PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

BUSINESS SESSION

Crowne Plaza - Old Town
Alexandria, Virginia
August 6, 2014

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Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)
Doug Grout, NH (AA)
G. Ritchie White, NH (GA)
Sen. David Watters, NH (LA)
Dennis Abbott, NH, Legislative proxy
Paul Diodati, MA (AA)
Bill Adler, MA (GA)
Robert Ballou, RI (AA)
Mark Gibson, RI, Administrative proxy
David Borden, RI (GA)
Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)
David Simpson, CT (AA)
Dr. Lance Stewart, CT (GA)
Rep. Craig Miner, CT (LA)
Emerson Hasbrouck, NY (GA)
Sen. Phil Boyle, NY (LA)
Brandon Muffley, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
Loren Lustig, PA (GA)
Leroy Young, PA, proxy for J. Arway (AA)
David Saveikis, DE (AA)
John Clark, DE, Administrative proxy
Bernie Pankowski, DE, proxy for Sen.Venables (LA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
John Bull, VA (AA)
Cathy Davenport, VA (GA)
Louis Daniel, NC (AA)
Robert Boyles, Jr., SC (AA)
Patrick Geer, GA, proxy for Rep. Burns (LA)
Spud Woodward, AA (GA)
Jim Estes, FL, proxy for J. McCawley (AA)
Sherry White, NMFS
Wilson Laney, USFWS
Martin Gary, PRFC

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

Staff

Bob Beal
Toni Kerns
Mark Robson
Kate Taylor
Melissa Yuen

Guests

Derek Orner, NOAA
Steve Meyers, NOAA
Galen Tromble, NMFS
Angela Somm, NMFS
David Pierce, MA DMF
Tom Baum, NJ DFW
Russ Allen, NJ DFW
Gordon Colvin, ECS
David Frulla, Kelley, Dye & Warren

Robert Crockett, Richmond, VA
David Sikorski, CCA
Mila Jabeaw, USCG
Arnold Leo, E. Hampton, NY
Raymond Kane, CHOIR
Jeff Pierce, Maine Elver Fishermen Assn.
Angela Young, Maine Elver Fishermen Assn.
Darrell Young, Maine Elver Fishermen Assn.
Donald Lajavic, USCG

The Business Session of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 6, 2014, and was called to order at 1:45 o'clock p.m. by Chairman Louis B. Daniel, III.

CALL TO ORDER

CHAIRMAN LOUIS B. DANIEL, III: I would like to convene the Business Session of the Atlantic States Marine Fisheries Commission.

APPROVAL OF AGENDA

CHAIRMAN DANIEL: In your briefing books you have a tab for the business session. We have an agenda and our proceedings from October. If you will give me the flexibility to add some issues under other business that include the executive committee meeting, small coastal sharks and endangered sea turtles; is there any other business to be placed on the agenda of the business meeting? Tom.

MR. THOMAS FOTE: I think you should point out to people why the business meeting is different than the policy board and with the members. The members are only the 15 states and not the Fish and Wildlife Service and the National Marine Fisheries Service or the Potomac River. A lot of people didn't know that, so I just want to remind you about the business meeting of the full commission.

CONSIDER APPROVAL OF POLICY ON COMMISSIONER FINANCIAL DISCLOSURE

CHAIRMAN DANIEL: Thank you, Tom. All right, actually I'll go to the public to see if anyone from the public would like to address the full commission? Seeing no hands, we'll move right into our first item of business, and that is consider approval of a policy on the commissioners' financial disclosure and conflict of interest. The executive committee met this morning and had a very good discussion, I believe, on the commission's conflict of interest policy.

Basically we had three primary issues that we wanted to discuss. The first was the definition of conflict of interest. What we basically were looking at were four general provisions that dealt with folks having greater than 10 percent interest in the total harvest of a fishery under consideration by the commission; 10 percent interest in the marketing or processing of the total harvest; has a full or partial ownership of more than 10 percent of the vessels used in the fishery; and an employee or representative of a harvesting entity that harvests greater than 10 percent of the total harvest of the fishery.

Those we all agreed were the four categories of circumstances that would result in a conflict of interest. We had also considered two additional ones. Is an employee or a representative of an environmental organization involved in fisheries-related issues; we elected to strike that as being a potential for a conflict of interest.

We also did not believe that just because somebody derives a certain percentage of their income from the fishery under consideration that they should excluded from participating at the board level. The executive committee recommends the four 10 percent criteria be used to define a conflict of interest. The next issue, which I am actually going to go to the third issue first, is the definition of a minor child. We had three definitions to look at. Does everybody have these?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Yes, it was passed out.

CHAIRMAN DANIEL: Okay, good. I just realized may you hadn't seen this. If you turn the page under the definition of a minor child, everybody agreed with number one. There was really no discussion or deliberation under that other than just everybody agreed that number one was the way to go. Yes, sir.

REPRESENTATIVE CRAIG A. MINER: Are you asking a question or are you making a statement?

CHAIRMAN DANIEL: No, I'm making a statement. I'm giving you the executive committee's report on that issue. We all believed that number one was the way to go. Where we got partially wrapped around the axle, but then also had several commenters say

that really this should be discussed at the full business meeting, was on Issue Number Two.

We eliminated Options 3 and 4. One of the reasons that I believe we were – at least I think all but one of us was comfortable removing three and four was the recognition that six – we did not agree to move forward with number six in the definition of conflict of interest. It really limits the opportunity for a commissioner to even have a conflict of interest with just numbers one two, three and four included in the definition.

The big question or the big issue that we have to decide right now is are you comfortable with one, two, three and four; are you comfortable with number one on the definition of a minor child? What I'd like to do now is ask for Spud is going to provide comments on Issue Number 1; and then Dennis will discuss Issue Number 2 and then we will have discussion on those two options and hopefully a motion to adopt that as our Conflict of Interest Policy. With that, I'll first ask Spud if he is ready to make his comments on Item 2.

MR. SPUD WOODWARD: Mr. Chairman, I am ready. I want to speak in support of Option 1 under Issue 2. I believe if the purpose of this policy is to ensure that the public and other commissioners have confidence that an individual that has been deemed to have a conflict of interest is not involved at all in the deliberations leading to a decision that affects a fishery's management option.

The way to ensure that is to have them remove themselves from the process as much as possible; and Option 1 does that. That has that individual step away from the table and be part of the public. They still have the opportunity to speak to the topic from the perspective of a member of the public but not as a member of their delegation.

A couple of things that I believe are important is we do vote as a delegation and we sit in physical proximity to each other; and so I think from a perception standpoint if that individual is there shoulder to shoulder with their colleagues in their delegation, then it would be easy for someone to assume that has had an influence on that decision that is being rendered by that delegation. It is for that reason and for the clarity of it, it is as black and white I think as you can make it. Once something like this happens, we all agree that it's probably going to be a rare event that someone is actually going to be deemed in conflict of interest. That's the reason I support Option Number 1.

MR. DENNIS ABBOTT: First let me say that I was in favor of Option Number 4 as that seemed to be where the LGAs wanted to go at our last meeting in May. However, listening to all the conversations, it became clear that the majority of the executive committee was concerned about legal scrutiny. They felt that one or two kept us in a better position than the other two options.

I also was in favor of number two of the two choices simply that I think that when someone arrives here, they should be able to sit at the table and be part of the discussion but not part of the voting or making motions. Again, I think there was some support also for Option 2; and that's I think when we reached the point where we decided we should bring it to the rest of you folks to see what you had for comments.

I think we should keep in mind that it is probably a very rare thing when this will occur that someone has a true conflict of interest. I think the important thing about the whole matter is that in the first instance that person has to declare the fact that they do have a conflict of interest. That in itself will lead us to where we should be in number two. Again, I'm interested to hear what the LGAs have to say about these two options.

CHAIRMAN DANIEL: Anyone else that is not the executive committee as well; so with that lead-in to this issue, are there comments or a motion on either one? Tom.

MR. FOTE: It is an interesting situation because if the person is a governor's appointee, the governor's appointee has been appointed by that governor and is expected to communicate. As some of you know, I've been told once or twice how to vote from the governor because that's my job that the governor basically contacts.

You are now taking the governor's appointee away from table. I can understand – and that's why I'm looking more seriously at two. Because, the same thing with the legislative appointee; I mean, that is supposed to be representing the state legislator.

If you're going to put these rules out; and if the governor and the legislator has signed off on this Compact, it is not us signing off on the Compact; then maybe we should contact the governors to find out how they feel about – because I know some people look at me like I'm a little crazy, but that is what you're here for.

You've been appointed by the governor of your state to represent him at this table. You're not supposed to be representing any other association, but that's your job. We all have these conflicts of interest when we sit around – except for me since nobody pays me, but that's how it basically happens.

Really, I find this a little difficult with one, which would make them get up and remove from the table because then it basically tells the governors that his representative cannot sit at the table. I think that's a big mistake. If you want to hold them from voting; again, it is a caucus vote so the two people that have not been the governor's or legislative appointee, they can either outvote him or they're not going to listen to their vote. That's up to them to decide, but I feel uncomfortable doing that.

MR. DAVID V.D. BORDEN: I am going to start off with a question; but before I do, I'd just like to note the transparency purpose is yesterday I got elected to be the vice-chairman of the Lobster Committee. I take issue with this 10 percent in one, two and three. I think we should lower it down to 1 percent, and that would eliminate me from being the vice-chairman of the committee. (Laughter)

In a serious note, I thought the discussion at the executive committee was excellent. I thought in particular I'd single out Dennis Abbott for making the point that really a conflict of interest – and I probably went ten times to the Rhode Island Ethics Commission with different individuals and listening to attorneys debate conflict of interest; so I learned a lot just by listening.

The essence of conflict of interest from my perspective is that an individual gets a disproportionate benefit or harm from some action; and that was the point that Dennis made at the executive committee. The first question is for number four; what is the definition of a fishery? If it is viewed in the context of the lobster fishery, the horseshoe crab fishery, the herring fishery, then I don't have a problem with the definition. I think that needs to be clarified.

If that is what the intent is, I think we need to be clear that it's the entire fishery and not – and I'll use an example so everyone is clear. In the lobster fishery there are six or seven management areas. You could argue that one of those management areas is within the entire lobster fishery is like a subset and that the 10 percent is determined based on that subset. That would give you a completely different result. It is the entire fishery; correct?

CHAIRMAN DANIEL: My intent at least was that it would include – you know, it would be an FMP.

MR. BORDEN: Yes.

CHAIRMAN DANIEL: And also an entire species and not divide it up into sectors or fisheries meaning like the pound net fishery or the trawl fishery or the gill fishery, but it is the entire

fishery for that species. And I believe that's the -

MR. BORDEN: And I think that's the way I read it and I think that's the way it makes sense. I just want to point out that this may be problematic. This is not problematic at all. I represent part-time the Atlantic Lobster Offshore Association. In that capacity I would not have any problem meeting this criteria the way it's written.

But if everybody thinks about this for a minute, I bet you can think of examples where we have either a recreational fishing representative or a commercial fishing representative that is going to fall within this. The commercial example would be one of our most distinguished commissioners was Pat White. He did a fabulous job representing the commission.

Maine lands 80 percent of the lobsters in the entire lobster fishery. Pat I think represented 2,500 Maine lobstermen; so he clearly, in his capacity – and I'm just using this as an example. I want to make sure the record is clear; I'm not criticizing him. In his capacity he clearly was representing more than 10 percent of the commercial landings from the entire fishery. Would we want to exclude somebody like Pat because of that requirement?

Then the opposite side of the issue is I can think of some of our recreational leaders being in the position where their constituents may harvest more than percent of a fishery and would we want to exclude them from participation in the deliberations?

I think maybe people around the table have different views on that and I am happy to listen to them; but if that's what the intent is, I'm not sure it is in the best interest of the commission to use number four and maybe we should just limit it to the first three; and then if this develops into a problem, then further refine it. I would like to hear a dialogue on those points.

CHAIRMAN DANIEL: I would like to go back to Issue 2 first and have that discussion; but does that influence the way you feel about Issue 2, Dave?

MR. BORDEN: Excuse me, about the fishery?

CHAIRMAN DANIEL: No. Well, we'll see if there is comment on it. The senator had his hand up, I think.

SENATOR PHILIP M. BOYLE: I find as a senator from New York I don't know about fisheries, I'm learning, but I do know a lot about ethics. I'm the Chairman of the Senate Ethics Committee in New York State. For those of you who don't know, New York is considered probably one of the most unethical legislatures I get a lot of practice.

But we do learn in my years in the legislature that you learn from people who know the business and know the area; and when we're debating a bill on divorce law, we listen to the matrimonial attorneys. When we're debating something on environment, we listen to people who specialize in environmental issues.

I believe that is important here to make sure that those people who know the business – they have their certain perspective, obviously, and sometimes it is a benefit to themselves or their companies, but you take that into account. As long as it is disclosed and we know where they're coming from, then we get information that can help us make a better decision on the issues that we're going to be voting on; and I believe that's the best way to move forward.

CHAIRMAN DANIEL: Thank you very much for that, Senator. I hear the question from Dave and I'd like to get some discussion on that; but I'd like to hold off first until we have more discussion on Issue 2 and whether or not the commission wants to take the position that Commissioner Woodward presented or the position that Commissioner Abbott presented. Ritchie.

MR. G. RITCHIE WHITE: I also attended the executive committee meeting this morning and it was a very great discussion and it was very helpful. I support number two. The only addition I would make to that is that there would be something in place if the commissioner did not announce that he was recusing himself. What happens then?

Is it set into place that the board chair then announces it for him? It is just something that Casey got caught in that kind of situation. I think it is the fairest situation to allow a governor or a legislator that wants someone to sit at this table, that the person sit at the table and have the discussion and then is just eliminated from the voting.

CHAIRMAN DANIEL: The folks at the executive committee that said that the LGAs would have a different perspective on this were right on the money. I'm glad we did this. Emerson.

MR. EMERSON C. HASBROUCK, JR.: I fully agree with Senator Boyle in that I think it's very helpful for us to hear from participants in the fishery and we can learn from them. Further, I would rather hear from those participants with them sitting around the table rather than sitting in the audience. I prefer number two.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I'll second your comments. I think is vital and critical discussion. If you all would indulge me, turn to Page 1 of the handout, please, and note the present rule as quoted by the commission. I'll read it, if I may: "No commissioner shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of official duties." That is in our rules and regulations today.

I would like read for you, if I could, the rule that governs my behavior from the state of South Carolina: "A public official, a public member or a public employee may not knowingly use his official office, membership or employment to influence a government decision to obtain an economic interest for himself, a family member, an individual with whom he is associated or a business with which he is associated." That is a very, very high standard, I would argue.

It's a prohibition and I gather that many of the administrative commissioners have very similar statutes or rules governing their conduct as well. I couple this that governs my behavior as an official of the state of South Carolina with the Code of Conduct that is listed here on Page 1. I think the issue here is really one of durability of decisions.

The question I have for the commission is that if we take Option 2, which is once recused the commissioner will be able to participate in the board/section debate but won't be able to make or second motions, I think many of us recognize that the ability to make or second motions is critical to the deliberations of the body; but there are other ways to influence via discussion the actions of the body.

I think if my colleagues who aren't here from South Carolina were sitting here, they would look at the South Carolina Code and say we need to be very, very clear and very, very bright about this and that we don't need to jeopardize the actions, the decisions and the outcomes of this body by being squishy when it comes to these issues.

I respect of the opinions of those who were interested in hearing the discussion and the debate and the valuable input from not only the commissioners but from the advisors, but I think we put ourselves on a very, very dangerous and slippery slope in violating our own rules, and violating our own rules makes us pretty vulnerable to our actions being challenged and those challenges being sustained in a court of law. I would just ask you all to consider that as we discuss this.

MR. LEROY YOUNG: I have a question and I guess it would be for Bob. Under the current Code of Conduct, is it your feeling that Option 2 would be consistent with that Code of Conduct; and if not, would the Code of Conduct have to

be amended to be able to choose Option 2; and what would that process be?

EXECUTIVE DIRECTOR BEAL: Leroy, I think the vagueness of what is included in the Code of Conduct right now is how this whole dialogue got started. We had some commissioners that folks felt sort of crossed of being able to conduct their business in a fair and impartial manner. Then we had some other commissioners that had a financial interest, but the individuals were still able to be fair and impartial. That is what you guys are wrestling with, obviously.

I think the intent of all of this is to really clarify the sentence that Robert read earlier. If the commissioners feel that the Items 1 through 4 or Items 1 through 3 of the first issue on defining conflict of interest, if that's how you define the conflict of interest, and then Option 1 or 2 in Issue 2; the right combination of those two, I think it's really at the discretion of this group.

If they comfortable with that outcome, then I think it is consistent with the language here. If the commissioners want to change the rules and regulations, there is a process to do that with pre-notification and those sorts of things. My interpretation is that all of this work and debate at the executive committee and the LGA meetings is leading up to interpreting that one sentence.

MR. FOTE: It is really interesting when you look at that one sentence and then you realize that we had a board that consisted of five members of industry and five of the states that had financial interest and that goes back to the Menhaden Board. That was the whole board that voted on many issues; and I think it was right then. I agreed at the point we needed to change it.

But, again, I understand what Robert said, but Robert should understand I'm considered a special officer from the state of New Jersey. This financial disclosure form is a joke compared to what I fill out. It is like 25 pages by the time I fill it out. I also go before the Senate Judiciary Committee to answer any questions they have; and they basically send me after that to be voted on by the full House or the Senate in New Jersey. That's the process we go through.

Then, I swear before a judge and I have to send a notarized certificate in and taking oath before I can be a commissioner. We go through a process to do that. I don't know if every state is the same way, but that is how New Jersey operates. We go through a long process and at any time somebody can go to the House Judiciary Committee, somebody can go to the full Senate and we get appointed supposedly every three years.

That has kind of been a little crazy lately; but, anyway, that's what I'm looking at. I can't accept a dinner from any of you guys sitting around the table in my role as a commissioner when I'm sitting here. I have sat down and somebody wanted to buy me a drink, I says, "Can't do that". Even though we know each other for 30 years, I can buy you a drink, but that's the way it is.

I think we take it seriously and that's part of our job is taking it seriously. That is why I says I feel like two handles part of this problem. I mean, I can only think of all the present boards, maybe one person that's going to be really affected at this time. I don't want to make a policy that affects one person that directly. I think it is unfair because we could look at other people in other ways – and there have been a lot of people that have strong interests and make strong comments because of the people they represent at this table. I think it is a fair way of doing it and sticking with number two.

MR. DOUGLAS E. GROUT: I was one of the executive committee members who was in favor of number two; and I wanted to make people aware of why I supported this. I certainly understand our issue here is that a vote might be taken that will be perceived as a

person who has a conflict of interest has lined up – under Issue Number 1 has somehow influenced the decision of the ASMFC here to their benefit.

One way to do it, as has been forward by Spud and Robert Boyles, is to just remove them completely from the process. My concern with this is that I think that will end up making that commissioner's opinion on this subject less transparent to the public. I believe that is someone is going to be asked to removed themselves for a conflict of interest, then they will come to different commission members' offices or via phone and try and persuade them that way; and that will not be transparent.

If we go with Option 2, we still afford them the ability to present their opinion and to persuade us, but we take away their vote. We take away their vote from their delegation and we take away their vote from the commission; and it is the vote that turns into action here. My concern here is I want to make their opinion completely transparent on this. I'm afraid if we go with number one that we'll lose that transparency.

CHAIRMAN DANIEL: There were several other parts of the discussion that occurred at the executive committee. One was related to I think Tom's point about a governor or a legislator appointing someone that then would be asked to leave the table. I don't have a problem with that in any way, shape or form because I think it's incumbent upon the state to inform the governor that this person has a conflict of interest in a certain fishery and be aware that if you appoint him to this board, that he's not going to be able to participate in the discussion on that fishery. That's fairly easy, I think.

It is up to this commission to make the rules and regulations that govern our ethics. That was discussed at the executive committee, and so I really don't have that as a concern; and that is just me, one vote. The other point that I thought was good was – and I can't remember who made it or I'd credit them with it – they commended Commissioner Grout on the way that he handled the Striped Bass Board Meeting yesterday. He was very cognizant of people going back to the well multiple times.

There was discussion that if we did go with Option 2, then it would be the responsibility of the executive director, if he had a board coming up on a species for which a commissioner had a conflict of interest, to remind the board chairman that he needs to be very cognizant of not allowing that commissioner who is recused under Option 2 from dominating the discussion and speaking eight or ten times on a single topic.

I thought that was reasonable compromise position for Option 2 as long as we all agreed and we can all run a meeting like Doug runs a meeting. I thought that was an important part of the proposal. Another important component of the discussion I felt was the fact that once a caucus began, the recused commissioner needs to go away.

Wherever they go, I don't know, but they go to the back of the room or they go to the bathroom or do whatever, but to not be sitting there chummy with the rest of the caucus as the decision was being made. I thought that was a reasonable request and consideration. As the chairman of the commission, on this issue I feel very strongly that they shouldn't participate in the discussion. I don't think they should be involved in the caucus; and I don't believe they should be involved in the discussion; and that the governors and the legislators that appoint somebody needs to recognize that and understand that in the rare event that we do have a commission that has that issue come up.

While we may only be able to think of one person that fits the criteria right now, that person, bless his heart, has caused me and the former chair a lot effort. We have met with people. It has created a lot of problems for us in how that is handled. We have received

letters from lawyers over the fact that there was a clear conflict of interest.

In my personal opinion, the way that it was handled at the meeting when Mitch sat in the audience and spoke from the public microphone, eel didn't fall off the face of the earth. Everything worked out fine; and Mitch was happy with that decision and the state of Pennsylvania was happy with that decision; and it worked out great. Yes, I'm advocating for Option 1.

I think that is my responsibility as the chairman; but again it sound like the group is leaning more towards Option 2. I think if that is the motion that is made and passed, then I would certainly suggest that the caveats that were discussed at the executive committee on limiting the speaking and moving away from the table during the deliberations or the caucus be considered as a part of that Option 2 as well. I've said my piece. If someone would like to offer a motion because we're not going to come to consensus on this, that would be great; and we can vote it up or down and discuss it from that point on. Walter.

REPRESENTATIVE WALTER A. KUMIEGA, III**: Mr. Chair, I'm happy to offer a motion. On Issue 1, I move that the board adopt on Issue 1, Items 1, 2, 3 and 4; On Issue 2, Item 2; and on Issue 3, Item 1.**

CHAIRMAN DANIEL: Second by Mr. Fote. We have a motion and a second. I don't think we probably need to talk about Issue 3; but I would like some –

EXECUTIVE DIRECTOR: Craig Miner wanted to talk about three.

CHAIRMAN DANIEL: Oh, Craig, I'm sorry, because there is a minor child? (Laughter)

REPRESENTATIVE MINER: As a matter of fact, Mr. Chairman, it is not. I was just trying to I guess reconcile – in light of the motion – reconcile the passage under the Commissioners" Code of Conduct that speaks about have any direct or indirect financial interest and the establishment of what appears to be a 10 percent threshold of financial interest. In supporting this, would it then be your opinion that anything below 10 percent would not in and of itself create the conflict contemplated in the Code of Conduct?

EXECUTIVE DIRECTOR BEAL: Craig, my interpretation – and that is all it is – is that anybody that happens to violate any of the four triggers that are included in this motion for Issue Number 1, definition of a conflict; those are the four triggers that indicate the person would have limited ability to conduct themselves in a fair and impartial manner.

If they don't violate those, then there is a fair level of confidence that those folks could conduct themselves in a fair and impartial way when they're going about commission business. That would be my read on how we've defined conflict of interest. Anything below the 10 percent threshold is okay and is not causing fair and partial participation.

REPRESENTATIVE MINER: One of the things that I've learned being here now for a little while is that some of these species have a direct relationship to others. For instance, if I were owner of an industry that used another species as bait and yet that wasn't my forte, if I reach that threshold of 10 percent – let's say I own 20 percent of the lobster fishery in Connecticut and that fishery used the other species as bait; would I be conflicted out of that other conversation even though that is almost as important as any vote we might take on the size of lobster, for instance?

CHAIRMAN DANIEL: I don't believe so, no, and it wouldn't matter – you could have a 20 percent interest in the Connecticut fishery. That wouldn't be a problem; a 10 percent interest in the Connecticut fishery. It would be the entire lobster fishery for the entire east coast. You would be something if you had a 10 percent interest in menhaden and –

REPRESENTATIVE MINER: But I guess my point here is – and I don't mean to be cute – it may be as kind of simple as we're making it. I think the point that was being made about if you have any direct or indirect financial interest that might create a conflict; I'm not sure that establishing a threshold eliminates this problem. Let me just say that up front.

I also respect the point that was made you can either do this here in public or you can have those conversations in private and what have gained. This is not an easy subject I guess for us to deal with; and I'm willing to try and move forward and reach a resolution. My understanding is, then, if an individual does not reach that 10 percent – and I'll use the word "threshold" rather than "violate" because I would like to think it is not a violation.

It is a recognition that is a threshold that we are going to establish at which a reasonable person might consider your involvement to be a conflict. If you don't hit that 10 percent threshold, it would be reasonably understood that this body would not take someone to task for participating in that conversation because they hadn't hit that trigger.

CHAIRMAN DANIEL: That would be my understanding; but also if you consider the motion in its total, then I think it removes a lot of the concerns there because they would still be able to participate in the discussion and the debate albeit hopefully in a limited fashion from the chairman of the board.

I think that may address Dave Borden's concern about number four in that a commissioner like Pat White that may represent more than 10 percent, we're not losing his counsel on the issues and ideas that come before the board. He just can't vote on it. That may help relieve some of your angst about that based on the motion that's on the floor at this time. Jim Gilmore.

MR. JAMES J. GILMORE, JR.: Mr. Chairman, two points. Remember with the discussion that we had this morning – I don't know if it was clear – is that 10 percent threshold; we're following some of the council procedures from the federal government. There is at least some legal advice from the federal government; and they've been dealing with this longer.

We didn't pull that number out of the air. Secondly – and I think Louis made this point this morning, which I thought what really struck a nerve with me – is that remember there are 45 commissioners around the table. If you've got one commissioner in one state that is maybe participating, but then he is not even allowed to caucus, I really can't imagine – I think Louis put it that individual would be very – it would be amazing that could have that much influence to convince 45 people to change their minds.

There is a lot of buffer build into this whole thing in terms of that happening. I think the minimal risk of having that person at the table to at least bring information to the state caucus, because that's why we was appointed in the first place, I think is helpful. I really think it's mitigated by the fact that he can't participate in voting. Again, I think if you could influence that many commissioners, you shouldn't be on the commission. You should be working and making a lot more money.

MR. ABBOTT: I think we have to realize we know that part of why we're doing this is for legal protection. At least I think that's one of the aims here. Then we turn around and we depend on each individual to declare himself. The commission really doesn't have the ability to determine whether somebody has 10 percent or 15 percent or 5 percent.

I think once the individual makes the declaration either that he doesn't have a conflict or he does have a conflict, it puts the commission in a good position. When we get to the working part of it, number two works good enough at this point for us to move forward. I would like to support the motion.

MR. BOYLES: Mr. Chairman, I'm going to go back to something Jim said. Jim, you're right, I think if one person can influence the outcome of a fishery management decision among 45, they probably don't need to be here. I would caution us to think about the perception of one person sitting at the table, participating in the discussion and whether by making motions or not, that one person may give the motivation to a plaintiff to an aggrieved party outside – and as I said before in my earlier comments, my interests are in durable decision-making; and I just think this is a very, very slippery slope.

I think this is something that – another point to Representative Miner's point; in South Carolina the threshold is very high or very low. I don't know how you'd talk about it, but I could foresee some of my fellow commissioners from South Carolina not breaking the 10 percent threshold; and so we're all good according to Issue 1 as it is laid out there.

But I think a case could be made and perhaps a situation could arise where they are vulnerable to an ethics violation back home because they're here acting in an official capacity. Again, I didn't explain that very well, but I think that for those of you who – I would just like for you to just think about that for a moment; that we could have folks acting in the capacity as a commissioner and not violate the rules as we establish presumably today, but could be vulnerable and culpable for violations back home. I just urge you all to consider those things as we move forward.

MR. ROBERT BALLOU: Mr. Chairman, first, I just want to acknowledge the very thoughtful discussion that has taken place both at the executive committee meeting and here at this board meeting on this very important issue. Second, I want to note my inclination to support Issue 1 or I guess it's Item 1 under Issue 2; but with the caveat – and this is because I've been strongly influenced by the comments today about the inappropriateness of completely removing a commissioner from the process. That phrase has been used several times.

I do not think that is appropriate; and so for me if Item 1 under Issue 2 were amended – and this is in the second sentence, which is at the top of Page 2 – were amended to read that the legislative commissioner, governor appointee or proxy will be afforded the opportunity to comment from the public microphone when recognized – and then the rest of that sentence.

It becomes sort of a distinction without much of a difference, because the commissioner would be afforded the very same opportunity at that end of the table that he or she would be otherwise afforded at some other place at the table to comment on the matter before the full commission, but they would be doing so from a well-defined position having declared their conflict of interest. I say "well-defined"; I mean geographically well defined; and so for me that – as opposed to sitting with the caucus or the delegation, I should say. For that reason I would support an amended version of Item 1. Robert Boyles spoke very eloquently on my reasoning for why I support that.

MR. HASBROUCK: I had a question and I don't know if it came up in the discussion this morning or not; and in some fisheries it will make a difference and some it won't. The 10 percent interest; is that based on pounds landed or value or either one?

CHAIRMAN DANIEL: Pounds. I'd say pounds; it says total harvest. One other real quick point that was made – I'm not trying to influence the decision, but I believe it was Spud that brought up the difference – when we start comparing our ethics rules to the councils, the point was made that at the council level you have an individual vote whereas at the commission you're part of a caucus of votes. I believe we felt there was a distinction there. Adam.

MR. ADAM NOWALSKY: For those of you who participated in the various LGA meetings would know I had a strong support for Item 3 on Issue 2, not asking that person to not be able to deliberate at all. It is very clear that the

position of this board is not in favor of that, so I won't even continue to pursue that.

I will continue to support then Item 2; and I would just offer that the narratives that you offered, Mr. Chairman, about how the most recent issue that basically generated this discussion was addressed. I would go back to the Commissioner Code of Conduct and that the executive committee shall have the authority to consider these allegations of breaches.

It sounds to me that between the committee and the chair they did exactly that; and they came to an acceptable resolution on the matter for the representative in question, his home state as well as in the best interests of that management board. I would offer that in that issue in the absence of any clarification of the Commissioner Code of Conduct; this commission was effective in achieving a reasonable outcome in that scenario.

To therefore further make the restrictions even more so than what they are already, I believe Item 2 takes us far enough and would not support anything more restrictive than that. I hope that the LGAs around the room who supported that in our discussions will continue to support that here today.

MR. LOREN W. LUSTIG: Mr. Chairman, it's wise to ponder the main argument of your critic or in this case our critic because there very well may be a nugget of truth there that we have to grapple with. I believe that our critics will indeed focus on Point 6 or Item Number 6 under Issue Number 1 and object to the fact that we did not grapple with that at all. Perhaps we need to grapple with that as an important measure of our consideration. Thank you.

MR. BORDEN: Mr. Chairman, I don't want to belabor this, but I go back to the point that was made two comments ago that a number of chairmen over the past 25 years had to deal with this, myself included. I think without exception the way the chairmen have handled, it has been pretty appropriate.

In other words, they have taken the individual, they have talked to the other commissioners, solicited input on it and then basically approached the individual and decided on a course of action. Given that kind of history on this; is it necessary to actually take this as an all-or-nothing proposal? In other words, the debate is over these two alternatives.

Both have merits and there have been good arguments presented. Why not just adopt both of them and say that the executive director and the chairman will select one of these alternatives given the situation at the time and then advise the individual with the conflict of interest. In other words, that would be a different way.

It is a way to get by this vote because we obviously have very different views around the table. I just simply point out that there are going to be individual circumstances that will weigh heavily on any determination; and maybe we should give the future chairmen and our executive director the option of picking between these two as to whether it handles the situation. I won't comment further.

CHAIRMAN DANIEL: That's a very interesting concept that does have – with just the 45 commissioners that are around, we're all very different and we may be able to handle one person differently than we might handle somebody else. I think that's a very intriguing comment from Commissioner Borden. Leroy.

MR. YOUNG: The problem I have with that idea is that I don't think it assures that people are treated the same. It certainly won't; and I'm concerned with that perception. It puts a lot of pressure on the chairman to make that kind of a decision.

CHAIRMAN DANIEL: We can handle it. Yes, sir.

MR. JOHN M.R. BULL: Mr. Chairman, I have a question about the actual motion that's on the

table here pertaining to Issue 2, Item 2. If someone has reached the point where they have achieved this conflict of interest status here, I understand completely here not being able to make a motion or a second; but does this motion include a prohibition on participating in a state caucus to influence the state's vote?

CHAIRMAN DANIEL: Yes, in Option 2 it indicates once recused will be able to participate in the board/section debate but will not be able to make or second motions on the issue. It also says that you're recusing him or herself from participating in the caucus on voting.

MR. BULL: I'm sorry; my draft doesn't have that. Thank you.

REPRESENTATIVE MINER: Mr. Chairman, to Loren's point, by eliminating number six from our consideration, to go back and use my example, so if I was a lobsterman in Connecticut and my personal income was a quarter of a million dollars and I was a governor or a legislative appointee to this commission and that did not reach the threshold of 10 percent; I can sit and debate and negotiate with the rest of the commissioners within the caucus of Connecticut and that's of no consequence; it is not considered a conflict.

CHAIRMAN DANIEL: That would be correct.

REPRESENTATIVE MINER: It's a great place, this America.

CHAIRMAN DANIEL: Isn't it, though.

REPRESENTATIVE MINER: Well, I say that in jest; I'm not sure it is. I'm not sure how you can consider something at some threshold just by representation to be a conflict and yet my personal interest – I can tell you if I have that kind of personal interest. On my state financial disclosure form, I'd have a pretty serious problem. I'm concerned about eliminating that from consideration, I guess. I'm not sure what the number is. I'm not sure how you get there; but if you want to talk about a conflict, I think people who are critical of people for a conflict might find that one. Thank you.

MR. BRANDON MUFFLEY: Mr. Chairman, a couple of points and one to that last point. I think one thing is that we haven't really talked about providing the information on where your income comes from and what sort of organizations you're involved with has never been provided by commissioners before; and that is what this document is doing.

That will be available for the public to see, so that information is going to be available for the public to see whether or not they have any sort of financial ties to any particular industry. I do think that is a good step so that people can actually see that and make their own determination on that without dealing with this threshold particular issue. I think that is something to clarify.

And then just two points to the motion, I think; one on Issue 2, Item 2, do we need to have in that language, Mr. Chairman, that you had talked about, that clarification, the number of times that someone might be called upon and that they will remove themselves from the seat during the vote. I don't know if that needs to be added in there or if that's just going to be understood.

Then, lastly, on the four criteria under Issue 2, do we need to put "or" in there? It is not that you need to meet all four of those things. It is an "or"; you need one of those and you are conflict. It doesn't say that anywhere at least that I can tell. It is an "or"; it is not an "and".

CHAIRMAN DANIEL: Yes; I think if there is no objection from the motion maker, we can clarify that language, Brandon. I think that's a good point. As far as the direction to the executive director to discuss with the board chair if there is a commissioner with a conflict of interest; I think we can order that outside the motion; and then a reminder if this motion passes, it would be the intent of the commission to have the

person remove themselves from the caucus when the voting occurs, unless there is objection to the provisions of the option. We've beat this to death. Terry, you haven't spoken on this.

MR. TERRY STOCKWELL: Mr. Chairman, I'll be brief and I just want to address the concern for not including Item 6 in Issue 1. That is specifically – and I'll take as an example my fellow commissioner from Maine, Steve Train, who is not here today because he has gone back to haul his traps. With any percentage of participation in the industry, we will not be able to draw upon his interest to participate and skills and knowledge to participate on the Lobster Board.

The differentiation I see would be him or at least the Maine caucus working with him to recuse himself if there is going to be an individual benefit to him; but I think this commission and the board in general benefits from the expertise that a number of our industry members provide in all of our different boards.

CHAIRMAN DANIEL: Anymore comments; last comment, Bill Goldsborough.

MR. WILLIAM J. GOLDSBOROUGH: Mr. Chairman, I think another small edit is necessary. Actually, I think it's correcting a type. In Issue 2, Item 2, in the language that you read in response to John Bull's question, "he/she is recusing himself from participating in the caucus on voting"; I think that should be "or voting". Participating in the caucus and voting are two different things; and "in the caucus on voting" makes no sense.

CHAIRMAN DANIEL: Well, I guess I see it differently. I guess I see it as the "caucus on voting" is the caucus – when a chairman says, "Do we caucus; do you need to caucus": and at that point we caucus with our individuals; and that is the point in time when the – when they take the caucus, that's when you get up and leave if you have a conflict of interest. It does specifically state, though, that you can participate in your caucus' discussion, if we want to call it a caucus; but in your delegation's three membership, you would be able to deliberate on the issues per the motion; just not participate in the caucus on voting. That made sense to me. Walter.

REPRESENTATIVE KUMIEGA: Should the word be "and"? The "or", it could be "either/or" and "and" is understood to be both; and I think obviously that's our intent.

CHAIRMAN DANIEL: How about in the caucus prior to a vote?

REPRESENTTIVE KUMIEGA: You also need to put the – it needs to be understood that it is caucusing and voting. I mean, what if there is no caucus; what if the other two commissioners happen to be out of the room?

CHAIRMAN DANIEL: Yes; that I understood; that does create a problem; so it should be "and", "caucus and voting". Good point. All right, that's it, we will caucus for 30 seconds. **All right, how about all those in favor of the motion signify by raising your right hand; all those opposed same sign; null, one. You can't abstain from this one; not allowed. The motion carries eight to six to one.** We will see how it works. That's it for that issue.

OTHER BUSINESS
DISCUSSION OF
THE EXECUTIVE COMMITTEE MEETING

CHAIRMAN DANIEL: Now I would like to quickly – I thought I was going to get us back on track, but I'm glad we did that; and see how much fun we have at the executive committee.

It really behoove folks to come to those now because from Paul's leadership and now into mine we're really taking the executive committee meetings seriously. There is a lot of good discussion that goes on there. It is not a closed meeting; and so anybody and everybody

on the commission is welcome to attend those meetings. I can't promise you how much interaction you may have, but at least so far it has gone well with those commissioners that have attended unless I kick them out inadvertently, which I shouldn't have done. Spud.

MR. WOODWARD: Mr. Chairman, I appreciate the discussion on this; and I look forward to the next topic, which I believe is going to be commissioner grooming standards; so I look forward to that discussion, too. (Laughter)

CHAIRMAN DANIEL: I don't know where I would fit there. We had several items at the executive meeting that we did not get to. As soon as we can, I would like to get through that, but I would like to go over – we had some discussion on the use of meeting-specific proxies. We all kind of agreed that the intent and purpose behind the governor's appointee is to have a governor's appointee, a legislative appointee and an administrative commissioner; that a commissioner shouldn't be stacking the deck.

One of the examples given was Paul Diodati may ask David Pierce and Gary Nelson to be the commission members for the state of Massachusetts and then I would bring in Michelle and Laura Lee; and then we would end up having dueling state directors and staff, et cetera, et cetera; so there was just a gentleman's agreement and discussion about meeting-specific proxies and trying to keep those as intended, which is having different representatives from the industry as well as from the state agency.

What constitutes a two-thirds vote with regard to the Services abstaining; we had a good discussion on that issue. One of the things that had come up was the dogfish meeting on allocation. Traditionally the Services have abstained from voting on allocation issues. In that instance, essentially an abstention counted as a no vote; and so that motion failed. The two-thirds majority motion failed because the Services abstained.

I think the point was made that they voted the first time and so their votes should count the second time. I think there was general agreement from the executive committee that that issue remained status quo and that we not address that issue at this time. We want a white paper on it, too, to kind of discuss some various options.

The technical guidelines on consensus building; we discussed that. We had just recently come out with a policy where the technical committees are going to operate under consensus. We kind of changed our mind and recommend that we go back to voting at the technical committee meetings; that they be allowed to provide a minority report if they would like to.

That part of the allure of the technical committees is the vote; and so we need to promote that and have direct – we did not get advice at striped bass because there was not consensus, and that's a problem. The executive committee believes that we should return to voting on issues in front of the technical committee. Doug.

MR. GROUT: One thing I wanted to bring up is this is going to require a change to some of our policy documents; correct? One of the things that I still think – and this was brought up at the executive committee – is that the technical committee should still strive to reach a consensus; but if they cannot, then we're going to take a vote.

CHAIRMAN DANIEL: Correct.

MR. GROUT: Because that's still the preferred way because we want to have one opinion on what the best science is if possible. I wanted to make sure that was clear.

CHAIRMAN DANIEL: Thank you for that clarification; and that was agreed upon by the

executive committee that that statement be in there as well. Tom, you have something on that.

MR. FOTE: Yes; I've had a concern when you basically do all your technical committee meetings on conference calls. Some people, when they're on a call, don't voice up and some people like me get to be a phone hog and we shut other people out. I think what we should try, especially when we're doing a major amendment or something like that, that we really get the technical committee together. I think it is important.

Conference calls are good, but it's not like sitting around a table. In my early years in the nineties I used to go to all the technical committee meetings because I wanted to figure out what we were doing and how it operated. I understood the rules as a governor's appointee I'm just sitting in the audience listening; but it was interesting on how much got decided and how much talk, how models got straightened out, how they went to dinner and talked over dinner how the thing is done.

You can't do that on a two-hour or three-hour or even a four-hour conference call. The whole behavior is different. Also, the governors' appointees most of the time are not notified. I don't get notification by e-mail when they're going to have a conference call. We would be able to go and sit and listen if we want to pay all our expenses to go up there and hear what is going on.

We can't do that if we don't know about it or there is no way of us getting on the conference call; not to talk – you can put us on mute – but to understand the deliberations so we have a better feel when we come to the table if you have the will to sit there four hours listening to a conference call. I think that should be available.

The other one along the same lines is we started doing all these little subcommittees to basically deal with issues. Sometimes the people that aren't sitting on the subcommittee have no idea what is going on or the papers until we get it the day before we come to the meeting. If that subcommittee is meeting and it is going to be done on a conference call, then there should be an opportunity for other governors' appointees or legislator appointees or state directors and just sitting around to be doing that, but the only way we can know about that is if we get a notification that meeting is.

Again, put us on the mute button; we're not part of the subgroup but at least we can listen to the discussion that's going on and make sure there is not hidden agendas or anything else going on. It gives transparency to what is being discussed at both of those meetings. Since we seem to be doing a lot of those conference call type things, I think we should have an open process on it.

MR. DAVID SIMPSON: This is on the voting on technical committee issues. I think generally in science the direction of advisory bodies is to operate under consensus and not on voting because it is not a political thing. I think EPA advisory groups avoid votes. I think that's why we went from a voting type of system to wording toward consensus; and if there is disagreement, you hope that in this case the technical committee brings those perspectives back to the board so that we can make the decision.

I'm not going to be more comfortable if I get science that is the technical committee advice by an eight to seven vote. That's not the nature of science to be voted upon yes or not. I guess the science is sort of evolutionary; but you can imagine if you move the calendar back, if there were a vote among scientists whether the earth was round or flat, it probably at one point would have been voted to be flat; and that would be the scientific advice.

I don't think that's the way to move forward. I'd prefer to stay away from the voting. I know it's frustrating at times. It's difficult for technical people to stay away from the policy

decisions. They get intertwined a lot; and I think the more you move toward voting, the more you encourage that sort of thing, too. My preference would be to stay with the consensus-type approach.

MR. WHITE: Well, I guess taking the other side of the coin; I would view having the vote as a protection for us that the politics aren't entering into it; and an eight to two vote would be important for me. Eight to seven, I agree with you; that would be hard. You'd hear the majority and the minority.

But if I saw an eight to two and I saw that the two votes were let's say in states that were benefitted by a certain direction, I think that's important for us to know. This hasn't come up much at all, so I don't think it is something that's going to be common. It did come up in striped bass; and I think if we had had the vote, it might have saved us a fair amount of time yesterday. There is a possibility of that.

MR. GROUT: Just to make the full commission aware of what changed my mind on this; I was up until recently on board with staying on a consensus basis; but we ran into a situation here where a decision needed to be made for a management action to be moved forward and the decision needed to be made by the technical committee. They couldn't reach a consensus so there was no decision made.

In that particular case I asked the PDT to make the decision to the technical committee. My concern is that if we rely on consensus and they cannot make a decision and it inhibits our progress in managing the fishery; and when it came to that, I became very concerned about the consensus-building process.

CHAIRMAN DANIEL: Yes; a nine to nothing technical committee vote is a pretty powerful thing. An eight to seven technical committee vote is a very powerful thing, in my opinion, because that tells there is a problem that we need to address. Without a consensus, you don't know; or with just the consensus statement, you don't know. Kyle.

MR. KYLE SCHICK: On those eight to seven votes; I think you still can get a consensus on what the feeling is of the committee. It doesn't have to come down on one side or the other; but the minority opinion in an eight to seven vote has just as much validity as the majority opinion. I think getting those two sides, instead of just saying we couldn't come to consensus, that doesn't help us, but to bring the two or three, even, sides of an issue out; and that way we can go through the matter. I think the vote kind of helps bring that out; but on the other hand if it is not an actual vote, then it needs to have all sides to the issue on a consensus of saying this is what we discussed at least.

MR. THOMAS O'CONNELL: I think my main point is whether it is consensus or a vote; I would really like to see the technical committee come forward with the basis of their discussions that are quantified of what the levels of risk and uncertainty are with the options that they're considering. With the Striped Bass Bay Reference Point, I had a very difficult time figuring all that out; and I think the board did as well.

Yes; they weren't able to gain consensus, but I would have really preferred, whether it is consensus or votes, that there is more information on what would be the level of risk to the resource and what is the level of uncertainty if the board does this or that. Ultimately, we've got to make a policy decision and we're not going to have the best available – we're always going to be imprecise in the science, but I think that information would better enable me in making the decisions.

CHAIRMAN DANIEL: There is objection to going back to the voting protocol for the technical committee. Dave.

MR. SIMPSON: I'll save us the pain of revisiting it formerly. I agree completely with what Tom said. I just was sharing that generally in the

U.S., if not the world, scientists don't vote. The Board of Physicians that reviews your case doesn't vote three to two that you should have the surgery or not. They usually do a little more for you. I think the complete picture of all the minds that worked on the question, getting that feedback is really the key.

CHAIRMAN DANIEL: Then can we move forward? Okay, we will update those guidance documents and be sure and present what Doug reminded us of from the executive committee meeting this morning.

AMERICAN EEL ENFORCEMENT EFFORTS IN MAINE

CHAIRMAN DANIEL: The American Eel Enforcement Efforts; Terry, you were going to give a 30-second briefing on that, if possible.

MR. STOCKWELL: Yes, sir. I just wanted to briefly report to the commission that in 2014 the number of violations in Maine were down by 92 percent. In 2013 there were 289 summons and 41 warnings. This year there are 39 summons and 31 warnings. The majority of the summonses were for no licenses. This year there were also 16 summonses for exceeding the quota. Each one of those will not be fishing next year.

ASMFC SUPPORT FOR NON-ASMFC STAFF TO ATTEND CONFERENCES

CHAIRMAN DANIEL: Any questions for Terry? Bob, do you want to discuss the ASMFC support for non-ASMFC staff to attend conferences, educational and/or other career knowledge-building courses.

EXECUTIVE DIRECTOR BEAL: The brief background on this and in the interest of time is that leading up to the AFS meeting the week after next, I believe, we had a number of requests from state scientists for ASMFC to support their travel to Quebec City to attend the AFS meeting. We didn't really have criteria on who we should send or shouldn't send and who we should support and who we shouldn't.

The rule we are using now – and I think it's appropriate – is that if somebody is traveling there in an official ASMFC capacity, such as the technical committee chair or they're presenting a paper directly as a product of a technical committee deliberation, then ASMFC can pick up the tab. If it's somebody that's just going there and they happen to be a member of the striped bass, the eel or the lobster technical committee and there is a symposium on that subject, we probably can't afford to pick up their tab even though it would be great to have all of our technical folks there for symposia that deal with our species.

If everyone is okay with that sort of guideline that we'll pick up the tab if somebody is traveling on more or less official ASMFC business and representing or presenting a paper that directly relates to ASMFC, we can cover their travel. Some meetings are relatively close and it's not a big deal. If some meetings are in Alaska or wherever they might be, those get pretty expensive. Quebec City is actually expensive as well. If everyone is okay with that approach; we'll keep doing that in the future.

AWARDS COMMITTEE UPDATE

CHAIRMAN DANIEL: Any questions or concerns about that? Seeing none, Spud, if you're prepared to give a brief update on the Awards Committee.

MR. WOODWARD: Many years ago the commission established some guidelines for awards specific to technical staff. That was done in recognition that through the conventional annual awards of excellence and the Hart Award, that some of the deserving folks in the technical disciplines were not getting recognized.

Well, the first person that got awarded that was a federal employee that could not accept the award because it was a conflict of interest and they couldn't be sent to a meeting. Since that

time there has been no others; and in fact the annual awards of excellence have really diversified in terms of the nominees to incorporate the technical folks. It is the recommendation of the Awards Committee that we formerly discontinue this technical award that has sort of been on the books but really hasn't been active.

SEA TURTLES LAWSUIT

CHAIRMAN DANIEL: Without objection, we will continue with that. All right, I wanted to real quickly brief – I asked Bob to send out to the executive committee and we can get this out to the entire commission; but last night I was served with a lawsuit by the North Carolina Fisheries Association and the Carteret County Commercial Fishermen's Association suing me in my official capacity, my counterpart with the Wildlife Commission, the secretary of my department, as well as the head of NMFS, Fish and Wildlife Service, Interior and Commerce on our collective failure to adequately and appropriately address recreational interactions with sea turtles.

The remedy from the plaintiffs is essentially to ask for a population assessment of these turtles, but also in the interim to close the recreational fishery within the areas of jurisdiction of North Carolina and the federal councils, so essentially all the states on the east coast at least, until an ITP is developed for the recreational fishery.

I know that could have very significant impacts from Florida to Virginia. I really don't know north of Virginia what kind of interactions with sea turtles they have north or Virginia; probably not a whole lot, but I don't know. It is just a serious issue that everyone should be at least their ear to the ground on and the potential impacts that they could have.

I know that NMFS has already mobilized and begun discussing the case as have folks in North Carolina. What I may do is have our attorney with ASMFC take a look at the complaint as well and maybe provide some tidbits of information, because I think overall – I mean it really involves almost all of us; so just a heads-up. We had a discussion about that this morning as well; so I just wanted to make sure you all were aware of that discussion.

Some folks think this is funny knowing that the potential judge that could hear this case, it would not surprise me all for him to enjoin the recreational fishery until that incidental take permit is accomplished. I don't know how that would work. I'm probably as familiar with it as anybody in this room with observer programs and ITPs; and I can't get my head wrapped around how you would do a recreational incidental take permit and provide the observers that would be necessary to monitor that type of thing. Bill Adler.

MR. WILLIAM A. ADLER: Who sued you?

CHAIRMAN DANIEL: It was North Carolina Fisheries Association and the Carteret County Commercial Fishermen; so two groups from North Carolina. I think the general concern there is the disproportionate impacts of complying with the Endangered Species Act by the commercial fishermen compared to the recreational fishermen.

I think their complaint is that there doesn't seem to be any concern over recreational interactions with endangered species or boat strikes as related to endangered species; but there are significant concerns and ITP is required and an observer is required in commercial fisheries where there are interactions with endangered species.

I think it will be a very interesting case if it actually gets to court; but it could have significant impacts on a large component of the commission. I wanted to make sure you are aware of that.

COMMENTS TO THE NATIONAL MARINE FISHERIES SERVICE REGARDING SHARK MANAGEMENT

CHAIRMAN DANIEL: One other item that I did not get to at the executive committee this morning, but I just wanted to give you a heads-up, but I am providing comments to the National Marine Fisheries Service over shark management.

We requested and I believe this board requested that they not couple the blacknose shark quota with the small coastal shark quota because that acted as a choke species. I don't know the exact numbers, but the quota on blacknose sharks is about 50,000 pounds; and the quota on small coastals is about seven or 800,000 pounds.

We have warned them that we would end up losing our small coastal fishery. If you recall when Toni put up the small coastal sharks, all three non-blacknose coastal sharks are not overfished and overfishing is not occurring. North Carolina has lost about 30 to 50 percent of our small coastal shark fishery because of the closure.

What they did was as soon as the blacknose was caught, they closed the whole thing. That raises a lot of concerns for us. What I'd like to know, and not for discussion here, but if you are in a state, particularly like Virginia or any of the southern states, if you have a small coastal shark fishery – and the primary one I think would be sharpnose sharks – you may interested in seeing this letter and perhaps sending one on your own.

We may be the only ones that have been significantly impacted by that, but we don't have a Shark Board Meeting this week; and it is a pretty significant issue. We also are going to discuss some of the smoothhound issues that are coming up through HMS.

I don't want to belabor the point if we're the only state that is concerned about it; but I have a feeling there may be some other states that have some issues there that have missed out and may want to participate in some discussions since we don't have a board meeting this week. I'll be around. If you want to talk about it, we can talk about it offline. Dennis.

MR. ABBOTT: Dr. Daniel, why do you have so many problems?

CHAIRMAN DANIEL: I can give you the answer I give to the legislators; and that is that we have this remarkable confluence of currents in North Carolina that give us all these different fisheries. We also tend to be the less restrictive state on the east coast in terms of opportunities for our fishermen; and that creates conflicts and concern and consternation, Senator.

When you're trying to manage recreational fish for quality and commercial fish for quantity, it is like managing deer herds for spikes and 12-pointers; you can't do it. They tend to understand that, but, yes, there are a lot of issues in North Carolina notwithstanding the lawsuit, which should make life interesting for the next – well, Paul said five years I may be dealing with this, so we will see what happens there.

I will turn to my vice-chairman to add anything I missed from the executive committee meetings. We're good? I think we covered it all. I like to give you all those updates and heads-ups and thank you for providing all the feedback and comment. Again, I would invite you to attend our executive committee meetings and be familiar. That might save us some time and we wouldn't have to go through this. I know not everybody is going to come so we'll continue to give these updates at the business session. Bob.

MRIP TRANSITION TEAM ISSUE

MR. BALLOU: Mr. Chairman, real quick; Bob, you and I engaged in an e-mail exchange yesterday regarding the MRIP Transition Team

Issue, and you indicated you were going to perhaps bring it up at the executive committee. I'm not sure if this is an appropriate time. I just want to see if Bob has anything to offer on that. Thank you.

EXECUTIVE DIRECTOR BEAL: We kind of ran out of time on that one this morning. For all the state directors, if you remember, I sent you an e-mail ten days or so ago asking for nominations to serve on a transition team for the MRIP Program transitioning from the old program to the new and how can those changes be incorporated in the data collection and assessments and management. The good news is I got a lot of nominations.

The bad news is I got a lot of nominations so I have to narrow it down to a few folks to serve on that. The other sort of moving part of this is the SEDAR Program in the southeast is developing or putting on a workshop September 8, 9 and 10 dealing with MRIP calibration. It is calibrating the old data coming out of the old survey versus the new Site Intercept Survey and how can you calibrate that information.

There are a lot of differing things that have occurred from year to year and how many of those are as a result of the new methodology versus changes in stock sizes and those sorts of things. I was going to sit down with Louis with the list of nominees and try to pick a few that represent the north and south end of the coast and technical knowledge as well as a little bit of managerial knowledge. I have talked to Gordon about good candidates might be like; so hopefully we'll be able to narrow that list down.

COMMENTS REFERENCING ASMFC EXECUTIVE DIRECTOR

CHAIRMAN DANIEL: All right, with that said, I think I have chaired all the meetings today; so I only have myself to blame for being 45 minutes late. For that I apologize, but I do want to take – since this will be the last meeting I chair this week and we've got the full commission here, I wanted to really quickly just let you know that the executive committee, under unanimous consent – and this is not up for discussion – agreed that our new Executive Director Bob Beal was doing an outstanding job; that we're ranking our executive director as does not meet expectations, meets expectations and exceeds expectations. We all agreed that he has exceeded expectations for this year. I wanted to let you know that we did a very thorough and rigorous review of his performance.

We have made a couple of suggestions that we believe will help. One is he will begin to provide a bulleted list of goals of objectives for the next year, which we will see in October; and then after that, each August.

TERMS OF REFERENCE MEMORANDUM FOR TECHNICAL COMMITTEE

CHAIRMAN DANIEL: The other thing that I have asked him to do – and I met with Toni and he at lunch and we had a very good discussion with Doug – is that we're going to start having staff put together basically a terms of reference memo for the technical committee that will be signed off on by the chairman of the board.

If you're a board chairman, at the end of meeting – whatever direction is given to the technical committee, it will be submitted to the technical committee with the chairman's name; and that way staff doesn't run into any conflicts with our state folks at the technical committees when they're trying to run those meetings.

We believe that is a good approach and hopefully it will help staff and make sure that it's clear to everybody where the directions are coming from and that they're coming from the board and not staff. We agreed that we would move forward with that. With that said, I wanted to take this chance at this review period to just say that any comments that you have, feel free to bring to me on the side or to Doug.

Everything I'm hearing is extremely positive both from the commissioners and from staff. I think staff seems to be very pleased with the

performance of the commission; and it shows in their demeanor and it shows in their products. I can't be complimentary enough of the folks that we've seen so far this week have been on point. They've been sharp.

It is almost like they've been scripted to answer questions from the commission; and I'm particularly speaking about yesterday Mike and Katie did a yeoman's job with the Striped Bass Board. That is just a testament to not only the staff we have but to Bob's leadership. We all are very appreciative Bob's efforts, so I just wanted to let you know how everything came out this year.

ADJOURNMENT

CHAIRMAN DANIEL: With that said, we will adjourn the Business Session of the commission.

(Whereupon, the meeting was adjourned at 3:20 o'clock p.m., August 6, 2014.)