PROCEEDINGS OF THE

ATLANTIC STATES MARINE FISHERIES COMMISSION

AMERICAN EEL MANAGEMENT BOARD

World Golf Village Renaissance
St. Augustine, Florida
November 3, 2015

Approved February 4, 2016

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ATTENDANCE

Board Members

Pat Keliher, ME (AA)
Terry Stockwell, ME, Administrative Proxy
Sen. Brian Langley, ME (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)
Doug Grout, NH (AA)
G. Ritchie White, NH (GA)
Rep. Sarah Peake, MA (LA)
Dan McKiernan, MA, proxy for D. Pierce (AA)
William Adler, MA (GA)
Robert Ballou, RI, proxy for J. Coit (AA)
David Borden, RI (GA)
Eric Reid, RI, proxy for S. Sosnowski (LA)
Rep. Craig Miner, CT (LA)
Lance Stewart, CT (GA)
Dave Simpson, CT (AA)
James Gilmore, NY (AA)
Emerson Hasbrouck, NY (GA)
Pat Augustine, NY, proxy for P. Boyle (LA)
Adam Nowalsky, NJ, proxy for R. Andrzejczak (LA)
Russ Allen, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
J. Thomas Moore, PA, proxy for Rep. Vereb (LA)
Loren Lustig, PA (GA)
Leroy Young, PA, proxy for J. Arway (AA)
John Clark, DE, proxy for D. Saveikis (AA)
Roy Miller, DE (GA)
Bill Goldsborough, MD (GA)
Ed O'Brien, MD, proxy for Del. Stein (LA)
Lynn Fegley, MD, proxy for D. Blazer (AA)
Rob O'Reilly, VA, proxy for J. Bull (AA)
Kyle Schick, VA, proxy for R. Stuart (LA)
Louis Daniel, NC (AA)
Doug Brady, NC (GA)
Sen. Ronnie Cromer, SC (LA)
Robert Boyles, Jr., SC (AA)
Malcolm Rhodes, SC (GA)
Pat Geer, GA, proxy for Rep. Burns (LA)
Spud Woodward, GA (AA)
Jim Estes, FL, proxy for J. McCawley (AA)
Thad Altman, FL (LA)
Mike Millard, USFWS
Chris Wright, NMFS
Martin Gary, PRFC

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

Ex-Officio Members

Staff

Bob Beal
Toni Kerns
Mike Waine
Kirby Rootes-Murdy

Guests

Jay Jacobs, House of Delegates, MD
Steve Anthony, NC Marine Patrol
Shaun Gehan, Omega Protein
Jeff Pierce, MEFA
Darrel Young, MEFA
Abden Simmons, MEFA
Arnold Leo, E. Hampton, NY
David Bush, NC Fisheries Assn.
Bill Quincy, Mayflower, SC
Victoria Brown, MD Watermens Assn.
Robert Brown, MD Watermens Assn.

The Atlantic Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the St. Augustine Ballroom of the World Golf Village Renaissance, St. Augustine, Florida, November 3, 2015, and was called to order at 10:15 o'clock a.m. by Chairman John Clark.

CALL TO ORDER

CHAIRMAN JOHN CLARK: Good morning. The American Eel Board is now in session.

APPROVAL OF AGENDA AND PROCEEDINGS

CHAIRMAN CLARK: I would like to start with the approval of the agenda and the approval of the minutes. Do any of the commissioners have any comments or edits to the agenda or the minutes?

PUBLIC COMMENT

CHAIRMAN CLARK: Seeing none there, we will proceed on to public comment. We have been asked by a member of the public to be given the opportunity to speak on an item that is not on the agenda this morning, so I'll now ask Mr. Bill Quimby to come to the public comment microphone.

MR. BILL QUIMBY: Good morning. Thank you very much, Chairman. I will try to keep my comments to a couple of minutes here. I've written some letters to Robert Beal and so forth. Basically as I said earlier, I was going to give you a little history, a chronology about how four people came to visit me in South Carolina in 2009 and wanted to have an eel farm. We've been writing to the state DNR, and we had meetings with them and so forth, and it has really been going nowhere; obviously.

I'm sort of asking really what to do. One of the solutions or one of the ideas that keeps coming up is to help ASMFC learn more about the resource. If there was some way to not allow another five years to pass with no activity, to give a research quota, perhaps, to different states, and have them work with the respective authorities there; to find out really what's going on.

I remember last year, and I didn't speak last year because I'm use to the federal management system, where you can comment during the discussion here. Paul Diodati brought up the fact that the European management system is very interesting. ICES had a big 200 page study, which people from 20 different countries participated in.

These are all things that we can learn from, I think in this management system here. These eels are sustainable. It is really an economic development situation, as far as I can see. I was going to bring up letters. Bill Hogarth has written lately, his frustrations with the whole management system of fisheries in general.

South Carolina had an article in yesterday's paper talking about panning for gold and all the usual things here. But I see on your agenda that you've got a proposal again from North Carolina, and I would think other states also should be able to come and not be handicapped with a multiple year expensive study about the year classes and the status of the eels. I know you've got a lot to cover here, and I thank you for the opportunity to speak, but I think you can sense there has been a little frustration here from people. As I said, I really feel like in a shark tank sometimes with a lot of foreign people coming and saying, where can we build our eel plant? We import, I think two hundred million dollars worth of eels, and we export about 5 million dollars worth of eels. There is a great trade imbalance.

There is a resource here that we can utilize sustainably. Do like Europe and put half of your catch back in the rivers, then you know what we're working with. Anyway, I see you looking

at your watch and I could go on. Thank you for listening.

UPDATE ON THE ENDANGERED SPECIES ACT

CHAIRMAN CLARK: Thank you, Mr. Quimby. Our next agenda item is an update on the Endangered Species Act Listing Determination by the U.S. Fish and Wildlife Service, and that will be given by Mike Millard of the U.S. Fish and Wildlife Service.

MR. MICHAEL MILLARD: I would like to start out by making it clear that in my agency I am not a member of that cadre of endangered species biologists who are well versed in the nuances of the law, but I'll give it my best shot here. As most of you, I'm sure, know by now, on October 8, the Service rendered its decision in response to a petition to list the American Eel under the Endangered Species Act; and that decision, as you know, was not warranted.

If you'll indulge me, I would like to read two sentences out of the listing language, which I think are relevant largely to this group. And I quote, "In terms of recreational and commercial harvest, we continue to acknowledge that sometimes large numbers of individual American eel are recreationally or commercially harvested for food, bait, or aquaculture.

But we conclude that harvest and trade are not threats to the American eel. That harvest is being managed and monitored via existing harvest quotas, licenses, and reporting requirements to insure the species conservation." It goes on, of course. There are notions there that I suspect many of you agree with. There may be a few notions that some of you don't agree with. The finding in total resulted in not warranted. With that, I would be happy to take any questions. That concludes my report.

CHAIRMAN CLARK: Are there any questions for Mike on the determination of not warranted for the ESA listing?

MR. ROB O'REILLY: We're familiar with Atlantic sturgeon, and how in 1998 it was not warranted to be listed, and then by 2012 it was. My question is, what does it take now that there has been this finding to revive it? Can that just occur or is there a time period where that has to occur before another petition could come forward?

MR. MILLARD: I'm unaware, Rob, of any set time period. I think the notion now is that this concludes our response to that petition. To us for now the case is closed, until such time as well, one someone can legally challenge that decision that we just made. Two, another petition could arise.

We could choose to take it up or not, and I'm not quite sure about that decision process; or three, we can internally take the issue up again, if we are convinced that conditions or situations have changed to the extent that it needs revisited again. But until some of those triggers start for us, I believe now that the decision is made and the case is closed for now. I don't know if that helps. There is no automatic time clock that would start that would say, well in five years we're going to take this up again.

CHAIRMAN CLARK: Thank you, any other questions?

MR. O'REILLY: Understanding that there is no automatic reconsideration, are there actions that we can continue to look at that might be helpful to the federal government not going through this process again if petitioned? For instance, if we chose within the next couple of days to open this fishery right up, is that a signal in terms of how the agency might view a future application?

The converse being if we continue to take serious steps to manage this fishery, and if states continue to take serious steps to improve habitat, are those the kind of things that might

help keep this fishery open as opposed to having it listed?

MR. MILLARD: I am out of my comfort zone here with respect to the technicalities of the ESA. But as you know there are five factors that ESA biologists consider when they take up a decision like this; one of which is the inadequacy of existing regulatory mechanisms. Regulatory mechanisms are weighted and investigated heavily during the decision process.

I would guess, again I'm guessing; that if those regulatory mechanisms differ or take on a completely different flavor from the ones that existed when they just went through this process, yes, that will be noted. But as long as those, I guess, mechanisms are thoughtful and prudent I don't see where it would be a problem. I think those two sentences I read speak to the confidence and the good work of this board. I don't see why that would change, I guess.

TECHNICAL COMMITTEE REPORT

REVIEW RECOMMENDATIONS ON MAINE LIFE CYCLE SURVEY DESIGN

CHAIRMAN CLARK: Are there any further questions? Seeing none; we will move on to the next item of our agenda which is Technical Committee report. Mike Waine will take that.

MR. MICHAEL WAINE: Good morning, everybody. I'm filling in for TC Chair, Sheila Eyler so that we could save our trip down here for a short presentation. On the TC report per Maine's Life Cycle Survey, so a little bit of background on where we're at with this. Addendum IV, which is the most recent addendum, requires this Life Cycle Survey for states of the glass eel fishery that exceeds 750 pounds; that currently is the state of Maine.

In June they originally developed a design, reviewed it with the Technical Committee and there were a few challenges with the design, and so ultimately, at the last board meeting we sent the Technical Committee back to review those challenges and try to update the survey design that addressed some of the issues the TC had.

Here we are back again after the TC has done that. A little bit of background on the actual proposal. Maine is planning a 17-year survey on glass, yellow and silver eel life stages. They can commit funding for three years right now, but the plan is to conduct this for a life cycle; which is why you have that longer timeframe.

This is the upstream drainage in Maine, and various field sampling and tagging techniques are going to be used. This table is a little bit hard to read, but the take-home point is this is a very intensive sampling survey. The columns that you see across the table represent the months from April through October. You can see that a lot of these boxes are filled in daily, which means that sampling will occur frequently. In terms of what this life cycle survey intends to do, we're hoping it will create estimates of index of abundance, biomass mortality, and the average length and weight of eels. These are all metrics that are important for us to evaluate the various life stages for eel. Then there are a couple additional estimates for yellow and silver eel stages, which is age structure and presence of a parasitic nematode.

After the state of Maine worked with some of the TC members to get an updated proposal, it went back to the full TC, and they had the following recommendations: first of all commending Maine for the willingness to modify the survey design based on TC input. There are a few other issues that are relatively minor, which the Technical Committee believes can be addressed after the first field season.

In short, basically the TC is comfortable with where the current survey design stands; and after the first year the TC can revisit sort of how the implementation went. As many of us know,

a lot of these survey designs look great on paper. When you go to implement them in the field you are going to encounter some challenges you didn't actually expect.

The last slide here is talking about TC recommendations, and just mentioning that the survey design was specifically designed for this stream in Maine, and may not be directly transferable to another stream. The Technical Committee is recommending that if there are additional life cycle proposals put forth, that they need to be reviewed and approved by the TC.

This is not a one-size-fits-all for all life cycle surveys across the management unit. Like I mentioned, the TC just requests an update from Maine after the first study season so that we can evaluate, sort of the implementation of all the different methods that they are looking at to do this life cycle survey. Just to wrap it up, what we're looking for here is just a Board approval for Maine to implement this life cycle survey, noting the TC recommendations in this report.

CHAIRMAN CLARK: Are there any questions for Mike about the Maine survey or the TC review of the survey? Yes, Ritchie.

MR. RICHARD WHITE: I just wanted to make sure that Mike gave us the name of the stream.

MR. WAINE: You know, I purposely avoided saying that; and Pat, I know you put him up to that.

CHAIRMAN CLARK: Are there any other questions?

MR. PAT KELIHER: Mr. Chairman, I would like to make a motion that the Board accepts Maine's Life Cycle Survey.

CHAIRMAN CLARK: We have a motion to accept the survey by Mr. Keliher of Maine, and it is seconded by Mr. Abbot of New Hampshire. Would the maker of the motion care to discuss it?

MR. KELIHER: Just for the record, Mr. Chairman, it is called the Cobboseecontee Stream, in case anybody was wondering.

CHAIRMAN CLARK: Any discussion of this motion? Seeing none; do we need to caucus or is there any opposition to this motion; let's put it that way. **Seeing no opposition; the motion will be considered passed by unanimous consent.**

We'll move on then to the next item, which is to consider the Addendum IV Implementation Plans.

MR. KELIHER: I just want, for the record, to know that the state of Maine will be bringing information to the Technical Committee regarding conservation credits for efforts the state has done. It is clearly laid out within the addendum that we can identify projects that have been done and completed in the state of Maine, and we have many that we have looked at. We are gathering that information right now, and we'll be submitting it to the Technical Committee. Hopefully, we'll be able to have a discussion regarding that issue at the February meeting.

CONSIDER THE ADDENDUM IV IMPLEMENTATION PLANS

CHAIRMAN CLARK: Okay, now I'll turn it over to Mike for Addendum IV Implementation.

MR. WAINE: Thanks for calling me out, Pat. I'm going to walk through Addendum IV Implementation Plan. It is just a little background on this. Through Addendum IV we implemented a coast wide quota of approximately 907,000 pounds for the yellow eel commercial fishery; which is starting in the current fishing year.

There are two management triggers in the addendum which say if the quota is exceeded by more than 10 percent in a given year, or if the quota is exceeded by any amount for two consecutive years, there is the trigger to implement automatic state-by-state quotas that have already been decided in that allocation for the quotas already in the addendum.

In preparation for the potential triggering of state-by-state quotas, the state submitted implementation plans that basically reported on the following six topics. I'm going to go through these. Sort of bear with me, I contemplated just mentioning them, but I think it is important to highlight a few things.

Just to orient you to this table, which is going to be present in the next couple of slides, the first column is state; the second is the rule making process that occurs in the state. The third is the timeframe of which that rule making occurs; the fourth is the reporting structure that the states plan to use to monitor their quota.

The next column is whether they have a mechanism for overages and transfers, and the following is whether the state has any additional management measures that they plan to use if we end up going with state-by-state allocation. Now, remember that this is a build-on of Addendum III, which we've talked about at a couple meetings now; which implemented the new size limit and some gear restrictions.

There have already been some measures that have impacted the yellow and silver eel fisheries prior to this quota. I'll just try to work through this relatively quickly, sort of highlighting the additional measures that the states are planning. Maine is looking at possible seasons and days out.

The state of Massachusetts is potentially considering closing out hook and line gear over this time period. I'll get into that a little more in another agenda topic. All the others are basically going with what they've already implemented on that side. In terms of New York, there was quite a bit of concern brought up in their implementation plan for a need for an adjustment to the quota through transfers or a management addendum; noting that essentially, the quota that they've been allocated through Addendum IV if we end up triggering it would be inadequate for their fishery.

Connecticut doesn't plan any additional measures at this time. New Jersey is considering limited entry based on the 2007 through 2014 harvest, and possibly some other measures that would control catch within the state; and no additional measures from Delaware at this time. Maryland is going to have a harvester permit by early spring 2016 with a follow up reporting requirement.

That is where this daily harvester reporting is coming from. Nothing more planned in PRC. Virginia is looking at possible seasonal closures and possession limits, and they also have a quota trigger to implement weekly/daily reporting; so basically, a trigger that would say as we get closer to our quota we'll basically increase the timeliness of monitoring.
North Carolina has a pretty proactive program with that same trigger as I described for Virginia that can go to weekly or daily, and they have a good mechanism in place where they can monitor what their catch is in the spring to see if it is going to be a big year for harvest. We're able to identify that.

Then our south reach states, so South Carolina has possible gear restrictions, catch limits or closure, and Georgia is likely to close the commercial fishery if state-by-state quotas are implemented. Their harvest is very small. To the state of Georgia it seems more appropriate to close than to monitor such a small quota.

Then Florida has no additional plans for right now, and there is this issue that I'll talk about in the next slide. Ultimately, what happened was the TC reviewed all these plans that I just quickly ran through; and they recommended the use of harvester reporting to monitor the quota. There is a concern that harvesters in one state could be selling to dealers in another state, and that would result in a potential double counting situation.

The recommendation there was to use harvester reporting so that that doesn't become an issue, and if all states are using harvester reporting there is no possibility for the double counting. Harvester reporting gets at the use of eels for personal use, basically. If a harvester ends up using yields for bait in the striped bass fishery, for example, personally, those eels would not be counted if this was a dealer- based reporting structure.

That was another reason to recommend the harvester reporting. Then in terms of the Board's ability to evaluate whether this trigger has been met, because remember, that we're only going to state-by-state quotas if we meet one of those two triggers, which is in the addendum.

Ultimately, one of the challenges here is getting the landings data early enough within the year so that we can establish whether that trigger has been met or not. The TC recommendation on this was for states to provide an update on what their landings are on February 1st of every year, so that is much earlier than we have been reporting on this fishery, because our compliance reports aren't due until September.

The idea was to get an update in February and preliminary landings being delivered March 1st. The intent of that timeline is so that the FMP and myself could basically compile all these landings and present it to the Board at the May meeting, so that we could establish whether that trigger has been met and identify whether we're going to state-by-state quotas. Ultimately, what we're looking for from the Board is an acceptance of the implementation plans for Addendum IV, and I would be happy to answer any questions.

CHAIRMAN CLARK: Any questions for Mike?

MR. O'REILLY: I'm very familiar with North Carolina and Virginia's reporting schedules, and when it went over to the dealer based reporting, that was accomplished as well. I just want to make sure that the Board thinks that the mechanisms are there throughout the coast to adequately monitor these landings.

We already know that sometimes surprises happen once regulations are put in, and once they change; especially once quotas are adopted. I would just like to get a sense from Mike or even other Board members whether they feel after listening to this presentation, are we really ready for a quota? Maybe we have to be ready, but we still want to know whether it is going to be sound; as far as the monitoring.

MR. WAINE: I'll jump in, but if states want to comment on their individual plans I definitely would recommend that. I'll just remind the Board that through my experiences when we've implemented a quota for the first time, there are challenges that we didn't expect and there is a little bit of a learning curve the first year.
I think some of the mechanisms that the Plan has in place to address that is quota overages, so there is a requirement of payback of quota overages. There is also a mechanism for quota transfers. I'm just highlighting, basically, that there is the accountability with the payback of overages and there is flexibility with the quotas, given the transfer mechanism that is also allowed.

Rob, I realize that doesn't specifically get to, is every state ready for this if it comes down the pipeline, but there are some mechanisms in the

plan. This will help us deal with some of the challenges that we've seen when we've gone to a state-by-state allocation for fisheries for the first time.

CHAIRMAN CLARK: Are you okay, Rob?

MR. O'REILLY: That's fine and that is sort of an after the fact situation in a lot of ways. But I guess the other part is what sense of non-reporting exists right now? Harvesters have been under a system where if they haven't been captured as a data point, then how long is it going to take a lot of those harvesters to know in states that haven't institutionalized some type of harvester reporting program previously? That is probably going to be the challenge. But after the fact, I understand what Mike is saying. The surprises will end up with paybacks and other mechanisms request for transfer. It is just a reality of where we stand, I think.

MR. KELIHER: Mike, I would remind the Technical Committee, if you would please, that going to a harvester based reporting to monitor quota would eliminate the ability to use a swipe card. If this system gets developed and other states use it, that is a dealer reporting system; even though the harvester has the card, it is a dealer reporting process to get that daily information. It would eliminate our ability. We've got a small quota, it is not like it would impact us, but the TC should keep that in mind.

MR. WAINE: Pat, just sort of thinking through the intent of this, so sort of accounting for what the harvesters end up harvesting. I will specifically reference your program and the elver swipe card program. I think that the states could easily use sort of a combination of both dealer and harvester reports to do this.

I think that if there is a good mechanism to match up, sort of identifying harvester from dealer reports, I think that that would sort of satisfy the concerns that the Technical Committee had with the idea that getting at the personal use issue and being able to identify the potential dealing of eels from a harvester in another state. I think there is sort of the intent is there and I think that there is more than one mechanism to get at that intent. But I will obviously bring that feedback back to the Technical Committee, so thanks for that.

CHAIRMAN CLARK: Next question is Dan.

MR. DAN McKIERNAN: Yes, Mike, I'm curious about this concern about harvest in one state being sold to a dealer in another. We have many quota managed species in the commission with state-by-state quotas and challenges of accounting for where the fish are landed and where they come in. This might represent an opportunity for us to open up that issue, kind of universally across the species.

In Massachusetts if a fisherman tends to sell fish to a Massachusetts dealer, trucking it across state lines, we tell them if we catch them; you have to have a dealer's permit to do that. We don't allow a harvester coming from another state to take product from that state and put it against our quota. That's for all species. I don't know how other states are dealing with fluke and sea bass and scup and all that but this isn't new. I guess I'm kind of surprised that the TC raised concerns about that; because we should have figured this out for all the species.

CHAIRMAN CLARK: Dan, if I could take a crack at that. I think the unique nature of the eel business, being that we have for the most part one big buyer of live eels that goes up and down the coast. It is the concern that I've seen that there might be some weird things going on with the reporting, for example in 2014 the final landings as reported through NMFS are over a million pounds, which, of course, would put us into this state-by-state quota had that happened this year.

I asked Mitch what Delaware Valley's landings were last year, or their sales rather, and they had 463,000 pounds of eels that they sold last year. This year they're only up to about 260,000 pounds. They said they have just tons of frozen eels left over from last year; the market has really gone south.

I know, in Delaware, we typically let 20 to 30 percent of the eels that we land go to the bait market. But you put those together with what we know that Delaware Valley is buying, and what we think is going to the bait market. It just seems like a million pounds might be more than is actually being landed. That was, I know one of the curious things there.

MR. McKIERNAN: John, I appreciate that but in New Bedford we have a lot of processing facilities, and many fishermen want to bring their product into New Bedford; so I deal with this all the time and surf clams or fluke and other species. I guess my point is, maybe it is time the Commission and the Policy Board examined what the standards are for transporting product across state lines in a quota managed species. It would help if every state had a uniform policy across states that governed the transport of quota managed species across state lines. I mean it's really ripe for discussion. I take your point though.

CHAIRMAN CLARK: The next question we have is from Jim.

MR. JAMES GILMORE: Just a clarification on New York's implementation plan and well, sort of echoing what Mike said about, I guess maybe I can paraphrase it – some bumps in the road every time we implement quota management. Well, the reason why we put in some concerns about maybe reevaluating transfers and allocations is because if you look at the 2014 landings, and based upon transfer rules and the way the fishery was in 2014.

If we get to this year and the same thing happens, New York will not have an eel fishery, which was not, I think, an intended consequence of this FMP. That really goes back to the fact that we based it on 2010 landings, and in that time New York did not have mandatory landings. At this point in time we did institute mandatory reporting.

We've got four years of data that pretty much shows what our landings are, instead of 15,000 pounds it is closer to 50,000 pounds. We can document that very clearly, but unfortunately right now, that is irrelevant in terms of the way the Plan is. I understand some of the other states the landings or the data is somewhat suspect, whatever. There are a lot of concerns about this whole thing. Something we're not going to resolve today and I think we need to implement this and see the implementation plans.

I'm not sure if it is the right time to request it now, Mr. Chairman, but I think at the February meeting we need to have a much more in-depth discussion about the allocations and the transfers, and maybe some of the dates that we implemented on this so that we could possibly put on a discussion for either a possible addendum to try to correct some of the issues with this. Is that something that we'll need to formally request now or later? What's your pleasure, Mr. Chairman?

CHAIRMAN CLARK: That's a good question. I'll ask you, Mike. Would that be something, I mean should we wait until we actually get to implementation plans here before we start trying to iron out some of these potential problems?

MR. WAINE: It's really at the will of the Board. If the Board wants to revisit this topic at the February meeting, from a personal standpoint, I think that would be the best approach, given the limited time that we have on this agenda at this

meeting. I think Jim had mentioned he wants to look into the issue and talk through with some of the states before this gets brought up as a formal topic. But ultimately yes, that would be sort of the will of the Board to add that to the February agenda.

CHAIRMAN CLARK: I guess what I meant; this would probably require a new addendum wouldn't it, if we're going to bring up some of the issues that Jim is discussing, because they weren't in Addendum IV?

MR. WAINE: I'll try to make my answer really simple. If the Board wants to change the allocations that are in Addendum IV, it would require another addendum to do so.

CHAIRMAN CLARK: Okay, so I think that either way it is best we wait until February to follow up on this.

MR. GILMORE: The only request, just so I understood, was not to initiate an addendum; just to make sure that we include this on the February addendum and we give sufficient time to discuss it, Mr. Chairman.

MR. O'REILLY: This is a little bit of a sore point with Virginia, and it is not a complaint. I understand with the allocation that there were three different attempts to get the best allocation system. But I, too, would like to see that revisited, and for a different reason than Jim, but nonetheless it is important for us to look at that again.

But at the same time I'd hate to wait until February to find out at that point that the Board is not interested in looking at that; because some work has to be done to prepare for that. It would make sense to know there was a consensus of the Board for that item, so that those states that wanted to have information to provide could do so, and be prepared. The transfer system as well, I understand what Jim is asking and I support that.

CHAIRMAN CLARK: Is there any objection from the Board to adding this to the agenda for February for further consideration? Russ, were you the one that had a hand up about this same issue?

MR. RUSS ALLEN: I'm just curious to the Board members that want to revisit the allocation is, where are we going with that? We spent a lot of time coming up with those options for a while with different allocation aspects to them. I'm just curious on what we're trying to do as we move forward. I have no problem going forward with the discussion.

I would like to get an idea of where we're going, because are we just looking at it because some state allocations are too low or they think some other states are too high? Where are we headed with that? That is my question, because we did spend a lot of time going through that. Those members that were on the working group got kind of tired of talking about it, so any help you could give me on that would be appreciated.

CHAIRMAN CLARK: The next question is Bob Ballou.

MR. ROBERT BALLOU: I am not sure if I'm out of order here. I want to return back to this harvester versus dealer reporting recommendation. Is that appropriate?

MR. GILMORE: Just to answer Russ's question. It is very simple. I can even go back to some of the commission's policies or whatever. We're supposed to be using the best data we've got. We used that 2010 data because it was the best we had when we went through this whole effort. Now some of those allocations didn't change much, but we really used one year because it was the terminal year of the stock assessment. Now we've got new data, and I've looked at that data, Russ. Most of it is pretty close in terms of the percentages, but there are a couple of states,

because of just using that one year that were problematic.

New York's intent is very clearly to use the four years of landing data that would increase our quota, or allocations or whatever or percentage of allocations, because that is what we probably should have had, because it really reflects our fishery. We tried to make the argument back when we passed this, is that our estimate was that it was about 40 to 50,000 pounds. But we had to base it on one year's data. Now we can document that that actually is accurate, and that is what we would be looking for through this addendum.

CHAIRMAN CLARK: Rob, is this on the same issue?

MR. O'REILLY: I think my request is based on not the hard work of the working group, I don't doubt that one bit and I know how that must have been. But with the first iteration of what we saw as quotas, by the time we sat down at the next meeting that was swept away, and we had another set. Then we had yet another set.

I will say that each time, speaking for Virginia, there was a lower quota. But my real issue is that I'm not sure everyone saw all three iterations just to really compare and say, yes the last decision by the working group is solid; or was it a case that everyone was worn out with the whole process and wanted to say, you know what, let's go with this. That is my contention with it and that is why I'm making the request.

MR. WHITE: Someone that served on the committee with Russ, we spent a lot of time and a lot of effort and a lot of agony on this. There was a lot of compromise. I think this is way premature to dig this back up again. Allocation is never easy. There are always winners and losers, and we wrestled with that. The committee believed they limited the winners and losers to the least possible amount. I certainly wouldn't support going back into this at this point.

CHAIRMAN CLARK: Thank you, Ritchie.

MS. LYNN FEGLY: This is probably part of the discussion that we would have in February, but we are under this plan right now where if we fire a trigger, we have to almost immediately, well we have to immediately revert to these state-by-state quotas. I just want to place some cautions so that our industries aren't blindsided if we are going to revisit allocation at the same time that we're getting ready to revisit allocation. They kind of need to know what's coming at them. We just need to consider carefully why we're under this trigger scenario, how that's all going to play.

CHAIRMAN CLARK: I think we're starting to have the discussion we would have in February. Let me just hear from the Board, should we wait until February if we want to pursue this further? At this point, since there does not seem to be full consent to just put this on the agenda for February, in that case we would need a motion to add this to the agenda for February, or shall we just see how the agenda develops as we get to that point?

MR. O'REILLY: **I don't mind making a motion to add this to the February agenda to revisit, which may not end up being changed necessarily, but I think we all need to know what happened. Revisit the allocation and the transfer systems.** I have one comment to go along with that and that is, when we compile the allocation schemes, we also at the same time were very aware that with a coast wide cap, we didn't necessarily expect the trigger at that time to be pulled. Now we're sitting in a situation where there is going to be action.

I think that flavors this whole situation a little bit to take a look. Again, it doesn't mean change but I for one am very curious to see how we got from

the first stage of allocation to the last stage. I could collect all the data and do it myself, but I think it would be good for everyone to see that. I do recognize New York's situation throughout the process.

CHAIRMAN CLARK: You made a motion and Jim, you seconded the motion. Who would like to speak to the motion? Do we have any in favor? Okay, well, we have a question?

MR. McKIERNAN: My question is are we talking about New York making a logical case for bringing forward estimates of unreported catch and therefore raising the overall quota, or are we talking about New York and other states trying to reconfigure the pie shares of the allocation scheme.

CHAIRMAN CLARK: I believe it's the latter, Dan, to reallocate what's there. I mean changing the pie; obviously it's in the Board's purview to do that also. But I believe the current discussion is about reallocating what we set as a cap. Does anybody wish to speak to the motion, in favor or against?

MR. PATRICK AUGUSTINE: This is a case where our state did not collect the data or have it collected and evaluated and we're bringing it to the table at a later date, so it is a fairness issue. It is not a matter of whether or not some state, in this case New York, is trying to get more than a fair share.

I do think in all fairness it should be put back on the table to revisit it, and as a part of it have the Technical Committee, one of the options in this would be to have the Technical Committee go back and revisit the distribution. As a second option I think I would like to put on there that we go back and look at a possible state-by-state reallocation as a different issue.

MR. KELIHER: Knowing how much work went into the subcommittee discussions and then if my recollection is right, a day and a half of arm wrestling here at this table. It concerns me to open this up, and I think I will remind the Board that we're talking about yellow eels here. This was all done in context with all life stages of the species, including elvers. I would certainly like a little bit more elver quota while we're talking about this. I mean is that where we want to go, I don't think so. I'm very concerned about this approach, and would not support the motion.

MR. GILMORE: Well, maybe this will serve as the poster child of one of the things we need to do, is if we're going down quota management for many of our species, we're going to have to be able to adjust them. We have too many species that we – quota management isn't something that is set in stone, it violates the substance and the basis of fisheries management.

You have to be able to get new data and be able to adjust stuff. As much as I agree, and I know the working group went through a lot of hell trying to get these allocations identified. But we're talking about valid data. It is actually what Dan had said. I think it was actually Option 1. If we had a new stock assessment it would be nice to be able to increase the total of the coast wide quota and then reallocate, and maybe we'll get to that point. But we're going to have to figure out when we get new data, how we're going to be able to use that to adjust things over time. We just can't leave it; well, we did it we're never changing it again, because it is difficult. I'm very much in favor of the motion.

DR. DANIEL: I had to step out for just a minute so if it has already been said, I apologize. But certainly we were happy with the allocation in North Carolina. I know that if it changes then ours is going to absolutely go down. I think we have a bigger issue here aside from just eels, and that is with these quota managed species and the problems that it is creating for us at the end of the year in trying to do allocations.

We get asked a lot for different species, and we're always willing to provide bluefish and other species to other states. But we run the risk of getting the fishery shut down. One of the policy decisions that I think is even more important than this one, is to somehow reassess and refigure how we do our quotas, so that we come to the end of the year and if we're whole and we haven't gone over the quota we're good.

That way you don't have to do all these transfers of quotas that take up a lot of staff time to develop, when we know we're probably going to end up with under harvesting eels this year and next year, based on the market conditions and yet New York is going to have to close their fishery, because they feel like they might not have had the best shot at the last allocation.

I think it is a bigger issue than just eels. I certainly think with summer flounder, it's a mess. With bluefish, it is a mess. With spiny dogfish it can be. Maybe it is a bigger issue. I'm going to vote against the motion, just because I'm going to lose about 25 percent of my quota if they change it, and that's just a selfish reason. But I think the bigger issue is the quota management.

MR. WHITE: I have a question for Jim. In your looking at the data and what you think your quota should be increased, have you determined then where that quota will come out of? What state then do you feel had an unfair amount, and then you would be asking that state to give up quota for you, because that is what the committee dealt with. It is a give or take. Someone has got to give up something for you to gain something.

MR. GILMORE: Well, I think the problem we got into and why we didn't fight as hard was that we thought the transfers were going to cover this, in fact I believe the states of Maryland and North Carolina both committed at the Board meeting that they would cover New York. But then again, you look at 2014, and they weren't going to have enough to cover and there wasn't enough on the coast to cover us.

The two anomalies in 2010, I think, were New York and North Carolina. Louis is right. I mean, Louis would be, since he won the lottery that year in terms of eels; he just got a lot of extra quota anyways. He would probably lose, but again it wasn't anything one state against the other. It is a matter of the data of one year to a determinant allocation was probably not the right way to go on this.

MR. BALLOU: I would note that we're currently carrying out the thrust of this motion, we're having a discussion; and that's all the motion seeks to do. It really is a motion to continue the discussion in February, as I see it. I don't see any downside to continuing the discussion. I guess I'm just wondering though, with regard to menhaden I'm well aware that we're about to look at allocation, because the amendment called for a revisiting, I believe, two years after the adoption. Is there any such provision in the eel plan? The question really is if we don't have this discussion now or continue it in February, is there a provision for circling back to it at some point?

MR. WAINE: Off the top of my head I don't believe there is a revisit provision in the addendum, but remember to the adoptive management process the board could revisit allocation at any point. But there is no specific provision like there is in Amendment 2 for menhaden.

CHAIRMAN CLARK: We've started going into a lot of discussion we would be having in February anyhow, but at this point it is probably a good idea that we vote on this motion. Do states need a few seconds to caucus on this? Oh excuse me, let me read the motion.

The motion is; Move to add to the February agenda a discussion to potentially revisit the

Addendum IV allocation; the motion by Mr. O'Reilly, second by Mr. Gilmore. All those in favor; please vote by raising your hands. All those opposed. Abstentions? Are there any null votes? One null vote; all right, the motion carries 11 to 3 to 2 to 1. Circling back, Bob, you had a question not on this issue.

MR. BALLOU: Yes, my question is on this TC recommendation that states implement harvester reporting. That would certainly be inconsistent with Rhode Island's dealer based reporting. I believe Massachusetts and maybe some other states are in the same boat. There were a lot of good comments on the issue.

I guess I'm trying to understand how it might play out. Would that become a compliance issue, or could it become a compliance issue? There are a series of implementation plans that have been submitted. I believe the board is about to vote on those. I think that is a pending action. Rhode Island has put forward its current program of dealer-based reporting.

I understand there is not a compliance issue now. Would there be or could there be if we moved into quota management? I'm just trying to understand the way forward. Then my last point would be, maybe this is an item that we should also put on the February agenda to circle back to.

CHAIRMAN CLARK: I think it's just a recommendation from the TC, Bob. But I'll let Mike -

MR. WAINE: I think the cleanest way to do this, Bob, is that in the motion that approves the addendum implementation plans the board would deal with the TC recommendations, basically; whether approving them with the harvester-only reporting and the other TC recommendation, which is sort of getting the landings data available in early spring.

I think that is the cleanest way to track this is through the motion, approving in the addendum implementation plans for all the states. The Board can either include the TC recommendations in that motion or exclude them based on the discussion that happened this morning. Does that make sense?

CHAIRMAN CLARK: Well, maybe at this point then we're ready for a motion to consider the Addendum IV implementation plans, and whoever makes the motion can decide whether to add the TC recommendations or not.

MR. AUGUSTINE: Move to approve the implementation of Amendment IV today. Bear with me for one moment, Mr. Chairman. Withdraw my motion.

MR. DOUG GROUT: I would move to approve the Addendum IV Implementation Plans with the recommendations of the Technical Committee.

CHAIRMAN CLARK: Is there a second? Second, Roy Miller. I'll open it up for discussion now. Doug, did you want to speak to the motion?

MR. GROUT: No, I'll pass on that.

CHAIRMAN CLARK: Anybody have any comments they would like to make on this?

MR. GILMORE: I suspect that Florida was one of the flies in the ointment here. I called Mike one day and I said, here's how it works in Florida. First of all, American eels are freshwater fish in Florida, and so they are not part of our reporting system. We have a permit system that the freshwater folks have for the harvest of yellow eels.

What happens is the fishermen catch the eels, they store them for a long time in tanks, maybe up to a month; and they wait for somebody out of state to come get them. That happens some

years. In other years we have a few dealers, two or three dealers that actually buy the eels. We were stuck with the problem of - first of all, we don't have any rules or laws that compel the dealers to report freshwater fish.

We're kind of stuck with how we're going to do it. I don't like the fact that we have to consider using our harvester reporting system, because we have a lot of them; and when we come close to reaching our allocation we're going to have to make a bunch of telephone calls. For us this is a problem. It is probably worse, frankly, than it was for menhaden. But I think at least we have somewhat accurate reporting.

CHAIRMAN CLARK: Any other discussion? Seeing none; are we ready to vote on this motion?

MR. WAINE: I was just sort of thinking about this motion and I'm wondering if with the TC recommendation creating some heartburn for some of the commissioners around the table. Remember the process here. The TC is recommending harvester reporting and getting our landings together in early spring. I think some of the issues might be with the harvester reporting component of that.

I'll just reference back to the question that Pat asked about sort of it being them using dealer reporting to be able to adequately account for their landings and having a mechanism in place that they can account for the harvester reporting as well. Just remember that I don't think this means if you don't have harvester reporting that you're out of compliance. You just need to demonstrate that ultimately you have a mechanism in place that is capable of dealing with the concerns that the Technical Committee has raised. Hopefully that provides a little bit of clarification where we're at.

CHAIRMAN CLARK: I'll read the motion. **It is move to approve the Addendum IV implementation plans with the recommendations from the Technical Committee; motion by Mr. Grout, seconded by Mr. Miller. With that, let's vote. Those in favor; please raise your hands. Those opposed; any abstentions? Any null votes? Okay, the motion carries unanimously.**

CONSIDER APPROVAL OF 2015 AND 2014 FMP REVIEWS AND STATE COMPLIANCE

CHAIRMAN CLARK: That closes that item, which was Agenda Item 6; now we move on to consider approval of 2015 and 2014 FMP Reviews and state compliance. Mike Waine will walk us through it.

MR. WAINE: In the interest of time I'm going to focus on the 2015 FMP Review, which is a review of the 2014 fishing season. Just starting on the fishery, the state reported landings for yellow and silver eels were just over a million pounds in '13 and a slight bit higher in '14. The biggest harvesters are New Jersey, Maryland, and Virginia.

In terms of glass eels the landings, the total just over 20,000 pounds in '13 and about 12,500 pounds in '14. I just want to highlight that there are new glass eel harvests in Florida that amounted to 343 pounds in 2013 and 965 pounds in 2014. But since the state of Florida has closed that fishery and if you are wondering why there was harvest in Florida, the Board had exempted Florida from implementing the minimum size requirements until a fishery was documented.

Once that fishery was documented, it was closed. In terms of recreational harvest, the recreational data on eels is quite uncertain for the obvious reasons of the active fishing sites along the coastal not being able to really characterize eel recreational harvest; so just a note about that.

Where we stand in terms of stock status, we had a 2012 assessment. The stock is currently depleted. There was a DBSRA model, but that model did not produce useable reference points for management. However, given the depleted status the Board acted to reduce fishing mortality on all life stages, and they implemented an Addendum III and Addendum IV, which I'm going to quickly walk us through.

This is just to give you an idea of where we're at. We had a plan originally in 2000 and then the most recent two addenda that ultimately really created some change that is worth noting, so I'll sort of focus on those. When I go into each of these regulations I've separated this out by life stage to make it a little bit easier to follow.

The measure you'll see is associated with a date. That date relates back to whether it was part of the original FMP or subsequent addenda. In terms of the glass eel fishery, when we implemented the fishery management plan all states had to implement a YOY survey and all states must maintain their current regulations which they had in place at that time.

Since that point through Addendum 3, there was a measure for a maximum of 25 pigmented eels to be per pound of glass eels caught. That was through the use of a one-eighth inch mesh to grade the eels to eliminate pigmented eels from the harvest of glass eels. Noting in 2014 that that was a year that Maine self-imposed voluntary quota as shown on the screen. I've grayed out these other measures, which came in Addendum IV, which is implemented in 2015; so that will be part of next year's review. This is focusing on 2014 review. In terms of the PRTs review of glass eel fishery regulations, I'll highlight again the harvest of the glass eels that occurred in Florida. The Board had exempted the implementation of regulations until Florida demonstrated that fishery, and Florida has since closed through the implementation of a 9 inch minimum size.

Moving to yellow eels, as everybody is aware, we've increased the minimum size to 9 inches. There is a half-by-half inch mesh size requirement for yellow eel pots. There is allowance of an escapement for three years of a half-by-half inch four inch panel. In that addendum there was also the implementation of a recreational bag limit of 25 fish with that size limit as mentioned earlier; with the exception of the crew and captain of for-hire vessels can possess 50 fish for charter uses.

PRT review of the fishery regulations, a couple things to note here, Connecticut's implementation of the escape panel was delayed but they expected to have that in place by very recently, so maybe an update on that. Then D.C. implemented an implementation of a 9-inch minimum size was also delayed. They have since implemented that 9 inch minimum size.

As we all know, Delaware had not implemented any of these measures and we went through the out of compliance process. Ultimately, there will be a moratorium on March 18, 2016, unless Delaware comes back into compliance with the plan. In terms of silver eel fishery regulations, there was a seasonal closure from September 1st through December 31st. There is no take allowed except from baited pots, traps, and spears.

The other gears can be fished but you cannot harvest from those gears, those eels need to be released. There was also one year exemption for the Weir fishery in Delaware River and its tributaries in New York, and remember that the grayed out portion of this slide is what happened in '15, which New York basically got the nine permits to be to manage that silver eel fishery in the Catskills.

In terms of the PRT reviews of the silver eel component, the state of Massachusetts does not prohibit hook and line gear from September 1st through December 31st, but questions the need.

The idea here is that the silver eels are not feeding on their out migration, which was the intent of that regulation to limit the harvest of those silver eels, which is why you're only allowed baited pots.

Ultimately Massachusetts is questioning, are these eels going to even be caught with hook and line, because they're not feeding to begin with. Then Florida does not prohibit pound nets from September 1st through December 31st, but non-active fishery has existed in the state for the last 10 to 15 years.

There are a few other management measures that are in the addendum. Actually mostly in Addendum IV are the sustainable fishery plans, but there is also trip level reporting that is required at least monthly. To go into that a little further the PRT's review of that is that New Hampshire and New Jersey do not have dealer reporting, but harvesters report some information on dealers.

The states of Delaware jurisdiction PRFC and Florida do not have dealer reporting at this current time. Those are the regulations. This is the de minimis status request, which allows states to apply if their preceding two year average is less than 1 percent of the coast wide commercial landings for that life stage. For eels, we do it by life stage. New Hampshire, Massachusetts, Pennsylvania, D.C., South Carolina and Georgia all requested de minimis status for their yellow eel fisheries, and all those states and jurisdictions have met the 1 percent landing criteria. Just a quick note that South Carolina requested de minimis status for glass eels, but they did not meet the 1 percent landings criteria for that life stage.

In terms of sort of wrapping this report up, the PRT recommendations are that the Board considers the state compliance as mentioned; the glass eels, Florida having closed that fishery, the yellow eels with the delayed implementation and the note that Delaware has already been found out of compliance on this by the Board, and the silver eel measures the gear closures that I mentioned on the previous slide and the reporting of the states as mentioned.

The other thing is that the PRT recommends that the Board approve the de minimis request for New Hampshire, Mass., Pennsylvania, D.C., South Carolina, and Georgia. That was a very quick run through of this report. I would be happy to answer any questions that the Board has. Ultimately, we would be looking for a motion to accept the review and approve de minimis status for the states as listed.

CHAIRMAN CLARK: Do we have any questions or is there a motion?

DR. DANIEL: **Move approval of the PRT recommendations with all the de minimis and caveats as presented.**

MR. GROUT: Yes, move approval; second.

CHAIRMAN CLARK: All right, we have the motion up. The motion is to move to accept and approve the compliance reports, FMP Review and de minimis request. The motion was by Dr. Daniel and seconded by Mr. Grout. Is there any discussion of this motion? Yes, Emerson.

MR. EMERSON HASBROUCK: I have a question. During the review I think it was stated that South Carolina did not meet de minimis status, yet the recommendation is to include South Carolina with de minimis; or maybe I misunderstood. Could you clarify, please?

MR. WAINE: Sorry, I blazed through that report. It is based on life stage, so they qualify for yellow eels but they don't qualify for glass eels. I think really all these de minimis requests are for the yellow eel stage; either the Board can accept that understanding or we could improve the motion by stating that.

MR. ROY MILLER: If this motion is approved I am curious as to the discussion we held earlier today concerning the desirability of harvester reporting as opposed to dealer reporting. The review points out that I think there were four jurisdictions that don't have dealer reporting. Is the importance of that limitation now eliminated by the emphasis on harvester reporting?

MR. WAINE: I wish it was straightforward, but let me try to walk you through it. The addendum requires harvester and dealer reporting; that is trip level information reported at least on a monthly basis. Then subsequently upon Addendum IV implementation plan review, the Technical Committee recommended using harvester reporting. But that action was separate from the original implementation to require both dealer and harvester reporting. I think, ultimately, this is a Board decision about whether the requirement as listed in Addendum 3, how to interpret that requirement relative to the recommendation that the Technical Committee made. I think just to try to take a step back from deep in the weeds. The intent here is to get the most accurate information for the harvest of eels across all life stages.

Just remember that I think that the requirement for harvester and dealer reporting was to get to that goal. I think, ultimately, the question as Plan Review Team Chair that I would have is the Board comfortable with everything we've talked about relative to reporting in the structure? Do they feel comfortable that that captures the intent of getting the best, most accurate harvest information for eels moving forward?

MR. MILLER: If I may follow up just briefly. Then it is not really a compliance measure as to whether a jurisdiction has done dealer or harvester reporting at this point in time. Is that what you're suggesting?

MR. WAINE: Well, I'm not trying to suggest that at all, because that is ultimately a Board decision; that's all I'm trying to say is this is a Board decision. I'm just trying to provide a little more context and say that as I talked earlier, there are mechanisms that can be put in place that achieve the goal that aren't necessarily exactly what is written in the plan. I don't know if that helps, Roy.

MR. O'REILLY: Roy brings up a good question there. If we are headed towards quotas and monitoring everything else, I can't believe that it is not going to be important to have the harvester and the dealer reporting. That is the way we set ourselves up in Virginia to take care of that.

As a matter of fact what we do, we have harvester reporting, we have dealer reporting, and we have self-marketer reporting. In certain states you may call it something else, but harvesters who market their product have to have a permit as well. There are all sorts of loopholes we're all looking forward to, and regardless of any thinking by any other committee member, it is going to be pretty tough if you don't have some checks on the system. Typically, in our system when there is a harvest reporting system, the dealers are involved because they can be audited.

They have to hold on to what they have for a year so that what they buy can be matched up to what is sold to them. The wrinkle that developed about 15 years ago is this self-marketer, this harvester who however he wants to retail those fish or get rid of those fish. There are really three components to this and if we're going to cut out any of the components at the Board, then be leary because it is going to come back and be a problem, I think.

MR. McKIERNAN: Mike, you had a slide in red that talked about Massachusetts looking for clarification on the occasional take of eels by hook and line in the fall. I just want to get clarity as to whether or not that would be allowed;

otherwise, we have to go to rule making. I'm concerned that somebody fishing the banks of the Charles River may catch an eel on Labor Day weekend, and I don't want to make them a criminal.

MR. WAINE: It's a Board decision. Maybe we can think about how to either have the Board acknowledge that that is something that they will allow moving forward, or potentially try to perfect the motion to include that. But I appreciate you bringing it up, because it is something that the PRT brought up as a recommendation to consider. I'll also note it is not just Massachusetts, but Florida has a pound net regulation as well that is not consistent with the Plan.

CHAIRMAN CLARK: Well, given this discussion are there any modifications to the motion that we have there or would the Board like to move ahead with voting on the motion as is? Seeing none; let's call this motion. Oh I'm sorry, Dan.

MR. McKIERNAN: If I could make a friendly or a substitute motion to exempt hook and line fisheries from those gears banned under the silver eel regulations as part of the plan. Would that make sense? My motion would be, move to accept and approve the compliance reports, FMP Review and de minimis requests, in addition, exempt hook and line gear from the silver eel conservation measures.

CHAIRMAN CLARK: Is that acceptable to the maker of the motion? It would have to be a substitute. Okay, this is now a substitute motion and it needs a second. Is there a second? Dave Simpson. We have a question, Tom Fote.

MR. TOM FOTE: I think this is out of order. All we're doing is accepting a report. After we accept the report then you make a motion whether you want to do things; that's a Board action. But all we're doing here is to accept the report that was made to us. We don't have to implement everything in the report, so I think that is kind of out of order. If you want to make a motion after we pass accepting the report that is a whole different ball game.

CHAIRMAN CLARK: In that case, we're back to the original motion. We're going to vote on the original motion, and then add the next - okay got it. **Is everybody ready to vote then on the motion on the Board; which is move to accept and approve the compliance reports, FMP Review and de minimis requests? The motion was by Dr. Daniel and second by Mr. Grout. All in favor; all opposed; the motion passes unanimously.** I guess at this point then, Dan.

MR. McKIERNAN: If I could make a motion to exempt hook and line gear from the silver eel conservation requirements.

CHAIRMAN CLARK: After the previous discussion, there is no need for this motion?

MR. WHITE: Point of order, Mr. Chair. I believe that we don't have the ability to do this; that this would take an addendum. This is changing the fisheries management plan, I believe.

MR. WAINE: Let me give this a shot. As the PRT outlined, there are a couple compliance issues with the current plan, as written. Ultimately, I think the Board has the option to deal with those compliance issues as brought up by the PRT. This is a Board decision, remember. If the Board deems that the compliance issues are not issues because they essentially meet the intent of the core requirements as listed in the addendum, then they could ultimately decide that yes.

We understand that meets the intent and there is no need to move forward with a motion from Dan or a motion from another state that deals with the PRT recommendation. But if the Board feels that that is not consistent with the intent of the plan, then I think that there needs to be some action taken to address that.

MR. WHITE: Wouldn't the correct motion then be to exempt Massachusetts from the hook regulation, not exempting the hook regulations from the FMP.

MR. WAINE: My interpretation would be to try to simplify this even further is that the Board accepting the FMP review, and in doing that they acknowledge that the PRT has raised these concerns, but the Board feels like that still matches the intent of the plan and there is no reason to move forward with further action as addressed. If the Board understands that, then I think the simplest way out of this would just be to acknowledge that, and there is no need for us to get sort of "down the rabbit hole" on the specific motions.

CONSIDER APPROVAL OF A DEADLINE WAIVER FOR THE AQUACULTURE PLAN

CHAIRMAN CLARK: I am going to take that as a let's just proceed, get back to the agenda. We have a final action item; it is to consider approval of a deadline waiver for the aquaculture plan under Sustainable Fishery Management Plan Section of Addendum IV. This request is coming from North Carolina, so I'll turn it over to Louis Daniel to explain this.

DR. DANIEL: Here we are again. The issue that has arisen in North Carolina, as many of you may have known we've been trying to secure an aquaculture permit for American eel farm for, gosh, now three years. We feel like we've got a good plan to present, but keep waiting until June to submit it in a September action which is what is required in the addendum.

We're going to lose another year of the potential to be able to harvest these glass eels. I am not asking for approval of obviously the plan; that has to be reviewed by the Technical Committee and the Law Enforcement Committee. If the Board is willing to allow me to submit that plan December 1, we could act on it at our February meeting, and that gives the Technical Committee basically the same amount of review time as it would in the addendum.

I could go on and on and probably bore you to death with all the specifics of the aquaculture plan. Our main thing right now is trying to find those locations where harvest could occur that would meet the Technical Committee's requirements. We'll have that information available December 1. I don't know if I need a motion, Mr. Chairman or just by consensus of the Board if they would agree to allow me. **But if a motion would be better, I'll make that motion to accept North Carolina's aquaculture plan on December 1, 2015 for Board action in February.**

CHAIRMAN CLARK: First of all, any questions about the motion that Louis is making? Again, this under the Aquaculture Plan of Addendum IV, which allows the take of up to 200 pounds of glass eels from an area that would not - I forget what the wording is, but it is essentially not very productive to eels. Any questions for Dr. Daniel?

MR. WHITE: The question would be, is that adequate time for the Technical Committee? Do they have the ability to have an answer for us at the February meeting?

MR. WAINE: I will say that I haven't had a chance to check with the TC on this, but as Louis mentioned, it is essentially the timeframe between June and September that they would have. I think from my perspective, now I'm talking from the coordinator perspective not the TC perspective.

It will really depend on how solid this aquaculture plan is that will enable the Technical Committee to review it relative to the criteria that is required in this aquaculture plan. Basically, what I'm saying is that the better the plan is from North Carolina's sampling, the easier the Technical Committee will be able to turn this thing around.

MR. BALLOU: I am fine with this motion, but to the maker of the motion, Louis, I believe one of the standards of review is that all permits are in place. Correct me if I'm wrong, but if that's the case I just want to make sure you don't proceed. I guess the question is, is it likely that permits would be in place prior to the February meeting?

DR. DANIEL: That's what we're asking for is the permit. I mean I can't issue a permit without the concurrence from the Board that I can allow the harvest. I'm prepared. I've got my Law Enforcement Plan, I've got my Technical Plan, we've got all the criteria that are outlined in the Aquaculture Plan will be crystal clear for the Technical Committee's review.

Really from my perspective, the main question really is going to be how do those 200 pounds affect the coast wide population? That is going to be a tough question to answer. But I think as long as we do due diligence to find those locations that aren't in major watersheds, then there shouldn't be a problem, I would hope.

But no, I've got the permit would be issued. There has never been one of these so I've got to create the permit through my commission. But as if I get the approval from the Board I will issue the permit to Mr. Allen and American Eel Farm, and then do all the reporting requirements and everything that's required in the Aquaculture Plan and report back obviously. I don't think it says we have to report back to the Board, but I would expect you would want those reports back on probably a semiannual or annual basis on what we're doing and how things are progressing.

CHAIRMAN CLARK: Is there any further discussion of this?

MR. FOTE: From what I understand we are just approving that Louis can issue a permit, but the permit doesn't allow him to fish until the Board approves it, if that is my correct understanding.

CHAIRMAN CLARK: Correct. We're not approving this plan at all. This is to change the timetable essentially so that Louis would be submitting the plan to the Technical Committee by December 1st, and then the Board would consider it in February. Okay, seeing no further questions, I'll read the motion and then we'll vote.

Move to accept North Carolina's aquaculture plan for submission on December 1st, and Board consideration at the February, 2016 Meeting. The motion was by Dr. Daniel and seconded by Mr. Gilmore. Is there any opposition to this motion? Seeing none; then I guess we'll just consider it passed by consent.

ADJOURNMENT

Is there any further business to come before the Board here? Seeing none; I will say that we are adjourned.

(Whereupon, the meeting was adjourned at 11:50 o'clock a.m., November 3, 2015.)