

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
AMERICAN EEL MANAGEMENT BOARD**

**The Roosevelt Hotel  
New York, New York  
October 22, 2018**

**Approved August 6, 2019**

**TABLE OF CONTENTS**

**Call to Order, Chairman Martin Gary..... 1**

**Approval of Agenda..... 1**

**Approval of Proceedings, August 2018 ..... 1**

**Public Comment ..... 1**

**Presentation on Convention on International Trade in Endangered Species Workshop and Discuss  
Next Steps..... 1**

**Update from the October CITES Meeting..... 4**

**Review and Population of the Advisory Panel..... 10**

**Adjournment.....10**

## INDEX OF MOTIONS

1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of August 2018** by Consent (Page 1).
3. **Move to add Richard Stoughton (SC) and Lawrence Voss (DE) to the American Eel Advisory Panel** (Page 10). Motion by Robert Boyles; second by John Clark. Motion carried (Page 10).
4. **Move to adjourn** by consent (Page 11).

**ATTENDANCE**

**Board Members**

Pat Keliher, ME (AA)	Andy Shiels, PA, proxy for J. Arway (AA)
Steve Train, ME (GA)	John Clark, DE, proxy for D. Saveikis (AA)
Sen. David Watters, NH (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Cheri Patterson, NH, proxy for D. Grout (AA)	Roy Miller, DE (GA)
G. Ritchie White, NH (GA)	Russell Dize, MD (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Lynn Fegley, MD, proxy for D. Blazer (AA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Bryan Plumlee, VA (GA)
Raymond Kane, MA (GA)	Sen. Monty Mason, VA (LA)
Phil Edwards, RI, proxy for J. McNamee (AA)	Pat Geer, VA, proxy for S. Bowman (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Mike Blanton, NC, proxy for Rep. Steinburg (LA)
David Borden, RI (GA)	Chris Batsavage, NC, proxy for S. Murphey (AA)
Justin Davis, CT, proxy for P. Aarrestad (AA)	Sen. Ronnie Cromer, SC (LA)
Sen. Craig Miner, CT (LA)	Robert Boyles, SC (AA)
Bill Hyatt, CT (GA)	Spud Woodward, GA (GA)
Maureen Davidson, NY, proxy for J. Gilmore (AA)	Doug Haymans, GA (AA)
Emerson Hasbrouck, NY (GA)	Rep. Thad Altman, FL (LA)
Sen. Phil Boyle, NY (LA)	Jim Estes, FL, proxy for J. McCawley (AA)
Mike Falk, NY, Legislative proxy	Chris Wright, NMFS
Heather Corbett, NJ, proxy for L. Herrighty (AA)	Mike Millard, USFWS
Tom Fote, NJ (GA)	Martin Gary, PRFC
Loren Lustig, PA (GA)	

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

**Ex-Officio Members**

Rene Cloutier, Law Enforcement Representative

**Staff**

Bob Beal	Jessica Kuesel
Toni Kerns	Kristen Anstead
Kirby Rootes-Murdy	

**Guests**

Laura Noguchi, USFWS	Deborah Hahn, Assn. of Fish and Wildlife Agencies
Thomas Leuteritz, USFWS/DSA	

The American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Terrace Ballroom of the Roosevelt Hotel, New York, New York; Monday, October 22, 2018, and was called to order at 3:55 o'clock p.m. by Chairman Martin Gary.

#### **CALL TO ORDER**

CHAIRMAN MARTIN GARY: Welcome to the Annual Meeting, 2018. My name is Marty Gary; I'm with Potomac River Fisheries Commission, I am your Board Chair. Lynn Fegley from the state of Maryland is our Vice-Chair for this Board; and also to complete the introductions. Seated to my left is Thomas Leuteritz; Chief Branch of Conservation Science Policy for the U.S. Fish and Wildlife Service, and to my right is Laura Noguchi, Chief of Wildlife Trade and Conservation Branch, also with the U.S. Fish and Wildlife Service.

To my left is Major Rene Cloutier; he is our liaison for Law Enforcement for this species board. Also to my right we have Kristen Anstead; who is the Stock Assessment Scientist assigned to this species, and also Kirby Rootes-Murdy, Senior Fishery Management Plan Coordinator. The last introduction is we have one new Board member; scanning the roster, Mr. William Hyatt, for the state of Connecticut. Mr. Hyatt, announce yourself; thank you and welcome.

#### **APPROVAL OF AGENDA**

CHAIRMAN GARY: All that having been said we have the first item of our agenda is the approval of the agenda. Are there any additions or modifications to the agenda as presented? Seeing none; the agenda is approved.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN GARY: Our next item on the agenda is the approval of the proceedings from August, 2018. Are there any modifications to those proceedings as presented? Seeing none; the approval of the meeting minutes from the August, 2018 meeting are approved.

#### **PUBLIC COMMENT**

CHAIRMAN GARY: I've been told there has not been anyone to sign up for public comment; but I'll put it out there again. Does anyone from the public like to make comment on items that are not on the agenda? Seeing none; we have no public comment, and we'll move on to our next step in the agenda.

#### **PRESENTATION ON CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES WORKSHOP AND DISCUSS NEXT STEPS**

CHAIRMAN GARY: We have a presentation; co-presented by Thomas Leuteritz and Laura Noguchi.

This is for the Convention of International Trade and Endangered Species of Flora and Fauna. After Thomas and Laura make their presentation, we'll have a brief verbal update by Ms. Deb Hahn from the Association of Fish and Wildlife Agencies; which will be followed by question and answers. Laura and Thomas, are you all ready for yours?

MS. LAURA NOGUCHI: We are ready. Good afternoon; we are happy to be here. This is going to be a pretty quick CITES 101; is what we've been asked to give. I will try to run through it fairly quickly; and then hopefully time for questions at the end. What is CITES; the Convention on International Trade and Endangered Species of Wild Fauna and Flora? This is a treaty; an agreement among nations on regulation of international wildlife trade. It establishes a legal framework that countries around the world recognize. The purpose of CITES is to ensure that international trade in wild fauna and flora is legal and sustainable. This is the point where I say; CITES is not the ESA, and the ESA is not CITES.

CITES is focused on trade; and species that are impacted by trade. Quickly how CITES works; regulates the import/export introduction from the sea that's species taken on the high seas and brought into a country, of live and dead animals and plants and their parts and derivatives, those that are listed.

International trade is regulated through a system of permits and certificates that have to be presented when entering or leaving a country. Those permits and certificates can only be issued when certain conditions have been met. Basically, the framework species are listed in one of three CITES appendixes. Appendix 1, the most restrictive, these are species that are threatened with extinction.

For the most part commercial trade is prohibited in Appendix 1 species. Appendix 2, not necessarily threatened with extinction; but they may become so if they're not regulated. To add a species to CITES Appendix 1 or Appendix 2, requires a two-thirds majority vote of parties present at a CITES meeting of the Conference of the Parties.

Appendix 3, this is a unilateral decision by a country to add something to this appendix. It does not need a vote; it can be done at any time by any country. Just a little more detail about, I probably have already run through this; Appendix 1, threatened with extinction, about 1,000 species listed on Appendix 1, this is pandas, tigers, pangolins, critically endangered species.

Requires both an export permit to be issued by the exporting country, and an import permit to be issued by the importing country, and there are findings required on both sides. CITES Appendix 2, this is where most species are listed under CITES; 30,000, way more than the other two, and trade is allowed, commercial trade is allowed, but it is regulated.

It requires an export permit only; issued by the country of export. There is no requirement for an import permit under the treaty. The European Union has a stricter domestic measure where they do require import permits for CITES Appendix 2; but that again is a stricter measure on their part. Appendix 3 is really focused on legal trade; as opposed to non-detrimental trade.

There is no non-detriment finding required; it's really the purpose is to be able to ensure that trade is legal, specimens have been legally acquired and the trade is being conducted in a

legal manner. At just a very basic minimum, all CITES parties once you sign onto the treaty ratify the treaty; you are required to designate at least one management authority and one scientific authority.

The management authority is empowered to issue permits and communicate with the Secretariat and with other parties on your behalf; you as a party. The scientific authority, among other things, advises the management authority about whether or not trade will be detrimental to the survival of the species. The other basic requirement is you have to be able to prohibit trade in violation of the convention. These two key findings that I have mentioned that have to be made before you can issue an export permit. When something is listed on Appendix 2, before the United States or any other CITES party can issue an export permit, we have to be able to determine; the management authority needs to be able to determine that the specimen to be exported was legally acquired.

We also need to have advice from the scientific authority – Thomas works in our scientific authority – that the export of those specimens will not be detrimental to the survival of the species. The management authority cannot issue a permit until those two findings have been made.

Effective implementation requires a permitting system; an effective permitting system, control at the borders, national control of import and export, and measures in place, laws, regulations to stop international trade, a presence at the border, be able to confiscate specimens and penalize that type of illegal trade.

Common misconceptions, CITES deals only with international trade in species that are listed in the appendixes; it doesn't cover all aspects of CITES conservation. It doesn't ban trade; it regulates trade. It does not regulate domestic trade. Again, not a listing of the world's endangered species; it's only those species that are or may be affected by international trade are listed on the CITES appendixes.

Just quickly, CITES implementation in the United States. It's the Endangered Species Act; even though I just said the ESA is not CITES and CITES is not the ESA, it's the Endangered Species Act that authorizes the Secretary of the Interior and through the Fish and Wildlife Service to be the management authority and the scientific authority for CITES.

Our regulations, our CITES implementing regulations, are based on the Convention; the text of the Convention, and current resolutions that have been adopted by the parties at meetings of the Conference of the Parties. Our regulations, should you want to look at them, are at 50CFR Part 23. They're available online; you can get on the ECFR, Title 50, Part 23, they're all right there.

In the United States we have one management authority and one scientific authority. Other countries, many other countries, have many. They will have a management authority for timber, for sturgeon, for whatever, plants, terrestrial species; in the U.S. one management authority, one scientific authority.

The most important point here is that the findings of the scientific authority cannot be disregarded by the management authority. Permits have to be denied if the scientific authority findings are negative. In the U.S. we also have a broad collaborative consultative process to implement CITES.

This is a graphic showing our CITES Interagency Coordination Committee. Fish and Wildlife Service at the center; because we are the ones who are tasked with implementing the treaty, and you also see that APHIS, the Animal and Plant Health Inspection Service, and Customs and Border Protection are also in red up there, because they have authority to enforce CITES at the borders for plants. Fish and Wildlife Service enforces for animals; CDP and APHIS for plants. But all of these other agencies are involved to one degree or another. We work really closely with the National Marine Fisheries Service; obviously for marine species. The U.S. Trade Representative, our Office of the Solicitor, the Forrest Service, Department of

Justice, Department of State, our International Affairs Program in the Department, and also the states, through AFWA, are integrally involved in our process.

The CCC, this is the consultative body that we have, meets on a regular basis. The purpose is to connect the Service with other agencies, other federal agencies that have a nexus to CITES through their work. We try to make sure that they are aware of what's going on in CITES; and we are aware of what they're doing that may impact CITES or CITES decisions.

The idea is to provide an opportunity for other federal agencies and for the states through AFWA, to participate in the decision making process. We use this as a framework for developing U.S. negotiating positions for CITES meetings; and our decision making leading up to that. Coming up in May of 2019, is the next meeting of The Conference of the Parties.

This will be where all the parties, most of the parties, are present. The purpose is to review implementation; what's going right, what's going wrong, resolve policy issues, and amend those Appendix 1 and Appendix 2. There will be proposals to amend both of those; they will be decided up at the COP. It's an opportunity to work together; to ensure that trade is carried out in accordance with the treaty.

Just a little bit about the benefits of CITES. It establishes a legal framework to regulate international trade; to prevent overexploitation, and it does promote cooperation between importing and exporting countries. Within countries, it's an opportunity to work with other agencies that may be involved in the trade or with the trade; National Marine Fisheries Service for example, Forrest Service, et cetera.

It does encourage analysis of population status of native species, species in trade, and the effects of international trade on wild populations. I do just want to mention briefly our public process that we have. It's very much a public process; as we get

ready for a meeting of The Conference of the Parties.

As I said, the next one is coming up in May. I think we published our first Federal Register Notice asking for input over a year ago. I'm looking at Thomas, he probably knows exactly. You may or may not know that we received recommendations to list; to take a proposal to list American eel in Appendix 2, from the Wildlife Conservation Society and the Species Survival Network, I believe.

We have analyzed the recommendations that we got; and we have just last month, or the first part of this month, perhaps published another Federal Register Notice to alert the public that we have taken all their suggestions into consideration, and we have ranked them all as likely to take forward, unlikely to take forward, or undecided. We published a Federal Register Notice that says that we are unlikely to take a proposal forward to list the American eel in Appendix 2. That is a decision that ultimately will be made by people at a higher pay grade than Thomas and me. It goes up into the Department, up to the Assistant Secretary level probably. But we have no indication at this point that there is any interest in taking an Appendix 2 proposal forward for American eel. That's a really quick run through of how CITES works; and happy to take any questions.

#### **UPDATE FROM THE OCTOBER CITES MEETING**

CHAIRMAN GARY: Thank you, Laura. Before we take questions from the Board; I would like to invite to the speaker's podium Ms. Deb Hahn from the Association of Fish and Wildlife Agencies. Deb, you're there, and Deb has an update from the October CITES meeting. Deb.

MS. DEBORAH HAHN: Yes, thank you Marty, I appreciate it. Thank you for a few minutes. I do work for the Association of Fish and Wildlife Agencies; and just quickly for those that don't know, the 50 state Fish and Wildlife Agencies are members of ours. Some of those agencies include the Marine Agencies, some do not.

I also work with four regional state agency representatives in the northeast; it's Rick Jacobson

from Connecticut, and in the southeast it's Buddy Baker from Louisiana. What we do is we attend CITES meetings. We work closely with Fish and Wildlife Service; and we communicate with Marty and Kirby and Bob about kind of what is going on with American eel, and what actions may or may not be taken through CITES.

I'm just going to follow up with Laura, and say that this year at the 2018, July Animals Committee Meeting; they did pass a set of draft recommendations that will be considered at the May and June Conference of the Parties in 2019 that Laura mentioned. I believe those were in your agenda; but just to give you a flavor of what those draft recommendations are.

They talk about collaborating and cooperating with other range states on shared stocks. They talk about establishing monitoring programs and developing abundance indices, improving traceability for *Anguilla* species. They talk about implementing conservation and management measures and related legislation; realizing that this is for all non-CITES listed *Anguilla* eel species, including the American eel.

Then the last one is that they ask the parties to report on progress at the 32nd Animals Committee, which will be held in 2021. If these recommendations are passed in May of '19, then the U.S. Fish and Wildlife Service, Laura and Thomas, will be required to report back on how we in the U.S. have taken these recommendations forward.

The other thing at our October CITES meeting, we learned that the European Union is highly unlikely to also bring a proposal forward to list American eel in Appendix 2; and to our knowledge there are no other parties that are considering bringing a proposal forward for American eel for The Conference of the Parties in 2019.

We also had a side conversation with some of our Canadian colleagues about their interest in discussing how we might increase communication and collaboration on our shared stocks; based on those draft recommendations I mentioned earlier.



Then the last thing that was raised was that the International Union for the Conservation of Nature, or IUCN, their Anguillaed Eel Specialist Group is going to assess 16 species of eel starting in November of this year. The intent is to present an updated red list assessment in 2019 for those 16 species of eel; which includes American eel. With all that said, and understanding kind of where the CITES parties are right now; that we do not believe, very unlikely there would be a listing proposal brought forward in May.

I think the opportunity for the Eel Board to discuss is your ability to position yourself to address some of those draft recommendations in 2021; if they are approved. Then also, to be prepared to address any potential future listing proposals that would come forward for the 2022 Conference of the Parties of CITES.

CHAIRMAN GARY: Thank you, Deb. Before we open it up to questions for Thomas, Laura, or Deb, just a couple of observations, I think we heard pretty clearly that either from domestically or from the European Union Parties, the possibility of a proposal for Appendix 2 listing, it's pretty remote. We can have some dialogue in the very narrow amount of time we have before our hard stop at five o'clock; and talk about maybe what we want to do related to Appendix 2.

Maybe the better course of action might be to talk as Deb was saying, about where we position ourselves through communication, collaboration, and then ultimately perhaps talk about the data that's going to be generated as part of the stock assessment process. As I understand it, now I'll lean to Kristen to confirm or deny, but I don't see the American eel listed on the schedule for a benchmark update. That's something maybe that we want to consider adjusting; Kristen.

DR. KRISTEN ANSTEAD: Currently the stock assessment schedule goes through 2021; as developed by AFC and approved by the Policy Board. American eel is not on it right now. I will remind you we did a benchmark in 2012; and an update to that benchmark in 2017. Theoretically, based on that time scale, we would think about

doing a benchmark in 2022. But that's obviously the will of the Board.

If you wanted to get ahead of some of these other deadlines, if you are interested in moving forward with that that would be something that we would discuss with ASC and the American eel TC about data availability and staff time, and then it would go in front of the Policy Board. But currently through 2021, American eel is not on the stock assessment schedule.

CHAIRMAN GARY: Thank you, Kristen, for that clarification. I'll turn to the Board now to see where you would like to go forward with this discussion. Again, we have our two presenters and we have Deb from American Fish and Wildlife Association; and feel free to ask them questions.

But again, I think we should probably reserve some time to determine whether or not we want to look at the assessment schedule for eels; to better position ourselves in advance of what Deb was explaining to us, in terms of the timeline, as the process for CITES moves forward. I'll open it up to the Board now for questions. John.

MR. JOHN CLARK: Just a process question. It was said that the European Union was unlikely to move ahead also with an Appendix 2 listing. Does this mean that any country can ask for a species that doesn't occur in that country to be listed? In our situation with the American eel spanning several countries, do all the countries where the species occurs have to agree to a listing?

MS. NOGUCHI: It's a great question. Any country, any CITES party can bring a listing proposal. It is much more difficult to do it if you are not a range country. It has happened; but it is much more difficult. CITES parties are required when they bring a listing proposal to consult with other range countries.

This is part of the reason we are so confident that the eel in particular is not going to bring a listing proposal. The deadline for submission of proposals is December 24 of this year; and they have not consulted with us. They have consulted

with us on other species listing proposals that they're thinking of bringing forward; but not this one.

The way it would play out at a CITES meeting, always they try to achieve consensus. However, there is voting in CITES, where there isn't consensus there will be a vote. It's quite possible that you will not support a listing that comes into effect; and then you as a CITES party, figure out how to implement it.

CHAIRMAN GARY: Thank you, Laura, for the clarification on the shorter timeline. There is a deadline of December 24, as Laura noted; other questions? Lynn.

MS. LYNN FEGLEY: I just had a curiosity question. In the United States, and I expect that sharks are among this number. Are there other marine commercial fished species that are CITES listed, and does anyone know what the impacts of an Appendix 2 CITES listing are on a commercial fishery? I'm just kind of curious. Our constituents tend to ask that question; and I don't know how to answer it.

MS. NOGUCHI: That's another great question; and Thomas might have some comments here as well. There are sharks listed that are commercially exploited for their fins mostly. We have non-detriment findings in place for those; hammerhead sharks in particular. We have been issuing export permits. I don't believe that this has been a particular burden on the industry. It's a learning process right, going from no regulation to having to go through the process; but I feel like we are moving forward pretty well with that. Thomas, do you have any?

MR. THOMAS LEUTERITZ: Of course NOAA is heavily involved with that process; so there is expertise coming in those decisions from there.

MS. NOGUCHI: When we make a non-detriment finding, and Thomas, it's his group that does, for the sharks in particular. If they can demonstrate that they have taken those sharks in accordance

with the management plan that NMFS has in place; then that works for non-detriment.

CHAIRMAN GARY: Pat.

MR. PATRICK C. KELIHER: Thank you for the presentation; it was very helpful. I'm happy to hear that you don't have any requests for listings. In the state of Maine, obviously we became aware of this issue; as far as the exportation of elvers, a very valuable fishery to the state of Maine, one that we have invested a tremendous amount of time and energy, both from a science, but also for an enforcement standpoint.

A couple points, you had a graph up there that showed CITES and all of your partners around the outside; and it said the states. I'm assuming your interaction with the states is solely through AFWA, is that correct?

MS. NOGUCHI: That's partially correct. In cases where we have species that are listed, paddlefish is a pretty good example, so all sturgeon, all Acipenseriformes are listed under CITES Paddlefish are Appendix 2. There is a fair amount of Paddlefish caviar; and we work directly with the state DNRs, to make a legal acquisition finding in particular. We will go to each individual state. We need to know what laws they have in place. When we get an application to export, we want to know where was it taken, when was it taken, and we will consult with the state to make sure they have the proper permits, they were fishing in the proper place, their logbooks were up to date that kind of thing. We will work directly with the state governments as well.

CHAIRMAN GARY: Follow up, Pat.

MR. KELIHER: Thank you for that. This is no disrespect to AFWA; because I have complete respect for the organization and the work that you do. But the state of Maine's Department of Resource is not a member of AFWA; and I think it's very important for the Atlantic States Marine Fisheries Commission to be part of that circle, when it comes to sturgeon, eels, and other very valuable species.

The issue around elvers is all about export. We had some issues in the state of Maine regarding what we thought was a fail-proof system of a swipe card; to control chain of custody. People got around it. By going around it that tells us the next weak link is at the airport; with U.S. Fish and Wildlife Service inspections.

Mr. Chairman, at some point I would like to make a recommendation to this Board to send a letter to the U.S. Fish and Wildlife Service; to express our concern about exports in general, as it pertains to elvers. If the U.S. Fish and Wildlife Service is unwilling to inspect a load of eels; other than looking at the paperwork, we have a very weak link.

Major Cloutier could speak to this all night long. If we can't get the U.S. Fish and Wildlife Service to open packages to verify the weight; then there is a breakdown in the system for that export. I think that's going to be very important for all the parties; the state of Maine, ASMFC, AFWA, working with CITES and the U.S. Fish and Wildlife Service, to kind of fix that last bottleneck in the process of exporting live elvers overseas.

MS. NOGUCHI: Just quickly, thank you for that comment. I can't really speak for the Office of Law Enforcement; but I do know that they are very actively engaged in illegal trade in eels, both here in the U.S. and also globally. It's a major global issue. As a matter of fact they offered that they would come, and they would be happy to come and give a briefing on some of the investigations that they have undertaken.

The issue of inspections at the ports, I know that this is a difficult issue. We only have so many inspectors; and it's impossible to inspect everything, right. But targeted inspections and targeted operations definitely can happen. I will certainly take your comments back. But I know that this is something that our Office of Law Enforcement is very focused on now.

CHAIRMAN GARY: Pat, we'll come back to that as an action item and revisit that before the meeting. Senator Watters.

SENATOR DAVID H. WATTERS: Just a comment on an earlier question; and perhaps Laura will correct me, but I do believe sea turtles are included as a CITES species. I did want to mention to my fellow legislators and legislative proxies here, aside from the immediate question of eels, in reference to CITES that I passed wildlife trafficking legislation this year; Senate Bill 451.

While CITES deals with international importation and the federal government deals with interstate. If you want to deal with intrastate possession and sale of CITES listed endangered species, you have to pass the state statute on it. We did a list of about 15 species; yes, Ivory is heavy orientation for that.

We didn't do sea turtles because that wasn't a fishery that we're involved in New Hampshire. But I do encourage you all to take a look at what you might need to do within your state statute, to make sure that loophole in CITES and in controlling this trade of endangered species, including some marine species, is not occurring in your states.

CHAIRMAN GARY: Any other questions? Cheri.

MS. CHERI PATTERSON: I just had a question on if CITES designates American eel under Appendix 2 species; what is the timing involved in complying with any restrictions that might come of that?

MS. NOGUCHI: Listing proposals that are adopted at a Conference of the Parties go into effect 90 days after the close of that meeting of the Conference of the Parties. Sometimes there is a delayed implementation. There was for the sharks, in particular. This was a group of species that had not been regulated before.

There was a feeling that parties needed time to get up to speed on how they were going to do it. But I would imagine with something like eel, because there are already eels in trade, it would probably be the standard is 90 days after the close of the meeting.

CHAIRMAN GARY: Are there any other questions? John Clark.

MR. CLARK: Thanks to your reminders earlier about this issue. Kirby, if you could just review, the FMP in 2000, one of the recommendations was to have American eel listed under Appendix 3 of CITES; and that didn't happen. I was just wondering if you could review how the whole process evolved back then.

MR. KIRBY ROOTES-MURDY: I can speak to what I've communicated to you, John, which is that in the FMP that was passed back in 1999, and came into effect in 2000. There was a recommendation to have American eel listed under Appendix 3. My understanding is that recommendation that was put in the FMP was made on behalf of Fish and Wildlife Service.

Going back through the proceedings to try to see where that landed; there was a note in June of 2000 that Fish and Wildlife was going to move forward with a proposed rule regarding that. But I don't have any other additional information after that. It did not come up in a subsequent proceeding of the Board over the next year or two; specific to an Appendix 3 listing.

MR. CLARK: In that case can the Fish and Wildlife Service, do you know what happened, Laura?

MS. NOGUCHI: I don't actually know the details of that. It's been proposed to use both to list it under the ESA, at least twice. I know there have been 90 day findings and however many year findings; and they've never gone forward with it, and also the Appendix 3 listing. I do not know why we didn't go forward.

If people feel that that is a way that they would like to go, the advantage of it of Appendix 3 is that you can list something or delist it as you wish at any time as a party; but also because it gets directly at the illegal trade. It can help states that have laws in place to implement and enforce those laws; so that is really the benefit of Appendix 3.

CHAIRMAN GARY: Other questions. All right, thank you to Thomas, Laura, and Deb for your presentations today. I think the next question before the Board is; given the fact that we have a situation where it's highly unlikely that a proposal is going to come forward. Does the Board want to take a position?

If so, I would like to hear that feedback now. If not, the next course of action I think is probably to look at where we position ourselves going forward in the CITES process; and potentially look at the stock assessment schedule for American eel. Is there a desire on the Board to take a position on this Appendix 2; in advance of this May meeting coming up? Pat.

MR. KELIHER: I would recommend that we do not take a position in advance of the upcoming meetings; but request that staff, i.e. Kirby, keep a close eye on this and report to the Board as new information comes forward.

CHAIRMAN GARY: I have Lynn and then Cheri.

MS. FEGLEY: Just one quick clarifying question to follow up on Pat's comment. Can these proposals be life stage specific, or is it for the species as a whole?

MS. NOGUCHI: That's another really good question. For Appendix 1 and Appendix 2 it is the entire species; it's all parts and products. Appendix 3 is a little bit different. I don't know about animals, for plants. Plants are also different; you can specify certain parts and products. Animals, it's the whole thing, yes.

CHAIRMAN GARY: Cheri Patterson.

MS. PATTERSON: I think I got this answer from Bob; but for the benefit of the rest of the table here. How long would it take to conduct a stock assessment for American eel?

DR. ANSTEAD: For a benchmark, if it were to be done due in 2021, I would like to get the process started in 2019. It's nice to have two years to start requesting the data; to start getting everybody's

schedules aligned. That is not necessarily how long all the work would take; but I think 2019 would be a good notice for our TC members and our data providers to kind of get on the same page with deadlines and work.

CHAIRMAN GARY: Other questions? There is no objection to Pat's comment, then that's the direction we'll take with the Board. At this point, before I come back to Pat's other suggestion; to address the timing of the eel assessment, the stock assessment benchmark. Is there a desire from the Board to proceed to advance the time table; as Kristen just suggested? Lynn.

MS. FEGLEY: I guess I'm wondering, do we have any new information; if we were to start in 2019 to complete an assessment in 2021. Is there any new information that would allow a better assessment? I shouldn't say better, but an assessment that allows us to define whether or not we're overfishing or overfished; and if we don't have that new information is it likely to really be helpful in this sort of case?

DR. ANSTEAD: Yes, I think that's a really good question, and I think that is one that would ideally be posed to the TC or the SAS. I know when we were approaching the update timeline, which was done in 2017, we did ask the TC. You know these research recommendations that you flagged during the benchmark that said should be completed before a next benchmark, has enough work been done?

Ultimately the TC said no. But let's do an update to stay on it. I think we would have to have a similar conversation; but the terminal year of the last benchmark was 2010. There is potential for some new data, maybe some new modeling approaches. But that is really a conversation for the full TC and SAS to have.

CHAIRMAN GARY: Senator Watters.

SENATOR WATTERS: I think that some of the questions that are raised suggest the logic of trying to move forward on the assessment. There is so much we don't know about eels; and also we

are going to have to be facing whether climate change is going to have any impacts on their spawning and their habitat. If there is some movement at CITES, if we don't have a stock assessment to anticipate that we won't have the information to argue whether or whether not it is indeed necessary for a listing of endangered, and for us to take a position on that.

CHAIRMAN GARY: Any other further discussion? Put it out to the Board this way, perhaps. Following Kristen comments, is there any opposition to having that dialogue with the Technical Committee and coming back to the Board at a future meeting? Hearing none; perhaps that's the direction that we will go. Now I'm going to come back and revisit Pat Keliher's comments about advancing a letter. Pat, if you could clarify that for us again.

MR. KELIHER: Laura's comments in regards to the Office of Enforcement with U.S. Fish and Wildlife Service are very accurate. They've done a lot of work with eels; at least that I know of what they've done domestically. Abroad I'm not sure; but I'm certain it's very active. We meet with Northeast Officers on an annual basis; Marine Patrol is very active with them about their cases.

I think potentially having the Board send a letter to the Office of Law Enforcement, expressing our gratitude for the work that they've done; and request their possibly expanded involvement when it comes to importation of eels, working directly with ASMFC Law Enforcement Committee in particular.

I'm not sure if we would go as far as referencing Maine Marine Patrol; but I do know that based on the work that we're going to do this legislative session, where we will have a bill in place to require every exported shipment be inspected by a Maine Marine Patrol Officer during weigh up. Because we will have exactly what is being shipped out of the state of Maine; and it could then be re-reviewed and inspected at the airport again by inspection agents.

I think it's kind of the missing link; because if they are using those shipments to then add to. It's one thing if they're putting them in boxes and shipping them out and saying they're guppies. We don't have any control. But to ensure that this legal activity is not infiltrated with illegal eels; is very important. I think some sort of a letter stating that to the Office of Law Enforcement; and asking for cooperation and giving our cooperation in return, would be prudent at this time.

CHAIRMAN GARY: Before we make a final decision on that Dan.

MR. DAN McKIERNAN: Just a question for Pat. Pat, what airports are we talking about?

MR. KELIHER: J.F.K. is the big shipping airport; but I know some shipments have gone out of Boston as well and possibly even Newark.

CHAIRMAN GARY: Is there any objection to Pat's suggestion of sending a letter from the Board? Hearing none; then we'll proceed with that. We'll work with staff to do such. Laura would like to make a comment.

MS. NOGUCHI: I just appreciate your comments; and I want to say that in addition to a stock assessment and having that understanding of the health of the population. Getting the illegal trade under control is a really big piece. I appreciate that you recognize that. I did read your minutes from the August, 2018 meeting before I came here; and I understand the problems, at least partially the problems that you're facing. But in terms of staving off a CITES listing; getting the illegal trade under control is really key.

#### **REVIEW AND POPULATION OF THE ADVISORY PANEL**

CHAIRMAN GARY: The next item on our agenda is the Review and Population of the Advisory Panel; and Tina, you'll be handling that.

MS. TINA BERGER: Good afternoon, thank you. I would present for your consideration and approval Richard Stoughton, commercial fyke net

fisherman from South Carolina, and Lawrence Voss, a commercial potter out of Delaware, to add to the American Eel Advisory Panel, thank you.

CHAIRMAN GARY: Robert.

**MR. ROBERT H. BOYLES, JR.: I would move that we accept those appointments as presented.**

CHAIRMAN GARY: Seconded by John Clark. **Is there any opposition to these AP nominations? Seeing none; passed.**

#### **ADJOURNMENT**

CHAIRMAN GARY: That brings us up to our last item on the agenda, Other Business, and is there any other business to bring before this Board today? Seeing none; the American Eel Management Board is adjourned.

(Whereupon the meeting adjourned at 4:40 o'clock p.m. on October 22, 2018)