

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

**Wentworth by the Sea
New Castle, New Hampshire
October 31, 2019**

Approved February 6, 2020

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(Recording for the following transcript begins after Call to Order by Chair James Gilmore, Approval of Agenda, Proceedings from August, 2019, and Public Comment.)

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1. **Approval of Agenda** by consent (approved but not recorded in transcripts).
2. **Approval of Proceedings of August 2019** by Consent (approved but not recorded in transcripts.)
3. **On behalf of the Atlantic Menhaden Management Board, move the ISFMP Policy Board recommend to the Commission that the Commonwealth of Virginia be found out of compliance for not fully and effectively implementing and enforcing Section 4.3.7 Chesapeake Bay Reduction Fishery Cap of Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden. The Commonwealth of Virginia must implement an annual total allowable harvest from the Chesapeake Bay by the reduction fishery of no more than 51,000 mt. The implementation of this measure is necessary to achieve the goals and objectives of the FMP and maintain the Chesapeake Bay marine environment to assure the availability of the ecosystem's resources on a long-term basis** (Page 7). Motion by Nichola Meserve.
4. **Motion to Amend**
Move to amend to include the unused quota provision whereby unused quota may not be transferred to the Cap to reduce an overage, the rollover provision where unlanded fish from the cap cannot be rolled over into the subsequent year; lastly if the cap is exceeded the amount over the cap will be deducted from the next year's allowable harvest (Page 14). Motion by Eric Reid; second by Doug Grout. Motion is approved by unanimous consent; upon reconsideration of the motion the amended motion fails.
5. **Motion to Reconsider**
Move to reconsider the previous motion to amend (Page 17). Motion by David Borden; second by Tom Fote. With the passing of this motion the above amended motion fails.

Main Motion

Move the Interstate Fisheries Management Program Policy Board recommend to the Commission that the Commonwealth of Virginia be found out of compliance for not fully and effectively implementing and enforcing Section 4.3.7 Chesapeake Bay Reduction Fishery Cap of Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden. The Commonwealth of Virginia must implement an annual total allowable harvest from the Chesapeake Bay by the reduction fishery of no more than 51,000 metric tons. The implementation of this measure is necessary to achieve the goals and objectives of the Fishery Management Plan and maintain the Chesapeake Bay marine environment to assure the availability of the ecosystem's resources on a long-term basis. Motion by Nichola Meserve. Motion carried (Page 17).

6. **Move to approve the Habitat Management Series: *Aquaculture Impacts to Fish Habitat along the Atlantic Coast*** (Page 19). Motion by John Clark; second by Malcolm Rhodes. Motion carried (Page 19).
7. **Move to approve the ASMFC Stock Assessment Schedule as presented today** (Page 25). Motion by Jason McNamee; second by John Clark. Motion carried (Page 25).
8. **Move to have the Management and Science committee investigate discard mortality across all species. This review should focus on the use of circle hooks and/or other tools that would address discard mortality** (Page 26). Motion by Pat Keliher; second by Doug Grout. Motion carried (Page 26).
9. **Move to adjourn** by consent (Page 28).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)
Stephen Train, ME (GA)
Doug Grout, NH (AA)
Cheri Patterson, NH, Administrative proxy
Ritchie White, NH (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Dan McKiernan, MA, proxy for D. Pierce (AA)
Raymond Kane, MA (GA)
Jason McNamee, RI (AA)
David Borden, RI (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Justin Davis, CT (AA)
Bill Hyatt, CT (GA)
Jim Gilmore, NY (AA)
Maureen Davidson, NY, Administrative proxy
Emerson Hasbrouck, NY (GA)
Joe Cimino, NJ (AA)
Tom Fote, NJ (GA)

Adam Nowalsky, NJ, proxy for Sen. Andrzejczak
Andy Shiels, PA, proxy for T. Schaeffer (AA)
John Clark, DE, proxy for D. Saveikis (AA)
Roy Miller, DE (GA)
Lynn Fegley, MD, proxy for Bill Anderson (AA)
Russell Dize, MD (GA)
Phil Langley, MD, proxy for Del. Stein (LA)
Steve Bowman, VA (AA)
Steve Murphey, NC (AA)
Mel Bell, SC, proxy for R. Boyles, Jr. (AA)
Malcolm Rhodes, SC (GA)
Doug Haymans, GA (AA)
Spud Woodward, GA (GA)
Jim Estes, FL, proxy for J. McCawley (AA)
Marty Gary, PRFC
Alesia Read, NMFS
Mike Millard, USFWS

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

Ex-Officio Members

Marek Topolski, Habitat Committee Chair

Kent Smith, ACFHP Coordinating Council Chair

Staff

Robert Beal
Toni Kerns
Caitlin Starks
Pat Campfield

Sarah Murray
Katie Drew
Tina Berger

Guests

Chris Batsavage, NC DMF
Randy Blankenship, NMFS
Ellen Bolen, VA DMF
Kelly Denit, NMFS
Zach Greenberg, PEW Trusts
Aaron Kornbluth, Pew Trusts
Kris Kuhn, PA Fish & Boat
Wilson Laney, NC Coastal Federation
Carl LoBue, TNC
Mike Luisi, MD DNR

Chip Lynch, NOAA
Nichola Meserve, MA DMF
Chris Moore, CBF
Trish Murphy, APNEP
Derek Orner, NOAA
John Satterly, VSSA
Jack Travelstead, CCA
Mike Waine, ASA
Chris Wright, NMFS

The Interstate Fisheries Management Program Policy Board of the Atlantic States Marine Fisheries Commission convened in the Wentworth Ballroom of the Wentworth by the Sea Hotel, New Castle, New Hampshire; Thursday, October 31, 2019, and was called to order at 8:00 o'clock a.m. by Chair James J. Gilmore.

(Recording begins after Welcome, Board Consent, and Public Comment.)

UPDATE FROM THE EXECUTIVE COMMITTEE

CHAIR JAMES J. GILMORE: The Executive Committee met yesterday, and we had several items on the agenda. First was the Executive Oversight Committee, which is chaired by Pat Keliher, our incoming Chair. We had the two topics was the approval of the 2019 Audit and Financial Statement.

There was a conference call last week to go over that in detail. Laura reviewed it last week, and when it was gone over yesterday morning there were no issues, just noted that the process has become more difficult because of new federal rules. She has to do more work, but the audit was fine. It was approved unanimously by the Executive Committee.

The second issue was on review of the 2020 Action Plan, and again a quick review by the Committee, and it was approved by the EC. Number two is the consideration of the allocation of the Plus up funds. We still have about \$200,000 not committed from the Plus up funds. We pretty much agreed that the funding for the striped bass tagging survey was an important function and that we were going to continue the funding for that.

Then we opened the floor for discussions on several ideas. There were three or four of them, Maine Lobster Reporting. There were some other suggestions from the states of New Hampshire and Massachusetts, and essentially we discussed that for a while, but they were all conceptual, so instead of going into them now,

what we did was charge the states to go back and maybe flesh those out a little bit more, so that we can have both a better understanding of the projects and the cost.

We'll be discussing those at the upcoming meetings. Next item was to discuss the public input process. There was an issue brought up about the review of the AP membership, we're not having very good attendance on some of them, so we're going to be looking into how to improve the attendance on the advisory panels.

The second issue is on the public hearing process in that from our most recent, but going back further than that recent exercise with striped bass that we may not be getting the best information from our public hearings. There were several states during striped bass that did surveys, New York, Connecticut, and New Jersey, and the results from those surveys were very different from what we had heard at the public hearing in some cases. We still need to do public hearings, but we're going to start exploring different ways to expand our information and possibly use surveys as a new tool, and maybe get better information for our decision making as we move forward. I know Toni at one point had made a comment that surveys work well maybe for the larger fisheries or the more contentious species.

On smaller issues they tend sometime not even to get any responses on them. What we decided to do is to charge management and science and the Committee on Social and Economic Services to start looking into this, and coming up with suggestions on what would be the best tools, maybe a consistent one that came from the Commission would help, because the three surveys done by the three states for striped bass had common themes about them, but they were somewhat different.

It would be helpful to get maybe the same information. I was surprised at them, because when we did ours the software on these things are so easy to get the data in, and just about hit a button and you get an output report that

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anybody can do, even I can do it. We're going to look into that. Next item was the report on nonpayment of state assessments.

There was a new policy approved by the Executive Committee that had been working on it. There was a flow chart that describes and essentially goes through probably a year-long process if there is somebody in arrears. There are some clear steps that can be done to correct that and essentially an appeal right before someone would lose voting rights.

That was pretty well laid out. It was approved by the EC, and we're going to consider that for final discussion at the Business Session today. Then we had a closed door to discuss some procedural issues, and essentially that was the Executive Committee, so I'll take any questions if anyone has any. Ray Kane.

MR. RAYMOND W. KANE: Talking about surveys, and we heard about it at the Executive Committee meeting. Could New York and Connecticut share their surveys with the rest of the states sitting at the table, just so the states can get an idea of what they'll be trying to incorporate in their own state? I realize geographically and spatially things are different, even in a particular fishery. But you seemed to have success with it, and I know Dr. Davis said he had success with it. Would you mind sharing with the rest of the Commission, the states at the Commission table?

CHAIR GILMORE: I would be happy to, Justin if you want to.

DR. JUSTIN DAVIS: Yes certainly we could share the survey and the results.

CHAIR GILMORE: I don't want to slight my neighbor, but do you want New Jersey's also? Joe, would you offer yours up also?

MR. JOE CIMINO: Also happy to Mr. Chair, thank you.

CHAIR GILMORE: Okay Ray, good point. We will gladly get those around and we can start talking about it.

MR. KANE: Thank you.

CHAIR GILMORE: Ritchie.

MR. G. RITCHIE WHITE: On those surveys, were those vetted as license holders? Was the question asked are you presently a saltwater license holder, and then was that checked, just out of curiosity?

CHAIR GILMORE: I'll talk to New York's. We actually sent them out. Oh, sorry my mistake. Go ahead, Justin.

DR. DAVIS: We used the database of our license holder e-mails to distribute the survey, but we did not verify respondents, whether they were license holders. We did ask what state they were a resident of, but that was about as far as we went in identifying folks.

CHAIR GILMORE: Yes, we sent them out to all of our registered license holders, both commercial and anybody in our registry, and we did have a question in there about whether you were an out-of-state resident or not, and checked for double e-mails on them, to make sure that we were not getting 55 surveys from one person. Joe.

MR. CIMINO: Well neighbor, like you we don't have a license, but we do have a registry. We used the registry. There were questions on if you were actively fishing for that species, and also participants in the bonus programs.

CHAIR GILMORE: Dennis.

MR. DENNIS ABBOTT: Three states did surveys, did the assembly of your questions, were they all similar, and what did you use for a basis for information that you wanted to get from the respondents?

DR. DAVIS: I'll confess that we blatantly copied New Jersey's survey. They put theirs out first, and I took a look at it and said hey, this is pretty good, we should do this too. We made some small adjustments after some discussions in house, but we largely based ours on New Jersey's survey.

MR. ABBOTT: Pure plagiarism.

CHAIR GILMORE: Go ahead Joe; tell us your wisdom that got you to the survey.

MR. CIMINO: Yes, so interestingly, even though it helped guide some information on this Addendum, we started this well before the Addendum was written. We started this when we knew the results of the stock assessment. It suggested that the stock was in trouble, so we put out questions to New Jersey anglers on what it is that they hoped for this stock, and what it is by management wise and regulation they would like to see. That was really the basis for the survey.

CHAIR GILMORE: I must admit, staff came to me and said they wanted to do a survey. I said you all put it together and come back and let me look at it, so I looked at it. I don't know who they stole from, but I'm sure it was a collaborative effort. Are there any other questions on the Executive Committee?

Okay, seeing none we will move right along.

**DISCUSS THE PROCESS IMPLICATIONS FOR
ECOLOGICAL REFERENCE POINT
BENCHMARK ASSESSMENT**

CHAIR GILMORE: The next order of business is Discuss the Process Implications for Ecological Reference Point Benchmark Assessment, sorry I can't talk this morning, so Toni. Toni is still celebrating, so we're going to let Katie do it.

DR. KATIE DREW: As many of you probably heard, at the Atlantic Menhaden Board, we are moving forward with the ERP Assessment, it will be reviewed next week. Hopefully when we

come before you in February, we will have a tool for you guys to use to set ecological reference points for Atlantic menhaden.

That is reference points that allow you to take into consideration menhaden's role as a forage fish, when you are setting reference points, when you are setting total allowable catch and so forth. However, the tool isn't going to give you, there is no one right answer. The amount of menhaden that you can take out of the ecosystem depends on what you want the ecosystem to look like, how much predators do you want out there. What predators do you value?

What prey species do you want to fish harder on, et cetera? We're going to provide you with a tool. We're going to provide the Atlantic Menhaden Board with a tool, where they can evaluate the tradeoffs between menhaden harvest and predator biomass. However, there are already objectives in place for all of our predator species, basically, at least the short list that we're focusing on in our intermediate complexity model, and for a lot of other predators in the ecosystem.

There are already biomass targets and F targets in these single species fishery management plans, which limits the universe of possible reference points for Atlantic menhaden, if the Atlantic Menhaden Board wants to respect those boundaries, and leave those predator boundaries alone. However, if the Atlantic Menhaden Board wants to have more say in the single-species reference points for those predators. That is not really something they can do by themselves.

It becomes a question for the larger Commission about how you want to handle the use of ecological reference points for Atlantic menhaden. Is this an issue for the Atlantic Menhaden Board only, where they respect the boundaries set by the single-species management plans, and work within those, or is this a conversation amongst multiple boards, multiple stakeholder groups, to come up with

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reference points that balance all of the needs for all of the species?

Obviously that conversation, the larger conversation is going to be a much longer conversation, and really is almost the beginning of reshaping how the Commission works. It's moving away from the concept of single-species boards, and moving into a realm where all of these boards meet together, and there is no single board, it's just one board that balances the needs of the ecosystem. These conversations can't happen only at a single-species board.

The Menhaden Board is going to get the choice in February or, do you want to go with sort of what the literature calls an ecosystem approach to fisheries management, where you leave the predator reference points alone, and focus on menhaden in response to those existing single-species reference points, which will be a quicker process?

It will let us get reference points on the books much more quickly and efficiently, or do you want to go down the path of what the literature calls ecosystem-based fishery management, where you manage all of these species together as a consistent, coherent ecosystem, which as I said is going to be a much longer process?

That is really where the Policy Board, as opposed to the Menhaden Board is going to come in. I don't think we need to make a decision on this now. Certainly we're not in the position to, as we don't even have the final approved stock assessment yet. But as this process goes forward, it is something for the Policy Board as well as the Menhaden Board to think about, in terms of how does the Commission want to approach ecosystem management for this species and for all of their species in general?

MS. TONI KERNS: I would just add that for those of you that are not on the Menhaden Board, which is maybe one or two folks, come to the Menhaden Board in February so that you

can hear and see the presentation on the stock assessment results.

CHAIR GILMORE: Questions for Katie. John Clark.

MR. JOHN CLARK: Katie, it's still a little confusing to me. This tool in other words, will look at this is the stock of menhaden we need to feed striped bass, bluefish, et cetera. Then you go back from that and go to the standard model to try to take that into account as part of the natural mortality that you need to account for when you're looking at the reference points?

DR. DREW: Somewhat, yes. It's going back and looking at the single-species model for the best available information about biomass and fishing mortality. Then we evaluate sort of the potential quota level and how that would affect other predators, and whether that fishing mortality of that quota would keep the other predators at their biomass target or their biomass threshold, depending on how they're fished in the ecosystem.

CHAIR GILMORE: Lynn, did you have your hand up? Yes, go ahead.

MR. LYNN FEGLEY: Toni, this might be more for you. If I remember there is a motion tabled on the Striped Bass Board about a new amendment. I'm just curious. Since that Board is possibly going to embark on rethinking, if there is a way that we can tie that to this, maybe as in intermediate step to the full. I don't know if they relayed, but it seems like if the Striped Bass Board is going down that road there might be a connection there.

MS. KERNS: I'm not sure it would alter the rebuilding program, unless they changed their reference points. Then that may have influence on the multi-species model itself. But if the multi-species model just holds on to the reference points as they are, then I don't think it would change the path that the Striped Bass Board would be going down.

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CHAIR GILMORE: Go ahead, Lynn.

MS. FEGLEY: Right, and just as a follow up, I wasn't implying that. But it was my understanding that there was some talk about, you know we have the addendum now, but then an amendment to really rethink the striped bass objectives, the striped bass reference points, all of those things going forward. That is the piece that I was pointing to.

DR. DREW: To sort of follow on that. If that component changes, then that would have an impact on the menhaden reference points that go forward. Whether you want to have that conversation with the Menhaden Board as a Striped Bass Board, whether you want that to be a conversation or whether you want that to be dictated to the Menhaden Board, I think is definitely a policy question that the Board may struggle with.

CHAIR GILMORE: Ritchie White.

MR. WHITE: When all this is in place, how much effort and resources will it be to run the model? In other words, what I'm thinking about trying to put these pieces together you get the new striped bass stock assessment and it is way down, and immediately plug that in. What does that do to menhaden? I mean I'm still not quite able to picture exactly how this would work, how fast it would work.

DR. DREW: It's a good question. When we were developing these models we explored a number of different models, and we did put priority on models that were of intermediate complexity, so that they captured a lot of the important dynamics of the ecosystem, but were still updateable on a timeframe for management.

I think the key thing to keep in mind is that we will need updated information from all of our predator species to get the most up-to-date information for these ecosystem tools. If we

could sort of align our predator assessments with our menhaden assessment, it all worked out perfectly this time, so good job us.

But we want to make sure that we keep that schedule going forward, and that is something that the ERP Workgroup could weigh in on is what's the ideal schedule to keep predators up to date? But in the sense the tool is really meant to be kind of a long term understanding of how the ecosystem would behave in equilibrium, rather than a specific year-by-year thing.

You're focusing on a reference point, which is an equilibrium concept of how do we get to where we want to be with these reference points, and then the single-species assessment is kind of the immediate up to date are we there or are we not there yet, on a shorter time frame.

CHAIR GILMAN: Bill Hyatt.

MR. WILLIAM HYATT: Just curious. How do you make the transition to ecological reference points to ecosystem management dealing with all of these predators, and only a single forage species?

DR. DREW: That's also a good question. We also do have, in our intermediate complexity we have; these models do include another alternative prey. We have Atlantic herring in there as kind of another species that occupies a similar ecological niche. That has a similar range, not completely the same as Atlantic menhaden obviously, but there is a little bit of overlap to get at some of those dynamics, especially as Atlantic herring is changing.

However, I think if we want to fully move towards managing the entire ecosystem, we are going to need to make these models more sophisticated and include more data, and of course these models do include a lump of just other prey that's out there. That gets lumped in together, so things like sand lances of bay

anchovies that we don't model and don't even manage get kind of lumped in there as well.

I think we see this as the first step towards ecosystem-based fishery management that we're going to give you some information you need to manage predators and menhaden together. But if you really want to move towards full ecosystem-based management, we're going to need to continue to improve and refine this tool and our management process. But we can still take a really important first step towards considering menhaden's role as a forage fish, with this assessment and with ERPs.

CHAIR GILMORE: Other questions for Katie? Okay seeing none, thanks Katie that was great. It's going to be an evolution as we move forward, so thanks a lot. Yes go ahead, Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Kind of one more on the subject of February meeting. We're going to have a number of sort of big ticket items at the February meeting, the ERPs, menhaden. That's going to take a while. Striped Bass Conservation Equivalency Proposals, the cobia stock assessment.

Where I'm going with all this is we may need to have a four-day meeting in February. We usually schedule three days, we're going to look at it right when we get home. First of all we need to know if the hotel has space. Heads up, we may be reaching out to the Commissioner's saying; we need an extra day or extra half day at the February meeting. We'll keep you posted as quickly as we can.

CHAIR GILMORE: I was thinking it might be the first five day meeting, but we'll see. We've had a late request for a change to the agenda, so if everyone is okay with this, our Board Chair for Menhaden is here and has some time constraints.

REVIEW NONCOMPLIANCE FINDINGS

CHAIR GILMORE: If it's okay with the Board if we move up the Noncompliance Findings, so if

we could move that up does anybody have an objection to that?

MS. KERNS: Before Nichola starts, I e-mailed out a memo from Nichola last night. I just wanted to see. I have some paper copies here if anybody needs a paper copy of it I can bring it over. But in your e-mail you should have a memo from Nichola, but e-mailed from me. Does anybody need a copy?

CHAIR GILMORE: Okay Nichola, we're going to hand it over to you, so if you can give us your update.

MS. NICHOLA MESERVE: During its meeting on Monday, the Atlantic Menhaden Management Board reviewed the status of the reduction fishery harvest from the Chesapeake Bay in 2019, with regards to Amendment 3's cap of 51,000 metric tons. Harvest exceeded the cap on September 6, and is now roughly 65,000 metric tons.

There was a robust discussion among the Board of the necessity of Virginia's compliance with this FMP requirement and its importance to the conservation of the Chesapeake Bay ecosystem. Ultimately a noncompliance motion was passed unanimously by the Menhaden Board on Monday, and Toni is providing you with the memo that addresses the Board's action, and begins to make the case for the conservation need of the noncompliance determination.

It's important to note that the Board has taken numerous actions over the past 18 months to avoid coming to this situation, including multiple postponements to provide the Virginia Legislature more time to adopt the Bay cap, and effectively granting a pass on adopting the cap, provided harvest did not exceed it.

The Board was unable on Monday to come up with any other avenue to responsibly respond to Virginia's inability to effectively implement and enforce the Bay cap in 2019. The motion was made with recognition given to the fact that the lowering of the cap in Amendment 3

was not entirely in response to the stock status of menhaden, which is generally accepted as robust.

The importance of the Bay capped conservation is a much for other species that depend on menhaden as forage than the menhaden stock itself. The Bay cap addresses the potential for localized depletion caused by the reduction fishery, and its implications for numerous other Commission managed species that utilize the Bay, and menhaden as forage, some of which are in sub-optimal status, including our flagship species striped bass.

The impacts of possible localized depletion extend even further to the competing uses for menhaden, including both commercial and recreational fishing activities that target the predators of menhaden. The Board stressed that the Amendment 3 cap was not arbitrarily set, but is reflective of recent fishery performance.

It caps future harvest at that level to prevent an increase amidst scientific uncertainty, as the impact of the intensive reduction fishery harvest on the Chesapeake Bay ecosystem, while ecological reference points are developed to establish scientifically sound harvest limits that consider menhaden's important role as forage. Acting with such precaution is an accepted management practice in resource conservation.

The precautionary principle establishes that in the face of uncertainty we are to take a preventative action, and moreover that the burden of proof is shifted to the proponents of the activity. **With these arguments in mind, the Atlantic Menhaden Management Board recommends the ISFMP Policy Board that the Commonwealth of Virginia be found out of compliance for not fully and effectively implementing and enforcing Section 4.3.7 Chesapeake Bay Reduction Fishery Cap of Amendment 3 to the Interstate Fishery Management Plan for Atlantic menhaden.**

The Commonwealth of Virginia much implements an annual total allowable harvest from the Chesapeake Bay by the reduction fishery of no more than 51,000 metric tons. The implementation of this measure is necessary to achieve the goals and objectives of the FMP, and to maintain the Chesapeake Bay marine environment, to assure the availability of the ecosystems resources on a long-term basis.

CHAIR GILMORE: Hang on one second. I'm taking that as a motion from the Board. We're going to put that up, and then we're going to have some discussion on it again. I encourage the Board that some of you were on the Menhaden Board and spoke to this, but remember not everybody heard the comments from that.

Don't feel you're being redundant if you weigh in again, and we would like to get a good discussion and some input on this. We have a Pierce motion up. Where is David? Anyway the motion is up on the Board from Nichola. First off, any questions for Nichola before we open it up? Adam, do you have a question for Nichola or do you just want to make a statement?

MR. ADAM NOWALSKY: I have a question about the motion. I'm not sure if Nichola would be best served to ask, but if you would like a question I can ask a question, although I'm not sure who will best serve to answer it.

CHAIR GILMORE: Go ahead, Adam.

MR. NOWALSKY: We had discussion about payback provisions. This motion specifically says that we're asking the Commonwealth to reduce to 51,000 metric tons, when the payback provision would be something less than that. What are we actually going to judge Virginia's compliance on? Should the Legislature act to change the Bay Cap in the near future before we have to forward this on to the Service?

CHAIR GILMORE: Toni.

MS. KERNS: We would ask the state to put the 51,000 metric tons in place, because that is the quota, and then in any given year if that quota is exceeded just like in any given year a state exceeds their quota, we would reduce the quota and let them know that year that their quota has been reduced due to an overage, and their quota for that year is the following. In our quota memo this year we will let the state of Virginia know that the Bay Cap quota is not 51,000 metric tons, but x, based on the overage that occurred this year.

CHAIR GILMORE: Go ahead, Adam.

MR. NOWALSKY: My question to Virginia then, and I understand that this has not been a VMRC issue that the VMRC has done everything within their power to address this. The axe of the Legislature is beyond their purview. We got here on the basis of Virginia had a number in place for the cap.

ASMFC had a different number, so now I'm hearing that we're going to potentially be in the same place in 2020. Virginia may have a number, if the Legislature acts, of 51,000 metric tons. The ASMFC is going to expect harvest to be constrained to a lower number, but there will not likely be anything in place in Virginia to hold anyone accountable to that lower number. Outside of just good will, what else could we possibly expect potentially in 2020?

MR. STEVEN G. BOWMAN: Thank you for the question. I believe that if the Legislation is crafted appropriately there could be verbiage put in the Legislation that addresses the quota, and any consequences that come thereto as a result of exceeding the quota. I believe in a perfect world and a perfect legislation, if it were passed, could contain language that deals with overage.

CHAIR GILMORE: Other comments, questions, input? Steve Bowman.

MR. BOWMAN: I'll yield to Mr. Fote first.

CHAIR GILMORE: Go ahead, Tom.

MR. THOMAS P. FOTE: As I said at the Board meeting, because a reference came up about New Jersey and people talking to me, and I said this was a different situation. When New Jersey went out of compliance we basically were not looking for any more fish, as a matter of fact we were looking to take less fish.

But we wanted to take the size we wanted and put in the season we wanted, which actually was more restrictive and we basically accomplished that we had a lower quota. I am going to make sure I write a letter, because I was part of that process, to the Secretary of Commerce and to my Representatives and Congressional staff explaining that to him, and this is a different situation.

This is a spatial conflict that goes on in Chesapeake Bay, which in good faith they had agreed to keep it on a cap and it's basically a situation for us and the Compact to deal with, and we need the support of the Secretary of Commerce. Since I was involved in the last one, I will write a personal letter besides what the state does to that effect to the Secretary of Commerce and to Sam Rauch, because I had a lot of meetings with him over this. That's what I will do after this is sent.

CHAIR GILMORE: Thanks, Tom. Steve.

MR. BOWMAN: Again, on behalf of the Commonwealth of Virginia, we don't like to be in this situation. As I said before, the stigma of the Commonwealth of Virginia being found out of compliance for anything is troubling to the Commonwealth. Governor Northam and Secretary Strickler have demonstrated a desire to improve not only water quality, but the environment in general. It's been one of the hallmarks of their administration and the team. To be found out of compliance in such an important matter is very, very disturbing. That being said, we are here, and why are we here? We're here because this Commission has the

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authority by law to set quotas, and they did. They set a 51,000 metric ton quota for the Commonwealth of Virginia. This Commission has been overly kind to the Commonwealth in allowing us to attempt to remedy the issue that we're confronted with today, by not once but twice postponing a noncompliance finding, as I and the administration worked with the Virginia Legislature to try to adopt the cap. That did not work. The quota has been set. As Ms. Meserve very, very eloquently and accurately described how the quota was set. It's not an arbitrary quota, it's a quota that's based on science and based on necessity to conserve and protect the species. This is a situation in which, as it was pointed out, the Commonwealth is in violation.

But the Commonwealth is in violation because primarily one entity decided to exceed the quota by virtue of their prosecution of the fishery. This exceedance was not without warning, and I would like to read very quickly a letter into the record that I wrote on September 3, 2019, to Mr. Monty Deihl of Omega Protein.

"Dear Mr. Deihl, I am concerned about the progress of Omega Protein and its harvest of menhaden from the Chesapeake Bay this year. As of August 23, data provided to the Marine Resources Commission by the National Marine Fisheries Service indicate Omega Protein has harvested 43,385 metric tons, or 85.07 percent of the 51,000 metric ton Bay Cap on reduction harvest of menhaden from the Chesapeake Bay.

The 51,000 metric ton cap was adopted under Amendment 3 at the Atlantic States Marine Fishery Commission's Atlantic Menhaden Fishery Management Plan. Of immediate concern is the sudden increase in the Chesapeake Bay menhaden harvest for the reduction over the past three weeks, and 43,385 metric tons is substantially greater than any of the previous four years, especially at this stage of the fishing season.

Although the General Assembly has not adopted this 51,000 metric ton Bay Cap, Virginia is obligated to ensure this cap is not exceeded to avoid compliance issues with ASMFC. I

personally told ASMFCs Menhaden Board at their winter meeting that VMRC will monitor the menhaden reduction harvest closely, and will accept any consequences necessary if the cap is exceeded.

Your company has remained below this cap since 2013, and I urge you to monitor your activities closely to avoid any exceedance of the Bay Cap in 2019. It's signed by me, and again dated September the 3rd. I put them on notice. I put them on notice based on the fact two reasons; number one it's the law, number two we as the Commonwealth had been very diligent in trying to do whatever we could to remain in compliance. It did not work.

In addition, by virtue of their desire to, according to the testimony provided by their representative, they put economics ahead of conservation and the environment. They knew by virtue of attending these meetings that science was coming that would probably give us more certainty as what the Bay Cap may be.

Instead of waiting, instead of being a good player, instead of a good actor, they chose to on their own volition, after being warned, to violate the cap. Not only to the detriment of the environment to the resource, also to the detriment of another fishery that has not come up, we haven't spoken much about it, but to the bait fishery.

The bait fishery is a very clean fishery that has stayed within the confounds of the law, done everything it's supposed to do, and not if found out of compliance the bait fishery will be negatively impacted. Those negative impacts don't just affect the Commonwealth of Virginia; it has a ripple effect to our neighbors that rely on menhaden for bait. That to me is somewhat very, very problematic. Where are we now? This Commission has vetted this situation numerous times. The law specifically states that if a state is not compliant with the established cap, it shall be found out of compliance.

Although as I said when I left the table the other day after making comments, I believe Virginia did the right thing and we were doing the right thing by asking and suggesting that you find us out of compliance. It doesn't make me feel any the better. It's not a good feeling. That being said, the time comes when we must do what's right, and the time is right to hold Virginia out of compliance in accordance with established law. Thank you."

CHAIR GILMORE: Jay McNamee.

DR. JASON McNAMEE: I was here during the Menhaden Board meeting in the audience, and listening to some of the comments. One thing that kind of struck me is I think there is a feeling of confidence on the part of some that there is no science to support that cap as it was established.

I hope you'll be patient with me, but I thought I would highlight some of the reasons why I reject that assertion. I think that's a false sense of security that those folks might have. I'll start with some, and a lot of these will be duplicative with the excellent statement that Ms. Meserve made earlier. But I think this will highlight some additional things as well in detail then.

Just thinking about the stock assessment, the mechanics of it itself, and how we use stock assessments in our management process. There are some important assumptions that go into the projections, those are the pieces of the assessment that we use to set our management moving forward. It's our crystal ball; it's how we kind of predict how things will be moving forward.

We've got a situation here where the majority of this fishery gets focused in the Chesapeake. When we go into the projections from the stock assessment we make really important assumptions about the characteristics of the fishery, things like selectivity in the fleet structure that we have within the model and the projections.

If those assumptions change moving forward that impacts our ability to meet our objectives. It impacts the performance of the projections, and the objectives that the Board is trying to meet won't be achieved, because the characteristics have change. That's a really strong reason why you would want to have some stability in the Chesapeake region, why you would set a cap.

That's why it wouldn't be an arbitrary decision, but a logical and important decision to make. On another point, there was a lot of work done a few years ago investigating a localized depletion in the Bay. There were no definitive causative links that came out of that with regard to the concept of localized depletion specifically.

But, there is ample evidence that there are extremely important linkages between menhaden and the other species in the ecosystem in the Bay. Just to highlight a few of those, there are studies on the natural mortality of striped bass, based on some of the tagging work that is done. It shows that natural mortality seems to be correlated with the size of the population of menhaden, the natural mortality of striped bass, sorry. That is what I'm talking about specifically. Striped bass natural mortality seems to be affected by changes in menhaden biomass. There is literature on that.

There has been lots of work done on the health of striped bass, again, strong correlations between the size of the menhaden population and the health of striped bass in Chesapeake Bay. Going up a level from striped bass, lots of data indicates that menhaden is a critically important component of the diet from many different predator species in the Bay.

It always shows up as one of the highest components in those diet studies. I'll stop there. I could go on. I'm sure you want me to, Mr. Chair, but I'll stop there. It's not that the science has said there is no issue with focusing fishing on the Chesapeake, but it's difficult to make that really strong linkage.

But I think from my perspective what the management board did when setting that cap is they looked at that weight of evidence, and took a set of precautionary measures to make sure these things weren't going to impact the ecosystem of the Bay. In my view the cap was set by the Board, not in an arbitrary way, but as a method to mitigate the risk to that ecosystem, not just menhaden, not just striped bass, but the entire ecosystem.

In my view it is perfectly logical to set that cap based on an average of fishing. I think the Board; they don't have to think about just science, they have lots of other things to think about. When you do something like that you don't have any specific numbers that you can throw at it, no specific math to do.

But you looked at the evidence, you thought about the fishery, you thought about the ecosystem, and you made a decision to set that cap to keep things stable for the fishery, and to make sure that there was enough forage in that ecosystem to keep it going in the way that it had. Thank you for letting me ramble on there for a few minutes. It does not appear to me to be an arbitrary decision, and that cap I think is an important conservation effort in the Chesapeake.

CHAIR GILMORE: Great comments and I couldn't agree more. I mean fisheries science has never been an exact science, and we go back in time. I've been at this for close to 40 years, and we have to make decisions on management based upon the information we have. We've done very good with much less information than we've had on this fishery, so it is great points. Ritchie White.

MR. WHITE: First I would like to commend the Commonwealth and Steve for the actions they've taken. It's clearly a model for this Commission for a state or Commonwealth to do the right thing and step up. I think we don't see that type of action as commonly today as we

used to. I think this is excellent for us to witness this and be part of it.

Question is, I'm already hearing from constituents that want to sound in on this. Can the Commission let us know when and who comments should go to? Should it go to the Secretary of Commerce right away? Should it go to National Marine Fisheries Service? What would be the best avenue for the public to comment, and they're already wanting to comment that a foreign company is overharvesting a U.S. resource. I'm hearing that that is what a lot of the public plans to bring forward. I assume we'll be getting the copy of the letter, and we can then forward it to our constituents, so if we know where that will go. New Hampshire also plans to contact our delegation and be encouraging them to weigh in on it.

CHAIR GILMORE: Bob, can you just quickly go over the timing and the process for the letter and the follow up?

EXECUTIVE DIRECTOR BEAL: Sure, I'll go over the process timing and then speak to Ritchie's original question. The way it would work. Should a motion go forward from the Full Commission would be that I have 10 business days to write a letter for submission to the Secretary of Commerce, so that would be starting tomorrow would be day one.

There is Veterans Day in there, so we do get an extra bonus day to do some writing. But it would be ultimately the letter would be due November 15, and we would submit that in time for that deadline. Then what happens after that is the Secretary has 30 days to make a decision whether he agrees or disagrees with the assertion in the letter.

Then if the Secretary does agree a moratorium is appropriate, the Secretary has a six-month implementation window that he can exercise. If one month from November 15, when he receives our letter, the Secretary could say well, rather than the moratorium being effective

immediately, he could decide to push it back to February or April, for whatever justification working with General Assembly or whatever it may be.

There are multiple steps in the process, and there is some flexibility on when a moratorium would be affected, should the Secretary chose to go that route. To answer Ritchie's question. The Atlantic Coastal Act really doesn't include a public comment provision in this. The state in question, in this case Commonwealth of Virginia would be provided an opportunity to meet with the Secretary of Commerce or his staff to talk about the issue.

We could work with friends at NOAA Fisheries and see what the best avenue for public to provide comment would be. Again as you asked, should it go to NOAA Fisheries, should it go directly to the Secretary, should it come to us and we package that up and send it along? There are a lot of different ways to do it, and I think we can talk to the representatives from NOAA Fisheries, and get a better process for that.

CHAIR GILMORE: Are you good, Ritch? Adam, do you have your hand up?

MR. NOWALSKY: Is it fair to assume that the Virginia Legislature basically would have zero chance to act on this prior to the Secretary rendering a decision, or is there any possibility that the Legislature could act prior to a decision by the Secretary?

CHAIR GILMORE: Steve.

MR. BOWMAN: Considering the window that is involved and the timing that's involved. As this would work out, the Virginia General Assembly goes into session around the 17th of January for a 60 day session this year, so the six month window that's allowed would fall right within the timeframe of the Virginia General Assembly thereabout.

CHAIR GILMORE: Go ahead, Adam.

MR. NOWALSKY: But the 30 days that the Secretary would respond from when our letter gets to them, I believe would end prior to that date that you're offering, 1/17.

MR. BOWMAN: That is correct.

CHAIR GILMORE: I'm sorry Alicia; I missed your hand before. Did you have a comment to that point of the previous question?

MS. ALICIA REID: I was just going to point out that we will publish a Notice of Referral where comments can be submitted, so you'll see that and your constituents can comment through that mechanism.

CHAIR GILMORE: Thanks. Dennis.

MR. DENNIS ABBOTT: Following up on Adam's first questions. They've overharvested, they have a payback. We set a number, whatever the number is say 40,000. In next year's fishing season at some point we're going to tell by Board action that they have to lower their quota. I think that is the way I understand it.

That would go to Virginia. The Legislature will act or won't act on that number. Would that result in a further out of compliance issue? It seems like what we do is what we do, what the Secretary does is what they do. Are we going to get into another noncompliance issue, which on the one hand, I think we have to if nothing else, keep as much pressure on the Commonwealth General Assembly to get their nose out of this and do the right thing? I'm just wondering for Steve, or for the Chair here. What would be the action for the reduction or handling the overage?

CHAIR GILMORE: I think the technical response is yes there would be a second noncompliance finding, but I'll defer to staff if that is incorrect. I don't know Pat will have to deal with it. I'm just kidding. Do you want to add to that Toni?

MS. KERNS: It only depends on whether or not they exceed that reduced quota or not. You would have to wait to determine that. As part of this letter we could include some of that information, if it's helpful to Steve in his process of identifying what the cap should be and what the quota would be for the next year.

We can work with Steve to put this information out there and the best way possible to make it understood of the process that we go through, recognizing that their process is a little bit different through the Legislature, and that they don't annually shift their quota through their legislative process. I'll defer to Steve.

CHAIR GILMORE: To that point, Steve.

MR. BOWMAN: To that point. The Legislation in a perfect world, if I were to write it, because we don't want to revisit it again, it would as I indicated earlier, would indicate that the Commonwealth of Virginia would adopt the cap that is established by ASMFC.

Then line two would say any further conditions assigned by the Atlantic States Marine Fisheries Commission would be adhered to. I think that's the only way to really write the Legislation. I'm not Legislative Services, I'm not an attorney, but I think that is what needs to be done, so I'll leave it at that.

CHAIR GILMORE: I concur. If I was in your shoes it would be the same thing. Go ahead, Toni.

MS. KERNS: I think that that would be also helpful, Steve in the fact that this section of the document also contains other provisions, in terms of if there is an overage, which we have just been talking about, as well as there is also the provision that unused quota from states and regions are not allowed to be transferred to the cap to cover an overage, as well as unlanded fish for the cap cannot be rolled over into a following year. There are also those two other provisions as part of the section, in addition to the cap itself and reducing overages.

CHAIR GILMORE: Lynn Fegley.

MS. FEGLEY: I'll be brief. I just wanted to put a finer point a little bit on what Dr. McNamee said about the science end of this. Coming from the state of Maryland, which shares the waters of the Chesapeake Bay, we do have issues with disease in striped bass, and there is some scientific peer reviewed literature that is indicating that striped bass are more susceptible to mycobacteriosis when they are not well fed.

As we're trying to rebuild striped bass, and potentially squeeze more striped bass out of the Bay. I think it's very important to keep that in mind. Remembering back in 2009, when we were struggling with the localized depletion issue, and did a lot of studies. Those studies were peer reviewed by the Center of Independent Experts.

At that point Dr. Jean-Jacques Maguire pointed out that the idea of really quantifying exactly how much forage needed to be in the Bay to satisfy increasing demands of striped bass and other predators, including the fisheries, and I quote. "It will be a difficult and possibly very expensive question to resolve."

I think it's also important to note that they're not always the extensive resources that are needed to develop these concrete answers, which are very hard to find. Dr. McGuire went on to say that one way to mitigate the negative consequences of this competition between fisheries and predators was to implement some timed area restrictions and zoning of fisheries. I think all of these things were very present in the Board's mind when they made these decisions.

CHAIR GILMORE: Eric Reid.

MR. ERIC REID: To Adam's original point. If it makes anybody more comfortable, maybe if it makes me more comfortable I suppose. In this particular motion, I realize it is only a motion of finding of noncompliance, and then the actual

letter that is going to be sent to the state of Virginia will be more detailed, I'm assuming.

But if you took this in this motion where it says 51,000 metric tons it would be 51,000 metric tons per year, and also implement the accountability measures in a case of an overage. You can just add that little line in there, and at least that would maybe satisfy some of my other Commissioners.

As far as the action of the Menhaden Board, it's pretty simple. The state of Virginia is out of compliance. Right now they're out of compliance by about 16,000 tons. That is 33 million pounds. Omega's reasoning. I'm in the commercial fishing business, everybody knows that. But part of their reasoning was you know they've got boats sitting at the dock and they need to go fishing, and that's it.

They sent a letter and said we're just going to go fishing. I've got boats sitting at the dock too, and you know we're in the illex fishery, and we caught the illex quota in record time. When the Feds said the fishing is over, we stayed tied at the dock. We didn't write a letter saying hey, I've got 150 employees as well, and we need to go make money and we're going. We stopped.

It kind of rubs my nose in it a little bit, and I don't care for it. I applaud the actions. It's an easy decision. What happens from here may be a little bit more dicey, and we're not in a perfect world. But this is something that has to be done. There are other ways to deal with good behavior versus bad behavior in the future, and I'll be sure to keep that in my head come February.

CHAIR GILMORE: We are going to need a motion from the Policy Board, so let me go to Bob.

EXECUTIVE DIRECTOR BEAL: Yes just kind of highlighting where we are. The motion that was originally up that Nichola provided from the Menhaden Board moving forward is made on the behalf of the Menhaden Board, it

doesn't need a second, but if this Board wants to adjust that as Mr. Reid just suggested, to roll in the additional provisions about accountability and overages and underages.

We'll need a motion to amend that motion that was brought forward from the Menhaden Board. There is language up on the board that I think should capture all the additional details. I got it. It makes the whole thing a lot longer. For completeness it's probably what needs to be added to fully spell out 4.3.7 from the Amendment.

CHAIR GILMORE: Does anybody want to adopt this language on the board as a motion? Eric Reid. Do we have a second to that motion? Doug Grout, discussion on the motion? Adam Nowalsky.

MR. NOWALSKY: We discussed noncompliance on this issue earlier last year, prior to the cap being exceeded. I thought I heard Toni suggest, and if I misheard please correct me that we would need to see how landing proceeded in 2020, to determine if Virginia was out of compliance again.

I would offer that especially with this motion in place, we wouldn't need to. That at any point during 2020, when the Menhaden Board and ultimately the Policy Board says, is Virginia doing enough, the Legislature doing enough to enact this that we could potentially take action again? I'm just looking for guidance on that, because I don't believe we need to wait for the cap to be exceeded in another year to potentially pursue another noncompliance finding.

CHAIR GILMORE: Go ahead, Bob.

EXECUTIVE DIRECTOR BEAL: Thanks Adam for the question. I think since the Menhaden Board has given some leniency to Virginia over the years, since they've been under the quota the Board hasn't pursued noncompliance. That's very different than how we handle it in most management boards.

We usually say if the state doesn't have the right regulations in place they're out of compliance. I think what you're going to is back to how this Commission usually handles compliance. They must have the appropriate regulations in place. You don't wait for someone to exceed a quota, the Commission usually finds someone out of place because they don't have the appropriate quota in place.

I think that is kind of what this is doing is trying to ensure that Virginia has all the provisions in place for the accounting, as you mentioned, and you wouldn't have to wait until you see their performance. If the harvest was really low next year, maybe they don't go over the reduced quota and those sorts of things.

I think the Board could at any time evaluate whether the package of regulations in Virginia is consistent with the FMP. You're right. You don't have to wait to see the performance usually; the Board usually evaluates compliance by what regulations are in place not once they exceed a quota.

In other words we've got multiple quotas and multiple recreational size limits and other things in place, or the states are supposed to. We don't wait until say a small size limit resulted in higher recreational landings. The states are reviewed based on the size limits they have in place, not the performance of what they do have in place.

CHAIR GILMORE: Steve Bowman.

MR. BOWMAN: To that point. Based on the latitude that this Commission has given the Commonwealth of Virginia, I think that is the appropriate direction to take.

CHAIR GILMORE: Other discussion on the motion? Okay I think I need to read this into the record, and then we'll vote it. Move to amend to include the unused quota provision whereby unused quota may not be transferred to the Cap to reduce an overage, the rollover

provision where unlanded fish from the cap cannot be rolled over into a subsequent year.

Lastly if the cap is exceeded the amount over the cap will be deducted from the next year's allowable harvest, motion by Mr. Reid and second by Mr. Grout. Let's start with is there any objection to the motion? Let's see if we can do this quickly. Okay seeing no objection to the motion it's approved by unanimous consent. This gets added now to the main motion. This is really becoming a Pierce motion.

MR. BOWMAN: Mr. Chairman, before you read it please. I would suggest strongly that you do not read any abbreviations please when you read the motion.

CHAIR GILMORE: I will try. This is now a motion. Bob, for clarification, this is still a modified motion from the Menhaden Board, or is this now a motion from the Policy Board?

EXECUTIVE DIRECTOR BEAL: Property of the Policy Board.

CHAIR GILMORE: Okay great, just wanted to make sure we're clear on that. **This is a motion of the Policy Board, and let me try to buckle up here, Steve. Move the Interstate Fisheries Management Program Policy Board recommend to the Commission that the Commonwealth of Virginia be found out of compliance for not fully and effectively implementing and enforcing Section 4.3.7 Chesapeake Bay Reduction Fishery Cap of Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden.**

The Commonwealth of Virginia must implement an annual total allowable harvest from the Chesapeake Bay by the reduction fishery of no more than 51,000 metric tons. The implementation of this measure is necessary to achieve the goals and objectives of the Fisheries Management Plan and maintain the Chesapeake Bay marine environment to assure the availability of the ecosystem's resources on a long-term basis.

Unused quota may not be transferred to the cap to reduce an overage, the rollover provision, where unlanded fish from the cap cannot be rolled over into the subsequent year. Lastly if the cap is exceeded, the amount over the cap will be deducted from the next year's allowable harvest. Okay is there any discussion on the motion?

MS. REID: I would like to ask one of my colleagues to come up and just offer a little bit of advice before you move forward on this.

CHAIR GILMORE: Go ahead, Chip.

MR. CHIP LYNCH: Hey everybody, Chip Lynch with NOAA's Office of General Counsel. I made some comments a couple of meetings ago about the novelty of analyzing a noncompliance relative to a fishery that was not overfished and overfishing wasn't occurring. I appreciate the efforts, NOAA appreciates the efforts that you all have done today to augment the record, and better explain your rationale. I particularly note Lynn's comments and Jason's comments. That is helpful. I think that will help the Secretary better understand the position of the recommendation given to him. Incidentally, I do want to just interject. When there was the last motion that passed by unanimous consent, NOAA Fisheries would have abstained from that. We're in the decision making process or we would be in a decision making process if this carried. This motion has now become a little bit more problematic for the Secretary, and I'm not talking about it being problematic on the merits.

Certainly the Secretary will review whatever is sent. He will give it an honest look, a hard look, and will consider all the facts before him. The difficulty however, is that the Secretary is not only going to be asked about make a decision on the conservation basis for the 51,000 metric ton cap, as well as this novel concept of an ecosystem, the resource in question being more of an ecosystem resource.

But now if this motion passes, the Secretary will need to figure out the conservation, not of 51,000 metric tons, but of some number beneath it which hasn't yet been determined. That is far more complicated than what was originally on the board, and that which I spoke to a couple few meetings ago.

I would urge further examination and discussion of what the actual number would be, because I think that you all have worked so hard, and you've given your rationale for 51,000. But now all of a sudden the number 51,000 isn't the number anymore. It's some number lower than that. If you could, it would be helpful to consider that.

You may want to consider the idea of a step-based approach. The idea of the original motion, moving forward with the original motion does not preclude you from finding and raising this issue of the overage issue at some later date. In any event I'll leave those comments at that. Thank you.

CHAIR GILMORE: Thanks Chip. I think part of the reason for the motion right now. We're struggling between clarity, but not trying to undermine the effect of it. My suggestion, we're going to take maybe a five minute break right now to have some discussion, and then we'll come back to the Board. Take a few minutes, thanks.

(Whereupon a recess was taken)

CHAIR GILMORE: Okay, I think we have a path forward, and I think there is a suggestion for a motion. Dave Borden.

MR. DAVID V. BORDEN: I think the aspect of this as I understand it; it's very problematic for legal counsel is the second portion of the motion if related to the motion to amend, because it to some extent makes presumptions about actions that may happen in the future. **I think the appropriate process we ought to follow is to pass a motion to reconsider the prior motion to amend. Put it on the table,**

and then separate it back out and take it out. I would move to reconsider the prior motion to amend.

CHAIR GILMORE: Thanks David, do we have a second to that motion, Tom Fote? Do we have discussion? Remember this is going to take a two-thirds majority, so we're going to have to vote this up or down based upon that. Is there a discussion on the motion? **Seeing none, let's try to do this. Let's do a show of hands. All those in favor of the motion, all those opposed to the motion, abstentions, and null votes. Okay the motion passes unanimously.** Go ahead, Bob.

EXECUTIVE DIRECTOR BEAL: Just for clarity. I think where we are, you're back to the original motion that Nichola brought forward from the Menhaden Board. The Menhaden Board motion is modified slightly to say the Policy Board recommends to the Commission. Now that modification has happened that motion is property of the Policy Board right now, and that will be the motion that you're voting on.

CHAIR GILMORE: Can we put the original motion back up again then? **We're back to the original motion, and this is a motion of the Policy Board now, since it was slightly modified from the species board.** Is there a discussion on the motion? Dave Borden.

MR. BORDEN: I support the motion, but I want to make sure it's clear on the record that the staff has the authority and is directed to fold in all of the arguments that have been brought forth today by Jason and Lynn and others. That also extends to the scientific arguments that the Commission staff and others have put together in prior written correspondence.

CHAIR GILMORE: Other discussion on the motion? Okay seeing none, I think we're ready to call the question. Does anybody need time for a caucus? Seeing none, we'll do this by hand. All those in favor of the motion please raise your hand, all those opposed, anyone in abstention to the motion, two abstentions,

any null votes? The motion passes 16 to 0 to 2 to 0. Mel Bell.

MR. MEL BELL: I hope this is the appropriate point. I just thought perhaps it was worthwhile to put on the record that the Commission is taking this action based on the science we've talked about, solid management principals, adherence to our process, which is very important. That is what we're doing.

There has been discussion of the next step and what the Secretary will do, in terms of consideration. It might be worth pointing out that given that NOAA Fisheries advises the Secretary related to fisheries that basically this action is also very consistent with NOAA Fisheries Strategic Plan for 2019 to 2022, in which discussing the challenges that we're facing in fisheries in this time period and in the future.

That one of the things that they've said they want to do is to integrate ecosystem considerations into stock assessments, fisheries management, and aquaculture. I would also view what we're doing, in terms of our recommendation is totally consistent with NOAA Fisheries own strategic plan for the time period involved.

CHAIR GILMORE: Great, thanks Mel. Oh Eric Reid, last word.

MR. REID: I actually missed the beginning of Mr. Borden's comment, because I was talking to the incoming Chair. I would suggest that the Policy Board send a letter to the state of Virginia explaining what next year is going to look like, given the current overages. Just so we're all very clear what next year is going to look like. Right now the Bay cap would be about 35,000 tons. But I think that would be some ink that would be well worth it, because that way they can understand what the Commission's numbers, and what's going to happen to that Bay Cap given the actions of this year. If that dovetails in with David's comments that would be great.

CHAIR GILMORE: I think that can be done, thanks. Any other closing comments before we move on? Great, thanks everybody for all that effort. We're back to Item Number 6 under the agenda, Committee Reports. The first one we have is the Law Enforcement.

MS. KERNS: Mark Robson has taken ill, and so we will not have an update from the Law Enforcement Committee today. Once he is feeling better we will put together a meeting summary, and I will e-mail that out to the Policy Board for your review.

CHAIR GILMORE: Next we have Habitat. Go ahead, Bob.

EXECUTIVE DIRECTOR BEAL: Before the Habitat report, just I want everyone to know that this is Mark Robson's last meeting with the Commission; he has decided to fully retire. He retired from the state of Florida eight years ago, and he's been with us for the last eight years as our Coordinator for our Law Enforcement Committee.

We wish Mark and Joanie the very best when they move on to do other things. Mark will not be around; it's too bad he wasn't here today. I wanted to recognize him in front of the Policy Board, but he's decided to be a full-time retired person. We wish Mark all the best. (Applause)

COMMITTEE REPORTS

HABITAT COMMITTEE

CHAIR GILMORE: Thanks Bob. Okay we're going to have the Habitat Committee Report from Marek.

MR. MAREK TOPOLSKI: The Habitat Committee met yesterday on Wednesday. We discussed the current Habitat assessments underway in the Atlantic; one by the Atlantic Coastal Fish Habitat Partnership, and one by the Federal Councils, the Northeast Regional Habitat Assessment.

We received an update on ACFHP. We worked in breakout groups on habitats of concern designations. We discussed the possibility of having an SAV monitoring protocol developed. At that point we reviewed our progress on documents, the Habitat Hotline, the acoustic impacts on fish habitat, and fish habitats of concern.

We came back together to update status. The document Aquaculture Impacts to Fish Habitat, this Committee has been working on it since approximately 2014. Based on some survey results amongst the group from the spring, we tailored the document in the summer and fall; it's gone through multiple iterations.

Now we believe it's ready for approval, with a focus on the text not the formatting and layout of the document. The document contains sections on the effects of aquaculture on habitat, which includes water quality, sediment, and populations and communities. There is a section on common practices, tidal water mariculture and land-based mariculture, siting considerations, which includes minimizing user conflicts, protecting habitats and carrying capacity. The sections continue with some conclusions. Common practices by state in a tabular form, resources for best management practices, some policy guidance links, and links to state-specific permitting, and leasing information, and the document concludes with references, questions?

CHAIR GILMORE: Any questions, John Clark?

MR. CLARK: Just curious on the aquaculture report about the water quality. In Delaware we've just started permitting shellfish aquaculture in the past three years. It's been very hyped up as the water quality benefits, particularly of oysters, because of their filtering capacity. Are you finding those types of things in this report?

MR. TOPOLSKI: The report looks at water quality from both a positive and negative benefit and impact. The literature out in the

public domain that we looked at generally suggests that shellfish aquaculture can have some net benefits from a habitat standpoint for fish.

MR. CLARK: I figured as much, but you haven't seen the huge benefits that have been touted for this, like you know it's going to filter all the water in a eutrophic coastal lagoon, the way it's been plugged by some of the supporters of this.

CHAIR GILMORE: Other questions. Tom Fote.

MR. FOTE: Well I think it's been proven before, when we look at the results of what zebra mussels did to the Great Lakes, and how they cleaned out all the algae and everything else in the Great Lakes, so if you get a good situation. I also want to know if oysters do the same response as clam beds do that we see eelgrass around, because of what's coming out of the clams and things like that. Do you see the same thing with oyster beds?

MR. TOPOLSKI: The document does not go into that type of specifics.

CHAIR GILMORE: Other comments, questions. Okay we're going to need a motion to adopt the report, if someone would like to offer one. John Clark. Do we have a second?

MR. CLARK: Do you need me to actually make a motion?

CHAIR GILMORE: Yes, if you could just make a motion.

MR. CLARK: Okay, move to accept the report of the Habitat Management Series, approval of the Habitat Management Series: Aquaculture Impacts to Fish Habitat along the Atlantic Coast report.

CHAIR GILMORE: Perfect, John, second by Malcolm Rhodes. Any discussion on them motion? Seeing none, any objection to the motion? Seeing none, we will adopt that by unanimous vote.

ACFHP STEERING COMMITTEE

CHAIR GILMORE: Okay our next order of business is ACFHP, and Kent I believe is going to do the update on that. Come on up, Kent.

MR. KENT SMITH: Good morning, Chairman thank you very much for this opportunity to address the Policy Board today. I'm going to give you a quick report on what is being done with the Atlantic Coastal Fish Habitat Partnership. The Steering Committee met this Monday and Tuesday. We confirmed our Fiscal Year '20 project recommendations, and had an update on our conservation mapping projects. We developed a new Action Plan for the 2020-2021 timeframe. I've been with it for a while, so it's getting all confused in terms of time.

Discussed outreach and communication initiatives, we reviewed our funding initiatives for our new Business Plan, and we discussed the status of the National Fish Habitat Conservation through Partnerships Act. Relative to our 2020 NFHP U.S. Fish and Wildlife Service project proposal list that was provided, we received 13 applications. It was the second highest number of applications that we've ever received.

Seven states provided those applications. We had representation in the Mid, North and South Atlantic Regions of the partnership. We had seven passage projects, six benthic habitat projects that included tidal vegetation, seagrass and shellfish beds. We'll be recommending six of these projects to the U.S. Fish and Wildlife Service for funding, and the recommendation deadline is January 10, 2020.

Relative to our 2020-2021 Action Plan, this is a project that we do on a biennial basis, and it is based on our 2017-2021 Conservation Strategic Plan. The highlights for our Action Plan include compiling VMPs affecting our priority habitats, sharing the importance of water quality on human and fish health, developing a methodology for using our habitat assessments,

and developing a fundraising strategy to increase our funding base for those projects.

We also endorse projects within ACFHP, and at the meeting we actually reviewed a project endorsement for a project in Pamlico Sound, North Carolina, known as the Swan Island Oyster Sanctuary. This is led by North Carolina Division of Marine Fisheries, and the North Carolina Coastal Federation.

It's part of a long term management and restoration strategy in the Jean Preston Oyster Sanctuary Network. The project itself in total is a 60 acre area of harvest protected, oysters containing nearly 40 acres of developed oyster habitat. The project itself will involve the deposition of limestone and granite. It is estimated to support nearly 50 million oysters in the system.

It's intended to restore oyster and finfish populations through habitat availability, seed production, and water quality improvements. For this project we have federal, state, non-governmental organization, and industry collaboration; a true partnership project. Also, during this year, we attended the NFHP American Fishery Service Film Festival, and at the 2019 American Fisheries Society meeting.

This occurred in Reno, Nevada on September 29 through October 3. There were over 80 films on fish habitat and conservation at this meeting. ACFHP helps during the festival by supporting some of those activities. Some of the films were from ACFHP regions, including some of our endorsed projects. When they're uploaded to YouTube, obviously we'll share the link with everybody so you all can see some of the work that we're doing. At the meeting we also elected a new Vice Chair, Jessica Coakley, with the Mid-Atlantic Fisheries Management Council, and the same Chair is still present, me. We would also like to thank very much the ASMFC for your continued operational support, it has been phenomenal. Along with that I would like to just have a quick shout out for all of our

Washington-based crew. The Nat's did it last night, so congratulations guys!

CHAIR GILMORE: Thanks Kent, so any questions or comments for Kent? Okay seeing none, thanks a lot Kent.

MANAGEMENT AND SCIENCE COMMITTEE

CHAIR GILMORE: The next item is Management and Science, and I understand Pat is going to lead us on that so come on up, Pat.

MR. PATRICK A. CAMPFIELD: The Management and Science Committee met earlier this week on Tuesday. It was the first time that Committee met, I think since 2017. They haven't been meeting very frequently, and so we've made a point to try and reengage the Management and Science Committee a/k/a MSC.

Just as a reminder to the Policy Board of this Committee's purpose. We were having some existentialist questions about what they're really there for. In a nutshell it's an oversight committee providing advice to you all on issues that span coastal fishery science and fisheries management, so big picture questions, challenges that we have that impact multiple species.

This is the laundry list of their specific roles and responsibilities. I'll highlight number two, again evaluate and provide advice on cross-species or cross-cutting issues. MSC is very important on providing oversight to our peer review processes for stock assessments and new research surveys.

They also have a key role in providing guidance on multispecies and ecosystem issues. A quick reminder of where the Management and Science Committee sit in the ASMFC process. They are one of the scientific oversight committees that can be formally tasked by the Policy Board or the Executive Committee.

Oftentimes the Committee can address these tasks themselves, but they will also delegate or

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farm out the work to, in the past for example, the Multispecies Technical Committee, and more recently the Ecological Reference Points Workgroup, which you're all well aware of and we touched on earlier this morning.

Going back a little further, five or ten years ago they also were tasked with projects to investigate gear technology, improvements to reduce bycatch, discards. The NEAMAP Program, which is now over a decade in existence, was identified as a need by the Management and Science Committee, and they put together the design and the selection of the Survey Team for NEAMAP.

We'll also highlight that MSC works very closely with our Assessment Science Committee on reviewing stock assessment schedule and making sure we can handle our workload up and down the coast from all your Technical Committee members. Again, we wanted to remind you all as the Policy Board that you're welcome to task this Committee at any time. I touched on some of these, but past projects have included development of multispecies models centered around Atlantic menhaden. I mentioned gear technology. But perhaps the most important role that MSC has is to periodically review the Commission's research priorities, and to try to boil them down, look for themes across species, and develop proposals to address some major issues or data deficiencies that we have. I mentioned NEAMAP.

That is how that program was started. More recently they also saw a need for greater discard data from the Northeast Fisheries Observer Program, and so we were able to write a proposal and get, I think about five years of funding from ACCSP, to improve our observer coverage. The last formal task that the Policy Board gave to the Management and Science Committee was related to climate change and fisheries issues.

This was back in 2014-2015, where you all tasked MSC to evaluate potential impacts on

four stocks, summer flounder, black sea bass, scup; I think winter flounder was in there as well. The Committee completed that task, largely by working with the Northeast Fisheries Science Center, and reported back to you all on it. Subsequent to that members of the MSC also contributed to a hybrid group of Commissioners and scientists to develop a fairly new document, ASMFCs Climate Science and Fisheries Management Strategies.

To bring us up to speed with this week's discussions at the Committee meeting. They jumped back into the climate and fisheries issues, receiving a presentation from the Southeast Fisheries Science Center on the development of their South Atlantic Climate Vulnerability Assessment. This will use a broad range of environmental data as well as fish monitoring data to identify which stocks in that region may be most susceptible to climate impacts.

Another presentation that the Committee received was from the U.S. Geological Survey. Historically ASMFC has received scientific support on things like the Horseshoe Crab Adaptive Resource Model development and implementation, a few other projects. But in the last couple of years there has been renewed support from USGS, largely to the credit of Tom O'Connell, formally with Maryland DNR, who now leads USGS's Science Center in the Northeast.

That is a quick list of the new projects that USGS received funding for and is helping us with. The last discussion item that MSC covered was on wind energy and fisheries. MSC discussed their possible role in gathering the science on wind development effects on fisheries resources. They expressed an interest in supporting pre and post construction monitoring and developing guidance for that before and after wind farms are installed, and how does that affect our fisheries resources?

But they did want to come back to you and seek guidance on whether we need a separate

ASMFC Committee to dig into this. The MSC did not feel that they were the appropriate group. They're not working day to day on the wind and fisheries issues, but as you all are well aware, you have staff that is engaged in this and it can be fairly time consuming.

It's a question of whether we want to form a different committee of your staff to cross-pollinate, and develop lessons learned, or if we want to stay out of that and just encourage direct participation by your state personnel in the RODA or ROSA venues. That is a question to you all. I don't know if you can answer it today, but something to think about. Finally, we left off with what is on the Management Science Committee's horizon. Another presentation that they received was on management strategy evaluations by Dr. McNamee. Folks were pretty excited about this. In a nutshell, MSCs are a tool that will use simulation models to provide different management options or approaches that may inform how we improve our management. They talked about key stocks that might be ripe for an MSE; they include striped bass, menhaden, drum, and lobster. We talked about shad, but that slide is wrong, lobster.

The Committee also received a presentation from Toni on our stock status definitions relative to our annual review of the stocks. The MSC will be working on establishing clear stock status definitions to aid that annual review. Again, they will be moving forward to revisit the Commission's research priorities, hopefully develop some themes and proposals to pursue funding.

Depending on the outcomes of the ERP and menhaden assessments that go through peer review next week, MSC has had a historical role in multispecies issues and science, and so they may be able to support the ERP Workgroup and the Menhaden Board moving forward. Most recently through the Executive Committee discussion yesterday, there was a request or a task to explore new approaches to soliciting

public input on the fisheries management process. Thank you, I'll take any questions.

CHAIR GILMORE: Questions for Pat? John Clark.

MR. CLARK: Thank you, Pat. I just want to go back to your wind power. You were suggesting that for that to be pursued further within the ASMFC states that we would need to develop a new Committee? Because I know, I mean a lot of these wind power issues are going to be common to all states. It seems like it would be a good idea to coordinate.

MR. CAMPFIELD: I'll give a partial answer, and maybe throw it to Bob to round it out. If you recall where we left off from our August workshop with GARFO and the Commission, I think the bottom line was we were going to take a limited role in this activity that you all are engaged with folks like BOEHM and NOAA and others.

I think our sideboards were provided opportunities, ASMFC will provide opportunities to coordinate information and how things are going, may be able to provide support for personnel or staff within the states, and then I think Bob sits on the RODA or the ROSA group that is a new partnership or external partnership to communicate on these issues. That is where we left off in August, and this is MSCs question to you all, whether we stay at that point where the August recommendations settled, or if we do something more.

CHAIR GILMORE: Justin.

DR. JUSTIN DAVIS: On that topic, I think I would come down on the side of this body not forming some sort of special committee or anything to get engaged on that topic. I know my experience in recent years is this offshore wind thing has snowballed and become a bigger and bigger thing. At first it was sort of bewildering, all the different workgroups and technical groups. We were getting requests to attend eight different meetings. I'm really hopeful that

ROSA and RODA will sort of become kind of the catalyst for regional cooperation and work on these issues. I think going the path of individual states being engaged with that process however they can be. I think it is helpful if the Commission can periodically do something like that workshop we had in August, where we can sort of have something that updates everyone here on what's going on, but I think I would come down more on the side of what you were talking about, the Commission having sort of limited involvement and not forming another special committee or group to get involved with wind development.

CHAIR GILMORE: Yes, I agree Justin. I've got Dan McKiernan and Tom. Keep it quick, because the South Atlantic Board wants to get out of here today before the weather.

MR. DANIEL MCKIERNAN: Thank you, Pat. Would it be appropriate for the Management Science Committee to do an overview to give us advice on the emerging EDNA studies that are popping up? It seems to be a new tool that has some people excited. I'm wondering if that group could take that on.

MR. CAMPFIELD: Yes they can do that. We've heard about some research for stocks like river herring and others. I think that's where USGS may come in handy, they have a lot of scientific expertise in that arena, and so we can add that to the list.

CHAIR GILMORE: Tom, oh you're good, okay. All right Pat thanks for that and a lot of things with offshore wind that everyone is struggling with.

ASSESSMENT SCIENCE COMMITTEE

CHAIR GILMORE: Okay, we're going to go into Assessment Science and Sarah Murray is going to do an update for us, so Sarah.

MS. SARAH MURRAY: The Assessment Science Committee met in August of this year to address several agenda items, including receiving updates from the Red Drum

Subcommittee, discussing stock assessment training workshops, and reviewing the ASMFC stock assessment schedule. Note that there are plans to have advanced stock assessment training in late 2019 or early 2020, as well as an introduction to stock assessments course, which will start in January 2020.

Staff will be reaching out in the near future to partners to seek nominees for the introductory course. The ASC discussed and approved the draft stock assessment schedule at their August meeting. The stock assessment schedule proposed by the Committee is available in meeting materials; however also briefly review the changes that were made since the schedule was last approved by the Board at the 2018 Annual Meeting.

Before diving into individual changes, I just wanted to note a higher level change that took place, and affected a number of the species in the northeast region. After an extensive review the Northeast Region Coordinating Council made changes to both the assessment type and frequency in the northeast in an effort to match assessment demands with assessment capacity.

The new approach includes two main types of assessments, a management track assessment, which allows for small to moderate changes and is similar to our assessment updates, and a research track assessment, which will be open to more substantial changes similar to benchmark assessments. This will affect a number of changes in the schedule. The revised stock assessment schedule now extends to 2022. As a result assessment triggers were added in 2022 for American eel, Atlantic croaker, Atlantic sturgeon, river herring and spot, based on the five-year-assessment-trigger frequency for these species. The American shad assessment is now scheduled to be completed in 2020 instead of 2019, due to delays in the assessment process. An assessment update was added for Atlantic menhaden in 2022, based on a three-year-assessment-trigger frequency.

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A tentative update was also added for the Atlantic menhaden ERP assessment, to match the single-species assessment schedule. However, the schedule will depend on the results of the peer review for the single-species assessment and ERP assessment taking place next week through SEDAR.

Management track assessments were added for Atlantic herring in 2020 and 2022 per the changes to the Northeast Region's schedule. The striped bass assessment update was shifted from 2020 to 2021, in order to better align with the timing of Draft Addendum VI. The black drum assessment trigger was shifted from 2019 to 2022, based on the Technical Committee's recommendation.

Black sea bass schedule was changed as a result of the changes in the northeast, as a result an assessment in 2020 was removed and replaced with a management track assessment in 2021, and a research track assessment through SARC was also added for fall 2022. The bluefish schedule was also adjusted per the changes in the northeast region.

The five-year-assessment trigger was removed from 2020 and replaced with a management track assessment for 2021. A research track assessment through SARC was also added for fall 2022. Two assessments through SEDAR were added for coastal sharks, one in 2020 for Atlantic black tip sharks, and one in 2022 for hammerhead sharks.

Jonah crab was added to the species list, though no assessments are currently schedule for this species. The assessment updates for northern shrimp in 2019 and 2020 were removed, as we will not be conducting a full assessment update, given the moratorium. However, there will still be data updates conducted with a TLA during this time.

A benchmark assessment through SEDAR was added in 2022 for red drum. A management track assessment was added for scup in 2021 as a result of the northeast region changes. The

Spanish mackerel benchmark assessment in 2020 was removed and replaced with an operational assessment through SEDAR in 2021. This change is largely due to the fact that the lead analyst is needed for other assessments.

Per the changes in the northeast region, the spiny dogfish updates in 2019 and 2020 were removed, and a research track assessment through SARC was added for spring 2022. Changes to the summer flounder schedule also made in keeping with the northeast schedule. The 2019 and 2020 updates were removed, and a management track assessment was added for 2021.

Management track assessments for winter flounder were added in 2020 and 2022, also in keeping with the northeast regions schedule. All other species assessment schedules remain the same as the schedule previously approved by the Board. With that I would be happy to take any questions you have.

CHAIR GILMORE: Are there any questions for Sarah? Adam Nowalsky.

MR. NOWALSKY: For the three species that were added for SARC assessment, are there specific research topics that are known to be coming to the table for black sea bass, bluefish, and spiny dogfish that put them into that research track in the next three years, or is it just an open holding spot with an opportunity for people to bring something should they have something?

MR. CAMPFIELD: Are you referring to the activity in 2022 for sea bass and others? For sea bass there remain questions about stock structure. I think we went from a coastwide to a north/south stock split in the most recent iteration or benchmark. There continues to be research that may further inform that.

I don't want to over promise, but I think that is the focus there for black sea bass. Was the other one bluefish and spiny dogfish? I know for spiny dogfish it's a pretty basic assessment,

it's a swept area estimate, and so there may be advances in how they can mine all spiny dogfish. But I would have to defer any other information. We could probably check with the Science Center and give you some more details. MS. KERNS: Adam, I do know that at the NRCC meeting we did discuss for the spiny dogfish assessment to look at components of male only fisheries, I believe it is over time, or in the future. In addition it's called a research track, but it doesn't necessarily always have to mean that there is research added. It's just a language change in how the assessments are, what they're called through the new SAW/SARC process.

CHAIR GILMORE: Other questions for Sarah? Seeing none, thanks for the report, Sarah. Essentially we need to approve the changes to the stock assessment. I don't know if we need a motion. Jason.

DR. McNAMEE: I could provide a motion if you would like, Mr. Chair. I will make a motion, since all the questions are over. I move to approve the ASMFC Stock Assessment Schedule as presented today.

CHAIR GILMORE: Okay second, John Clark. Discussion on the motion, seeing none is there any opposition to the motion? Seeing none, we'll adopt that by unanimous consent. Thanks.

OTHER BUSINESS

CIRCLE HOOKS

CHAIR GILMORE: Okay we're to other business. We had a couple of items, so Pat you've got one so take it away.

MR. PATRICK C. KELIHER: Over the last few days there has been a reoccurring theme in regards to the use of circle hooks. In particular we heard from Deputy Chief Blanchard from Rhode Island at the Striped Bass Board about some of the complexities in regards to enforcement. At the Law Enforcement Committee there was a lot of talk about the simplicity of enforcement

with circle hooks when multiple species are covered by that. Every time circle hooks come up it is pertaining to a stock status issue, where we're trying to help a stock out, instead of thinking about it kind of up front and more proactively. With that in mind I have a motion to task the Management and Science Committee. **I would move to have the Management and Science Committee investigate discard mortality across all species. This review should focus on the use of circle hooks and/or other tools that would address discard mortality.**

CHAIR GILMORE: Do we have a second to that motion, Doug Grout? Is there any discussion on the motion? Okay let's start with Dan.

MR. McKIERNAN: Pat, do you mean investigate discard mortality related to hook and line fisheries? I don't think you want them to focus on dragger and gillnet discards.

MR. KELIHER: Well, I really didn't want to try to impede any investigation that might take us into a different direction. The main focus would definitely be hook and line. That was definitely the theme over the week. But if there are other issues associated with discard mortalities that might pop up along the way, it would be nice to get comments back from the Committee on them.

CHAIR GILMORE: Jason.

DR. McNAMEE: Just looking for clarification on what exactly we want them to do. I think maybe the logical thing is just kind of like a synthesis of existing literature. Is that the idea with this task?

MR. KELIHER: I think that would be a good starting point, Jason. I think beyond that species by species what are the challenges? Maybe there are some regulatory components that become challenging as well. I think kind of just brainstorming through some of the bigger issues associated with going management board by management board as well, as it pertains to circle hooks.

CHAIR GILMORE: Other comments, questions? I think it's been read in already by Pat, so I think we're covered on that. **Is there any objection to the motion? Seeing none, we'll adopt that by unanimous consent.** Dennis, do you have an additional item or did you have something else you wanted to put on the previous discussion? Okay, I'll come back to you.

TAUTOG

CHAIR GILMORE: First we wanted to talk with Pennsylvania on Tautog. Toni.

MS. KERNS: I guess it's just a direct question to Andy, and I believe you know what the question is. But just for the information for everybody else. The Tautog Management Board has recently started a tagging program for all commercially caught tautog, which requires all tautog to have a tag attached to them.

The state of Pennsylvania does not have a commercial fishery for tautog, is not on the Tautog Management Board, but there is a large market for tautog in the state. We wanted to have a discussion with Pennsylvania on the possibilities or options for making sure that non-tagged tautog could not be sold in the state.

CHAIR GILMORE: Andy.

MR. ANDREW SHIELS: We've done something like this before. It's in our regulations. We had a regulation for importation of taug in the past. I say taug; I don't say tautaug, because I fished in New Jersey so it's taug from here on in for me. We had importation regulations for them in the past, because they come into the Philly market and the Philly market is pretty big.

We had a regulation for weakfish in the past, a size limit. This is something that we can do. I've talked to our law enforcement already about them making visits to the Philly market in particular, or into any fish markets, particularly in the Philadelphia area and looking for tagged taug. Tagged taug that sounds pretty funny.

We're going to have to do some rulemaking to do this though, so for us typically we put something out for proposed rulemaking. We do it at one Commission meeting. Our meetings are quarterly. Our next meeting will be in January, and then we put it out for public rulemaking, usually a 30 or 60 day comment period.

The soonest we could do it would be the April or early May Commission meeting. We can do this. We can put something in place, and our law enforcement has agreed to take some swings by the market and some of the other places and look for the tagged fish. Didn't know I was needed at the Taug Board meeting the other day, but glad that it was brought up here in other business.

CHAIR GILMORE: Any questions on that? Jason.

DR. McNAMEE: No question, just wanted to extend thanks to Pennsylvania and to Andy. I think this would be an important thing to have in place. There would have been kind of a, I don't know if loophole is the right word, so this will be really helpful and I thank him for the effort.

CHAIR GILMORE: Yes I agree, thanks Andy for the effort. Okay, Dennis you're up.

MR. ABBOTT: This week we heard a lot about losses here in the Commission. Bob Ballou is leaving, now Mark Robson, Dr. Pierce. But a lot closer to home, not only do we have a Commission loss, but here in the New Hampshire delegation we have a loss at the table. Doug Grout is retiring.

I spent the last couple years asking Doug every time we went to a meeting, when are you going to retire? Finally and reluctantly, he came clean and told us when he was going to retire. For us at the table it's a big loss. The three of us have sat here together for approximately 13 years, and Ritchie and I spent probably 12 years with our dear friend, John Nelson.

During that time the three of us I think have developed into like a three-headed monster. You know we think pretty much alike. Somewhat it's funny when everyone goes off and caucuses that the three of us sit here. We've already done our caucusing. We're of like mind so much. I think we're quite a unit.

But personally I have to give credit to Doug for his patience, for keeping me focused on the issues. He's always been willing to discuss the issues, always willing to offer his technical expertise to us at his office, here, wherever and whenever. As a little side light, I visit and visited Doug many, many, many, many times at his office, because it's only five miles from my home. At the conclusion of any meeting Doug always left his office and walked me to the door, always did that. I don't know if he was trying to get rid of me. But I appreciated that. To Doug Grout, I wish him tight lines, smooth sailing and a Bravo Zulu, and I'll turn the microphone over to Ritchie.

MR. WHITE: I would like to just add. Dennis has said most of it for sure. Gordon Colvin always talked about when things got tough you listen to the silver backs. That is what he described the Commissioners that had been there a long time and had a lot of experience. Doug is certainly a silver back. We're going to miss him at the table, both from a technical standpoint, but also from a personal standpoint, because he's a good friend.

CHAIR GILMORE: Doug, any parting comments?

MR. DOUGLAS E. GROUT: Just thank you to my team and thank you to you all for the great work you've all done. I'm going to miss you.

CHAIR GILMORE: I always thought you guys were the Three Musketeers, I just couldn't figure out who d'Artagnan was. Maybe that's it, maybe Doug going. Doug it's been great. Also it's been a terrific experience working with you, so good luck!

ADJOURNMENT

CHAIR GILMORE: Is there any other business to come before the Policy Board? Okay seeing none, we're going to adjourn the Policy Board and we're going to go right into Business, so don't go away.

(Whereupon the meeting adjourned at 10:10
a.m. on October 31, 2019)