

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

**Crowne Plaza Hotel
Old Town, Alexandria, Virginia
August 2, 2010**

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INDEX OF MOTIONS

1. **Approval of Agenda by consent** (Page 1).
2. **Approval of Proceedings of May, 2010** by consent (Page 1).
3. **Move to accept the terms of reference for the peer review panel that have been put forward by the technical committee with the exception of number four** (Page 9). Motion by George Lapointe; second by Pat Augustine.

ABOVE MOTION REWORDED ON PAGE 10: Motion that the Lobster Management Board accept the terms of reference for the peer review panel as prepared by the technical committee with the exception of term of reference four and the addition of a term of reference “comment on the applicability of the recruitment indices to forecast future recruitment in landings to the inshore and offshore areas.” Motion by George Lapointe; second by Doug Grout. Motion carried (Page 12).

4. **Adjourn by consent** (Page 18).

ATTENDANCE

Board Members

| | |
|--|---|
| George Lapointe, ME (AA) | David Simpson, CT (AA) |
| Pat White, ME (GA) | Lance Stewart, CT (GA) |
| Sen. Dennis Damon, ME (LA) | Rep. Craig Miner, CT (LA) |
| G. Ritchie White, NH (GA) | James Gilmore, NY (AA) |
| Douglas Grout, NH (AA) | Pat Augustine, NY (GA) |
| Rep. Dennis Abbott, NH (LA) | Brian Culhane, NY, proxy for Sen. Johnson (LA) |
| William Adler, MA (GA) | Peter Himchak, NJ DFW, proxy for D. Chanda (AA) |
| Dan McKiernan, MA, proxy for P. Diodati (AA) | Tom Fote, NJ (GA) |
| Rep. Sarah Peake, MA (LA) | Craig Shirey, DE, proxy for P. Emory (AA) |
| Ben Martens, MA, Legislative Proxy | Tom O'Connell, MD (AA) |
| Mark Gibson, RI, proxy for B. Ballou (AA) | Steve Bowman, VA (AA) |
| William McElroy, RI (GA) | Jack Travelstead, VA, Administrative Proxy |
| Rep. Peter Martin, RI (LA) | Bob Ross, NMFS |

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

Ex-Officio Members

Bob Glenn, Technical Committee Chair

Joe Fessenden, Law Enforcement Committee Chair

Staff

Vince O'Shea
Robert Beal

Toni Kerns
Nichola Meserve

Guests

John German, LISLA
John Whittaker, Noank, CT
Charles Lynch, NOAA
Arnold Leo, E. Hampton, NY

Bonnie Spinazzola, AOLA
David Watters, House of Representatives, N.H.
Matthew DeMawa, Mattauck, NY
Peter Burns, NMFS

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 2, 2010, and was called to order at 2:30 o'clock p.m. by Chairman Mark Gibson.

CALL TO ORDER

CHAIRMAN MARK GIBSON: I'm going to call the Lobster Board to order. My name is Mark Gibson; I'm the chairman of this board. I won't be here very long today. I'm only going to make a few introductory remarks and then I'm going to step down and Doug Grout has agreed to run this meeting for me.

For the record, a couple of reasons why I'm going to step down as chair. First, the Southern New England Lobster Fishery is a very important issue for Rhode Island. There are hundreds of fishermen and dozens of dealers who, as we speak, are still catching lobster in that stock area and selling it and then dealing it.

It is a huge issue for the state of Rhode Island and given that there are terms of reference and scientific issues on the agenda, I feel it important to sit with my delegation. Also, I would like to introduce Representative Peter Martin. This is his first board meeting. His district includes Newport where there are a number of Rhode Island fishermen, including lobster fishermen, home ported. He is here today and I'd like to introduce him to all of you.

The second reason why I wanted to step down as chair is that I wanted to be at the table to assist him given this is his first meeting, and this is a very important issue to him and to his constituents. With that, I'm going to turn the meeting over to Doug. Thank you.

(Whereupon, Mr. Douglas Grout assumed the Chair.)

APPROVAL OF AGENDA

CHAIRMAN DOUGLAS GROUT: Okay, thank you, Mark, and welcome, Peter. We have a couple of items here on the agenda; one dealing with the terms of reference for the CEI Peer Review for the Southern New England Recruitment Failure, and a discussion of Draft Addendum XVII timeline. What I would like to see is if anybody has any changes to the agenda? Are there any objections to the current agenda?

Seeing none, I would also like to see if there are any comments on the Proceedings from the May 2010 meeting. Yes, Pat.

MR. PATTEN D. WHITE: I think having read some of the articles in the papers that we ought to make it clear – the papers have said that the moratorium is off the table and it isn't anything that anybody has to worry about anymore. As I read through the minutes, there was nothing in our vote that precluded us from doing a moratorium. It is just another option that didn't need to be assessed through the technical committee.

APPROVAL OF PROCEEDINGS

CHAIRMAN GROUT: Yes, and I think that will be clear in the minutes of the July meeting because I remember one of my commissioners specifically asking that question at the board meeting. Is there any objection to approving the proceedings from the May 2010 meeting? Seeing none, I have them approved.

PUBLIC COMMENT

At this point we provide time for public comment on items that are not on the agenda here. I have three people that have signed up to speak and I would like to find out whether these people want to speak on items not on the agenda or whether they want to speak on some of our agenda items. The first name I have here is John German. John, do you want to speak to something that is not on the agenda?

MR. JOHN GERMAN: Yes, I do, Mr. Chairman. My name is John German. I'm an Area 6 lobster fisherman. I'm also president of Long Island Sound Lobstermen's Association. I would like to bring the attention to the board they had their meeting in Warwick, Rhode Island. It was extremely well attended with several hundred fishermen attending.

I would like to remind them that July in Southern New England is an extremely high-production time. It is our time of the year and all those guys had to take their time off to come to that meeting. As you see right here, there are probably more fishermen present at this meeting today than there has been in the last 25 meetings.

I think the meeting should be made more accessible to the fishermen instead of having them here. When you have them in a local area where fishermen actually are, there seems to be a large attendance. I know there are a lot of rules and regulations here as to how we let fishermen speak, but the chairman did the best he could at that time.

I didn't get a chance to speak that day, but he did allow fishermen to speak, but there would have been a lot more comment on it. The next meeting I assume is scheduled for South Carolina or North

Carolina; I forget which. I think this issue should not come up down there because it is completely inaccessible to the fishermen. All these lobster meetings on Southern New England should be held someplace in Southern New England and make it accessible to fishermen. Thank you, Mr. Chairman.

CHAIRMAN GROUT: Thank you. John Whitaker.

MR. JOHN WHITAKER: Good afternoon. My name is John Whitaker. I'm a lobsterman from Old Lyme, Connecticut. Recently I attended quite a few meetings, some informational meetings held by Connecticut and Massachusetts. It's the Massachusetts meeting that kind of stunned me the most.

I was kind of astounded to hear Mr. McKiernan comment that – and I quote – “Long Island Sound Area 6 has never done any conservation and it does not now have a plan.” Respectfully, I'm here to remind the board that Area 6 has an ongoing plan, which was approved by this very board. First, our plan raised the carapace length a 32nd of an inch in 2004-2005.

We were told that this immediately produce a reduction in fishing mortality and increase egg production; and in the long term, approximately seven or eight years, it would increase the overall lobster population. Second, we adopted a 5-1/4 inch overside gauge. Third, in 2008 we ran a successful v-notch program in which we notched over 100,000 females and returned them to our waters.

In fact, the technical committee calculated that was about the same amount of egg production as a 1/32nd of an inch carapace increase. Fourth, we adopted a stricter v-notch law, the 8th inch law. We adopted that definition to extend the protection to all those newly notched females. Fifth, January 10, 2010, we again raised the gauge, but this time by a 16th of an inch; reduced landings again and supposedly created egg production.

Sixth, we installed larger escape vents in our gears twice over the last six years; one as recently as June of this year. Lastly, I'm told that the state of New York has reduced traps by some 80,000 just through attrition over the last few years. The long-term effect of the carapace raises from 2004-2005 should come to fruition possibly in mid-1911-1912.

The v-notch gains should start to come in approximately 2015-2016. This year's carapace length increase should bear results in late 2017-2018.

As you can see, we have addressed the population decline in the short term and in the long term. Area 6 lobstermen are all small business operators; and as such, we paid for these reduced landings with lower gross incomes.

We also assumed the out-of-pocket expenses of the installation of the larger escape vents. This was especially hard in 2004-2005 when we were still reeling from the die-off in 1999. At this point many lobstermen have left the business and fishing effort has declined dramatically as has the landings.

The remaining fishermen are reporting conditions are improving. The lobster fishery and its small businesses are part of our local and state economies and have been for generations. Most lobstermen would rather be seen as an asset to the state biologists rather than an adversary. However, we cannot stand more regulations designed to break us financially, and we don't feel that they're warranted. No fishermen; no fishery. We have a plan; it's a good plan; and it's close to producing some results. I urge you here today please don't make any hasty decisions. Thank you.

CHAIRMAN GROUT: Okay, next on my list Matt Demalla.

MR. MATT DEMALLA: My name is Matt Demalla. I'm a third generation fisherman out of Mattituck, New York, Area 6. Let me start by saying I can sympathize with the situation this panel finds itself in. I've walked through similar hallways with pressures applied to you to get something done. My father has always taught me to do something but to do it right.

That's kind of why we find ourselves here today is to do something right and not just to knee-jerk something and get it done and collect our paychecks and go home. In the late nineties we suffered a disaster in Area 6; some say by the hands of our own state by issuing the permits to release the chemicals.

Through the last decade we've studied and spent millions and analyzed product and fish and lobsters and all the things that have happened since the die-off. I sit here today thinking that we're looking at faulty data because there has been no collaborative effort between the fishermen and the scientists to do it right.

Fishermen are good at one thing and that's catching fish and catching lobsters, and scientists are good at analyzing data. There has been no effort between us to do it together and I don't know why. As a younger

fisherman, I sit and I listen to stories of my father and they've always hid from you. I kind of question this sometimes, but that's just the way it is.

I've gotten involved recently because I'm faced with being put out of business as a third generation fisherman. I noticed that random computer-generated survey sites, how you go about doing your sampling, it doesn't work. Environmental factors aren't taken into effect. Equipment is used ineffectively.

I recently took a DEC sampler from our state on board the other day. He was so shocked as to why the same depths of water, same lines parallel to each other, while one would produce and one wouldn't. I said, "Well, that's why they call it fishing and not catching." I look up here and I see these guys all sort of staring at me with, I don't know. Is it sympathy, is it, kid, hurry up and get your statement over; I don't know.

I really feel that now, now before any knee-jerk reactions are made that a collaborative effort be made between the fishing and the scientific communities. Hiding behind this disclaimer of the best available science to me is wrong, is wrong; and if we lack the character and the fortitude and the mental capacity to step beyond that disclaimer and actually get the science right – because as other fishermen have come and stated at other meetings, we're seeing a rebound.

We're seeing things improve from something that we didn't create. Okay, our livelihoods were destroyed a decade ago and it wasn't from overfishing and it wasn't from a strike from Mother Nature. It was manmade and we're still reeling from it, but the few of us that are left still care and still want to fish.

This panel, this technical committee, these peer reviews, you have a moral obligation to do it right and not just do it. In the last week or two leading up to this, I ran to my grandfather's house and I grabbed a stack of hard-book diaries that basically date back to the forties when he first started fishing after the war.

Unfortunately, he has passed and we couldn't talk, but I talked my uncles, his sons, and he remembers how the lobsters just disappeared out of Narragansett Bay one year for no reason. He remembers and we have logs that show the disappearance of the lobsters in the late seventies in Area 6, just up and gone. My father retrofitted his boat to a dragger and went on to do something else. There are natural highs and lows. I understand that the technical committee has done extensive work analyzing and trying to collect

the data. I just need to say that I have some samplings here, some information from the man that just shows – that came with me a week ago.

If a couple of these bullet points had been one of the sites selected for random sampling and there were no lobsters caught, but completely surrounding that area there are lobsters caught; where is the effectiveness in your data? I really think you need to take a step back and work with us a little better than we have over the past, I would say at least a decade, and get some information that's correct and current and it's going to move us all forward. We're all on the same team here. We all want the same thing.

We all want a viable resource that's good for the lobster, a large population that makes the scientists happy and the environmentalists happy, but is viable and productive enough so that men that have done it for generations can continue to harvest them and have that lifestyle. I said it to Pat earlier, I said in a nice conversation and I appreciate his time, and I said, "You know, sometimes, Pat, it is not about a paycheck. It's about a way of life. This is what our families do."

For you to ban it or regulate us to the point where it's not financially feasible for me to untie the boat in the morning, then we have a problem, and it's not just the lobstermen that are going to lose out if those are the decisions that get made. I thank you for your time, and I really hope that you heard the fact that we should do the right thing. All right, do the right thing, guys.

CHAIRMAN GROUT: Thank you for your comments. Any other public comment? Seeing none, we'll go to Agenda Item 4 here, which are the terms of reference for the CIE Peer Review of the Southern New England Recruitment Failure Report. I would like to turn it over to Toni to give a brief introduction and then I believe Bob has a presentation for us.

REVIEW OF THE TOR FOR THE CIE PEER REVIEW OF THE SNE RECRUITMENT FAILURE REPORT

MS. TONI KERNS: Mr. Chairman, right before the meeting started I passed out the revised terms of reference that the technical committee put together last week based on the six recommendations of issues

to be included into those terms of reference from the board meeting that we had on July 22nd. If you do not have those in front of you, let me know and I'll get a copy to you really quick, but I think everyone should have a copy.

That being said, I'm going to pass it over to Bob to go through this revised version of the terms of reference. Just to jog everyone's memory, this is for a CIE Peer Review that we would hope to have to the board in November as long as we approve some terms of reference today. We'll get into timelines later on in the meeting.

MR. ROBERT GLENN: For those of you who don't know me, my name is Bob Glenn. I'm the technical committee representative from the state of Massachusetts. I'm here today filling in for our chair, Carl Wilson, who can't be here today. What I'd like to do is go first through and describe what the technical committee was tasked with in the Southern New England Document, and then I'm going to go through each term of reference individually.

Then from that point, we'll have opportunity for discussion or questions after each one. The technical committee was tasked to identify the issues impeding stock rebuilding in Southern New England. We were tasked with developing a suite of measures to begin the stock rebuilding process in Southern New England.

We were also requested to develop deterministic projections of stock abundance using the University of Maine Model, which is the primary assessment model that we use for lobster, and to look into going forward what the stock would look like under both status quo and reduced fishing mortality scenarios as well as looking at status quo recruitment and/or low or declining recruitment periods and looking at the effects of a stock-recruitment relationship.

That is primarily where we came up with the Southern New England impediments to rebuilding report that was distributed. Subsequently, we have been tasked with coming up with terms of reference to have that independently peer reviewed. The first term of reference that the technical committee suggests is to evaluate the quality and completeness of the data gathered since the assessment, including temperature data and also data on the redistribution of spawning females; and, if inadequate, specify additional techniques that should have been considered.

This is essentially a review of those data included in that report that were in addition to the standard survey indices that were included and reviewed in the last stock assessment. The second term of reference was to determine the appropriateness of the findings drawn in the technical committee report. If deemed inappropriate, provide alternative findings with justification.

Then essentially the findings can be separated into three different categories. We made findings about the status of the stock, about the status of the Southern New England Fishery, and then we also identified some impediments to rebuilding the stock. The primary findings for Southern New England on the stock status was that the spawning stock indicators from 2002-2009 in general were average to poor.

The spawning stock abundance from the Rhode Island Trawl Survey increased to levels at or above the median from 2005-2008, during the North Cape Oil Spill V-Notch Program, but the 2009 estimate is below the 25th percentile. The last several years have produced larval and young-of-the-year indices below the median and at or below the 25th percentile relative to the 1984-2003 reference years.

Those are primarily referred to are settlement indicators, which are suction sampling surveys in Massachusetts and Rhode Island, as well as the Connecticut Larval Survey. Those we view as indicators of recruitment strength coming into the fishery in five to seven years later. Part of the primary determination that the technical committee made relative to recruitment failure in the Southern New England stock is based on the declining trend and the very low settlement observed in the last two years in those areas.

That is one area where we would like the CIE to do a review, look at those data and determine if our findings about the recruitment failure are accurate. The other is to review fisheries-dependent and independent data that suggest the distribution of spawning females has shifted away from inshore Southern New England areas into deeper water in recent years and the possible implications that these shifts in spawning females may have implications to larval supply to the inshore areas.

Finally, all but one of the Southern New England trawl surveys relative abundance indices for recruit and legal-sized lobsters are generally consistent with the peak in the 1990s and then a decline to low levels in recent years. Recent recruit and legal indices have

generally remained at or below the 25th percentile since 2002. In general those were the four major components that led to the determination of the generally poor condition that the Southern New England stock is in.

Looking at the status of the fishery, the Southern New England landings peaked in 1997 and declined to a low in 2003 and have remained low through 2007. Landings have been at below the 25th percentile of the reference period since 2002; and basically all states that have fisheries in Southern New England have continued to remain at very low levels.

Landings peaked and fell below the 25th percentile in different years in statistical areas, but in general there was a fairly similar picture between the various states of a peak in the late 1990s and then a subsequent decline. Offshore landings' trends in NMFS Statistical Area 616 stand out somewhat from the other areas.

Trends were similar to other offshore Areas 537 and 612 and New Jersey south with a peak in the early 1990s followed by a decline and then a low in 2002. Unlike the other areas, landings increased in 2003 and have stayed above median landings for a number of years. Recent estimates have declined but are still above the 25th percentile and may be underestimated due to the lack of New Jersey and south landings' data.

That is the primary status of the fishery; and in general throughout Southern New England while all the statistical areas don't have the same exact trends, in general they have remained fairly low. Finally, the other major findings in the report was we looked into some of the potential causes to the problems in the Southern New England stock.

Our conclusions were that there has been a widespread increase in the area and during of water temperatures above 20 degrees C throughout Southern New England waters and that long-term trends in the inshore portion of Southern New England show a pronounced warming period since 1999.

The problem with this is that 20 degrees C represents a threshold temperature for lobsters above which there are several environmental stresses, including increased physiological stress and increased incidents of disease. They'll actively avoid that. There are a number of indicators; and essentially Southern New England being at the southern extent of a lobster's range and prolonged exposure to those temperatures,

it is our feeling has changed some of the biological processes occurring and it may have ecological implications as well.

Loss of optimal shallow habitat areas is causing the stock to contract spatially into deeper water. We have evidence of this based on fisheries-dependent sampling in certain areas of Southern New England, Buzzards Bay and also in portions of Narragansett Bay, where we have seen an increasing shift towards fishing in deeper water where it is colder and also higher concentrations of lobsters in those areas.

We also felt that continued fishing pressure reduces the stock's potential to rebuild even though overfishing is currently not occurring in Southern New England. Essentially what that means is although the mortality rates on lobsters are not above threshold levels; the continued fishing and the presence of the very difficult environmental situations that lobster are facing right now, the two of those things together are limiting the productivity of the stock and causing the declines.

That in and of itself is just kind of a list of what the findings were and those all relate back to Term of Reference Number 2. The motion that we received from the meeting that occurred a few weeks ago had requested that we list out those primary findings. In the technical committee's view, those were the primary findings.

Three is to determine the appropriateness of the conclusions drawn in the technical committee report. If deemed inappropriate, provide alternative conclusions with justification. The primary conclusions were the technical committee contends that the stock is experiencing recruitment failure caused by a combination of environment drivers and continued fishing. It is this recruitment failure in Southern New England that is preventing the stock from rebuilding, and that overwhelming environmental and biological changes coupled with continued fishing greatly reduces the likelihood of the Southern New England stock rebuilding.

The fourth term of reference was comment on the applicability of inshore recruitment conclusions to the inshore and offshore resource. That was a term of reference that was suggested by the Lobster Board. We include in there. In our discussions with the technical committee, we have disagreed with that term of reference based on the fact that we treat Southern New England as one biological unit.

Furthermore, we feel that the empirical fishery's dependent and independent surveys inshore and offshore are following similar trends, meaning if we look at the NMFS Trawl Survey, if we look at landings in offshore areas, we have seen similar declines in what we have seen inshore, and we feel that there is a strong linkage between the inshore and offshore, that it wouldn't be appropriate to separate them into separate sub-stocks or in general feel that the entire Southern New England stock is kind of facing the same issues.

The fifth term of reference was to determine the appropriateness of the recommended action, which the technical committee's advice was that the best management to enhance the likelihood or to give the best opportunity for rebuilding would be a five-year moratorium. Term of Reference five addresses those conclusions.

Six is to evaluate the stock projection scenarios conducted to complete the task as outlined by the board. Essentially we broke that down into evaluate the deterministic projections conducted using the University of Maine Model; to evaluate the chosen suite of fishing and recruitment scenarios presented in the report. If insufficient, provide suggestions for alternative scenarios.

Determine if the projection results and the technical committee's interpretation provided in the report are consistent with the assessment model results. Finally, comment on the reliability of the deterministic projections for use in Southern New England lobster stock management. Finally, the last term of reference was to review the M sensitivity analysis or I should say natural mortality sensitivity analysis of the model that indicated a higher M as suggested in the 2009 assessment.

CHAIRMAN GROUT: Are there any questions for Bob? One of the things that I wanted to ask the board; clearly, the technical committee put these terms of reference together based on the request of the board at the last meeting. All of us just got this just prior to the meeting here. Is there a desire here on the board to maybe take a five- or ten-minute break for you absorb all this before we decide whether to move forward or are you comfortable with the presentation that Bob has made is sufficient for you to move forward? Take five; okay, we'll take a five-minute break.

(Whereupon, a recess was taken.)

CHAIRMAN GROUT: Okay, that was a little longer than five minutes, but that's okay. I hope you all had a chance to look this over. Are there any questions of Bob? Mark.

DISCUSSION AND APPROVAL OF TERMS OF REFERENCE

MR. GIBSON: Item 2a, the 2a i, which is about the spawning biomass indicators, the statements about the trawl survey indices and some highlighting on the Rhode Island, my concern about that and my question for the technical committee is before you did your report, did you contemplate any kind of smoothing of the trawl survey indices?

As you know, Bob, stock assessments smooth biomass through the internal population dynamics process, but the trawl surveys don't do that; so when they stand alone as indicators of something, generally there is some kind of a smoothing process, some treatment of them – smoothing to simulate that population dynamic process.

I'm concerned that wasn't done and I wonder if there was any question about that or would that be something appropriately posed to the reviewers particularly in light of the highlight you make that the Rhode Island Survey takes a dump after four years of above the median and then it goes down 50 percent in one year, which is probably unrealistic unless there was a big die-off or something.

I have some concerns about that and I wanted to know your thoughts on whether the trawl surveys alone should be indexing patterns, particularly highlighting terminal years when there isn't smoothing been applied to them.

MR. GLENN: Yes, I can comment to that, Mark. There was no smoothing done to any of the survey indices put forth in that report. Those were just used as raw stock indicators similar to the traffic light indicators in the assessment report. They were essentially just an update of that to be used in conjunction with other things like model projections and runs that would include a stock dynamic processes and smoothing to the time series. So, no, they were not included and those are raw.

MR. GEORGE D. LAPOINTE: I have a motion, Mr. Chairman, and not a question, so is it appropriate at this point?

CHAIRMAN GROUT: I'm looking at right now for just questions specifically of Bob, and then I'll come to you for a motion afterwards. Bill.

MR. WILLIAM A. ADLER: Bob, I'm trying to follow through the connection where couldn't find any young of the year or we're having trouble finding young of the year inside, which is troubling, and yet in the report, given the temperature story, I can see where the lobsters would move out into the deeper water, warmer, better, including the eggers.

Then the eggers would release their eggs. In the report it says the current takes them south off of Long Island Sound where the habitat is not conducive. I don't know how having the eggers out there for temperature, releasing the eggs, how the eggs get back into where you do the young-of-the-year survey to find them because according to the report they're all going the other way.

No matter what you do, unless you brought all the eggs in and dumped in the water – you know, I don't know how you can find young of the year in where you want to find them, where it would be good for them. You also said in the report that they can stand warmer water at least for a while, but you're never going to get them in there if the mothers moved out into the deeper water, release the eggs, and as you said the current goes.

So I'm going, well, how do we fix this? Even if draconian measures were taken by the fishermen, okay, so the eggers are left there, the lobsters are left there, there are more eggers and there are more eggs released and they all go – they all boogey somewhere else, and we don't have anything getting better.

This is what is bothering me is that you look at the young of the year and you can't find them and that is a big worry, but I know why they're not there if what you say in the report is true, which I believe you, that they went to the cooler water and all the rest of the story. I've got a problem here trying to connect how what we do can actually bring the stock if they're all being dumped somewhere where they may not survive. I'll stop there for now. Thank you.

MR. GLENN: Can I respond to that, Doug?

MR. LAPOINTE: Mr. Chairman, point of order. Bill is talking about the report; we're talking about the terms of reference. Some of the questions address that concern; so rather than getting into a debate about the report, we should make sure the terms of reference clarify the questions we want

about the report. Otherwise, we're not sticking with agenda and we're burning up time, and I'm concerned we're not going to get our job done today.

CHAIRMAN GROUT: Point well taken. Again, what we're looking for are questions specifically on the terms of reference that have been put together at our request. I had Jim next on my list.

MR. JAMES GILMORE: Most of our discussion we've had for the last few minutes really dealt with number four and about the inshore versus of the offshore issue. I need a couple of points of clarification. First off, you said it would not be appropriate to separate the offshore and the inshore areas.

If you could elaborate a little bit on that; is that because of an opinion of the technical committee or is that more involved with – I mean, if you split the samples between the inshore and the offshore, are they still statistically valid? If you elaborate a little bit more of why they think that is inappropriate. Secondly, if you could talk a little bit about what are the pros and cons of doing one versus the other; I mean, if we essentially do look at that, is there any real downside to it other than additional work?

MR. GLENN: Our opinion on not separating the two is because we feel that the two areas are essentially one stock of lobsters. For a lobster's life history cycle in general you're going to need the connection between those two areas. Our general model to draw a life history for Southern New England – and this has been kind of pieced together through a variety of mostly tagging studies done in Rhode Island and some in Connecticut through Millstone, and also looking at some genetics work – is that essentially lobsters settle out in shallow inshore areas.

They grow there and they stay relatively shelter restricted for the first two or three years of life. After that point they start to become more and more mobile. In Southern New England lobsters sexually mature at a fairly small size, a lot sooner than they would in other areas, and then they start to reproduce usually every other year but in some cases for smaller lobsters every year. As they get bigger, they tend to make offshore migrations, and that's where the tagging studies that have been shown south of Rhode Island and also in Long Island you'll have lobsters that are tagged in those areas and they'll move out to the canyons and live some part of their life history out in those areas.

Conversely to that, we've also been able to document that there are seasonal inshore migrations from the offshore areas into nearshore waters in the summertime that seems to correspond with egg hatching. Usually you'll see concentrations of lobsters in June coming into Southern New England to release their eggs.

It is our opinion that those stocks are intimately connected; and if you were to separate them, some of the very basic life history aspects like settlement and juvenile life stages probably cannot be completed in deeper offshore waters; or if they can be completed are probably at a much smaller survivorship than they would be in the inshore waters where they have the appropriate habitat as nursery grounds.

If you were to separate them, we have the ability to separate them statistically, that's fine, but by statistical area and you could look at those trends. The offshore area, we generally have less data to deal with and rely mostly on landings' time series for that area. We also have the NMFS Trawl Survey. We don't have any settlement indices for that area and we don't have a lot of the fisheries-dependent data that we have for inshore areas.

MR. DAN McKIERNAN: To number four, comment on the applicability of inshore recruitment conclusions to the inshore and offshore resource, this is an issue I tried to bring up at the meeting in Warwick. I am listening carefully to things the industry is saying, and I think there is a disconnect or maybe some optimism on the part of the industry that your colleagues are unable – you and your colleagues are unable to find substantial numbers of settling lobster young of the year and you're concluding, based on the knowledge of lobster life history that you've just described, that is going to manifest itself in very weak landings or recruits into the future.

I think that's something that the CIE would be well served to describe because in terms of the credibility with the industry I think it's important for there to be a review of whether or not there is anything in the scientific literature that affirms the techniques of looking for young lobsters exclusively in the nearshore zones where it is conducive to scuba sampling or the other Connecticut Survey, which is the fourth stage.

I'm hearing too often, you know, fishermen who think are being optimistic saying, well, we're seeing crickets in our traps, and I don't know how to make sense of those findings. I do know how to make sense of your findings, Bob, and the other technical

committee data sets that show that we've had some really weak year classes in the last few years; and if those do come to pass, then we have huge problems in the fishery.

I think it would be beneficial to either add a term of reference or to clarify that; because the way I read it, it says the applicability of inshore recruitment to the inshore and offshore resource. And, again, you have a recruitment index that is laid out as young-of-the-year values in different surveys, and then you have trends in recruitment, which in your model is the lobsters that are one molt below the minimum size. So if you could either separate those out or replace this one with what I was just describing, the validity of forecasting future recruitment based on the recruitment index.

CHAIRMAN GROUT: Do you have a question for him?

MR. McKIERNAN: Well, I guess I would suggest that we should have another term of reference inserted there between four and five and do just that. That's my suggestion for – as this debate goes on, I would like that change.

CHAIRMAN GROUT: Okay, at the time we have a motion, that might be a more appropriate time to bring that suggestion up. Dave.

MR. DAVID SIMPSON: I might be running afoul of the same criticism, but I guess what I had hoped for, when I made the motion, was a more explicit list of findings and conclusions that the CIE could evaluate. I'm looking at number three and the report conclusions include but are not limited to – and then there is very general text about environmental drivers as a cause, and I was hoping that there would be a conclusion that related temperature to difficulties the stock faces, whether it's recruitment or anything else.

There is text in their report about shell disease, but that does not get spelled out as something that the CIE should look at and evaluate those findings and conclusions. I'm concerned that it's too general to provide really good guidance to the CIE, to provide a clear evaluation of their recommendations and good guidance back to us. It's not a question but it is going to be a challenge for us to get something approved today I think that we will be confident the CIE will be able to evaluate.

CHAIRMAN GROUT: Okay, I'm going to ask, since I've had a couple of comments as opposed to questions, Lance and Pat, do you have questions or

comments; because if it's going to be a comment, then I'm going to go to the motion maker, let the motion be handled and then I'll be glad to open it up to all the comments that people would like to make and suggested changes. So, Lance, did you have a question specifically of Bob?

DR. LANCE STEWART: Yes, I do. I'd like to know why he feels the distribution of the spawning female lobsters has changed and how it would affect the larval distribution index, which I have many questions about the validity that has been brought up by Dan. Let's take a close look at the statistical significance of those low numbers and the repeatability of sampling, because I think you're on the wrong track.

But then again the distribution of the females that everybody has said is environmentally induced, I don't think it makes a world of difference. The spawning females are at the bottom, below the thermocline. They've hatched out at the end of June, mid-June, the end of June, long before high temperatures.

The same with the offshore lobsters coming inshore, they're at a 50 degree or lower thermocline depth contour distribution. I can't see how the science and technical committee is even seriously considering this. It's a comment, but it's a scientific question to the CIE. Also, we have completely negated or lost track of the 1999 mortality and the millions of dollars that have been spent. I think we need to reanalyze the conclusions of about 15 scientists. Half of them, equally half of them said it was chemicals. Dose experiments in the laboratory showed that malathion and resmethrin – so, you know, these are things we could ask the CIE –

CHAIRMAN GROUT: I don't mean to cut you off, but the question should be addressed on the terms of reference here, questions for Bob on the terms of reference. I'm glad to have this kind of discussion once we have a motion on the table. That's what I'm trying to get at. I realize that you have a lot of comments you all want to make. That's fine, but right now I'm trying to get questions to Bob. If there are no more questions of Bob, we'll just go to it. I'm going to count on you, Pat, to follow the guidelines that I've been trying to get this board to do. Can you do that?

MR. PATRICK AUGUSTINE: Mr. Chairman, I'll be as subtle as a meat cleaver. Back to number three, I thought we had talked about the possibility of somehow emphasizing a little more about the

predation factor as opposed to having it so generally written here. Have we not discussed that at the past meeting? Where is it, Toni, and I didn't find number two. If it's in there, then fine.

MS. KERNS: Pat, if you go on Page 2, under impediments to rebuilding, which is C, and you go to ii, which talks about the loss of habitat area; specifically under that is, number one, the shift in abundance to deeper water may reflect increased mortality in shallow water by mid-Atlantic predators, striped bass, dogfish and scup, whose abundance has increased substantially in the last decade.

MR. AUGUSTINE: Okay, but I guess I was wondering will we be talking about – we said substantially, but substantially doesn't have anything attached to it, a percentage; substantially, what does that mean? If we need clarification, fine; if not, I just wanted that on the record that I do think we need a little more attention to that point. Thank you, Mr. Chairman.

CHAIRMAN GROUT: Okay, George, your motion.

MR. LAPOINTE: My motion, Mr. Chairman, **I move that we accept the terms of reference for the peer review panel that have been put forward by the technical committee with the exception of number four.** If I get a second, I will explain why I am leaving number four out.

CHAIRMAN GROUT: Seconded by Pat.

MR. LAPOINTE: I left number four out for a couple of reasons. One is as the technical committee has said, the stock unit has been reviewed twice in the past two peer-reviewed stock assessments, and many of the questions that are kind of inherent in number four are I think included in 2c., impediments to rebuilding.

In the impediments to rebuilding there is discussion about temperature, there is discussion about predation, as Pat has just mentioned. There is discussion about the exposure to water temperatures above 20 degrees, causing increased shell disease, acidosis, suppression of immune defense in lobsters.

In Roman Numeral ii it talks about the shift of abundance into deeper water; and in number 2 under that, the impact on larval drift and larval settlement as well. I think for those reasons it is appropriate to leave number four out.

CHAIRMAN GROUT: Discussion on the motion. I'll start with Dave and work my way up.

MR. SIMPSON: In the interest of keeping things moving on this, we're going to have to deal with what we have here, and so I'm okay with George's motion except the exclusion of four. I think that needs to be in there. Just because that's the stock unit that has been used for the last assessment or two, it doesn't mean we wouldn't benefit from some CIE comment on the degree of impact of inshore recruitment on offshore waters, the whole issue of 20 degree – you know, the 20 degree level stress indicator. I doubt that is a big factor in the offshore waters, and so that whole group of lobsters isn't exposed to that stressor. I think it would be an important thing to have some comment on.

MR. McKIERNAN: **I'll offer an amendment to four. I would replace it with the following; "comment on the applicability of the inshore recruitment indices to forecast future recruitment and landings to the inshore and offshore resource."** I'm trying to capture the issue I brought up a few minutes ago.

MR. GIBSON: I wouldn't support the motion unless at least some variant of four was in there. I think Dan articulated good reasons why we need to have some advice on that. I also think we need a specific term of reference on the applicability of young-of-the-year indices to forecast recruitment.

I'm mindful of the work I was co-author with Rick Wally, but nevertheless six years out to recruitment to the fishery is a long ways away with intervening factors such as shell disease, predator responses and so forth, so I think there needs to be a specific term of reference relative to the ability of young-of-the-year indices to forecast recruitment into the lobster fishery.

Much of this report is underpinned with an assumption that that is in fact the case with very little to substantiate it. You've already got an amendment but I would suggest – well, I won't try to amend the amendment at this point, but I think you need a specific term of reference to that effect.

CHAIRMAN GROUT: Dan, are you making a formal motion for your comment there?

MR. McKIERNAN: Yes, I would like to.

CHAIRMAN GROUT: Okay, and is that the appropriate wording?

MR. McKIERNAN: Yes, it is.

CHAIRMAN GROUT: Do we have a second? Bill McElroy. Discussion on this part of the motion? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, just to clarify, I thought the motion that was made was to omit TOR Number 4; so TOR Number 4 doesn't exist in the main motion. Now you have a motion that's saying to replace TOR 4, which isn't even there.

MR. McKIERNAN: I'm asking for number four to be brought back and replaced with this alternative, but if you want to have George's motion be passed first, I guess you can do that.

CHAIRMAN GROUT: If you're willing to hold off on that until that point. George.

MR. LAPOINTE: I think Representative Abbott and whoever our parliamentarian is might beat me with a stock, but I'm willing to accept Dan's language as – I'm just going to call it a term of reference in my motion. I don't care; you can number it 14, for all I care, but to add that to the motion to get things started, if the seconder is okay with that.

MR. AUGUSTINE: That's fine, Mr. Chairman.

CHAIRMAN GROUT: Okay, so we now have a, quote-unquote, friendly amendment that has been accepted by the maker of the motion and the seconder. Comments on the motion as friendly amended.

MR. PETER HIMCHAK: Mr. Chairman, I had my hand up before. I was going to vote against George's motion because I thought this Item Number 4 was central to the discussions of the July 22nd meeting. We would be debating this issue with the fishermen forever if we did not get the CIE to weigh in an opinion on Item Number 4. I'm very happy with Dan's modified motion or whatever.

MR. BOB ROSS: I was basically of a similar position. I felt number four should be included and I support the motion.

MR. GIBSON: I have a general comment on the motion to accept the terms of reference however it may be amended or modified. Rhode Island is going to have significant problems with the narrowness of the terms of reference, and I just wanted to put that

out on the record. I understand why we have to keep them relatively narrow.

That was the essence of the science center's offer, and we don't have the capacity right now at the commission level to convene a broad-reaching review of all the new information that is being developed. I would just caution the board that with the narrowness that this is likely to go forward with, I think we're going to have difficulty with industry buying into an Independent Center of Experts review of the technical committee report and some stock projections, for all the testimony that you've heard about increased catch rates in areas that haven't had lobsters for some time, our own trawl survey results coming in as we speak.

There is going to be a need for a broader reach in terms of the information on the Southern New England stock. I think going forward with this narrow terms of reference, while I understand why it needs to happen this way, is going to force other entities and perhaps other states to convene their own symposiums and perhaps Independent Center of Experts review, because there is just too much information swirling around which could be interpreted as inconsistent with the technical committee report.

We're not going to be able reach it with these TOR or the commission process anytime soon, until the new peer-reviewed assessment, so I wanted that to be on the record because it's going to be a problem for us to grapple with regardless.

CHAIRMAN GROUT: Any other discussion on the motion? George.

MR. LAPOINTE: I think from my perspective the terms of reference aren't narrow at all. There are three pages which is more than I've seen elsewhere. I think it's important to recognize that what we're going to get from the CIE isn't I think a laser point analysis of each one of these. They're going to look at the technical committee report and they're going to say yes, maybe not or no, and that's what we want.

We're not going to get a lot of clarity. I don't think we're going to have like a joy of cooking of answers that we can pick from in the end. I think it's going to be pretty general, but that's what we're looking for is just – I mean, that's what assessments do, say are you on track or are you off track.

CHAIRMAN GROUT: Any other discussion from the board? Any comments from the public?

MR. ARNOLD LEO: Arnold Leo, the consultant for Commercial Fisheries for the Town of East Hampton. Actually, Mr. Chairman, this was a question about the terms of reference and somehow my hand waving in the air seemed to be unnoticed, but I still do have a question. I guess it's really for Bob.

Since it is established that the offshore landings have been above the median for the most part during the past decade, since it's established that in the inshore waters the temperature is unfavorable for the lobsters, I wonder if you can explain how imposing a moratorium on catching lobsters is going to do anything to increase the inshore stock.

Remember, you've got the data that shows the offshore stock is above the median, so our problem really is the inshore stock; and since the lobsters don't like the temperature of the water and move offshore, what is the point of imposing a ban on the catching of lobsters? I don't follow the logic there; could you explain that to me?

MR. GLENN: The technical committee was tasked with providing management advice to the American Lobster Board, to give them a suite a measures that in our opinion would provide the highest likelihood of rebuilding the Southern New England stock to the currently approved overfishing definition.

For Southern New England the offshore and inshore stock, as reviewed in the last assessment, is considered to be one stock. Currently the abundance level for that stock is below the threshold level. Taking the additional evidence, looking at recruitment dynamics in Southern New England, looking at environment stressors, looking at predation and looking at a whole suite of things, it was our opinion that a moratorium would provide the best chance for a stock that is in a very difficult situation to recover.

MR. LEO: Thanks, but that did not answer my question. In Long Island Sound, for example, the Western Sound everybody knows is depleted of lobsters whereas the eastern end has got people working on it and making a living harvesting lobsters, and they're saying they see a lot of lobsters and juveniles in the eastern end. If you put the western end of the Sound together with the eastern end of the Sound, you might come up with, oh, it's below the median, and that is what you're doing with inshore/offshore. Thanks.

CHAIRMAN GROUT: Any other comments from the public on the motion? Okay, back to the board;

would you like to caucus? I'll give you two minutes for a caucus.

(Whereupon, a caucus was held.)

CHAIRMAN GROUT: Gentlemen, are you ready to vote? I'll read the motion into the record: **Move that the Lobster Management Board accept the terms of reference for the peer review panel as prepared by the technical committee with the exception of term of reference four and the addition of a term of reference "comment on the applicability of the recruitment indices to forecast future recruitment in landings to the inshore and offshore areas."** Motion by Mr. Lapointe; seconded by Mr. Augustine.

Okay, all those in favor raise your hand; all those opposed; abstentions; null votes. **The vote is unanimous.** Bob, you wanted to talk a little bit about process now that this has passed.

MR. LAPOINTE: I just wanted to thank the board and the technical committee for good work and a good discussion,

CHAIRMAN GROUT: Mark, you wanted to say something before Bob?

MR. GIBSON: I don't know what he is going to talk about so if I get to go first I guess he can fill in if he agrees.

CHAIRMAN GROUT: Process.

MR. GIBSON: Yes, about the process. We've put our technical people in a pretty difficult position on this because we didn't indicate to them – when we asked for projections, we asked for them really fast, what can you do for us quick and then we turned around and got an offer from the science center and decided to take them out for a formal review.

I suspect, knowing that I have been through those reviews myself, that I would have wanted a lot of time to be as thorough as I could have had I known I was going to go before an independent panel of experts and a peer review process. We didn't really send them that signal nor did we allow them the time to do that. I just wanted to put that on the record.

I hadn't thought of that when this Center of Independent Experts offer came forward from the science center. That didn't occur to me and thankfully I was reminded of that, so I hope we don't

get ourselves into that predicament again in the future. Thank you.

CHAIRMAN GROUT: Okay, your turn, Bob.

MR. ROBERT E. BEAL: In addition to what Mark said, just strictly to the logistics, now that these terms of reference are approved, we'll start working with the National Marine Fisheries Service Center for Independent Experts representative, and they'll go through their process of selecting peer reviewers.

As I mentioned at the July 22nd meeting, the CIE has offered a limited interaction between our technical representatives with the CIE reviewers. I think it's probably best if I work with the chair and vice-chair of the board and staff and technical committee representatives to figure out what the most efficient and appropriate interactions between the technical committee representatives are and the CIE reviewers.

If the board is comfortable with that, we'll move forward that way. I think the important thing that this board was shooting for I believe is to try to get an answer from the CIE or a report from the CIE at the annual meeting. Whatever process we come up with for the technical committee representatives to interact with the CIE, we'll keep that mind and try to make it as efficient and quick as possible so that interaction is not what delays this, if there are any delays before the annual meeting.

DISCUSSION OF DRAFT ADDENDUM XVII TIMELINE

CHAIRMAN GROUT: Thank you, Bob. Now to Item 5 on our agenda, a timeline for the new addendum. Toni.

MS. KERNS: Right now the PDT is working diligently to get a draft addendum to the board for the November meeting, to present to you for your review and possible approval for public comment at the November meeting. It is the understanding of the PDT that the board would like to have a CIE review before that document goes out for public comment.

As long as we get a CIE review report for that annual meeting, then there is the ability for the board to consider that document for public comment at the November meeting. If that is the case, then we would move forward with hearings over the winter period and then come back to the board at the March meeting for consideration of final acceptance of an option in the document.

If we do not get a review, then the board will need to decide if you want to move forward with public comment without that CIE review or if you would like to wait until March or if we want to consider holding another special meeting sometime between the annual meeting and the March meeting, because we would need to potentially put that meeting on the books so that we know to budget for another special meeting. It is something that we need to consider here today, whether or not we would want to have a special meeting so that we can include that into the budget for the annual meeting. Is that when we approve the budget; correct?

MR. BEAL: If the board wants to have another meeting outside of our normal meeting weeks, in the 2010 calendar year we don't have that budgeted so we would have to find a way to cobble that together as we did for the meeting on July 22nd where states donated some money to support the travel of the other states and those sorts of things.

There is no additional money in the budget for meetings in Calendar Year 2010. If the board expects or feels they're likely going to need another meeting outside of the meeting week in 2011, that can be part of the annual action plan and budgeting process that takes place at the annual meeting.

If that's the priority of the commissioners, that can be included in the 2011 budget and then we can use those resources to fund a meeting outside of our normal meeting weeks in 2011. It's really up to the board and what they anticipate the number of meetings that they're going to need to move this document forward. I know there has been a lot of discussion and it's an important issue, so it's up to the board to anticipate what they feel their needs might be over the next six or eight months.

MR. AUGUSTINE: Will the plan development team in the interim be looking at various options to be in the toolbox in addition to whatever the peer review comes back with?

MS. KERNS: The plan development team will put forward the types of tools that you can use. The plan development will put together information such as you can use quotas. A quota could be this amount for the entire Southern New England area. I don't believe that we will have the tools – I'm not sure if we will have the tools, whether we could tell you that by LMA or by states just yet.

We're working on that and we will give it to you in as fine detail as we can, as requested in the motion

from the July 22nd meeting, but I can't make promises that the technical committee will be able to do that if we don't have the data available to complete an analysis.

MR. AUGUSTINE: Follow-on, Mr. Chairman; just on that point, Toni, did you say the LMAs would be helping to develop those options or would be reviewing the options?

MS. KERNS: It is up to the board or the individual state if you want to hold an LCMT meeting. It is not required in the commission process to hold LCMT meetings. A state can hold one when they want or the board can direct it to happen. We will work with the advisory panel as time move on with the document

MR. AUGUSTINE: And the final follow-on, Mr. Chairman, then we can assume that we will notify at least the LCMT chairmen either through the states or directly that they may want to request of their state or some way that they'll know that option may be available. They may have ideas as to what options should be expanded. As when George made the motion at the last meeting where we should go anywhere from one extreme to the other extreme, all these options should be included. I guess there should be notification that everybody is on board early on in the process.

MS. KERNS: Again, as staff I do not make notifications to the LCMT because of the way that the amendment has set up the LCMT process; so if a state wants to notify the LCMT, then the state may do so. The only thing that we do as the commission for LCMTs is that the board can direct a state or group of states to hold an LCMT meeting.

MR. WILLIAM A. McELROY: I was pretty much going to talk about what Pat just did and reiterate the point that is quite important that industry be given an opportunity to weigh in on this. As we've heard from some of the public comment already today, there is concern that the industry has points of view that haven't been brought forward.

With the timeline that we're talking about, it seems like we need to get some information back before we're ready to make a decision, and it doesn't seem like there is very much time to schedule an LCMT meeting. If we scheduled an LCMT meeting, say, for next week in Area 2, we don't have the information from either the technical committee on suggestions or the Center of Independent Experts. I'm trying to see where we could fit it in.

You have to have some information for the LCMTs to deal with, but yet we also owe the LCMTs and the industry ample opportunity to weigh in. This is the most important issue as many of the board members have said that we have considered on lobsters for quite a long while and to kind of squeeze industry out – and even though that isn't the intention of the board, that will be the way that industry kind of looks at it and say, gee, where is our opportunity to weigh in on these heavy matters.

I think even it means that things get slowed down a little bit, I would strongly recommend that we find some way to allow the LCMTs to weigh in but far enough down that they have some information to act on and some guidelines to make their recommendations with. Thank you.

MR. ADLER: I agree with Bill. What I'm looking at here is the PDT is going to try to come in with a draft addendum at November. Also, from a motion that was made at the last meeting, the technical committee I think or the PDT was going to examine various options. Then there was another motion that had to do with what if 75 or 50 or no action; and at that time, also, the CIE hopefully will also be coming back with something.

I do think the LCMTs, at some point there – and as Bill says it's too early right now – at some point might want to – could they throw in an idea that wasn't in that motion of, hey, how about putting this one on the option page? So, as I'm looking at it, the November meeting is going to have a draft addendum with some options in it, but maybe not all the options written out or described as the motion on the 22nd had hoped for, and then the CIE report comes in okay; and then there is that other motion.

So, it seems a little confusing, but I also do think that at some point in time there the LCMTs just have to be brought into the picture to do something before the last minute next year or something. Thank you.

CHAIRMAN GROUT: Toni, do you want to clarify something?

MS. KERNS: Bill, I don't mean to say that the PDT won't bring forward the motion that the board asked for the technical committee to do analyses on different types of quotas by area, by state, et cetera. It is not that they're not going to provide a complete analysis at the next meeting. It is just that we are data limited for some of those requests and we will not – unless we change the data that we're collecting, we'll never be able to provide that to the board. We

will provide as much information as we can for the data that we have available to us.

MR. ADLER: Just a quick followup; yes, okay, I was just pointing out the whole bang of stuff that is going to be coming in all at once that we're going to have to deal with in November.

MR. McKIERNAN: It seems to me that the PDT is going to be spending time collecting statistics that will allow us to fashion a remedy once we decide what our objectives are. The things that we're going to be wrestling with, that I think we're all wrestling with in our minds, is the 2022 deadline still in play; is the 73 percent increase in adult biomass still our target; and then if it is, I think we as a board need to decide how we're going to execute that or at least narrow down the options.

I really don't want to see an addendum come out that is a jump ball about the goals and the solutions all at once. I would like to see us have an addendum or vote maybe at this board meeting in November about what we want to achieve, whether it be a 50 percent reduction in exploitation, et cetera, or a number like that.

Then we can cherry-pick off of the suite of measures that the PDT will be able to bring forward to us; but to try to have the PDT create a strawman or to anticipate all the issues by November I think would be a big mistake.

CHAIRMAN GROUT: Okay, before I go to Mark, I just want to remind the board that Bob is looking for input as to whether we might need an extra meeting in the next action plan.

MR. GIBSON: I'm trying to think about the roles of the LCMTs, and it seems to me at the last meeting we tasked the technical staff with a number of data assembly tasks at different levels of aggregation per Dave Simpson's instructions so we had the raw material to start examining ways to reduce catches if we chose to.

Then we had a series of mortality reductions, status quo, 25, 50, 75 percent, which might be ultimate goals or objectives or perhaps they're interim goals relative to the 73 percent biomass increase. It seems to me that a decision somewhere needs to be made is whether or not we're going to contemplate measures on they're going to be on a stock-wide basis, all through Southern New England, and we pick a certain set of measures and get input from industry from that or whether we're going to continue to go

with area management and allow the LCMTs to grapple with the information, the source information and the tools they have and try to fashion an area-specific remedy.

I don't know that we've made that decision yet. I think it's an important one because it bears on how soon and how much you engage the industry at the construct we already have, the LCMTs. I don't think we've talked about that too much. We have been getting the right information to be assembled and a couple or three mortality reductions, but I don't think we've talked about what scale we're going to apply that on.

We have a stock assessment for Southern New England, but we also have an area management program which has quite a bit of history here in the lobster arena. I think that is a crossroads the board needs to get here somewhere.

MR. G. RITCHIE WHITE: I tend to agree with Dan that I think we're going to have a hard time passing a finished addendum to go to the public at the fall meeting, but I also think that we can't wait until the March meeting. I would be in favor of an additional Lobster Board meeting early in 2011, form up as best we can an addendum at the fall meeting, send it to the LCMTs and then meet again in early 2011 to finish off the addendum to go to the public. That is how I would kind of see the process.

MR. FOTE: When I looked at the schedule and saw that there was only going to be three meetings next year, I don't know if that's in stone because we had not had a discussion at the Policy Board meeting. I was concerned that there was going to be a need for a lot of outside meetings next year. I read the e-mail but I wasn't sure exactly why it needed to be done or the ramifications.

My concern here is if we start looking at extra meeting dates, we need to basically survey all the boards to see if they can do their business in the three meetings that are basically scheduled. I don't know if that has been basically solicited from all the board chairmen and basically make sure there is enough money in the budget to accommodate those meetings. I don't want to be scrambling to the states.

You know, when you came up to the Lobster Board meeting, you said, you know, you states have got to find the money, there was no way New Jersey was going to find the money to send any of us to the Lobster Board meeting. I mean, that's just the facts of life right now; and if it wasn't for the generosity of

other states, we wouldn't be there. I don't think the states might be in the same generous mood next year if we wind up having four or five meetings.

I think what needs to be done this week at the Policy Board and the boards that are meeting this week, do they think they can meet their objectives next year in the three meetings. If we're going to do this, maybe we need to schedule a mini-week to basically handle the Lobster Board and everything else because I think that's going to take a lot of time to do this Lobster Board meeting plus the other meetings, and that's my recommendation.

MR. SIMPSON: However it happens, I agree with Ritchie, we're going to need another meeting early in 2011 is probably the logical time. In the meantime I do think we should be looking at the options that the technical committee was to develop. I know Penny has largely done the season/area types of analyses that I was looking for based on 2007 data, the last year that the assessment was based on.

My understanding is it would take a considerable amount of work to do the same thing for more recent data because catch needs to be assigned by all those different bins. That's a big chunk of the work that is done in the assessment, but I don't expect that would change radically. I think if Penny can share what she has done so far with the technical committee and get their nod that that is ready for primetime, then share it with the rest of the board, we can be looking at those kinds of things and contemplating – you know, implicit in the closed area options is management by LMA or even small units than LMA provided the statistical areas are smaller than LMAs.

There is the capacity to look at it even in a smaller level. I at least envision looking at management alternatives that would include different management in areas that – you know, more intensive management in areas that need it more and less intensive in areas that need it less. That's how I'm thinking. I do agree with Dan; I think one of the things we need to deal with – and I think it will take until November – is the timeframe.

In my view the 2022 rebuilding schedule is obsolete. That was based on a previous assessment, a previous assessment methodology, a previous stock condition. We have a whole different situation now with a much more serious stock condition. There was lots of emphasis in the assessment itself and the peer review that this was an interim assessment, that these were interim reference points.

They're not biologically based and so to plan on them 10 or 12 years out I think would be a mistake, and so my mindset, and I hope we can get some momentum behind this with the board, is to look at – and with the benefit of the CIE review – what can we hope to accomplish in the next five years, some realistic planning horizon and not out to 2022.

Let's get serious about what we can hope to accomplish in the next five years and focus on that in this addendum. I hope that's where we go for the November meeting. I don't know if Bob has any reaction to the comments I made about the stuff that Penny has put together. I think that is the way to go now.

I don't know how important it is to other board members to have more up-to-date data, which will take a lot of time off the calendar and people's time to do; is it worth investing that time there or are there other things to do. The other thing I would like to see is the analysis – I guess it is the Monhegan Island area – on trap limits so that the rest of the board has the benefit of what George was talking about, the understanding of the disproportionate reduction in traps that are required to achieve a certain reduction in exploitation. I think people really need to have their eyes opened to that so when they start that discussion, they know exactly what they're talking about.

REPRESENTATIVE CRAIG A. MINER: It's maybe not a good analogy, but I kind of think that this is a car race with some people operating under caution and some still going full green. I don't know exactly where I am yet. We talk about having a review and I'm thinking that this review is going to come to a conclusion which may be the basis of all the facts, were appropriately gathered and realistically played out, and this is really what it looks like.

I guess the flipside of that is that it may come back with another set of determinations. At the same time we're trying to figure out where we're going to be come November. I was happy to hear Ritchie say that we need another meeting and that probably the better placement for that meeting would be early 2011 rather than try to squeeze it in between now and November.

If I've heard anything in the last two months, it is that somehow this thing has gotten away from us politically; maybe not scientifically but at least politically. My fear is that if we don't have a very clear message about what phase this car race is in.

Some people continue to think that we're in a hurry-up offense to have a determination made by some point following the facts, whatever they may be, to the place wherever they may take us.

I don't think anybody wants to make the wrong decision. I favor another meeting. I would favor another meeting in New England rather than down here. Connecticut doesn't have a lot of money so we all had to go on our own dime. That's kind of where I think most states are kind of facing right now.

But depending on what comes back from this peer review, I don't even know when we would plan to meet to talk about that or is that something that we would do via e-mail? It may very well be that might be the most important conversation for us to be having based on what the results of that are. I just kind of throw that all out there, I guess.

MR. P. WHITE: Mark made a very strong point, and I think we need to have that in the discussion before we finish today so that the LCMTs don't get false expectations or they get new expectations as to what they are able to do. If we've got four LCMTs trying to come up with management recommendations for the Southern New England fix to all this problem, I see great disappointment there.

I think we need to iron out exactly what Mark pointed out and where the rubber meets the road on there and what can be done and what can't be done through LCMIT advisement under the current system.

CHAIRMAN GROUT: I see no more hands. What I've heard so far is that I have heard a number of people speaking in favor of us putting in the action plan at least the budget for one special meeting. I've heard also that should be during the winter, sometime before the March meeting. I've also heard a comment that we may want to have the LCMTs potentially meet before our special meeting. Is that something that people feel would be preferable? I'm seeing some nods. Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, I think it might be a bit more complicated than simply saying a meeting before the March meeting because it depends on what you want to do at this proposed interim meeting. One part of the discussion here was to meet in early January with the goal of finalizing an addendum that would go out to public comment and give you enough time to take final action in March.

Picking a date for that meeting has got to coincide with your report from the CIE guys as well as any other guidance and direction this board might give at the meeting down in Charleston for us to go forward and put the finishing touches on an addendum so that we can bring you something in, say, January if your goal is to take something out to public comment and make a decision at that March meeting. It's not clear to me that all those pieces are going to fit together nicely. I think you have to pick carefully the timing of that – let's say for discussion purposes you call a January meeting.

CHAIRMAN GROUT: Well, for now would it be sufficient, then, just to say that we would like to have a special meeting budgeted in our action plan and let the board decide in November if we're going to use that and when? George.

MR. LAPOINTE: I think when we ask staff to prepare that budget – and I think that's a good idea – we should have them do it in two ways. The meeting we held in July, the cost was associated with staff travel – that's the question I was just asking Bob – Joe's time and the meeting room and not travel for commissioners. Given all of our priorities, I think we should realistically expect – actually now that I'm saying it – that this meeting would be done the same way.

CHAIRMAN GROUT: Bonnie, do you want to have a say on this?

MS. BONNIE SPINAZOLA: Bonnie Spinazzola, Atlantic Offshore Lobstermen's Association. I'm concerned about all the things I'm hearing and the dates that you're putting out there. First of all, as Vince said, we really don't have a date for the CIE report. Secondly, I think the comments that I've heard around the table today where we don't know if we're going to be looking at LCMTs, which I think I've heard some people say the LCMTs do have the right to at least throw this around, which I certainly hope they will, but we don't know if we're doing it by management area, by stock area, by state.

I think when you really – it's easy to say that, but when you really think about what that means and how you will actually do the things you're talking about, I mean, you're talking a year from August. We have a process in place that at least we all know how to work with. I think that we should consider trying to use that method.

Just from the Area 3 – and I'll be very selfish – outlook, who the heck is going to guide us? We can

work with the Fishery Service, but really and truly they don't guide us. They are the Fishery Service. Everyone else has a state guiding them. It is somewhat nightmarish to me to think about how we would go forward if we don't use the process that we're used to. I hope that you will all consider that when you move forward and when you think about how long it will take to accomplish the things you need to accomplish. We may not be looking at a January meeting if we don't get our CIE report until perhaps December.

We may actually be looking at meeting after the February meeting that might make a whole lot more sense. Maybe there should be some sort of a committee set up in the background or something, but I think we're all talking about a whole lot more work than we realize. Thank you.

MR. R. WHITE: Mr. Chairman, when I made the suggestion about the extra meeting, maybe it will be optimistic to do it under that timeline, but we have a stock that's in very bad condition, and I think we need to move forward optimistically. If we can't meet that timeline, okay, then it gets set back, but I think we at least start out trying so we can take some action to save this stock. Let's try it and if the report doesn't come in on time and if we have to move everything back a meeting and we can't make the final decision until the August meeting, well, that's what it is, but let's try to do it sooner rather than later.

MR. McELROY: I have to agree with Bonnie that trying to squeeze all that work in in this short amount of time is kind of tying our hands up a little bit. We've got a meeting in November and another one in March. Well, from November to March isn't an awful lot of time to try to squeeze an extra meeting in there.

As Ritchie and others have pointed out, there is a good likelihood that we're not going to have all the information that we need at that time, anyway. We're having a little bit of budget problems. I think that special meeting shouldn't really be scheduled. We should be looking to see what we can do at the November meeting and then come back at the March meeting and move forward there.

I think it is extremely critical to involve the LCMTs. I just don't see how we can squeeze all that stuff in in that amount of time. We don't have really the budget to do it with. In reference to the stock being in such dire straits, all of the anecdotal evidence that we heard at the July 22nd meeting pretty well indicated

that things have turned around to some degree and things aren't falling off the cliff.

It seems that rock bottom was hitting in the Southern New England Region in 2003 or 2004, and from then to now there has been a slight improvement. The 2007 assessment doesn't look too good, but I know here in Rhode Island Mark Gibson just told me here last week that the July assessment that they did, the trawl survey showed the best results that Rhode Island has seen in ten years.

I don't think we're in a position where if we don't act in a matter of months that we're going to be setting the lobsters back. I don't think that the commercial harvesting sector, being a passive capture fishery, has the ability to make the lobsters go extinct. The damage that industry might be able to do to the resource in a couple of months' time that it takes to get the proper information together and allow the system to work in the way that we're all familiar with, I don't think we're taking a real big gamble there. My recommendation would be that we go forward with the regular meeting schedule and we move forward with all deliberate speed, the stress being there "deliberate".

I have to agree – I forget who it was earlier there that suggested that somehow or other this situation, since the 23rd of April when the technical committee report was released, seemed to be freewheeling out of control downhill and it has kind of taken on a life of its own and getting out ahead of us all. I'm not looking to delay things, but I just don't think that trying to speed things up is going to do anybody any good. Thank you.

MR. BEAL: Well, it sounds like there is most likely a need for at least one meeting outside of our normal meeting week next year. Whether it's in January or between the March and August meeting, June sometime, whenever it is, it sounds like the board would feel more comfortable setting aside some resources to have one meeting outside of our normal three-meeting schedule for next year. We'll see how the CIE report comes out and as things progress the board can make the decision then on when that meeting should be is kind of the message I got through all this discussion. We can draft the action plan that way if the board is comfortable with that.

ADJOURNMENT

CHAIRMAN GROUT: That's what I heard, Bob. Okay, is there any other business to come before this

board? A motion to adjourn, Pat? I second that and I'll cast one vote in favor.

(Whereupon, the meeting was adjourned at 4:35 o'clock p.m., August 2, 2010.)