

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

The Francis Marion Hotel
Charleston, South Carolina
November 10, 2010

Approved March 23, 2011

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of August 4 & 5, 2010** by Consent (Page 1).
3. **Move to remand to each of the species boards to take specific action or address status of the stock to assure that stock rebuilding is well in progress by 2015** (Page 10). Motion by Pat Augustine; second by Bill Goldsborough. Motion withdrawn (Page 13).
4. **Move to approve the stock assessment schedule for 2011** (Page 29). Motion by George Lapointe; second by William Adler. Motion carried (Page 29).
5. **Move to approve the Stock Assessment Training Workshops for 2011** (Page 29). Motion by Pat Augustine; second by Pat White. Motion carried (Page 29).
6. **Move to include forage species estimates in individual fishery management plans as well as including a term of reference to collect and evaluate forage data during stock assessments (Page 30)**. Motion by Bill Goldsborough; second by Pat Augustine. Motion carried (Page 30).
7. **Move to make an American Eel Stock Assessment Integrated Peer Review in 2011 pending availability of funding** (Page 30). Motion by George Lapointe; second by Pat Augustine. Motion carried (Page 31).
8. **Move to provide fish passage for Atlantic States Marine Fisheries Commission managed species that is safe (non-injurious); timely; that is, without undue delay; and effective** (Page 33). Motion by George Lapointe; second by Pat Augustine. Motion carried (Page 36).
9. **Move that the Policy Board limit proposed options for stock management to only those options that would result in achievement of some level of stock restoration or recovery as determined by technical committee recommendations for all species that are listed as depleted, below target or overfished. Status quo would not be considered a viable option unless existing management options are expected to achieve the desired result** (Page 46). Motion by Craig Shirey; second by Bill Goldsborough. Motion withdrawn (Page 47).
10. **Move to adjourn** by consent (Page 49).

ATTENDANCE

Board Members

George Lapointe, ME (Chair) (AA)	Gene Kray, PA, proxy for Rep. Schroder (LA)
Terry Stockwell, ME, Administrative Proxy	Roy Miller, DE (GA)
Sen. Dennis Damon, ME (LA)	Craig Shirey, DE, proxy for P. Emory (AA)
Pat White, ME (GA)	Bernie Pankowski, DE, proxy for Sen. Vanables (LA)
Rep. Dennis Abbott, NH (LA)	William Goldsborough, MD (GA)
Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
Paul Diodati, MA (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
David Pierce, MA, Administrative Proxy	Steve Bowman, VA (AA)
William Adler, MA (GA)	Jack Travelstead, VA, Administrative Proxy
Rep. Sarah Peake, MA (LA)	Catherine Davenport, VA (GA)
Mark Gibson, RI, proxy for B. Ballou (AA)	Louis Daniel, NC (AA)
Rep. Peter Martin, RI (LA)	Malcolm Rhodes, SC (GA)
Lance Stewart, CT (GA)	Robert Boyles, Jr., SC (LA)
Rep. Craig Miner, CT (LA)	John Duren, GA (GA)
James Gilmore, NY (AA)	Spud Woodward, GA (AA)
Pat Augustine, NY (GA)	Jessica McCawley, FL (AA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Sen. Thad Altman, FL (LA)
Tom Fote, NJ (GA)	A.C. Carpenter, PRFC
Gilbert Ewing, NJ, proxy for Asm. Albano (LA)	Jaime Geiger, USFWS
Leroy Young, PA, proxy for J. Arway (AA)	Steve Meyers, NMFS
Loren Lustig, PA (GA)	

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

Ex-Officio Members

Bob Beal
Vince O'Shea

Kate Taylor

Guests

Earl Meredith, NEFSC
Kimberly Damon-Randall, NMFS

Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, Wednesday morning, November 10, 2010, and was called to order at 10:15 o'clock a.m. by Chairman Robert H. Boyles, Jr.

CALL TO ORDER

CHAIRMAN ROBERT H. BOYLES, JR.: Good morning, everyone. I would like to ask the ISFMP Policy Board members to take their seats at the table, and we will jump right into the agenda.

APPROVAL OF AGENDA

CHAIRMAN ROBERT H. BOYLES, JR.: What I would like to do is request for consent for approval of the agenda. The agenda was sent out with your briefing materials. I've had a couple of requests for modifications.

Item Number 12, the Habitat Committee Report, the Habitat Committee is meeting today so we will need to convene tomorrow as a Policy Board if for no other reason than to receive that report, so we will defer that. Also, we need to go over the River Herring Sustainable Fishery Management Plan, questions that came at the Shad and River Herring Board, as well as the discussion that ensued at the Menhaden Board about the Beaufort Lab, the Southeast Fisheries Science Center investment and portfolio in menhaden.

Are there other additions for other business? Okay, seeing none, any objection to adopting the agenda as modified? Seeing none, the agenda is adopted.

APPROVAL OF PROCEEDINGS

CHAIRMAN ROBERT H. BOYLES, JR.: Also, we need to approve the proceedings from our August 2010 meeting. Again, the meeting materials included the proceedings. Any additions, corrections, deletions from those minutes? Seeing none, any objection to approval of those minutes? Seeing none, the minutes will stand approved as submitted.

PUBLIC COMMENT

CHAIRMAN ROBERT H. BOYLES, JR.: Now is the time on the agenda for public comment. Those individuals wishing to address the ISFMP Policy Board about items that are not on the agenda may do so now. I don't see anyone in the audience who has so indicated a desire to make public comment, so we

will dispense with that. I'll turn it over to Bob Beal for followup on the Stock Rebuilding Performance Review.

FOLLOWUP TO STOCK REBUILDING PERFORMANCE REVIEW

MR. ROBERT E. BEAL: This is a followup as the agenda item would indicate. Each year the commission goes over the progress towards rebuilding the stocks that ASMFC manages, and we did that at the August meeting. The Policy Board at that time asked staff to go back and look specifically at the species of concerned, depleted and unknown status and provide some additional feedback to the Policy Board on exactly what additional measures could be taken by the individual species management boards to get those species moving forward and initiate rebuilding or complete rebuilding, whatever the case may be. They also asked us to comment on are there adequate measures in place that will rebuild those stocks.

I pulled together a quick presentation, and in your briefing materials there is a four-page document of the suggested changes and summaries of where we are with those species of concerned, depleted and unknown status. One of the stocks that does not show up on this list right now is Atlantic menhaden, but I think technically that by the discussions that occurred at the Menhaden Board earlier this week and the error that was discovered in the stock assessment now that overfishing is occurring on that stock, so it probably would make sense to include that in the list of species of concern.

As a reminder, this document that we put together for the August meeting really wasn't a public outreach document. It was really intended for the Policy Board to review the progress that is being made through all the 23 or 24 species and species groups that the commission manages. At that meeting there was a lot of discussion if we should change that into a public outreach document.

The commission does have a number of summary documents that indicates what stocks are overfished, overfishing is occurring, et cetera. At this point, anyway, this is really kind of an internal working document for the commission and for this Policy Board to be able to review progress and decide what additional actions or suggestions they should make to the species management boards for continued work. The outcome ultimately of this discussion as I go

through these species will be a discussion or a question to the Policy Board what direction, if any, do you want to provide to individual species boards for additional action. As I mentioned earlier, there are five categories in the total package that we presented in August; rebuilt, rebuilding, concerned, depleted and unknown. I will talk about the three lower categories there.

Jumping right into it with American shad, collectively these stocks are at an all-time low up and down the coast. They don't appear to be recovering. The action that has been taken by the commission is through Amendment 3, which requires a closure of all fisheries if they're not declared sustainable by 2013.

It appears that significant action taken of the big unknown obviously for this species is the bycatch issue and questions in the small-mesh fisheries, which are being address through the councils and the commission cooperating with the councils on Amendments 5 and 14 through the Mid-Atlantic and New England Councils. There appears to be significant work that is being done and has been done by the commission, and there are no suggested additional actions other than to continue to deal with the bycatch questions.

Coastal sharks were also listed as a species of concern. The overfished/overfishing status varies by species for the sharks. There are some 40 stocks in that plan, and there is a pretty big range of stock status. Currently the regulations that are in place should initiate rebuilding and should have a positive response by the shark populations, and it complements the federal action that has been taken, so there is no additional action suggested there.

Horseshoe crab; the Delaware Bay and the southeast stock appear to be increasing. New England and New York have declined in the latest stock assessment. The suggested action and work that already has been initiated for horseshoe crab is to refine the ARM Model, which is the Adaptive Resource Management Model, that was adopted by the board; so continue to work on that and provide the resources at the state and commission level for that.

One of the big outliers or questions that remain are how do we allocate the available horseshoe crabs from the Delaware Bay area, and that is a task that the technical folks are already working on, but it is something they have to keep pushing on. The big

issue I think for the horseshoe crabs is the long-term funding for the survey.

Obviously, there was a very generous commitment by one of the biomedical organizations earlier this week to help kind of bridge the gap, but that is only going to be short-term fix and maybe even only one year. The big question for the Horseshoe Crab Board and the commission is where do we find the \$200,000 or so each year to keep this survey going, because that survey is the foundation of the ARM Model; and without that, the ARM Model is kind of dead in the water.

Spot is another species that was listed on the species of concern. There are a number of unfavorable data trends going on in that stock that have been identified. The South Atlantic Board has the opportunity to implement management triggers through the Omnibus Amendment that is currently being worked on. The big unknown for that stock is the bycatch in the Shrimp Trawl Fishery in the southeast. The management triggers and the shrimp trawl issue are something that probably needs to be worked on with spot.

Spotted seatrout, this is one of the stocks that was on the unknown list, but the South Atlantic Board suggested it gets moved over to concerned. North Carolina and Georgia are below the target. I think South Carolina is slightly above the target and Florida is doing very well and they're significantly above the target.

I think for the states that are below the target, it is probably reasonable to consider a harvest reduction. This can also be done through the Omnibus Amendment that is being worked on right now if the South Atlantic Board chose to do that. There is also a suggestion that South Carolina and Georgia conduct state assessments. That work has been going on and there has been communication between the states and the commission is willing to obviously help facilitate that exchange of information on methodologies for those state-specific seatrout assessments.

The next species is Gulf of Maine winter flounder. We're about 30 percent of the target based on the '08 stock assessment. It is unlikely that this stock will meet the 2015 rebuilding goal that the commission has established for all of its stocks. One of the questions that probably should be looked into by the technical committee is that the board worked on a number of reductions in the latest addendum, and the question remains whether those reductions were realized or not or is availability or fishing practices or

something shifted that prevented those reductions from being realized.

Also, continue to work with the New England Council to make sure that the annual catch limits is not exceeded for Gulf of Maine winter flounder. Those are responses that if the ACL is exceeded, there are accountability measures but it still removes those animals from the stock and delays the rebuilding.

Moving onto depleted species, Southern New England American Lobster; the Lobster Board is going to meet this afternoon and deal with this issue head on, I believe. The SSB is 73 percent of the threshold based on the '09 assessment. Overfishing is not occurring, but the abundance is the lowest since the 1990s.

The technical committee has recommended the five-year moratorium. If the board does not select that option, there are additional reductions obviously that to be taken in that fishery. One of the other suggestions by the technical committee is for output controls in that fishery, some sort of quota or a limitation on the overall harvest of lobsters in the Southern New England Area. There is significant work that needs to take place on that stock.

The next one is tautog. We're at about 42 percent of our target based on an '06 assessment. At the last meeting the board initiated a benchmark stock assessment and a peer review that will be completed in early 2012, hopefully. Overfishing is occurring. There are indications that the reductions that were included in Addendum IV and V were not realized.

The states are trying to achieve about 25 percent reduction, and it looks like the landings from most of the states have actually increased rather than realized the reduction included in those plans. There has been a long-standing recommendation by the technical committee for an F equals 0.15 target.

The current plan is at 0.2, so we're above the fishing mortality rate recommended by the technical committee. The original 1996 FMP for tautog had a 0.15 fishing mortality target, but that was subsequently changed through an addendum and increased and now we're still at 0.2 right now.

Weakfish; we're at about 10 percent of where we want to be according to the FMP based on the '09 assessment. Obviously, this is unlikely to meet the 2015 rebuilding target that the commission has. One of the questions for this stock is – you know,

hopefully, we're going to see a positive response; and as there is a positive response in the stock, the chances and incidents of bycatch are probably going to increase, so the board will need to deal with that. As, hopefully, we receive positive signs of recovery, what additional measures, if any, can be taken to minimize the impacts of bycatch and allow that stock to continue rebuilding.

Southern New England and Mid-Atlantic winter flounder is a stock that is in pretty rough shape right now. We're about at 9 percent of our target based on the '08 assessment. Overfishing is occurring since the fishing mortality target is zero. The federal waters are closed right now. There is a pretty minimal fishery allowed in the states.

I think the idea that has been discussed by the board is to continue to monitor that population. If there is not a response, would a moratorium in state waters aid in the restoration and turn things around for that stock, so it will something that needs to be considered by the Winter Flounder Board as we get another read on that stock assessment.

The unknown species; the first one is American eel. We're at low levels with that stock. There is a benchmark assessment that is planned to be completed in late 2011. Hopefully, if that assessment is successful, we can move this out of the unknown category. It still may be depleted or a species of concern, but at least we'll have a quantitative assessment that has been peer reviewed to describe where we are with that stock.

I think for the unknown stocks, Step 1 is to figure out how many of them there are in the ocean and get them out of the unknown category and then see what type of rebuilding needs to occur, but there are significant deficiencies in the data streams for American eel.

Atlantic sturgeon; as everyone knows, we're at historic low abundance for that stock. Little signs of recovery are occurring, but not significantly up and down the coast. In all the river systems there are a few kind of bright – or some good news coming out of some of the some surveys but not very significant.

As everyone knows, there is a proposed ESA listing that we're going to talk about later in this meeting, so that obviously has the potential to affect the Atlantic sturgeon fishery. The commission has a moratorium in place through 2038, so I think obviously we can't reduce directed harvest, but are there bycatch concerns and other things that may be preventing or

slowing down the Atlantic sturgeon rebuilding that we all hope to see.

Hickory shad; this is one of the stocks that is kind of a lower priority for the commission. There is a moratoria right now in five of the jurisdictions. Some of the surveys are increasing. North Carolina still has a fair amount of harvest in their commercial fishery, but I think the question for the commission is this stock a priority given all the other higher-profile species that we have to deal with. Obviously, we don't want to ignore the stock and just let it go, but there are a number of other big issues that have already gone up on these slides in the last few minutes that the commission needs to deal with.

River herring; most of the surveys are flat or decreasing. A lot of river runs that we do have estimates for are decreasing. We've got a benchmark stock assessment coming up in 2011 and 2012. Hopefully, that stock assessment again will get us out of the unknown category and get us into known category.

It is probably not going to be a lot of good news, but at least we'll have a read on where the stock is that the managers can react to. And, again, this one has Amendment 2 which has the 2012 closure provisions if fisheries are not sustainable. There was significant action taken by the board. Bycatch is an issue. We'll have to deal with the councils there. That is the quick summary of the additional things and our thoughts on those species.

CHAIRMAN BOYLES: Bob, thank you for that. First of all, questions for Bob on the presentation? Dr. Kray.

DR. EUGENE KRAY: Bob, I'm following along with you on the American eel and river herring. On the disk it shows the benchmark assessment being in the fall of 2010 and yet the powerpoint says 2011. I'm just trying to determine which is right.

MR. BEAL: That should be a typo. I don't think we're going to get it done in the next two months. Yes, it is 2011.

MR. WILLIAM A. ADLER: Bob, on the winter flounder, Southern New England, biomass, I think I brought this up at the winter flounder meeting before where they have the chart that has the threshold and the target so high that since 1981 it has never even reached the threshold or the target. I didn't know if the technical committee or the scientists are going to

re-evaluate those lines because it has never been that high.

MR. BEAL: You're right, we did have the same discussion in August. Yes, the scientists are going to review this as a benchmark stock assessment for winter flounder scheduled I believe in 2012, and the reference points and everything else will be included, because they're going to do all the winter flounder stock, Southern New England, Gulf of Maine and Georges Bank. The reference points and rebuilding targets will be re-evaluated at that time.

DR. LOUIS DANIEL: Just a comment first that I think the way you've summarized all this is very helpful and very well done. Are we formally overfishing menhaden? Is that going to be something we're going announce or is that something we will have to do at another meeting or what is the status of menhaden right now?

MR. BEAL: The 2008 fishing mortality rate was above the threshold in the plan, so technically, yes, we are overfishing it.

DR. DANIEL: So is that something that we can report back to our states that we are overfishing menhaden?

MR. BEAL: Yes, I think relative to the reference point where the F_{target} is above it.

CHAIRMAN BOYLES: Other questions for Bob? Comments on the presentation? This is the report card; this is how we're doing. Where do we go from here? Mark.

MR. MARK GIBSON: I may have missed it. Bob, did you talk about scup? I may have missed it.

MR. BEAL: No, I didn't talk about scup because it is on the fully rebuilt list.

MR. GIBSON: I guess that's the point I wanted to make. We just came out of a scup, sea bass, fluke meeting that left a number of us a little bit distressed I guess is the way to put it. I think this commission is struggling with managing in the arena of success with these rebuilt or rapidly rebuilding fish stocks and our ability to deliver what we perceive as fair and equitable allocations between different sectors, among states and so on.

I don't know where the discussion needs to happen. We're not having rebuilding problem there. We're having problem delivering the fishery performance

that we think we ought to be delivering. The fact that we're stuck in a dance with the Mid-Atlantic Council on this I think is a little bit problematic for me for these species. I'd like to see some discussions at some point at the commission level and maybe it needs to take place at a subsequent Policy Board about our ability to grab that ball and run with it for those species that are so important to us that have large recreational fishing sectors and be more influential in the management in the arena of success that we have. I'll leave it to you to think about where that fits in, but it is right at the top of my mind given the board meeting we just had.

CHAIRMAN BOYLES: Thanks, Mark, and I think we can ask staff to see if we can initiate that discussion at the March meeting. Tom.

MR. THOMAS FOTE: Just to follow up with what Mark just said, we have species that are considered rebuilt, overfishing and overfished, and not overfishing taking place, and yet we're treating them as if those stocks are overfished and overfishing is taking place, and we're setting quotas that low. That's setting the quota; and then we get to the recreational uncertainty and we add all these other basically conservative factors into it, so you wind up here and by the time you get down to here, we've put it to about six strainers and the quota gets really greatly reduced.

You know, it's like this year we saw an increase in the summer flounder quota, and I said to my anglers by the time you see it come out of the system, don't expect much, you might get a couple of days, you might get a week because of the uncertainty of the MRFSS data, which, you know, we have been talking about sitting around this table for 20-something years.

We're talking about data-poor workshops, we're talking about scup – in '92 we started talking about how we do a stock assessment. In '97 we set the plan in place and we were talking about a poor stock assessment, and now we're sitting here in 2010, and I don't want to be sitting – because hopefully I won't be sitting at this table as long as Dave Hart, but at 94 I would hopefully that we get a better stock assessment at that point in time.

It leaves a lot of frustration on what we do. We get in these allocation battles like took place this morning, and it is just really – you know, you realize that the problem is not the allocation so much between the commercial and the recreational sector on these stocks but basically that we're not fully

utilizing the quota, and we have to put everybody through stress pointlessly over these years.

CHAIRMAN BOYLES: Thank you, Tom. Further comments? My suggestion to you is there are 14 species here that stand between us and A in 2015. Is that a fair assessment? Where do we want to go? Pat Augustine.

MR. PATRICK AUGUSTINE: If we're not doing anything with them, maybe we just take them off the list. I hate to say that, but we're not doing anything. We're looking dumb and dumber. We are taking no action in any regard in most of these. We just pacify ourselves by putting out a piece of paper that looks like, yes, we're going to do something but we don't know when.

I don't know how because we have taken responsibility for them from an FMP point of view, how we just say, hey, we've got to get them in a back burner off the page. It just doesn't look like we're doing our job, and there is no way in hell we're going to get those off that – put them in the place where they need to be by 2015.

I think it is time for a bold step and that we make an overt – take an overt action and just say, hey, nothing is going to happen with these with the limited resources we have and the present condition of those stocks – maybe the statement has to be something like these stocks in particular may be in jeopardy or unknown; however, funding isn't such now that we can address these in a timely fashion to meet our overall goal of 2015.

I think we've got to qualify why we can't do it and why we aren't doing it. If it is all money and manpower, then let's say it. We're not saying that. We're saying we're doing this and doing that. I would like to hear from some of the forefathers around the table like Dr. Lapointe over there and some others to see what their opinion is. I do think we've got to tell the public this is where it is at and we're just not able to respond.

MR. GEORGE LAPOINTE: Well, that's the first time I've been called a forefather by a guy who is two decades older than I am, but I'll take it as a badge of honor. I do think it is not all an issue of funding and then manpower. It is about tough decisions as well. You know what, we can't do anything about sturgeon. We can make 2038 into 2088 and we will wait on that.

And so there are some which you just have to say we've done as much as we can, and I'm comfortable with that; but then other ones – and, you know, this afternoon's discussion about Southern New England lobster is going to be one of those. That is not an issue of funding. That is an issue of battling through the tough policy decisions, which has huge implications, and putting our nose to the grindstone.

Robert I think sent out a note about tautog, and we all have species that are tough, about making sure that on those species we toe the mark that we know we need to do. Again, those are all tough things and so that is the struggle. I was thinking about this as I was reading through this document, and is there a way for the Policy Board as a broad group because then we've got people – you know, for lobster we've got people from the south saying what are you doing; or for spot the same thing, people from the north looking to the south.

And when we do our management actions through addenda there is no real way for the Policy Board to say this is good enough or it isn't. With amendments we do that. We may not do that good a job; still we may do blessing at the Policy Board, but we may need to say this isn't good enough, bring it back and give us something more on some of those species.

Again, we have to tease them apart. Of the 14 that Robert mentioned, there are some – again, sturgeon is probably the best example; we have done what we can from my perspective. And, again, if people know more about sturgeon than me, which is almost everybody at this table, they can tell me that we haven't. I think that's the thing you have been talking about for a while and how do we get that traction, and it is uncomfortable traction.

MR. FOTE: A long time ago we sat around this table and tried to figure out how we control things that we can't control. And, you know, when we basically did fishery management plans and we started moving ahead in '94, we realized that we can only control fishing. We can't control the water quality, we can't control all the environmental factors that are affecting these fish stocks.

When I look at weakfish, it is truly disappointing to me that the fact that I think we all basically took some hard measures and basically did everything right; and no matter what we did it seemed to go the other way. And that is what the SAW said. So some of these stocks, we can do fisheries management, but we don't control land use, we don't control water quality, we don't control those agencies that do that,

so we can only do it by controlling fishing activity, and that's sometimes a small part of what is going on.

All we have to do is look at what goes on the Chesapeake Bay right now and a lot of our bays and estuaries. So we have got to be realistic and we've got to include that in part of the description of why we're not bringing some species back because it takes greater than we can accomplish at this table. It takes us all.

You know, we're not going to affect what changes go on because of global warming, if that is occurring, and the temperature changes are occurring or the more estrogen that goes into the systems and the endocrine disruptors affecting the sex lives of fish. We can't control that. It is beyond our control so we can only deal again with managing fishermen, both commercial and recreational.

MR. LOREN W. LUSTIG: I've been thinking a lot about Atlantic sturgeon and also thinking about being an environmental educator, which I've been for 40 years. An educator receives perceptive questions from the next generation; and if I was to receive the question what are you doing about sturgeon from a sixth grader there at Fox Island – okay, you know exactly where I'm talking about, don't you, Fox Island, good, okay – if my answer was, well, we're not doing a thing, that tells that sixth grader a lot about this generation, in my opinion, and it makes me squirm. I don't like answering that kind of answer.

At the very least I would want to say to that sixth grader we're meeting on a regular basis to consider even on a theoretical of limiting factors to this population. We're talking about concepts relating to artificial propagation. We're doing something for goodness sakes. If I have to answer we're not doing a thing except putting a moratorium on, I think that sixth grader can look me right straight in the face and say, "Wow, you really dropped the ball; didn't you? You know, you didn't do very much at all. Is the sturgeon even going to be alive when it is my turn to sit on the council? What was the name of that council, ASMFC? Maybe I'll skip that altogether."

So I personally think that we need to be more proactive, at the very least meet on a regular basis to ponder these implications rather than just sort of kick the ball down the road. I don't like doing that, so I'm in support of what Pat has told us. I have to say he has offered us a perceptive look at ourselves, and it makes me want to do more. Thank you.

DR. JAIME GEIGER: First of all, I really appreciated this presentation, Bob. I thought it was very helpful and very beneficial. I guess when I look at what we have done for some of these species, we have a tendency to beat up on ourselves and underestimate what our direct and indirect contributions have been to improvement of these stocks.

This Policy Board took a leadership role in forming the Atlantic Coast Fisheries Joint Venture. That is a significant huge move that is going to pay significant dividends for improvement of fish stocks along the Atlantic coast. This Policy Board took that initiative and that leadership to make that happen.

This Policy Board and this commission has also taken a significant leadership role in advancing fish passage activities along the Atlantic coast and emphasizing fish passage activities to improve connectivity. That is a huge involvement and investment that has continued to pay off in improvement of fish stocks along the coast, especially in individual rivers. This commission has also emphasized indirectly and lead from behind on a variety of the issues that Tom Fote mentioned that we are not doing, and that is improvements in water quality and working with other federal and state agencies to improve habitat restoration.

I find it interesting that in the Chesapeake Bay Watershed USDA has allocated through the NRCS literally tens of millions of dollars to do habitat or basically working with agriculture to reduce nitrate and phosphorus coming down the Chesapeake Bay. Many of these members around this board have worked with NRCS, especially the bay jurisdictions, to leverage those activities and look at how those activities will impact significantly improvements in water quality and improvements in anadromous fish.

Mr. Chairman, I think this commission does a lot to work on the species that Bob Beal has identified on that board, and I think in many cases we do not do enough to publicize and to communicate to the general constituencies what we do and how we do it. I would urge us that we are doing a lot on many of those species and certainly we should continue to lead from in front and lead from behind to continue to work on improvements of those particular stocks.

I am excited about what the future is going to bring. I am excited about the improved levels of partnership that this commission has shown, and I think the future is very bright for this forum to work closely with a variety of other state, federal and private

sector partners to work on these species and show significant improvements. I am encouraged by what we do.

I think the future is optimistic in spite of some severe funding difficulties. USDA and NRCS, through the Transportation Act and the Agricultural Act, are always going to get big monies. It is our challenge to work with these other agencies and leverage those funds to show habitat improvement and use these species as the resource outcomes for them to measure their success.

This is a real opportunity for us, and we should take more advantage of that. Mr. Chairman, I'm excited about where we're going. I'm optimistic about the future. I think we can do more and I would certainly be willing to work more closely with the commission and with the collective resources of the U.S. Fish and Wildlife Service to make that happen. Thank you.

REPRESENTATIVE DENNIS ABBOTT: Interesting conversations. Over the last few weeks at home the University of New Hampshire has been conducting a lecture series with various folks in academia from both Canada and the United States. I have been going to the lectures just out of curiosity. The first one I attended was Medieval Fisheries and the last one that I attended was Fisheries from 1850 to 1900.

I found it very interesting that in medieval times in Europe there were stock depletions in herring. To make a long story short, it is why they moved the fisheries towards America; came to Newfoundland, started fishing; and we found all these fish had suddenly, depending on anyone's measuring stock, not being what they were at an earlier time.

It was particular interesting from 1850 to 1900, there is a lecture given by a Professor Bolster, who is a historian and is more than a fisheries guy, but they did a tremendous amount of research in New England on the menhaden fishery, cod fishery, mackerel fishery, and they went through a series – and also halibut and halibut which was fished down essentially to nothing. He talked at that time about the advent of net manufacture, the introduction of power, fishing from dories with a single hook to fishing from boats with longline and how all the journal entries from the various communities from Maine through Massachusetts were all complaining about the lack of fish.

Everything was going downhill because everybody had a different perspective of what the population

should be. So here we are in 2010 and we're looking, as I look at our vision, of having a successful restoration or being well in progress by 2015. How do we define a successful restoration; to the 1950 levels, to the 1900 levels or to what levels are we going to do?

I think the only thing that we can do is do our best and allocate our resources as we see that they will be used and doing something that will achieve some results. I do think we've had significant achievements, but to think that we will do anything beyond our own not imagination but knowledge of what is in our own generation, I think is whatever it is.

It is interesting and I did a lot of smiling as I sat back listening to these lectures in 1850 to 1900 almost could have been where we are now. They also talked about pollution, pollution in the Hudson River and in other areas. Things change but they don't change. We will have problems with fisheries, we have problems with fisheries now, and we will have problems with fisheries in the future, and the Atlantic States Marine Fisheries Commission is just going to do its best with its charge. Thank you.

MR. JACK TRAVELSTEAD: I wanted to go back to the comments that George Lapointe made. I thought he made a suggestion there that seemed to me we might want to explore. I don't want to put words in George's mouth but it sounded like he was saying that if a management board over some period of time had not been successful in restoring its particular fish population or wasn't on a trajectory to meet restoration by 2015, that management of that species ought to be elevated to this Policy Board level.

The problems that we have with some species is when we sit as a management board around the table, we all have some varying level of vested interest in seeing what the outcome is. When there is enough of that going on, perhaps we don't make the kinds of decisions that we should be making. I think George suggesting elevating it to the Policy Board brings in other states that don't have that vested interest and might be able to look at those issues a little more objectively.

I don't know if that will help, but it seems to me George was on the right track and that ought to be something that we explore. My memory may be faulty, but it seemed to me 25 or 30 years ago when we voted on management issues, it was the entire commission that was voting on those issues. It went

right on up through the chain of command beyond the management boards, and maybe in some cases we need to get back to that level of decision-making.

MR. ROY MILLER: I would like to expand upon a point that Tom Fote raised with regard to a species that is near and dear to me; namely, weakfish. I would just like to point out that with regard to weakfish, it may be the key to weakfish restoration could lie within the realm of multispecies management. By this listing, we're approaching each of these species as if they existed alone and did not have impacts upon each other in terms of their restoration status.

We took management measures yesterday to reject any increase in striped bass commercial mortality because of concerns over range shrinkage and recent declines in the SSB, even though the stock by all measures available to us is not being overfished and overfishing is not occurring. It is probably heretical to suggest that maybe fishing down the striped bass stock a little bit would benefit weakfish, but it is possible. I'm not suggesting that would happen.

It is something to consider. I would just urge us all – I know we're taking baby steps down a road towards multispecies management, but that maybe a focus area for us in the future that we're going to have to give increased consideration to. Fortunately, unlike sturgeon, weakfish stocks could rebuild very rapidly because of their high reproductive rate and a relatively low age at maturity, so we could see dramatic results with weakfish and the weakfish situation could turn around in a couple of years even if we do nothing. On the other hand, it might continue at the present totally depleted state for a long time yet to come. I just don't know, but I thought I would share those thoughts with you. Thank you.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Two quick things, Mr. Chairman. One is that I think this commission and the board has a very solid track record in using scientific advice to set rebuilding goals, and that in all cases they're grounded in what the scientists have said the capacity of the stock is.

Quite frankly in many cases we have goals that are below what the near-term historical abundance has been; that we have set goals that are below what we have seen since, say, 1980, so that is the first point. I think the second point that the Policy Board needs to consider is there are fishery management councils, if you will, that could summarize their approach as slow up, fast, down.

That is, they're slow to take action to increase quotas until information has been confirmed and they're very fast to react to downturns. So the question is, is that a policy or is that a way that this group could characterize what they would do and do our actions reflect that? We could delay action long enough that eventually a lot of other sources of mortality can overcome the reproductive capacity of these stocks. Thank you.

CHAIRMAN BOYLES: I've heard a lot of discussion and I appreciate the comments and people's careful consideration of a difficult issue. On the one hand I've heard let's walk away from these 14 species, I think. And, Pat, I don't want to put words in your mouth, but I think that is what I heard.

We're going to be adopting an action plan in the business session this afternoon, and I think the implications of that, were the commission to choose that path, is those 14 species, management boards don't meet, those 14 species get no commission resources, and we work through the Charter process to basically get out of management of those 14 species.

On the other hand I've heard I believe – and if Jack could not put words in George's mouth – that we have a sacred mission, if you will, a mission that we adopted – that our forbearers in many cases, but some of us around the table were here adopted that we were going to restore or have satisfactory progress well in place by 2015 on all species under our management. I can't reconcile those two. If I didn't hear those correctly, then I need to be corrected; in which case I think we've got to do everything we can for the Policy Board to weight in and direct the management boards that the clock is ticking and it is time to get things done. I see those as two very, very different outcomes. Am I missing something because we've got to decide where to go? Pat.

MR. AUGUSTINE: My comments were there for a reason. It was to elicit a reaction. Either we're going to do something or not; nothing more than that. I personally believe in the philosophy of our fishery management plans. You all know how adamant I am about my positions on what we do and what we don't do based on the best scientific information and technical advice.

I was more than happy, almost excited, elated, if you will, to hear George's response. There is no question we've got to hone that knife edge, focus in on what we have to do and take some honest, clear action.

For us to have taken my position, I would have been saying shame on all of you, go home and go away. Thank you, George and Jack and Tom for putting your points ahead.

I know we do not need to go to the far left. I hate to use the word "left", but I do think we have strike the position that is progressive and forward and develop a plan that is doable and actions that are doable that will show up as a bullet item that we're going to work at. Thank you, Mr. Chairman.

CHAIRMAN BOYLES: Pat, thank you, and it probably was not fair for me to attribute those comments to yours as truly, but you play the role of provocateur very well. Perhaps is the outcome then for a motion for this body to refer these 14 species back to the appropriate management boards for action? Is that a motion made by someone? Pat.

MR. AUGUSTINE: I would just simply say so moved I think without objection. I would ask you, Mr. Chairman, to say without objection is that the board's direction?

MR. GIBSON: I support the motion. Given the comments that Jack Travelstead and Pat attributed to George – I don't know if it was accurate – is there an understanding that if we do this and after some time certain we don't have any further traction, those get elevated to the Policy Board for broader consideration? Was that part of where we got to?

CHAIRMAN BOYLES: I think what I heard, Mark – and we don't have a motion here. Let's make sure we know what we're talking about. I think what I'm hearing is that the collective 45 of us have a vested interest in ensuring that we are making satisfactory progress on all of our species. This morning's discussion has been centered around these 14 that staff presented to us.

I guess I kind of see it as a middle way rather than going all the way to what Jack may have inferred from George's comments that the ISFMP Policy Board take over, I guess, for lack of a better phrase, the management. I think what I'm hearing is that is specific direction from this board to put your boots on in the case of coastal sharks, for instance; in the case of Gulf of Maine winter flounder, for instance; in the case of tautog; in the case of eels; in the case of river herring, and let's get some real traction behind this. I think that is what I'm hearing and I'm seeing heads nodding in affirmative. Craig.

MR. CRAIG SHIREY: When I see the management boards leave at the end of a session and then the

Policy Board comes back in, I don't see very many changes in names and locations and who they represent, and I just wonder – I think I've said this before, but when I told some of our fishermen that generally the management boards are the same people. When they said you need the Shad and River Herring Board to talk to the Striped Bass Board, I said they're the same people, the same hats on.

I don't know how moving management of one species to the Policy Board is going to change unless the attitudes of the people on those boards change. I don't really see that happening or being a realistic thought. Maybe it would be something just as simple as when we do have a management board meet, that the objective of the board is plastered on the screen to meet these goals by 2015 and then at the end say did we do anything today to help meet that goal or did we just delay or postpone some sort of movement on it.

CHAIRMAN BOYLES: Thank you, Craig. I'll call a point of order on myself. I think there was a motion made, but let's make sure we know what we're talking about. As Chair, I'm not going to make a motion, so does someone want to take a crack at this? Pat.

MR. AUGUSTINE: Mr. Chairman, I would say something along the lines of – and I would hope that someone would jump in to help me a little bit – move to remand to each of the species that we're talking about – and I say 14 – to those boards to either develop – and I'm not sure whether I want to say to develop.

CHAIRMAN BOYLES: To take some specific action to address the issues.

MR. AUGUSTINE: Yes, to take specific action or address the status of the stock – I want to say proactive; I want to get the work proactive in there as opposed to – as Craig would say same day, same game – to address either technical committee action or the status of the stock to assure that stock again is well in progress toward being rebuilt by 2015. I don't want to be too philosophical.

CHAIRMAN BOYLES: Pat, I wonder if you might consider the request to the management boards would be simply to address the issues that were raised in the staff's review because I think staff did a good job of –

MR. AUGUSTINE: Yes, Mr. Chairman, that might be more direct and clear. I'm kind of wallowing in this because I really wanted to say that – to go, if I

may, as aside – that if in fact that a stock is not progressing toward improvement within – I was going to pick a number of meetings; two or three or four sessions of that board, that the stock would be elevated to the Policy Board.

I don't want that in the motion, but then the stock would be elevated to the Policy Board or another group to take a look to see if the board has taken action to move it forward. At that point in time we go back to our list and say, well, here are the reasons why not and request – I don't know how we get that in, but I think there has to be an oversight that is different. As Craig said, the problem is the same people on the same board that are on the Policy Board to just either rubber stamp it or approve it, so let's read your motion, Mr. Chairman, and see if that fits it.

CHAIRMAN BOYLES: **All right, the motion is to move to remand to each of the species boards to take specific action or address status of the stock to assure that stock rebuilding is well in progress by 2015.** It's a motion by Pat Augustine; is there a second? Second by Bill Goldsborough. Discussion? Vince.

EXECUTIVE DIRECTOR O'SHEA: Just one point; for the last five years commissioners have had their name tags in front of them with the commission's mission in front of them at all board and committee meetings. Thank you.

MR. G. RITCHIE WHITE: I see this as a feel good motion, but I don't understand how this is going to do anything. None of the boards I sit on believes that they're not doing what they're supposed to be doing; so I don't see by passing this motion, all of a sudden the Striped Bass Board is going to go, oh, boy, we've got to do something different.

I mean, at the end of the day each board leaves – you know, it may be a minority view on that board, but the vote is taken, the actions are taken, and the board doesn't leave feeling that we didn't do things correctly. I think we have to have something with some teeth in it that George and Jack are leading to, such that this board steps in and reviews these 14 species separately, because the individual boards have already done their thing.

For example, on weakfish, I sat in on weakfish for a couple of times and you had a majority and a minority group making that decision, and yet it ended up being a minority that wanted a total shutdown and the majority won with some harvest. Well, I think

something like that then could be reviewed by this whole body; was that decision that was for the species; or people that didn't have a stake in that fishery, would they have made a different decision. I just don't see what this will accomplish. It makes us feel good, we're going to talk about some more, but I think we need to go down the road of something with some teeth in it.

MR. WILLIAM GOLDSBOROUGH: Mr. Chairman, I have three points to make. First, I hear Ritchie and I'm wondering if one way we could make this a little more specific and have a little more teeth perhaps is to amend to say something like ask each species board to identify the major challenges to achieving the commission's goal of having progress well in hand by 2015 and develop specific actions to overcome those challenges. I don't know if that helps or not.

That's my first point. The second point was to clarify that what we're talking about here when we say 14 species is those that are listed as concerned, depleted or unknown, is that correct, and ask if that actually shouldn't be 15 given Bob's notation that Atlantic menhaden is now going to be the concerned category.

MR. AUGUSTINE: Mr. Chairman, I would love to have the comments from the other guys similar to Ritchie from the other board members to wordsmith this as we go. That was my intent in the first place. That's why I struggled for words, which I normally don't, but let's focus on what it is we're trying to accomplish. Mr. Lapointe had a couple of very strong points. Mr. Travelstead had a couple of very strong points. Mr. Ritchie White, you made some very clear comments. Could we wordsmith this so it would encompass what we're trying to accomplish other than a feel good? I hate feel good motions and that is what this is, but let's get pointed in that direction, Mr. Chairman.

CHAIRMAN BOYLES: Bill, you had a third point?

MR. GOLDSBOROUGH: I did; thank you. This is to Craig's concern about remanding things up to the Policy Board perhaps not really changing the dynamics and invoking Jack's recollection of the decision-making process that this commission used years ago. I'm wondering if the way that could work is you actually remand the decision-making when a species board is not able to make progress you push it up to the full commission and not to the Policy Board where the voting would be by individual and not by state delegations.

Maybe that helps change the hats we're wearing a little bit and adjust that dynamic where we're thinking about responsibility as stewards more than about our state's interest. I'm not sure if that is something that we want to include in this motion or not, but I would like people to think about that. Thanks.

MR. TRAVELSTEAD: I think Ritchie is right; this is mostly a feel good motion. On an individual state level, we have the Atlantic Coastal Act that dictates that an individual state must comply with the management plan. It is a hammer, if you will, over the head of the state to comply. What we lack is a hammer over the head of any management board to get that stock on the right trajectory, and the Policy Board has to be that hammer, if you will.

If the board is not going to act right, the Policy Board needs to take over. I would prefer that this motion head in that direction by giving a specific timeframe to each of these 14 management boards to say, look, you know, get your act together within a year or it comes back to the Policy Board and we will do it for you. I think we need a specific timeframe in the motion to make it a little bit more stern.

DR. DANIEL: I have listened to the discussion and there have been some really good things said throughout this time. I think it goes both ways, though. I would have loved to have had the insight of our southern states on the striped bass issue. I think we did the wrong thing yesterday because the stock is not going to just continue going up, up, up, up, and it is going to moderate somewhere.

But if we are at 180 percent of your threshold, could it possibly take some of the pressure off some of those species if you allow a little flexibility there? We're not going to manage everything for MSY at the same time. I think every action, whether it is on a viable healthy stock or not, should go to the full commission for discussion, and I think that would help us out.

I'm not sure what else we can do on a lot of these stocks, though. We've got moratoriums in place. Jaime made some good points about all the things that we've done. Look at all the things that we have done coastwide that has multiple implications and impacts on these various stocks. TEDs in shrimp trawls protect sturgeon; closures to gill nets protect sturgeon.

There is a lot of stuff that we have done that we could list out there that shows that there is stuff coming back; but remanding it to the Policy Board to say

weakfish hasn't done enough, that seems kind of crazy. We've got a one-fish bag limit. All we're doing is creating discards if we do much more in some of these stocks. I think there has been good discussion. I don't have a problem with the motion, but I think it should be remand everything to the full commission; addendums, amendments, everything go to get the full commission's position. I think there would be some changes in our management approaches if we did it that way.

MR. FOTE: I think when you look at history, when we basically remanded things to the full commission, the only reason it went to the full commission at that period of time is because it was the only place that the governors' appointees and the legislative appointees had a vote. It was a whole different ballgame back when we took things to the full commission.

We have changed the way – years ago the Policy Committee was only made up of state directors. We did not sit as a caucus vote. When I start looking at – you know, people say, well, we did this back then, we did that because there was other reasons why we did that. Once we put a lot of the rules and changes in place over the period of time, that's it was basically decided that the Policy Board would basically handle it because it is a caucus vote.

It is the same thing really as a full commission, and it really was a duplication of a lot of that stuff just going from the Policy Board to the commission. If you look at a lot of those species – and I'm looking at menhaden, weakfish, river herring – all the members of the Policy Board sit on those boards, on those three species in particular.

Some of the boards, it does make a difference when it is like tautog or summer flounder because you bring in more parties; striped bass, you bring in more parties, and we have done that over the years when the Policy Board – it never stops anybody from bringing up something at the Policy Board that says we're not happy and we should be looking at this at the full Policy Board, and the Policy Board makes recommendations the same as they did at the last meeting.

So, there is a lot of this in place already, and I'm just trying to review history because history gets clouded a little bit so we start thinking about it, but that is why we voted to send every up. Every addendum and every amendment had to go to a full commission because it was the only place that there was a caucus vote back then.

MR. LAPOINTE: I'm struggling, Mr. Chairman – I like the idea, obviously, because I have been speaking about it – and what we do to take action, and clearly other people are struggling with that as well. I have a suggestion here that says amend the Charter for non-coastwide boards to revert to the Policy Board for the list of 14 or 15 or whatever it is. I think we need a mechanism like that, but it has just got to be on the decisions that relate to – you know, just for shorthand – the issues staff has identified.

The Policy Board on weakfish or the Policy Board on tautog or lobster does not need to do allocations. Leave that to the boards. This Policy Board I hope does not get into some of the minutia of editing that we get into sometimes. Leave that to the board, but what it is is for those key factors that relate the success of our efforts.

When I talked about trying to come to a higher bar, we've done much, and so this isn't saying that we've failed, that we need to take any steps. It is acknowledging the things that we've done on habitat that Jaime mentioned and these other things, but that in fact we need to take our management process to the next step and be self-critical for those things.

And when we look at those 15 species, it is not going to be, you know, oh, let's do twice as much on river passage. Those are things that are going to take time. It's still not going to be easy, but there are some steps. We've all been in our respective chairs saying I need a little more time in Maine because you don't understand the special brand of circumstance I have at home.

That's the difficult nature of our job, but for us to collectively to say we've got to turn up the heat a little bit on this. And so I think I'm not in favor really of wordsmithing this motion right now because I think we need to bring it back to the next meeting with specific ideas about the steps we need.

And if we try to do that, amending the Charter, seeing what kind of decisions we need, I think it will be less productive than just saying let's send it back to the boards now. Let them get thinking about it, understanding all the boards aren't going to meet at the next meeting either, to figure out what the mechanics are, but I think this is the right direction, and at the next Policy Board meeting we need to need to have a more pointed discussion about specific mechanisms for using the judgment of this board to concentrate on those issues that are identified in this document.

CHAIRMAN BOYLES: You know, we've got a lot of provocateurs around here. I've got a lot of people who still want to talk. I think we do need to wrap this up. This is a very important discussion. We have a motion on the floor, but I've also seen a lot of heads nodding; and I think to summarize where we are, I see really a bifurcated process.

We've got a Charter issue that I've heard some discussion about perhaps we could have staff go back and review what potential mechanisms may be available should we be able to alter the Charter to provide a little bit broader oversight on stock performance on the one hand. On the second hand I see, for lack of a better phrase, notice being served to the management boards of these 15 species that staff has identified. Strictly speaking, we've got a motion on the floor. Pat.

MR. AUGUSTINE: Mr. Chairman, based on what you said and what Mr. Lapointe pointed out, it is going to take more work. I would be inclined to table this to date certain, which would be the next meeting, while –

CHAIRMAN BOYLES: Pat, would you consider withdrawing it and we will have to ask –

MR. AUGUSTINE: **Let's do that; I would withdraw the motion.**

CHAIRMAN BOYLES: Is there any objection to withdrawing this motion? Okay, the motion is withdrawn. I think we've got some direction to staff on where to go. Again, I thank everyone for their – and there are a number of you who still wish to speak on this issue. What I would encourage you to do is to consider the comments that were made today, and let's certainly talk amongst ourselves as we go back to our management boards and consider further the adoption of the action plan later this afternoon and that you think about where we go. We will have this back on discussion in March. Vince.

EXECUTIVE DIRECTOR O'SHEA: Maybe with an idea towards facilitating that thought process and discussion, I think a question that has come out of this is whether stocks that are depleted, undergoing overfishing or overfished, those are clearly understood, whether that condition is an issue for the individual board or is that an issue more appropriately for action by the Policy Board.

CHAIRMAN BOYLES: Okay, I've seen a lot of heads nodding again. Again, thank you for a very

thoughtful discussion and conversation on this critically, in my estimation, issue. We will move on now. We've managed to burn through a lot of time, but I think it was an important discussion. The next item, we're going to have Earl Meredith here to talk about the Research Set-Aside Program.

PRESENTATION ON RESEARCH SET-ASIDE PROGRAM

MR. EARL MEREDITH: Thank you, Mr. Chairman, and thank you, Board, for inviting me. Again, my name is Earl Meredith. I work for the Northeast Fisheries Science Center, and I'm the coordinator for cooperative research. My area of focus is the Research Set-Aside Program. I work for John Hoey, who is the cooperative research director. We both work for Nancy Thompson, the science director. We also have Cheryl Corbett who is our federal program officer, who really does the yeoman's work of the grants management for all of the RSA programs.

Today I'll focus on the Mid-Atlantic RSA Program. When I was invited to come and speak to you, I was asked to give an idea of what the program is, who it was created by, how the program works, who establishes the research priorities, and what kind of research has been conducted. I will kind of focus on that throughout my presentation.

Obviously, the Mid-Atlantic Fishery Management Council created the RSA Program. It was part of the Framework 1 for the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan as well as the Atlantic Mackerel, Squid and Butterfish Programs and the Bluefish and Tilefish Fishery Management Plans. It was created in 2001, and the first competition was completed and the first projects were actually funded in 2002.

It was created as a vehicle for funding research where there is an absence of congressionally allocated revenues or funds to do that research. It uses revenues generated by the sale of quota from those species that I mentioned. They're part of the council's annual quota-setting processes, and so the RSA Programs are dependent on the specification packages that are approved each year.

The range of RSA that is allocated of each one of those species is between zero and 3 percent of the total annual catch or total annual landings. The RSA Program is authorized or has statutory authority through the Magnuson-Stevens Fishery Conservation and Management Act. There are other statutory authorizations that allow NMFS to conduct the grants

programs as well as enter into cooperative agreements with institutions to conduct the research.

This year Preston Pate has been the RSA council's committee chairman. We worked hard to establish a mission statement, and really what we wanted to do is step a little bit and say how is the RSA Program going and what is our direction, what is our real mission? We came up with a primary goal of the RSA Program to fund scientific research that provides information to improve the conservation and management of fishery resources under the purview of the Mid-Atlantic Fishery Management Council and those species and those plans jointly managed by the Atlantic States Marine Fisheries Commission. It is a two-part mission statement.

The second part really looks at the core principles of the RSA Program. There are five of them there. There are a lot of words, but I won't go through the whole thing. Essentially the first one is to address some deficiencies of information that is necessary for management and also to look at funding some prototype data collection and monitoring programs. The second one is to ensure that the scientific community works very closely with the fishing community to bring together the strengths of both of those communities.

The third one really is to look at the scientific and technical merits to ensure that the research that is conducted under the RSA Program can sufficiently live up to the National Standard, best available science for the program. It needs to be cost effective and done in a timely manner. The research that is funded should really fall under that cost effectiveness and timely.

It should also look at the cooperation between other management partners, so the ASMFC, other councils, the National Marine Fisheries Service and other aspects of the cooperative research program, so leveraging resources between all these organizations will help improve the RSA Programs in general.

In the northeast we have four RSA Programs. There are three in the New England Fishery Management Council and then, of course, the Mid-Atlantic. The three RSA Programs for the New England Council are very species-specific. For example, the Atlantic Sea Scallop RSA Program, which was established in 2002, that was the RSA Program that was created. The monkfish was established in 2006 and the Atlantic herring was established in 2008.

The Mid-Atlantic is a multispecies RSA Program, and it was established in 2001. That has a few interesting elements to this program relative to the other three. The species that I mentioned earlier, summer flounder, black sea bass and scup, are the three primary species that the RSA funding really depends on. Those are the core species that provide the lion's share of the funding for the RSA projects.

And then bluefish and loligo squid come in there; they're a very high-volume, low-value species. Most of the applicants shy away from requesting those two species because it is just really hard to turn them into adequate funds to help fund the research programs. The decision to allocate the funds falls solely on the Mid-Atlantic Fishery Management Council. The council's RSA committee establishes and sets the research priorities.

Those priorities are set after consulting with the council staff, the commission staff, species committees. They look at fishery management plan data needs and they look at stock assessment reports. In the end of the report there is always a list of research information needs. Those are pooled together and the Research Set-Aside Committee sits down and deliberates on which one of those priorities should be included in the following year's solicitation.

These are competitive grants every year. There are no federal dollars provided. It is all funded through the sale of the species. The councils and the commissions are involved in a fairly significant way. The allocation of the resources is the primary way that they are involved, but also in setting the research priorities like I just mentioned. They're also involved in the technical and management review of the proposals that are received.

We take advantage of their expertise from the management perspective. The grants process is really kind of a long, convoluted process, but it starts out with a technical review of each one of the proposals, and we have a minimum of three subject matter experts that read and review a certain number of proposals and they submit scores. Those scores and the comments are then passed to the management panel, and they sit down and look at the proposals relative to their management value. Then we take the technical scores and the management and put them together and come up with the best recommendation for funding under that competition.

The request for proposals is announced through a Federal Register – what they call an Omnibus Grants

Announcement. It comes out twice a year through the National Marine Fisheries Service and the NOAA Grants Management Division. It comes out like a December/January timeframe, and then there is a second one that comes out in June/July.

In the Mid-Atlantic timeframe, it is always announced in the December period. The monkfish and the scallop are announced in the June/July timeframe. The proposals are received, and they get a technical review. They get a management review and they also get a regulatory consistency review. Maybe I'm a little ahead of myself here.

What that means is any federal action like a grant, for example, or a fishery management plan has to adhere to other federal regulations like the Endangered Species Act, the Marine Mammal Protection Act and the National Environmental Policy Act. Each proposal is reviewed relative to the consistency of those Acts; and if there is anything that appears that they may be conflicting or be problematic relative to those reviews, we have to conduct Section 7 reviews or NEPA policy reviews that then make recommendations on how the proposal can be modified to ameliorate that issue that comes up.

The federal program officer is really responsible and I help coordinate all of those reviews; and once they come out the other end, then we know that their technical competence, they have high management value, and that they adhere to all federal regulations. There has been a lot of question about, well, how does this work; you know, you give a grant, you're not giving any money, but you're giving an allotment of fish, and does a researcher turn that into funds to pay for a survey, for example.

At the end of the year – once the grants are issued, the grantee receives; instead of a sum of money, they get an X-number of pounds for three or four of the different species that they request. Then it is up to them to either work with the commercial fishermen or the recreational fishermen or to sell their allotment through an auction program. The auction program was organized and has been conducted by the National Fisheries Institute, NFI, for about seven or eight years now.

Once the grants are made, the recipients receive that allocation and the allocations go through the permitting offices in NMFS, and then the auction occurs and they sell the fish, and the money is then provided to the researcher to go and do the study. There a lot of convoluted things that go on during the auction and the process of capturing the fish and

selling them and providing the funds to the research institution. We can talk about that a little bit later.

Another way is a lot or several of the grant recipients actually work directly with fishermen; and so instead of going through the auction, they provide the allocation to fishermen that they're working with on the research project. They harvest the fish and help fund the research that way. There are two different channels.

There is the auction channel for generating revenue or there is a direct relationship with the fishing industry to fund. I mentioned some of the challenges. In the past the allocations have been kind of low in terms of funding all the different projects that we wanted to fund. I'll get to the numbers of projects and the numbers of dollars in a minute. The zero to 3 percent in the Mid-Atlantic has only allowed two or three or maybe at the most four projects to be funded each year. Generally we get in the neighborhood seven or eight or up to ten proposals.

Many of those are ones that we would really like to fund, but we just don't have enough resources allocated, and those are changing every year. The allocations again are tied to the specification packages, and so it is really variable how much resources are available from year to year. The grant administration process is long and convoluted.

We're looking at ways to improve that. Part of the regulatory consistency reviews that we do have to be done every year, and so what we're looking at is trying to develop a longer term sort of a programmatic NEPA process that will cover all of cooperative research or one specific RSA Program, so we won't have to continually do those reviews year in and year out. If we could have a longer-term orientation, that would be very helpful.

Also, part of the harvesting aspect of the RSA is that the fishermen are allowed to harvest certain species during a closure, and so there has to be exempted fishing permits issued to those guys so that they can harvest those fish, and those are much more favorable market conditions so they can get the prices that they need to cover their costs of harvesting the RSA as well as providing funds to the research institution.

There are enforcement issues surrounding the program. So far the enforcement people haven't been able to provide a lot of evidence of real severe violations, but there have been a lot of anecdotal information about people not adequately reporting

their RSA quota that they've harvested. There is a lot of state and federal coordination that has to occur.

I mentioned the exempted fishing permits earlier. Many of the states or a state, really, right now, New York has to issue exempted fishing permits as well, and so that has caused some administrative burden on them, and I know that a couple of the other states are considering issuing permits and allowing their fishermen to land RSA, and so this is going to require much greater coordination between the states and the federal permitting system.

That all falls back on monitoring. We need to monitor the RSA landings so that we keep track of the quota that is being allocated and landed and make sure that it is not being accounted through the state's allocations as well as the recreational allocation. We have worked with the MRFSS people and we've worked with states to come up with systems to reconcile the RSA landings between the states and the federal permit and landings' systems.

There is always some fleet envy. There are people who have figured out how to get involved in the RSA Program, and they're benefiting from it. Then are other people who haven't figured it out or don't want to be involved with it, but they are still envious of the fact that those guys who have figured it out and get involved with it are benefiting. There is a situation out there about fleet envy that we're trying to deal with as well.

This is a new business model because traditionally grants are issued using federal dollars; and so when these programs were set up originally, I think they were meant to fund research where there were no federal dollars. The system was set up to sell fish and so we've had to sort of educate the grants management people, the permits people, the enforcement people, even state agencies how to make this work that will benefit the fishery and everybody involved.

There are a lot of expectations and you have to step back and look at the reality. For example, a lot of people feel that by doing an industry-based trawl survey, that the assessments are all of a sudden going to magically go in favor of the fishing industry, and that is just simply always true. An industry-based survey or a supplemental trawl survey is one component of the stock assessment that gets modeled in and analytical processes, so it may or may not actually change the stock assessment and the allocations.

The program strengths on the other perspective here is that it does fund a lot of high-priority research in the absence of federal dollars. We will see in a minute about how much research has been funded through this program and the other RSA Program. It does empower the council and the commission in the decision process in what research projects get funded and supported and carried out. It encourages fishermen and researchers to work together.

This is all the core mission of the cooperative research program. It gives the NOAA Fisheries Service a new way to work the fishing industry and the councils and the commission. How many projects have been funded through the RSA Program, what kinds of research monitoring projects are conducted and who participates in the RSA Program?

Well, since the beginning the Scallop Program in 2001 to 2010, there have been about – well, there have been 49 projects, and the research value is \$7.87 million. You can read on down. In the Mid-Atlantic there have been 31 grants issued for a total research value of close to \$6 million. Now, let me just clarify that a little bit.

We have projects in here, but these are actual grants because some of the projects have been re-funded for three or four years. Like NEAMAP, for example, has been funded for about four years now. The Mid-Atlantic Transect Survey was funded for four years. Those are one project, but they would represent four grants apiece, so just to clarify that for you.

The states that have been primarily involved with the organizations who are conducting the research are New Jersey and Rhode Island are the top two. New York and Virginia have come in pretty closely behind that. Here again there were two projects in 2003 that were withdrawn, and so the actual number of contracts or I should say grants are 29 and not 31.

The type of research that have occurred, we categorized them into conservation engineering, discard mortality, management strategies and monitoring. There have been ten conservation engineering – these are projects that are associated with bycatch reduction, so looking at black sea bass, different configurations of vent sizes, things like that. We have looked at small-mesh fisheries, bycatch issues particularly with squid and butterfish.

The monitoring is essentially surveys. We have funded the Scup Hard Bottom Survey in Southern New England waters for about five or six years now. I mentioned earlier the Mid-Atlantic Transect Survey

was funded for four years and now NEAMAP has been funded for four years, so that includes about 15 total grants. Charles Borden is a commercial fisherman, and he has worked closely with URI to conduct the Scup Hard Bottom Surveys. That has been a total of about \$600,000.

The Cornell Cooperative Extension; they've done a number of different gear studies and discard mortality studies. They have got close to a million dollars. The National Fisheries Institute, NFI, has conducted a number of – they were part of the transect surveys, they were part of the squid/butterfish bycatch reduction projects, and they've been funded also to look at some recreational research at about \$2.2 million.

And then VIMS has conducted a number of black sea bass pot studies as well as the NEAMAP Survey for the last four years. They have gotten about \$1.9 million worth of grants. So a total in the neighborhood of almost of \$6 million of research has been funded since 2002. One of the things that we are working with the RSA Committee currently is to streamline the flow of RSA results into the management process or the stock assessment process.

We're working with both the Research Steering Committee in the New England Council and the Research Set-Aside Committee in the Mid-Atlantic Council. They've both established policies for technical reviews, peer reviews and then making recommendations or management recommendations to particular species fishery management plans or species committees, so there is a whole policy process that we have developed to try to streamline the flow of RSA results into management and stock assessments.

The current status right now of the 31 grants, again, two have been withdrawn for some technical reasons, three reports from 2002 are in the grants online system, and we're not quite sure – the grants have been closed out, but we're not quite sure what the outcome of those technical reviews were because that conducted prior to the RSA Program being transferred to the Northeast Fisheries Science Center.

Right now there are 19 reports that we have and they have been going through technical reviews. Four of them have not been reviewed and six are still waiting to be finalized. The projects have been extended or they're still in their grant period and they haven't completed their research work. That is what I have for today. I would be happy to answer any questions or make any further comments.

CHAIRMAN BOYLES: Earl, thank you for being here. I know this generated a lot of questions at our August meetings. Questions for Earl? Mark Gibson.

MR. GIBSON: First an observation for the board, and I think Earl spoke to about an emerging business model and I want to make sure that the board understands that fishermen are using this as a part of their business model. They are procuring this RSA through the bid process and injecting it into their fishing operations at opportune times.

For example, when the general category is closed, when market prices are good, they're using it as a flexibility. They're buying this stuff; they're not doing the research; and they're not necessarily involved in the research. They're simply buying the RSA as a business flexibility proposition. That money then goes on to the researchers. They do their thing. I don't take a position pro or against it.

I just want to make sure that we understand that is what is happening, and there is some envy going on on the part of other individuals that are not in that process. They see how these people are getting some special quota and how is that happening. It is generating some issues on the dock. The problem I would point out – and I think Earl alluded to it – is currently an RSA landing doesn't appear in our state's commercial data system at the moment that it is transacted, so we can't determine – we go through an elaborate process for 2011, and we're involved in it right now for summer flounder, for example, is that four quarterly periods, starting possession limits.

We have a great debate with industry as to how it ought to be allocated within the – and we have to track it and administer it. And when those pounds roll into SAFIS, it isn't clearly flagged that that is a SAFIS landing. We are in some situations of taking an action, a prospective action to limit a fishery that holds into a category and then finding out later on that there is research set-aside that we have to back out of that when we've already triggered a reduction action.

It is causing us some problems, so first on my list is finding a way to get the SAFIS landings to recognize an RSA as soon as it comes in, the fisherman has made a decision to land that, it appears in the SAFIS system, it is compared against its appropriate tally, and the rest of it keeps rolling on for the general category. Those are my comments, Mr. Chairman, thank you.

MR. PAUL DIODATI: Earl, when did you say the RSA began?

MR. MEREDITH: Framework 1 was 2001 and the first grants were funded in 2002.

MR. DIODATI: It is a very innovative model and you mentioned a partnership between the Mid and ASMFC, but who actually proposed the model? I don't still understand whose program it really is. Is it your program?

MR. MEREDITH: No, the council created the RSA Program through the framework, and the council has control of the allocations and also creates the research priorities. It is a council program. We administer it for the council through the grants process. Who created it, whose brainchild it was I'm not sure.

The New England Fishery Management Council started the Scallop RSA Program I think as a result of in 2000 or 2001 there was a lot of congressional funding going towards the groundfish industry to formalize the cooperative research program. I think the scallop industry said, well, what about us, and there was no money and so they came up with the idea of setting aside some of their annual allocation specifically to fund research. I think it started initially with the scallop industry and then the Mid-Atlantic looked at it and they liked the model and they established a similar program.

MR. DIODATI: I'm not at all concerned about the research activities. In fact, I'm supportive of most of the research that you presented today. What I am concerned about is the framework model for this program and how it has come about and how it has been levied on the partners, the users of the resource.

We have the nation's fisheries managed through the councils and certainly with NOAA's involvement, and we have an important commission here, but for a program like this that began in 2001 this is the first time I'm really getting a presentation on it. We've actually taken a portion of the nation's quota, up to 3 percent, and decided through some process to sell it off and use that money for research activities.

Now, I don't have any control over that. I haven't been involved in that, and for actually all of the fisheries, the fisheries that I'm involved in managing through this delegation and this commission, these are important fisheries to our state waters, so we have many participants in those fisheries, so what assurance do I have – where is my involvement to

make decisions about how much of that quota is being used for this program?

Who is to say it is not going to be 15 or 20 percent next year or 3 percent now? I haven't been involved in that and that concerns me. Now, I know that there is opportunity for public involvement in all federal actions, but this doesn't like it was quite – was there a Federal Register Notice –

MR. MEREDITH: Yes.

MR. DIODATI: – that I received back in 2001?

MR. MEREDITH: Right.

MR. DIODATI: That set the quota?

MR. MEREDITH: Yes, I'll send you a copy. It was established and voted on by the council, and it was set zero to 3, never to exceed 3, and it could be less than 3. So some of the allocations – for example, I didn't mention tilefish, but that is one of the RSA allocations, and the council opts each year to not allocate any tilefish because the tilefish fishery doesn't feel like they need that, but the other species are allocated up to 3 percent.

Typically what happens is we do the grant competition and we have the allocations for each grant prior to the final specification package, and so quite often we don't award all 3 percent and what is left over gets rolled back into the fishery or it gets put back into the allocation for the –

MR. DIODATI: Okay, good, I'm glad there was a Federal Register because I find those very useful and I always comment on those. I guess the whole goal of the program is to pay for research that we don't have resources available for, and so there is this novel idea to use a portion of the TALs to turn that into money to pay for the research, but it seems like it has gotten awfully convoluted in how we get from the fish to the money to pay for that research.

Why wouldn't you simply hire a vessel to go out and harvest the fish, sell the fish and pay for the research rather than create this convoluted program that now I can't even tell you how many fishermen with a so-called portion of RSA quota that expect to fish in our waters out of season, out of regulation, out of compliance especially under a special permit; why would we do that?

MR. MEREDITH: Well, in essence that is what is being done. There are certain researchers who when

they receive their grant allocation they go and hire a fisherman and go out and that guy catches their allocation and they come up with an agreed amount or percentage that the fisherman will keep to cover his cost and that he will turn over to the researcher or the research institution to cover the research cost, so that is one scenario that works.

Another scenario was set up by NFI, and I think Danny Cohen presented this idea back in the early days was to – if you could auction the resource, you would be able to maximize the value of it and then that would create the maximum amount of RSA funds for research. So the auction was set up through NFI with that principle that – and it has evolved over the years. In the initial years it was primarily commercial fishermen who were involved with it, but the last few years the recreational sector has figured out how to get involved now, too, and that has made it even more convoluted.

So, initially it was set out like you said to just hire a commercial fishing vessel to go out and catch your allocation and you would then get a percentage of the revenues to do your research, but it has evolved into a much more complicated program now.

CHAIRMAN BOYLES: I've got Jim Gilmore, Tom McCloy and then Ritchie and I would also like to point out that the guy in the red hat back there, Pres Pate, is the chair of the Mid-Atlantic Councils RSA Committee, so some of your questions may better be directed towards Pres in terms of policy, perhaps. Jim Gilmore.

MR. JAMES GILMORE: Mr. Chairman, just a comment and maybe some learning experience and just a couple of quick questions. One of the things we have been learning – we did start up with this a few years ago with just all commercial boats and a handful, and now we have ramped up to between 60 and 70 boats mostly in the recreational fishery.

Some of the things that we've had to deal with is now we're having interesting management challenges because the fishermen particularly in the recreational sector see this as their quota that they have now, and they approached us last year for different size and bag limits during that period. We actually granted that last year in a bit of an experiment, but it has created a lot of public concern because now you have boats out there that don't understand what RSA is.

You have boats that are out there fishing at lower size limits and higher bag limits while the other guys are getting where do they get that from, so there is a

public information part of this that needs to be done, but again there are some management challenges that I think you need to add into this because, again, as more recreational boats get into this we're getting to having more challenges, and I'm not sure what we're going to do with it.

Ironically last year, when they got use their RSA period, there were no fluke around anymore, so they didn't get to use it, so now they're asking for a mid-season closure and crazy things, so it is complicating management as a new thing that reared its ugly head. The two quick questions were, again, you had mentioned that New York is – we suddenly went from having somebody a couple of hours a week dealing with this to almost three people fulltime during the period, and the administrative cost is starting to hit us.

So, I did mention this to Pres at the council meeting, but I wanted to follow up on this; are there administrative funds that we can get under the program if we're going to have to put this much effort into it from the federal government. You don't have to answer that now but we're looking into that in the future. Secondly, I'm just curious as to the NFI – you know, what they're getting out of this. There is some money that they get to run the auction, but I'm not sure what they actually get out of the deal, so if you can enlighten us a little on that. Thank you.

MR. MEREDITH: Well, I'll answer the first question that right now there are no federal funds to administer it both for the states or for us. The administration of the RSA Program is actually covered under the cooperative research funds that we get from congress. But, the NFI auction, what they've done is through a couple of different mechanisms they've helped alleviate some of that administrative burden by providing support for some permit people in New York, one or two people. That has helped alleviate some of that administrative stress, and that is just simply overhead that is taken from the sale of the fish through the auction. They take a certain percent to cover both their costs as well as to help support New York.

MR. THOMAS McCLOY: Thanks for that presentation. I wonder if you could give that to staff and distribute it to commissioners, if that is possible.

MR. MEREDITH: Say that again.

MR. McCLOY: Would it be possible for you to give the presentation to our staff and have them distribute that to the commissioners?

MR. MEREDITH: Yes, I will. I'll have to cut it down because this presentation is actually 129 slides.

MR. McCLOY: Just the ones you showed will be adequate.

MR. MEREDITH: Okay. Yes, what I've done is we conducted a programmatic review about a year ago and so all the slides – this is a compilation of all that and I've only shown you the first 20 slides or so of it.

MR. McCLOY: Okay, thank you, and if I may, Mr. Chairman, I have a couple of comments and then a question or two, and I'll try to make it short. So you understand where I'm coming from, I'm for New Jersey, so we're involved with the RSA as it relates to the NEAMAP Program, and that aspect of it has generally operated the way Mr. Gibson said, you know, fishermen go and catch the fish, sell the fish, sell the opportunity, whatever it takes, bid it, and then that money is used to fund NEAMAP.

Before I go any further, let me say New Jersey supports NEAMAP, but we think we need to find another funding source for that, but in the interim that is where we are. As you indicated, an EFP is issued by the federal government, so guys can fish out of season or whatever the other restrictions are. It also, of course, then requires a state permit in order to come into our waters or land in our state during our closed seasons or whatever the other restrictions are.

And quite frankly in New Jersey under the NEAMAP scenario that is going on there in the business plan of the fishermen, you know, there is a very gray area in our state law of whether or not that is legal. It has been issued. That is a political decision that has been made. Maybe I won't be here in March, but somehow we need to resolve that at home, but it is a consideration for the state.

The other issue that I wanted to just touch on was you mentioned coordination was important. I don't want to point the finger at anybody because we can point it all parties, but from my perspective there has been absolutely no coordination with the state of New Jersey when it comes to this. Now, we work with NFI; and by working with NFI what I mean is, you know, after they get their EFP, we get an application from them saying all these boats need to be permitted to land fish under these conditions. Coming in at that stage of the game isn't working for us. As Jim

Gilmore said, the administrative and enforcement burdens that are placed on the state are really unacceptable and he has got more people than I do.

It is just a situation where there has got to be a lot more discussion or the program has to be streamlined so it is not so complex and not so convoluted. Maybe we need one boat to catch all the research set-aside and then we're taking care of research and at the same we eliminated all the other issues. I mean, that is not practical.

I do have one question, though, and it is like a two-part question, so I'll throw it at you all at once. Do you guys oversee NFI's bidding process; and if the answer to that is yes, my question then is what happens when fishermen bid, don't catch their quota for one reason or another and then, quote-unquote, give it back so there is no money coming in?

MR. MEREDITH: Yes, that is a good question. No, we don't have any oversight authority over NFI. The auction was set up completely outside of NMFS, and it was completely set up as an independent organization. Once we grant the resources to the grantees, VIMS or Charles Borden, they can do with it whatever they want other than they are obligated to complete the research of the grant.

The NFI has encountered some situations. Normally after the bidding has occurred – and that is usually in December kind of timeframe – the fishermen then sign a contract with NFI essentially to provide the funds for those lots that they've bid on and purchased. I think in most cases they live up to that and they fulfill their agreement.

There have been some cases where they couldn't harvest the fish for various reasons. The fish moved off or they weren't in their area or they had vessel problems. The fishermen are allowed to sell or transfer the quota that they originally purchased to somebody else, and so that adds another layer of quota tracking, I'll say, and that adds some difficulty as well.

There are situations where a fisherman could buy a lot of, say, fluke at the auction, decide not to actually fish it and catch it, turn around and sell it for a higher price and make a little bit of profit there, and then the new owner is then obligated to provide the funds to NFI. One of the things that we're looking at, we're working closely with Pres to look at this program to see where we can streamline it.

One of the suggestions is to have a more formal contract like a no-cost contract with NFI through the National Marine Fisheries Service and have that process more solidified and more formalized and then have at the end of the year an auditable account that we can post on the internet to make it much more transparent. We would be able to see who is making the payments and who is not.

CHAIRMAN BOYLES: Earl, thank you. We need to wrap this up. I know there are a number of questions. Earl, would you be willing to stick around and answer questions offline? Folks, we need to recess right now and move into the Gold Ballroom for the luncheon.

(Whereupon, the meeting was recessed at 12:15 o'clock p.m., November 10, 2010.)

WEDNESDAY AFTERNOON SESSION

NOVEMBER 10, 2010

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, Wednesday afternoon, November 10, 2010, and was called to order at 2:00 o'clock p.m. by Chairman Robert H. Boyles, Jr.

CHAIRMAN BOYLES: Good afternoon, everybody. I would ask commissioners to take their seats around the table so that we may reconvene the Interstate Fisheries Management Program Policy Board. We're going to pick up where we left off. We've had some fantastic discussion earlier this morning; but as is often case sometimes these great discussions get us a little bit behind the eight ball, and I'm sensitive to the fact that we've got some important discussions to deal with American lobster later on this afternoon.

We're going to try to get us back on some semblance of a schedule, and we're going to go now and discuss ASMFC comments on the proposed rule listing Atlantic shortnose under the Endangered Species Act. I think Kim Damon Randall from the northeast region is going to start us off, and I think Bob is going to have some other comments.

ASMFC COMMENTS ON THE ATLANTIC STURGEON ESA PROPOSED RULE

MS. KIM DAMON RANDALL: I talk pretty fast so I think I can try and get you a little bit back on schedule. I'm going to talk about the proposed listing. I work in the Northeast Regional Office, so the presentation focuses a lot on the northeast, but I have a couple of slides about the Southeast Regional Office's Rule as well as contact information if you have specific questions about the southeast.

Just to go over really quickly for those of you that don't know much about Atlantic sturgeon, which probably isn't anyone in this room, but they occur from the St. John River in Canada to the St. Johns River in Florida. They're a long-lived fish. They mature late in life. They're anadromous, but the adults and sub-adults from different rivers mix in the marine environment and will enter bays and estuaries of non-natal rivers, which makes the management a little bit more difficult for them.

They were historically present in 38 rivers and spawned in at least 35 of those. They're currently present in 35 rivers with at least 20 of those believed to support spawning. Only four of those twenty occur north of the Virginia/North Carolina border. As most of you probably know, in 2007 the National Marine Fisheries Service and the status review team completed a status review for Atlantic sturgeon.

The team was comprised of National Marine Fisheries Service, U.S. Fish and Wildlife Service and U.S. Geological Survey personnel. The status review included input from state and regional biologists, and it was also independently peer reviewed. The status review considered whether or not distinct populations segments of Atlantic sturgeon exists; so when you hear the term later "DPS", that is what that stands for "distinct population segment."

They also evaluated the available information on the biological vulnerability of Atlantic sturgeon and conducted a qualitative analysis for Atlantic sturgeon. They concluded that there were five distinct population segments of Atlantic sturgeon in the United States, and they're pictured here in this map. There is the Gulf of Maine DPS, the New York Bight DPS, the Chesapeake Bay DPS, the Carolina DPS and the South Atlantic DPS.

The most significant threats that were identified in the status review were dams, poor water quality, dredging, bycatch in fisheries, vessel strikes and inadequate regulatory protection for the species. The

team concluded or recommended that three of the distinct population segments be listed as threatened, and those were the New York Bight, Chesapeake Bay and Carolina DPSs, and the team did not make recommendations for the other two DPSs based on insufficient information.

Just in case you're not familiar with some of the ESA definitions, I have them here. Species includes any sub-species of fish or wildlife or plants and any distinct populations, segment or DPS of any species or vertebrate fish or wildlife which interbreeds when mature, so that is why the team looked at whether or not DPSs exist.

An endangered species is any species which is endangered of extinction throughout all or a significant portion of the its range, and a threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

As most of you probably know, on October 6, 2009, the National Marine Fisheries Service received a petition to list Atlantic sturgeon from the Natural Resources Defense Council, and they asked us to either list Atlantic sturgeon as a species throughout its entire range as endangered or alternatively to list five distinct population segments with the New York Bight, Chesapeake Bay and Carolina DPSs listed as endangered and the Gulf of Maine and South Atlantic DPSs listed as threatened. They also requested that we designate critical habitat.

On January 6th of this year we issued a notice that concluded that the petition actions may be warranted. We had already completed the status review so we factored that into the information that we were already considering. We received about 113 comments for and against listing when we published our positive 90-day finding notice. The majority of the comments addressed the three northern-most distinct population segments, and in particular they talked a lot about Atlantic sturgeon from the Delaware River.

Some researchers expressed concern that a listing would hinder Atlantic sturgeon research, and some fishermen expressed concern that listing Atlantic sturgeon would hinder their fishing activities, which probably does not come as a surprise to anyone. The proposed rules are to list five DPSs of Atlantic sturgeon based on ecological separation during spawning as sturgeon home to their natal rivers; each DPS persist in a ecological setting, which are described in the status review also in the proposed

rule; the DPSs are genetically distinct and loss of a DPS would result in a significant gap in the range of the species.

There are two rules, one for the southeast and one for the northeast, and they concur with the 2007 status review team's assessment of a major threat to Atlantic sturgeon. However, since 2007 when the status review was completed, new information became available on things like bycatch and water quality issues, specifically low dissolved oxygen levels and their impacts on Atlantic sturgeon.

Those things have indicated that they're having greater effect on Atlantic sturgeon populations than was previously known. The new information on the degree of threat to Atlantic sturgeon from these factors is considered in the proposed rules. The Northeast Regional Office's Proposed Rule proposes to list two distinct population segments as endangered, and that is the New York Bight and Chesapeake Bay DPSs, and one DPS as threatened, which is the Gulf of Maine DPS.

The Southeast Regional Office's rule proposes to list both of the southern DPSs as endangered, so that is the Carolina and South Atlantic DPSs. Just to go in a little bit of information for each of the DPSs, they are all concurrent. There are no gaps in between any of the DPSs. The Gulf of Maine DPS starts at the Maine/Canada border and extends southward to include all watersheds draining into the Gulf of Maine as far south as Chatham.

We don't have any abundance estimates for any of the river systems in that DPS. There is only one known spawning river; that is the Kennebec, but there may be potential spawning in the Penobscot, and we funding projects to look at that now to see if there are spawning fish in that river. Bycatch, dredging and water quality are the primary stressors to the Gulf of Maine DPS.

These stressors are similar to those that are on the other DPSs. They are having less of an affect on the Gulf of Maine, which is what makes a threatened listing more appropriate than an endangered listing. The New York Bight DPS starts off of in Chatham where the Gulf of Maine DPS left off and goes to the Delaware/Maryland border on Fenwick Island. That includes Long Island Sound, the New York Bight and Delaware Bay.

We only have one abundance estimate for a river within that DPS, and that is for the Hudson. It is an older abundance estimate, but it is the best available,

and it 870 spawning adults per year. There are two known spawning rivers in that DPS, the Hudson and the Delaware. There was confirmed spawning in the Delaware recently. They found young-of-the-year fish there. Vessel strikes and dredging associated with vessel activity in the Delaware are the primary stressors as are bycatch and water quality for the entire DPS.

The Chesapeake Bay DPS ranges from the Delaware/Maryland border on Fenwick Island to Cape Henry, Virginia. We don't have any abundance estimates for the rivers within that DPS. The only known spawning river in that DPS is the James. We have some anecdotal evidence that there may be spawning in the York and potentially the Rappahannock. Vessel strikes and dredging associated with vessel activity on the James are the primary stressors as are bycatch and water quality for the entire DPS.

The Carolina DPS starts off at the Roanoke River in Virginia and extends southward to the Cooper River. There are no abundance estimates available for any of the river systems in that DPS. There are several spawning rivers. They're listed there, the Roanoke, Tar-Pamlico, Cape Fear, Waccamaw, Pee Dee, Santee and Cooper. Dams, poor water quality and bycatch are the primary stressors for that DPS.

The South Atlantic DPS starts off at the ACE Basin in South Carolina and extends south to the St. Johns River in Florida. There is only one abundance estimate for the DPS and that is for the Altamaha, and that is 343 spawning adults per year. Spawning rivers include the Combahee, Edisto, Savannah, Ogeechee, Altamaha and Satilla. Dams, poor water quality and bycatch are the primary stressors.

The marine range of each DPS is actually the entire marine range or most of the entire U.S. marine range of the species. It extends from the Bay of Fundy in Canada to the St. Johns River in Florida. We just concluded our public hearings for the Northeast Region Rule, and at one of them we were presented with new information on a tagged fish that was tagged in Delaware that was actually found in the Gulf of St. Lawrence, so we may end up having to rethink the marine extent of the range.

Each DPS also includes Atlantic sturgeon held in captivity which are identified as originating from that DPS. The effects of listing; if a species is listed as endangered, all of the ESA protective regulations or prohibitions are automatically applied upon listing, and that includes the prohibitions on take. Take, as

most of you probably know, is defined as harass, harm, pursue, shoot, hunt, wound, kill, capture, trap, collect, any of those things. Basically you look at the fish. All take is automatically prohibited under an endangered listing.

A threatened listing is somewhat different, however. If it is listed as threatened, then NMFS has to promulgate regulations under Section 4D of the Act, and those regulations are what are deemed to be necessary and advisable for the conservation of the species. That is called the 4D Rule because it is under Section 4D of the Act.

NMFS is in the process now of preparing a 4D Rule for the Gulf of Maine DPS in the event that the threatened listing is finalized. We also have to designate critical habitat for this species within one year of the final listing to the maximum extent prudent. In terms of exceptions and requirements, under Section 7 of the Act all federal agencies have to consult with NMFS on proposed federal actions that may adversely affect listed species or its critical habitat.

Incidental take in an ESA-listed species that results from a federally funded authorized or implemented action may be conducted after completion of Section 7 Consultation, and it doesn't constitute a violation of the take prohibitions provided the activities are conducted in accordance with the terms of the consultation.

Another way to allow for take is through Section 10 of the Act and there are two parts. Section 10A(1)(a) is the scientific research and enhancement permit. These permits authorize exceptions to any take based on them being directed take. Permits may be issued to non-federal and federal entities conducting research or conservation activities that involve intended take of listed species.

Section 10 permits may also be issued to non-federal entities performing activities that may incidentally take listed species in the course of an otherwise legal activity, and that is under Section 10A(1)(b) of the Act. We did recognize that researchers were concerned if we listed the species that would affect ongoing research projects, so our permits office and headquarters has tried to come up with a plan on how to deal with this and not have lengthy times for issuing permits. Colette Cairns' e-mail and phone number are up on the slide now and is the primary contact person.

All applications are going to be submitted through the apps system, which is an online permits' authorization system. If you e-mail Colette, she can provide instructions on how to do the permitting if you're not used to that process. For Atlantic sturgeon researchers need to provide information to Colette by January 4th on their activities so she can try to get things going as quickly as possible.

NMFS intends to batch the proposed actions into permits as much as they can by the summer of 2011. By fall of 2011 they'll attempt to address the Section 7 needs for the issuance of the permits. Then if the listing is finalized for the species, the permits can then be issued right away. If you have additional questions about the NMFS permitting process, you can contact either Colette at the number before or Malcolm Mohead, who is also in our permitting office, and his number is up there. They also have some really good information on their website, which is listed up there as well.

The next steps; we're currently in a 90-day comment period on the proposed listings, and that extends to January 4, 2011. As I said, we just completed the public hearings for the Northeast Regional Office's Rule. We had them in Portland, Maine; Newport News, Virginia; Stony Brook, New York; and Wilmington, Delaware, last night. The public hearings have been scheduled for the Southeast Rule; December 6th in Wilmington, North Carolina; and December 7th in Atlanta, Georgia.

Because we're on the timeline from the petition, we have to publish the final determination by October 6th of 2011. At that time we can either finalize the listing as it was proposed, we can change it to something else like change from endangered to threatened or we can withdraw the rule completely. Critical habitat has to be proposed at the time of that final decision if we finalize the listing, and that would have to be completed no more than one year later with the final critical habitat designation by October 6th of 2012.

Right now we'll conference under Section 7 for federal actions that may jeopardize the species, so we have been talking to the Army Corps of Engineers and some of the other federal action agencies about ongoing projects or proposed projects that will happen during the time that the species is proposed.

There is some contact information up here for both the Northeast Regional Office and the Southeast Regional Office. If you have questions or concerns, you can e-mail us. If you want to submit public

comment separately from – I'm not exactly sure what ASMFC is doing, but you can do that through regulations.gov, you can fax them or you can submit them in writing. That's it.

CHAIRMAN BOYLES: Kim, thank you. I think what we'll do is move right on to Bob and then, Kim, if you could just hang around just for a few minutes for any questions to either Kim or Bob.

MR. BEAL: I just have a couple of slides, but the idea is that we assume ASMFC will want to submit comments on the proposed rule that Kim just introduced. As Kim mentioned, the comments will be due on January 4th. Obviously, the ASMFC's comments do not preclude individual states from commenting in addition. What I have in the next couple of slides are a list of topics that we're proposing that we include in the letter.

These topics are based on an e-mail that I sent out to the states two or three weeks ago asking for input on what should be included in the ASMFC comment. The idea is not to wordsmith the letter here but just to get a list of topics. We'll draft the letter; we can circulate that back to commissioners and make sure everybody is okay with it.

We have a little bit of time but we might as well get started on it if there is a lot of controversy. The first topic is population status. There are some signs, as I mentioned earlier, that some of the individual rivers are having some spawning success and there are some more animals out there. Species interactions will be the next topic. If it is listed, there will be pretty rigorous scientific collection permit applications and approval that would be needed to do anything associated with Atlantic sturgeon.

Permitting; currently if you want to do anything with shortnose sturgeon, it takes about a year to get a permit. A listing of Atlantic sturgeon would put more burden on those individuals that do the permitting, so it would probably take more than a year to get something through for Atlantic sturgeon.

Fisheries interaction; obviously a lot of fishing activities are going on right now and have interactions with Atlantic sturgeon and this may require gear modifications and other reactions by fisheries to deal with the endangered and threatened potential listing. Fisheries independent monitoring is the next topic. A lot of the survey gear and sampling programs that go on up and down the east coast at the state level in particular have the potential to interact with Atlantic sturgeon. A threatened and endangered

listing may require some changes to those survey programs that are going on up and down the east coast.

Critical habitat; there is a comment by one of the states that shortnose sturgeon and Atlantic sturgeon have similar habitats, and there may not be a significant increase in the amount of critical habitat that is designated if there is a listing for Atlantic sturgeon. Commerce, obviously, may be affected; in particular dredging and other activities that are regulated right now, and it may be even more difficult to get a license to do dredging if there is the potential to interact with Atlantic sturgeon.

Ship strikes are a concern that is going to have to be dealt with. Shortnose sturgeon really doesn't have interactions with ship strikes. Atlantic sturgeon probably will and that will need to be considered. The final thing is restoration efforts. The good news is potentially that if there is listing, there may be some additional financial resources now that become available to help out with some of the restoration efforts that are going on up and down the east coast. As I said, that is a brief list of the topics that we would intend to include in a commission letter. Those are just proposed. We can delete topics, we can add topics. It is all fair game. We're just trying to give you guys something to start with.

CHAIRMAN BOYLES: Bob, thank you; and, again, Kim, thank you as well for being here. Let me ask if there are any questions of Kim on the presentation? Roy Miller.

MR. MILLER: Kim, thank you for the presentation. I was wondering if I could prevail upon you for a little crystal balling, if I could. Let's take one of the population segments like the Delaware River population. What do you envision, if any, would be the impact upon existing commercial gill net fisheries within the Delaware estuary from this listing assuming the listing is approved for endangered status for that portion of the New York Bight? Now, I should point out for everyone who might not know that the implications of listing for the shortnose sturgeon hasn't had much of an impact at least on the Delaware Bay portion of the commercial fishery. Do you envision more potential impacts on this fishery from Atlantic sturgeon being listed? Is it fair to ask that this far ahead of the game? Thank you.

MS. DAMON RANDALL: Bycatch in commercial fisheries is a significant issue for Atlantic sturgeon. It is not as much of an issue for shortnose because they tend to stick to the rivers more, so they're not

making as many coastal migrations, although we have new tracking data that suggests that they're making bigger ones than they have in the past.

It is particularly an issue in the gill net fisheries such as monkfish and spiny dogfish. We are working right now – we are supposed to start this week actually a project under the Bycatch Reduction Engineering Program with a commercial fisherman in New Jersey looking at ways to reconfigure the gear.

Basically with monkfish fishing in the Mid-Atlantic, under Harbor Porpoise Take Reduction Plan they have to use tie-down string certain times of the year. Some of the monkfish fishermen actually like them. They create bags in the net that the monkfish get caught more easily in. There is some information out there that suggests that may actually increase bycatch of Atlantic sturgeon.

We're working right now to look at stand-up gear versus the tied-down gear to see if one of them retains more Atlantic sturgeon. Next year, if we get funding, we're going to try a third treatment which actually reduces the profile of the tie-down net in the water so Atlantic sturgeon would hopefully be able to swim over it. We're trying to work on different types of engineering design to try to still allow the fisheries to take place and not result in bycatch of Atlantic sturgeon. It will definitely have an impact. We will have to do a Section 7 Consultation on federally permitted fisheries. We actually do that internally with our Sustainable Fisheries Division.

MR. ADLER: You listed other than bycatch. You listed some other possible reasons, and what were they besides bycatch?

MS. DAMON RANDALL: Vessel strikes are particularly an issue in the Delaware and the James Rivers. Poor water quality is also a factor and also impediments to migration in some rivers is a factor as well, so dams and other barriers to migration.

MR. ADLER: So, with this listing, how will this listing affect the other aspects besides bycatch? I understand the bycatch part, but what will that do, make them take dams out or they have to clean the water? What will an ESA listing in this case do with regard to those causes?

MS. DAMON RANDALL: Anything that has a federal permit, we would have to do a Section 7 Consultation on; and if those activities results in jeopardy to the species, then they have to come up with reasonable and prudent measures, reasonable

and prudent alternatives to that project to avoid jeopardy of the species. For things like water quality, we do consultations with EPA. For dams we might look at passage or impacts of the dam on spawning areas and flows. There are a bunch of different things that are done under Section 7 Consultation. We can do Section 10, too.

DR. DANIEL: Okay, one of the concerns that I've had with at least the DPSs is there appears to be quite a bit of tagging data that shows an exchange amongst the DPSs. Is that kind of information what you're looking for where it says in the Federal Register Notice comments on the DPS, because it looks like there is not distinct DPSs based on a lot of the tagging data that we're seeing.

MS. DAMON RANDALL: Yes, they definitely move all over the coast, which is why the marine range follows the DPSs as the entire marine range of the species in the U.S. and up into Canada; but when they go to spawn, they do home to their natal spawning areas, so they are genetically distinct. You can actually identify them back to their river of origin based on genetics.

All of the DPSs occupy different ecological settings; so when you look at the criteria under the DPS policy, they are separate DPSs now. There is some new genetic analysis that has been done that indicates that at some point in the past, probably a couple hundred years ago, the populations were obviously very much larger, and they actually freely interchange between neighboring river systems, so the strain rate was a lot higher and there wasn't as much genetic diversity – not diversity, but genetic uniqueness, I should say. Right now the DPS is a way of trying to maintain the genetic diversity that is left.

MR. TRAVELSTEAD: Kim, a couple of questions. Not too long ago the Fisheries Service considered listing, correct, and chose not to; can you remind me when that was?

MS. DAMON RANDALL: Sure, we were petitioned in 1997 and the finding came out in 1998 that listing wasn't warranted. It coincided with when you instituted the moratorium.

MR. TRAVELSTEAD: Is there a single location where one could find what has happened since then; what available science is there that would suggest the Fisheries Service should come up with a different conclusion than they did when they considered it previously?

MS. DAMON RANDALL: The status review and also the proposed rules have new information in them.

MR. A.C. CARPENTER: If there were a listing made and ship strikes seems to be one of the major consistent problems with this species, does the listing have the authority, then, to stop shipping in certain river systems? Are you going to stop ships coming up the James River to the Port of Richmond?

MS. DAMON RANDALL: No, we got the same question at a meeting at the Virginia Partnership from the Port Authority in Virginia. No, we're not going to stop shipping. We've actually talked to them and we're going to set up a meeting to talk about ways that we could reduce ship strikes without having to reduce vessel traffic.

MR. CARPENTER: And a followup to that; there is a large amount of gill netting that goes on in the river systems; will you be prepared to prohibit gill nets in the river systems themselves?

MS. DAMON RANDALL: I think it would be same answer to the question about the coastal fisheries. We would have to work with the fisheries to see if there is a way to reduce bycatch and still allow the fisheries to occur. There could be seasonal restrictions or something like that if there is not a way to engineer the gear to result in lower levels of bycatch.

MR. CARPENTER: We have a program within the Bay where any sturgeon captured by gill net are being turned over to cooperative research, and it is a source being able to tag these animals. How is that going to be impacted?

MS. DAMON RANDALL: It won't be allowed to occur if the listing is finalized as endangered unless we do a Section 10, a habitat conservation permit, which we had started on with the state of Maryland, and it kind of lost momentum. There were some shifts in state personnel and also shifts in NMFS personnel. That would be something that we would have to start again. We were working on it for shortnose originally and now we would have to work on it for both shortnose and Atlantic sturgeon.

MR. THOMAS O'CONNELL: I had two questions. One was related to what A.C. just asked, and to follow up on that one, so under the Section 10 permit would each individual commercial fisherman in Maryland have to apply for that permit so that if they incidentally catch a sturgeon they could then call us

and participate in the reward program which allows us to collect critical information on sturgeons for which we can't do for shortnose sturgeon?

MS. DAMON RANDALL: We'd have to do the Habitat Conservation Plan and figure out what the best mechanism is to do that. It could be that you have some mechanism through the state to identify the fishermen that participate in the reward program. The problem is that initial take of the fish in the net is not covered unless there is a Section 10. Then you would need to have a Section 10A(1)(b) research permit to do any research on officially tagging or taking a fin clip or anything like that. We'll have to work through that.

MR. O'CONNELL: My second question was related to stock enhancement. Given the future of sturgeon is probably going to be based upon some stock enhancement restoration efforts and we have been holding sturgeon for probably a decade now and investing a lot of money in that program, how do you see a potential listing will impact that program continuing to allow us to do a stocking program in the near future?

MS. DAMON RANDALL: That will have to be covered under Section 10 as well.

DR. MALCOLM RHODES: Just one quick question; under Section 10, is that Fish and Wildlife also; would they have to go through that and – I'm asking specifically about Bears Bluff here on Wadmalaw Island, which was shortnose in the last three years. I think they're the largest Atlantic sturgeon hatchery going now. Would they have to go Section 10 also and kind of delay what they're doing?

MS. DAMON RANDALL: I don't think it would delay what they're doing, but they'd have to go through Section 10 to maintain those fish in captivity because they're part of the listed entity if the listing is finalized.

CHAIRMAN BOYLES: Kim, thank you, great presentation. Now, the question is Bob has presented to you as well topics on which the commission would likely craft a letter around. I really don't want to get in the game of trying to craft a letter here. Are there other topics that the commission should consider in making before we comment before the deadline? Louis.

DR. DANIEL: I've got a group in North Carolina putting together comments and was real curious to know what this group was going to say before we

have our final deliberations with our Wildlife Resources Commission. I don't know how many of you have Section 10 permits, but we do and it is a bear. You've got to have observer coverage in all these fisheries. You'll have an allowable take allowance at which point you shut the fishery down if you hit those numbers.

What we're seeing in North Carolina at least with sturgeon is we're seeing that they're pretty ubiquitous, and we're seeing a lot of them. A lot of the data in the Federal Register Notice at least on the Southeast DPS was from North Carolina. For example, one fishery resource grant over a two-year period had over 130 interactions with Atlantic sturgeon.

We're very concerned about this in North Carolina and the potential impacts to our fisheries. We don't want to comment negatively in terms of the need for listing if it is warranted, but based on what I've seen it appears that the stock is doing better now and maybe the time to list them was maybe 20 years ago, but today there are going to be so many interactions you're going to lose almost all your fisheries.

All the places couldn't be worse for North Carolina because where we don't see turtles we see sturgeon, and so it is really going to create a problem. Right now my Section 10 permit is probably costing me about a million dollars a year to implement for my gill net fishery. We will all be looking at those levels of expense if we do sturgeon.

CHAIRMAN BOYLES: I think Bob has covered a number of topics that I think that we all have some mutual interest in crafting a letter. Is a good outcome from this discussion a direction to staff requesting a draft letter be circulated and perhaps offline we can get that letter out by the end of the month?

Louis, I think that gives you – I know you're starting to move into December or towards the end of the year. The deadline is the 4th of January, but that gives the states about a month to figure out what kind of comments they may wish to make in addition to or supplementing those of the commission. Is that a reasonable outcome here? All right, I see a lot of heads nodding, so, Bob, if you could be prepared to circulate a draft by the end of the month? Okay, terrific! We are going to move on now – if you would bear with me since we're running a little late. I know we've got some partners who have some travel arrangements that they need to adhere to. I would like to call on Helen Takade-Heumacher to

come up and give us the Assessment Science Committee Report.

ASSESSMENT SCIENCE COMMITTEE REPORT

MS. HELEN TAKADE-HEUMACHER: I am Helen Takade-Heumacher. I am the Chair of the Assessment Science Committee. The committee met last on September 30th and October 1st to cover a number of issues. First off, we approved the stock assessment and peer review schedule for 2011. There are some changes to the schedule since the Policy Board saw this last in May.

Summer flounder was originally scheduled for a SARC Review in 2011; it is now an update. Winter flounder is now scheduled for a SARC Review in the spring of 2011. Black sea bass is scheduled for a SARC Review in the fall of 2011. Those are 2011 specific changes. Further down the line, in 2012 there is a request to have tautog scheduled for an ASMFC External Review. In 2013 there is a request to have striped bass scheduled for SARC 56, which would be in June of 2013. Bluefish and northern shrimp were tentatively scheduled for SARC 57 in December of 2013.

At our fall meeting the ASC also always reviews the stock assessment scientists workload. In the process of that review we noticed that there were three ASMFC-led external reviews that were going to occur in relatively close time periods. This is American eel, river herring and tautog. From that, the ASC recommended that these need to be spaced out appropriately to ease workload both on state staff that may be overlapping on these assessments and also on the ASMFC staff as these are reviews that are organized and led by members of the science staff.

The first recommendation was – both of these are specific to the river herring stock assessment. The first recommendation was that the river herring stock assessment – a member of the committee who is participating in that assessment expressed some concern that they may not make their currently scheduled review date of the spring of 2012, and so we recommended that this assessment does need to be given more priority in terms of getting some potentially extra state staff involved in that stock assessment and also prioritizing it on state staff that are currently involved in that stock assessment in

order to ensure that makes its current review deadline.

We also recommended that the river herring assessment potentially undergo what is called an integrated peer review. Simply, there would be a peer review member who would be present during either the data or assessment workshop process to comment in process about techniques or data and file reports on that. The hope was that this would help expedite the process.

This issue was taken to the Management and Science Committee because the Management and Science Committee is actually the body that oversees the ASMFC review process specifically for stock assessments. The third recommendation was if river herring is to stay on schedule for the spring of 2012, then a tautog external review should not take place until the fall of 2012; again because of workload concerns for multiple staffing members.

We discussed the Stock Assessment Training Program. We made some recommendations on that. We have developed in intermediate level workshop, and this was primarily to bridge the gap between the – we have given a basic workshop for a number of years, and this was to start applying the techniques that people have learned in that basic workshop, and so what has been developed is an intermediate level to kind of bridge the gap between basic and the advanced workshops we already hold.

We're right now recommending that they would like to do two of these intermediate workshops in 2011. They would be a mock data workshop and a mock assessment workshop. This would help familiarize these people with the decision-making processes in the ASMFC stock assessment process and also let them get their hands on some real data.

The other workshop we recommend to take place in 2012 would be an advanced workshop based on AD Model Builder, which is the model-building software. We are currently recommending that in 2012 that they actually would not conduct the basic stock assessment training in lieu of getting the intermediate course done since there has been some interest in trying to do that and also because we are simply having trouble identifying more people to take the basic workshop.

There were some revisions to the Benchmark Guidance Document. They were to include inviting the MRIP staff to data workshops to present and review recreational fishing estimates when it is appropriate for those stock assessments. There was

developed and added some terms of reference specifically for peer review in addition to the existing stock assessment terms of reference.

There was some clarifying language added to ensure that the entire stock assessment subcommittees have the opportunity and would review and comment on a stock assessment report prior to that being sent to the technical committee for review. Just a couple of other things that we discussed at that meeting were the ASC has provided some guidance on proposed stock assessment approaches for both American eel and river herring.

This will probably be an ongoing process. They have expressed interest in bringing some more technical problems back to the ASC. Then we got a review of the Northeast Fisheries Science Center's effort to develop guidance on frequency and the content of stock assessment updates and the explanation of other measures to use in lieu of full updates. This was done given the increasing workload in response to the ACL and AM requirements. I believe you will have to approve the 2011 schedule.

CHAIRMAN BOYLES: Helen, thank you. I'm looking for two motions, probably at least two motions. **One is to approve the stock assessment schedule for 2011. Motion by George Lapointe; second by Bill Adler.** Discussion? Seeing none, any opposition to the motion? **Seeing none, that motion carries.**

I'm also looking for a motion to approve the Stock Assessment Training Workshops for 2011. Motion by Pat Augustine; second by Pat White. Any discussion? Seeing none, any opposition to that motion? **Seeing none, that motion carries.** Helen, thank you for the good work of you and the Assessment Science Committee. The Management and Science Committee Report, we're going to ask Pat Geer to come up.

MANAGEMENT AND SCIENCE COMMITTEE REPORT

MR. PATRICK GEER: We met yesterday for most the day and had some very good discussions. Our first discussion was to develop a strategic plan for ecosystem-based fisheries management. We reviewed the workshop that many of you attended at the August Meeting Week. We provided input to the team that was developed as a result of that to come up with incremental steps to do this.

This is a monumental task to take this under, so we're going to try to do it a little bit at a time. There are a lot of tasks so let's do it in small steps to develop the strategic plan. The team is made of people from the Habitat Committee, the Multispecies Technical Committee, the Assessment Science Committee and a subset of commissioners. There will be a strategic plan that will be presented in the March meeting.

We will show an overview of what we think it should be, what the team thinks the plan should be plus strategies that are used from other ecosystem management plans such as the South Atlantic Fisheries Management Council. We led right into that talking about how we were going to incorporate forage fish into the commission process. The Forage Fish Subcommittee compiled a really nice data set for weakfish as an example using various data sets showing gut content studies, species that weak fish are preying on and trends and analysis and indices for those species across the life history of weakfish in different regions. We're trying to gather information on species that aren't managed by the commission as well.

What we're recommending is that we start using the forage species information and start incorporating them into management plans. From some of the people who sat on our committee, the decision was to incorporate those when an assessment is coming up. You're gathering data during those workshops, anyway, so why not collect the information on these forage species as well. We're recommending that as we move forward that we develop these terms of reference and collect this forage data during the stock assessments.

The people on our committee felt and some of the stock assessment biologists felt it is a time to do it because you'll be collecting these data sets, anyway, so we can incorporate it at that point. We're making a recommendation that we use striped bass. The assessment for that is scheduled for 2013 and use that as a test. It gives us enough time to start gathering these data sets.

We also discussed the workload from the board that is passed out to the different technical committees. The staff looked at three examples for striped bass, weakfish and bluefish. Between 2008 and 2010, the Striped Bass Committee had 19 tasks brought to them from the board. They had 10 conference calls and 4 meetings. Weakfish had one conference call, two meetings and four tasks. The bluefish was minimal with only one task, no meetings and one conference call.

We pointed out that a lot – these were just examples of some of the technical committees. A lot of the same people sit on all these committees so they have quite a few commitments. They also have commitments to their regional councils as well. We're recommending that the staff start tracking the workload of the technical committees and at each species board meeting and to this Policy Board each time come up with – you know, show what those processes are and show what the tasks are and what their workload is at each meeting and maybe even prioritize it so there is an understanding of what needs to be done first.

We had a brief discussion about marine fish stocking. That was brought forth by Steve Hines of New York. Staff is going to collate some of the state regulations on fish stocking and use that along with the sturgeon stocking, the policy from ASMFC, and I believe the red drum has a subcommittee for stock enhancement as well, and make that information to the different states that may have some issues with stock enhancement.

We had a very nice discussion about live imports in certain markets, especially the northern snakehead. Law enforcement officers were there from the Law Enforcement Committee. It was a very interesting discussion. We're really not sure what we can do about these imports when they come in. There are certain species and certain religions that like to release these fish as a religious practice into the wild. The question is how to deal with that. It was an interesting subject.

Along with what Helen was talking about, we heard a report from her from the Assessment Science Committee on ways that we can improve our peer reviews. We had a very good discussion with her. She mentioned the integrated peer review process. We thought that possibly a good test subject for that would be the American eel stock assessment, which is coming up in late 2011.

The MSC supported the ASC's plan for the training in the future, the stock assessment training for next year. Finally, we had a report from Chris Bonzek for the NEAMAP project. He indicated that all or most of the issues that were brought up in the peer review of the program have either been addressed or being addressed. Any questions at this time?

CHAIRMAN BOYLES: Pat, thank you. Do you have any questions for Pat? There was a recommendation that has come forth from the Management and Science Committee. I would direct

your attention to Bullet Number 7. **It says the Management and Science Committee recommends including forage species estimates in individual fishery management plans as well as including a term of reference to collect and evaluate forage data during stock assessments.** It may be nice to get that in the form of a motion if someone would be willing to make it. Motion by Bill Goldsborough; second by Pat Augustine. Any discussion on that motion? Any opposition to that motion? **That motion carries.**

MR. ROBERT BALLOU: Do we need to take action on the American eel for consideration with the integrated peer review?

CHAIRMAN BOYLES: I suppose we could if anybody would be willing to make that, next to the last hollow bullet on the bottom. Pat Augustine.

MR. AUGUSTINE: Read it and I'll move it, Mr. Chairman. Read it or do you want say Number 7?

MR. LAPOINTE: Mr. Chairman, tell me what an integrated peer review is.

MR. GEER: That was when Helen was speaking, but it is meant as a method to have an external reviewer present during the process of the stock assessment, while we're preparing the stock assessment. There are different levels of that. The approach that Helen presented to us yesterday was a fly on the wall or fly in the soup. They sit there and they listen to what you're going to say and they produce a report afterwards. They're actually in the trenches with you helping you along in the process.

MR. LAPOINTE: **I will recommend that we do an integrated peer review for eel during the next peer review.**

CHAIRMAN BOYLES: Motion by George Lapointe; second by Pat Augustine. Any discussion? I will say this is probably something that is going to cost some money. Anybody got any idea where we're going to get the money?

MR. LAPOINTE: How much?

MR. BEAL: I don't think we have an estimate yet. I think it is something that the Management and Science Committee came up fairly recently. I guess it also depends on whether they're there the whole time and how much time commitment from an outside contractor would it take.

MR. LAPOINTE: Then with that, pending availability of funding; if the seconder will accept that, just so that in fact we can grow our way into that. If it looks like it is going to be a million-dollar venture, we'll do something less; and if it looks affordable we'll try it.

CHAIRMAN BOYLES: I think that sounds reasonable to the group. I want us to be disciplined about going down these roads and realizing all these things come at a cost. I think with that understanding, the motion is to make an American Eel Stock Assessment Integrated Peer Review in 2011 pending availability of funding. Motion by Mr. Lapointe; second by Mr. Augustine. Any further discussion? Pat.

MR. AUGUSTINE: Mr. Chairman, this appears as though it is going to be an ongoing need, as your group believes it is going to be; and if so, when we look at prioritizing needs for the following years, whether it is going to take a year to get this put in place, whether you're going to do it immediately, maybe we can project it into the budget once we get an approximation as to what that is going to be. Mr. Chairman, you might want to look at it from that point of view.

CHAIRMAN BOYLES: Sure, good point, Pat. Any further discussion? Any opposition to the motion? **Seeing none, that motion carries.** Dr. Geiger.

DR. GEIGER: Mr. Chairman, I apologize but in a related issue – and, again, I must have missed it when Helen went over the stock assessment schedule – did we not during the Striped Bass Board meeting agree that we would accelerate the striped bass stock assessment and do one in 2011? I could not recall if that was present on the revised schedule or not. If not, could we at least maybe have some further discussion tomorrow or make an amendment because I thought we had pretty good unanimous agreement that we were going to do a stock assessment of striped bass for the latter part of 2011.

MR. BEAL: Dr. Geiger, you're correct, the striped bass 2001 stock assessment update is not included in this, and it is up to the Policy Board if they're comfortable adding that. At the action plan workshop yesterday the group agreed to include that, and it will be considered at today's business session, so either way it will get into the process for next year.

DR. GEIGER: Okay, but right now I'm led to believe then that we will do a 2011 stock assessment for striped bass based upon what you said, Bob?

MR. BEAL: Yes, assuming it gets included this afternoon when we do the action plan.

CHAIRMAN BOYLES: Okay, Steve Meyers, you're going to start us out with the update on the Cooperative Winter Tagging Cruise, please.

UPDATE ON THE COOPERATIVE WINTER TAGGING CRUISE

MR. STEVE MEYERS: Mr. Chairman, currently we're under a Continuing Resolution. What that means is that at least within NOAA that we're on a very bare-bones budget until we have an effective FY 2011 appropriation. When and how much that money will be coming to us is not known at this time as people are still formulating budgets.

However, our Office of Science and Technology has in the planning process put a marker down for 100K in support of the commission. This will be a good timing for this because we've just instituted a cooperative five-year agreement between the agency and the commission to the tune of – subject to the availability of federal funds, but to the tune of \$22 million over a five-year period. Should and when FY 2011 dollars become available, we will add this to the cooperative agreement.

We have suggested previously in prior meetings that the commission should perhaps review and prioritize research, both needs for the commission and also for available dollars that we are planning collectively to see. We will continue to support the decision of the commission after we have transferred these funds to you for whatever projects you wish to support. Thank you.

CHAIRMAN BOYLES: Thanks, Steve. Any questions for Steve before we call on Wilson? Dr. Laney.

DR. WILSON LANEY: Everyone should have a handout which the staff just provided to you that contains a brief status update for the Cooperative Winter Tagging Cruise. Basically preliminary planning has begun for the 2011 cruise. Four of the principal partners, those being ASMFC; North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries; Maryland DNR Fisheries Service; and the U.S. Fish and Wildlife Service, Northeast and Southeast Regions;

and specifically the Maryland Fishery Resources Office and my office, the South Atlantic Fisheries Coordination Office, have all been contacted and indicated they're prepared to support the cruise with funding and in-kind resources as they have done for the past 23 years.

Duke University Marine Laboratory, which operates the R/V Cape Hatteras, which we have used as the cruise platform in 2004, 2009 and 2010, has advised that vessel is available and they've put the cruise on their schedule for January of 2011. We're still waiting on an indication from our National Marine Fisheries Service partner whether they intend to provide funding for a vessel platform on which to conduct the cruise during 2011. I guess Steve just spoke to that.

By letters dated February 25, 2010, to both the U.S. Fish and Wildlife Service, Northeast and Southeast Regional Directors, Eric Schwaab advised in part "because we anticipate that this request for funding will continue in the future, it is appropriate that we undertake a comprehensive review of the data collection programs upon which the striped bass assessment is based.

"We will ensure that the affected stakeholders will be afforded appropriate participation in this process, including the ASMFC, which is responsible for managing this species under the Interstate Fishery Management Plan. The results of this review will be used to determine future funding priorities." To date, the U.S. Fish and Wildlife Service and partners continue to await the results of that review and any guidance that may issue forth from that.

As a matter of information to the ISFMP Policy Board, the 2010 Cooperative Winter Tagging Cruise, which was conducted on the National Science Foundation Research Vessel Cape Hatteras February 18-25 this year, cost an estimated a minimum total of \$179,921.86. Of this amount, the vessel costs were provided by the National Marine Fisheries Service, and that was \$106,280 or 59 percent of the total.

The remaining 41 percent of that, \$73,641.86, was provided as funding for cruise equipment, supplies, gear transport costs or in-kind services by the principal partners, again those being ASMFC; Maryland DNR Fisheries Service; NCDMF; NMFS, and in that case it is NMFS, the Southeast Fisheries Science Center in Pascagoula, which underwrote some of the costs of transporting our gear from Pascagoula to Beaufort; as well as the U.S. Fish and

Wildlife Service, which also undertook part of the transport costs; and then four additional university partners on the cruise this year, Duke University; East Carolina University; Delaware State University; and North Carolina State University.

The estimated cost is the minimum value because not all the in-kind contributions were enumerated and provided to me for this analysis. In the way of further update, I'll just note that the cruise continues to generate information on multiple species which are under ASMFC and council management. In 2009 we started putting acoustic transmitters in some of the animals that we were capturing.

We tagged 13 Atlantic sturgeon. Those were done in collaboration with Dr. Duane Fox at Delaware State University and his grad student, Matt Breese. Of those 13 that were released during the cruise, 12 of them have been detected in receiver arrays up and down the Atlantic coast. Of 50 spiny dogfish that we similarly tagged during the 2009 cruise, 13 of those were detected during 2010 in an array located off Cape Cod.

This is work that is being done at East Carolina University by Jennifer Cudney Birch who is a PhD candidate under Dr. Roger Ruhleson. You can see we're getting a lot of information back from these fish, and the specific information enables us to assess for the spiny dogfish in particular stock dynamics, stock ID and movement migration rates and so forth.

As far as the striped bass go, during the 2010 cruise we only caught and tagged and released 567 of those. You can look at the attached table to see where that ranks overall. I think that is 18th of the 23 cruises. Because of the change in distribution of those fish moving further offshore and in deeper water, about half of those had to be vented in order for them to descend back to the bottom, and to date we have recaptured 22 of the fish that we tagged this year.

And somewhat to my surprise, the vented recaptures are running three to one over the unvented recaptures, which is kind of interesting. As we continue to get recaptures from those fish, we hope that we will have a nice little experiment that gives us some insight into whether venting does in fact differentially affect handling and release mortality. That is pretty much my report, Mr. Chairman. The Fish and Wildlife Service and partners are prepared to conduct a cruise once again in 2011 pending funding to secure an appropriate vessel platform. I'll be happy to answer any questions.

MR. AUGUSTINE: Great report, Wilson. As usual you do an outstanding job with this cruise activity. Are you still in the process of collecting any otoliths for any of these specie of fish for assessment or are you doing a standard protocol where you just take 5 percent or a limited number?

DR. LANEY: Pat, our protocol on the cruise is that we take random scale samples for aging; and if we have striped bass mortalities, we do sacrifice those fish and take the otoliths as well as the stomach contents and also any tissue samples that we're requested to take. The answer is yes but. We preferentially release those fish alive with a tag in them as opposed to killing them to take the otoliths; but if we have an opportunity to take them, we do.

MR. AUGUSTINE: Thank you, and one final question. Are any of the states in need of otoliths for striped bass; and for any of the species that do die, that you do collect, are those made available for any purposes, for our needs that may help where we have shortage of?

DR. LANEY: The answer is yes. I know Pat Campfield has been working kind of coordinate that program for getting otoliths especially from larger fish because the technical committee is still dealing with that issue of otolith age versus scale age and how to adjust our scale ages especially at the older age classes from about age nine and up. So, yes, any otoliths we collect are available for aging as needed.

CHAIRMAN BOYLES: Thank you, Wilson. Any other questions? We will slide right into the Fish Passage Working Group Report, Steve Gephard

FISH PASSAGE WORKING GROUP REPORT

MR. GEPHARD: The Fish Passage Working Group was established to increase the commission's involvement with fish passage activities. To that end, we were given seven tasks to pursue, and I'm going to give you an update on those seven tasks now. The first task was to develop a policy on passage efficiency for diadromous fishes and develop performance criteria in cooperation with the U.S. Fish and Wildlife Service and NOAA.

Our first step in this task was to consult with these other agencies and state agencies to see if anybody had established policies like this so that we could springboard off of them. And the answer was really, no, there were none. As the working group started to

consider such a thing, I think we understood why there were no policies in place.

There were lot of complications to that, but I think we went into it thinking we might have something that would say, well, we need to have 90 percent effective for upstream passage at fishways or 50 percent here or something like that. It becomes very illusive due to circumstances, and so we still felt that it was important to draft a policy for the board's consideration.

This could be an action for the board if it wished to adopt this, and I'm going to read this statement and this draft policy and make a couple of explanatory comments: **"Fish passage provided for ASMFC-managed species must be safe, non-injurious, timely without undue delay and effective."** This is on the screen.

Effective means that the technical approaches accepted by fish passage experts to be reasonable for the specific application. This phrase we struggled over because we didn't want to be dismissive of new ideas. At the same time we didn't want to embrace crackpot ideas, and there always are some out there.

This is sort of a phrase that tries to not be overly prescriptive but put the burden of proof on the proposal. Continuing onward, "The primary objective is to pass as many upstream migrants as needed to support natural reproduction of anadromous species and colonization of nursery habitat for eels. The most effective method is barrier removal. When removal is not feasible, parties must work together to develop fish passage using state-of-the-art technologies that will support restoration plans based on upstream habitat."

These two sentences, the group felt it was important to always emphasize that barrier removal, whether it be a dam or a culvert, is the preferred way because it accomplishes so much more than any fishway can do, but we're mindful that removal is often not feasible and therefore we must use the state-of-the-art technologies. "It is recognized that, one, the percentage migrant passed at each site will vary based on the watershed specific factors including location within the watershed; species, stream discharge, population size and distribution of required habitat.

"Two, technical knowledge on effective passage design is more advanced for some species than others; and, three, all parties should commit to continued improvement of passage efficiency as technology advances and site-specific information

improves the understanding of restoration in the watershed.”

So, that last sentence, it says, okay, we recognize that there are a lot of unknowns here and variability among the species, but we need to continue to work to improve passage so that even once you have a fishway at a site, it doesn't mean necessarily you're done as new developments arise.

This is not the clean, precise policy on fish passage efficiency that we thought we were getting, but we think it is still helpful. It still provides some sort of reference to people who are looking for guidance on what it means to provide effective fish passage at a barrier. I'll continue with the reporting on the other tasks.

The second task is to prioritize fish passage projects on the east coast. Now, the passage group requested a list of priorities from each state, and we did receive top ten priorities from a number of states. That effort has not yet been completed. We are still gathering those, and we're still struggling with how – once we acquire all of those priorities from the individual states, how we then prioritize them on a coast-wide basis.

However, there are other groups currently working on development of a methodology to help prioritization. Most notable, the Nature Conservancy is working on a project for the Northeast Section of AWFA. It is a northeast connectivity project and it is developing a technique that would – it is sort of formulaic. You take certain values and you plug it in and it allows on a more or less objective way of comparing site to site and allowing these sites to be prioritized.

The values that you plug in depend on the amount of habitat that is going to be opened up. How many species, how many fish, how many contiguous miles of habitat that would be reconnected, all of these things would be considered in this methodology. The fish passage working group felt that rather than for it to struggle and start from scratch to develop such a methodology, it was better to wait until this Northeast Connectivity Project finished its work and we would either use its methodology, which would be preferable, or adapt its methodology for the purposes of ASMFC. That's where we stand right now on this task.

That Northeast Connectivity Project is winding down. A number of us have been involved in that, including myself, and we expect that project to have

some deliverables by early next year. As far as Task Number Two, the working group has sort of put that on hold. Moving on to Task Three, identify effective fish passage approaches; we sort of jokingly referred to it as fish passage for dummies.

What we mean by that really, though, is that we wanted to produce a brief document that provided an overview of fish passage technology, basically what types of fishways. This is an eel fishway, a vertical slot fishway, a fish elevator; these are things that many experts in fish passage are familiar with, but many other people who don't work with this and on day-in and day-out basis, they are not familiar with, so this summary is intended sort of as a layman's guide. It includes a section in which it introduces the reader to the various fish passage technologies with photographic examples of these technologies.

The second part lists each of the ASMFC-managed species, the diadromous species, and which of these technologies has shown to be effective for them, which have been effective and which have not been. It is a 16-page document. It is in your materials. While I would be happy to answer any questions about it, I think I won't go into anymore details on that but encourage you to look at it and get back to any member of the working group if you do have any comments on it.

Task Four was to recommend targets for increasing fish passage in each state, and again we discussed many approaches for this task and realized really quickly it was going to be a challenge. We recognized that each state knows the specific situation of their state better than anyone else, and it was both presumptuous and difficult in some cases for the group as a whole to set targets for individual states.

But, the more we discussed it, we came down with one recommendation, and that was that we would ask the individual jurisdictions to set fish passage targets when developing the shad sustainability plans as required by that fishery's management plan Amendment 3. Now, shad is a great example and a great opportunity because of that Amendment 3, and it could be easily done. Each jurisdiction could say as part of that fishery's management plan that we would be either targeting a certain number of miles that would be opened up for shad or perhaps specific barriers, a number of barriers that would be removed in one way or another with fish passage projects.

While really right now the American shad is the only species that has that sustainability plan requirement,

the same approach really could be taken with all the other species even though there is not that sustainability requirement, so that is something that we're recommending be considered.

Task Five is to initiate an East Coast Fish Passage Plan. The passage group felt that we could not do this until the previous four tasks were done because a comprehensive East Coast Fish Passage Plan really would rely on all of those previous tasks, particularly I think Task 2 and Task Four, so we put that on hold.

For Task 6, this was to develop guidance for navigating the FERC Dam Relicensing Process, and a lot of this thinking came out of the Jacksonville Symposium. It was recognized that traditionally not a lot of marine fisheries agencies had been involved in FERC licensing yet FERC relicensing could be an important avenue for getting fish passage on dams that would benefit managed species so that this seemed to be a logical thing.

We have discussed two options, compiling some existing guidance in a document and also hosting a training workshop that would produce a guidance document. We have starting consulting with FERC relicensing experts in each region and we're going to try to go the first route. We're going to try to develop a document that can be used as sort of a guidance method for anyone involved in this. This is an ongoing effort.

Finally, Task Seven was to consult with the diadromous fish technical committees and ask them to evaluate the positive and negative consequences of providing fish passage. Much of the foregoing conversation assumes that providing fish passage is a good and positive thing and should be done.

We're aware that there are some contrary opinions out there in some case, particularly when there is not good technology for downstream passage of some of those same species; so the concern is that if you let them pass up and they can't pass down, have you done the right thing. In most cases that's probably not a major concern, but we felt that it would be appropriate to take the results of some of these previous tasks that we have talked about and consult with the technical committees on this. This is something that we hope to do in the future.

That's my review of our seven tasks. I will say that we'll continue to plug away on these things with also in light of any guidance the board might have to give us. We'll hope to convene again in the fall of 2011 and possibly in combination with a fish passage

workshop and also more work on this FERC Relicensing Guidance Document. Thank you.

CHAIRMAN BOYLES: Steve, thank you very much for your work, your report as well as that of the Fish Passage Working Group. There was a recommendation on the policy. That policy was submitted to you on the briefing CD. Is there a desire to adopt that at this point? Pat.

MR. AUGUSTINE: Is that it up there, Mr. Chairman?

CHAIRMAN BOYLES: That is the policy that was developed. And I ask the question again; is there an interest in Policy Board adopting that policy? George.

MR. LAPOINTE: Absolutely, Mr. Chairman, because it is consistent with our work on the Atlantic Coastal Habitat Partnership and all those other things. **I will make a motion that we approve the policy;** and being mindful of the question you asked me the last time I made a motion, it doesn't strike me that there are cost implications for this. Yes, I'll make that motion.

CHAIRMAN BOYLES: Motion by George Lapointe; seconded by Pat Augustine. Is there discussion? Leroy.

MR. YOUNG: It would be nice to have a definition of what a fish passage expert is somewhere. We've been building fishways for many, many years. And I think particular of American shad, I would think experts design them, but most of them don't work. That is something I think it would be good to give some thought to how that is defined.

MR. LAPOINTE: Well, I think our fish passage experts – and one of them is right over here has given us a report, and I've got a couple on my staff as well. They're growing their way into their profession just like we are. We've got that famous dam in Brunswick that was a state of the art in 1984 and it doesn't work, so we're now figuring out what the next state of the art is.

I think Leroy's point is well taken, and part of the commitment that Jaime Geiger talked about was keeping people in place who will learn from the fish passage experiences of the past and the mistakes they made and continue to move this forward. It is slow and tough work.

MR. GEPHARD: Your comment about the status of shad passage is noted and I would agree with it, but I think that trying to define what a fish passage expert is is an exercise in futility. Again, I would like to say that we understand there are limits to the art, shall we say, and we've made mistakes.

The idea in that, though, is to make sure that some small dam owner who has an idea about hanging a fishway, an aluminum trough, at a 33-degree angle off of a spillway; I mean, it is not going to last the first high water. And I've had those; I've actually had people promote those things. I think we just wanted to make sure that it was understood that while nobody is an unquestioned expert, we need to have people with some experience in fish passage evaluating these things. It has to pass some sort of straight-face test.

DR. GEIGER: Mr. Chairman, I want to commend Steve for an outstanding report and just mention to the Policy Board that the U.S. Fish and Wildlife Service and University of Massachusetts recently signed a cooperative agreement to develop a fish passage eco-hydrology certification. That MOU was signed.

We currently have six BS fish passage engineers enrolled in the class. They will be receiving a masters in eco-hydrology and well trained in fish passage engineering. We did this in response to a significant request by the Northeast Fish and Wildlife Directors to further develop fish passage engineering expertise. I'm hopeful that this program is going to expand and it will provide some very good, seasoned and expert fish passage engineers for use of you all as we continue to develop fish passage capabilities with the ASMFC jurisdiction. Thank you.

CHAIRMAN BOYLES: Further discussion on the motion? Let me read the motion. The motion is move to provide fish passage for Atlantic States Marine Fisheries Commission managed species that is safe (non-injurious); timely; that is without undue delay; and effective. The motion was by Mr. Lapointe and seconded by Mr. Augustine. Any opposition to that motion? Seeing none, **that motion is adopted.** Let's move on now up to George Schuler is going to talk to us about the Atlantic Coastal Fish Habitat Partnership.

ATLANTIC COASTAL FISH HABITAT PARTNERSHIP

MR. GEORGE SCHULER: I will keep my remarks brief because you are behind schedule and so is the

Atlantic Coastal Fish Habitat Partnership meeting going on down the hall. I do want to mention three things that are not included in my update. One is it has been mentioned over the past two days of the Atlantic Coastal Fish Habitat Partnership meeting that we are extremely thankful for the home and the strong foundation that the commission gives the partnership. Without it, we would not be able to make the progress that I'm about to show you.

Two is that some of the science that we've been working on in the last year and a half actually has kind of come to fruition and the head of our project on the assessment of existing habitat information data base won a national award for that work, so that is exciting. And three is that it is incredibly exciting to see the partnership go from a collection of people in a room to actual projects on the ground with measurable results in places that you all and everyone on the partnership care about.

I'm going to cover a couple of things that are new for us. One is the funded projects, the projects that we funded for FY 10 and the one endorsed project – and I'll explain that – for the past year and the eight or so new project applications that the partnership is reviewing almost as we speak, and then our new website, which is really the portal to the outside world as a source of information for the partnership.

What is really phenomenal in this map, it's hard to see, but there are three colored dots there, the projects that we funded last year that I'll mention in a little more detail. Two were funded projects and the green dot is an endorsed project, meaning that we didn't put any money to it, but we were asked to actually endorse it as the best practice or an emerging best practice that should be encouraged and supported.

And then all the gray dots are actually all of the proposals that we received for FY 11 funding. What is interesting is that collectively they add up to just a hair over \$400,000. That is what they requested in total. While we can't give that much now, it is easy to see that in the foreseeable future the impact of the partnership can be widespread across the region.

One of the projects that was funded this past year – and we just heard an update for it – was Scoy Pond on Long Island, and it was replacing a culvert and restoring some pond access habitat for alewife. This was actually part of a project that had several pieces to it. One was Scoy Pond. Another was Staudinger's Pond.

What was really cool about this was we heard a testimony yesterday that without active funding, this project couldn't have gone forward. We provided that last little link that enabled them to execute this, and right now they're waiting on some specialty culverts to be designed and built and delivered next year, and they're well on their way to actually putting this in place, which is also going to help the New York State DEC reach some habitat goals.

In this project, it was the Peconic Estuary Program of a partner, the Town of East Hampton, DEC, Suffolk County and ACFHP, so it was nice local/state collaboration to make this happen. At the other end of our spectrum was Goose Creek Dam in South Carolina. South Carolina has consistently given us, just as New York has, some really strong projects.

It was the construction of an eel passage over that dam. Again, it was a local and state and federal partnership with Charleston Water System, South Carolina DNR, U.S. Fish and Wildlife and National Marine Fisheries Service. We're leveraging dollars very effectively and getting a long buy-in to execute these projects, and we foresee that continuing.

The last was a partnership between NOAA, Massachusetts Division of Marine Resources, the Nature Conservancy, and it was protecting eelgrass habitat through the use of conservation moorings, this new conservation mooring technology that was developed and tested in Massachusetts. It really looked promising enough that it was something that they requested some ACFHP support for so that they could raise additional funds to expand it to other areas and document the success they've had there and pass on as the best practice.

So all we were able to do last year was about \$90,000 in funding. I will say that the other big thanks goes to the U.S. Fish and Wildlife Service; that while we had a little bit of funding – we had \$90,000 to fund the two projects that we did – we were a little bit short, and the Fish and Wildlife Service made sure that second project would get fully funded and executed. They were able to pick up what we can't entirely fund right now, which has been nice.

In the coming year we'll have \$90,000 to give to projects. The projects have been solicited widely through the steering committee and through the partnership. It has been posted on our website. We received eight eligible projects from Maine to South Carolina. Actually we've just gotten done evaluating the projects and ranking them and making the

decision about what the top two or three are that will go into the Fish and Wildlife Service.

They represent everything from oyster restoration to dam removal in a variety of settings to marsh restoration, so we're starting to see the variety of habitat restoration and conservation projects that we anticipated. We're trying to also make sure that they're falling within priority areas within each of the states that are identified in state wildlife plans, federal refuges and things like that.

The last thing, which is really a link to us both in getting the word out about our RFPs and funding opportunities, is our website, which is up now. It is atlanticfishhabitat.org. What is really cool is we're able to get funding deadlines from other organizations and agencies to make sure they go up there, too, so it becomes a clearinghouse for funding opportunities.

But we're also able to get the word out on projects that have been completed; so not only the ones we've endorsed or funded as a partnership, but we're also soliciting the work that the partners are doing in the field; so in your states and agencies, if there are successes that you would like to share for a variety of reasons, please let us know, send them into the website or Emily Greene, our coordinator, and we'll make sure they get up there, and they can be part of the success story that we're trying to build.

I just want to thank the folks who generated some of the images that we use, Bill Post at South Carolina DNR; Laura Stephenson at New York State DEC; and Lou Terella at NOAA for giving us project examples. This has been a real exciting year because it has gone literally from a bunch of folks in a room who were trying to get organized to actually seeing acres of habitat, miles of streams, acres of wetland enhancer restored, and we anticipate doing more and more in the future. Thank you.

CHAIRMAN BOYLES: George, thank you for that. Any questions for George? Vince.

EXECUTIVE DIRECTOR O'SHEA: It is not a question, Mr. Chairman, so much as a comment. I couldn't help but think this morning during our discussion of status of stocks issue before this Policy Board how concerned the Policy Board members were of the role habitat plays in the rebuilding process.

I can't help but see that interest reflected around the attention of the table today on this topic and the folks paying attention to this. The two are really

connected, and we have really passionate advocates for rebuilding habitat, and it is good that we have George and Emily in this partnership working so hard on something that the commissioners this morning said was very, very important to them. Thank you.

CHAIRMAN BOYLES: Thanks, Vince. Other questions or comments? Senator Altman.

SENATOR THAD ALTMAN: Where are we in terms of funding, in terms of past funding and the funding outlook?

MR. SCHULER: We have actually been using – in 2007 we got a multi-state grant award from the Association of Fish and Wildlife Agencies. It was about a half million dollars and we've actually been very judicious with that. We have stretched it and we have about another year of operating funds that can fund our partnership operations, Emily and the meetings and things like that.

We are counting right now on, in terms of grant programs and giving out funds, money from the U.S. Fish and Wildlife Service through their National Fish Habitat Action Plan, which it looks like it is going to be \$90,000 for this round. I think beyond that we don't know. It depends on the federal climate.

The partnership has been active in also soliciting proposals for new science work as well as we have a scheme to bring in actually a fund-raising professional who is going to work with us, probably on loan from the Conservancy, for several months to develop a business and fund-raising plan so that we can have some financial sustainability in the near future given the financial issues that the federal government and the state governments have.

CHAIRMAN BOYLES: George, again, thank you for being here, good report. All right, with your forbearance, we've got one more item that I would like to cover today for the Policy Board before we convene the business session. A couple of items that I had requested to be put on other business we'll hold over until tomorrow.

Those are the River Herring Sustainable Fishery Management Plan questions as well as the question of long-term science in support of menhaden management. I would next call up Mike Howard to give us the Law Enforcement Committee Report and Otha Easley as well from NOAA OLE.

MR. MIKE HOWARD: Mr. Chairman, could we let Otha go first because he has a plane to catch?

CHAIRMAN BOYLES: Absolutely; Otha, come on up.

MR. OTHA EASLEY: I'll try to be brief. My topic on the paper that is being passed around deals with enforcement's priorities. My name is Otha Easley. I'm the deputy special agent in charge down in St. Petersburg, Florida, for NOAA. This little presentation here should take about two minutes unless you have some questions.

What I wanted to do is give you all an invitation to respond to this process of ours in developing priorities. Back in March of this year, NOAA published an action plan in response to the Department of Commerce's OIG inspection of NOAA's enforcement operations and programs. I'm guessing most of you know about that. One of the aspects of that response deals with a process for addressing OLE's priorities.

The document I sent out here has that process spelled out. Like I said, this is an invitation for you all to respond. The plan is that we will take input from all stakeholders and commissions and councils and NGO's as well as any aspect of the industry as well. In the near future the Acting Director of the Office for Law Enforcement, Alan Risenhoover, will be sending a formal letter to the commission asking for your input. Now, the Law Enforcement Committee to the ASMFC is also doing the same thing, but I would hope that members of this board, predominantly non law enforcement, would have a separate response, and I think that would go a long way.

There are two levels of priorities. One is the priority for the regional or divisional office. As far as the ASMFC here, there will be two regional priorities, one for the northeast and, of course, one for the southeast, and those priorities will be enacted by those respective special agents in charge. Then there is also the national level of priorities for the Office of Law Enforcement as a whole.

I urge you to review this process here. It has some insight into how enforcement will rank low, medium and high, et cetera, and the priorities that you all suggest and some criteria to help justify your reasoning for ranking those priorities in the manner that you do. Do you have any questions?

CHAIRMAN BOYLES: Any questions for Otha? Otha, again, thank you for being here and for the invitation to help OLE in their priority setting. I'm

sure there will be a lot of folks with a lot of ideas, and we appreciate the invitation to participate. All right, Mike Howard, if you'll continue the Law Enforcement Committee Report.

LAW ENFORCEMENT COMMITTEE REPORT

MR. HOWARD: The Law Enforcement Committee met on Tuesday afternoon and this morning and continued their meeting under the chairmanship of Major Steven Adams of Georgia. They proceeded to test out new equipment this afternoon back to Fort Johnson. Some of the key issues that we talked about that I thought would be of interest to you is a VMS update.

Approximately four years ago we started working with our partners in NOAA – well, five or six years ago we started to change the Magnuson Act to allow law enforcement to look at that data. I can say that hopefully, after this meeting that we just had, that all states will be comfortable with the amount of use they have.

We worked out one final glitch in Florida, getting them 20, 30 or 40 more licenses and put the right people in touch with the right people so that it isn't a cumbersome system. They can go right to through their FBI contact and they don't have to shut down to go from one computer to another to get this real-time data. We are very optimistic that their final little glitch in this four-year process is over.

Catch shares update; Jeff Marston gave us an accounting of that. The catch shares implementation leaves the Law Enforcement Committee with some nervousness. It is working fine for New Hampshire. They've received a lot of money for very few boats. I just want to be honest with you, there is a lot of money being spent to monitor very few boats, but we're ready to take this task on and do whatever we need to get feedback.

The Sportfish Registry, we made it through the first year with no real significant problems. There are so minor issues in a few states. Like New York, there is a little lawsuit here and there, just minor stuff for the law enforcement. We only had one push to shove. Of course, we send out the message clearly and we tell people what the law is and they say, "Well, what are you going to do if I don't get it?"

You just walk away from them and, you know – well, one guy just kept refusing to get it, and we kind of already knew the answer. The feds aren't in a position to prosecute any of those this year, but we are working – as this thing gets fully implemented, hopefully every state will have a license and we'll just take this out of the federal purview, and there will be seven dollar license or a ten dollar fine or whatever it is.

This is a data collection thing, we're on your side and we're going to make sure that everybody has got it, but we're not going to push people and shove them around. We're going to enforce the law and knowing the level that it is; it's to bring about voluntary compliance. Tautog, which we will be talking about tomorrow, I do want to tell everybody right now that there is a real issue with tautog, but I'm not sure if we're hitting it on the nail as much as we talk about it.

If boats in several states go out with the uniformed patrols and they catch everybody in this room, they're going to find about 80 percent compliance; give or take 10 percent. They're going to catch a few dummies; you know, one guy just didn't hide it well enough. But if they sit in the bushes and watch the same 80 people, especially shoreside fishermen, a rather broad area, and the fish are there, it doesn't matter which size they are or whatever, the people are keeping them.

They know they need a license and they know what the size is and they know what the creel limit is, and they're hiding them in every conceivable way. Now, I don't want to pick on the one state that reported, but all states agreed that this is a problem especially with shoreside walk-in and walk-out fishermen.

If you tautog that butt up against shorelines in any quantity, it doesn't matter what size it is, they'll hide them in containers, sewn-in containers underneath baby carriages. They're taking hoagie bags and filleting them and wrapping them like hoagies and putting them in sandwich bags. I personally know of one that was caught in a state where they had a fish stringer around the waist of a lady with a skirt on with dozens of them hanging.

This is what keeps law enforcement going, folks, but the message here is that compliance unchecked in this fishery is non-existent. It is just 90 percent rough. If you let the folks go down, they're keeping what they get. Some of it is cultural, some of it is times and its subsistence, but they're accidental dummies.

These folks know they're not supposed to keep them and they're doing everything possible. I've asked for an update at our spring meeting. I'm supposed to get it from several states on the results. But, when they sit in the bushes and they watch, the folks are hiding them, up to 90 percent. I wanted to pass that on to you because it is a serious matter.

I don't know how many states have tautog that come right up against the banks, but I know that Delaware and New Jersey and New York are three states that concern us in that thing. Moving right along, we heard about the EEZ enforcement of striped bass. I didn't have accurate information yesterday, but I had heard the rumor.

Virginia had chased a boat a couple of years ago. There were some problems with it and they chased them clean down to North Carolina and had to get other agencies involved. A NOVA was just issued to that recreational/charterboat for \$35,000; EEZ fishing of striped bass. Major Brett Norton did an excellent presentation. Every one of us in here is using electronics on our management boats and all kinds of boats. He has done extensive research on the use of technology in the marine environment.

If you will look at our summary of minutes when they're published, there will be a powerpoint presentation within that document that goes through a selection process. They have identified laptops, data terminals, cameras and other things that may be helpful to you in choosing electronics on the water. NOAA gave us an overview similar to what you heard. Also, we had a great discussion on the future of fines and summary penalties and we may be asking for some assistance in the future as NOAA continues to rebuild its force and our joint partnerships. I'll take any questions.

CHAIRMAN BOYLES: Thank you, Mike; any questions for Mike? Tom.

MR. McCLOY: Mike, on the tautog violations, is there any sense of whether they are primarily personal consumption or sale?

MR. HOWARD: It would be difficult to totally do that. The sense I get from all the dead catches is they're primarily for personal family consumption. I believe in your state there was 1,000 recreational tautog seized in a very short period of time here recently, the period of time when they come close to shore. Those people had them packaged as if they were for personal use.

CHAIRMAN BOYLES: Any other questions for Mike? Mike, I would like to acknowledge some news – Tom Fote.

MR. FOTE: I think it has gotten more difficult over the years to enforce the laws mainly because of the lack of trust in the system. When we first put the striped bass rules out and we did bluefish and a whole bunch, there was a lot of people that would abide by the regulations and trusted the regulations.

The other problem with the shore-based anglers is that we've raised size limits to where for the most part the only way they can take like scup, sea bass, tautog and everything is by breaking the law because they don't see inshore the size fisheries. I'm not giving excuses, but that is what I see when I talk to people out there.

And, also, I guess because when they see the increase of summer flounder, scup and sea bass, and they us not releasing quotas and not basically relaxing quotas, there has become this distrust that we didn't have 15 or 20 years ago in the system because they thought we were rebuilding the stocks for their benefit. I don't know how we overcome that.

I know when we get back – because the recreational sector back then there was a lot of peer pressure. We would basically tell a person not to keep shorts. Other anglers would do that. They don't do that anymore.

They don't basically peer pressure themselves – each other to basically abide by the regulations like they did 10 or 15 years ago, and that's a shame. That's really one of things I've missed, and I think that truly is – as I said, they have not seen where they've seen any benefits from the increase of stocks.

CHAIRMAN BOYLES: Mike, thank you for your report. Before you get away, I think on behalf of all of the Policy Board we want to thank you. We understand that you are attempting to move on to some greener pastures to make some good use of that nice fly rod that you just won in the fishing tournament. On behalf of the Policy Board we wish you well. We thank you for your terrific service in support of our law enforcement members and in support of the commission. Thank you very much. (Applause)

MR. HOWARD: I just want to say this very sincerely because I don't have to hold anything back, but you don't know what a great opportunity it was

nine years ago to come here. I'm a believer that any personalities can do things for about six or eight years without changing things up or you become stagnant. This is a wonderful opportunity for things to be rethought, new vision to take it to another level. I'm looking forward to see that happen. Thank you all again for the opportunity to serve.

CHAIRMAN BOYLES: All right, Mike, thank you again. That comes to the end of our order of business for today. We've got a couple of other items that we'd like to take care of tomorrow so that we can move on with the business session, which I would like to move straight into immediately upon recess. If there are no objections, we will do that. All right, the Policy Board is now in recess.

(Whereupon, the meeting was recessed at 3:50 o'clock p.m., November 10, 2010.)

THURSDAY AFTERNOON SESSION

NOVEMBER 11, 2010

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission reconvened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, Thursday afternoon, November 11, 2010, and was called to order at 1:15 o'clock p.m. by Chairman Robert H. Boyles, Jr.

CHAIRMAN BOYLES: Good afternoon, everybody. I would like to reconvene the ISFMP Policy Board. We've got several items that were held over from yesterday, so what I would like to do is to revisit the agenda and let you know what I've got on my list and ask if there are any additions.

I would like to get a report out from the LGA meeting; also a discussion on the River Herring Sustainable Fishery Management Plans; a question that came from the Menhaden Management Board regarding service personnel and stock assessment personnel, the long-term plans there; also a discussion regarding the assessment schedules specifically dealing with eels, tautog and river herring. I guess, Wilson, if you are prepared, we will begin with the Habitat Committee Report. Mr. Shirey.

MR. SHIREY: Mr. Chairman, if time allows perhaps we could spend a little bit more time on the original

Agenda Item Number 4 as far as the followup regarding stock rebuilding.

CHAIRMAN BOYLES: Okay, sounds good. All right, any other additions to the agenda? We will move right into it. We had public comment yesterday; is there anybody else who would like to comment before the ISFMP Policy Board? Seeing none, we will go right into Wilson Laney and the Habitat Committee Report.

HABITAT COMMITTEE REPORT

DR. LANEY: Due to time constraints here, we didn't have time to produce a written report, but I'll give you a quick verbal summary of what we did this morning during our half-day meeting. We spent a good bit of time discussing the Deepwater Horizon Oil Discharge Event in the Gulf of Mexico. We had presentations by Kent Smith, who is our Florida representative; Dr. Pace Wilbur from the National Marine Fisheries Service, and myself from the U.S. Fish and Wildlife Service.

We basically talked about the response of the states and the federal agencies to that incident with a view toward trying to determine what we on the east coast could learn from that and with a view also toward trying to put together a useful product for the east coast states that would provide information learned from that experience in terms of what do we need, what would we have liked to have had before that incident occurred that we didn't have when it occurred; and in terms of the response, how could we do a better job, perhaps improve on some things, stage equipment that is necessary beforehand, provide training to staff beforehand and things like that.

Hopefully, we will be cranking out a useful sort of document for the east coast states to be able to learn from that experience. We had a wind energy update pretty much throughout the coast. There are a lot of things going on out there, lots of permit applications being made, a lot of marine spatial planning going on. We're tracking those with a view toward, again, trying to put together useful advice for our partners.

We had updates on the South Atlantic Alliance, on the Atlantic Coastal Fish Habitat Partnership, on the South Atlantic and North Atlantic Landscape Conservation Cooperative. And then we spent a good bit of time going through the Habitat Committee operational task, reviewing the action items from the spring 2010 meeting as well as

reviewing a lot of the tasks which are in the Strategic Plan that are tasked to the Habitat Committee.

We also spent a good bit of time talking about the habitat sections of the various FMPs. I think we have a number of volunteers now. We actually have a draft habitat section for the Atlantic Sturgeon FMP, which is sort of ready to roll. If you recall, you all authorized us to do kind of an Omnibus Habitat Amendment, so we're trying to package a bunch of those together at one time, and we have new volunteers now that will be writing some additional sections and hope to get those out the door in the not too distant future.

We elected a new vice-chair. Dr. Van Dolah will be taking over in the spring as the Chair of the Habitat Committee, so we elected Kent Smith, who is our Florida representative, as the new vice-chair of the committee. That is pretty much the report, Mr. Chairman. I will be happy to answer any questions.

CHAIRMAN BOYLES: Thank you, Wilson; any questions for Dr. Laney?

MR. GOLDSBOROUGH: Wilson, we had a good discussion yesterday here at the Policy Board, and I gather we're going to take up the issue again of how we're doing with some of the stocks that are down and our projections for improving them. During that discussion, the habitat came up on how well we're doing and what we're doing to improve fish habitat.

It was noted that we don't have a whole lot of control over that, but I think it was Dr. Geiger who noted some of the things that we are doing that you've just discussed parts of. The sense I got from the board and from subsequent conversations was that there is quite a bit of interest in leaving no stone unturned in trying to make sure the critical decision-making that goes on up and down the coast that can adversely affect fish habitat, that those decisions are made with full knowledge of the implications for fish habitat because often they're made on economic basis that perhaps are not fully informed of the economic repercussions on fisheries of degrading habitat.

I thought I would bring that up and just see if you had anything you wanted to offer to the board about what we're doing on that, have done, could do, aren't doing so that would inform our discussion.

DR. LANEY: I think, Bill, one thing that we can do is to effectively communicate when we know that there are techniques out there for reducing the impacts of development on ASMFC stocks and the

habitats that they require. That's one of the most important things we can do, and it is very important to communicate it at the local level where a lot of those land-use decisions and permitting decisions are made.

It was driven home to me yesterday while I was sitting in the Atlantic Coastal Fish Habitat Partnership Annual Meeting as Ms. Nancy Vincent was making her presentation about what Charleston has done in terms of basically controlling growth and attempting to control water quality within their watershed; that if every coastal community did what Charleston has done, then that would go a long way towards maintaining the sustainability of ASFMC habitats of interest, to put it in context here.

Charleston has done a tremendous job of forecasting their growth, looking at the impact in terms of impervious surface and what that does on water quality. In their case based on a lot of the work that Fred Holland has done at Fort Johnson, they have determined that if impervious surface exceeds 10 percent in a given coastal watershed, then that's when you start to have degradation.

So Charleston took that to heart and made a very concentrated effort to basically create a green band around the city that is going to preclude a lot of problems in the future. What I think ASMFC can do is to try and communicate those sorts of initiatives out there, and one way we can do that is to take the habitat manager's data base that we created quite a few years ago, which hasn't been updated in some while, and try and update that and make it a useful tool.

In that regard, the other thing that I think we need is to get the habitat coordinator position filled. There was some discussion of that at the committee this morning. Pat pointed out to us that it is not just the Habitat Committee that position staffs. It is also the Artificial Reef Committee and also the Fish Passage Working Group. I know Pat has been trying to pick up the slack during the interim period here when we don't have someone in that position, but the committee would encourage that position to be filled as quickly as possible.

Again, based on our discussions last spring as well as at the present meeting, we feel that when you look at the task in the Strategic Plan and the Habitat Plan, there is ample amount of work there for somebody to do fulltime, so that would be one recommendation that we would have. We would certainly love to hear from the commissioners with regard to any specific

task that you would like to see us undertake. We've produced a lot of useful documents.

A lot of you were surveyed about the utility of those documents in the recent past. I think people are aware those are out there and especially that habitat source document that we did for the diadromous species is being used a lot, and I think it is going to be used a lot in future because it represents such a recent compilation of all the life history information for all the ASMFC species.

CHAIRMAN BOYLES: Thank you, Wilson. Other questions? Wilson, thank you for the work and a good report from the Habitat Committee. Dr. Rhodes, LGA.

OTHER BUSINESS

LEGISLATORS AND GOVERNORS APPOINTEES REPORT

DR. RHODES: We had a meeting November 9th. There were five points that we felt needed to be brought up. The first point is Representative Abbott and Representative Peake were elected as the chair and vice-chair of the legislators. I was elected as the chair of the governors' appointees with Mr. Duren being elected as vice-chair.

Secondly, the LGAs want to commend Mike Howard for all the work he has done for the staff, and we especially appreciate the additional duty he did that went far beyond his work coordinating law enforcement but his work with the hospitality hour, a time for commissioners to get together and meet and greet. We hope that as we try to find a replacement for Mike we can add that to his duties to continue that time for commissioners to get together.

Thirdly, some of the members of the LGA were concerned about not being on certain distribution lists for information and just wanted to make sure that the staff would make sure that the information was distributed to all commissioners, knowing that some pieces of information just need to go to state directors, that there is some sensitive material, that some materials did not reach appointees, so just redoubling that effort to make sure that everyone is included.

Fourthly, the LGAs are requesting – I guess this would be AOC would look at putting a sum a money as a set-aside for special meetings that may need to called in this upcoming year. Since there was a surplus, it was hoped that a sum of somewhere in the

neighborhood of 20 to \$25,000 could be set aside for possible use. It is not recommending that we use it, but if need be it is set aside so there will not be any problem with that.

And, finally, there was a request that we have the staff review the per diem allowance for the meetings and see about getting it more in line with the federal per diem standards which are currently used for hotel and for mileage. Thank you.

CHAIRMAN BOYLES: Thank you, Dr. Rhodes; questions for Dr. Rhodes? Okay, next we will have a discussion on the River Herring Sustainable Fishery Management Plans. Bob, you've got that, I believe.

DISCUSSION OF THE RIVER HERRING SUSTAINABLE FISHERY MANAGEMENT PLANS

MR. BEAL: At the Policy Board meeting in August, the Policy Board passed a motion or followed up on a request from the Shad and River Herring Management Board to discuss the sustainable fishery management plans and definitions of a moratorium and a number of things. The Policy Board, at the summer meeting, passed the following motions: Move to have the Shad and River Herring Technical Committee notify the states that need to put together sustainable fishery management plans for directed fisheries only.

As I explained at the Shad and River Herring Management Board Meeting, there was a discussion – after this motion was passed, a number of commissioners came up to me and kind of were concerned about the intent of this motion and exactly who needed to submit sustainable fishery management plans. I summarized where I thought we were based on my discussions with the commissioners as well as reading through the transcripts of the Policy Board meeting and previous Shad and River Herring Management Board meetings.

I distributed a document that I called the "River Herring Bycatch Clarification." The Shad and River Herring Board reviewed where I thought we were and passed a motion that essentially agreed or that clarified what states and jurisdictions needed to submit sustainable fishery management plans.

I think the point of adding this to the agenda was just to notify the Policy Board that the Shad and River Herring Board took some action. It is not necessarily directly in conflict with the motion passed by this board, but I think it clarified exactly what the states

needed to do. The Shad and River Herring Management I believed passed a motion unanimously that clarified who needed to do the work. The purpose of this is just to note on the record that the River Herring Board took some action and followed up on the Policy Board's discussion from August.

CHAIRMAN BOYLES: Thanks, Bob; so noted. Any questions for Bob? Okay, next we have the issue of National Marine Fisheries Service personnel and their support of stock assessment work in menhaden. Bob, you've got that?

DISCUSSION OF NMFS PERSONNEL SUPPORT FOR MENHADEN STOCK ASSESSMENT

MR. BEAL: The Menhaden Board forwarded a request to the Policy Board relative to the stock assessment and data collection for the Atlantic Menhaden Fishery. As all the folks on the Menhaden Board know, the Beaufort Lab down in North Carolina does the bulk of the assessment work as well as the bulk of the biological data collection for that assessment.

A couple of those scientists, Doug Vaughan and Joe Smith, are going to retire relatively soon. I think Doug's retirement I think is imminent in months and not years. Joe Smith may be going soon as well. The concern that the Menhaden Board had was that the priority and the effort that comes from these two individuals may not be replaced at the Beaufort Lab, and they requested that the Policy Board contact the National Marine Fisheries Service and try to ensure that those two positions are filled and the data and the stock assessment capacity for Atlantic menhaden continue at the Beaufort Lab.

CHAIRMAN BOYLES: With the Policy Board's indulgence, I know that I and the executive director will be at a South Atlantic Fishery Management Council meeting next month in New Bern. I would suggest and submit that perhaps Vince and I could talk to Dr. Ponwith, who is the director of the Southeast Fisheries Science Center, about our concern over this loss of capacity and strong interest in ensuring that the Service staff that. If I can get acquiescence to that approach, will that suffice and we will report back to you. Okay, I see a lot of heads nodding so we will do that. Okay, the next item was a question on the stock assessment schedule. Bob.

DISCUSSION OF STOCK ASSESSMENT SCHEDULE

MR. BEAL: It seems we have a bit of a bottleneck for a couple of the stock assessments that are coming up. The Management and Science Committee and the Assessment Science Committee looked at the upcoming schedule, and they were concerned that the American Eel, the River Herring Stock Assessment and the Tautog Stock Assessment, they're all benchmark assessments with subsequent peer reviews.

Given the individuals that were associated with this and the timing of these, given the resources and stock assessment folks we have, we may not be able to get those completed on time. The current schedule – actually, the suggestion from the Assessment Science Committee and the Management and Science Committee is up on the screen.

They're suggesting that American eel stay with the fall 2011 schedule that it is currently on; river herring is spring 2012, that is the current schedule and they're suggesting that stays on the current schedule; but in order to keep that spring 2012 schedule for river herring, we're going to need some additional assistance from the states.

What they have suggested is that if there is not the additional assistance from the states or stock assessment capacity, then we should swap tautog and river herring. What they suggested ideally is getting more help on river herring, so keeping that with spring 2012, and postponing tautog until the fall of 2012.

This slide kind of highlights some of the key individuals that are doing the heavy lifting on getting these assessments done. The red boxes are the chairs of these committees. The yellow is the folks that are doing a fair amount of modeling to get this work done. As you can see, Laura Lee across the top is the chair of one and heavy lift on two. You've got Jeff Brust in a number of places. Genny is across there.

The bottom line is there are a lot of individuals that are working on a lot of different assessments. This also has striped bass and menhaden assessments up there as well. At the Tautog Management Board what was suggested by the executive director is one solution to this problem might be to keep the schedule for eel and river herring; and rather than doing a benchmark assessment for tautog, do just a turn of the crank, use the peer-reviewed methodology from the last assessment, update the data streams, landings and fishery-independent data and turn the

crank on that assessment. That is one potential way to lighten the load and get all three of these done and get some scientific information back to the management boards.

MR. AUGUSTINE: Mr. Chairman, I mentioned at an earlier meeting today I personally am concerned about the tautog status. If the assessment has been put off, we have a real live problem with that “live” meaning live fish. It is affecting the whole status of the stock. Chris Vonderweidt made in his comments and Jason McNamee that we’re in trouble with them.

The assessments were wrong, the fishing mortality rate appeared to be wrong, and may be in worse shape than we think. We discussed the day before yesterday about getting striped bass again on the market; but when we look at what the amount of effort is going to be in that particular specie of fish, I want to say why is the rush to put it on?

I know why we did it when we were in the meeting. What is the critical nature of American eel? Is the critical nature of American eel such that we have to do it in 2011 for any particular purpose other than satisfying the need to know that the stock is in pretty bad shape and we have taken some very, very aggressive measures to curtail fishing on it.

I guess two or three questions all embodied in one. If we stack-rank those in terms of importance as opposed to being in the cycle that has been established as the time to review, is there any leeway with – and I’ll put it on the table – any leeway with American eel and/or striped bass, considering the amount of effort that it is going to take to address those two?

I just need some clarity, Mr. Chairman. I hate like hell to see the tautog slip again, knowing where we are. The elements that were put on the table as part of the draft addendum indicate we’ve got a lot of work to do in the near future; and to put that off further, it is awful difficult to go back home and say, “Hey, by the way, the heck with you people.” That’s the message and I’m sorry to say that, but can you answer some of those questions, please.

MR. TRAVELSTEAD: Well, I’m not sure I can answer Pat’s questions; I have points of my own.

CHAIRMAN BOYLES: Okay, Bob, to Pat’s point and then Jack.

MR. BEAL: I thought Jack was going to help me out there, but I think for American eel – or I know for

American eel there is no quantitative assessment at the commission right now. We tried it, I don’t know, four years ago to go through a benchmark assessment and peer review and it was not upheld through peer review, so we don’t really have any quantitative assessment to form the foundation for American eel management.

I think, obviously, we can push that back and back and back, but one of the things we talked about yesterday was getting stocks from that list of unknown species to the known species. Even if it’s bad news, we still need something to base the management on. I think the important part for tautog is we’re not necessarily delaying that.

What we’re doing is using the peer-reviewed methodology and doing that in 2011, so you’re getting a new read on the stock earlier than you would if we maintain the current benchmark and peer review schedule. I think on river herring, as everyone knows, there are plenty of eyes looking at what we’re doing for river herring management, so I think it makes sense to keep pushing on that one as hard as we can. They’re all high priorities; you just don’t have the resources to get them all done so you have to make the tough decisions to prioritize.

MR. TRAVELSTEAD: On the screen up there where it says, “Tautog, Fall 2012”, is that when the assessment starts or is that when it is ended.

MR. BEAL: That is when it could end if we did a benchmark assessment.

MR. TRAVELSTEAD: Does that mean you get it through peer review and all of that by then?

MR. BEAL: We should be able to, assuming things go smoothly and the assessment folks are around.

MR. TRAVELSTEAD: I kind of like your idea. I mean, we already have a peer-reviewed process for tautog; why not just turn the crank on that and get us the information that much quicker. We just put an addendum out for public comment and we’re going to need some information I think pretty quickly, and 2012 is not going to be fast enough.

I would support that idea of just turning the crank on the existing assessment next year and using that to go forward. I would not like to see American eel dropped off that list. I think that is one of the fourteen species we’re worried about and need to move ahead on, so I would like to keep that there.

MR. FOTE: If we did a turnkey in 2011, when would we do a benchmark assessment on tautog; would it be put off to 2014?

EXECUTIVE DIRECTOR O'SHEA: There is no guarantee we're going to deliver river herring on time, there is no guarantee we're going to do American eel on time. I think that question, Mr. Chairman, would be further down the road. This is being driven by resources and when people are available, and it depends when they get their existing tasks completed.

Sure, the goal in the future would be to get it done. I think this is going to be part of the new world that we're in, that we're not going to have totally perfect state-of-the-art science because, quite frankly, we don't have the resources to produce that across all species, and in some we have to do some adequate science.

The understanding that I have on a new model on tautog is it is likely to show that the biomass is even lower than what the VPA is going to show, and there is also not much hope that it is going to show a lower F even we go to the new model on tautog. There is no magic thing that we're going to recover the stock with a new model. Thanks.

CHAIRMAN BOYLES: I saw a lot of heads nodding to Jack Travelstead's comment that we look at a turn of the crank for tautog and that we keep the plan that was suggested during the Tautog Board of proceeding. I think I'm seeing heads nod in the affirmative. All right, so noted for the record; that's the way we'll proceed. Bob.

MR. BEAL: Just a quick comment; don't forget the plea from the assessment folks to get more help on river herrings. If we want to get that done by spring of 2012, I think we're going to need some more horsepower on the stock assessment subcommittee.

CHAIRMAN BOYLES: Okay, thanks, Bob, and we'll proceed that way again with a plea to the state folks particularly to let loose the barn, such as it were, for the resources that are available. Seriously, we do need some help. That takes us down to the last item; Mr. Shirey.

FURTHER DISCUSSION OF STOCK REBUILDING PERFORMANCE

MR. SHIREY: Yesterday at the first Policy Board meeting we were discussing what the Policy Board and some of the management boards might be able to do in order to get some of these beleaguered **stocks**

headed in the right direction. I also took to heart what you said yesterday in your speech.

To that effect, I do have a motion that I've prepared and given to Toni that I would like to offer up and see what kind of discussion it would receive and whether or not the Policy Board would consider adopting: **Move that the Policy Board limit proposed options for stock management to only those options that would result in achievement of some level of stock restoration or recovery as determined by technical committee recommendations for all species that are listed as depleted, below target or overfished. Status quo would not be considered a viable option unless existing management options are expected to achieve the desired result.**

CHAIRMAN BOYLES: Motion by Mr. Shirey; seconded by Mr. Goldsborough. Discussion?

MR. FOTE: I'm trying to figure out what that does differently than we do now. A lot of times the technical committee makes some decisions. I'm thinking of weakfish over the years that we would – you know, the fishermen were saying there was a problem, everybody was saying there was a problem, the technical committee was looking at the status of the stock, and going through it and not saying there wasn't that concern until we basically got the peer-reviewed stock assessment that basically said it really was a concern. I'm trying to figure out exactly what this motion accomplishes before I basically put a motion in for the fact of having a motion passed.

MR. SHIREY: Well, I was surprised when I first got involved with the process that status quo – it was told to me that status quo was always an option. For a species that is on a downward trend or obviously overfished or depleted, I was shocked that status would be considered an option. I it oftentimes gives the board an out.

It doesn't hold their feet to the fire or even get it close to the stove. It provides an out and maybe if we do nothing things will improve. In the face of technical committee recommendations or obvious management options that could be made to improve the status of the stock, I think that the board often hesitates and relies on status quo hoping that things will just improve.

MR. DAVID SIMPSON: I'm not sure exactly how to respond. I think our track record is pretty good. I think the gauge that we use to judge success or lack of success is more uncertain even – contains

uncertainty of its own. There is no perfect science, we're not waiting for perfect science, we're never going to get perfect science.

I guess I'm scratching my head trying to figure out what options, in the last two or three years where we've accepted status quo where we recognized that something should be done and we just didn't have the resolve. I can't think of a case. Frankly, the status quo option just completes the range of alternatives to consider so that you're nailed into a 55.5 percent reduction.

I'm concerned about words like depleted – Mark Gibson knows how much I like that word – because if you're at 49 percent and the target is 50 percent; is the stock depleted? Toni is laughing because mostly it is lobster that – you know, something isn't depleted and endangered if it is a thousand pounds less than your 10 million pound target. I'm just wary of it.

I appreciate the intent of it, but I'm not sure I want to be handcuffed into doing something when we truly believe as a management board it isn't necessary. I guess following on that, I probably have been sensitive to too much this week, and I apologize for how that has come out to people. Things like the technical committee telling us they approve things or disapprove things, I think is the wrong tone. They're making recommendations and we are here for a reason and that is to set the policy. It is not just a matter of biology as best we know it. There is a lot more that goes into it and that's why we meet. I'm fond in telling people we wouldn't meet if we were just going to do what the technical committee thought. We would just let them do the fishery management. I think that's only looking at a small part of the whole equation.

CHAIRMAN BOYLES: I wonder, Craig – and let me say I appreciate the spirit within which this is offered and I appreciate your concern that I expressed to the business session yesterday. I wonder if it might be better if you would consider either postponing or withdrawing. If you recall, the outcome of the discussion yesterday was really kind of a bifurcated process, is to kick some of these issues back to the respective management boards but also ask staff to review some of the Charter issues. I'm sensitive to the number of empty seats around the table, quite honestly, right now to take such a significant step. I wonder if you would consider that.

MR. SHIREY: I would consider it. I just wanted to get it out and see what kind of a reception the board would give to it. I also wish there would be a full Policy Board to consider it.

CHAIRMAN BOYLES: So is that an agreement to withdraw by the body? I'm seeing some heads nod. Again, Craig, I think the spirit within which it is offered I think is intriguing and I think it is one of the things that staff will look at as we look at further ways to get us down the road to 2015. Mr. Adler.

MR. ADLER: Mr. Chairman, I was going to say – and if staff is going to take a look at this and sort of think about it – it seems that when a board decides to go out with an addendum, it doesn't usually have to run it in front of the Policy Board. It usually votes to take it out. If everybody had to run their addendum that is going to go out in front of the Policy Board and they would have to check something like this, I think it might hold up, confuse and everything else.

It is a good intention, and I think what was said at the meeting yesterday, it is worth having the board think that way, I think that is good. I think the boards do try, but they have to also take into consideration things other than just what the science – and I don't want to go into my jello and concrete dissertation – on sciences, they do the best they can, but it is only sort of there and managers are faced with that plus everything else, which makes the management – it is not a piece of cake. Thank you.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, it occurred to me that we've been in about a two-year process now of providing stock status reports and management action reports to the Policy Board. I don't think it would be very hard for us to go back, if it would be helpful, comb through those reports and see if in fact if there have even been incidents where boards have, in the face of technical committee advice and other indicators, done the status quo option. I don't think it would be a big lift for us to find that. There shouldn't have been too many incidents. If that would be helpful in discussion, we're happy to provide that to the commissioners.

CHAIRMAN BOYLES: I know I would be interested in seeing that, and I'll look to the maker of the motion for that as well. I think that would be very helpful for discussion. **Let the record reflect that motion is withdrawn.** Again, Craig and Bill, I appreciate the spirit within which that was offered; I really do. A.C.

MR. CARPENTER: If we're finished with that particular issue, in my mind on the same line, I would like to see if there was some way that management board activity on species that are rebuilt, they are above target, the spawning stock biomass or whatever the mechanisms that we have set for not

only the threshold but for the target are exceeded by 180 percent; that we don't need to spend the time, energy and effort micromanaging a species like that when we do have species that do need serious management and we do need far more work on, and I would like to see us try to move in that direction in some kind of fashion.

CHAIRMAN BOYLES: I think, A.C., that is implied as well. I'm certainly sensitive to that because we just heard comments about restrictions on resources. We all know we're being squeezed back home and certainly at the commission as well. Dr. Geiger.

DR. GEIGER: Mr. Chairman, I just want to thank Craig for bringing that motion to the table. Again, I think we're all thinking very hard about your challenge and your charge to this Policy Board. Again, I think rightfully we need to refocus at the appropriate level, and I believe that is indeed the management board.

I would also suggest that when we look and get back to the management board level, we look at the entire suite of tools that a management board can harness, including input from the fish passage committee, including input from the habitat committee. We mention habitat all the time, but we don't really give it I think the focus and the emphasis we need to do on how it could really help specific stocks.

I'm struck about what is going to happen when three dams on the Penobscot River are taken out and over 200 miles of spawning and nursery habitat are going to be opened up in Maine and what that is going to do to anadromous fish stocks in the Gulf of Maine. That is going to be huge. I think every state has those kinds of stories that we need to take advantage of and show – and I think we can show really positive impacts to specific stocks in question.

So, again, Mr. Chairman, I'm looking forward to having those discussions. I appreciate Craig putting that motion on the table. I do think that at the March meeting I would strongly urge us to continue this dialogue in an open session and continuing to put some of these good ideas on the table and continue to hold and urge the management boards to be more inclusive and be more focused on stock recovery and restoration. Thank you.

MR. FOTE: I understand what A.C. was saying, but my problem is when we deal with stocks like scup, sea bass and we'll have summer flounder that are basically recovered, they're not overfished,

overfishing is not taking place, but because of lack of data, that we are basically managing those fisheries because we're stuck in a joint plan as if they were overfished, overfishing was taking place and the stocks weren't rebuilt.

Until we basically get out of that dilemma and to basically handle those stocks for what the stock assessment says, the concerns are really here because that is what is affecting – that's why we sit at a scup or a black sea bass or a summer flounder meeting forever trying to decide what to do because of a lack of data, a lack of what they call acceptable data because of the data-poor workshops. That is one of my concerns.

The other thing I was thinking about when we talking – and Jaime brought it up and I raised my hand, but Wilson had already walked away from the table – when we talk about habitat and we talk about what is going on, I remember when the Habitat Committee was formed. It was Al Goetz and a few of us and Bill and we're sitting here talking about how we wanted to get a Habitat Committee similar to what the Mid-Atlantic Council had in their Habitat Committee and started having joint – I was wondering where Diane is. I know she was up in Gloucester or someplace, but she was one of the original coordinators of that habitat.

We put out some very good white papers during that period of time, and they were important white papers. Lance finally got to figuring what we do with shell or something else. In fact, as some of you know I've been testifying before congress and working on a lot of endocrine disruptors.

I think when we look at the bays and the estuaries, one of the problems we're having is the problem with fish and the understanding of the changes of the sex they're going through and how this is affecting the endocrine disruptors and is affecting a whole wildlife habitat and the environment.

I think it would be behooving the habitat committee to look into it. I know there is more information out there. Every time I look on the web and basically want to pick up a study, there are 42 more. The other day there was one interesting one and I wanted to find some information was they started putting rabbit food in wastewater treatment and for some reason it was removing 80 percent of the –

CHAIRMAN BOYLES: Can you move on, please. Are you complete?

MR. FOTE: I'll leave it at that.

ADJOURNMENT

CHAIRMAN BOYLES: Thank you. Any other business to come before the Policy Board? Seeing none, the Policy Board will be adjourned.

(Whereupon, the meeting was adjourned at 2:00 o'clock p.m., November 11, 2010.)