

PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC MENHADEN MANAGEMENT BOARD

**Crowne Plaza Hotel - Old Town**  
**Alexandria, Virginia**  
February 20, 2013

Approved May 22, 2013

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## INDEX OF MOTIONS

1. **Approval of Agenda** by consent (Page 1).
2. **Approval of Proceedings of December, 2012** by consent (Page 1).
3. **Move to recommend that the commission allocate \$35,000 as recommended by the technical committee to digitize the tagging data** (Page 10). Motion by Robert Boyles; second by Pat Augustine. Motion carried (Page 12).
4. **Move that states that wish to opt into the 2013 episodic set-aside quota must submit effort control criteria to the PRT by April 15<sup>th</sup> for board approval at the May meeting. This criteria will include, but is not limited to, maximum harvester and carrier vessel sizes and a maximum daily trip limit** (Page 15). Motion by Terry Stockwell; second by Pat Augustine. Motion carried (Page 17).
5. **Move to task the Plan Review Team to provide the board for approval at the at the May meeting an appropriate daily trip limit reduction at 75 percent of the episodic set-aside quota** (Page 17). Motion by Terry Stockwell; second by Pat Augustine.
6. **Motion to substitute that for 2013 the episodic event fishery, all states will retain their initial Amendment 2 allocations and all states that qualify for episodic events will be able to harvest from the 1 percent set-aside** (Page 18). Motion by A.C. Carpenter; second by Adam Nowalsky.
7. **Motion to postpone the substitute motion and the original motion until the May meeting** (Page 21). Motion by Dennis Abbott; second by Bill Adler. Motion carried (Page 21).
8. **Motion to approve the stock assessment subcommittee membership as presented** (Page 26). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 26).
9. **Motion that the board accept the plan review team membership as proposed** (Page 26). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 26).
10. **Motion to adjourn by consent** (Page 27).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Tom Fote, NJ (GA)
Rep. Walter Kumeiga, ME (LA)	David Saveikis, DE (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Roy Miller, DE (GA)
Doug Grout, NH (AA)	Tom O'Connell, MD (AA)
G. Ritchie White, NH (GA)	Lynn Fegley, MD, Administrative proxy
Rep. Sarah Peake, MA (LA)	Bill Goldsborough, MD (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Jack Travelstead, VA (AA)
Rep. Sarah Peake, MA (LA)	Cathy Davenport, VA (GA)
Robert Ballou, RI (AA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Bill McElroy, RI (GA)	Louis Daniel, NC (AA)
Rick Bellavance, RI, Proxy for Rep. Martin (LA)	Mike Johnson, NC, proxy for Sen. Jenkins (LA)
David Simpson, CT (AA)	Sen. Ronnie Cromer, SC (LA)
Dr. Lance Stewart, CT (GA)	Robert Boyles, Jr., SC (AA)
James Gilmore, NY (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Pat Augustine, NY (GA)	Kelly Denit, NMFS
Peter Himchak, NJ, proxy for D. Chanda (AA)	Jaime Geiger, USFWS
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	A.C. Carpenter, PRFC

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

### Ex-Officio Members

Jeff Brust, Technical Committee Chair

### Staff

Robert Beal  
Toni Kerns

Mike Waine  
Mark Robson

### Guests

Matt Cieri, ME DMR  
Steve Meyers, NMFS  
Geoff White, ACCSP  
Kim Marshall McLean, NMFS  
Michelle Walsh, NOAA  
Ken Hastings, MSC  
Joe Fessenden, ME DMR  
Jimmy Kellum, Kellum Protein  
Ken Hinman, NCMC/Wild Oceans  
Chris Moore, CBF  
Jeff Tinsman, DE DFW

Drew Minkewick, KellyDrye Warren  
Shaun Gehen, KellyDrye Warren, DC  
Michael Luisi, MD DNR  
Elizabeth Scheck, PEW  
Joseph Gordon, PEW  
Wilson Laney, USFWS  
Raymond Kane, CHOIR  
Ben Landry, Omega Protein  
Ron Lukens, Omega Protein  
Bud Brown, Georgetown, ME  
Jeff Kaelin, Lund's Fisheries

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, February 20, 2013, and was called to order at 8:00 o'clock a.m. by Chairman Louis Daniel.

### **CALL TO ORDER**

DR. LOUIS B. DANIEL: Good morning! Welcome to another installment of the Atlantic Menhaden Management Board. You should have our agenda and there is various supplemental materials that hopefully everyone has had a chance to thoroughly review and digest. I am Louis Daniel; I'm the chairman of the board. I am going to continue in that role until the annual meeting just to try to get us through the compliance criteria and the state plans.

### **APPROVAL OF AGENDA AND PROCEEDINGS**

CHAIRMAN DANIEL: Then my vice-chairman, Mr. Boyles, will take over at the annual meeting. Hopefully, everyone has had a chance to take a look at the agenda. If were really bored, you read our meeting minutes from our December meeting. For those of you that weren't at that meeting, that was definitely an interesting meeting and one for the record books. If there are no changes to the agenda or modifications to the minutes – Jack.

MR. JACK TRAVELSTEAD: I would like to add an item under new business just to discuss the potential updates to the stock assessment. It should take five minutes or less.

MR. A.C. CARPENTER: I don't want to put you under any pressure, Mr. Chairman, but we had two very good chairmen yesterday. (Laughter)

CHAIRMAN DANIEL: I will do my best to keep us on schedule and moving right along, Mr. Carpenter.

### **PUBLIC COMMENT**

CHAIRMAN DANIEL: Without objection and with that addition from Mr. Travelstead, we will move on to public comment. Is there anyone in the audience that would like to speak on items that are not on our agenda? Shaun.

MR. SHAUN M. GEHAN: Thank you, Mr. Chairman and members of the board. My name is Shawn Gehan. I am here representing Omega Protein, one of the signers, and some of the other

folks in the bait industry in Virginia and New Jersey. I guess maybe this issue has somewhat come up onto the agenda as it relates to the upcoming stock assessment and the need to avoid the same situation we had last year with the 2012 update.

One of the things, having talked to many of the members of the technical committee, the stock assessment subcommittee and others, that in terms of useful information probably the one thing that is feasible to achieve this year that could most help get us over this hump, it would be doing sort of a broader survey than the one that the industry did the year before last based on the survey design that the technical committee and the stock assessment committee approved.

This issue obviously has become that much more important because in the meeting materials today the technical committee determined that it couldn't make a determination about the overfished status of the stock because it depended upon whether the selectivity in the fishery is flat-topped or domed, and that is a question.

Obviously, it is a consequential question because it changes the legal status of the stock. This was also an issue that had been raised in the 2010 assessment peer-review report. One of the reasons we had undertaken the survey is that obviously whether a dome-shaped selectivity or flat-top is appropriate depends on now much and if there are fish outside the range of the fishery.

The Virginia Marine Resources Commission had funded an aerial survey design and gave a grant to the Virginia Institute of Marine Sciences to design the survey. They outsourced that in part to a person who designed the Pacific Coast Pelagic Survey. They are expecting to have that design early this spring.

As part of that design, there will actually be a biological sampling program so that it is not just an abundance survey but we could also get distributional information and age-length data and so forth. Obviously, the effort will take a lot of money. The people who signed this letter – I know there are other people that we have been talking to and just couldn't reach – from the industry side are willing to contribute financially and in-kind resources in terms of planes and boats to make this a reality.

What we're asking the board through this letter today is once that survey design is produced is to assign the technical committee to review it. Hopefully, it will have some price tag and if we could do the whole thing feasibly, that would be great. If it is broader than might be needed to produce reliable information that could be used in the upcoming assessment to task the technical committee to scale it back to meet those, but work within the design that they have approved that the board would like to see used in the upcoming assessment.

With those commitments on your part, which I think are really minimum, the industry is willing to put up big time to make this – you know, answer these obviously very important questions. And then the final thing to the extent that the states have some resources to put into a collaborative effort, other stakeholders in the industry, we'd certainly encourage them to help make this possible. Obviously, as December showed, a lot of people care about the fishery. I think this is a good opportunity to see how much. Thank you very much.

CHAIRMAN DANIEL: Thank you, Shaun. Jeff.

MR. JEFF KAELIN: Mr. Chairman, I'm Jeff Kaelin with Lund's Fisheries in Cape May, New Jersey. I just wanted to follow up on Shaun's discussion about the survey design and so forth to allow you to understand that we have been working with both VIMS and now the University of Southern Mississippi, originally Rutgers, to establish a Fishery Science Research Center with the National Science Foundation.

There are several of these research centers that have been established for car seats and a number of other things. We just got word that has been funded. There is a certain amount of seed money, about \$300,000, from the cooperators around the table, industry people primarily in the in Mid-Atlantic Region and a couple of Gulf people. So we have some seed money. This project continues to be a priority for us.

We have learned that we could potentially bring the survey project through the Science Center for Marine Fisheries; and by doing that reduce the overhead rate at VIMS, for example, if they become the lead scientists on this thing to 10 percent. It is a requirement with the NSF that overhead does not exceed 10 percent. We're trying to find vehicles to bring resources to the table to finally get this project done on a regular basis. It is not a lot of money, but it is an organization and a conduit for making a

project like this be successful. We just wanted to let you know that. Thank you.

CHAIRMAN DANIEL: Is there anything else from the audience? If not, Ritchie.

MR. G. RITCHIE WHITE: Mr. Chairman, a few comments about the meeting that we had in Baltimore. First, I think it is worth repeating our executive director's comments that this was the commission at its best, and I hope we can use that momentum into other boards when we're dealing with difficult issues.

I also think that our leader in this did a fantastic job and that was a big part of how we finished the day successfully. The other issue I wanted to bring up were the signs that were at the meeting. I don't know what group or groups were responsible for the signs; but when the signs were held up and made noise, it was disruptive to the meeting.

It was disrespectful to the commission and certainly disrespectful to the audience behind the signs that were being blocked. Those people clearly didn't know what influences this body because that kind of bullying does not work here. I thought about bringing this to the Policy Board, but in reflection hopefully it is a one-time incident and we won't see this kind of activity again. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Is there anything else? All right, if not, we will move on from public comment into the technical committee report, and I will call on Jeff Brust to provide us with that.

## **TECHNICAL COMMITTEE REPORT**

MR. JEFF BRUST: Good morning, everyone. My name is Jeff Brust with the New Jersey Division of Fish and Wildlife. I am the Chair of the Menhaden Technical Committee, and I've got a real quick presentation for you today. I have just three items to discuss. First, I want to go over the new stock status relative to the SSB reference point based on the 2012 stock assessment.

We've got a funding request to get some historic data into play for the 2014 stock assessment and just a quick update on the development of a fixed-gear adult index similar to the PRFC index. Stock status; you will remember during

Addendum V the board changed the fishing mortality reference points to maximum spawning potential-based numbers; 15 percent MSP for the threshold and a 30 MSP for the target.

But at that time the SSB reference point remained in terms of median recruitment, so we had this inconsistency in the reference points. This inconsistency was resolved through Amendment 2. Amendment 2 changed the SSB reference points and they are now MSP based as well. With the change in the reference points, the technical committee went back to look at the stock status relative to the new reference points. We used the 2012 stock assessment update results.

Unfortunately, the results are inconclusive at this time. Depending on the selectivity curve that we used, whether it was flat-top or dome-shaped, we got different results. If we used the flat-topped selectivity curve, we found that the stock was determined to be overfished. If we used the dome-shaped selectivity curve, the stock is considered not overfished.

Because of the uncertainty in the actual shape of the selectivity curve, there has been a lot of discussion about which one is the most appropriate one, and this point we just don't know. We will be looking into it in the 2014 stock assessment, but at this point it is too uncertain so the outcome is that we can't make a determination on stock status in terms of overfished.

The overall status determination; overfishing is occurring, and we told this to the board back in October. That is the fishing mortality reference point, but the SSB reference point we cannot tell and overfished status is unknown. Are there any questions on that?

DR. GEIGER: Mr. Chairman, a question for Jeff. Jeff, has the technical committee evaluated in priority order the specific kinds and types of data that are needed to further resolve and decide on this particular issue?

MR. BRUST: I don't think we've come up with a list and ordered them, but there are a couple of items that would be helpful. One of them is the survey that Mr. Gehan was talking about earlier. Also next on my presentation is something that I think will be very helpful to get to that.

MR. WILLIAM GOLDSBOROUGH: Jeff, two questions for you. First of all, was it just dome-shaped or not dome-shaped or were there degrees of shape? The second one is when you did those

different runs, were there other variables as well as that that were considered?

MR. BRUST: We only investigated one dome-shaped curve, so we didn't do a lot of sensitivity around that. It was just the one. I'm sorry; what was the second question?

MR. GOLDSBOROUGH: Whether there were other variables?

MR. BRUST: No; it was just the main change that we made – in fact, the only change that we made was the shape as a selectivity curve for both the reduction and the bait fishery.

DR. GEIGER: Mr. Chairman, given the increasing financial issues related to federal, state and private entities going on this year and probably will into the future, I would strongly suggest that if somehow for this management board we can have a prioritized list of those critical research needs; okay, some priority list of those resource needs that we can take back to respective funding agencies and make a case that these are the highest priority research activities that need to be done to meet the management responsibilities of the individual agencies of the commission and other states. I think this is going to be helpful.

For example, in the Fish and Wildlife Service we have the North Atlantic LCC, a consortium of research interests. This North Atlantic LCC is soliciting proposals. Certainly, a priority list of the highest research needs would be very beneficial to help assist and get these proposals in some kind of priority order. I know other agencies have other priority activities that can be brought to bear that in spite of scarce and increasingly diminished resources available for these kinds of activities, we can at least make the case that these are priority actions. Anything we can do, Mr. Chairman, to accelerate or transmit clearly what are the highest priorities needed to achieve these objections would be extremely beneficial, especially in this particular budget year.

CHAIRMAN DANIEL: Good comments, Jaime. Are there any others? If not, I guess I have one and maybe it is more of a comment than a question. This is not an indictment on the technical committee, but I am very concerned about we said many times – I know I said it many times during the deliberations of this board

that if we selected the new MSP-based reference points, that we would be overfished. That was stated as a fact in the deliberations.

Now a posteriori us accepting the amendment and moving forward, we're now not sure if we're overfishing or not and nothing has changed. That is a real concern and an overarching issue with the ASMFC and our technical committees.

I think we had four runs that said we were overfished, but now we have this one based on, of all things, the dome-shaped selectivity that now says we're not overfished, and so for that reason we don't have a commitment from the technical committee on the status. That raises real concerns to me; just as a comment. Dr. Pierce.

DR. DAVID PIERCE: I appreciate your concern, Louis, but I'm not. At the last meeting it became clear to me that we would continue to be plagued by the question of is it dome-shape or not? I knew that it would continue plague us because the information brought forward by Dr. Butterworth indicated there was a dome-shaped selectivity curve, and we were therefore not overfished. I knew it was unresolved, but the technical committee will continue to work on that.

I believe Jeff is going to get to the next part of his report where he is going to indicate that there is data available that needs to be analyzed – entered into the computer so it can be analyzed that will help answer the question as to whether it is dome-shaped or not. I still look at this as work to be done, an unresolved issue, and it cuts across many species and not just menhaden but codfish as well.

I appreciate your concern, but I am not troubled by it. The technical committee is working on it and now we will find out whether that Jeff is going to highlight and whether the survey work that has been noted during the public comment, whether that will get us to the point where we can resolve this important question of dome-shape versus flat-top.

CHAIRMAN DANIEL: I agree with you. Tom.

MR. THOMAS FOTE: I guess I am also not as concerned as you are. I mean, I remember and Mark and I were talking last night about a striped bass technical committee in Hyde Park where we had to separate three of the technical committee members because they were believing different models and were going around and around.

That is what scientists do. I mean, that is what college professors do and it is a part of the process. Hopefully, at the end of game we come up with the right decision, which is what we're supposed to do. But as far as the difference we have seen at every species when we look at one technical report, it changed a little the next time and then it goes back the other way. Striped bass is a perfect example over the years.

CHAIRMAN DANIEL: I appreciate the comments. I'm still concerned, but I do appreciate and understand that difference of opinion. I do think it is important for us, when we're going through these deliberations, if we make a matter of fact statement at the board level, it needs to be qualified if there are qualifiers. That is what I'm saying, and it wasn't and it should have been, in my opinion. Do you want to continue?

MR. BRUST: Yes, moving into the next topic that I wanted to bring up, back in the late 1960's and early 1970's the Beaufort Lab coordinated an extensive tagging program of menhaden. Over one million fish were tagged at that time and a very large majority – I don't remember the number off the top of my head, but a very large proportion was recovered.

The information from this tagging program can provide information on the size-specific migration of menhaden, natural mortality rates, fishing mortality rates and the fishery selectivity in different parts of the range. At this point this is the only known source of information to base a spatially explicit stock assessment model on. That is what we're aiming for in 2014.

This will incorporate the dome-shaped selectivity curves in different parts of the region. It is the only source of information that we are aware of that we can actually base this model on. The problem is it is all currently in paper format. We do not have electronic data. It was brought to the technical committee's attention.

The technical committee is requesting approximately \$35,000 for a contractor to key enter this data before the end of this year; actually by the end of this summer, hopefully, so that we can use the data in the 2014 stock assessment. For that timeline to actually work, we need a promise of this funding by sometime in March.



Sooner would be better; but if we have a promise of this money in March, the contractor can start the work. We can get the data by I believe it was August, and then we can incorporate it into the stock assessment. Again, this information will provide valuable information on natural mortality, fishing mortality, migratory rates and patterns and the selectivity, which will get to that question of dome-shaped or flat-topped and the selectivity rates. You look like you have a question, Mr. Chairman.

CHAIRMAN DANIEL: It will get to it or it will answer it?

MR. BRUST: I can't give you a definite. I mean, it is certainly more information than we have right now. This also assumes that – I mean, it is 50-year-old data at this point. Assuming the dynamics have not changed, it will answer it; but there is no guarantee that what happened back in the 1960's is what is happening right now, also.

It is the only source of information we have; and short of a survey right now to do it, this is – I guess to get to Dr. Geiger's comment; this is our first priority. We can do this now and it is a very small price tag relative to a survey, so the timeline and the funding seems to fit our requirements right now.

One other comment is we can build a spatially explicit model without this information, but it is going to be based on conjecture. Without any hard information, we will be making assumptions about selectivity patterns and migration rates and things like that. The technical committee was concerned that without this underlying information, we can build the model, but it is probably not going to pass peer review. Having this information will certainly give us a much better chance going to peer review with the 2014 model.

CHAIRMAN DANIEL: And that is like three grand a state. Bob, can you help us?

EXECUTIVE DIRECTOR ROBERT E. BEAL: I'm not sure help is going to be the right word. One, is \$35,000 the best offer that we can get? One company has bid on this. Can we get other bids and maybe at a better price; I'm not sure. It is one thing to think about. It looks like there are about 250,000, 255,000 records that need to be entered; is that right, Jeff; 180,000 plus 75,000.

MR. BRUST: Something like that, yes.

EXECUTIVE DIRECTOR BEAL: Yes, so it is quite a few records; but as far as the ASMFC budget goes, we did not set aside \$35,000 for this project so we don't have it in there. I know the technical committee would like to know by March if we have the money or not. I guess the smart-aleck answer is we'd love to know from congress if we're going to get funded this year or not by March, too.

Without a commitment on the budget and unknowns about sequestration, I don't think the ASMFC budget can absorb \$35,000 with the uncertainty. If our budget is held at status quo, we may be able to cobble something together, but I think we may going the other way, which is we may be looking for areas to cut as the year wraps up here.

I don't think we can get this out of the ASMFC budget. I don't know if we can cobble things together from different states or different areas or if the federal government has any money to kick in or anything else. I think that is the unfortunate reality of where we are with money right now.

MS. LYNN FEGLEY: Is there any way that the board could have a little more description of the actual study. \$3,000 is not a lot of money per state, but it would be nice to know a little bit more about – well, and just to say I think we can use all the data we can get, but it would be nice to know a little bit more about the study itself; how many years it ran, where all the fish were tagged, just so we can see what we're buying.

MR. BRUST: There was a memo in the briefing materials that outlined the – it was written by the Beaufort staff actually about the quote. I don't think it provided as much detail as you're looking for. I believe the survey ran 1967 to 1971 1.2 million fish or 1.02 million fish were tagged throughout the range. There were recovered at the reduction plants.

They actually also took some known quantities of tagged fish and threw them in – these were not captured by the fishery but just put into the reduction plants to estimate recovery rates of tagged fish; so if we know we threw in a thousand and we get 900 of them, then we have a 90 percent recovery rate of the actual tagged fish.

I believe the recoveries were throughout the range. I don't know exactly where they were

tagged or when they were tagged. I wish we had someone from the Beaufort staff here who could provide some more information. That is what I know; and if you need, I can get someone from Beaufort on the phone and get that information before the end of the meeting; or I can try, anyway.

MS. FEGLEY: Thank you; that's great. I missed the memo; sorry.

CHAIRMAN DANIEL: My understanding is it is nineteen cents per record, and there are 180,000 records, so it is thirty-four grand. I guess what I'm thinking is – I mean, I will take a big chunk of those and enter them. We have done this before with aging and growth, passed otoliths around and stuff. Every state I would assume has a data entry program and why couldn't we parse them out and do it ourselves? We could do a large chunk of those, I think, and it wouldn't cost us anything, really. Jim.

MR. JAMES GILMORE: I was thinking the same thing, Louis, but do we run into problems then if we've got a dozen states entering data and QA-QC issues that we suddenly have fifteen different people entering data. Even we got a plan to follow, I've got a body that can put data in, but I'm not sure I can do the QA-QC.

CHAIRMAN DANIEL: Yes, from this SC Data, Inc., I don't know what kind of QA-QC we would get there either, but maybe it would more reliable than ours. I would feel comfortable with it, but that is just one option that just came to my head. Jeff.

MR. BRUST: If I could just comment that this SC Data is a company that the Beaufort Lab has used before. I don't know if they went for other bids, but I believe they went to these guys because they have used them in the past and are comfortable with their work.

MR. ADAM NOWALSKY: Jeff, what advice can the technical committee give to this board with regards to the use of 40- to 50-year-old data that could potentially be the determining factor on what selectivity curve to use that will determine the overfished status? To walk out of here to constituents and say that we used 40- to 50-year-old data, I would need pretty strong advice from my technical committee to say this is a good path to go down; this data is still valid today despite the fact that we have got differing changes in water temperatures, different changes in the way the fisheries are pursued with regards to the increase in bait landings today. What advice can you give us that I can go back to

constituents and say, yes, we're okay with using 40- to 50-year-old data to make this determination?

MR. BRUST: The technical committee did not get into that level of detail in the discussions. What we said was – I mean your points are valid and I sort of alluded to them when I was responding to the chairman a few minutes ago we would be making assumptions. I should qualify this as these are my statements.

Like I said, we did not get into this level of detail with the discussions. We would be making the assumption, as you said, that the stock dynamics and the fishery dynamics are similar if not the same as what they were back then. Well, we know the fishery isn't the same because we've lost all of the northern fisheries; all the northern reduction plants. The bait landings have increased.

The key point I think to take away is it is the only source of data that we have. We have been talking about spatially explicit model and we just talked about the concerns with not knowing the shape of the selectivity curve. They might not be a hundred percent, but there is only so much they can change in the past fifty years. I would bet that even they're not a hundred percent spot-on, they're pretty darned close. If you want a spatially explicit model to get passed through the peer review, we need something; and if not this, then what in the timeline and the funding that we have available.

MR. FOTE: I have real concerns also using 50-year data. I think the Bureau of Sport Fisheries, all that information that we had went up to the seventies and the documents were reported. When NMFS took over, they basically disallowed almost all that material, all that survey that was done because they said it wasn't done properly or it was too old and that things have changed. I'm very concerned going down that road. If we need to do tagging studies, then maybe we can figure out a way of doing it in the present atmosphere so it is valid. I'm concerned about using 50-year-old data since we've started out on the recreational side in a whole bunch of areas.

MR. PETER HIMCHAK: Mr. Chairman, I'm getting a little frustrated here. I think we need a reality check here. Certainly, the technical committee has done an excellent job of locating

a potential source of information that for \$35,000 it would contribute something to the stock assessment, and that is worth pursuing. It seems like chump change.

But let's consider the menhaden we're led to believe is the most important fish in the sea; so if you have the prospects of an aerial survey that can give you more current information on this dome-shaped selectivity issue that is critical to the benchmark, why are we going cheap here? Let's get the definitive answer and not be in the same position with the benchmark saying, well, so many runs said it was overfished and so many said it wasn't; so what is the answer? It is never black and white; but if you have vehicle that can get you current information and it is going to cost money, let's do it, schedule be damned; I'm sorry.

MR. BRUST: Well, maybe your last statement there really makes my point moot; but if you want a spatially explicit model in 2014 when we said we would have one for you, then we don't have time to wait for an aerial survey, I don't think, unless that can be done over the summer and get the data entered and audited and available for use in the stock assessment in 2014.

Doing it next year isn't going to help us. We need the information before 2014 to be doing the model in 2014, which means the aerial survey needs to be done this summer. My understanding is we don't yet have a survey design, let alone a commitment for funding and all the resources available to run out and do that survey over the summer so that we can do this.

I believe your point is a valid one; but given the timeframe that we have, this is the most promising source of data, at least in my mind. To the concerns of changing climate and all that and the stock dynamics being different, this survey was conducted throughout the entire range of the fishery, throughout the entire range of the stock.

There is only so much the entire stock can shift over time. It is the board's decision but the technical committee has said we will get this for you and this is our best chance. The technical committee has decided that this is their best chance to get you something workable under the timeframe that we have committed to.

MR. HIMCHAK: My point comes down to the issue of do you get it faster or do you get it right? If it takes another year, then it takes another year. I will leave it at that.

DR. GEIGER: Mr. Chairman, I think the last couple of comments have been very helpful and I think illustrate again going back to my point. I need the best professional judgment of the technical committee where to invest scarce resources to get the maximum research information to make the management decisions that this commission needs to make. It boils down to that.

I am somewhat troubled with using a 50-year-old dataset knowing full well what has happened just to the Chesapeake Bay Executive Order and the changes we have seen there in the last fifty years and continuing to be changes, and those changes appear to be accelerating. I have concerns about that. As Jeff has aptly pointed out, the aerial survey may be the best chance to get the necessary information. As Peter has said, get it done.

I think what we need is – I am struggling since I haven't seen the aerial design and the survey may not be completed. I would like to see that. I would like to get more information on this dataset that the technical committee is proposing and have a little bit more robust discussion. Mr. Chairman, it is all about choice; but right now every choice that has a price tag, we can't afford to make a Type II areas. We can't afford to choose the wrong path to go down and that is my dilemma right now.

If I can make a case; I appreciate the hard work and effort by Jeff and every member of the technical committee. You all are doing a yeoman's job under very tight deadlines with just huge pressures on you. I thank you very much. I appreciate your hard work. We continue to support you a hundred percent on this. If you need additional resources in the technical committee, please let us know. Thank you.

CHAIRMAN DANIEL: I've got a list as long as my arm. I'm trying to go back. I'm going back to December now and I think we all agreed that we wanted the new stock assessment in 2014. We modified our stock assessment schedule in order to accomplish that goal. Now, that can change if I'm not mistaken.

We can make a change there; but as we're currently sitting here we have committed to ourselves and to the public to do an updated stock assessment in 2014; right, benchmark

stock assessment in 2014. Now, the only way to do that and have any meaningful results, according to the technical committee, is to pony up this 35 grand and get this information, this 50-year-old data, updated and analyzed to include it in the stock assessment.

There is a lot of concern about using 50-year-old data around this table. Is that what we want to do? That is our only choice and meet the 2014 deadline. So, if we agree with Pete – and I tend to – we need this aerial survey, we need to work with industry, we need to have the design peer reviewed, we need to make sure we could do it right and we don't make a Type II error, where we can't afford to, we're going to have to delay the stock assessment from 2014.

Now, now that impacts politics, how that impacts other people's opinions on what needs to be done, I'm not sure, but that is where I see us sitting right now. We can talk about how important the survey is, we can talk about how old the other data is all day; but if we're going to maintain our 2014 deadline, what the technical committee has advised is the only route we have to take from my perspective. I think that summarizes it, maybe; maybe not. I'm going to go to A.C. and then I've got hands up all over the place.

MR. CARPENTER: The idea of 50-year-old data doesn't bother me in the least because the Potomac River Index extends back to the 1960's and the timeframe of this tagging study and the timeframe of our index study will overlap. I don't know what that is worth to the modelers, but we do have that one bit of consistent data. That doesn't bother me at all. I agree with your analysis of where we are today, and I would like to offer \$3,000 from the PRFC to get this done and get it done in March.

MR. GOLDSBOROUGH: Mr. Chairman, you made my first point, which was basically a note to self about the hazards of moving up an assessment schedule. My second point was, Jeff, you had said if the board wants you to use a spatially explicit model, how about if you were to spell out the alternative?

CHAIRMAN DANIEL: Before Jeff starts, he also had a comment; so do you want to just say what you need to say and then we will move on.

MR. BRUST: Well, pretty much the alternative is we have the model that we have now. We can revise it somewhat, but without any information on the selectivity pattern we will be making assumptions about the selectivity pattern. We could come up a

dome-shaped run that might be more believable, but there wouldn't be any information to base it on; or we could just keep running with the one that we have now that passed peer review two times ago, squeaked by peer review the last time and without any additional information.

One of the main recommendations from that peer review panel, the most recent one in 2010, was develop a spatially explicit model. If we don't, is there really any point going back to peer review. I guess the alternative is pretty much what we see now or making something but basing it on very little to no information.

I guess the one comment that I had, I wanted to sort of flip the coin and say – well, several people have mentioned our concern about using 50-year-old data, and they want new data, but would you be more comfortable using current data and applying it to 1960 than you would be taking 1960's data and applying it to now?

The historic data is from when the fishery was much more active and much more widespread. It is still an important source of information. Perhaps it might not be 100 percent representative of what is happening now, but it is representative of what was happening then, and that was a very important part of the fishery history; so just keep that in mind. The coin has a second side. It is not just new data for now, but we need something for back then as well.

MR. ROY MILLER: Mr. Chairman, just to be supportive of the need to examine this data source, would this data have any potential for using mark-and-recapture estimation, some of the parameters that can be generated as a result of mark and recapture, you know, like survivorship and that type of thing; fishing mortality rates.

It just seems to me that if this information is out there and it can be scaled to indices that were long running like the Potomac Pound Net Fishery, that it may have additional utility in addition to the examination of the shape of the selectivity curve. I am unable to commit funds, but this is one more appeal for the importance of conducting this work. Thanks.

MR. BRUST: Just to respond; yes, the utility of this data goes beyond just the selectivity curve and the migration rates. It will help determine the natural mortality rates that were occurring back then; natural mortality rates at age, at size;

as well as the fishing mortality rates; so, yes, it has all the benefits of a typical mark/recapture study as well as helping us evaluate the selectivity patterns.

DR. PIERCE: I think tagging information and tagging data has limited use, and I'm not confident that an analysis of that database will actually enable us to conclude confidently that we know whether it is a dome-shape or flat-top selectivity. It would be nice to do the work, of course, but I'm not confident it is going to get us what we need.

My preference is to move forward and to work with the industry to do the aerial survey that would be, I suspect, peer reviewed by the technical committee to ensure or to best try to ensure that particular survey will help us answer this very important question. Frankly, I look at what we have done already, and that is described in our plan how we set the TAC.

Whether we're overfished or not doesn't really play a role in the setting of the TAC. It is whether we're overfishing and we're able to determine that. We don't need to evaluate the tagging information to determine that, and I can reference the language in the TAC-setting method of our plan where it says because overfishing is occurring the board is using the ad hoc TAC approach to end overfishing and reduce fishing mortality to the target level.

To me that is what we did and I think that is what we're going to continue to do. I think the benchmark assessment will give us some updated information regarding the fishing mortality rates, whether we're overfishing or not, and we will continue to use the ad hoc method for setting TACs until, hopefully, we get the aerial survey going and we get some benefit from that, meaning we can answer that question of dome-shaped selectivity or not, and then we will know whether we're overfished or not. Frankly, I think we are.

I'll reserve judgment on that, but for now, like in December, I'll just move forward with the assumption that we are overfishing and we have to set restrictive TACs and then lessen the degree of restriction if we can determine through the benchmark the fishing mortality rates have gone down enough for us to consider raising the TAC. So, again, overfished or not; to me it doesn't play into what we are doing and what we have done.

CHAIRMAN DANIEL: All right, I've got more folks that I'm going to call on and then I'm going to summarize and hopefully move on or else A.C. is going to be upset with me. Steve.

MR. STEVE MEYERS: Mr. Chairman, we're having a series of different conversations at the table today relative to the old data, perspective new data, how much it is going to cost, who is going to do what, where and when. I would like to suggest that we form a small group of members of the board to work very closely with the technical committee over the next month to try and figure out cost of various aerial surveys, design for those surveys, peer review with the technical committee cost, different approaches, and then report back via e-mail, telephone or whatever to the board for resolution to try and come up with a conclusion to this excellent discussion that could last all day long, and press on. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: I'm not going to let it last all day. Jack.

MR. TRAVELSTEAD: Mr. Chairman, I'm wondering why we can't do both or at least attempt to do both. For a couple thousand bucks from every jurisdiction around this table, we could come up with the \$35,000. That is just a laughable amount. Knowing how valuable this information could be, I would hope we could get a commitment at least from a majority of the jurisdictions to put up that kind of minimal amount of funding to get that done. Certainly, Virginia would be willing to put up its share.

In terms of the survey that we have been talking about and the letter that we have from industry, I would advise the board that I have had some conversations from some of those that signed that letter and others and there seems to be some willingness on the part of industry to help fund that type of survey work. That seems to me to be something we should explore immediately.

The work that Dr. Latour and others have been doing to design this aerial survey should be completed in March. His final report to us was not due until June, but we have asked him to accelerate that to the point where I think we could have that from him next month. If we could get a commitment from the technical committee to review that fairly quickly, based on the conversations I've had with industry, it is their hope that the survey could actually be done this summer and that data could be available for the benchmark.

I would hate to walk away from the table today not taking any action on this. I think we should

at least try to accomplish both, but I think we need a commitment from the technical committee to review the results of Dr. Latour's design. I would certainly be willing to go to the Virginia members of industry to see how willing they are to put money up to do the survey, and we need a commitment from all the jurisdictions around the table to come up with a couple thousand dollars. I just would hate to leave not having some commitment to at least attempt to do both of these. Thank you.

CHAIRMAN DANIEL: You just about gave my summary. Robert.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I was going to make a motion if you're ready for it.

CHAIRMAN DANIEL: Certainly.

MR. BOYLES: **I would make a motion that we recommend the commission allocate \$36,000 to do the work that is requested by the technical committee** and that the commission could scrape together, whether it is a deduction of ACFCMA funds – I'm not quite sure how, but that the commission come up with this; going back and sharpening the pencil with the 2013 budget.

I make the motion because it is going to be difficult for South Carolina to contribute. Granted it is a modest amount, and I think I speak for a lot of us when I think about the budget difficulties we have got at home, so I wonder if the commission might sharpen its pencil and that we make a recommendation to the commission to sharpen the pencil.

CHAIRMAN DANIEL: We have a motion from Robert; second from Pat. Let me go ahead and get the two folks that I had left to speak. We have got a motion and a second. Sarah Peake.

REPRESENTATIVE SARAH K. PEAKE: Mr. Chairman, the comments I was going to make before the motion; you in your comments talked about the impact on the politics of delay and perhaps waiting a year. I think there are politics to be considered in moving forward and basing decisions on this 50-year-old data.

I know I would have a great deal of difficulty returning to Massachusetts and looking straight-faced at my constituents, the people of the Commonwealth, to say that we are making decisions moving forward based on this data that is forty and fifty years old, especially when any of the other fisheries that we're

looking at – we're looking at the impact of climate change and different migratory and habitat patterns, with the warming of water.

We see it in striped bass, the Southern New England Lobster Stock; you know, across the board we can look at that and see the impact and how different things are today than they were fifty years ago. I'm just concerned that if we're going to be basing management decisions in part on this data, what will be the impact and will we continue to hear the echo of this as we move forward because the old adage is data out is only as good as the data in.

I think that there may be and probably will be a widespread lack of confidence on the data-in in this situation. In addition, we have all talked about tightening of resources, and I know we're moving forward in the budget process in the state of Massachusetts. Nobody is seeing increases in their budget lines. The Department of Marine Fisheries is no exception to that.

Certainly, on the federal level, every day when we pick up the newspaper we see a threat of sequestration that is affecting agencies all across this country. I am sure that ASMFC is no exception to that; so while \$35,000 may not seem like a lot or \$3,000 from each state, these are still are very, very tight fiscal times that we live in, and \$3,000 can be a lot of money.

MR. WHITE: Mr. Chairman, I wonder if the maker of the motion would accept a friendly amendment where A.C. has already kicked in two grand, we could bring it down to 33? That might be one idea. Did he kick in three; then we could bring it down to 32. Secondly, on the data, if you could indulge me to ask a question since I didn't get a chance before the motion was made, if my understanding is correct, if we analyze the data, input the data, the technical committee then will run that through a model that they're in the process of creating.

The technical committee then would make a decision whether they think that data is useful or not after running it through the model. Then that model would be peer reviewed, so independent scientists then also would look at that use of the old data and say, yes, it is worthy of coming to the board or not; am I correct in that?

MR. BRUST: Yes, that would be the process. Once it is entered, the technical committee

would have to evaluate it and there is a chance that we could say, no, it is not what we thought it was; but if we move forward with it, yes, then it would go through peer review; and assuming we like that better than what we have now, that would be the preferred model. It would go through peer review and they would also say, well, thumbs up or thumbs down, yes, this data is useful – the model that is based on this data is useful. So, yes, that is the process.

If I could while I have the floor, I guess I just wanted to point out to the board that this is not a unique circumstance. There are many stock assessments that are based on life history information that were done in the seventies and eighties that have not been updated. It is just the way it is.

A lot of life history work that was done in the seventies and eighties – like the fecundity work in the menhaden assessment is from the seventies or eighties. It is not uncommon that a lot of the data that we use to evaluate these species, particularly the life history information is not really up to date.

CHAIRMAN DANIEL: No question we see changes in age at maturity, size at maturity, those types of things as time progresses. I am going to try to summarize this. This is the most important fish in the sea, right? Everybody agrees with that? The best approach is to do a benchmark stock assessment with both of these pieces of information in them; have both the old data and the new aerial survey.

We may be able to have that information for the 2014 benchmark; we may not. I'm willing to risk the may not and have the benchmark stock assessment delayed a year if we haven't gotten both the aerial data and the old data analyzed. I agree that we need a group to get together and make sure industry is comfortable with this and make sure that they are on board with some type of assistance in getting this done.

I think VIMS is the correct place to have the design analyzed and have it run through our technical committee. Then as for the money, I don't think we need the motion. I think we need to simply request that Bob and Paul and I look – during the executive committee we can have a discussion on do we have some money that we could move into this.

Then if there are states that can contribute some money or there may be one or two states – North Carolina would be one – that has a bullpen of data enterers that could do some in-kind contribution in this. I personally believe that we should not move

forward, based on everything I've heard around the table, with only one of these two pieces of information. We need to commit that the benchmark will include both. Does anyone disagree with that approach? Dave.

MR. DAVID SIMPSON: It is about the money; you know, where is \$35,000 going to come from; what isn't going to get done because we do this. That I would like to evaluate because I have my own skepticism about using 50-year-old distribution data. I fail to see the relevance of that in 2013 and 2014. Yes, more information is always great, but what are we going to give up? I would like to have that discussion at the full commission meeting.

CHAIRMAN DANIEL: Yes, I think that is what we need to do. First, Paul is not here so I think first Paul and Bob and I need to talk about what monies we do have and others that could contribute. North Carolina could contribute some money, North Carolina could contribute in-kind.

I think Virginia could probably contribute money, and I think there are other states that could probably do the same. Maybe the Services could provide some funds. I'm just trying to move this thing along, and I think we're making a mistake rushing this. I know we said 2014 and that may happen. As Jack said, we may make it and we may not. That's kind of where I'm coming from. I think that is my opinion the way to go. Jim Gilmore.

MR. JAMES GILMORE: Mr. Chairman, you answered most of my questions. I think that was a great summary, Louis. We completely agree with that. I was just going to throw in the \$3,000 or whatever money we're going to come up with. I can come up with the money. The procedure to get the money to wherever is a big problem, and some of the other states may have that, also. Considering I'm a state that I can't come to a meeting for free; that is paid for by the commission, so \$3,000 would be like a pretty lift for me.

CHAIRMAN DANIEL: Doug Grout is going to have the final word on this.

MR. DOUGLAS GROUT: And I'm going to have the final word from a small state where \$3,000 is much more important. Relative to your budget, as they said, is a drop in bucket, but to

mine it is something significant. I will tell you as a state with only a hundred pound quota, I'm willing to contribute a hundred pounds of data entry.

I also support this motion, but with the caveat that Dave Simpson made is that I want to have some say in what we're giving up in the commission budget. I want to take a look at that so I support it with the caveat that we need to take a look at that. If it is going to be cutting out something much more valuable in my opinion in a bigger picture, then we may have to reconsider this.

CHAIRMAN DANIEL: Yes, and I would assume that this would either done at the full commission meeting and we can have some discussion on this at our executive committee as well, but I think we can do that. Bob, if you would summarize; I had you down to speak.

EXECUTIVE DIRECTOR BEAL: No, I think we're close. I think folks can sleep on this and bring it back to the executive committee in the morning is the right thing to do. Then maybe we can talk to our partners and see if there are any dollars available in different areas and look at the ASMFC budget, you and Paul and me. I don't think we're going to be able to solve it around this table in the next ten minutes, so I think it is probably executive committee material.

CHAIRMAN DANIEL: The motion does what I think we have agreed to do. I don't think there needs to be any further discussion on the motion; does there? Tom.

MR. FOTE: The executive committee is listed as a closed meeting. Will this part of the meeting be open?

CHAIRMAN DANIEL: Yes. Is there anything further? Does anybody need to caucus on this motion? It is simply a recommendation – and I will it – simply a recommendation to the commission that we try to generate this money to accomplish this one of two parts that need to be generated.

**We will move to recommend that the commission allocate \$35,000 as recommended by the technical committee to digitize the tagging data.** Motion by Mr. Boyles; seconded by Mr. Augustine. Is there any objection to that motion? Seeing none; **that motion carries.** We will take that to the executive committee and the full commission. I will try to get that first on the agenda so that it will be open; so that any of the commissioners that want to attend that part

of the executive committee could do so. Is that fair? Jeff.

MR. BRUST: So much for my quick presentation. This is just an update on the fixed-gear index. Amendment 2 requires the states to develop a fixed-gear adult index a la PRFC. Amendment 2 requires the states to collect the pounds landed and the number of nets fished, so at the very least we will be able to develop an index just like we do for PRFC. It is not going to stop there. The technical committee will continue to refine the process.

We will be looking at other gears and additional data elements that might help us refine the effort estimates that we can get a more realistic CPU estimate, improve the resolution of the estimates, and maybe a more rigorous analytical method. We will also start looking at datasets that are available prior to when Amendment 2 went into place.

I wanted personally to thank you guys for lighting the fire underneath us. I think this is something that each of the technical committees need to do. My personal opinion is that technical committees have gotten complacent with the surveys that we have or the datasets that we do have, and it is good every now and then to go back and beat the bushes to see what else is out there. It was Amendment 2 that made us do that for menhaden, and we're going to take farther. We will be looking at both fishery-independent and fishery-dependent datasets prior to Amendment 2 and see what we can do to beef up this adult index. That is my presentation.

## DISCUSSION OF AMENDMENT 2 IMPLEMENTATION AND COMPLIANCE

CHAIRMAN DANIEL: All right, I am scared to ask are there any other questions for Jeff at this time? Okay, we will next move into a discussion on the implementation and compliance. Mike, you're going to run us through these various issues that we still need to resolve. I know that there are a couple of other questions or issues around the table that need to be resolved. I'm going to ask everybody to kind of try to get to the point and get it quick because we've got about 30 minutes left in our allotted time.



MR. MICHAEL WAINE: I'm going to skip right to the episodic event set-aside as that is some unfinished business. Pretty much everything else in the amendment is straightforward and decided. The board approved this set-aside for episodic events through Amendment 2; and it is incomplete so we have got to discuss and finalize the implementation details.

The set-aside is 1 percent off the overall TAC. The episodic events are timed in areas where Atlantic menhaden are available in more abundance than they normally occur. This is historic mainly to the New England Region and it provides flexibility for states to opt into this set-aside to harvest more than what they were allocated under the provisions of the plan.

To qualify for the episodic event set-aside, a state's bait landings must have been less than 2 percent of the total coast-wide bait landings from 2009 through 2011. At the December meeting actually I misspoke and said to qualify it was off of total landings and not just bait, but what was written in the amendment was bait so we just went with that as the default.

The eligible states are Maine, New Hampshire, Rhode Island, Connecticut, New York, Delaware, South Carolina, Georgia and Florida. States opting into this set-aside end up forfeiting their state allocations, so they give up their allocations. That allocation is then reallocated to all the states that weren't eligible for the set-aside or decided not to opt in.

Then the states that do opt into the set-aside after they've given up their allocated quota end up sharing that 1 percent overall set-aside from the TAC. There are also some provisions that go along with this. The first is that the unused quota will be rolled over to the overall quota if that set-aside isn't harvested by September 1.

These episodic events are just that; they don't occur on a regular basis. If they don't occur, that unused quota would roll over to the overall TAC. The board is also requiring catch-and-effort controls be used by states opting in to scale their fisheries to the set-aside amount, so remember that all the states that opt in are sharing it so there needs to be some control on the fisheries to provide some equal opportunity to the set-aside.

Another provision is to meet or exceed the timely reporting requirements as approved through the plan. I will go into a little bit more detail on that later, but it would obviously be very important to be

monitoring this set-aside very closely because you have the potential for more than one state harvesting from it, so we need to be tracking it in real time. And then the overages of the set-aside are payback the following year.

So just to put this into perspective, with the current TAC that we have, it is roughly 170,000 metric tons; a 1 percent set-aside is 1,700 metric tons, so that just puts it into perspective about how much we're talking about. Under the plan provisions, there are nine states that are eligible for the set-aside.

If all of these states opt in, then they give up roughly 273 metric tons total to gain access to the 1,700 metric ton set-aside, but remember all those states would be sharing that amount. That 273 metric tons that they give up is then reallocated to all the states that weren't eligible, and those reallocated TACs are shown in that far column to the right.

There are a couple of things that came up when the PRT was sort of reviewing how this would all work that we think the board should consider. First is to develop specific criteria to determine if a state's effort controls actually do scale their fisheries to the size of that set-aside. It would be nice for the board to also be approving whether those effort controls do that or not.

The states need to consider a mechanism to adjust those effort controls if they don't adequately reduce the effort in their fishery as we would monitor the set-aside and see how these episodic states are progressing towards the overall TAC. If in-season adjustments were necessary, that the states would have the flexibility to put those into effect to scale back their fisheries.

The board should also consider requiring trip-level reporting through the e-trips SAFIS system for all states that opt into the set-aside. As I mentioned, we're going to really need keep track of the set-asides so that we don't end up going over it. Our data partner, ACCSP, has the SAFIS system set up to handle these types of situations, so the board should consider using that system to be able to monitor this quota in real time.

Without doing that, there are words of caution that we might go over or overharvest, and those overages could be significant if we aren't

keeping track of this on a regular basis. The other thing for the board to consider is that if it is an episodic year and these states are harvesting off of this episodic set-aside, the board might consider not rolling over on September 1 and allowing the set-aside to go through the end of the year to accommodate for that episodic event year.

Lastly, the PRT recommended that if states opt into this episodic set-aside, that they would not be eligible for de minimis status because it would be important to get the biological data and monitoring from that set-aside amount. If they were de minimis, they would be exempt from collecting that information, so that was also a recommendation. Anyway, there are some things for the board to consider and I will take any questions.

CHAIRMAN DANIEL: Are there questions for Mike? Bob.

MR. ROBERT BALLOU: Mike, I'm sorry if you mentioned this already, but I thought I read in here is there a date certain by which states need to declare their intent to opt in? Haven't we already passed that for implementation in 2013; and if so, how would that work in 2013?

MR. WAINE: Yes; a good question. Actually, I didn't mention that, but you're right. I think one of the other questions here is we have already allocated 1 percent to the set-aside for 2013. The question is do we want to go through this in 2013; and if so, we basically need – I think it would be wise for states to indicate in their implementation plans whether they want to opt into the set-aside or not for this year, because we're already past that date.

Normally it would occur – November 1 think is the date that we put in there and states would just notify the commission that for the following year, yes, I would like to opt into the set-aside. But, considering where we're at right now, I think it could just be done this year through the implementation plans. Does that answer your question?

MR. BALLOU: It does; thank you, Mike, and if I could just follow up. My take on this is that on the one hand I think this is one of the best provisions in the plan. On the other hand, I think it is one of the weirdest provisions in the plan. I mean, it is sort of like would you rather give up 273 to get, what is it, 1,700? It doesn't take a whole lot of thinking to make that decision.

On the other hand, in a sense I'm thinking all the states are almost going to think to be inclined to opt in. Of course, you have to make that decision prior to November 1. That gives you access to a much larger amount of fish. I guess it is then up to those states to just simply work together to fish off that pool, that reserve, over the course of the year.

I mean, again, I like the idea because I think given the variability of the way the fish distribute themselves throughout the course of any given year, there might be a charge up in the Gulf of Maine, there may be a charge in Narragansett Bay, Long Island Sound, on down the coast, so it does make sense to be able to have this reserve to tap into and to be able to utilize it.

But, managing it and trying to think about the whole process of do you opt in or not and making that decision prior to November 1, it seems like you'd be crazy not to; because if you didn't, you'd be cutting yourself off from access to that reserve. I'm wondering what the other states who qualify think. I'm thinking Rhode Island's answer is going to be almost an automatic yes, and then we just need to work together to manage that reserve. I'm curious to hear what the other states think. Thank you.

MR. WAINE: Just to that point, Bob, I think you're essentially talking about some of the issues that the PRT brought up, which is, yes, at this point in time it would make sense for any state to just opt in. You're getting the opportunity to harvest off that larger amount; but does the board want to consider that if you are doing that, you have some other criteria that you need to meet. You have to demonstrate that you have the ability to regulate your fishery to the size of that set-aside.

You have to demonstrate that you have the timely reporting in place that would be needed to monitor the set-aside. I think sort of what you were talking about is exactly where some of the questions still lie is, yes, the states opting in do get access to this other quota, but can they demonstrate that privilege is warranted,

MR. TERRY STOCKWELL: Mr. Chairman, since advocating for inclusion of this measure back in December, I have been thinking about the implementation details. At risk of saying I might speed things up after our last discussion, I

do have some motions that addresses each of the issues Mike laid out, if you ready for them.

Okay, concerning the first issue that Mike addressed, **I move that states that wish to opt into the 2013 episodic set-aside quota must submit effort control criteria to the PRT by April 15<sup>th</sup> for board approval at the May meeting. This criteria will include, but is not limited to, maximum harvester and carrier vessel sizes and a maximum daily trip limit.**

CHAIRMAN DANIEL: Is there a second? Seconds around the table; seconded by Pat Augustine. Do you want to speak to it?

MR. PATRICK AUGUSTINE: Could we clarify that, Terry, by including how it was going to be reported on a weekly basis. I know there was mention in the document about – is that your assumption here that that would be a given?

MR. STOCKWELL: It is in a separate motion. I have motions for each of the five issues that were raised by the PRT.

MR. AUGUSTINE: Well, this issue was also raised by the PRT, but you'd rather have it separate? Okay, fine, my second still stands.

CHAIRMAN DANIEL: All right, is there other discussion on the motion? Dr. Pierce, did you have comment?

DR. PIERCE: Yes, I guess since I'm a state that does not qualify. As indicated by Mike, we had a misunderstanding. At our meeting in December I thought that we would qualify, but Mike indicated that he misspoke – no criticism. I misspoke many times as well. In going over the report from Mike I note that we don't qualify because we don't meet the 2 percent criteria.

It is interesting because I had supported the episodic event strategy since, as we know, fish show up in large numbers unexpectedly, so why not take advantage of that. It is an episodic event, unexpectedly availability of fish. At first I was disappointed that indeed we don't qualify, but then again I thought about it, wait a minute, we've get a quota of three million pounds, the strategy for the plan is we have to take our three million, give it up to all the other states that don't qualify for an episodic event. Then we share three million pounds or so with the states that want to take advantage of the episodic event, so what is the sense of that? It is nonsense.

The preferred way to go, frankly – and I'm not going to make a motion to go in this direction yet, because I consider this whole concept of an episodic event to be evolving and eventually I may make a motion for an addendum that would create a more sensible way to move forward, which would be you don't lose your quota.

It's a small quota to begin with; it is basically a pittance compared to other quotas for other states where the fishery is predominant. You keep your quota and then a strategy is developed where you can draw upon that additional three million pounds or so. If indeed you have a true episodic event because this motion – well, I understand the maker of the motion's intent. All this does is provide a state with an opportunity to increase its share.

That's fine; but that is all it does, because how do you anticipate an episodic event before it happens? Do you know what I mean; you're trying to increase your quota for the year in anticipation of an episodic event which may not happen; so basically what you're doing is increasing your quota for the year.

The whole concept to me right now is shaky, and I am very uncomfortable with it because I think it has a fatal flaw certainly from my perspective as a state that will have episodes of unexpected abundance, and we're not going to be able to take advantage of it with the way the plan is currently described.

No criticism; you know, this was a concept that we struggled with hastily at our December meeting because there were bigger fish to fry at that time. I'm not sure what I'm going to do with motion at this time, but just to put the board on record as this year goes on, as we begin to deal with control of effort in our state – and we're doing that now; a number of ideas as to live within the allocation for us – we will likely offer at some time in the future an addendum that would actually make the episodic event accomplish what it is supposed to do, which is take advantage of expected unavailability of fish.

CHAIRMAN DANIEL: I want to say something really bad, but I'm not going to do it. Lynn.

MS. FEGLEY: Mr. Chairman, I'm a little confused and I would like to understand better for 2013, because I think all of the states have

their crash helmets on trying to get this implemented this year. In the case of episodic events, the implementation plan would get to the board the 15<sup>th</sup>, it would be approved in May, but the fisheries are running.

In Maryland our menhaden catches are going to start in March. I don't know when they start up north. The question is between the time that we're approving all this, the fisheries are running; how do we know what happened before we approved it and what if we've already met our set-aside by the time we approve the thing, because we're sort of starting this all late in the game? Maybe my question is what are our assurances of monitoring early in the fishery to know how we're progressing? It is kind of funny; so, anyway, I'm not sure what my question is except we've got a little time lag issue I think we should discuss.

MR. STOCKWELL: I'll try to respond to both Lynn and Dr. Pierce. The 2013 timeline there is specific for this year. April 15<sup>th</sup> is as close as we can get in order to have something before the board for approval. Following this year, we would go into the November timeline. Pat has suggested I cobble them all together. It would be a page and a half of a full-fledged motion.

I have a monitoring component, a de minimis component and an in-season adjustment component all relative to this year. The choice is not to opt into it this year; let this year run its course for those states who might want to opt into it or might be able to qualify for the criteria; and then if Dr. Pierce comes up with an addendum that he wishes to perfect the whole concept with, I would be comfortable with that. This is perhaps I guess a band-aid for opportunities for this fishing year as it is.

DR. DANIEL: At the risk of being hissed at, I am going to remind everybody that this is 1 percent of the total coast-wide quota. We're not talking catastrophe here. No matter what the situation is, this going to be damned complicated. I am not picking on Georgia and South Carolina, but they don't have any quota. They've never had any landings but now they have access to more fish than North Carolina does.

I don't care; that's fine, but there are certainly circumstances here that it is a little more complicated than we may have thought it would be coming into this meeting. If you think we're going to get this fixed by the end of the day, I don't think we will, especially if we've got four more motions to go

through. I give up trying to make A.C. happy, so I'm just going to say that right now. I've got hands up all over the room, but this is going to be arduous. Pete Himchak.

MR. HIMCHAK: Mr. Chairman, I have a suggestion on this issue of circumventing the quota by opting in. If you look at each state's bait landings historically going back to 1985, when the dataset began, I think there is an element of who might have an episodic event. I think the whole intent of this was when the IWP was operating in the Gulf of Maine in the late 1980's, that was an episodic event. There were substantial numbers of older fish in the Gulf of Maine – IWP, first with the USSR and then with Russia – so there is a precedent for this episode.

In my mind and being quite familiar with the history on all the states, that is the only thing that is relevant here as far as I was concerned, and I thought that was the intent of putting aside the set-aside was specifically for the Gulf of Maine and these larger, older fish showing up in huge numbers, which, boy, we would like to see, I think.

MR. WILLIAM A. ADLER: Mr. Chairman, just a technical thing. Is the November date in the amendment – and I understand where Terry is coming from and I just didn't want this to be a block that you can't do April because it says November in cement. I just wanted to check and make sure.

MR. WAINE: We didn't improve Amendment 2 until December; so this year is different. That was the best approach we thought of was just to do it with the implementation plans for this year, but for future years it would be November 1.

MR. SIMPSON: I'll speak for Connecticut. I doubt we would opt into it. In fact, I would say we will not opt into it, and I suspect there might be other states that would also not really be interested in a directed fishery in their state waters or close by. It may not be as big a problem as we think it is, but I really like this idea.

I know it is going to take a while to figure out how do we deal with these moving resources. This is a common theme across all our species, so I hope we can move it forward and make it work over time.

MR. CARPENTER: Mr. Chairman, I must admit I very quickly glanced over and moved on when we were dealing with the plan about this set-aside deal. I was under the impression that the states that had these small landings, the less than 2 percent, would still monitor their landings and be responsible for fishing to that level.

And if they went over because they had an episodic event, it would be the equivalent of having the balance of that 1 percent that they could draw on and call it a state transfer mechanism; not that they got to the opportunity to go fish and increase their quota; and after four or five or ten years they have been fishing over their quota and they now say, well, we've got historical information that we want to reallocate this stuff and that whole thing.

I'm somewhat confused on this. I think it would be much, much simpler if everybody fished to their quota. Those states that opt in opt in to the ability to draw from the balance of the 1,700 metric tons; and come September 1<sup>st</sup>, if there is any left of that 1,700, it gets redistributed to the rest of us. That sounds like a much simpler idea.

CHAIRMAN DANIEL: Yes, I tend to agree. I think we need to be cognizant of the fact that we don't want folks taking advantage of this and going out and pursuing these fish; but if they do become available, is that not a good thing? Are those fish that move north, having those large concentrations up there; is that not a positive sign for the stock? Yes, it should be.

Those are larger, older fish that are important to the spawning stock biomass, but it is controlled by the fact that is only 1 percent of the total coast-wide quota. I don't know that it would have substantive biological impacts to have that episodic fishery. But having that opportunity coastwide I think is a little different than what I had anticipated as well, A.C.

This was really I think – from all of the discussions, this was really a Maine set-aside because they see the fish show up and maybe in Massachusetts, too, maybe Rhode Island, but certainly not a common event. I like your suggestion, A.C., and I agree with that being a better approach, but it is not my call. Pat.

MR. AUGUSTINE: Could we vote on the motion; kill it or approve it?

CHAIRMAN DANIEL: Do we need to caucus on this? I hear talking so I assume we do.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: Remember, we have got four more motions to go. All right; all those in favor of the motion raise your right hand; all those opposed same sign; null votes; abstentions.

MR. HIMCHAK: Abstain.

CHAIRMAN DANIEL: Okay, one abstention. **The motion carries 14 to 1 with one abstention.** All right, Terry.

MR. STOCKWELL: Mr. Chairman, I just want to remind the board that these motions are specific to a request from the PRT. **The second one is to task the PRT to provide the board for approval at the May meeting an appropriate daily trip limit reduction at 75 percent of the episodic set-aside quota.**

CHAIRMAN DANIEL: Second by Pat Augustine and a comment by Pat Augustine.

MR. AUGUSTINE: We've almost got the cart before the horse here because I thought we should clearly identify the fact that you need a very quick reporting on a weekly basis or something. We're allowing them to set up a 75 percent level without saying that you're going to have to report. I know it is probably your next motion; is it? Okay; that's fine; my second stands.

MR. WHITE: Mr. Chairman, on the last motion we did a lot of discussion about the general structure of this and not on the motion. I think Terry is trying to put something in place for this year and then obviously we will revisit the whole structure going forward. Maybe the Chair will appoint a committee to work on that. I think working on the overall structure doesn't get us anywhere today, so just a point.

MR. CARPENTER: I question the 75 percent. Is that 75 percent of documented landings or is that 75 percent of our projected quota? You have at least a one-week lag time and probably two- or a three-week lag time between knowing what you have landed and what is actually going on. I would like the maker of the motion to clarify that.

MR. STOCKWELL: A fair enough question, A.C. My intent would be at the projected landings. To Pat Augustine's point, I should

have probably made the monitoring motion first; but for all of your reference, it is for weekly trip-level reporting.

DR. PIERCE: Just a clarification; I believe Terry indicated that these were recommendations from the plan review team? I didn't see this specific one in their list of recommendations. I'm just checking to see it is consistent with what the plan review team has suggested we consider.

MR. STOCKWELL: The second bullet is to consider a mechanism to adjust the effort controls for an in-season adjustment.

MR. RICK BELLAVANCE: Mr. Chairman, I just had a question in regards to the process for the plan review team. Did they confer with the advisory panel when they would do something like that or it would be worth it to put some sort of a bullet in here where they could get with the advisory panel if there is a specific daily trip limit that work with them from a business perspective that might offer some insight into that process as well.

CHAIRMAN DANIEL: That is not built into the system, no.

MR. BELLAVANCE: Is it something that maybe should be or worthwhile to confer with the advisors or not?

CHAIRMAN DANIEL: I don't know. You would have those folks that would be involved – I mean now we're talking three-quarters of 1 percent of the total coast-wide landings, and the states that opt in would be the ones that would be interested in whatever their trip limit would be. You're talking about probably more effort than the fishery is actually worth trying to manage it. That is where I am headed with this, and that is where I keep coming back to. I think I would rely on folks like Terry to tell me what is the most appropriate trip limit and have them implement that, because he understands this episodic fishery.

I could go out and catch millions of pounds of menhaden; is that an episodic fishery? We just never have, so I'm a little bit confused about this whole episodic fishery as well. I liked A.C.'s idea better that everybody just keeps their quota; and then if you have an episodic fishery you have something to work on that can pay it back.

That is simple; that is really simple; and I like simple, especially as complicated as this daggone thing is

getting. I think also we have got to come up with something that we can get through here today, but then recognize that we're going to have to spend more time on this little tiny piece of the pie, and that is kind of frustrating.

I think it has also got to be frustrating to staff that we have seen this and we've talked about this component of the plan now for a year and a half, and now all of a sudden we've got all these great ideas. That is because we had, as Dr. Pierce said, a lot bigger fish to fry as we were developing this thing.

Now we've come back and it looks like we're going to have two board meetings to figure out how to handle this small component of the fishery. I think we need to get through these motions for this year; and then I think as was suggested, there needs to be a group of those players that want to opt in and let you all figure it out and then come back with some recommendation to the board as to how you want to work this, because I don't even have a clue.

I mean, I can't imagine Robert is interested in this. Maybe he is, but who is actually going to be involved in this and who is going to use it? We need to know that and we need know it by May. I would probably task Terry to give me a list of three or four people that could be a subcommittee – that I don't want to be a part of – that could come back to the board and provide a better feel, and maybe we could do it by an addendum or whatever if we have to make some modifications to the amendment. I do support Terry moving forward with his motions as quickly as we can, but we need to move. Is that a fair and reasonable way to move forward on this? We have got a motion. A.C.

MR. CARPENTER: I don't want to upset the applecart and tell you that I had asked for a quick meeting, but would it be in order, Mr. Chairman, to have a **motion on the floor that would essentially say for 2013 the quotas that were in place or shown on this table that we're all looking at will be in effect for everybody. The ones that highlighted as below the 2 percent will have the option to fish this year; and if they have an episodic event, they can draw on the balance of the 1,700 metric tons.** In the meantime you can set this group aside and come back in a future meeting to solve it for '14, '15 and '16.

CHAIRMAN DANIEL: Are you making that as a substitute motion?

MR. CARPENTER: And if it is in order I would make that as a substitute motion.

CHAIRMAN DANIEL: I think it is in order. Is there any objection around the table to having that motion besides Terry? Terry.

MR. STOCKWELL: Not as much of an objection as the monitoring issue isn't addressed. If we're going to have any episodic event, we have to have the monitoring system in place, so that would be my objection.

CHAIRMAN DANIEL: Well, I think that the monitoring goes hand in glove, and I think it has to be – you know, it is going to be incumbent on the states that take advantage of it to monitor it; because if not, you've got to pay it back the following year and then you won't have an episodic fishery the next year if you don't monitor it.

Really, that is incumbent upon those folks that are taking advantage of the episodic fishery to make sure that you monitor it. Obviously, if you're moving along and you've caught half of the 1,700 metric tons, you probably ought to quit or at least talk to some of the states and find out what they're doing in terms of these episodic fisheries. Again, I don't know who is going to be involved in these episodic fisheries besides you and maybe Massachusetts. Okay, Pete.

MR. HIMCHAK: I unfortunately would speak against the motion because it undermines what we set up an episodic event to become even though we didn't define it, but essentially you're taking any state that has bait landings of under 2 percent and allowing them to expand in the absence or in the presence of an episode. That 2 percent is significant in the overall scheme of 170,000 metric tons is a lot of fish for somebody to – I think you're going to allow a lot of states to just expand their bait fisheries.

CHAIRMAN DANIEL: Well, I have got a substitute motion on the table and I need a second. Second from Adam Nowalsky. I think the intent here is to get us through this year. I don't think we're going to have some huge expansion in any fisheries at 1 percent of the total. We might; somebody might take advantage of it.

If you do, shame on you; but at the same point it is that or spend another – we're going to have to figure

out what to do with the schedule because we have run way over our time, and we have got a lot more to do. I don't want to be the reason to vote for or against this, so I just bring it up as fact. Doug.

MR. GROUT: Just potentially a clarification on the motion that we might want to put in there that states that qualify for an episodic event will be able to harvest the 1 percent set-aside because right now it says any state can –

MR. CARPENTER: I would accept that as a friendly amendment.

CHAIRMAN DANIEL: Yes, we will make that correction, but I think that is a good clarification. Jack.

MR. TRAVELSTEAD: I'm not sure where I am on this motion, but I would note when the concept of an episodic event was first introduced by the state of Maine they pointed out to us that maybe once every ten years we get a slug of menhaden that show up in our waters, and we would like to take advantage of that.

They asked that 1 percent of the quota be set aside so that they could do that. Now it seems to have morphed into a situation where we're taking that 1 percent and we're allocating it to nine different states so that they could fish potentially more than they were originally allocated every year. We have sort of moved away from this concept of episodic event, it seems to me. I don't know that I have a problem with that, but it is definitely not where we started.

If we really want to go back to where we started, it seems to me we need to spend a little more time on defining what an episodic event is. When it was first introduced, it seemed to me it was something that hardly ever occurred; but if it did occur, we wanted to be able to accommodate it rather than providing an opportunity to reallocate some percentage to everyone. I don't know if that helps anybody with anything, but it just makes it more complicated.

CHAIRMAN DANIEL: Well, I agree with you. Certainly, menhaden are available all the time in Florida, Georgia, South Carolina, Delaware; probably New York; and then once you get north, that is where it becomes episodic. Perhaps in the future what we need to do as we move

forward with this group is perhaps define where that episodic event may occur and that would whittle down the number of states that would be eligible because it is not episodic in a lot of states because the fish are there. It is just that they haven't taken advantage of it in the past; and I think that is the concern that states that haven't had a fishery in the past could develop as fishery, at least a small level fishery based in 1,700 metric tons, and that was never the intent of the set-aside, but that is where we are now. Is there any further comment on the motion? Bill.

MR. WILLIAM A. McELROY: Mr. Chairman, I agree with Jack, but the problem that we have in the New England Region is to try to wait for the episodic event to occur. By the time we notice that it is there and petition the commission for some access to it, the likelihood is the event will be over. I'm struggling.

Obviously, we don't like the idea of increasing the quotas automatically ahead of time because that goes counter to what we have done as a board. At least in New England the fish come and go in a very quick fashion and the likelihood of us being able to tap into an episodic event if we had to wait for it to occur, it will be over before we could harvest it. Thank you.

DR. PIERCE: I think Jack Travelstead said it best. That is essentially what is going to happen. It's not really an episodic event, which is allowing states to increase their take. It is not really a big deal because the take is small, anyways. However, it would just not be consistent with the whole concept of what an episodic event is.

Now, I'm going to have to oppose the motion even though I like the fact that it has been changed consistent with what I said before; that is, states would retain their initial Amendment 2 allocations, but then it says that qualify for episodic events, so I think that is where the 2 percent figure kicks in.

As I said in my initial remarks at our meeting in December, we would have qualified. That was the understanding; and then there was a misunderstanding and that has been made known by Mike we wouldn't qualify now. I have to oppose the motion for that reason only that we would not qualify because we're being – we and other states, for that matter, would be restricted to that rather subjective 2 percent.

Frankly, I can't recall why the 2 percent was even developed. If this was to apply to all New England states, I would be more receptive to it; but then again

Mid-Atlantic states might find that to be objectionable. I would rather just have this concept be, as you indicated before, brought to a small subcommittee for further development and for further work so that we can make it truly consistent with the intent. The motion really isn't consistent with our intent.

CHAIRMAN DANIEL: I agree; and I'm trying to get us through this year or at least through this early season without it blowing up. Again, we're talking about a very small portion. I don't anticipate Delaware south taking advantage of this. It is not episodic event to have menhaden in Delaware. It is just not.

It really is a New England issue, pure and simple, and that is who I would expect to take advantage of it. I can't speak for them, but I can't imagine there would be a circumstance where all of a sudden it would be some surprise to South Carolina or Georgia there are menhaden off the beach. Dennis.

MR. DENNIS ABBOTT: Mr. Chairman, I have done my best through the whole meeting to get us to the end by not saying anything. I think that going along with Dr. Pierce we really need to define what an episodic event is. The general statement of it covering nine states obviously is not working. Then you have just said that no one would take advantage of it.

I don't think that is the history of fisheries that fishermen don't take advantage of things when they have the opportunity; but be that as it may I think we're spinning our wheels here. As I talked to Catherine Davenport yesterday, we were realizing that we really need a clearer definition of "episodic" in this menhaden management scheme.

MS. FEGLEY: Well, realizing that this is just for 2013; would it help to amend this motion to say that any harvest that occurs under the set-aside will not count towards future harvest history under allocation? It sounds like that is some of the concern is that states are going to take advantage of the situation to build harvest history. I don't know; just a thought.

CHAIRMAN DANIEL: I don't think there is any intent in changing the harvest history that we based Amendment 2 on; so it would be moot in my opinion. If anybody has a different opinion; that's fine. Dave Simpson.



MR. SIMPSON: I agree with Jack's comments; and I will say again, as I said at the last meeting, my recollection of this entire discussion until we took the vote was that it was a Maine concern. I didn't hear any other state mention any – okay, I never heard New Hampshire or Massachusetts comment, but I guess we will have to check Joe's record on that.

To Jack's point, "episodic" was characterized to be very infrequent, less than every year, once every ten years, five years. To that point, I don't see that it would hurt us to just set this aside for 2013, do some work this year to figure out what we mean by episodic events and who will qualify and where the fish will come from, because this should not end up being some kind of a small-scale fish grab or reallocation.

It was meant to address a particular concern, and I think we're worried about messing things up here. We have a year I think to deal with this and come out knowing what we're doing and agreeing on what we're doing going forward if we put it off for one year and start this set-aside in 2014.

MR. HIMCHAK: I agree with Jack Travelstead's position entirely. I didn't state it as eloquently, I guess, but what is the problem with tabling the issue for today and at least allowing Terry and some other members to define what an episode would be, who would qualify, and come back to the board at the May meeting and then we can maybe implement some kind of set-aside for 2013; and if not, then we can suspend it until the 2014 fishing season.

MR. STOCKWELL: After this discussion, Murphy's Law is going to be this is going to be our episodic year. I'm comfortable with the will of the board. If you want to table this, fine. I came here prepared to address the issues that were left unfinished in December. I am going to tell you if there is menhaden in the Gulf of Maine this year, we're going to harvest them.

EXECUTIVE DIRECTOR BEAL: The board is in a spot here, but I think the 1 percent has already been taken off the top of the quota. That is set aside and it is in a Conservation Fund if you want to call it that. If the board doesn't take action today, that 1 percent is not reallocated to the individual states. They can take some time and think about this.

The fish, if they show up in the Gulf of Maine, I think it is later in the summer usually – middle of summer, so definitely after our May meeting, so there may be some time to chew on this between now and

the May meeting and come up with a scenario that figures out what we do with these – what you folks want to do with the 1 percent of the fish that are already set aside and sort of taken out of the overall quota for this year.

MR. AUGUSTINE: Will you call the question, Mr. Chairman?

CHAIRMAN DANIEL: Yes, I am starting to get a little flustered. What I would like to do is table this issue. I would like to ask for Terry to lead a subgroup that is made up of Bob Ballou or your designee, Dave Pierce or your designee and Dave Simpson or your designee and Doug Grout or your designee to come back at the May meeting.

I would like for you to come back with a very succinct motion on how you want to address this issue. Then what I would really appreciate would be if there are other states that are on the episodic list, particularly New York, Delaware, South Carolina, Georgia and Florida, if you could indicate whether or not you intend or not intend to participate in that, it would be a big help.

I don't believe it is consistent with what Jack was talking about that everybody seems to agree with; it is not consistent with the episodic nature of the fishery and where the fish occur all the time. My hope would be is we could limit it to the New England states and come back with something in May that will avoid us having an episodic event this summer that prevents somebody from being able to take advantage of that, which was our intent. Dennis.

MR. ABBOTT: Are you finished?

CHAIRMAN DANIEL: I'm as done as I can be.

MR. ABBOTT: And you did a good job, Mr. Chairman. I think we have a motion in the possession of the committee and I think a motion to table would be in order, **so I make a motion to table this motion to the May meeting; actually move to postpone until the May meeting might be a more proper motion.**

CHAIRMAN DANIEL: I have got a motion to postpone and a second from Mr. Adler. **Is there any objection to the motion? Seeing none; we will move on.** Is the direction clear, Terry? I don't mean it that way, but do you understand

what I'm asking for and hopefully you support that motion.

MR. STOCKWELL: Yes, Mr. Chairman, I will cycle it, and Mike Waine as well.

CHAIRMAN DANIEL: Yes.

EXECUTIVE DIRECTOR BEAL: I think we should just plow through the remainder of the agenda. I think the remainder should be hopefully more efficient than what we've had so far, but I think we can push through.

CHAIRMAN DANIEL: That us fine; we will push through with my apologies to the Horseshoe Crab Board because they do have an important issue that they need to deal with as well. Mike, do you want to continue?

MR. WAINE: In the interest of time, every board member and state has in front of them passed out this morning a memo from myself that indicates the implementation criteria for the implementation plans that we will be expecting from every state that is due on April 15<sup>th</sup>. I did the best job I could to lay out very specifically what the PRT will be looking for in those implementation plans and the format at which we hope to receive those. I'm not going to go through each item specifically. If there are any questions or anything is unclear, feel free to contact me. I can answer any questions if you have reviewed it before now.

MR. TRAVELSTEAD: Mike, I had one question and I think you have answered it on the very top of Page 2 of your memo. We've noted in Virginia that there are some very small differences between what is reported on a captain's daily fishing report and the list of all the items that are to be collected in Amendment 2.

You seem to be indicating in your memo that the CDFRs are still an acceptable format for reporting, and I agree with that. I would hate to have to go back and do away with that in favor of some new reporting form because industry is so used to using that. Can you clarify that the CDFRs for our reduction purse seine boats, our bait purse seine vessels, that is an acceptable form for reporting.

MR. WAINE: That is part of the implementation plan is essentially to submit that the CDFRs is Virginia's timely monitoring for the reduction industry and are recommending that meeting that weekly criteria and being able to monitor the

reduction landings on a weekly basis, indicating you can do that through the CDFRs present all the information in your implementation plans, the PRT will review that. I am going to tell you that, yes, that is going to be adequate because it has been for the past. I know that mechanism because it was written up in the amendment, but, anyway, yes, that would be the procedure would be just to submit that, and it will go before the PRT and then to the board.

CHAIRMAN DANIEL: Does that answer your question, Jack?

MR. TRAVELSTEAD: Yes, sir; thank you.

MR. GROUT: Thank you, Mike for this. This will be very helpful from a de minimis state standpoint. One thing that I just wanted to clarify; is there a clear definition in the FMP of what a directed fishery is and what a non-directed fishery is? Do you recall that at all?

MR. WAINE: I don't know what you mean by "clear". (Laughter) It is not specific but the bycatch allowance is what you're referring to, and the bycatch allowance is for non-directed fisheries. These are fisheries that are not directing on Atlantic menhaden. There is no percent provision in there, meaning there isn't a percent that has to come from other species, so there is no formal definition in that sense. Other than an industry member indicating that they were directing on another species and just happened to catch menhaden as bycatch; that is the only formal definition that we have.

MR. GROUT: Well, if I might work with you in developing my plan just to make sure that I'm not going to go outside the bounds of the plan; again, from a de minimis and how we're going to deal with a quota that is a hundred pounds a year. Where we don't really ever catch that much, I want to be able to put in rules that will be in compliance with this plan without being overly burdensome on our reporting system which will provide you with the landings data and our rule-making system.

MR. WAINE: Yes, absolutely, Doug. I developed this so that states could – so it would be more easy for the states to determine what implementations would require, and I would be happy to work with everybody to make sure that they're adhering to what we're expecting.

CHAIRMAN DANIEL: Are there any other questions for staff? Mike has done a fabulous job herding cats and I appreciate it. Matt, have you got a quick update or a quick version of an update?

### **MULTISPECIES TECHNICAL COMMITTEE REPORT**

DR. MATT CIERI: Yes, we can do that. Okay, my name is Matt Cieri, and I am the Chair of the Biological Ecosystem Reference Point Working Group as well as the Multispecies Technical Committee. Just for today, what we're going to go over is we're going to talk about some additional predators to the MS-VPA and what is required to be added as requested by the board.

I'll also give you an update on the biological reference points as well as the multi-dimensional analysis. The first part is that the board tasked the BERP Working Group with investigation of predators to add to the MS-VPA, and a list of additional predators were considered. Note that some of these predators had been initially removed and then we have some preliminary estimates of some additional predators that might be important, keeping in mind that the overall goal of the MS-VPA and the ecosystem model in general for menhaden is looking at what predators are important – what species are important predators on menhaden rather than what species are menhaden important for.

When we go through the list, you can see that there – when you go through the food habits list from the National Marine Fisheries Service, you can find that a lot of different species actually end up becoming fairly important predators for menhaden or at least seemingly so. However, if we remove a good chunk of these, for example, you can see that weakfish – and these are listed in order – is right about here.

If you reduce all the ones that may not be that important, for example, a little bit less than weakfish, you remove the ones in the red, and then the ones in the yellow highlighted are actually in the model as it stands. That would leave potential predators to be added to include spiny dogfish, butterfly ray, smooth dogfish and monkfish. These are just some sort of preliminary estimates.

Remember, there are sort of two components that go into what makes a predator an important predator on menhaden. One is how much menhaden does it eat on an individual per capita basis, but also how big is your biomass. If something eats a lot of menhaden

all the time but has a very, very small biomass, then it may not be an important predator.

We also need to recognize that adding in predators into the ecosystem model is going to be limited on data. There is no sense in adding in a predator that you think might be important if you don't have a lot of food habits' database to back that up with. But there are also some others that might be important that we haven't included and we're starting to take a look at as well.

These include things such as birds, marine mammals and some of the highly migratory, including bluefin tuna. Then we have also been looking at using a feedback mechanism to look at what are the effects of menhaden availability as prey on the predator through its stock-recruitment relationships?

One of the goals, of course, is to get your feedback with the understanding that we're looking at what predators are important for the menhaden population. Then going into the BERP Working Group Update, we've figured out that, of course, as you all know, that there are issues with the current menhaden assessment, and these issues also translate through the MS-VPA.

There is a real need to actually correct some of these issues within the underlying assessment rather than going on ahead. This will require a large time commitment of staff as well as the scientists that work on these models. Therefore, we suggest actually delaying an update in favor in actually going through and correcting some of these issues in the MS-VPA for a peer review. That is the recommendation of the working group.

Next is just to give you a brief update on the MODA. The MODA is the Management Objective Decision Analysis. Currently we were looking for funding, but it seems like most of those options are probably not going to pan out, so we're probably not going to end up getting funding in time to do the work as requested.

The working group has resumed work on the ERP task as it stands, and that would be to quantify the amount of menhaden biomass necessary to sustain the forage needs of striped bass, bluefish and weakfish predators at their threshold biomass levels. That is how we have interpreted what the board has been looking for.

We're going to generate some biomass reference points for you using that as an outline and indicate when menhaden biomass has dropped below that level to support key predators at those biomass thresholds rather than the targets. This will give us the opportunity to generate those reference points. The task is using the MS-VPA to generate an estimate of the biomass of menhaden required to maintain these predators at this given reference point; so when you have your predators at the threshold level, how much menhaden do you need to keep the food availability stable over that time horizon.

This is pretty much on track and we have done some preliminary runs to take a look at what that might look like, but we're currently still tweaking the model. The other thing that we're doing is parameterizing that predator/prey feedback loop as I suggested earlier because, of course, food availability does have a profound effect on striped bass as far as weight at age, bluefishes weight at age, those types of things, and so that can actually translate back into your predator population in terms of SSB as well as fecundity and your stock-recruitment relationship.

For the ecological reference points, we anticipate having the strawman result for board feedback at the annual meeting this year and then a peer review of all the models that we're thinking about using, as well as the ERP options. All this of this stuff has sort of been delayed until 2015, and, of course, it will depend on the menhaden timeline itself. That's all I have for you.

MR. AUGUSTINE: Matt, it was really interesting that chart you had up there about all of the predators, including sharks, and I think you had herring down there. Now, when you develop your model, are all of those species evaluated in terms of what their food need is at the threshold, also?

I know we had a lot of sharks – those that are listed; most of them are either overfished or overfishing is occurring; so if it is anything other than at the threshold, how do you balance it? What is the fudge factor, if you can help me with that? I don't mean to put you on the spot, but, boy, that is big when you look at what the impact is particularly on the herring. I couldn't believe that number.

DR. CIERI: Right; when you actually go back through; we're not going to be looking at everything in red probably because it is not going to end up being important within the model, anyway. Basically we're going to use weakfish as sort of our benchmark. If it is going to be less important than

weakfish, then you pretty much just need to get rid of it, because it is going to end up being background noise and you're just adding variability.

For everything above weakfish and above, yes, you do actually have to take a look at what those kinds of things are going to be at different levels. It will depend on whether or not you want to put those in as biomass predators or whether or not you're going to put them in as fully explicit predators. We will have to take a look at all that as we go through, but the idea would be to keep these predators fairly stable.

DR. PIERCE: Matt, let me get this straight. All the species above the line, if they were included, then the model and the work that your group is doing, the end result would be that we must make sure that there is enough menhaden left in the water to feed these predators; so we have to feed the dogs, which I don't want to do. If the choice is to feed the dogs and not the dogs, I would say leave them out of the list.

DR. CIERI: And I think we all understand your affinity for dogfish. What I will say is what we're planning on doing is to look at the threshold levels of each of these predators and take a look at how much menhaden is needed in order to maintain those populations at those levels. This is just a strawman first step. Of course, we all know that the likelihood that weakfish are actually going to get up to their threshold is pretty moot. Likewise, striped bass, we're far and away well above their threshold level. This is just going to be a sort of minimum estimate of much menhaden you need and what those biological reference points would look like as a minimum.

DR. PIERCE: Okay, that is a good exercise and I appreciate the fact that you were able to come up with this list. It will be important to include them and we will then have to make some decisions down the line as to how much menhaden to leave in the water for each of these individual predators.

I assume that we will then make some value judgments as to what predators need to be fed and what can find something else, if you know what I mean. By the way, the spiny dogfish estimate of menhaden predation, the amount they have been consuming, we actually have that

estimate from some source? I didn't realize that we had one for menhaden.

DR. CIERI: Well, these are the species that may look important in the food habits' database. Remember, this is only preliminary numbers. When we actually go through and take a look at, okay, who is eating menhaden, how much, and then how big their population is, when you actually start going through and taking a look at, okay, how does it overlap and those types of things, some of these species may not end up being important.

This is just the first preliminary cut of an idea of what predators in the current NMFS Food Habits Database might be added into the MS-VPA. Okay, it is a preliminary cut. These may not actually end up being added in. It will all depend on the final analysis, but they do show up in the Food Habits Database.

CHAIRMAN DANIEL: I feel like I have to make a comment as a member of the South Atlantic states; and that is this is meaningless to me because it doesn't have any of the fish that eat menhaden south of Virginia. That is going to make it a hard sell in North Carolina, South Carolina, Georgia and Florida. Red drum aren't listed here. King mackerel aren't listed here. Spanish mackerel aren't listed here.

You know, huge population and abundances of fish that occur in the South Atlantic that aren't even included, and so that is going to be a big question that we're going to get from the South Atlantic. This is all Mid-Atlantic and New England stuff. Basically at this point, now that North Carolina has prohibited the reduction fishery fishing off of North Carolina waters, is a refugia basically from the Virginia Line to Key West for menhaden.

How that factors into a multispecies analysis I think is going to be very important to be able to answer those questions to those constituents that are going to be wild. When we see a school of menhaden in the wintertime being fed upon, none of these species are included. It is red drum, false albacore, king mackerel, whales; and then probably the biggest component is blacktip sharks and blacknose sharks, and those aren't listed. That is going to be a difficult sell.

The other part of the MODA Analysis and the Multispecies Analysis that has raised some concerns to me is the variability and the changing in the gelatinous zooplankton predator communities in the areas where menhaden are spawning and the substantive impact

of those jellyfish, basically, that are feeding on the eggs and early larvae of the menhaden and that could have a substantive impact on the recruitment strength of menhaden more so now than it has in the past.

Those parts, when you're making a puzzle, if you have only got three of ten pieces, it is hard to tell what it looks like. Those are the kinds of questions and concerns that I would ask when the presentation is given and just to kind of give a heads up on the concerns that I have and I have heard about the analysis and what I see as some of its shortcomings; recognizing you're not going to have the information for every single thing.

The point I'm trying to understand is at what point are the results meaningful for management purposes. That to me is the \$64,000 question when it comes to multispecies analysis, so I felt like from the South Atlantic perspective, those would be my concerns and questions in a future presentation.

DR. CIERI: And, of course, we do sort of address those things as time goes by. Partly it is about what is available in the Food Habits Database, but there are also other sources of information in the MS-VPA as well. You can't add in data if you don't have it. You can't suggest that type of stuff ends up becoming important.

Some of the spatial analysis does look at habitat and overlap with certain of these predators, and I think a lot of the stuff will end up coming out in wash. As well, if you have any information on food habits of any of the species that are within the menhaden's range, we're always looking for new sources of information and potential predators.

But what we were really trying to focus on was what predators are really important for regulating the menhaden population, and that is a very different question than who eats menhaden. If you had to list all the predators that ate menhaden, you'd come up with a list as long as this room, but it is really trying to quantify the predators that are important for regulating the menhaden population. That list actually ends up becoming a lot shorter.

CHAIRMAN DANIEL: And I just think that there are species in the South Atlantic that are

equally if not more important than the ones on the list and particularly king mackerel and red drum. I think that the best information for that is in South Carolina. There has been a tremendous amount of data work done on offshore populations of red drum there, and we're starting to get that information, too; but as that spawning stock biomass continues to improve and increase, which it is doing, then I think their impact is going to be far, far more.

They tend to stay with the schools under them, and so they're feeding on them all the time; just like a striped bass, no different striped bass. Those are the kinds of things that – you know, I don't want the process to get hammered by saying, well, you didn't think about this, this, this.

I'm just laying out kind of apriori what the issues are that you're going to hear from folks in the South Atlantic when they see this list. That's my main point. Is there anything further on the MODA Analysis and the multispecies that is going on? All right, we have got to populate some boards and technical committees and things. Thank you, Matt.

#### **POPULATE THE STOCK ASSESSMENT SUBCOMMITTEE**

MR. WAINE: In anticipation of the benchmark stock assessment occurring in 2014 for Atlantic menhaden, I just wanted to run through the stock assessment subcommittee membership for that group. As it stands now, that is Matt Cieri from the state of Maine, Rob Latour from VIMS, Micah Dean from Massachusetts, Behzad Mahmoudi from Florida, Jason McNamee from Rhode Island, Amy Schueller from the National Marine Fisheries Service, Alexis Sharov from Maryland and Joe Smith from the National Marine Fisheries Service.

MR. AUGUSTINE: **Mr. Chairman, I move to approve the stock assessment subcommittee membership as presented.**

CHAIRMAN DANIEL: Motion by Mr. Augustine; seconded by Mr. Adler. Is there discussion on the motion? Are there any additions to the list from anybody? Any objection? Seeing none; **that motion carries**. Then we have a plan review team?

#### **POPULATE THE PLAN REVIEW TEAM**

MR. WAINE: Because we are implementing Amendment 2, we are also populating the plan review team to track implementation of those compliance criteria. Those members as it stands now

are Ellen Cosby from Potomac River Fisheries Commission, Steve Meyers from the National Marine Fisheries Service, Trisha Murphey from North Carolina and we have a nomination for Nichola Meserve from the state of Massachusetts.

MR. TRAVELSTEAD: I wonder if I could ask Joe Grist to that list from Virginia.

CHAIRMAN DANIEL: Without objection; add Joe Grist to the list. Are there any others? Pat.

MR. AUGUSTINE: **Mr. Chairman, I move that the board accept the plan review team membership as proposed.** You might want to read the names into the record, Mr. Chairman.

CHAIRMAN DANIEL: I'm just making sure that Joe Grist is added. Motion seconded by Mr. Adler. Is there discussion on the motion? Dave.

DR. PIERCE: I'm just making sure Nichola is on the list. Okay, good.

CHAIRMAN DANIEL: She is on there. It is Steve Meyers, Nichola, Ellen Cosby, Trisha Murphey from North Carolina and now Joe Grist from Virginia are the five members of the PRT, and it is good to have that fairly small group, but I think that is good representation. Is there any further discussion on the **motion? Seeing none; any objection to the motion? Seeing none; that motion carries and that is our plan review team.** We have got one other piece of business from Mr. Travelstead.

#### **OTHER BUSINESS**

MR. TRAVELSTEAD: Mr. Chairman, this will be brief. I think we all understand the importance of the benchmark stock assessment that we're working on and hope to have done in 2014. It is certainly something that is of great interest to the constituents here in Virginia and in particular the 140 legislators who are responsible for managing that fishery here in Virginia.

My reason for putting this on the agenda was to ask that you direct that we get an update on the status of that benchmark at all of our future meetings. I don't want to arrive at a situation where some time in 2014 we hear from the stock assessment subcommittee that we ran into trouble a year ago and we're just hearing about it for the first time.

I would request that at every meeting we get an update from staff on what has occurred the previous two or three months, what is supposed to occur in the next two or three months, whether we have run into problems, whether people need to be prodded to do what they're supposed to do. I would also ask that in the event the Menhaden Board does not meet at one of our future meetings that we get that same update perhaps through the Policy Board. Thank you.

CHAIRMAN DANIEL: Yes, I don't think there is any objection around the table for having that as an important component. I would like to just add one thing to that because I want to make sure – there were some comments made to me that this board supports – I want to make sure that there is agreement that this board supports the work that industry is trying to do and that at this board we're supportive of them moving forward in their collaborative cooperative efforts to make these surveys happen, working with the states and make sure that we're all in support and there is not going to be pullback from that support as we move forward. I don't think it means financial support, but just making sure that we are in agreement with moving forward in that direction and that collaborative spirit. Dave.

DR. PIERCE: Yes, I certainly support that survey, the work that the industry is doing. It is unclear to me, however, whether we actually have formally requested the technical committee to review the aerial survey design so that we can make sure from the get-go that we're not going to have a problem after the fact by someone eventually saying the survey design was off, we can't use the information. I look to you, Mr. Chairman, for some direction on that. Have we charged the technical committee to do that; and if not, should we?

CHAIRMAN DANIEL: If we haven't; we should. I believe Jack indicated that Rob Latour should have a design approved by March; and if that is indeed the case, then my hope would be the technical committee would review that design.

I'm assuming that industry would be involved in looking over that as well and have comments on that since they are going to be funding it in part and that would be a formal charge from the chair to the technical committee to make that review happen for our May meeting. Does everybody agree with that approach? Bob.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, just to clarify Mr. Travelstead's request, I just want to make sure he is requesting updates at each of the

quarterly meetings on progress toward the benchmark assessment and the steps we're taking through the data and modeling, but he is not asking for preliminary model results and other details of what may be anticipated as far as results of the assessment; is that correct?

MR. TRAVELSTEAD: That is exactly correct. I'm not looking for preliminary results because they're meaningless. Until the thing has been peer reviewed, we don't need to hear results. I want to make sure that the timeline to get this done is being met and that all the partners are doing what is supposed to be done to get us there. Thank you.

CHAIRMAN DANIEL: Okay, anything else on Jack's other business? I have another business, too. A.C.

MR. CARPENTER: I would just like to request that Mike e-mail his February 15<sup>th</sup> memo because we can handle it better if we get a copy that way. Thank you.

## ADJOURNMENT

CHAIRMAN DANIEL: Certainly. Is there anything else from the board? If not, I have been doing this since 1995, I guess, when I started as a Fish and Wildlife Service representative on the Weakfish Technical Committee. I have dealt with a lot of technical committee people and a lot of chairs, and I don't know that there has been many, if any, that have exceeded my expectations like Jeff. This is his last meeting as our technical committee chairman; and for an outstanding job, well done, I just wanted everybody to give him a round of applause for his efforts. (Applause) With that happy note, we will stand adjourned.

(Whereupon, the meeting was adjourned at 10:42 o'clock a.m., February 20, 2013.)