounder is what we need to get an assessment that can provide us information to manage with for Gulf of Maine Winter Flounder.

I think for Southern New England Winter Flounder we have a little bit better data, but we can always improve it. We did take some actions. Could we have done more; a little bit, sure, but that all depends on whether you want to have a discard fishery and put your mortality into discards or not. I think we took some pretty strong action on winter flounder even though those stocks are either unknown in their status or they're at extremely levels.

Coastal sharks, from my standpoint, we just started on. We'll have to see how things go. In another sense we're essentially trying to mirror a federal initiative here with some little tweaks to address state issues here. Shad, I think by the end of this meeting we'll be taking some significant action here, which I think is very good. I applaud the commission if we do take that significant action. Those are the comments that I have on these issues as to how we're doing.

MR. PAUL DIODATI: What this performance report doesn't do, it doesn't give you a conclusion or a summary. Having been in this game for a while and having seen a lot of scoreboards like this, I'd say I'm sitting on a winning team. The scoreboard here is pretty good if you look at what has happened over the past ten years.

Even these species that are listed in the unknown column, we know a heck of a lot more about American eels today than we did ten years ago, and the same thing with horseshoe crab. Trying to move them from one column or the other because we have characterized their status is a little misleading, but I think we know a heck of a lot about all of these things, river herring, horseshoe crab. I never thought I'd see hickory shad on any chart.

I think we have done pretty well. I would personally move summer flounder over to the rebuild category, but I think we're going to do that real soon. I don't

think that this chart reflects that we've doing anything wrong. I think it reflects more so that we have been doing a lot of the right things, and I think that we are on track.

I don't see any need for any major shifts other than to recognize that there are major shifts going on in our environment, which is going to make our job a lot more difficult. I mean, look at weakfish approaching the X-axis there. That is troubling but there are ecological shifts going on out there that are going to be new for us all. I think we're going to have to think about how we manage fisheries in context of these new changes.

DR. DANIEL: I just bring up one other point and that is with Atlantic croaker. I think that one gives me great concern with the declines in the landings that we're seeing at least in North Carolina and I think Virginia as well. They've peaked and our landings have dropped off 50 percent in the last few years. That one gives me trouble.

I've referred you to our stock status report on the Division's Website where we have the various categories. You might, again, want to take a look at that because I think it does sort of portray things and it would allow you to portray things in a little different light. I agree with Paul. I think we have got a pretty good track record here, and where we do know about the stocks we're doing good things. But, weakfish, all of us are befuddled about what has happened with weakfish, and there is not a whole lot of control that we have over that other than what we're planning to do.

MR. DAVID SIMPSON: I guess I would just point out as everyone knows that we need to be careful about squeezing-the-balloon phenomenon, and tautog is the place where I'm afraid the air is going to go. As we are required to clamp down tremendously on scup in the northeast and fluke is still a very restricted season, tautog doesn't have the protection of Magnuson-Stevens. I just think as we manage species by species we have to think about where that fishing effort is going to go.

MR. FOTE: When Louis brought up croaker, I thought about it. Croaker was going sky-high and we didn't have a management plan. We put a management plan in and it started going in the other direction. I mean the same thing happened with bluefish. Bluefish was going great; and when Jim McCue said we're going to put a bluefish management plan in; is there any reason, is the stock

in trouble? He says, "No," and three years later we were going down the other curve.

It's been interesting. Some of these stocks like croaker went all the way up and all the way down without any management measures that we basically did. We were looking at the 50-year average when we started looking at croaker, where it goes up and down, so that is what we wind up doing with bluefish and not looking at the extreme highs in the sixties and seventies and eighties, but looking at the long term and trying to find an average there. Sometimes that is what gets us in trouble because the stock comes up with poor abundance and we start a management plan to basically protect it and it goes in the natural course that it basically does. I don't think croaker is a problem as far as we're concerned because we didn't do anything to make it go all the way up and we're not doing anything to make it go all way down either.

CHAIRMAN LAPOINTE: I guess I would say in response once we do a management plan we set goals and are we meeting the goals? If we want to watch croaker go up and down and not do anything about it, let's not have a plan for it if we're just going to let that happen. We have made a commitment as a commission in these various plans to do interstate management and as part of that we set goals and then we're obligated to meet those goals.

If you think about weakfish and if you think about croaker, maybe we need to be smarter and more deliberative about setting the goals for that and if in fact the population goes down it doesn't make our plan look like a failure for reasons beyond our control. Again, we're living the requirements of the plans that we have approved.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, just a question for the Policy Board for their consideration. Presumably we'll have an action planning effort here coming up that will unfold over the next several months, and we will, as commissioners, go through the action plan workshop. Is it an outcome as a result of this discussion for us to really pay attention to where we're spending our time and our effort in Calendar Year 2010 with trying to move these species to different columns? Is that the intended outcome of the discussion today, that this will feed into the action plan?

CHAIRMAN LAPOINTE: That's certainly one of the outcomes. One of the other potential outcomes is do we want to send a message back to boards for a species that we may want to consider challenging

them to either affirm where they are or make changes. If I use people's list and go to that middle column – and I helped staff put it together so I'll take full apology for that or full responsibility.

American lobster in Southern New England, we have been dealing with that issue forever or for a long time. I remember asking for emergency action as a board and we didn't take it then, and so is that where we want to be? There is one that we could certainly challenge ourselves to revisit that. We said we're taking action on coastal sharks, red drum. Summer flounder, you know, in terms of our management program, certainly biologically I'll agree with Paul that we're going to meet those targets, and that's great, but from a management perspective it is a chunky plan, and is that something we would want to revisit?

We mentioned tautog, we mentioned weakfish, and so do we want to again change the list somehow and on some of them that we think need extra attention or again an affirmation of either leaving things where they are or not, we could redirect the attention to the board and also mention it in the action plan. Ritch.

MR. G. RITCHIE WHITE: I agree with Paul overall, but I think on some of the species that we're having problems with I really sense a change in the commission that we delay and put off the real hard issues. When the technical committee comes out with a recommendation that is severe on a stock that is really in trouble, we tend to try to find ways to not take that advice. I understand why because you're going to hurt businesses, you're going to hurt people back home, so it's natural that we want to try to lessen the impact as much as we can.

I think that it has gone too far. I don't want to get into the details of weakfish because I don't sit on that board, but I did walk in at the end of that. As a member of the public, which I would be because I don't know anything about weakfish, I asked where was striped bass when a moratorium was put into effect, and striped bass was just about where weakfish is now as a percent of spawning stock biomass.

I guess I was kind of astonished to not see an emergency action put in place and a moratorium on weakfish. Again, I don't want to get into that argument because I don't know anything about it, but just as a member of the public walking into the end of that meeting I was pretty amazed, and I thought that Dick Brame was right on target with what he said.

I think we need to think about that because I just sense us delaying action, putting off action and maybe not taking some of the hard decisions that we need to take on some of these species that are in trouble.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, just real quickly there was a lot of mention this week about rubber stamping federal action, but when I look at the list up there and having listened to what Ritchie just said, American lobster, tautog, and weakfish are solely within the commission's jurisdiction and action. I think that's one of the reasons why your discussion here is important to the full body of the commission. Thank you.

MR. JAMES GILMORE: Just to follow up on Ritchie's comment, I kind of agree with it to some extent, but there are other reasons for maybe not taking action. I think scup was the point yesterday. I mean there was some suggestion that maybe we weren't doing what we needed to do. Quite frankly, there is a bunch of us who don't believe the data.

At this point I think if we were following what we should be doing, we're following a process and not really doing our jobs as managers. Sometimes the non-action is because the data is so bad and we're hearing back from our fishermen a different story and we're looking at data that is telling a conflicting stories, so taking action sometimes is not the right thing to be doing.

MR. ROY MILLER: Mr. Chairman, sometimes in addition to paying attention to multispecies impacts on a fish stock we have to pay some attention to multispecies impacts on fisheries. It struck me in a conversation I had with another commissioner yesterday that we're ratcheting down, frankly, particularly on recreational fisheries, it seems.

Scup, black sea bass, summer flounder remains fairly restricted. Weakfish we're contemplating a moratorium or close to it. You have to at some point in time – and I don't know how to answer this question, Mr. Chairman – you have to say what are the people going to fish for particularly in the Mid-Atlantic area where opportunities for other recreational fisheries are few and far between.

In our jurisdiction it is getting down to croaker and striped bass are the only two viable fisheries that we have at this point in time. Everything else is tightly constrained or additional management constraints are being considered. I don't know what to do about it, Mr. Chairman, but in the back of my mind as a

former fisheries manager I can't dismiss the impacts of attempting to manage all the fisheries at the same time, recover them all at the same time, and then what are doing to the fisheries in the meantime? Thank you.

MR. SIMPSON: That's where I was going with my comment earlier. I mentioned scup and summer flounder restrictions because they are severe and yet the stocks are in very good shape. As I've said about ten times, scup could be harvested at a rate five times what it is now and yet we're going to have to restrict our fishery tremendously next year.

I didn't mention weakfish or winter flounder, both of which essentially I think we're headed toward a moratorium, because I think that is a prudent move given the status of those resources, but the, in my view, unnecessarily severe restrictions that we put on some fisheries are going to create problems for us elsewhere; namely, for tautog in our area, other species in your area, perhaps.

That is why I made that reference to tautog not being under the protection of Magnuson. We're going to have to watch out for that. We're already getting requests to adjust our seasons to allow more fishing on tautog because we've got some blank spots in our season. All this diminishing recreational opportunity, all while we're contemplating in the northeast a recreational fishing license, that's an added complication and there is nothing you can do about it, but certainly it is a hard sell under the current circumstances.

MR. BOYLES: Mr. Chairman, I appreciate the discussion. I guess where I'm coming from is where we have collectively spent our time. Pull out your agenda from this week as a commission and see where we have spent out time and see where that lines up with the species list that we have before us. I think it is an imperative policy question to ask; are we directing our resources appropriately?

I don't dispute the fact that we have not – I mean, we've had terrific discussions about things like menhaden and striped bass and other things. I just think if we are really, really serious about this 2015, it is really time for us to be serious about matching our resources to those needs.

DR. DANIEL: I'm just kind of putting together a little summary here to try to look at how this thing would fall out. If you had a viable category you would have lobster, menhaden, striped bass, black sea bass, bluefish, northern shrimp and spiny dogfish

I think in that viable category. You could have a rebuilding category which would be red drum and summer flounder, and I don't think we need to spend a whole lot of time and effort on that until we get the new assessments and find that we need to do anything.

Under concern I would include the croaker south of Hatteras, river herring I think there is no question of our concern, speckled trout. I think only Florida has met their rebuilding goal and North Carolina and Virginia are well below our rebuilding goal. Croaker I would move from rebuilt category to the concerned category because of the declining landings. I would do the same thing with Atlantic herring because of the concern with river herring bycatch in that fishery.

Because of the issues that we're dealing with scup, I would add scup to the concerned category, but you've got a rebuilt stock that you're claiming is rebuilt and you're going to have to put in some pretty stringent measures. So you can look at depleted, you know, so can do it that way and then your metrics are your viable and rebuilding stocks and you focus your efforts and energy on those stocks that are of concern and depleted.

When you look at it, it does sort pare down what you need to be focusing on. When you look at it this way, you can see that we actually did in our meeting minutes, we dealt with a lot of these issues. We've also had meetings where we've dealt with lobster. We've got shad, we've got coastal sharks, we've got weakfish that all met this week.

CHAIRMAN LAPOINTE: Just in response sometimes we meet on them and don't take a lot of action, so I don't want to use that as a scorecard for success. Tom.

MR. FOTE: To follow up on a comment Roy made, when we looked at striped bass, what really made the striped bass plan work was peer pressure in the recreational fishing community because they respected, they believed in the plan, they saw the results of the plan, and it helped us out in getting with summer flounder and a few other plans.

Now they take a look at scup and sea bass and summer flounder and they see that they do not trust whatsoever the management measures that we're putting in place. There is no respect for that whether you go to New York, whether you go to New Jersey. What is happening is it is crossing the lines. One of my concerns has always been – and Bruce Freeman

brought it up to me a long time ago – was the compliance factor, with law enforcement.

When you have in New Jersey eleven or twelve law enforcement for the whole coast, it is really peer pressure that affects the recreational community. When you start looking at that, you can put a lot of plans in place and you can do a lot of things, but are we going to see the results when they lose trust in the system?

For some of these species, which is not our fault – I mean, just because the way they go out, scup and summer flounder – this has really turned a lot of fishermen off on the management process. I think we're seeing a higher non-compliance thing just because of those kinds of instances, and that's really what we should be looking at to see what is going on there. I think it is important.

MR. DIODATI: Mr. Chairman, I'm just trying to get a sense of where you want to bring this. I think Louis was focusing comments on specific areas that we might want to be paying attention to. I think we can do that. My looking at winter flounder Southern New England compared to winter flounder Gulf of Maine, if I was going to make an investment it wouldn't be in Southern New England because that stock has never been above the target.

The likelihood of management efforts getting it above the target sooner rather than later is very unlikely to succeed. In the Gulf of Maine it has been above the targets in the past 30 years, and the threshold, so I think it is worth putting effort there. Weakfish, I think it has already been commented on it does look like we need very severe, dramatic action immediately to take place there.

I wasn't at the Weakfish Board meeting, but it seems to me that nothing short of a moratorium might bail that out. For some of these other plans that are in the unknown category, we really don't have to expend too many more resources because we have moratoriums, for instance, in the horseshoe crab fishery areas. In the primary spawning areas there are already massive moratoriums in place, so there is much more to do there.

River herring is almost the same. Most of the fisheries are in moratorium and we have a new requirement to justify that your directed fisheries that are ongoing are sustainable. I don't think we have too much to do there. I guess my point is if you look at this close enough, I think we could make some decisions about where to put our resources over the

next several years. I think all in all this is not as bleak a picture as I'm hearing.

CHAIRMAN LAPOINTE: Again, it may be in the way we presented it, but we made a decision to revisit this more regularly than we have. If we want to look at those species on all three lists and suggest that they be changed somehow – I mean, Louis with croaker said, well, maybe we shouldn't be so confident about the status of that.

If you can suggest some other way of ordering it, that is one good thing; and then for those species that – you know, there is kind of two categories. One is species for which we know we have to do better on how the stock is doing, and do we want to direct the boards to go back and look at that and come up with suggestions on how to meet some target, and I don't know what that is.

Then on other plans, clearly part of our problem – my observations – for herring in New England and into the Mid-Atlantic and for summer flounder, scup and black sea bass, we are part of a joint planning process. That's hard; it stinks sometimes. We've had comments from board members because of the requirements of Magnuson we get locked into following their footsteps.

Again, we've talked about state-federal alignment. Is that an issue we should revisit again? I would argue yes because we identified a number of issues, but we haven't moved on it. I think there are any number of ways, and so if people want to look at the list and concentrate on five of them or for three or four – I don't care what the number is – I think that would be a useful thing to do.

REPRESENTATIVE DENNIS ABBOTT: Mr. Chairman, as usual everyone around the table makes excellent comments about where we are or why we may be there and how things are from their perspective. From my perspective, if I would have walked into the room a few minutes ago like Ritchie did this morning or earlier this afternoon and I heard Dave Simpson talk about scup and saying that we should be out harvesting five times as many and the science is flawed, I would be wondering as a participant, as an average citizen, what the heck is going on?

It might be a good question or it might not be. If that's the case in this particular species, why is the science so flawed in scup; why is that not something that is not curable in some short amount of time? I don't know how we find ourselves in these positions.

Again, walking in the room or when the fishermen walk in the room and we constantly hear it in all species that we don't know what is going on in the water, I sit here and I always try, from who I am, to believe in the science.

So how do we change all of this, how do we get more confident with our science, how do we make the science better? We can make decisions. We can rearrange the deck chairs on the Titanic and shuffle all these things from left to right and up and down and move them where you want, but we always end up somewhat back in the same place.

American lobster, Southern New England, George talked about it, and it was close to ten years ago when they had the die-off and we had lobster shell disease. My recollection of that situation was that Rhode Island came in and wanted us to do something. They wanted us to help them out to get out of this problem. We worked and we developed an addendum, and then we found out the very people that wanted the help were reluctant to go along with what the management board thought was the proper course of action.

I think Vince talked about in the latest issue of Fisheries Focus about our inability to make the tough decisions in time, and it has been alluded to several times earlier in this discussion about what we did in striped bass, and you're talking about did you make the right decisions in weakfish or did you not.

I think when we come into the room we have to make fisheries' decisions based on a lot of things, and at some point we have to bite the bullet a little harder than we do and realize that the decisions we make today have effects that are felt years downstream and we're not going to solve a lot of problems by the year 2015 by the direction that we're going.

Again, that's editorializing a lot but I think that, as Ritchie also said, we have to be more willing I think to make the tougher decisions. I'm surely sympathetic to those of you who sit here working for a living at this and affected by a lot of things outside of what goes on in this board and how that affects you in your jobs. It's a difficult situation you find yourselves in. I'm lucky that I sit here pretty independent. I can't solve anything but I think I can look at it maybe a little differently than you're forced to do every day in your working career. Thank you.

MR. PATTEN D. WHITE: Being a commissioner is a heck of a lot of work but it's also an honor. Thinking back – as I'm able to do occasionally; I

have lucid moments – we used to have a fairly full participation on the boards of commissioners. Although it was frustrating to me especially with lobster to have somebody from Florida telling me what I should do in the lobster fishery, I soon realized as we got into other species that it was probably an advantage to be able to come up with an idea and see if it passed the straight-faced test outside of my particular arena.

I feel that an awful lot more of our decisions now are being made by the people that are directly affected by it and not passing the straight-faced test, and I don't know if there is a cure for that because obviously everybody has a heck of a lot to do. In spite of that gentleman that berated us this afternoon, a lot of us don't get paid for what we do and so have to account for our time. I just feel that's one of the things we may be missing a little bit as a commission and a body and team that is trying to develop better areas of management.

MR. BOYLES: Mr. Chairman, I was offered a suggestion by some of our South Atlantic colleagues that perhaps it may be a good idea for me, on behalf of the South Atlantic Board, to make a promise to the Policy Board that we will review all the species for which we are responsible and bring back to the Policy Board our recommendations for priorities and needs.

We've got a meeting scheduled tomorrow. I don't know that we can probably pull this discussion together tomorrow, but certainly by the annual meeting we could do that. I'll make that pledge on behalf of the South Atlantic Board.

CHAIRMAN LAPOINTE: Thank you, Robert, and I don't think it is necessary to do it tomorrow. We kind of talked about this leading up to the annual meeting. It is a big issue. Clearly, we've presented it one way and there are some ways that we presented it that aren't as clear as others, and so I don't think it's something that we're going to have to turn the switch on today, but still I like the commitment.

MS. LYNN FEGLEY: Mr. Chairman, I just wanted to add something as an observer to this process and kind of a rookie. It seems to me that one of the issues that happens is there is often not a particularly clear distinction as to who has the responsibility for decisions. Does the responsibility lie with the technical group or does the responsibility lie with the board?

Often this happens when we're talking about issues of allocation and arguably this is why we see with menhaden – and oftentimes the pingponging that seems to happen and seems to delay action or hold the process up is really not knowing – management may say, well, technical folks, help us, help us understand, and the technical folks may say, well, you need to tell us what your goals are for the fishery.

Those goals may be decided based on economic reasons or biological reasons, but often what it comes down to is very hard policy decisions that revolve around allocation. Often there is discussion that needs to be had ahead of time and those can then feed into the requests to the technical people to really clarify and streamline the process.

**EXECUTIVE DIRECTOR O'SHEA:** Mr. Chairman, members of the public, some of the other things they see at times is if the board makes up its mind it wants to do something, I think they have a pretty good track record of doing that; sometimes with the science advice and sometimes without the science advice.

I think that is another challenge at the Policy Board level of how some of our boards are coming across. I think it is a fundamental issue within the will of the individual management boards. If they want to do something, they're going to make up their mind to do it; sometimes with science advice and sometimes without it.

**CHAIRMAN LAPOINTE:** Other comments? We've had a number of different suggestions. One is looking at the list in a different way, and people have mentioned some species. Robert made the suggestion that he is going to ask the South Atlantic Board to look at obviously their suite of species, but the template would be to ask boards about things that they think are priorities for their workload, so that we could in fact we could build that into the workplan.

It strikes me that within boards – lobster is a good example, and I can say it because I sit on it and it consumes me a lot of time – when we want to make a decision it is quite often where we'll have a course of action and somebody will say, well, let's wait until the next meeting. That doesn't necessarily reflect the status of the stock, but the functioning of the fishery management plans.

I think we have all done it, saying that we need to talk to somebody at home or we need to have a public hearing, so that is not a function of not trying to do the right thing but how much time we take before we

kind of pull the trigger. I think that builds into it as well. At this point I have got some ideas to write down and work with staff on, but I don't have much of a clear direction just in terms – there is no big score here, I don't think. One thing was again looking at the list and giving ourselves credit when it is due, being skeptical like with croaker when we should be,

David Simpson mentioned tautog and if we think there is an issue up with tautog because of pressure from fishermen who are displaced from other fisheries, do we wait until we get in trouble or do we try to act up front? That is a lot easier said than done, but is that something we want to do? It strikes me that would be a worthwhile look at that list. I would certainly need some help because a lot of species I don't sit on the boards for.

Then looking at then some of the other root issues, how we conduct our business ourselves; and, again, we're like Pogo, we have met the enemy and they is us sometimes. We all suffer from it. Then looking at other friction points within our planning process, and I specifically think of the state/federal planning process and the alignment issue, and revisiting that to again try to force ourselves to make some tough decisions.

When we had the discussion about state/federal alignment, I remember Jack Travelstead saying, "Well, maybe on some species we should just give it all to the feds and just deal with the state water components." Other people said, "Well, we can't do that because it's our fishery, too." But in fact we end up in perpetual conflict and chaos, what are we really getting out of that process?

We're taking a lot of heat for things that are beyond our control and so do we reflect on where we are and try to tease some of those apart so that in fact for species which we don't have much control we give up some of the responsibility because all we do is get heat for it. Jaime.

**DR. JAIME GEIGER:** Mr. Chairman, it seems to me that we need clear criteria laid out in some agreeable way how you can prioritize effort on these particular species, be it number of user groups, be it number of states engaged in the process, being the direct and indirect economic and social benefits to the various user groups, some set of agreed-upon criteria by which you can make some baseline decisions or at least do a first or second priority cut.

We do it all time in the federal system. I think that's something that we're going to need to look at here. Secondly, I do think Ritchie made a couple of very pertinent observations. I think we seem to have a tendency to be less of a risk-taking group of individuals here. I'm not saying that in a negative sense, but I'm saying it from my years of working with this commission.

It seems to me that we are less tolerant of taking more risk; let's focus on the resources. That may not be a bad thing. I will also point out that when we almost lost striped bass and we had issues with striped bass it was because the general public questioned the basic science by which we made management decisions. I do think we need to place more emphasis on our science.

There is always going to be uncertainty and there is always going to be differences of opinion of is it good data or bad data, but at least we have to validate that the science we are using is the best available and then it is what it is and you make a management decision based upon that information. I do sense that we are a little too conservative in waiting for that little extra bit of scientific information to give us a certain level of comfort. I think perhaps history has shown that we delay a little too long in order to make those hard decisions. Thank you, Mr. Chairman.

MR. FOTE: Everybody keeps pointing at striped bass and the easy process in what we did. I remember a couple of knee-jerk reactions that we did because we basically looked at a stock assessment and wanted basically to close the fishery, and then two years later we turned around because we did something based on science that basically was at another stock meeting and went out, and that basically taught some of us a lesson to try and be more careful and deliberate in the way we did that.

I remember going back and changing the regulations one year and then we changed them back two years later because we basically acted on recommendations. We looked at it and we said maybe it wasn't – we shouldn't be doing it when we did that. And maybe that taught maybe the wrong lesson for a while, that we basically needed to take things slow because we were changing management plans back and forth.

We also have a history of not letting a management plan go in long enough to see what the results of that management plan is. I can think of how many times we changed the size limit on summer flounder, how many times we changed the size – because we

basically look at the stock assessment and we change it, so we don't have a consistent regime where they can look at where we've had a plan.

Now one thing good about striped bass, we have a plan, that we opened it up at two fish at 28 inches along the coast recreationally, and that has been it since about 1992 – no, before that, 1989 or something like that. My memory is getting back over these years. But we've had consistent regulations so we can look at the effects of consistent regulations.

When we look at a bunch of other species, we haven't had consistent regulations for one or two years or even three years, and that basically gives us nothing as a baseline. It makes the science very much harder to basically look at. Everytime we try a three-year consistent plan, we are in a panic the following year because something comes up in a stock assessment. I don't know; it is very difficult.

The other thing is money. I mean, basically what we're talking about here is how we get the money to do the proper science and to get the information so we can trust in the science. I have been interviewing the people running for governor in New Jersey, and I pointed out the fact that in 1988 New Jersey had \$3.1 million to run marine fisheries. We are now in 2009 and New Jersey is running marine fisheries at \$2.7 million.

I would like to see any other agency that is running on less money than it is in 1988, trying to do ten times the work that we're supposed to be doing, and that's probably a major part of the problem because we can't get the necessary science to do the proper fisheries' management.

MR. GROUT: Just a final comment after hearing this, in the management boards I have been on this week I've been either criticized for going too quick in two of them and criticized for going too slow in two of them, so it depends on which side you're on.

CHAIRMAN LAPOINTE: If I think back, I started with the commission in 1987, and we used to put together fishery management plans and we didn't follow them. If you take the real long look, we're doing great. We used to put plans together and Maine would say, "I know what I need to do on lobster," and then I'd go home say you don't know the special brand of politics I have in my state so I couldn't put things in. It took the Striped Bass Act and it took ACFCMA to say let's put together plans that we intend to follow.

I guess along the lines of Paul's comments we've done great things, but on the other hand we hit bumps in the road. Some of them are temporal, you know, do we actually need an extra meeting before we make a decision on winter flounder in the Gulf of Maine? A lot of times – and I think we all suffer from it – we say, well, let's just a little bit more time or bring it out to the public one more time or we add – it's easy for me to say, but the motion on weakfish this morning, we started off with something pretty simple, and then we make it lot more complicated.

I understand why that happens, but again we all do that at times. So, it's just to look again at our process to make sure that we're comfortable with where we are, and importantly because we're not the only people who look at our progress. When we go for money for the Atlantic Coastal Act, whether it be for money for science or the management we need as we add lionfish or we talked about Jonah Crabs, for goodness sake, and we'll talk about them again in a little bit, can we go and say we're doing the job we said we're supposed to and how do we defend ourselves and promote the work of the commission when people say, well, Magnuson has got it locked into ten years, why don't you just accept the National Standards?

You know, the flexibility that kills us sometimes saves us at other times, and so it is trying to figure out how we do all that better. Do other people have their hands up? I guess my thought is staff and I will work on reordering the different categories; again, not to make it all look good or all bad. Then it will be for us to look for those species – I'll mention croaker because Lou mentioned it – for something that is probably worse than is shown on this chart; what do we do about that?

Robert said he was going to look at it with the South Atlantic Board. Again, how do we cause some reflection to make sure that we're putting pressure where it should be? When Ritchie White and I were talking this morning about weakfish, he said something to the effect that, well, maybe we need to get people who aren't on the board to say whether this passes the clean-smell test or not.

Do we do an addenda so that Lou and Robert Boyles look at lobster and I look at weakfish to make sure that in fact we're putting pressure where it should be? Maybe we do and how do we do that? You know, I don't want every addenda to come to the Policy Board, but is there a way to structure that? Maybe we need to have them come just as, you know, the board approves them and then we look at them and

say this is okay or take it back because you didn't do a good enough job. Those are my thoughts right now. David.

MR. SIMPSON: I guess we're sort of looking at our report card for this week and how we've done and what we've delayed and what we haven't, and I'm having trouble finding good examples of where we've delayed action. We're moving ahead with an addendum for lobster to adopt new reference points, which we need to do to pursue management based on recent scientific advice which differed a little bit depending on whether we look at the peer review or the technical committee.

We approved an addendum on weakfish that includes a total moratorium. Horseshoe crabs, we approved an extension of an addendum which maintained a higher level of protection than would occur if we hadn't taken that action. I think there are other examples. I guess I'm not seeing where we're failing to be strong and do what we need to do. There is debate, and I think that's healthy, in trying to find the right timing.

I guess I just don't see where we're being weak-spined at all. I think we've taken some appropriate actions. Some might argue that an emergency is warranted for weakfish, for example. I think we would have a hard time arguing that, and that was made during the debate. The stock has been this bad in a shape for six years. How can we say that this was an unanticipated change? I think the route we took was reasonable.

CHAIRMAN LAPOINTE: I guess just in response, if we have known the stock has been in this condition for six years, and much like river herring, we knew the stock was in bad condition before, and we collectively cavitated on the assessment process for a long time. There are a lot of reasons behind that, but in the case where we know what is going on you can make an argument for we have enough information and certainly enough management experience to take action before we did.

MR. SIMPSON: Okay, and I'm talking about this meeting, and we just had a new, very different assessment on weakfish. Of course, we're dealing with the uncertainty. Again, I've heard a lot of examples of this week we failed to show spine, and I don't see the examples this week.

CHAIRMAN LAPOINTE: And I started off the discussion, and certainly the intention is to discuss our overall performance. The point is to say are we

comfortable with what we're doing or are there times when we can improve the way we do business to do better.

MR. AUGUSTINE: George, maybe we are at a point in time where we have to make a master report card with some detail at least to the species as to where we are. Dave highlighted exactly what we've done this week. Whether they are the right decisions, we got the most out of each one of those means that we could have; maybe yes or maybe no. Maybe the information could have been presented differently.

I think you know and everyone around this table knows there are folks at this table right now, if they make the wrong vote for their state, they're likely to go home and be replaced. It is that simple. So, there are few of us left who have, excuse me, brass balls to put their reputation on the line; and if they want to let me go tomorrow, they can do it. But I try to make all of my decisions – and I'm only one of a few that do that.

I'm not putting anybody down. I'm making an observation I've seen since 1998, since I have been here. I have seen a change. Ritchie hit it right on the head, there has been change in the tempo, there has been a change in the makeup in how we go. Certain groups around the table always ask for more information, dig deeper, go back to the technical committee, get more, get more, get more.

We have all these plans in motion. We have had some great successes, but I think a master layout sheet as to what action we currently have going and each of those species will tell us where we need to put more emphasis. In most cases we're either data poor or we're waiting for an assessment, and yet the public didn't see that today. Most of the public didn't see that. They just saw us battling back and forth and not being able to come to a decision.

We're going to be facing more problems as this SSC becomes more and more powerful, and we're locked in the SSC. Just those plans that were joint plans, we're going to be slam-dunked. That's just the way it is; that is the impression. But the reality is as long as the technical committee and the monitoring committee and those species participate in a discussion with the SSC before we move forward, we stand a chance.

Our staff works hand in glove with the technical committees, and they are the technical committee in many cases. Again, without a master report card with where we are on each one of those species, once that

is developed in as simplistic a form as possible, get that out to the public – it could go in one of our Update Programs. Vince might want to figure out how he could put that in writing from his perspective – then I think we're ready for the next step.

We do go home and we get beat up on certain species because folks back home take out of context what our decisions were and why they were made. There was a lot of debate about the weakfish thing; we could have done more. I'm concerned about the Chesapeake. We've been working on an ecosystem management plan for that group for how long now? For four or five years we funded that interaction between striped bass, bluefish, weakfish and so on, and where are we with that?

Then to hear a report that says we don't know where we are with menhaden – we do but it came out we don't – that is frustrating, knowing full well that we've spent an awful lot of money on that program. You know, without having a master sheet to put in front of me and say here is where we're having problems, it is hard to go back to your boards and crack the whip. That is my suggestion, George.

REPRESENTATIVE DENNIS ABBOTT: Pat makes a good point about a report card, but again if we write our own report it is going to come out the way we want. If we have to be look at, we really need to be looked at by someone other than ourselves. It's hard for us to judge ourselves.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, just to review – and keep in mind each one of our species has a status determination within the plan that those boards have made, and that status has already been determined. We have document now, we put it in our annual report, we put it in our outreach material that reflects that. The second part as to where we are on each individual species, every year we do an FMP Review and present that to the members of the board.

This discussion that we've had about different categories and what should be back and forth, this was an internal document that was pulled together to help focus your fundamental question, Mr. Chairman, which is where are we and are you satisfied with where we are? Some of the suggestions to do a report card and do this and that, I think you're doing all that now. The question is do you like the grade that you got, and that's the purpose of having the discussion.

CHAIRMAN LAPOINTE: Any final thoughts? Again, we're discussing the action plan at the annual meeting, and I've got some notes about how to change things. I will work with Bob to reorder the list and make sure people get that so you can make your comments before the annual meeting. And, again, reflecting on the discussion we've had to help the discussion with the action plan mentioned some of the things people have talked about in terms of process within plans and timelines just to help focus the discussion in November.

I want to thank everybody for the discussion because it is hard stuff. We're trying to be self-critical without flogging ourselves too much. It certainly wasn't my intention to make it sound like we were all failing. John Ward, we're going to pick you up next before we discuss quotas because that might take a minute or two. I agreed to put you on the agenda, and I know it is something about the Committee on Economic and Social Sciences, but I was completely not paying attention during the striped bass, so somebody else is going to have to lead in on this one.

### **STRIPED BASS ECONOMIC STUDY ISSUE**

MR. BEAL: During the Striped Bass Board Meeting there was a discussion of what level of review or what level of study could be conducted to evaluate the economic value and economic impacts of the striped bass recreational and commercial fishery. During that discussion a number of commissioners noted that this would be interesting to do for a lot of ASMFC species and not just striped bass, and there may be value in lumping together some of these efforts and looking at multiple species rather than just one species.

That issue was elevated to the Policy Board obviously because it deals with many species and cuts across all the ASMFC work rather than just striped bass, which is where it started. I think the idea of bringing it forward to the Policy Board was there are a couple of different levels of effort that could be applied to this question or this project. I think the first one is around a \$150,000 project. The second one was anyone from \$300,000 to \$900,000.

If considerable amounts of money may be spent on a study to develop economic values of ASMFC species, does the commission want to do that, what species should be involved, where would the money come from, what level of commitment is there? I think all those questions came out of the Striped Bass

Board, and they're probably appropriate for the Policy Board to talk about as far as moving forward with this type of work.

CHAIRMAN LAPOINTE: John, do you want to kick it off a little bit and then we will get into board discussion.

DR. JOHN WARD: Basically I think what it comes down to is you're getting a table that is being distributed that the staff put together. Just to make we're all on the same page. In my history as being an economist working for the National Marine Fisheries Service, I would come to meetings and I would see that the stock assessment information is usually presented, first, independently of any other science, and that normally what would happen is that after explaining how effort affected fishing mortality and how that affected biomass size, they would choose a level of effort, maybe two or three levels of effort.

They would present independent assessments for each level of effort on how biomass would change over time relative to some target. In the good years when the fisheries' assessments were done by the economists, they would take those changes in biomass levels and for those effort levels and they would talk about how revenues changed in the fishery.

Sometimes if we were really lucky you would see a change in price due to an increase in landings due to the recovery of the biomass. Lately the trend has been to take those revenue numbers and then tell you what the impact on jobs, income and sales would be for a region or for a state. This essentially is the Level 1 Analysis, the updated value and impact study that Kirkley and Strand did.

You would be getting a snapshot of the history of striped bass management, how you faired over time, have things gotten better or worse for fishermen relative to the biomass. In my opinion, just my opinion alone, this is not a particularly useful piece of information if fishery managers are going to use it make decisions. Somebody raised that question and said, "How would managers use this in the decision process?"

The second approach that we have talked about doing is taking it a step further. Just as the biologists look at how biomass changes over time relative to biomass growth, fishing mortality and natural mortality, the economists would look at how fishing effort changes over time relative to that biomass, market prices, cost of harvesting fish in the fishery. The two

relationships would be played off against each other until you got some sort of equilibrium where biomass wasn't changing anymore.

This is a much more dynamic process and can be used in the fishery management process directly to look at how proposed regulations would impact a fishery. Yesterday I heard someone make the statement that off some states there are low striped bass populations and other states have higher populations and that is not really an economic issue but it's a biological issue. To an extent that's very true.

However, when you start taking steps to address those differences in allocation between states, it does have economic and social impacts, and that is the Level 2 study. To go out of character for a moment as representing the CESS, one problem that I had with the prices of these levels of study is that I really feel that it can be done much cheaper.

I think there is a lot of expertise out there both at the state and the federal level where you could sit down and come up with some simple relationships that would start to address these issues. Before you're too put off by the size of the bill that goes along with these two, I would suggest you discuss the possibility of taking a less intensive but lower cost approach to the Level 2 Study.

CHAIRMAN LAPOINTE: Thank you. Questions or comments? Paul.

MR. DIODATI: So what we have is a proposal for two levels of studies. I think one was costed at about \$135K and the other closer to a million dollars. I guess my question is let's just say that we're interested in going Level 1 Study; does the \$135K buy us a contractor that would go out and do that study or are we talking about it's going to cost that amount of money to have our own staff do that? I just heard you say there is a lot experience within the CESS, so what is the answer to that?

DR. WARD: The CESS' recommendation was that it would be for an outside contract to be let to do the work. Most of the members of the CESS felt that their schedules were too full to try to address this problem as part of the CESS without additional funding.

MR. GROUT: At the Striped Bass Board Meeting one of the things that I saw when I saw this comprehensive social and economic study was the price of it. So what I was hoping – and I asked John

this question – is there some kind of economy of scale we could gain by not just focusing on striped bass for that price but multiple species or multiple fisheries and get pretty much the same information on multiple species.

That way we would get out of this focusing on striped bass or maybe get some information on striped bass but also maybe getting it on herring and menhaden and weakfish and things like that. It sounded like we would get some economy of scale here. Then obviously the big question here is where do you get the money because that still is a heck of a lot money and far more than the commission could ever handle at least at the current funding levels.

I thought it might be something to have in our toolbox as something that if we ever had the chance to get some kind of a grant or an increase – for example, if we ever get an increase to fully fund the ACFCMA funding or the Atlantic Coastal Act, you know, maybe this is one of the things we might want to consider to add to our toolbox of things we use to manage the fisheries.

MR. JOHN F. FRAMPTON: I'd be curious on the details of this study. I know the U.S. Fish and Wildlife Service, working with the states, does a comprehensive study every five years. To get that information down at the state level we're talking about right at twelve to fifteen million dollars for this study. What kind of detail would you be proposing on this? Would it be down at the state level? If not, that seems like an awful lot of money for a study that's going to have limited value.

DR. WARD: The discussion at the CESS was that it would have to be at the state level to be really useful.

MR. FRAMPTON: And you think that can be done at the \$135,000 level?

DR. WARD: That was the gist of the discussion at the CESS for just a snapshot of the value of the striped bass fishery that would update the Kirkley/Strand Report that had been done before. It wouldn't be for the larger, more inclusive comprehensive study.

REPRESENTATIVE SARAH K. PEAKE: Maybe it's because I'm a newcomer to this, but I have a more fundamental question, and that is what exactly would we be buying for either the \$135,000 or the close to a million dollars? In other words, what is the data that they will be looking at that will go into either the lesser or more expensive model to come

out with an outcome of the socio-economic benefits, especially if you're looking at allocation either among states or allocation between the current commercial and recreational fishery?

I ask this because we're having a bit of a go-around in Massachusetts regarding whether the commercial striped bass fishery should be eliminated and there would just be a recreational fishery. What I hear from the recreational fishermen is the great economic benefit that will come to the Commonwealth if we eliminate the commercial fishery.

They're talking about things like meals that somebody eats out or hotel rooms and motel rooms that they rent and bait that they buy. What they don't talk about is the socio-economic benefit to the current commercial fishermen or the commercial fishery in that this may be the bit of income that enables them to continue to live in coastal areas of Massachusetts where there are great stresses put on in those areas in terms of affordable housing.

I guess I'm wary of studies that talk about socio-economic benefits without knowing how broad the capture of the data will be. Before knowing that, it's hard to know which if either model to support.

DR. WARD: This really is the basic confusion about economics. When groups come in and say the economic impacts on jobs, income, sales, expenditures on hotels and restaurants, this is not the grounds for making an allocation decision. What you really need to do rather than looking at economic impacts are economic values. Both of these studies are making an effort to separate economic value through a cost-benefit analysis from economic impacts using input/output models with multipliers.

The idea here is that if you have different management objectives, if employment is your objective, you still need to look at the cost-benefit analysis to determine if revenues are going to increase or decline, if profitability is going to improve from a decision to reallocate the resource and then compare that to the job, income and sales that will be generated by that change.

This is not a one-to-one relationship all the time. Sometimes you'll have a regulation that increases net benefits and increases jobs. Other times you'll have regulations that increase net benefits but decrease jobs. On other occasions both net benefits and jobs will go down. You really need to do both assessments.

The Level 1 and the Level 2 approach will do both of those assessments. They both capture a cost-benefit analysis and they capture the multipliers for the economic impacts that a lot of people are concerned with. The attribute that you get with the higher level project is that you end up with something that you can use in your management process.

You can sit down and say if you want to impose a regulation on the fishery how will it affect net benefits, how will it change fishing effort levels, how will that affect biomass. Then you can take the next step and say how will that impact jobs, income and sales in each region or in each state. The first-level project won't really do that. It will just tell you how those things have changed in the past and won't really give you a tool for looking at management decisions into the future like the Level 2 Project will do.

MR. ROY MILLER: Mr. Chairman, while we're on this topic I recall seeing a study funded a few years ago – I think it was funded – if I misspeak in terms of my recollection of the names, let me apologize in advance, but as I recall it was a group called Stripers Forever funded an economic study, and I think it was Southwick Associates that they paid to do that particular study.

Basically, the net result of the study, as I remember it, was that states would be wise to increase their allocations of striped bass for the benefit of sport fisheries as opposed to commercial fisheries because the study results showed a potential greater economic benefit. Now, what was the net result of that particular study?

I daresay that I don't believe it resulted in any change in our present management strategies with regard to striped bass. I just throw this out there to point out that we may end up spending a lot of money particularly for the second option with regard to this economic study that may not pay us the benefits that we think we might be getting when it's all said and done.

MR. DIODATI: I think the action that was taken when that study was presented to the Striped Bass Board and then the Policy Board was it was sent to the CESS to be critiqued and reviewed. The review that came back to the Policy Board was that the study design was very weak in terms of what it was trying to address, and so there was absolutely no confidence around those results. I think that's the primary reason why that report was set aside and neither this

board or the Striped Bass Board decided to take any action based on the findings of that particular report.

I don't think that would be necessarily true of a well-designed study that provides us information that we have some confidence in. Having said that, I know that the commission doesn't have discretionary funds in the amount of money that we typically move around to do the difficult jobs that we have. I think Vince mentioned it was about four or five hundred thousand.

I guess my question would be is it possible for any of that money to go towards one of these studies if the board decided? I think the answer would be yes, but how much I guess is the question. Is it 40 or \$50,000 because I'm thinking that the Level 2 Study here is completely off the table. I don't think anyone is going to come up with a million dollars to study one fishery or ten right now.

I think it might be possible to come up with \$135,000 or \$150,000 to study what is becoming the benchmark fishery for this commission, which is striped bass. It might be warranted to do this type of study given that there are faulty study designs that have been used and people will rely on those false impressions of those outcomes. I think there are benefits in us to correct the record.

I guess I need to know can the commission commit X-dollars to a Level 1 Study, which was the \$135,000, and then I would expect the states would have to chip in the remaining amount if we choose to do it because I don't see any other way to do that. We can certainly apportion that based on our normal allocation procedures. We allocate quota of striped bass and I would not mind relying on that. Of course, New Hampshire and Maine get off pretty easy. That's what I'd like to know; is there any amount?

CHAIRMAN LAPOINTE: I guess my overall sense is the discretionary half million goes to everything we do. Well, I was going to make two comments. One is to Sarah's point earlier. I recall – again, showing my length of time on the commission – a group contracted to determine what sportfishing was worth to the nation. They did bucket loads of work and they came up with \$28 billion a year.

Then the following year the National Fisheries Institute contracted to see what commercial fishing was worth that year, and they came up with \$28 billion or 29 or 27-1/2. So in terms of allocation, regardless of how the numbers come up people will argue about it and justified their own positions. If I

think about as we move forward through the fall, we can certainly allocate the money, but what do we give up with it?

I think about if there \$135,000 or a million dollars to spend we have a tendency to say, well, let's consider funding the last thing we discussed, and we need to look at our overall priorities and say if there is money to reallocate, what are our highest priorities? We just talked about a bunch of data needs. I think we struggle to this day with funding trawl surveys and things like that. So if there is some extra money that we want to either reallocate or chase down, we need to look at it strategically for the commission's overall needs.

MR. FOTE: George, I agree with you. I mean, I've looked at economic studies and they're done for a specific goal and purpose. What I find more important, if we're ever going to do an economic study, is what is the cost of putting in a regulation, what is the economic impact to the commercial and recreational community on those. That's not what we're going to do for striped bass. I mean, there have been enough studies done on striped bass.

I have seen about three or four of them over the years and I can pull them out of the hat. I would rather see this money spent on science. I mean, we are so data poor, and New Jersey is not going to come up with any money to basically – and unless Massachusetts wants to put in our share, I mean, we really don't have any money to do this.

I think there are more important things on our agenda to use that money for, and I'm really hesitant to basically do it just on an economic study that wouldn't really prove anything. If we were going to do one on all stocks or we're going to look at what the impacts of regulations would be, then that would make more sense to me but not just to do a striped bass economic study.

MR. LEROY YOUNG: Mr. Chairman, I have a question for Dr. Ward. The thing that I would really be interested in seeing is how one of these Level 2 studies – a case study on how that was actually done and decisions made using that specific type of study. Maybe Dr. Ward would have a good example that he could share.

DR. WARD: My favorite is the analysis of bycatch of red snapper in the Gulf of Mexico Shrimp Fishery, which was I believe Amendment 9 of the Gulf of Mexico Shrimp Fishery Management Plan. In there we looked at how fleet size would change, how

fishing effort levels would change, how crew shares versus vessel owners would be impacted by different conservation engineering regulations. That one is fairly easy to get hold of.

We also did another study on the shrimp industry more recently that came out called the “Shrimp Business Options Report”. This was a bit more comprehensive. We not only looked at the net benefits that were being generated by different proposed regulations to improve the financial viability of the shrimp fishing fleet, but we also looked at the national economic impacts of how jobs, income and sales would change.

I like to think that it was the result of that study, looking at how marketing programs would affect the shrimp industry, that led to the Wild American Shrimp Effort. Those are the two best that come to mind. I’m also doing some work with Maryland’s Department of Natural Resources on yellow perch where we’re using the same type of approach for that.

Howard Townsend and myself are working with one of the biologists at the DNR to put together a study for management purposes of the yellow perch fishery in the Chesapeake Bay. We’ve also been doing some additional work with bycatch reduction devices for the upcoming ASF meeting, which hopefully I’ll get done between now and the deadline for the presentation.

MR. JOHN DUREN: It’s appealing to me to have this kind of economic value analysis for the resources that we manage. I think there is merit to use that kind of information in allocation decisions, but our history doesn’t show that we’re willing to do that. Our practice has been when there is pain or reward to be shared we try to share it based on some sort of historical view of what is fair.

We’ve paid a lot of attention to effect on communities. We haven’t tried to say that one use of a resource is more valuable than another. Earlier today we heard a proposal to allocate menhaden based on ecological merit and our ecological function. We didn’t readily embrace. It seems to me like allocation based on an ecological function is closer to what we do in this commission than allocation based on economic function.

We weren’t even willing to get close to making a move on that ecological function allocation. I think before we should spend money on these economic evaluations we should really agree amongst ourselves that we’re going to use that in our decision-making;

and if we aren’t willing to do that, we shouldn’t put our resources into doing the economic evaluations.

MR. BOYLES: Mr. Chairman, I agree completely with John Duren. I just would say it’s a question of what are we going to measure, willingness to pay, willingness to accept, do we use continuing evaluation, are we going to use producer surplus, consumer surplus, all to chase our tail to come up with a decision. You know, it’s just going to be hard to make these kinds of decisions. I agree with John that it’s great information to have, but I think there are primary and even more secondary sources of information that need to guide us in our decisions before we go down this path.

CHAIRMAN LAPOINTE: My thought was the idea of having the cost of regulations actually kind of fits in with the discussion some of us mentioned in the big scorecard discussion, which I don’t want to get back into, in terms of balancing the return per unit effort for incremental changes in regulations, so that intrigues me just to have it as another bit of information as we get into contentious discussions about lobsters or striped bass or anything.

I think there is some utility there. I struggle with the prioritization of the issue. I was talking to Bob, and John had mentioned that he thought it could be done less expensively, and so I would like to task, if he is willing, John, to deal with Melissa and Pat Campfield to explore some of those options because it strikes me as prudent. There may be money for economic studies that is outside of our normal fish business, and I think that’s worthy of exploration as well, and then come back to our annual meeting when we do our prioritization with that information. Does that make sense? I see heads shaking yes. John was shaking his head, too, so I took that in the affirmative.

REPRESENTATIVE ABBOTT: Mr. Chairman, just as an aside, like a lot of people sitting at the table we kind of double-task with our laptops in front of us, and I just received my house calendar from the New Hampshire House. This week they assigned all the study committees, and they just created 42 study committees that is going to help us do our job. I’m not knocking what we’re doing, but sometimes I think that we tend to study things to death.

MR. ARNOLD LEO: You know, I could save the commission a million dollars by assuring you that striped bass is awfully valuable both for recreational and commercial. I think the point with the commercial fishery is not strictly an economic one.

It is also a question of access to the public resource for the public who doesn't fish. I mean the fish is a public resource and for most people the only access they have to it is through the commercial fisheries.

I think that is of tremendous value to society. Fish is actually practically the only wild item on the dietary, so I think it's important that the public have access to it. A million bucks I think is a lot of money on a study like this when data is needed on eels and river herring and these data-poor stocks. I just think it's not a great priority though it could be very interesting information that's generated, especially with a million dollar study. Thanks.

### **PROTECTED SPECIES GRANTS PROGRAM PRESENTATION**

CHAIRMAN LAPOINTE: Thank you, Arnold. Any last words on that? If not, we'll hear back at the annual meeting. Agenda Topic 10 is a presentation of Protected Species Grants by Lisa Manning. My understanding is that she is going to tell us how the states can get more species money. Please come forward and fill us in.

MS. LISA MANNING: Thank you for the time to talk to you guys today. My name is Lisa Manning. I'm from the NMFS Office of Protected Resources in Silver Spring. I wanted to just talk to you today about what is commonly called our Section VI Program. It is authorized under Section VI of the Endangered Species Act.

This is a program for states to support state conservation programs for listed species, candidate species, species that are proposed for listing under the ESA and recently delisted species. The previous seven years that we have been able to run a grant program under Section VI, we have been level funded at just under a million dollars, but in FY-10 we're expecting a significant increase. That's really the impetus for why I wanted to talk to you today.

We don't yet know, of course, what we're going to get but all signs are pretty positive. We have a President's budget request for \$11 million. We have a House mark of \$16 million and we have a Senate appropriate mark of \$11 million, so things look really good that we're going actually get his money. As I mentioned, we have been pretty level funded, and it has not been a very large program to date.

The funding will largely support grants to states. The eligible applicants are obviously states. They have to

be state agencies that have entered into a Section VI Agreement with us, with NMFS. Currently we have 14 states that have agreements. We, probably for the first time, are really actively going out and trying to get the remaining states to come in and get agreements with us so they can become eligible for this program.

That's mostly for this group here. That's Connecticut, Rhode Island, Virginia and one more. We are in touch with those states, and we're hoping that they'll come in and get their agreements in place so they can participate in this program. Proposals are due October 5<sup>th</sup>, and I do have that announcement if anybody is interested in getting a copy of it. It described the program in detail and what we're looking to fund in the upcoming grant cycle.

We are letting applicants know that we're looking for projects that are in the range of \$500,000 to \$2 million in federal funding per year. That's drastically different than we've been advertising in the previous years. It takes a lot more effort and cooperation to come up with that kind of a project. We're also asking that projects be more ecosystem focused, regional focused or multi-state focused.

Basically we're trying to drive the projects to be more than what we've seen the past, which are very small-scale projects; for example, a sturgeon project that looks at just one river to become broader and more regional projects that really look at multi-rivers or multi-state areas. That's obviously a result of the funding that we're expecting.

There is a statutory match requirement of 25 percent if a single state comes in for a particular project, but that match requirement goes down to 10 percent when two or more states partner together. That's in the statute and that is another factor sort of driving people to cooperate together and. We've already heard a lot of stories from people that are working together to look at species in particular like Atlantic sturgeon. We are expecting some big projects for that species.

As in the past and into next year and in future, grants can include activities – or activities can include research and monitoring. It can include actual management on-the-ground activities or outreach or any combination thereof. Of course, we try to emphasize the management component. The bulk of what we have funded has been research, which is great. This is typically one of the few sources of funding for these kinds of species, so we do support research.

Of course, we would love to see more management and on-the-ground recovery of these species. We've been having a series of meetings trying to get the word out, trying to get everybody prepared for this because it is a big change in this program. Anything you guys would like to do to share this information with interested folks in your agencies would be great, and we certainly welcome that. I have some information.

I have a report on the program that we've put together if anybody wants to take home a copy of this, and I also do have some copies of the grant announcement itself if you're interested in taking one of those, too. I don't have enough for everybody, but I can certainly send you one if you want to give me your card. That's about it. Thank you.

CHAIRMAN LAPOINTE: Thank you, Lisa. For those states who don't have Section VI agreements and if you have a October 1 deadline, how long does it take to get an agreement between a state and the federal government on average?

MS. MANNING: It's kind of embarrassing to say it does take quite a while, but that's not because it actually takes quite a while. It's because it usually falls on the plate of somebody who is overworked and this is not part of their job and spearheads the effort on the part of the state agency. The big bottleneck is typically a letter from the state attorney general's office is required as part of the application.

It's mostly a legal process where it is basically acknowledging the state is coming to NMFS saying we have the appropriate authority to do this and we say, "yes," you do have the appropriate authority". It's a very simple process. Because this year is the first year that we're really going out and trying to seek new states to come in – Virginia is about to send us their application for an agreement – we've added an announcement that there is 60-day or 80-day cushion for states to get their agreements in place.

It's after the grant proposal deadline so December 4<sup>th</sup> is the deadline to get your agreement in place. We've added that cushion in for states that are interested. It may take them some time to get that letter, like I said.

CHAIRMAN LAPOINTE: And so the state in question could apply for a grant without having the agreement and then the grant would be contingent on the agreement being signed by the 4<sup>th</sup> of December or whatever?

MS. MANNING: Yes.

CHAIRMAN LAPOINTE: Thank you. Questions or comments for Lisa? Is your contact information available somewhere?

MS. MANNING: I can leave some cards with you and some of these reports.

## ASMFC QUOTA MANAGEMENT ISSUES DISCUSSION

CHAIRMAN LAPOINTE: Great, thanks very much and thanks for coming. Our agenda topic is a little easy discussion on quota management. I'll turn this over to Paul Diodati in a minute. There was some discussion about quotas, underages and overages. I think it was an e-mail colloquy between Dave Simpson and Dan McKiernan. As a result of that Paul wrote an e-mail that he sent to a lot of people and asked that it be sent to the Policy Board.

After that I sent my e-mail to everybody, a copy of which you have today, a couple-page memo I wrote to Policy Board members. I e-mailed it out and we have copies today because I didn't send it out until Friday. There are a number of issues to consider. I thought because it is a big issue for whether the commission wants to get into some broad-scale policies on quotas or how they work overall, how they work in terms of state-federal alignment, how they work in terms of underages and overages, my suggestion would be to at this point just identify quota issues that various Policy Board members see, and to take that list and think about it and we can spend some time trying to categorize it for further discussion about how we want to handle it at the annual meeting.

I don't think personally it is an issue to be rushed because even the small quota issues become big quota issues. I raised a number of issues in my memo, which folks have seen. Paul raised a number of issues and others have, and so, again, my suggestion would be to use this time to identify within the issues that I have raised or others have about which ones you think are small issues or big ones, things the commission should or shouldn't discuss – I'm sure we've missed some issues as well – and again to take that list to the annual meeting and then figure out what our next steps would be.

My thought would be, again, to spend time thinking about it between now and the annual meeting and then some kind of workgroup being put together to try to tease it apart, if that's possible. Paul, with that,

do you want to speak about what you had written a little bit?

MR. DIODATI: Mr. Chairman, I feel that you and I have already had a good say at this with our two memos. I think my e-mail is self-explanatory. What instigated the e-mail, you're right, were discussions about a particular fishery management plan and where it was going. It had to do with a discussion over what a state can and what it typically does with quotas that it is allocated in our commercial fisheries.

We've been looking at that a little deeper more recently as we talk about implementing catch shares and IFQs and ITQs and other types of quota management programs in all our fisheries and throughout our various regions. What is interesting within ASMFC, it seems that we made some decision at some point that once quota is allocated to a state the state seems to have taken ownership of that quota, even fish that they haven't harvested. I've never viewed it that way. I've always viewed our coastal quotas as national quotas that's the portion of the resource that has been determined to be harvestable within a management context to benefit the nation for commercial purposes.

Until you harvest that fish you really don't own it. Those fish remain in the ocean. So if you choose not to harvest it, then certainly it should be available to another state or jurisdiction to harvest. It is part of a national quota. That's one question that I've raised and I think we've never really had debate about that.

We've dealt with it on fisheries' management plan piecemeal basis, but I think it deserves discussion now that we are allocating quota right down to the individual and even transferring those quotas between individuals, within states or jurisdictions. Further, I think there are questions about that. The commission has taken no policy on catch shares or on allocation of a state's quota down to any finer level.

We have been doing it for quite a while although nationally we're hearing a lot about catch shares. In New England we're calling it sector management, and we're going to be distributing these property rights. These natural resources are being distributed as we speak. There seems to be no common basis for that distribution process.

In New England right now it's just based on total history. If you caught them in a particular time period, well, those fish are yours not only right now but next year or the year after that and the year after that. Even you only caught 20 percent of the quota,

you may be allocated a hundred percent of the quota if no one else caught any in that particular year.

I think there is certainly some things to be talked about there as we think about our obligation to the general public. When you consider that we have an RSA, that I've certainly never discussed the research set-aside with anyone or how the research set-aside program operates or how much of the national quota should be used for the research set-aside, but there is such a thing for at least five fisheries and an auction that takes place for a good portion of it.

All that fish is auctioned off, and so those fish certainly aren't given away based on history. They're actually sold, so I have to ask that question why not sell all the quota and who decided to sell whatever portion of the 3 percent is being sold? Once it is sold is a state that is not involved in that process expected to accommodate the fishermen who bought that quota?

I actually have fishermen that bought scup quota, black sea bass, fluke and they expect to fish in our waters out of season or beyond the limits that we've already established for the general fishery. Obviously, it creates an interesting dynamic relative to compliance and enforcement and just the way we're managing our resources.

I just noted during the discussion that the commission has not really been involved in this general debate about catch shares, about more modern allocation of resources, and I think we need to have this discussion and be very straightforward about it. I've always been uncomfortable with the idea of even for those fisheries that we allow transfer of quota between us; I've always been a little uncomfortable about having to negotiate for that quota.

It doesn't seem like the best way for a partnership like this, a group that is supposed to be looking after the best interests of public resources, it doesn't seem like the best way to be doing business in the back room, so to speak. I think some of that is laid out in this e-mail. I was hoping that we can start a discussion today, but as you said I think this is something that deserves an awful lot of time and thought, and I would suggest a committee of sorts to draft maybe a white paper that maybe lays out, well, certainly those issues that are germane to this body, but something that we can actually change or have some effect on.

CHAIRMAN LAPOINTE: Thanks, Paul; comments from other people? Tom Fote.

MR. FOTE: I think we did have discussions on catch shares a long time ago. When states like Virginia were putting in quotas and basically allocating fish, we really had a long discussion and looking at it and it's tough enough trying to divide it between states and how do we start dividing those fish. We kind of decided it was best left to the individual states to see if that is the way they wanted to go with the species, and that's the system we have in place.

So, there was a discussion and there was a lot of talk about it and we just said, you know, we have enough problems with what we have to deal with between – the allocation between states, to try to get this involved, and how do we divide the pie up, and it's really – because the landing is happening in the states, unlike the federal, we basically have state landings, they have state permits to do that, and so they should be involved.

I think the problem is going to be when the conflict arises between the federal permits and where you can land the fish and whether the catch shares are going to affect that allocation. That's really a big part of the paper. I think as far as far as quotas go and what we should do about unused quotas, there are reasons states do things with unused quota. Some of it is for conservation because we think that we should be more precautionary, and that's what New Jersey looks at when it looks at striped bass.

But what it does then is force a state that says you use it or lose it, and so it makes us to basically – and that's the argument I got in '98 because we couldn't get any credit for the quota that we had. We had basically preserved that quota so the following year we used it. People were told to use the fish up because we're going to lose the quota.

Now, that's not what I'm here to do is promote people killing fish as we preserve a quota, but if you're going to start taking something away from me and allocate it somewhere else then I may be looking at relaxed regulations when I do that just some other state can't do it in another way because that's not what we want to do.

You know, I think there are some good discussion points there on some things we really need to do, especially with catch shares that this is going to be, but I think something with the unused quota, how states want to use their quota is up to the state. The same way as you're going to do catch shares in a state, it should be with the state.

MR. AUGUSTINE: I agree with Paul, I think we should create a small subcommittee to look into it. As you know, the Magnuson-Stevens Act is pushing all federal fisheries towards LAPs or IBCs or some limited access program. If that is the direction that the administration is going, whether it is NOAA or whoever it happens to, I think we have to take a hard look at it, and let's get in tune with whether or not we want to jump on board or not jump on board, but let's not sit here with our hands tied behind our back and wait until we get put into a corner, particularly with our four joint species fish that we're dealing with. I would agree with Paul and get another committee.

DR. DANIEL: I guess I tend to agree more with Tom. I think the concept of forcing catch shares on the individual states worries me greatly, but mostly the requirement that we would have to implement permits for all of our fisheries, I think. There would be a lot of steps that we would have to take that would be pretty onerous for us as a commission to have to develop those permits and then lead us down the road of limited entry and those types of things. That's going pretty far afield in my estimation.

CHAIRMAN LAPOINTE: I think, again, my sense is that we do need a group to work on it. My hope would be that people look at the issues that I have identified and Paul has identified and see if there are others we have missed, big issues. I think about if another state wants to put some kind of catch share program in and Maine doesn't, is that a fundamental decision for Maine to take with the benefits and the costs that come along with it?

That's where I am, but the commission I think needs to discuss that. If we have a way to control mortality within a given plan, and I do it the Maine way and you do it the North Carolina way and then you put quotas in, that strikes me as an okay balance. If we have some kind of overarching policy – and this is one of the issues that is in my memo – and it doesn't match what the federal policy is, are we adding another veneer of trouble between the state and federal plans? That's a concern I have.

My hope would be that people look at – and we don't have to finish the list today, but look at the issues identified and see if there are ones we missed and then put them in, again, kind of two bins of overarching big policy questions, some fundamental ones about the role of who makes the decisions or if a state wants to have another system that doesn't match what their adjacent states take, that strikes me as an okay thing to have.

Then there are smaller ones that aren't easy but small like what do you do with underages and overages. You know, some of them are kind of big picture and some of them are medium picture. That's kind of where my perspective is right now. David.

MR. SIMPSON: I think that is where this whole issue was born out of was underages and overages with scup. I think in most cases where we don't have quota rollover these are things that would have to change very radically. In other words, if we moved away from transfers being voluntary, discretionary to the states which is where we are now, to compulsory and you don't have rollover, you would have to, within the year, except for the summer scup period, have to say if you haven't used your quota by some date, you give it up to the rest of coast and they share it based on some formula, that is a radically different approach.

It would be very difficult with fisheries that – you know, North Carolina has fisheries that occur in November/December. When would you make a call that they're not going to use it and it should be available to somebody else, that sort of thing? You know, there are some practical considerations, too, with a lot of this.

MR. PATTEN D. WHITE: One of the things that I don't understand as we move down this road that you and Paul are talking about and states are now trying to figure out how to set up an allocative process, but many, many of these sectors that are being formed are being formed by members from multiple states, it boggles my mind to start to think that Maine will set up one regulation for Species X and Massachusetts does another and what on earth happens to these guys that have signed up for it. You talk about your slippery slope.

CHAIRMAN LAPOINTE: And I think that's fair enough; and certainly when I wrote the memo I wasn't saying we had to do it. It's just questions that we should consider. I think what Paul was saying was let's consider these tough issues and discuss them and decide, well, it's in the commission's best interests to advance one or not. Paul.

MR. DIODATI: I'm absolutely not suggesting that we develop a policy of catch shares that would be forced on commission partners. That's not what I'm suggesting at all. What I'm pointing out, though, is that NOAA has already established a national task force called the Catch Share Task Force whose sole purpose is to implement catch share programs to all the eight councils of the United States.

Given that, I think that the Atlantic States Marine Fisheries Commission, which represents a hell of a community of fishing organizations and states, should be involved in this process. I think we should have our own discussion about it, and I think that we should develop some recommendations and guidelines of our own and maybe make those known to NOAA.

That might be one of the objectives of our work. As far as the underage being rolled over, I'm not even suggesting that we take that away. There are ways to take advantage of a full coastal quota without taking something away from anyone. For instance, the underage addendum that's going out has a provision that only a percentage of that underage would be allocated back to the state in the subsequent year.

That doesn't mean that the remaining portion can't be put back out there into the coast; so if 50 percent is rolled over, why not take the other 50 percent and let someone in this country harvest it? If it's part of the plan and it's within the sustainability of the program and the fishery, it makes no sense to let it sit there. It's not what we're supposed to be doing.

I think there are ways to accommodate this. I'm just not comfortable again about the back-room deliberation of how about I give you some scup and you give me some fluke; and I'll give you scup but you've got to vote for my spiny dogfish issue next week. Let's face it; that's what goes on, and I think it's time to get beyond that and be a little bit more strategic about how we're using what are very limited quotas, mind you.

These quotas are getting smaller all the time. Our stocks are not getting bigger, and I think you have to think about the commercial fisheries that we represent. If these fisheries are going to continue to be viable, we have to figure out how to make them more economically viable with smaller quotas, and this is one way to do it.

MR. FOTE: In 19 years of representing New Jersey, we have never made a deal for transfer of quota saying you should give us something instead. We gave quota away on sea bass to make the plan work and things like that. I don't really appreciate being called back from a deal because that's not what we do in New Jersey. I have never seen us to do that in that situation.

Again, didn't you basically do where the recreational sector has 40 percent of the fishery and they don't want to catch their 40 percent, to use that overage and

transfer it to the commercial side, and so you start basically saying we shouldn't do catch-and-release fisheries, and that's what we have been promoting in the recreational sector.

You know, this is a real slippery slope you want to go down and you want to look – we had a hard time deciding what those allocations are between the communities and what goes on there, and you start transferring those allocations you're opening up a hell of a lot of – a can of worms. You know, it's going to be fun! We'll have some really interesting meetings and we'll discuss it a long time and it will wind up going nowhere. If you want to waste a lot of time, let's go ahead and do it.

MR. MILLER: Pondering what Paul said, I would look at another possible benefit, you might say, to unused quota. Certainly, we've accommodated some of our partners in the commission when they had the need for additional quota when we had additional allocations to offer up. However, to a certain extent or a limited extent I look at unused quota as a buffer against scientific uncertainty in the quota-setting process, so I think there are some potential benefits and we should not totally discount that benefit and assume that unused quota is wasted resource.

MR. SIMPSON: I think this is great to talk about because, really, Magnuson is running way out in front of us, and I think we do need to look at this as a commission. I agree wholeheartedly with Paul's comments twice now that this needs to be an open process, open, clear, apparent. That's what I pursued with scup from the very beginning, contacting all the states involved and trying to develop something that everyone could feel was fair and reasonable. I think the commission needs that to maintain its credibility and its standards.

DR. DANIEL: I guess I was ahead of my time asking for horseshoe crab quota at the meeting yesterday. I'm intrigued now by something that Paul said, and that is I do think when we sit down and assess these quotas and determine what the stock can withstand to meet our rebuilding goal, I have never really thought of it as a buffer.

I've always thought of it as a successful fishery management plan would be one where we all attained our quotas and we didn't go over. I think that part of this discussion I think is very intriguing to me. It seems silly for me to have to close a fishery three months early and have another state sitting on 50,000 pounds of quota that could have kept my fishery going if I could have worked out a deal.

I think trying to come up with a way to properly allocate that quota across the board – give some back to the resource if that's what the board decides. I don't have a problem with that. I think the idea of rolling over half your quota, giving 25 percent to the states and 25 percent to the resource, if that's the kind of decision that we want to come up with, I think that would be cool, but that part of the discussion is intriguing to me.

CHAIRMAN LAPOINTE: I think there is general intrigue with the issue and recognizing that it's a real issue whether we want to deal with it not because it will be tough stuff, and so the idea would be to put a group together. If folks who have both the time and the perspective and the balance to look at it well from the commission's overall perspective, do we want to wait and contemplate the issues and set that group in motion at the annual meeting?

That's kind of my inclination, because, again. It's an issue we shouldn't wait too long on but I don't want to shoot from the hip on it either. Does that make sense to folks? I see heads shaking yes; good. Again, I'm going to ask Bob to look through my memo and Paul's and the notes from David and Dan just to identify the issues and have us all look at it and see if there others that come to our mind between now and that annual meeting. All right, thank you. Our next agenda topic is Number 6, Fishing Gear Technology Workgroup. Joe DeAlteris is here, I believe.

## **FISHING GEAR TECHNOLOGY WORKGROUP REPORT**

DR. JOSEPH DeALTERIS: I want to thank everybody for inviting me here to talk about the Fishing Gear Technology Working Group in 2008. We've completed a report that basically looked at the technology or the research associated with gear selectivity, habitat impacts of fishing gear, bycatch reduction, et cetera.

Okay, I've also got a very few minutes to present this so we're going to move kind of quickly. The working group members, there were representatives from each of the states and we also had two representatives from the National Marine Fisheries Service and Pat Campfield was leading the charge representing the Atlantic States Marine Fisheries Commission.

The charge to the group was to evaluate studies of fishing gear selectivity, bycatch reduction, gear effects on habitat and the impacts of a single gear

used in multispecies fisheries. The idea was to develop a comprehensive report of all that gear work. In that report, what we wanted to do was evaluate if there were new gears that were ready to be implemented into the management process and hadn't been implemented. We wanted to comment on that.

The terms of reference that we developed were to start out with developing a matrix. Essentially what we wanted to do was prioritize the various fisheries to see which fisheries we wanted to study in terms of various gear issues. The next phase of that was to collect and evaluate all of the gear research for those prioritized fisheries; and then, finally, to develop a report on our analyses.

As it worked out, we identified 30 fisheries that were managed by ASMFC, and we evaluated the gear interactions according to bycatch, ghost gear and habitat impacts, and then to be able to figure out which one of those fisheries were the most important so that we would devote our energies to them.

We prioritized those fisheries based on the interaction categories identified above, plus we also looked at the relative magnitude of those fisheries because, clearly, we didn't want to put a lot of effort into a fishery that might have some issues but didn't represent very much effort and therefore very much interaction.

The fisheries that we ended up studying in 2008 were the otter trawl fisheries for summer flounder, winter flounder and scup; the American lobster pot fishery; northern shrimp trawl; southern shrimp trawl, pound net, gill net fisheries for coastal sharks, spiny dogfish and striped bass; Atlantic herring mid-water trawl; croaker fly net; Atlantic menhaden purse seine fishery; and the recreational striped bass fishery.

That order is in no particular order in terms of our prioritization. We wanted to make a point of basically putting our effort – those were the top ten fisheries that we felt we should invest our time into in 2008. The way we did this is we tried to take each of those fisheries, and we were going to have a section in the report that covered the background of the fishery or the background of the issue, the life history and status of the resource; basically taking that order, the fishery and the gear, management regulations.

Finally, we put time into researching all the work that had been done in size selectivity, discard rate, discard mortality, bycatch of finfish, interactions with protected species, so those were all bycatch issues;

ghost fishing, whether or not that was a particular issue for that gear; and then habitat impact. Then we tried to come up with some summary recommendations.

The individual fishery summaries were prepared by basically the local experts, so it wasn't like Joe DeAlteris commenting on southern shrimp trawl fisheries. We had these subgroups that looked at each of the particular fisheries. They were reviewed by the entire group. The whole report was edited, and you have copies of that report in the information that was provided to you for this meeting.

If you haven't had time to go through that whole report, I think that report is summarized in an executive summary and also in the back of it that really gets it down to the nitty-gritty. In that summary we talked about the – we tried to address the major issues with those particular fisheries. Not every fishery has major issues related to gear.

The major issues were broken into size selectivity, species selectivity and discard mortality and survival. Then in that context what we tried to do is identify whether or not there is research going on, whether the research was adequate, whether or not there is industry testing of that gear and whether or not those modifications to the gear have been implemented into management.

Now we will go through fishery by fishery. For the otter trawl we identified several issues. One was size selectivity by mesh size. What we concluded there was there is quite bit of work that has been done; it has been industry tested. We said "partial management implementation" but it's fairly good.

The problem is that most trawl fisheries really end up resulting in mixed species, and one mesh size, even though we know what mesh size might be optimum for each individual species, because it's a mixed-species fishery one mesh size isn't optimal for all species, so that's kind of a conundrum there.

With the respect to the otter trawl and species selection, there has been some research, some industry testing, partial management implementation, but really there is a lot of work yet to be done. When you think about species selection in trawls, you might think about trying to separate haddock from cod, for example, or trying to deal with sea turtle interactions.

One of things that we did note in our report with respect to the otter trawls, that protected species issues are going to affect most trawl fisheries or are

affecting most trawl fisheries and should be addressed as soon as possible. Also, one of the things that comes out is that discard due to management regulations with the various trips or daily limits really create a problem and create a lot of waste; and if you really know what is going on the fisheries. You know that there is a lot discarding as people meet daily quotas and they continue fishing for other species, they are discarding things that they're going to be overquota with on that particular day of trip.

In lobster pot fisheries we identified size selectivity and escape vents as an issue. In that case there is a fair amount of research done and quite a bit of industry testing, some partial management implementation, but escape vents do not – and the conclusion drawn there was escape vents do not address all the behavioral issues with small lobsters being attracted to traps and not attempting to escape.

With respect to lobster pots, the second issue, species selection – and, really, what we're talking about here is entanglement of large whales in ground vertical lines. Again, there has been some research, some testing and there is still a problem. Again, I think protected species issues threaten many fisheries and we need to work on solutions to those problems.

Lobster pots, another issue is discard mortality. Again, in many of the lobster fisheries, certainly, in Southern New England, 70 to 90 percent of the lobsters that are captured are discarded for one reason or another. Either they're v-notched or they're undersized or they're females with eggs, et cetera. Although the discard survival is fairly high, the overall discard mortality might also be high – excuse me, the discard survival is high but the overall mortality might be also high because of the high percentage of animals that are discarded.

Secondly, the other interesting thing here is that you might think about in terms of the high cost to the fishery of feeding all these lobsters that are subsequently discarded. There are issues there in my view both economic and biological.

Another fishery we looked at was the northern shrimp trawl fishery. There the issue was species selection. In this case this is I think one of the great examples of a win-win situation where the Nordmore Grate was basically a solution that was brought into the northern shrimp trawl fishery to separate juvenile groundfish, and it has worked out really well for both the groundfish and the shrimp fishermen in terms of reducing the effort to sort on deck.

Other issues in the northern shrimp trawl fishery are, again, species selection, and some of the folks up at UNH are working on things like rope trawls and topless trawls, but, again, there is more research that needs to be done so they're really not ready for management implementation at this point.

In the southern shrimp trawl fishery some of the issues are species and size selection. Some of the things that are being worked on are square-mesh codends and also composite BRDs or bycatch reduction devices. Again, the situation is they're not ready for management implementation. There is still additional work to be done.

The southern shrimp trawl fishery, species selection, turtle excluder devices – of course, there is a long history of struggling with TEDs down in the southeast. Personally I think they're a success story today, but there is still more to be done now as the National Marine Fisheries Service is moving from the small opening in the TEDs to the larger leatherback opening.

There is, again, now more reason to go back and revisit some of these studies that were done to look at the shrimp loss associated with the installation of the TEDs, especially with the large opening. Again, this is the same thing that we're going to be facing in the fisheries south of Cape Cod as TEDs move to the trawl fisheries in the Mid-Atlantic and Southern New England. The issue is going to be trying to figure out how to get TEDs into trawls while not affecting significantly the catch of the target species.

Pound nets, another fishery we looked at; species selection in this case, again, of protected species. Some work that was done, we've put vertical lines in the leader of the net instead of webbing, and that seemed to work reasonably well in some work that was done down off the eastern shore of Virginia.

We have partial management implementation. That fishery was actually closed down because of the turtle interactions. Now there is some sense that it also might work for bottlenose dolphins that are getting up in the leaders. There is additional test that has been initiated – I don't believe it has been completed yet – to look at that problem and see if it will work everywhere.

That's another thing about these gear solutions. As we try to look, it's hard to make the generalization that any particular solution will work everywhere. It would be nice if we could make that statement, but I really do think as we look at various gear solutions to

bycatch or habitat impact problems we have to invest the time and energy and money to test those solutions in every fishery we want to apply them in rather than making some generalization, well, it works here, it should work here also.

Pound net, another issue is species and size selection with the escape panels in the trap or the bag of the pound net. Again, there has been some work done and some implementation in some areas, but there is still more work that needs to be done here. And something again that has been going on for quite some time; this is an illustration here of a particular panel that was developed down at VIMS, but certainly putting escape panels, regulating by mesh size has been something that has been going on for well more than a decade in other states.

Gill net, size selectivity by mesh size – probably one of the best-studied issues out there in terms of gear and how to use size selection in terms of regulating a fishery, in terms of gill nets as a potential for actually, you know, regulating for a slot fishery, attaching nothing bigger than or nothing smaller than by regulating the mesh sizes that are used in the fishery. We concluded that there is adequate information available for the size selection by mesh size, and there is the potential for a wider implementation with some additional testing in specific fisheries.

The second issue with respect to gill nets was species selection by fishing height. Essentially the conclusion here is the jury is still out on this. There seems to be conflicting information on the application of either a limit in the height of the net or in the effectiveness of tiedowns by individual fisheries, so more work to be done here.

The fly net fishery; again, this is the fly net in the croaker fishery, but it's interesting to realize that the National Marine Fisheries Service, with respect to turtles, considers fly net to be any large-mesh trawl fishery. The conclusion here is that size selection by mesh size and mesh shape, the jury is still out on this, more work that needs to be done.

The reason for that is that these are very, very high-volume fisheries; and as a large slug of fish comes into the net and moves back into the codend, there isn't the opportunity for the escape of individual fish. They're just accumulating so fast in the back of the codend that it's problematic. The conclusion here is that some additional research is required to actually demonstrate that we can effectively manage with mesh size and shape.

The second issue in the fly net fishery – and again this is for the croaker fly net fishery specifically – is the turtle issue. In this case it's a flexible TED to go into the turtle excluder device, again trying to deal with this issue of a large-volume fishery. It needs to be a fairly large grate, and the question is, well, how can we get the turtles out but still get the croaker in without having them back up in the extension section and body of the nets and blow the whole net apart. The conclusion here is that additional research is still required.

The final fishery that we looked at was recreational striped bass. The issue is to reduce discard mortality using circle hooks. Again, this is a situation where there is plenty of evidence out there, good scientific research demonstrating that circle hooks are definitely a benefit in terms of reducing discard mortality. There has been some partial management implemented, but it could more widely be used in both this fishery and in other fisheries.

In terms of concluding comments, after we looked at these ten fisheries – and if you go back to the full report, you can see we describe and evaluate each of the individual research projects that have been done and that are in the literature, in the published literature, in some great literature but mostly general published literature over the last two decades.

We believe that the fishing gear technology has substantively contributed to the development of sustainable and economically viable fisheries; obviously not the full solution but we feel like there are many examples of good gear solutions out there. We strongly feel – and this is an important point – that the goal should always be to reduce the ecosystem cost of fishing while maintaining sustainable and economically viable fisheries.

A good example of that is that we can put a TED in a summer flounder trawl fishery and we can save the turtles, but right now that TED has a 35 percent loss of summer flounder. We believe that is an unacceptable burden on the fishery, and that we should invest the time and money in trying to come up with better TEDs. That is just looking at one example. We're doing that but it just needs to be emphasized.

Based on our review, we found that there were no thoroughly researched and industry-tested gear modifications for these fisheries that haven't been implemented into management. That was one of the first questions that were asked. That was in our mandate and our charge. We believe that there are

some promising things out there, but they still need to be thoroughly researched and tested in the fisheries before they go for implementation or proposed for implementation.

There isn't out anything out there that we felt that isn't – you know, that's ready for implementation that has been missed. Finally, we advise the Atlantic States Marine Fisheries Commission to support further research and testing of gear modifications to reduce bycatch, habitat impact and protected species interactions. There is still more work to be done I guess is the end result there.

In terms of future work the commission polled the various working group members, and some of the things that came up on the list, if we're going to do additional work in subsequent years, we should look more at gill net fisheries and this time consider croaker, bluefish, shad and river herring, spot and Spanish mackerel. There was interest in looking at the Atlantic Herring Purse Seine Fishery; more on coastal sharks, but this time longline interactions instead of just looking at gill net issues; look at squid trawls in terms of the bycatch of ASMFC-managed finfish; and look at black sea bass pot trap fisheries. That's it. Any questions?

CHAIRMAN LAPOINTE: I suspect there might be. Gene Kray.

DR. EUGENE KRAY: Not necessarily a question but a comment, Mr. Chairman. In looking at the executive summary of this report, dealing with recreational striped bass there is a notation that the Mid-Atlantic Council is developing an ethical angling brochure. That brochure has been developed, but in context that brochure was produced two weeks ago, and the gentleman who was most responsible for that was the chairman of our bycatch committee as of two weeks ago, anyway. He is Jeff Bean, and I wonder if Jeff would want to say a few words about that, if you don't mind, Mr. Chairman.

CHAIRMAN LAPOINTE: Just with my warning that godliness, cleanliness and brevity go close together, please.

MR. JEFFERY DEEM: I will make it very quick. Actually we had hoped to have the brochure out early in the season. Well, we had a lot of trouble getting – excuse me, in this brochure we're including two one ought, a four ought and a five-ought hook. Those will be distributed with the brochure, and we had trouble getting the hooks delivered. They're supposed to be in this week or late last week.

The brochures, half of them, 2,500 will go out to be distributed within the next two weeks, it looks like, and the other half we'll save for the first of next season or redo it again next season. It was a long effort by the entire bycatch committee and we're hoping that these circle hooks, putting them in circulation gets people started. Thank you.

DR. KRAY: And I would add, Mr. Chairman, to the report, I support the use of circle hooks a hundred percent in the striped bass fishery, but we should make a note that they should be non-offset. They cannot have that bend in them or else they work just the same as a J-hook, and they will be swallowed. You need the non-offset circle hooks in that fishery.

MR. P. WHITE: Just a couple of brief questions, and we can discuss it later if you want, but you on two occasions said that we needed to reduce – discard mortality may be high in the lobster industry. It was always “may be” and I wondered what that was based on – what kind of studies that was based on. The second half of the question is you were concerned about reducing the amount of bait that we use, and I wondered for what reason that was?

DR. DeALTERIS: What I meant to say – here is the gist of it – what I was trying to say is that the discard mortality in terms of a rate is low, but when you consider all of the discarding is 70 to 90 percent of the lobsters captured are discarded, the overall mortality effect on the stock may be high. Even though you have a low rate, you have got a high survival and a low mortality rate for individual lobsters, but if you compound that by the fact that at least in Southern New England 70 to 90 percent of the lobsters that actually captured and brought up on deck are discarded, that may result in an overall high discard mortality. That was the conclusion of the group.

The second issue, which I might add at least on the lobsters was Mike Pol was leading the lobster discussion. With respect to the bait issue, what I was just trying to suggest there is that as you look at lobsters – and, again, maybe this is my own personal feeling – as you look at the lobster fisheries is that we're discarding 70 to 90 percent of the lobsters, we're investing a lot of effort in harvesting animals that are subsequently discarded. There might be other ways of looking at harvesting lobsters so that we reduce the discard rates. That's essentially what I was trying to point out there.

MR. MILLER: Very quickly, I'm curious about the circle hook issue that Gene brought up and Mr. Deem

addressed. Gene, has it been your experience or has the Mid-Atlantic Council, has it been their experience that there is any unanimity in the industry with regard to characterization of the size of the circle hooks? I think Mr. Deem mentioned one ought and three ought and five ought and so on.

We wrestled with this a number of years ago with our circle hook regulations and we ended up using gap size between the point of the hook and the shank of the hook as being something that is more uniform and something that we could regulate easier than the size of the hook. Has the industry come to grips with the uniform sizes for these sizes?

DR. KRAY: To my knowledge, no, Roy, they have not.

DR. DANIEL: In North Carolina we recently implemented a circle hook requirement when you're fishing in the Pamlico Sound for red drum, and anything larger than a four ought has to be a circle hook when you're fishing for red drum, to protect those spawners.

My question, Joe, is I know they're getting ready to implement the TEDs in a lot of different trawl fisheries, but in the fly net discussion you said that we need more information in order to work out the bugs, and I know what the bugs are for a fly net TED. Is NMFS getting ready to implement these TED restrictions prior to having all the information that they need in order to do that?

DR. DeALTERIS: Well, I wouldn't want to speak for the agency. I'm just an academic, but what I see happening as read all the announcements is two years ago they came up with an announcement of proposed rulemaking, right, and they basically identified the fact that they were thinking about putting in TEDs – they identified half a dozen different trawl fisheries, and said south of Cape Cod they were looking at doing this.

Now they're holding scoping hearings and they're making the rounds saying that they've got some timelines in there because there are not going to be TEDs – you know, if we go all the way up to 41 north, there are not going to be TEDs there 12 months of the year, just six months of the year. They've identified summer flounder trawl, scallop trawl, whelk trawl and fly net as the first on the list.

And the same token, when you look at what the definition of a fly net is, it's not just a croaker fly net. It's any large-mesh trawl when you look at their

description of what a fly net is. That would include squid, mackerel, butterfish, et cetera. So, it's my impression – and this is a personal impression – now that we're moving towards TEDs being required at some time in most of the trawl fisheries south of Cape Cod. I think that is a fairly safe bet.

The actual schedule remains to yet be seen. Clearly, there are industry people in my view that are not paying attention. There are others that are paying very close attention that plan on fighting it. That may work or it may not work because it is the ESA. It's just some fishery regulation. The Endangered Species Act trumps most things.

I also see that there are people within the National Marine Fisheries Service that are fighting very hard to ensure that we develop better TEDs so as these regulations do go into place there are TEDs that do work in the fisheries that have a minimal impact on the target species. That's work that is ongoing right now, and there is work that is being done by myself as one group at the University of Rhode Island but by other people.

The Gulf of Maine Research Institute has got one project now going on in Jersey. People in North Carolina are working on – in fact, they're going to be testing the same TED that we just tested off of Long Island and Jersey. They're planning on starting that in November. There is work going on.

As an example, in the Scallop Trawl Fishery the loss of scallops is only 7 percent, and I say only, but in that particular fishery 7 percent in my view is an acceptable loss. 35 percent in the Summer Flounder Fishery is an unacceptable loss. There is work that needs to be done. When we talk about where the priorities are, I think that we should be – I think, again, the ASMFC should be supporting the states as the states work towards trying to deal with some of these regulations that are pending.

MR. WILLIAM A. ADLER: Joe, first of all, on the percentage of discard mortality, I don't know how you calculated that X percent number gets thrown over and therefore a small percent, perhaps, must go down dead. The funny part about it is I almost agree with you because the striped bass are eating them.

We've had situations where there were divers on the bottom and the boat went by and there were striped bass – and it was a lobster boat – how many they gobbled up, I don't know, but there has actually been talk in the lobster industry of leaving the shorts in the trap to let them go over and let them try to get out of

the escape vent rather than throwing over to feed things behind the boat.

There was actually a proposal made by some gentleman down on Cape Cod that he brought up to us, this release trip, which we didn't go for, but the idea was that you put the shorts in this thing and then you lower it and the doors open and they're out on the bottom. I mean, they were really going there.

The other thing on the bait issue, some of the bait doesn't last overnight because of other things other than lobsters that demolish it real quick like sea fleas, small fish that can just come in and go out, because sometimes at certain times the herring bait, for instance, won't last over a day. Other times it will, but you need bait to catch lobsters.

I'm not saying that they wouldn't go in if there was no bait because I've actually seen a couple of cases where they must have gone in for other reasons, shelter or whatever, but in general you need the bait. I don't think we can cut back on bait because it's hard enough sometimes just keeping the bait you do put in the trap in there long enough to attract the lobsters. I just put that into your little bank of memory. Thank you.

DR. DeALTERIS: I just have to respond here. First off, the 70 to 90 percent comes right out of observer data. Certainly, for Southern New England that's a good figure. We were documenting 85 percent on average a few summers ago when we were doing this. That's a good number for Southern New England in terms of the discard rate.

Secondly, we did look at some of the work that has been and proposed and Mike Pol brought that to the table in terms of, as you just said, releasing the lobsters on the bottom. Maybe that's a good idea in some cases or maybe there is a better way to do that. All we were doing is attempting to bring to the table the issues. With respect to the bait you misunderstood me. I'm not beginning to suggest that you can catch lobsters without bait. That wasn't the point of my comment.

CHAIRMAN LAPOINTE: I was going to say, boy, we could get into discussion for a while but let's not. Arnold, go ahead.

MR. LEO: I'm Arnold Leo. I ran pound traps off Long Island in Gardener's Bay for ten years and off Montauk Point for two years. In the entire time of running traps and associating with all the other trap fishermen on the east end of Long Island, I don't

remember that we ever killed anything that we didn't want to take to market.

We have dip nets and we take the fish out. We cull them really quick and throw the unwanted stuff over. I've released 70-pound tarpon; I've released 300 pounds of two-inch butterfish, and they all went over alive. But, look, this was Long Island Pound Traps. I don't know about the Chesapeake Pound Traps. The illustration of a pound trap you have in here looks exactly like what we run.

I do want to point something out. There is a statement in here that when the nets are tended and you put the dip net in and you take the fish out of the pound trap, it can result in substantial mortality. I said, "What in God's name is that from," and I noticed there were two citations of studies. I went and I looked at those citations. Beamish is a study on otter trawls and not on pound traps, and Howell and Langan was done on the shrimp fishery and not on pound traps.

Of course, when you take fish out of an otter trawl and you put them on the deck and when you take fish out of a shrimp trawl and you put them on the deck, it is a totally different thing from the way we handle fish in a pound trap. I really dispute the conclusion in here that there is any kind of significant mortality. It has got to be less than 1 percent of fish that are taken out of the box of the pound trap.

You point out that maybe the leader snares a certain number of turtles or dolphins. I have never seen that happen. I don't know, maybe that happens in the Chesapeake but I have never seen that happen on the east end of Long Island. Thanks.

DR. DeALTERIS: Well, I'd just like to respond. I certainly agree with you and if we've misworded something I'll certainly check on that in terms of railing the fish out of the pound. I would agree a hundred percent, there is no mortality or minimal, so I will check that and try and clarify that in the text.

With respect to the leader entangling animals, well, unfortunately, at least in the Chesapeake there is a significant mortality of sea turtles in the leader. They get tangled up. It was well documented. The National Marine Fisheries Service actually shut down that fishery for a period of about a year and a half or two years because of the turtle entanglement and the subsequent drowning.

In addition, again, all well documented, the animals tangled up in the leader for bottlenose dolphin. That

happens down there. It's a concern and it's a concern that has been addressed and a solution has been found. And, again, the fishermen that were working on this project with the National Marine Fisheries Service liked the solution because a vertical line leader was less expensive to install and also easier to maintain than a traditional netting leader. Again, one might call that a win-win situation.

MR. LEO: When you say a vertical line, they don't have a mesh. They just have a line from the top to a bottom –

DR. DeALTERIS: Exactly, vertical lines on two-foot spacing, and it didn't affect the catch of the net. In terms of what was actually caught, vertical lines provide enough stimulus to herd the fish.

CHAIRMAN LAPOINTE: I want to thank Joe and his compadres for putting the report together. Not to get into the specifics of each recommendation or the summary of the different fisheries, although if people do have questions, I encourage them either to contact Joe directly or staff. When you say the recommendation is for the commission to help support research, what does that mean, because that's what we want to do is what are the next steps that we take?

We do things at the state level, clearly. The lobster fishery takes a little bit of our time in Maine and I suspect the other states are involved as well. What does it mean in terms of your recommendation for support, Joe?

DR. DeALTERIS: Well, my feeling is that the commission can encourage states to – it's not a question of even coming up with the funding. It's working with everybody in terms of being able to make the research happen. I'll give you a good example. This summer we worked on this summer flounder trawl fishery, and we needed to get an allocation to land summer flounder in excess of the current trip limits.

We were able to get both from the Commonwealth of Virginia and the state of Rhode Island essentially a waiver of the trip landing limit up to 10,000 pounds, and the revenue from those landings we're using to defray the charter cost to do the research. To me that was a great example of the states cooperating and supporting our research because we wouldn't have been able to conduct the research in a rational, viable way if we had to deal with basically chartering a boat and only going out and catching whatever the trip

limit was that particular period when we were doing the research.

Hopefully, when summer flounder is rebuilt, it will go back to a really good healthy fishery and the research will be done that will allow that to occur with the TEDs in there that meets the requirements. I think that is an example of how the states can work supporting these activities, and I think the commission can kind of encourage the states to do what they can to facilitate that research. That's what I'm referring to.

CHAIRMAN LAPOINTE: Okay, thank you. Other questions or comments? The gentleman in the audience.

MR. DEEM: This is Jeff Deem again, and I just wanted to address the gentleman's question about standardizing of circle hooks. We purchased our hooks through Eagle Claw Hooks in Colorado, and it's their policy now that a one-ought circle hook is comparable to a one-ought J-hook. If you work through those people, I think they can explain what the differences are and maybe even for the manufacturers.

The gentleman we dealt with was Matt Grey; and if you need any help contacting him, you can go through Jack Travelstead. He will get you my contact information, and I will be more than happy to do anything I can. I also did want to compliment Mr. DeAlteris on a very nice product that you put out here.

It's very impressive, and I hope that you'll get together with whoever the next bycatch committee chairman is for the council. It would have been nice if we had all been working on some of this together when I was there. Please try to reach them and work with them as well, but a very nice product. Thank you.

CHAIRMAN LAPOINTE: Thanks, Jeff. Further questions? One of the things I'm going to do is get the report back to my technical folks, who may or may not have been involved, to get their ideas about additional work to be done so they enlighten me about things they're probably doing that I'm not aware of as well. It strikes me that's a useful product as well. Other comments? Thanks very much, Joe. The next agenda topic is the Atlantic Coastal Fish Habitat Partnership Report.

## **ATLANTIC COASTAL FISH HABITAT PARTNERSHIP REPORT**

MS. EMILY GREENE: Mr. Chairman, I thank you for the opportunity to update the Policy Board on ACFHP's progress to date. Included in your briefing book is a one-pager noting the major points that I'll be hitting today. I'm going to try and keep it brief. First off, strategic planning, the steering committee has developed a Draft Conservation Strategic Plan. This is a board, coast-wide strategy for determining and addressing the threats affecting habitats that are important to Atlantic Coast Diadromous Estuarine Dependent and Coastal Species.

The plan is designed to address the actions that the partnership can take to improved Atlantic Coast Fish Habitats over the next several years, three to five. The plan will continue to be refined in the upcoming months and will be put out to stakeholders in the fall of 2009 and then feedback from this process will be considered before finalizing the strategic plan.

We have completed two major science projects. The first is a species habitat matrix. This is essentially a tool to evaluate the relative importance of 25 different coastal, estuarine and fresh water habitats in terms of their value to the major life stages of over a hundred select fish and invertebrate species.

The purpose of this matrix was to provide a starting point for the prioritization of habitats. It has been really a tremendous coast-wide effort. Scientists from several states, federal agencies, NGO groups and academic entities have contributed to this report. We have a draft version and we will be finalizing that at the end of the week. If you're interested, please let me know.

The second project that we have completed is the assessment of existing coastal fish habitat information. The purpose of this is to inform and enable ACFHP conservation planning. It was conducted through a contract with the NOAA National Ocean Service's Geography Branch for the Center for Coastal Monitoring Assessment. It's a comprehensive bibliography, over 500 selected documents and datasets.

It pulls from these documents important assessment information such as indicator, threat and action data. These were used to the strategic planning process and will continue to inform the strategic planning process. Interestingly, we have also linked these reports to locations on a map, and this will become very useful to resource managers in the upcoming

months because all of these tools will be online and usable.

Right now we have a final report which is actually in the back if you're interested. We have a limited number of copies here, but if we run out please feel free to contact me. The ACFHP Working Group has issued an RFP for active websites. We've have received proposals and we have currently narrowed down a short list of potential vendors. We have plans to start work on that in September with live websites in early 2010.

Lastly, but certainly not least, we are developing our application to submit to the National Fish Habitat Board on Friday. This application is essentially for recognition as a fish habitat partnership. We will be working with the National Fish Habitat Board staff over the next month to polish that, and it will be forwarded to the board for their consideration at the end of September. That's it; thank you.

CHAIRMAN LAPOINTE: Thanks, Emily; questions or comments? Tom Fote.

MR. FOTE: How hard was it to use the data synthesis for all those plans? I know I sit on the policy committee of the Barnegat Bay Estuarine Program. We tried to put all that information together that the universities had, and everybody had a different system and it took hundreds of thousands of dollars to get the information synthesized. How was the process done here?

MS. GREENE: We contracted that work out to a group at the National Ocean Service. It is by no means complete in terms of synthesizing everything that is out there, but what we were looking for were specific datasets and projects that pertain to Atlantic coastal habitat. That is how it was done. We also took recommendations to start off that process from the habitat committee and the steering committee. We will be continuing to update that. We are looking at it as sort of a living document and data base.

CHAIRMAN LAPOINTE: Other questions or comments for Emily? Seeing none, thanks very much. Wilson, the Habitat Committee Report and the Fish Passage Working Group Report.

## **HABITAT COMMITTEE REPORT**

DR. WILSON LANEY: The Habitat Committee met in Providence, Rhode Island, on July 9<sup>th</sup> and 10<sup>th</sup>. We heard a number of presentations, including

presentations on sea floor mapping in the Gulf of Maine; the Rhode Island Special Area Management Program; and the Northeast Fishery Management Council's Swept Area Seabed Impact Model.

We also had some discussion about the fact that it is possible for us to collaborate more closely with our colleagues in the habitat programs of the respective east coast fishery management councils. We formed a workgroup to discuss that potential with the councils; so if any of you have any ideas about how habitat programs of ASMFC and the councils might collaborate, please let Jessie Thomas or myself know.

We discussed two major issues which require your attention and hopefully action. The first of those was the Revised Habitat Program Strategic Plan. Let me add, before I forget, that there are copies of this report as well as the Fish Passage Working Group Report on the back table if anyone wants a hard copy.

The Habitat Program Strategic Plan was included in your package. The draft 2009-2013 Habitat Program Strategic Plan has new strategies in it which we highlighted in red. We did these revisions because in the Habitat Program Operational Procedures Manual we noted that this plan would be revised in 2009 to synchronize it with the ASMFC Strategic Plan.

From this point forward we plan to revise it once every five years so it will track the ASMFC Strategic Plan Revision Process. The major changes to this version are that the goals were changed to those listed in the new ASMFC's Strategic Plan for habitat and fish passage. We added some new strategies to accommodate the new goals. If you would like, Mr. Chairman, I can review those. They are in red text in the draft. If the sentiment from the board is that they would like to hear those, I can quickly review them. Otherwise, we will proceed.

CHAIRMAN LAPOINTE: Board members, do you to review them piece by piece or have you reviewed them already? Proceed, we hear.

DR. LANEY: Then the next item is that the Habitat Committee would recommend the Policy Board approval of the Revised 2009-2013 ASMFC Habitat Program Strategic Plan.

CHAIRMAN LAPOINTE: Board members, are you ready for a motion?

MR. AUGUSTINE: **So move, Mr. Chairman.**

CHAIRMAN LAPOINTE: **The motion would be to approve the Habitat Program Five-Year Strategic**

**and Management Plan, 2009-2013. The motion was made by Pat Augustine and seconded by Pat White.** Board members, discussion on the motion? Any public comments on the motion? Do we need time to caucus? All those in favor raise your hand; opposed, like sign; any null votes. **The motion carries.**

DR. LANEY: We did have one other item, which is the National Fish Habitat Conservation Act Letter of Support. Emily just gave you the update on the Atlantic Coastal Habitat Partnership, which I remind the board that they basically established as a result of a motion made some while ago by my colleague, Dr. Geiger.

I think most of you are probably aware that there is currently legislation in the congress; specifically, the National Fish Habitat Conservation Act. The Habitat Committee discussed and decided that we felt it would it would appropriate for the ASFMC to send a letter of support to Atlantic Coast Senate and House of Representatives' members stating that we do endorse and support the National Fish Habitat Conservation Act. This was done and discussed in part because the National Fish Habitat Action Plan Board requested that all partners send letters and encourage congressional members to become co-sponsors of the of the bill.

They need more co-sponsors in order to move the legislation forward. This is particularly true in the House. They also would like us to help promote awareness of the act and its importance for fish habitat. Again, I'll note that the Atlantic Coastal Fish Partnership currently is being hosted by ASMFC.

The NFHB Board also has a designed seat for interstate commissions, and I believe that seat is currently occupied by the Pacific States Marine Fisheries Commission. I think at this point in time I'm supposed to pass the mike to Brad who is going to give a brief update on the legislation to the board.

MR. BRADDOCK SPEAR: As the commission's legislative staffer I was asked to say a few words about the legislation. It was first introduced in the last congress but was reintroduced this past June both in the Senate and the House. In the Senate it was introduced by Senator Lieberman, and I believe it has about eleven co-sponsors at this point. The House version was introduced by Representative Kind from Wisconsin and has just one co-sponsor at this point.

Essentially the Act formally recognizes the National Fish Habitat Board and gives it its authority. The

kind of directive for this board is to develop the national goals and priorities for aquatic habitat conservation projects. They are to provide resources and guidance for these habitat projects through the fish habitat partnerships like the one you just heard about, the ACFHP. Also, the board is set up to provide oversight and coordination for the funded projects through the partnerships.

The Bill proposes 27 representatives on the board, including the Director of Fish and Wildlife Service, AA of NMFS, one representative from the regional fishery management councils, the Association of Fish and Wildlife Agency's Director, and representatives from the commercial, recreational and NGO community among others.

As Wilson pointed out, there is one seat for the three interstate marine fishery commissions. The Pacific states currently holds that seat. The law sets a three-year term for the interstate commission seat. The funding authorized in the Bill is up to \$75 million for fish habitat conservation projects. Again, these will be projects funded through the partnerships.

There is also an additional \$10 million for Fish and Wildlife Service, USGS and NOAA for technical assistance in developing and implementing the conservation projects. There is no requirement in the law for matching funds from the states to access the grants that provided through the Bill. As Wilson suggested, the Habitat Committee is recommending sending letters of support to the House and Senate. AFWA strongly supports the Bill and has come out with a position.

The options before the commission is to send the letters to the committee chairs and ranking members for the Senate and House committees or subcommittees where the bills were introduced. Option 2 is send it to all Senate members and then the House committee chairs or send it to all House and Senate members. That's it.

DR. LANEY: Just one other brief addition to that, Mr. Chairman, and that is I think in the testimony before congress Trout Unlimited also strongly supported and endorsed the legislation in addition to AFWA. The Fish and Wildlife Service also endorsed and supported the legislation with I think some minor technical corrections to it.

CHAIRMAN LAPOINTE: Here is the question to board members; how many people have looked at the legislation yet? I'm not one of them; John Frampton has. My inclination is for us to authorize a letter of

support, but to give people a week – we can get a electronic copy of the Bill distributed to members – and if you look at it and there are any red flags we can mention those. You've got a week to do that; otherwise, we'll send a letter. That gives me time to look at it and other members for those who haven't, but it doesn't slow down the train that much. Does that make sense? Gene, you had your hand up.

DR. KRAY: I was going to urge that we send a letter but your approach is fine.

EXECUTIVE DIRECTOR O'SHEA: The other thing is we have 15 member states; so if we did to the member state senators, that's 30 letters plus two on the House side. If we go to coastal districts on the House side, with 15 it's probably five or six representatives, each one, you're pushing up to 60 letters or so. That's sort of a workload type issue.

Frankly, I'm not sure of the effect. I talked to Gary Taylor from the Association of Fish and Wildlife. They're pushing hard on this. I've talked to some Senate offices over there. They're aware of the Bill and they've made a decision not to sponsor it, so it's not necessarily a slam-dunk thing with some folks over there.

CHAIRMAN LAPOINTE: I guess my thought is the difference between 30 and 60 letters doesn't bust my chops that much. My thought would be to go with senators from our 15 Atlantic coast states and coastal districts, and then for us all to look in a targeted way at contacts we have or learn from either Brad or Gary if there are particular people that we think we should send the letter to as well, to do that in a kind of targeted way. Does that make sense to people?

REPRESENTATIVE PEAKE: As somebody who has been on the receiving end of these letters at the state level, I think it would be important – I agree with you, Mr. Chairman, completely. I think any legislator who has a coastal district, whether they're a House member or a Senate member, it is important to receive a letter.

But, then, whatever committee or committees the Bill has been referred to, I think sending it to the Chair or the Vice-Chair and those committee members, because ultimately it will be their decision what happens with that Bill, whether it gets buried in the committee or not, so whether they're from Iowa or they're from Massachusetts, it would be important for them to hear from us as well. Thank you.

CHAIRMAN LAPOINTE: Great, good suggestion, thank you. Other comments? Wilson, what is next, fish passage?

## **FISH PASSAGE WORKING GROUP REPORT**

DR. LANEY: Yes, thank you, Mr. Chairman, and thank you for taking action on those two items. The Fish Passage Working Group met in Providence, Rhode Island, as well on August 19<sup>th</sup>. Steve Gephart of Connecticut DEP has volunteered to chair the working group. We discussed the 2009 ASMFC Action Plan items that are related to fish passage; and just as reminder, these originally arose out of the 2008 Fish Passage Workshop in Jacksonville that ASMFC sponsored and convened.

The workgroup ultimately voted on the top three tasks that we could start work on immediately, and I'll briefly review each one of those for you. The first was identify effective fish passage approaches. This would include developing a data base of fishways along the Atlantic coast. Dr. Alex Haro of the USGS Conte Anadromous Fish Lab has agreed to spearhead that effort.

Alex is currently surveying the states to determine if they would have the capacity to complete such a survey of their fishways if he were to design one. If he determines that this is feasible it may require some funding next year to implement the survey and complete the data base. If so, Alex will send a proposal to the Policy Board through the Fish Passage Working Group I presume sometime this fall.

Some of us are not waiting around on this one. We've already begun polling our associates in the individual states in which we work, and we're already compiling a list of fish passage facilities, which should facilitate development of a survey.

A second one was to develop guidance for navigating the FERC Dam Relicensing Process. For those of you that have been involved in that process, you know it can be rather complex. We proposed that this would be a two-step process with Step One being to develop a guidance document which could be a reference tool for navigating the FERC Process.

The purpose here would be to provide a user-friendly guide to the FERC Process that is developed specifically with ASMFC in mind. This is something that we believe we can complete in 2010. The

second step would be to host a training workshop. Again, the purpose here would be to unveil the guidance document that we just talked about and provide presentations and discussions to illustrate the navigation through the FERC Process. We think we could probably do that sometime in 2011.

The final priority task that we decided we would undertake is to draft a comprehensive ASMFC resolution on fish passage. This wasn't on the original task list, per se, but it related to many tasks and ultimately emerged as an overarching need. The text of this resolution is currently under revision, and our plan is to present that to the Policy Board at the ASMFC Annual Meeting.

There isn't any action needed on these items, Mr. Chairman. They're just brought to you for information to give you a progress report on how we're addressing the charges that we received from that Fish Passage Workshop. I would be happy to entertain any questions.

MR. FRAMPTON: Just a statement on that fish passage resolution, I would hope you would get that to us in plenty of time to review it before our next meeting.

DR. LANEY: We will certainly try to do that, John. We have an initial draft on it. It's currently undergoing revision so we'll get out there as quickly as we can. Jessie or Pat Campfield can jump in here, but I think it's going to be pretty generic. I mean, we kicked around a lot of issues that we thought it might address; and ultimately, if I recall correctly, we finally decided to try and go with something that we felt most people would be able to live with by consensus, such things as the best method for fish passage is to remove the obstruction. That's pretty clear-cut, and I think most people would agree with that. Those are the kinds of things that you may wind up seeing in it.

CHAIRMAN LAPOINTE: Technically don't resolutions go to the Resolution Committee?

DR. LANEY: If that's the process, Mr. Chairman, that should be the way it should go.

CHAIRMAN LAPOINTE: Yes, I think so. Leroy.

MR. YOUNG: Wilson, has the Fish Passage Working Group been delving into the issue of developing technology that will pass American shad?

DR. LANEY: We discussed that at great length, and that is in part why you see us wanting to deal with that issue of a fishway inventory and some sort of an assessment of which devices are efficient. I hasten to add that we had a very lengthy discussion of how you measure efficiency. As you well know, that's not an easy thing to do.

I think that's one of the reasons that Dr. Haro agreed to help us put together a survey to undertake that inventory and to begin to determine if we could even come close to taking a look at the fishways that are out there and determining which ones are most effective. In a lot of cases efficiency hasn't been measured at all.

From personal experience in dealing with fish passage issues at the Roanoke Rapids Dam on the Roanoke River, I can tell you – and also from having spent a lot of time talking to some very high-powered statisticians like Dr. Ken Pollock at NC State – that is an extremely challenging thing to do. We did discuss it at length. We don't have anything to recommend at this point in time, but that's the whole point of the exercise is to try and go there and find out if there is a superior technology out there that we can recommend to the ASMFC.

CHAIRMAN LAPOINTE: Other questions for Wilson? Senator Damon.

SENATOR DENNIS DAMON: Wilson, during the course of all of these investigations and studies, did you look at the issue of transportation; and more specifically, road building, road construction; and more specific to that, culverts and how they impact fish passage?

DR. LANEY: Yes, sir, we did. We agreed that our concerns with regard to passage went beyond dams and other sorts of impermeable blockages, to include culverts and bridges and the whole spectrum of impediments to passage.

SENATOR DAMON: And will you be coming up with recommendations?

DR. LANEY: At this stage of the game, I think that – and I'll seek assistance from Pat and Jessie on this point – under that first task which was to identify effective fish passage approaches we decided to start with fishways because those are the high-dollar items, but I think that we did agree that at some point down the road we are going to address appropriate methodologies for passing fish through culverts, if I remember correctly. Pat is nodding his head yes, so,

yes, we did discuss that. I know there are a lot of guidance documents out there already, Senator.

I think even North Carolina State University has some guidance documents on their website. I know federal highways has done a lot of work on this. I know the North Carolina Department of Transportation has done a lot of work in terms of developing standard culvert siting techniques to try and ensure fish passage. That's something that we can talk about offline, if you're interested.

SENATOR DAMON: Great; thank you very much.

CHAIRMAN LAPOINTE: Other questions for Wilson? Wilson, thanks very much and thanks to the workgroup for their continued work. You've got more?

DR. LANEY: Just one quick thing, Mr. Chairman, and that is to, as usual, thank the excellent staff support that we get for both the Fish Passage Working Group and the Habitat Committee, for Jessie Thomas and Pat Campfield.

CHAIRMAN LAPOINTE: Thanks for recognizing them. Bob, you're on.

## **EDITORIAL CHANGES TO THE ISFMP CHARTER**

MR. BEAL: The first item is the editorial changes to the ISFMP Charter. This is largely an administrative agenda item. Staff has gone through the ISFMP Charter and looked it over and just corrected a number of inconsistencies such as the Assessment and Science Committee used to be called the Stock Assessment Committee, and we made changes like that.

We added a table of contents. We included reference to amendments and addenda in certain places where they were lacking in the past and noted the Committee on Economics and Social Science working with some of the plan development team projects and those sorts of things. It is largely administrative. I think it is just updates. There are no substantial changes to the way the ISFMP will function. Technically it is housekeeping and we needed to bring it past the Policy Board for approval.

CHAIRMAN LAPOINTE: Are board members ready to take action?

MR. AUGUSTINE: Move to accept.

CHAIRMAN LAPOINTE: **I have a motion to accept the revisions to the Charter by Pat Augustine and seconded by Pat White.** Questions on the motion? Time to caucus? All those in favor of the motion raise your hand; opposed, like sign; any null votes. **The motion carries;** thank you, Bob.

### **REVIEW OF NEXT STEPS IN ECOSYSTEM-BASED FISHERY MANAGEMENT**

MR. BEAL: Item Number 12, Next Steps in Ecosystem-Based Fishery Management relative to the commission; this again is just a housekeeping agenda item. At the May meeting the Policy Board asked that we set some time aside on the agenda for a discussion on ecosystem-based management, have a presentation by representatives from the National Marine Fisheries Service that are working on this effort.

Due to a scheduling conflict, Mike Fogarty and other folks from his shop weren't able to make it down. We do have them set up for some time at the annual meeting. We'll put that on Policy Board agenda. This is just to make sure that folks know this item hasn't slipped off the radar screen, and we will pursue it at the next Policy Board meeting.

CHAIRMAN LAPOINTE: Thanks, Bob; questions for Bob. Seeing none, we will adjourn for the evening. Thanks to everybody for their attention.

(Whereupon, the meeting was recessed at 6:12 o'clock p.m., August 19, 2009.)

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AUGUST 20, 2009

### **THURSDAY AFTERNOON SESSION**

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The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, Thursday afternoon, August 20, 2009, and was called to order at 2:11 o'clock p.m. by Vice-Chairman Robert H. Boyles, Jr.

VICE-CHAIRMAN BOYLES: Good afternoon, everyone. I would like to reconvene the ISFMP Policy Board from our discussions that we had

yesterday. I'm sitting in today for Commissioner Lapointe who has had to leave. We've got about four items of other business that we were not able to cover yesterday. Those four items of business are the American Eel CITES Consideration, Black Sea Bass Quota Projections, Jonah Crab Management Issues, staffing and public hearing issues. Is there anything else that we need to talk about today under other business? Jaime.

### **ADDITION OF AGENDA ITEM FOR NEXT ANNUAL MEETING**

DR. GEIGER: Mr. Chairman, is there any possibility that an agenda item can be added to the annual meeting and the Policy Board at this late date?

VICE-CHAIRMAN BOYLES: At the annual meeting, sure.

DR. GEIGER: I do think the Policy Board would be well served by an update on the Chesapeake Bay Executive Order. Certainly, I can suggest either Jeff Late from the EPA Program or Paton Robertson from the NOAA Office would be one or two excellent individuals to give the Policy Board an overview on the executive order and how it may affect some of the issues that we've talking about this week.

VICE-CHAIRMAN BOYLES: Great suggestion, Jaime; we'll have staff look at putting that on the annual meeting agenda. Okay, any other additions to the current agenda for this afternoon? I'm going to turn it over to Bob, and we will go first with the American Eel CITES consideration.

### **AMERICAN EEL CITES CONSIDERATION**

MR. BEAL: During the Spiny Dogfish and Coastal Shark Board earlier today, Chris went into a description about the Federal Register Notice for potential CITES listings that is currently in circulation. American eel is another one of the species that's on there for consideration for listing under Appendix 2 in CITES.

The question before the Policy Board is what comments should the ASMFC make on the potential listing for Appendix 2, and what would be the best process to pull that comment together. Obviously, staff can work with the chair of that board and a

couple of other representatives if we wanted to go that way.

If there are comments from the Policy Board today that we want to roll into a letter that was sent off, that's fine; or if the Policy Board says we don't need to comment, I guess that's fine, too. ASMFC is the primary management agency for American eels at this point. We have the fishery management plan in place. At least on the surface it appears that a comment from the commission is probably appropriately.

VICE-CHAIRMAN BOYLES: Comments or questions for Bob? Pat.

MR. AUGUSTINE: Do we have enough positive information about the status of the stock other than it seems to be foggy or declining that would help us to send a letter? What could we say to support not being listed or just to stand by and say, well, let's see what happens? I don't know. I'm on the American Eel Board and I just don't know we can say positive enough.

MR. BEAL: In fact, you're the Chair of the American Eel Board. Obviously, the last stock assessment was not approved by peer review to support management decisions. However, following that there were a number of I guess you call them qualitative comments made about the population of American eel that the technical committee and a number of the peer reviewers all agreed to.

We could base a letter on those qualitative agreements and some feedback to the Fish and Wildlife Service. Beyond that there is not a quantitative assessment that we can latch onto with the strict definitions of overfishing and overfished.

MR. AUGUSTINE: But just to follow on, Mr. Chairman, other than if we do that, it would seem that we would want say that we've developed an aggressive plan to address the concerns and issues and whatever positive things we have committed to do within that plan; add those, but other than that I think it's going to be kind of thin.

MR. A.C. CARPENTER: I seem to recall that the issue of a CITES listing was brought up several years ago, particularly just before our cooperative agreement that we've got with the Canadians and the Great Lakes. I think, if I'm not mistaken, the Eel Board took a position not to recommend citing at that time, and I don't that that has changed. I could be wrong on that, but I think in my mind that the

discussion several years ago with our Canadian partners and the Great Lakes, there were discussions about the CITES listing.

DR. GEIGER: At one point in time I recall – I recall what A.C. said and I believe he is correct. I also believe we had representatives from I believe of Office of Scientific Authority to sort of help educate the board of CITES listings, what it does and what it does not do. Mr. Chairman, it may another opportunity for us to maybe refresh the current policy board's memory on what a CITES listing, Appendix 1, Appendix 2, so on, is and is not. Certainly, if it's the will of the board I would be glad to try to get a representative from the Fish and Wildlife Service to provide that update or that information, if you deem it beneficial.

MR. DIODATI: I think there are two issues; one, should the commission be sending a letter and then what would the letter say. I would support, given the commission's management stature for American eel, that a letter should be submitted. I think there is enough in the record, that staff could review the record and make a recommendation as to what our position might be and what the letter might say. I, for one, support a letter on behalf of the commission going forward.

VICE-CHAIRMAN BOYLES: Thanks, Paul. I'm getting a sense that there is some sentiment to send a letter as Paul suggested. Maybe what I might suggest is have staff circulate a draft letter to the board for them to take a look at. I think, Jaime, we've got to get some comments in. We've got a fairly quick fuse on this one. I think it's before the middle of next month. If we could proceed that way; do we need a motion or is that consensus among the board? I'm seeing heads shake, so, Bob, you've got that?

MR. BEAL: I've got it.

VICE-CHAIRMAN BOYLES: Okay, let's move on now down to Black Sea Bass Quota Projections. Toni.

## **BLACK SEA BASS QUOTA PROJECTIONS**

MS. TONI KERNS: At the Summer Flounder, Scup and Black Sea Bass Board Meeting, the Wave 3 recreational harvest estimates had come in last Friday, so I reported to the board those landings. Those estimates showed that there were only

approximately 215,000 pounds of recreational black sea bass left for the fishing year.

The black sea bass season is all year round and so we are getting very close to already being over our harvest. Wave 3 landings only go through June and we are already into the middle of August, so we have an additional seven weeks of landings that we do not know what those are. The board asked me to present projections of recreational black sea bass harvest based on last year's landings as well as based on an average of the last three years.

What this table shows you are your state landings projected out. This is based on last year's harvest, 2008 recreational harvest. The first column is number of fish and then the second column is converted into pounds of fish. I used the average pound per fish from last year's information, which is 1.5 pounds per fish.

If you use last year's landings, the sum from all of the projected states' landings, then at the end of the year, we will have landed just over 3 million fish, which is about 164 percent over our target. If you just project out the coast-wide quota, don't look at it on a state-by-state basis, then that projection is 2.8 million fish, which is about 144 percent over the target.

If you come over here to the right side of the graph, you will see the 2009 projected harvest over the average of the last three years. This first column is number of fish for each of the states. The second column in pounds of fish, and again it's 1.5 pounds per fish. If you look at a sum of the states' projections, then you get 2.5 million pounds of fish, which is about 125 percent over. If you project out just the coast-wide landings, then it is about 2.1 million pounds of fish, it will be probably about 110 percent over.

In any case, almost every way you look at this, you're double of what your quota is, which is 1.1 million pounds. I looked at the projected Wave 4 harvest, which we're currently in Wave 4 – Wave 4 goes from July to August – and it's projected that you could land anywhere between about 425,000 pounds to 722,000 pounds.

Wave 5 landings in 2008 accounted for 37 percent of the landings. Wave 5 is September and October. Then Wave 6 accounted for 5 percent of the landings, which is November and December. There is still a significant amount of sea bass harvesting that could occur for the rest of the year.

The consequences of these overages, we don't have payback provisions in the plan for recreational overages. What we do is we just adjust the states' regulations for the recreational fishery in the following year to ensure that we do not overharvest. Because next year's quota is the same as this year's quota, any overages that are seen are going to require significant reductions.

If we go double over the quota, then you're going to have to reduce your landings in half next year, so you will have to take significant reductions in those. Not only will there be changes to the regulations, but there are potential effects on the black sea bass stock, and those effects could impact the recreational and the commercial fishery because of the implications that it would have for the stock assessment. If we are overfishing, then we can reduce the amount we could land next year as well in both fisheries, and it could also jeopardize the status of the stock. Does anybody have any questions specific to these numbers that I used to project?

MR. JACK TRAVELSTEAD: Not a question specific to the numbers; I'm just wondering what authority does the Policy Board have to take action on this?

MR. BEAL: Well, earlier this week at the Summer Flounder Board – based preliminary data and the information that was available, the Summer Flounder Board did not take any action, I guess is the best way to put it. I guess the Policy Board can refer something back to the Summer Flounder, Scup, and Black Sea Bass Board to take action on some interim basis through an extraordinary meeting or conference call or something different if they chose to do that.

MR. TRAVELSTEAD: I was concerned about this two days ago; and seeing the actual numbers, I'm even more concerned. I may be the only person in the room that shares that; I don't know. We heard so many times this week from the public that we're not doing our job; and yet when we're confronted by numbers like this, if we don't do something I think it's absolutely irresponsible.

If these were numbers associated with just one or two states in a state-by-state program, we wouldn't hesitate to do something. Yet now we're collectively clearly over the quota and to walk out of this room and not do anything, we shouldn't be surprised what the public thinks of us when we do things like this.

MR. COLE: Mr. Chairman, I know my memory is really getting bad, but I thought the board recessed to

take up this issue at this time. I don't recall us adjourning. I thought we recessed to give Toni time to bring us the final numbers. That's the reason it's on the schedule that we would now take it up.

MR. BEAL: My recollection is that the board did actually adjourn with the idea that these numbers would be presented to the Policy Board, and then the Policy Board would decide where to go next.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, one of the other things during that, there was some discussion about closing the fishery. One of the arguments was made that the states didn't feel they had – some states felt they didn't have the ability to notify or inform the public or tell the public. While we gave them the option of saying they could recess and reconvene as a board on Wednesday, my sense of the conversation was there wasn't an interest in that board taking action – reconvening and taking action on Wednesday. Thank you.

MR. FOTE: I think there were a couple of concerns. One was law enforcement and getting the word out to the public; how do you do that in a short period of time. The other problem here is some states have the ability and some states don't, so you're going to penalize the states like North Carolina that basically have the wherewithal to basically close the fishery real fast where other states is going to take a long period of time, so how do you disadvantage the states because you're doing the right thing? I mean, it's a mess.

And in talking about how the public is going to feel on this, well, the public wasn't too happy with the way the Mid-Atlantic Council basically acted on the sea bass quota to begin with. There is more hostility and more things going on. Except when we have to cut the quota next year, then they're going to be all upset. It's a no-win situation. It's a horrible state of affairs when we get locked into these joint plans where we have no voice and no say in what goes on anymore.

DR. GEIGER: Mr. Chairman, I share Jack Travelstead's concerns. Again, I don't really know all the options we have, but I do know that this Policy Board can immediately remand I believe these numbers to the management board. I believe the management board has the capability to institute whatever meeting capacity they can arrange in a very short period of time to take what action they deem necessary. Thank you, Mr. Chairman.

MR. GILMORE: Mr. Chairman, I think the other point that we brought up at the board meeting the other day was that we wanted – I actually wanted to look at the numbers a little more closely for scup, black sea bass and summer flounder. I'm just at that point again that – and I think I made this point at the Policy Board Meeting yesterday was that are we following process?

Here is my concern and I'll go to summer flounder. New York took some drastic measures this year to try to control the fishery, and now I've got – in four weeks I've gone through one-third of my quota with a mid-season closure in that on 21-inch fish, and it says I've caught 360,000 fish with 1.3 million trips, and it rained just about every day during that period.

I'm sitting here with, all right, yes, we need to do what is necessary, but none of this makes any sense in the data we're getting back especially for fluke. Black sea bass might be a different story, but then – and I don't want to get on the whole issue about scup, but, I mean, we're getting whacked at both ends. I think part of the reason we got into this was last year we decided – based upon some of the data that was coming back, it looked like for scup in particular that the stock was increasing and we were going to get a number that was 200 percent over the spawning stock biomass.

And now because of being very conservative, we're not going to increase that all, and I think that's one of the reasons why odd numbers are showing we're going over. But the bottom line of this, it all comes down to MRFSS is telling us we're the hell over again, and I just can't believe the numbers. I agree with you, Jack, if we don't shut this down we're going to be back – you know, we'll have a two-fish bag limit on scup next year.

It's just completely frustrating that we're going to shut this fishery down; and as much as anybody can tell us, some of these species have more fish than anyone has ever seen, and we're just going to get more and more of an issue about our credibility by doing – you know, no matter what we do we're going to lose credibility. Thank you.

MR. P. WHITE: I, too, agree with Jack, and I just have a question for Toni, if I could. Are the projected harvest numbers on there based to date or for the total year of 2009, when you say we've still got 35 percent to go in the next – whatever it was, fifth section or something?

MS. KERNS: The numbers are up on the screen are based on projections, so it would be the total year, and they're based off of 2008, as well as an average. The second set of numbers that I showed here are just what I projected out to be Wave 4, which is the current wave that are in, just to show the board how much fish potentially could be landed right now during this time period.

MR. CARPENTER: If the Policy Board were to remand this issue back to the Summer Flounder Board, is this something that could be done through a telephone meeting – that the staff could prepare all the documentation, e-mail it out and then we could do it through – at least have a discussion through a telephone meeting?

MR. BEAL: Yes. I mean, the short answer is the board could get together. Obviously, there is a public comment issue associated with that, but the members of the board will be able to address their public and get a sentiment of what their public is feeling.

EXECUTIVE DIRECTOR O'SHEA: You know, earlier this week we got some bad news and we were told since we knew it was going to happen for five years, it is not an emergency. This week we found something on Tuesday and we're sitting here on Thursday. I guess one of my questions is what would be the structure for the board to take action to do an immediate closure? Would it have to be through an emergency action?

I'm wondering if one the options for this Policy Board is to try to point the Summer Flounder, Scup, Black Sea Bass Board to evaluate whether or not an emergency exists and therefore whether there needs to be a response to that emergency. I'm not arguing for that; I'm just saying whether that may be a tool for you to pursue this.

MR. TRAVELSTEAD: Just a couple more points of concern. One of my concerns is that if we don't do anything, how is NOAA going to react? If they close the fishery in federal waters because of these data, our fishery in Virginia is over with. That is where our fishery occurs. Tom mentioned disproportionate effects if we do take action. There may be serious disproportionate effects if we don't do anything.

The last comment would be I don't buy the argument that we can't get the word out to the public if we do something. My experience has been when Tina sends out her press releases folks know what has happened at these meetings before I can get home in the evening. My phone is already ringing before I get

home. Everybody has got a computer in front of them all week long. You push one button, you can get the word out pretty quickly.

MR. FOTE: You get the word out to the people that are basically in the loop. I mean, the failure has happened over the last couple of years. There used to be five columns a week in the Gettysburg Park Press. That is where a lot of fishermen who don't use computers get their information. There is one column a week. There used to be five columns a week in the Star Ledger of fishing columns. There is one column a week.

With the demise of the newspapers, the fishing columns have gone out. There are ways of getting the word out, but all you have to do is go down to the beach a year after we change the regulations or six months, and there are still people that don't get the information, show up just for a couple of trips, and you have to go and inform them. It's easier said than done.

I mean, I deal with surf fishermen. I shouldn't say this, but I've dealt with politicians and commissioners and had to remind them what the regulations were and caught them with undersized fish, and they're supposed to be the ones that are setting the rules and regulations. It's a difficult process. The people that basically are on the message boards and everything else are not the everyday fisherman that is out there. It's not the way we can get the message out, and there are a lot less avenues to get the message out anymore.

MR. P. WHITE: But I don't think that's an excuse for us, Tom. I think if we promulgated a rule today for next year, we'd have the same problem.

EXECUTIVE DIRECTOR O'SHEA: Real quick, you know, part of the scup thing, my understanding was, at least by some of the board members, that early harvest in the first six weeks of the scup season came from the for-hire sector. There are suspicions that it came from the for-hire sector. I feel relatively confident in the states' ability to communicate to that sector.

VICE-CHAIRMAN BOYLES: I'm not comfortable where we are in just walking out of the room here in 30 or 45 minutes or whatever it is. Is there a motion to remand this issue to the Summer Flounder, Scup, Black Sea Bass Board? Tom.

MR. FOTE: I have a question to Jack through the Chair. If the feds closed the EEZ down, most of our

fishery takes place for sea bass in the EEZ now. I mean, is that another way of approaching it and let the feds do it? Where you say “disproportionate”, that is what I was trying to figure out; do you have a big sea bass fishery inshore? Most of our sea bass fisheries are offshore, whether it’s the commercial fishermen or the recreational. I didn’t understand what you were talking about; I just realized what you were talking about.

MR. AUGUSTINE: Yes, Mr. Chairman, I think we remand it back to the Summer Flounder, Scup and Black Sea Bass Board and either convene a conference call to address this – I don’t agree with the MRFSS numbers either. We’re going to question what they’ve given us on black sea bass as well as we are others – I’m sorry, on summer flounder. But, it just seems to me to have this back-and-forth discussion, some in favor and some against, I think we’ve got the information fresh.

We have to take some action. That action will be to convene by conference call the Summer Flounder, Scup and Black Sea Bass Board with some direction from staff and go from there, and sooner than later. If we get slam-dunked – I hate that, but if we get slam-dunked by the feds, it’s really over. We have this information now. It’s going to take them some time to react. I guess when we get to 80 percent or thereabouts, the feds take action. The first thing they do is they shut down all the federal permit holders, and they’re all out of business.

VICE-CHAIRMAN BOYLES: Bill Cole, do you have a motion?

MR. COLE: **Yes, sir, I’ll make the motion. I thought Pat was going to make it, so I will make that motion to move to remand the issue of black sea bass recreational harvest for 2009 to the Summer Flounder, Scup and Black Sea Bass Board.**

VICE-CHAIRMAN BOYLES: All right, a motion by Mr. Cole; seconded by Pat White. I’m going to ask the question as chair; there was some suggestion about targeting emergency action. For the maker of the motion and the seconder, would that perfect the motion in terms of what options the board may have to address this issue?

MR. COLE: Mr. Chairman, I’m not prepared today to suggest to them exactly what action is necessary. I think we have to look to Vince and the staff for additional guidance, but I do believe the board needs to take a look at this right quick.

VICE-CHAIRMAN BOYLES: Can I ask, Bill, as well would you like to put a time certain? I mean, a remand can be until the annual meeting. Can you be a little more specific?

MR. COLE: Help me, Bob, what is reasonable?

MR. BEAL: If it is a conference call, it’s just based on the availability of folks, but with proxies and other things we could probably pull it together in the next couple of weeks.

VICE-CHAIRMAN BOYLES: Why not suggest, then, by September 1; would that –

MR. COLE: I think that might work if Toni thinks she can get all together by then. All right, let’s use September 1.

VICE-CHAIRMAN BOYLES: Bill, could read that motion, please?

MR. COLE: Move to remand the issue of the black sea bass recreational harvest for 2009 to the Summer Flounder, Scup and Black Sea Bass Board by September 1, 2009.

MR. CARPENTER: I think we have the same issue with scup, and I think there is a possibility of having the same issue with summer flounder. I’d like to either add it to it or amend the motion if it’s necessary, but I think all three species need to be – if we’re going to call the board back together to consider one, I think that we ought to consider all three.

MR. COLE: I will accept adding the other two species as a friendly.

VICE-CHAIRMAN BOYLES: Mr. White, as the second do you accept that?

MR. WHITE: Yes.

EXECUTIVE DIRECTOR O’SHEA: Just a question; I think the intent of the maker of the motion is that this would be remanded to the board for them to take action by September 1<sup>st</sup> and not to just give it to them by September 1<sup>st</sup>. Their action may be no action, but I think the intent of the motion is for the board to meet on this prior to September 1<sup>st</sup>.

VICE-CHAIRMAN BOYLES: That was certainly my understanding. Tom McCloy.

MR. TOM McCLOY: That's a very important clarification from New Jersey's perspective. The process that I have to go through is to involve our Marine Fisheries Council, and their next meeting is on September 3<sup>rd</sup>. As I said earlier this week at the Summer Flounder Board, we could get it in effect by the end of September going through that process. I miss September 3<sup>rd</sup>, then you're talking December. We can't do it essentially.

MR. DIODATI: Just clarification. I guess really what we're asking of that board is whether or not an emergency action might be taken. If that's what we're asking, wouldn't that kind of action have to be approved by this board? If it's going to happen before the annual meeting, then wouldn't there have to be a meeting of this board at the same time or immediately subsequent to?

VICE-CHAIRMAN BOYLES: Paul, I had the same question. Bob, can you address that?

MR. BEAL: According to the ISFMP Charter, emergency actions don't have to be approved by the Policy Board. The individual species boards can take final action on emergencies.

MR. P. WHITE: To address Tom's concerns, it says that the board is going to take action, but I think it can also take into consideration what different state's dates are. They might then decide their action might be to close the fishery at the end of September or whatever, so that shouldn't preclude them taking an action.

MR. McCLOY: No, my only point was if the board chooses to take emergency action to close the fishery, we all have different processes that we have to go through to do it, and I just wanted everybody to be aware that's our process. After September 3<sup>rd</sup>, I can't help you for this year, basically.

EXECUTIVE DIRECTOR O'SHEA: So I took Mr. McCloy's comments of speaking in favor of the concept of giving a date to the board to meet and convene and supportive of the notion that that would happen on or before September 1<sup>st</sup> to feed into his process, unless I misunderstood.

VICE-CHAIRMAN BOYLES: I'm going to look around for affirmation from the board that on or before September 1<sup>st</sup> the board will have dealt with this issue. I am going to look to A.C. as chair of that board and to staff with a nod or acknowledgment that they understand that.

MR. CARPENTER: Mr. Chairman, we'll do our level best to have that meeting occur before September 1<sup>st</sup> and we'll be able to advise everybody. I think we can meet that date.

VICE-CHAIRMAN BOYLES: In recognition of Mr. McCloy's September 3<sup>rd</sup> Marine Council meeting. Tom.

MR. FOTE: I went over to talk Jack because I wanted to make sure I was clear on what I was saying. It's possible for NMFS also to shut the EEZ down, which in some areas some could be faster than what we could do. The problem I don't know is how that evenly affects states. I know our artificial program is almost all in federal waters, so we're basically closed down except for a reef and a half would close down the other 13 and half reefs, so it basically would shut the fishery down.

I don't know how the other states would basically do that; so before I would make a recommendation on that I would like to see how it would affect other states so I don't disadvantage – you know, if NMFS came in and shut it down, yes, it would affect New Jersey, but it might not affect New England.

You know, we're missing Rhode Island up there, so I'm not sure how their fishery goes. Can we have that information by the call so we can know whether we can recommend to NMFS to take action? I guess I would have to get information from NMFS if they could do that by that period of time.

VICE-CHAIRMAN BOYLES: I'm getting nods from staff that they can get that information together. Is there anymore discussion on the motion? I'd like to call the question. Mr. Cole, as the maker of the motion would you read that into record, please.

**MR. COLE: Okay, move to remand the issues of the scup, summer flounder and black sea bass recreational harvest for 2009 to the Summer Flounder, Scup and Black Sea Bass Board to take action by September 1, 2009.**

VICE-CHAIRMAN BOYLES: Motion by Mr. Cole; seconded by Mr. White. All those in favor of the motion raise your right hand, please; opposed; null votes; abstentions. **The motion carries** 15 to 0 to 0 to 0. Mr. Leo.

MR. LEO: Just a quick comment. With both the black sea bass and scup, we have stocks that are already rebuilt. Because the Scientific and Statistical Committee of the Mid-Atlantic Council finds

uncertainties in the data, the quotas for both scup and black sea bass were set at really unreasonably low levels.

I wonder if the commission might not like to address that problem and perhaps write to the Mid-Atlantic Council's Scientific and Statistical Committee's chairman, Dr. Boreman, pointing out the dire consequences of being so cautious that we've ended up really doing some pretty serious damage.

VICE-CHAIRMAN BOYLES: Thank you, Mr. Leo. Pat.

MR. P. WHITE: While I understand his concern, I don't think it's our position to be arguing with the SSC at this point.

VICE-CHAIRMAN BOYLES: Thanks, Pat. Any other discussion? Let's move on next to Jonah Crab. Bob.

MR. BEAL: During the American Lobster Management Board Meeting earlier this week, there was a discussion on Jonah Crab. Currently there is not an FMP through ASMFC or the federal process for Jonah Crab. The concern is that a number of folks are starting to fish a lot of Jonah Crab pots offshore. They're catching lobsters. Crabs are being caught in lobster traps; lobsters are being caught in crab traps, and there is a lot of confusion about the rules.

There is a potential for gear conflicts, potential for Large Whale Take Reduction Team issues associated with these additional vertical lines in the water. The American Lobster Board recommended that the Policy Board discuss if the commission is interested in moving forward with Jonah Crab management.

It's really up to the board how to proceed. Obviously, there are ideas such as putting in a control date that is saying from this date forward anybody that enters the Jonah Crab Fishery may be treated differently than folks that have already been in the Jonah Crab Fishery. Obviously, an option would be for an ASMFC Jonah Crab Plan.

During the Lobster Board, there was a discussion that a significant portion of the harvest of Jonah Crab occurs in federal waters so ASMFC might not be the right group to tackle this problem. Recommendations to the New England Council and the National Marine Fisheries Service are other options available to the Policy Board for action today.

## JONAH CRAB MANAGEMENT ISSUES

It was really an open-ended discussion at the Lobster Board. They bounced it up to the Policy Board to see if there is any additional guidance or thoughts on how to proceed with Jonah Crab management.

VICE-CHAIRMAN BOYLES: Thanks, Bob; comments. A.C.

MR. CARPENTER: Do we have enough information on this new fishery to determine where it is occurring, whether it is in federal waters or primarily in state waters or is it a mixed fishery?

MR. GROUT: Maybe I've got this wrong, but to me the issue was the fact that there are people going out and saying they're going to direct Jonah Crab; and because they are only directing at Jonah Crab, they don't have to abide by the trap tag limits. Now, I know in our state our offshore lobster boats have been directing at lobsters and catching Jonah Crabs in fairly large numbers for quite a while, which is fine because they stay within the trap tag limits, and that is absolutely fine.

I don't think it is so much a new fishery as it is somebody saying, "I'm going out here and I'm going to fish for this and you can't make me put trap tags on it because I'm directing at Jonah Crabs and not lobsters." There was a law enforcement report or a comment by law enforcement that said he thought that was not an issue because the traps coming in, if they're coming in with lobsters and Jonah Crab, they have to abide by the trap tags. When they're landing, they have to have the trap tags.

That might be one way of having that clarified by the law enforcement that is this really an issue that somebody could circumvent the trap tag requirements by saying they're just fishing for Jonah Crabs. There is a concern. It is a fishery that is in federal waters, and so we may not have the state jurisdiction to manage it.

MR. TERRY STOCKWELL: The states of Maine, New Hampshire and Massachusetts all have combination lobster and crab licenses. Our collective fishermen are limited by the number traps that they can fish through our own landing limits. Part of the conversation is it revolved around the fact that it appears that Rhode Island does not and I'm not sure about New York.

There is also a concern that the federal waters fisheries are completely unregulated. As a lot of you

folks know here, we did an experimental crab fishery several years ago to develop a trap that won't catch lobsters. That's in fact true as long as they don't modify it. With a small modification quickly, it returns back to a lobster trap. In talking to George, much of the discussion was how much does this commission want to put into starting a new management plan on what may or may not be a problem.

MR. CARPENTER: Is this something that could be solved by each state having a landing prohibition on lobsters if you don't have the lobster license, such that if you were fishing Jonah Crab pots, yes, you can land all the Jonah Crabs you want but you can't land any lobsters. Is that even feasible?

MR. DIODATI: I think the way we regulate it in our state now is basically in order to land Jonah Crabs you have to have a lobster permit, and it is a bycatch of your lobster fishery. I'm wondering why couldn't management of Jonah Crabs be an offshoot or component of the American Lobster Plan. Is that something that we would have to seek authority to incorporate or is it something that members of that board feel that it would dilute too much what is going on?

It seems to me that there is not a lot going on with Jonah Crabs right now. It might become more of a directed fishery, but I have always assumed it was a bycatch fishery. I'm not sure if there are other members of Cancer that are in there besides Jonah Crabs. I guess that would be one thing to evaluate, whether or not it could just become the American Lobster and Jonah Crab Management Board and deal with it that way. Maybe people don't like that idea but that would be one suggestion.

MR. BEAL: Paul, I think that idea did come up during the Lobster Board discussion, and it's probably something that – I don't have the answer right off the top of my head now, but I think we can go back and explore some of those options and other ways that we can achieve the things the Lobster Board would to see happen without having to go through an excessive amount of work.

DR. MALCOLM RHODES: Just a question; what is the scope of this fishery? I may have missed it earlier, but is this a 10,000 pound or 100,000 pound – do we have numbers from any of the fish houses?

MR. GROUT: In New Hampshire we have landed a million pounds in some years, but again legally.

MR. STOCKWELL: It's actually a significant bycatch and directed fishery. A number of lobstermen at certain times of the year will fish specifically on crabs. I think should we move ahead with the consideration of dual plan, we need to certainly ramp in NMFS because we're going to need their help in regulating the federal waters.

VICE-CHAIRMAN BOYLES: I like Paul's suggestion. I wonder if this is something that we can have the Lobster Plan Review Team take a look at just to see the scope and the extent of the fishery to educate those of us who are more ignorant of the Jonah Crab issue. Is that a good way to approach it?

MR. BRIAN CULHANE: Well, one thing I'd add to that is maybe what we could do is find out what each state does in terms of what their requirements are for lobster permits and their tags and crab pots. I know what we did in New York is not going to be the same as what is done in the other states, but maybe we could avoid turning the Lobster Board into the Jonah Crab and Lobster Board by suggesting ways – you know, some states might have this licked already, and maybe we don't need to go too far down this road.

VICE-CHAIRMAN BOYLES: Thanks, Brian. I'm seeing heads shaking about the plan review team. I'd also maybe suggest the Law Enforcement Committee to see what kind of enforcement issue this may be. Is there any objection to that approach? All right, seeing none, we'll ask staff to direct that and get some feedback from the Plan Review Team and the Law Enforcement Committee.

The last item on the agenda, Bob wanted to just give everybody a status report of where we were with respect to hearings and plan amendments.

MR. BEAL: I talking about this briefly during the Shad and River Herring Board, but this week the management boards have approved five addenda, one striped bass; lobster; summer flounder, scup, black sea bass; weakfish; and menhaden, as well as a shad amendment. All those documents need to go out for public comment. Between now and the annual meeting there is going to be quite a few public hearings.

We as staff are going to try to work with states and minimize staff travel and expenditures, but also see if there are ways to lump these hearings together and make it more efficient and sequence them from north to south or south to north or something along those lines. I think if states are willing or able to do their own hearings, obviously, we would welcome that,

but we will make ourselves available for as many of these as we can.

I think there may be some timing issues that we sit down with calendars and work out; that being that the Weakfish Addendum is going to be fast tracked and compressed, but the Shad and River Herring Document has to be available to the public for 30 days prior to the first hearing; a number of those rules within the system that we're going to have to figure out. Just be on notice that I will probably send around an e-mail asking for help in coordination with these public hearings, and we will try to make it as painless as possible and fiscally responsible if we can pull it off.

### **OTHER BUSINESS**

VICE-CHAIRMAN BOYLES: Okay, Bob, thanks. Any other business to come before the ISFMP Policy Board?

EXECUTIVE DIRECTOR O'SHEA: In the few minutes I've had to think about the action the board has taken with regard to summer flounder, scup and black sea bass and the comments made about public notice and informing the public, it occurred to me that there may be value in us crafting a press release of the Policy Board's action this afternoon saying that the Policy Board received the following catch data regarding these three fisheries, put that information right in the press release, and then outlining the intent for the board to convene before September 1<sup>st</sup> and advising the public that they would be subsequently advised as to how they could call into the meeting and that type of thing.

In other words, sort of use the excuse of a press release today to sort of notify the public in the direction you're going. I'm offering that as a suggestion if the board thinks that would have value.

### **ADJOURN**

VICE-CHAIRMAN BOYLES: Comments from the board. I'm seeing heads shaking. I think you've got direction and approval of the board. Let's do that. Any other business? All right, we will adjourn the ISFMP Policy Board.

(Whereupon, the meeting was adjourned at 3:00 o'clock p.m., August 20, 2009.)