

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

**The Westin Crystal City  
Arlington, Virginia  
April 29, 2019**

**Approved October 28, 2019**

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of February 2019** by Consent (Page 1).
3. **Move to establish a lobster and Jonah crab fishery control date immediately (4/29/19) for LCMA 1, and to forward a recommendation to NOAA Fisheries to implement one in federal waters. The intention of the control date is to notify current state and federal permit holders and any potential new entrants to the fishery that eligibility to participate in the commercial fishery in the future may be affected by the person's or vessel's past participation and its documentation of landings, effort, and/or gear configuration prior to the control date** (Page 10). Motion made by Dan McKiernan; second by Pat Keliher. Motion carried (Page 11).
4. **Motion to adjourn by Consent** (Page 21).

**ATTENDANCE**

**Board Members**

Pat Keliher, ME (AA)	Bill Hyatt, CT (GA)
Steve Train, ME (GA)	Sen. Craig Miner, CT (LA)
Sen. David Miramant, ME (LA)	Maureen Davidson, NY, proxy for J. Gilmore (AA)
Rep. Jay McCreight, ME, Legislative proxy	Emerson Hasbrouck, NY (GA)
Douglas Grout, NH (AA)	John McMurray, NY, proxy for Sen. Kaminsky (LA)
G. Ritchie White, NH (GA)	Joe Cimino, NJ (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Tom Fote, NY (GA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Raymond Kane, MA (GA)	Roy Miller, DE (GA)
Rep. Sarah Peake, MA (LA)	Mike Luisi, MD, proxy for D. Blazer (AA)
Jay McNamee, RI (AA)	Pat Geer, VA, proxy for S. Bowman (AA)
David Borden, RI (GA)	Peter Burns, NMFS
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Allison Murphy, NMFS
Justin Davis, CT (AA)	Terry Stockwell, NEFMC

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

**Ex-Officio Members**

**Staff**

Robert Beal	Jessica Kuesel
Toni Kerns	Caitlin Starks

**Guests**

Colleen Coogan, NMFS	Purcie Bennett-Nickerson, PEW Trusts
Jane Davenport, Defenders of Wildlife	Michael Pentony, NFMS
Justin Davis, CT DEEP	Sam Rauch, NOAA
Heather Corbett, NJ DFW	Mike Ruccio, NMFS
Earl Gwin, Ocean City, MD	Ariana Spawn, Oceana
Arnold Leo, E. Hampton, NY	Jack Travelstead, CCA
Chip Lynch, NOAA	
Patrice McCarron, MLA	

Katie Moore, USCG

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Monday, April 29, 2019, and was called to order at 1:00 o'clock p.m. by Chairman Stephen Train.

### **CALL TO ORDER**

CHAIRMAN STEPHEN TRAIN: I want to thank everybody for attending the spring meeting of the Atlantic States Marine Fisheries Commission. Our first meeting this year is the American Lobster Management Board. I'm your Chair, Stephen Train, and I'll call this meeting to order. We have one item that is not so much business as etiquette, before we get started. Pat Keliher, you would like to introduce somebody.

MR. PATRICK C. KELIHER: I am pleased to announce that the state of Maine Legislative leadership has appointed Senator David Miramant as the Legislative Appointee from the state of Maine to the Atlantic States Marine Fisheries Commission. Just to clarify for the record, Mr. Chairman that a letter was sent from leadership.

It used the wrong terminology, but the ongoing proxy was also named, and that is Representative Joyce McCreight who is here today, who came down to ensure that they both had an opportunity to see how the process works and to meet everybody. Very pleased to have them here today.

CHAIRMAN TRAIN: Welcome Senator Miramant, and Representative McCreight would you mind standing, so we can see who you are? Thank you very much.

### **APPROVAL OF AGENDA**

CHAIRMAN TRAIN: With that out of the way, everybody received the paperwork electronically, unless you're on that special list where you want them by paper. Do we have approval? Is there any disapproval, can we have consensus for the agenda? Seeing no one

against it, we'll approve the agenda as by consensus.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN TRAIN: Everybody had the proceedings from the previous meetings; are there any additions, deletions, or corrections? Please raise your hand. Seeing none, I can assume that the proceedings can be approved by consensus. Seeing no hands, consider them approved.

### **PUBLIC COMMENT**

CHAIRMAN TRAIN: Now is our time for public comment. Public comment is for things not on the agenda. I have a list currently of four people. First on the list is Jane Davenport.

MS. JANE DAVENPORT: Good afternoon, Jane Davenport, Defenders of Wildlife. Procedurally, may I just clarify that as per the agenda it says that items that have not yet gone out for public comment but are on the agenda may receive brief public comment?

MS. TONI KERNS: Jane, if it's pertaining to issues that are on the agenda, the Board Chairman can take public comment on that at that time. Then it is more relevant to the discussion that the Board is having. If you tell us which agenda item your public comment is relevant to, we will make sure we call on you during that time.

MS. DAVENPORT: That would be great; it would be relevant to the update on the Atlantic Large Whale Take Reduction Team.

MS. KERNS: All right, will do, thanks Jane.

CHAIRMAN TRAIN: Katie Moore.

MS. KATIE MOORE: Thank you, Katie Moore, U.S. Coastguard, Atlantic area. I wanted to say thank you for your efforts for the Atlantic Large Whale Take Reduction Plan enforcement, specifically offshore, and I'll reserve my

comments during the meeting. Thank you so much.

**UPDATE ON THE ATLANTIC LARGE WHALE TAKE REDUCTION TEAM SPRING MEETING AND RECOMMENDATIONS TO NOAA FISHERIES**

CHAIRMAN TRAIN: Ariana, I think it is Spawn, and Patrice McCarron. I hope everything goes this easily. Okay, Agenda Item 4, Update on the Atlantic Large Whale Take Reduction Team Spring Meeting and Recommendations to NOAA Fisheries. Colleen will be giving us that.

MS. COLLEEN COOGAN: Good afternoon everyone. I was about to say morning, it feels like morning to me. I want to start by saying thanks to the states that had representatives at our meeting last week. People really brought their A game to the meeting, worked really hard, and worked really hard with your industry representatives on the team, who also were really excellent representatives for their stakeholders. I do appreciate that. My name again is Colleen Coogan; I'm the Large Whale Take Reduction Team Coordinator.

My contact information is on this slide, in case you need to get in touch with me with any questions about the presentation or the Take Reduction Team process in general. As many of you know, the purpose of the Take Reduction Team meetings always is to ensure that we can achieve the potential biological removal level allowed by the Marine Mammal Protection Act, which for North Atlantic Right Whales are 0.9 right whales per year, so less than one right whale mortality or serious injury a year.

For the meeting last week we really focused on discussing risk reduction measures. There are a lot of other things on the table still that we'll resolve post meeting, but we wanted to get recommendations from the team regarding those measures that will actually reduce the risk of mortality and serious injury to right whales from, particularly fixed gear fisheries.

The goal that we provided to the team was a 60 to 80 percent reduction in mortalities and

serious injuries. In order to help us get to that goal, we also did work with the Northeast Fisheries Science Center, who particularly thanks to Burton Shank developed a Relative Risk Reduction Decision Support Tool.

This was something that was really identified as needed during our October meeting where we had a number of proposals at the table, and it was very hard for Take Reduction Team members to choose which measures to put forward, because they couldn't tell how much risk reduction each element would provide, and how many would be needed to get us to our risk reduction goal. The Risk Reduction Decision Support Tool, if you want to really fully find out about it, there is a link on our Take Reduction Team webpage that gets to our presentation. There is an actual recording of the presentation on it, to get the full presentation of the tool. But essentially, it identifies the current risk landscape with a relatively simple formula of whale density times gear density, times relative risk of gear configurations, identifies the risk landscape.

Against that landscape we looked at risk reduction measures and applied them in the areas as proposed by the team. There were modelers at the meeting, and they actually modeled alternatives as they came up, or risk reduction elements as they came up. I did not provide this to you to go through the model runs. I just wanted you to have in your package the model runs, if you want to look at some of the initial ones, the kind of runs that were done. These were done periodically through the meeting.

The example I provided that would be in the presentation is an example midway through the meeting of some of the runs requested by some of the caucus and cross-caucus groups. We periodically during our meeting got into caucus groups, and then broke those out and had mixed facilitated meetings as well, to try and drive the whole group towards consensus.

Again, a couple pages of scenario runs just for your entertainment. Most of these will be on the TRT site when I have time to get back to my office and get them up on the website. Where did we end up? By the end of the week, by Friday, we did get a near consensus vote on a package of recommendations. All but one person at the table did agree to move this package forward.

Our rough estimate right now, not having done a full analysis yet obviously, is that the package will get us, at least for the lobster fishery, which is the majority of gear in the areas where whales are vulnerable is about a 45 percent line reduction, and about 25 percent replacement of current line with weak rope, or at least 25 percent of the remaining line will be weak rope.

The idea that brought it to consensus was each state, or jurisdiction or lobster management area, we identified risk reduction measures that the Decision Support Tool suggested would get us to 60 percent risk reduction for each of those areas. The goal ultimately will be to have perhaps a menu of ways to get there, particularly for the weak rope.

We'll have weak rope equivalence identified, such as there is a whole rope that's weak, or there are sleeves that can be put in the rope and weaken the rope. There are some considerations that were also on the near consensus document. Dwight Carver from Maine, specifically asked that we include safe exemptions, which I think it's an important component, particularly for skiffs and students.

Some of the line reduction measures might be trawling up to three or four pots, rather than one pot per line that might get difficult for some of the students that are operating out of skiffs. Right now we have weak links near our buoys, and we're not sure how much risk reduction that's providing, so we were asked to revisit the weak links that are in the existing measures.

The model itself, a number of improvements are recommended for doing any actual analysis particularly. Right now the severity estimates we have in there are from a poll done with team members, and gear experts and disentanglers. There is a request that we either re-poll, and/or go to the literature where we can find risk reduction measures in the literature, provide that in our severity estimates in place of the current measures. There was some feeling among the academics that we were underestimating the risk reduction we would get from some of the weak rope measures in place.

Some of the academics suggested that although the measures would get us to our lower end of the goal, 60 percent, they believed it would actually provide additional risk reduction, beyond what we were identifying. There was also a strong opinion, or some strong support, for the fact that we need to make sure that we have a good monitoring plan in place, not just monitoring the line reductions and the implementation of the weak ropes, but also continuing or improving on a monitoring of where the whales are, and how many there are.

Then also, wish that we would really track the evolution of implementation, including any new gear options that present themselves while this is being done, as well as to determine whether or not there are socioeconomic impacts that might not be what we will be modeling, or identifying in our NEPA documents.

We do have plenty of next steps. This is more of an outline, not the actual implementation plan, obviously. I think that this provides us with some good marching orders that will require us to work really closely with the ASMFC and the states, to figure out how to actually implement it. More immediately even, we did not discuss gear marking, and some of the reporting and monitoring requirements that were identified in, I think every proposal we received in October.

We do plan to do that and we did plan for that to be part of our next rulemaking. We will be holding webinars with the Team, and providing them an opportunity to vote on, and to also get consensus on those measures as well. We just didn't have those on the agenda last week, because we really wanted to focus on risk reduction measures.

We need to continue to discuss with LMA 3, and other federal waters outside of state waters, what our measures will be to reduce risk in those waters. As I indicate here, regrouping with ASMFC and state managers, and actually how to implement this. We did commit to really going to the ports and getting input from industry on what they're able to do.

This is particularly important to me regarding some of the weak rope, and the other measures that we'll be hoping to implement through rulemaking. Then we do expect this to get to our goal of PBR. We feel that this is a pretty strong target, or these measures identified are pretty strong. They do things like take line out of the water, which we think also applies to sub-lethal injury, which will be important when our folks back in GARFO are doing the Section 7 consultation.

But we also think that in June at the bilateral meeting with Canada, we've set a pretty high bar that they're going to have to also hit, due to the MMPA Import Rule by January 1, 2021. They're going to have to show that their measures provide similar protection to right whales throughout the range of right whales in Canada. While they currently have measures in the Gulf of St. Lawrence that appear to be reducing mortality and serious injury in the Gulf of St. Lawrence. You know we do hope to hear more from them about what they're doing outside that area, and for gear other than just snow crab gear. I think that's all I have to present.

CHAIRMAN TRAIN: Thank you, Colleen, and I for one appreciate the work of the Take Reduction Team. Are there questions for Colleen? Pat Keliher.

MR. KELIHER: Colleen, thank you for that presentation. Could you just clarify? I'm not sure if I heard it wrong, 25 percent of the line will be weak rope, or 75 percent of the line will be weak rope?

MS. COOGAN: Twenty-five percent of the line remaining will be weak rope, based on what we have on the table now. What we don't have on the table now is what will be happening in federal waters in LMA 3 particularly.

CHAIRMAN TRAIN: Are there any other questions? Go ahead, David Borden.

MR. DAVID V. BORDEN: Welcome, Colleen. I haven't seen you in a long time. My question is, on the other gear types that might be affected by this, because we've got most of the Mid-Atlantic States here, the leadership from those. Could you describe what fisheries might be involved in any type of rulemaking?

MS. COOGAN: We haven't extended the model to the full Atlantic coast, but do plan to. A lot of the gear in the Mid-Atlantic, such as blue crab gear, is already using weak rope. I am not sure how much of what is down there will require modifications. I'll have to look; I think it is black sea bass pots might be involved.

We haven't expanded that out further all of the proposals that were on the table in October really focus on the Gulf of Maine. Burton, who helped us create the Decision Support Tool, was working closely with the PDT, so he also focused on lobster. In our further efforts we'll be looking at what else we need to do, and that will be included in our scoping as well.

MS. KERNS: One follow up question to that just so the states are aware of what may or may not be happening. The Decision Support Tool didn't include anything below the 40 degree line. But there is a portion of the Area 4 lobster fishery that is above the 40 degree line that did not get looked at during this TRT meeting. Should that state expect those fishermen to be evaluated



during the same time that they look at gillnets and the other gear?

MS. COOGAN: It's a good question. Remember the risk reduction model; the support tool model is concentration of gear, concentration of whales and the level of risk. Because those areas don't have much gear, and I don't know that we have aggregations of whales in those areas. There are whales in the Mid-Atlantic year round, but we don't find them in aggregations most of the time.

I'm not sure that those will identify as areas that need a lot of modification, but it is something we'll probably be actually assessing within this rulemaking, because this rulemaking will be associated with trap pots. Next year is when we'll be looking at gillnets, and that is partly in association with entanglements of hump back whales as well. The dust has not yet settled on all of this, so pardon if some of my answers are.

CHAIRMAN TRAIN: You had a follow up, David?

MR. BORDEN: I can wait, I'll defer to Ritchie.

MR. G. RITCHIE WHITE: I didn't see any recommendations on law enforcement. Was there any discussion on law enforcement in federal waters and the potential need for a larger vessel?

MS. COOGAN: We did not have that conversation as a full-on TRT. There was some attention given to enforceability of some of the measures proposed, for instance we don't have LMA 3 measures pummeled out and on the table, but a commitment to do some research. A lot of the measures that were being identified had to do with weak rope or weak links, really within the scope, so within the top 500 feet, which hopefully would be somewhat enforceable. There was consideration of enforceability, but we did not have the conversation about enforcement and about getting a vessel.

CHAIRMAN TRAIN: Pat Keliher.

MR. KELIHER: Just to follow up to that. I think Colleen, the ASMFCs Law Enforcement Committee I think would be a really good Committee to kind of go in and dig into some of the details associated with line diameter, enforceability and breakaways. I know I've had some of that conversation with Marine Patrol at home. There are some complexities to that but I think it's doable. But related to that is also the upcoming webinar. Could you speak to the webinar that will have to be scheduled in regards to tracking?

MS. COOGAN: We really would like to piggyback on everything that ASMFC has done, related to vessel tracking systems, and not start from scratch certainly. Also, we understand that ACCSP is able to take in data once a system has been identified, which is one of the things I would have been concerned about for trying to implement something very quickly. I would be working closely with the folks who are doing the pilots, and with ASMFC.

Actually, possibly with you, Toni, to do that part of the presentation of the vessel tracking, because we haven't started on that initiative for the TRT. As far as gear marking goes, whether or not that will be one or two meetings it depends on how much is on the agenda. But gear marking we do have some ideas from the Gear Marking Workgroup that met prior to the TRT meeting.

At that meeting we actually do have some enforceability issues or preferences that were identified by New England Fishery Management Council, and I think your Law Enforcement Committee as well that we would be also promoting. I hope to have calls on that within the next month.

CHAIRMAN TRAIN: David Borden, are you still deferring?

MR. BORDEN: I've got a couple of comments, Mr. Chairman, but if you're just taking questions.

CHAIRMAN TRAIN: Just taking questions, Ray Kane.

MR. RAYMOND W. KANE: Colleen, for those of us who tried listening in on the webinar. Were you comfortable with the way the materials were released to the public for the webinar? In the future can the materials be released in an earlier manner to the public, so when we do go on a webinar we actually have something to study?

MS. COOGAN: Would we have preferred to have it out earlier, definitely. Honestly, there was a strong preference for us to hold our meeting next week, because we knew we were going to need more time to fully cook a lot of the materials. But because we thought there was a good possibility that Massachusetts fishermen would be fishing next week, in the Mass Bay restricted area, which normally opens May 1, if the whales aren't hanging around.

We pushed to have our meeting two weeks ahead of where we were really comfortable, and I would do that again, because I really wanted fishermen at the table. But yes, we would prefer to have materials ready earlier. It is true that in the past when we had our co-occurrence model that also was presented for the first time at the Take Reduction Team meeting.

Our goal at this meeting was to have face-to-face time really be devoted to discussion, so we were trying to present analyses and tools a week ahead. Presenting a week ahead is actually a new thing that we were trying to do, where we were trying to get people the materials a week ahead of the actual face-to-face meeting, so we could maximize time with TRT members in conversations and caucuses and small breakout groups.

CHAIRMAN TRAIN: Okay, David Borden.

MR. BORDEN: Just for transparency, I am a member of the TRT, so I undoubtedly have some information that some others don't. It was an extraordinarily difficult meeting, and I mean that from the perspective of I think everybody who was there, particularly the NOAA staff. I would like to go on record on a positive side, by complementing the NOAA Center staff in particular for their willingness to try to come in and model activities, and predict what type of risk.

In my career, I've never seen a group of modelers put under the gun the way these guys were collectively put under the gun. I think we should be thankful now, having made that positive statement and been part of this process for quite a while. I'm horrified that we're doing business like this, because the model is very much a work in progress.

There are a lot of assumptions that went into the model that I think time will change some of those assumptions. In fact, Dr. Hare indicated that the model would not be, and correct me Colleen if I misspeak. The model will not be peer reviewed until after the first of the year, is that correct?

MS. COOGAN: I don't know if Dr. Hare is here, but they will put it on the list, and if they can move it up they will. I think generally, given the normal timing it would probably be around after the first of the year.

MR. BORDEN: What that means is we're using something that none of us have seen, it hasn't been peer reviewed, and to the extent that that changes it may change the results. I think there will be pressures from both sides on this issue to move it in one direction or another. Colleen would like to correct something, or add to something.

MS. COOGAN: I don't really want to correct, but just to remind everyone. This is a Decision Support Tool, it's not a model, and it's not the full analysis. It was to help the team really envision that we needed to do a lot. The

modelers I believe, although they realize that there are parts of it that will change, I don't think they anticipate that there will be huge changes in the outcomes. I mean because it's producing numbers it implies precision.

But, they were frequently reminding us that we shouldn't take it as precise. I thought it was very effective as a Decision Support Tool, to help the Team move towards decision making, which they did. But yes, it will be further tweaked, and will become an actual model that can be used for assessment purposes and improved over time.

MR. BORDEN: Okay the other comment I would make is just general observation that we had a few of our good neighbors to the north, and I mean that literally. At the meeting we're always fortunate when we have the Canadians at the same meetings. They have made kind of guarded comments, in my own view, as far as meeting the same objective.

One of the key aspects of this that I'm most uncomfortable with is this issue of apportioning the reductions 50 percent to the U.S. fishermen and 50 percent to the Canadian fishermen. The only reason I say that is prior to 2010, most of the interactions between fixed gear and right whales were by U.S. fishermen, and the dataset manifests that and supports that.

After 2010, if you look at the large line category, most of the interactions have been Canadian, and relatively few U.S. I'm very uncomfortable with that split. I think it needs to be examined some more. The other aspect that I'm uncomfortable with is the whole issue of how we deal with Canada.

Unless the Canadians take the required action, I'm not sure we will achieve our PVR target. Now there is a weighty force, the Import Ban on their products that would go into effect in 2021, and I think that will bring them to the table. But write down, just so everyone understands why I'm saying this.

Our two programs in my view are completely incompatible. We're forcing U.S. fishermen to use breakaways, weak lines, all these other rules and regulations. The Canadians are using floating line, and haven't implemented nearly as many of the restrictions that have been imposed on the U.S. industry. At some point these government to government discussions I hope, align these two systems, and if they don't then they should be compatible. It should be the goal. I think I will stop there with one other quick comment. The summary of the meeting I think would benefit from standardizing some of the language in it. You know if you look, and I won't point out, I can talk to you after the meeting. But if you look at the language under Maine, and then compare it to the language under Mass, some of the language is different, and it will cause confusion as people try to interpret it. If we standardize it, I think that would help. Thank you for coming down here.

CHAIRMAN TRAIN: We left Massachusetts almost 200 years ago. We're trying to be different. Pat Keliher.

MR. KELIHER: Two things. I just want to follow up on what David brought to the table in regards to Canada. I want to highlight the gray zone issues as it relates to Canada. If there are going to be further discussions with Canada, some consistencies with gear in those waters is really important.

Because if we move in the direction of a 50 percent reduction in that vertical end lines, those waters could actually just be replaced with more gear from Canada, more end lines. It's all about holding the bottom at that point in time. I think that really needs to be part of the thinking from the Agency and with the state.

But just quickly calling on the timing of rule-making you brought up the Peer Review. Just so it's clear for the record, it's my understanding, and correct me if I'm wrong please that the Agency will be going through a regular rule making process here that's correct. Will the Peer Review potentially change any of

that timing? I know it was described as being, or a little bit under the gun and want to get it started as soon as possible, potentially having a draft rule out very quickly. Do you see a Peer Review changing the timing here?

MS. COOGAN: I don't. I mean again, the dust hasn't settled yet. But I don't think that the Peer Review would change the timing. I mean that might be a reason they try and accelerate the Peer Review and move it up a queue, but there is a lot of best available data out there, and we'll have to use all of it in our analysis of the packet that we put together going forward. That tool will be one thing that we'll be using.

CHAIRMAN TRAIN: I have Terry Stockwell and then Dan McKiernan.

MR. TERRY STOCKWELL: Colleen, could you provide any more details on the timeline, related to the development of measures for the gillnet fisheries managed by the New England/Mid-Atlantic Councils?

MS. COOGAN: We anticipate, I mean nothing is set in stone, but we anticipate that humpback whales are likely to be identified as a strategic stock starting perhaps in the next SARs, stock assessment report. One of the areas where we're seeing mortality and serious injury is in gillnets.

We believe we'll be starting to look at humpbacks and gillnets over the next year, and bringing it up at the next TRT meeting, which can't be in April or May, so it will be probably early in the next calendar year. But TRT members who were there last week asked us to avoid April and May, due to whales being in the area.

MR. STOCKWELL: Good luck.

MS. COOGAN: Thanks.

CHAIRMAN TRAIN: Dan.

MR. MCKIERNAN: I just want to give the Board an update that the end of last week we had 60 right whales in the bottom of Cape Cod Bay, so the Commonwealth of Massachusetts has extended the closure for at least another eight days. Of course if the whales leave in the next eight days we'll lift that closure.

We get the support to do these surveys from the NOAA Protected Species Program, as well as the Massachusetts Environmental Trust, the so called Whale Plate. We've told the commercial fishermen to keep the gear on the beach, and this closure is specifically Cape Cod Bay down to about Nauset on the eastern side of Cape Cod. It doesn't go into federal waters, and it doesn't even affect all of the state portion. But in the places that we have whales, we've kept the area closed.

CHAIRMAN TRAIN: Do we have any other questions or comments at the table? Peter Burns.

MR. PETER BURNS: Thank you Colleen for that summary. I was at the TRT meeting last week, and it was a real monumental result, so my hat is off to the team for coming up with such a positive way forward to address the issue with the right whales. One thing we're going to be talking about the Addendum that the PDT has been looking at coming up next.

While we're still on the topic of the TRT results, it may be worthwhile now for the Board just to consider how they may or may not want to move forward with action with respect to the TRTs results. Is this something that the Board would be okay with having the states just go back to their own jurisdictions, and implement what came out of the TRT reductions?

NMFS would do the same under the Marine Mammal Protection Act, or is it something that maybe this Addendum could be a tool for making sure there is a backstop measure, or some type of compliance measures in place to make sure that what's been done at the TRT can be sort of enforced at the Board level? Just

food for thought, maybe this is more relevant under the next agenda item with the Addendum, but I just wanted to broach the question.

CHAIRMAN TRAIN: I'm looking around. I'm not seeing anyone ready to open that discussion just yet, Peter. But we do have Jane Davenport. We told you we would give you time now, if you're still here.

MS. DAVENPORT: Thank you for this opportunity, I'm Jane Davenport, I'm with Defenders of Wildlife, but I'm also a conservationist member of the Take Reduction Team. I would like to say three brief comments about the results of last week's meeting. First of all, I concur that it was a monumental challenge, but I also very much appreciated the monumental efforts of state management agencies and fishing industries at this table to step up with commitments to reduce vertical line in waters by a significant capacity. I think that is the most reliable way we have of reducing risk to the right whale.

But I will asterisk, and say that we don't have a lot of time to get those reductions done. I do not underestimate at all what a monumental task it will be to translate those reduction commitments into practice, but the whale doesn't have a lot of time. We've known it's been in decline since 2017, and we know that that decline started in 2010.

I urge, with all due process and speed that those measures be discussed and implemented as quickly as is humanly possible. The second thing I would like to say on the Decision Support Tool, again recognizing the monumental efforts that NOAA and others had to try to put together this support tool.

I will also flag that in addition to the severity part of the equation, the tool is not up to date on the whale density part of the equation. The whale density was based on modeling developed by the Navy for its purposes, and

does not include nearshore whale density data, or up-to-date whale density data.

I think it's important to put an asterisk on the tool, and understand that the results it cranks out are Number 1, not only mathematically guaranteed to translate into risk reduction, but Number 2, the tool itself still has to be a work in progress. The final comment I have is that I will reiterate my comments from the last Commission meeting that in order to get to Take Reduction Plan Amendments that meet the standards, not only of the Marine Mammal Protection Act, but also the Endangered Species Act.

Those Amendments have to pass the no jeopardy test, or if jeopardy is found, reasonable and prudent alternatives to jeopardy. Let us not forget that even if we reduced serious injury and mortality that doesn't go all the way to sufficiently addressing take, particularly sublethal impacts from take that affects the reproduction of the right whale.

I would urge the people at this table to keep an open mind about what has to come out in the final rule, because the Agency simply cannot be in a position to guarantee that the measures agreed to here are actually going to pass both the MMPA and ESA bar. More may be required, and I think it's important to understand the legal bases for why more risk reduction measures may be required in the Final Rule. Thank you.

CHAIRMAN TRAIN: Thank you for your comments, Katie Moore, did you want to speak again on this?

MS. MOORE: Again, Katie Moore, U.S. Coast Guard. I actually wanted to say thank you. I think the Atlantic States Commission has actually been a very strong advocate in looking at enforcement, looking at practicality and looking at resourcefulness. It's very encouraging to hear that the states and the feds want to work together, to look beyond what we're currently resourced at. We are limited.

There is a lot of fishery management plans, there is a lot of take reduction plans, and I just want to say I really appreciate the efforts that have been made to have a work group to consider options out there, and not just to consider the wish list, but to look at can this actually come to be. I wanted to say thank you very much for that and I appreciate what you have brought to the table, and continue to do.

Enforcement is tough, every new FMP that comes out does not give us new resources to enforce those, and I think people are being very practical about it, while being mindful of what we're trying to achieve to sustain these fisheries, and to keep the marine species protected, so thank you very much.

CHAIRMAN TRAIN: Thank you for your comments, is there anybody else who would like to speak on this issue? Not seeing anybody. Okay, we'll get back to the topic. We're still on Agenda Item Number 4, Dan McKiernan, did you have something?

MR. MCKIERNAN: Yes thank you, Steve. What we know, what came out of that meeting last week, is a very complex plan that also has a lot of detail that is yet to be worked out. We know that it's going to be complicated to get the states working together, along with NMFS. But what we do know is that things need to change going forward.

I apologize for not speaking to my colleagues on the Board sooner on this, but I think it would be appropriate to establish a control date, a general control date for the lobster fishery, and to establish that as of today. I've sent the staff a brief motion. I can read it. All right I'll read it aloud. Move to establish a lobster fishery control date immediately. The intention of the control date is to notify current state and federal permit holders and any potential new entrants to the fishery that eligibility to participate in the commercial fishery in the future may be.

CHAIRMAN TRAIN: She's trying to keep up with you writing it down, and she doesn't have an electronic version.

MR. MCKIERNAN: Move to establish a lobster fishery control date immediately. All right, well let me speak to it.

CHAIRMAN TRAIN: Before you speak to it, is there anyone that would like to second the motion that was just made? I thought he finished reading it anyway the first time.

MR. MCKIERNAN: No.

CHAIRMAN TRAIN: All right, let's get it up there before you speak to it please, Dan.

**MR. MCKIERNAN: Move to establish a lobster fishery control date immediately. The intention of the control date is to notify current state and federal permit holders, and any potential new entrants to the fishery that eligibility to participate in the commercial fishery in the future may be affected by the person's or vessel's past participation and its documentation of landings, effort, and/or gear configuration prior to the control date.**

CHAIRMAN TRAIN: Dan, do I understand that you consider today the control date? This is the date.

MR. MCKIERNAN: Yes.

CHAIRMAN TRAIN: Pat Keliher you second it. Okay, Dan.

MR. MCKIERNAN: I mentioned complexity, and it's pretty clear that especially in Area 1, the states of Maine, New Hampshire and Mass, in the case of their state waters fisheries, have very different rules concerning the issuance of permits. They have different standards, in terms of reporting, and we all understand that and we respect those differences.

All I'm trying to do is to get all the jurisdictions together, and it would go beyond those three

states, but for purposes of accomplishing the Whale Take Reduction goals, I propose we use today as a line in the sand, a timeline in the sand that each of us jurisdictions can tell the industry. Going forward if we have management measures, we're going to use today as the date. For example, we might want to constrain permits that are transferred to a new holder that they have to fish a certain number of buoy lines.

We might want to retire some unfished permits. We might want to require certain gear configurations as fishermen transition through the fishery. Also, because this is still a work in progress, I worry that fishermen who are receiving permits in transfer, whether it be a federal permit, or a state of Massachusetts or New Hampshire permit. Those recipients need to know that more is coming, and related to the Take Reduction Team proposals, and it could affect the business planning of that holder. I think it's the right thing to do.

CHAIRMAN TRAIN: Pat, would you like to speak as a seconder?

MR. KELIHER: Just to echo what Dan said. We've got a lot of moving parts here. I too commend the TRT and the work of the TRT, to actually come to consensus. Speaking on behalf of the state of Maine, it is a heavy lift for us to implement a 50 percent reduction in vertical lines. There are many different ways that we can do it.

There are different facets of the fishery, including latency that will need to be addressed. Much of this is likely to fall to the state legislature, sorry Senator. Understanding that the playing field is going to change is critically important for the industry. I think this helps send that signal that things will be changing.

CHAIRMAN TRAIN: Ritchie White.

MR. WHITE: Just a question. Do we have the ability to set a control date for federal permits? Wouldn't the Service have to be doing that?

CHAIRMAN TRAIN: I'm told it would be a recommendation to the service to use this date. Next I have John Clark. Not John Clark, Tom Fote.

MR. THOMAS P. FOTE: This is just a recommendation to the Service; we're not setting up a control date? I'm saying if we're setting up a control date, I don't think we can do it by a motion. It would take, I think an Amendment, a major amendment to the lobster plan to set up a control date. That's what I'm asking the question. It seems like we're doing a lot in a motion, but this is just a recommendation for NMFS to implement a control date. They'll have to go out to the public hearings on this, and set up a process with a federal notice.

CHAIRMAN TRAIN: Bob, did you have something for that?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Just to respond to Tom's comments. The Commission has set control dates through motions a number of times in the past, and it's really just to let the fishermen know that as the motion says, from this date moving forward you may be treated differently than the actions you took prior to this date.

It has been done multiple times by the Commission just through motions of the Board, and if folks are concerned with the wording that this doesn't specifically say a date being set by the Commission, as well as a recommendation to NOAA Fisheries. We can modify the motion a little bit, but if everybody is comfortable that the record is clear that's what we're doing then the Board can move forward with the language that's up there.

CHAIRMAN TRAIN: Next I have Peter Burns.

MR. BURNS: It's an interesting discussion, and certainly the Fisheries Service isn't against

anything like this. I think it makes sense, given some of the extent of the measures that we're going to be looking at here moving forward. But it gets a little bit complicated, because if the federal, I think if it was a recommendation for NMFS to do something complementary with a control date that would be a sensible way to move forward.

But whenever we do a control date, we can't really go retroactive, so if today was the date that the Commission chose; it might be a little more complicated, because we can only go by the date that a Federal Register Notice is published. Today's date would not match up with something that could happen in a federal action, so I am not really offering a solution here, but I just wanted to make that clear. Maybe there is some flexibility in when the date would be, contingent upon the publication of a Federal Register Notice.

CHAIRMAN TRAIN: I thank you for that information, Peter. Emerson.

MR. EMERSON C. HASBROUCK: I've got a few questions. This really would not impact New York, because we already have limited entry in our lobster fishery. But I'm wondering do any of the states of Maine, New Hampshire, or Massachusetts currently have limited entry in the lobster fishery? Then I have a subsequent question, Mr. Chairman.

CHAIRMAN TRAIN: I can answer part of that. There are different levels of entry in some of these states, and although there are ratios for exit and entry, there are still people coming in as new entrants, maybe through decreased effort, maybe on a one-to-one level. But they would still be a new entrant. Does that answer your question?

MR. HASBROUCK: Yes, thank you, and I have an additional question. Oops, looks like Toni has.

CHAIRMAN TRAIN: Toni has one more piece.

MS. KERNS: Emerson, I think the way Dan described it, it also could mean when you

transfer permits or sell permits that those individuals could be treated differently, if you buy traps from somebody. I think what he said is putting it all on the table, so it's not just new entrants into the fishery, it's how you're transferring and buying permits, or et cetera as well, so it could impact New York fishermen, potentially.

MR. HASBROUCK: Additional question.

CHAIRMAN TRAIN: Your next question, go ahead.

MR. HASBROUCK: To the maker and seconder of the motion, is this directed specifically for lobsters, or is the implication here that it's going to impact the Jonah Crab fishery as well?

CHAIRMAN TRAIN: Toni will answer it.

MS. KERNS: Because of the way the Plan ties those two licenses together, it would impact the Jonah crab fishermen as well, because in order to fish for Jonah crab, you have to have a lobster pot and trap tags, with pots, fishing Jonah crab for pots.

CHAIRMAN TRAIN: I have David Borden.

MR. BORDEN: I intend to vote no on this, and to the reason that I have kind of a traditional problem with control dates, because they're almost never explicit enough, and they just lead to endless questions. I'll just point out to you that in our association we have New Jersey members, and Mid-Atlantic members, who have brought additional traps, in order to position themselves for various types of business ventures. You pass something like this; it's immediately going to call into question whether or not they can use it.

We have significant numbers of industry who reside in New Hampshire, who own traps that they have not used. They bought them, and they're not being fished, and if you pass something like this, there is going to be a debate about can they be activated, what's the



date of time that it's going to be used to control their activation. It just leads to like 25 different questions. I would offer two suggestions, one we postpone this, and consider it at our next meeting, or individuals don't like that strategy then limit it to Area 1 where the bulk of the problem is.

CHAIRMAN TRAIN: Based on the last comment Dan, would you and Pat consider limiting this to Area 1, or do you want to let it go as it is?

MR. MCKIERNAN: I would agree to limit it to Area 1.

MR. KELIHER: I would concur with that.

CHAIRMAN TRAIN: Bob, procedurally are we in the ballpark with what we're doing here? Go ahead, Doug.

MR. DOUGLAS E. GROUT: Just because of the importance of this, I would like to add either via friendly or via motion to amend, to add and to forward a recommendation that National Marine Fisheries Service implement a control date for the lobster and crab fishery in federal waters at the end.

CHAIRMAN TRAIN: And that's okay, Dan?

MR. MCKIERNAN: Yes.

CHAIRMAN TRAIN: Okay, Pat Keliher.

MR. KELIHER: I just want to make sure it's clear in my own mind. Are you saying that this would only be utilized if they concur and use it in rule, because a control date in regards to state activity is critically important here?

CHAIRMAN TRAIN: Doug, do you have an answer for what you just meant?

MR. GROUT: Well actually, your point is exactly what I was trying to get at is I wanted the states to be able to have this control date, but also to put it forward to NOAA Fisheries as a recommendation. Peter Burns has said we wait until it happens in the Federal Register, but it may not ever happen in the Federal Register. I

want the states to be able to do it first, and then we'll figure out if we have to adjust it to comply with what the federal government might come up with for a date.

CHAIRMAN TRAIN: Go ahead, Pat, and do you understand that now to read that if this goes forward the states will be expected to use this date, and we use one that the Feds can give us as soon as possible?

MR. KELIHER: Yes, with that understanding made on the record, I would agree with the friendly amendment.

CHAIRMAN TRAIN: Dan is that your understanding, this will be the control date for Maine, New Hampshire, and Massachusetts.

MR. MCKIERNAN: Yes.

CHAIRMAN TRAIN: Any other discussion? Hang on.

MS. KERNS: Dan and Pat, is it okay to add the lobster and Jonah crab fishery? Is that okay, Dan to make it explicit?

MR. MCKIERNAN: Yes, Toni, thank you.

CHAIRMAN TRAIN: Okay, we have the motion up. I can't tell who has got their hands up.

MR. MICHAEL LUISI: It's Mike Luisi. Just for purposes of clarification. It may be best after the date and it says for, maybe the state waters portion of LCMA 1. I'm not familiar with how the area looks, but that would direct the motion to the state waters, and then the recommendation would be for the federal waters portion, just a thought.

CHAIRMAN TRAIN: Dan.

MR. MCKIERNAN: Yes, I wouldn't agree to that amendment. Just so folks know Massachusetts already prohibits the issuance of new landing permits in the Commonwealth, for lobsters taken with traps from Area 1. We do this

because of what we thought was going to be the so called pregnant boat syndrome, and the proliferation of more effort in Area 1.

We're doing that at the state level, we're affecting the ability to land lobsters taken by trap, and that's what I'm getting at here. We're going to have to prevent proliferation of new efforts, by using that kind of a mechanism going forward. It does affect the landing of product coming from federal waters.

CHAIRMAN TRAIN: Thank you, Dan, and are you okay with that Mike?

MR. LUISI: It was just a thought and I'm fine with that no problem.

CHAIRMAN TRAIN: Any other comments or questions on this motion? Peter Burns.

MR. BURNS: I'll abstain on this, just because it's a recommendation to the NOAA Fisheries. I just want to point out that it could be a little problematic if we have a differential control date between the states and the feds in Area 1, and I haven't had time, because I'm just thinking of this now, what the implications of something like that might be. I feel confident that we could probably knit something together here that makes sense, but I just wanted to reiterate that point that any date that we do is going to be different than this date.

CHAIRMAN TRAIN: Thank you, Peter, and I think we understand that. Seeing no more hands, does anyone in the public want to comment on this motion? Seeing nobody, all in favor of the motion raise your right hand, please. We'll give one more minute. We've got a state that needs to caucus. Okay, quick question then we're going to vote. Go ahead, Eric.

MR. ERIC REID: Sorry Mr. Chairman, thank you for entertaining my question. The way it's written it says, and to forward a recommendation to NOAA Fisheries to implement one in federal waters, meaning a

control date in federal waters. Is that all federal waters, or just the federal portion of LCMA 1?

CHAIRMAN TRAIN: My reading of the motion is that it affects LCMA 1, specifically the state waters and a recommendation for federal waters. **The motion was about LCMA 1. Okay we'll try this again. All in favor of the motion, please raise your right hand, all opposed, abstentions. You voted in favor, you can't abstain, and null votes. The motion carries, 11, 0, 1, 0.** David Borden, you have a question.

MR. BORDEN: Not a question, I just want to clarify. I abstained on this vote, because this vote includes the crab fishery, because of the legal guidance I've gotten from Bob Beal.

CHAIRMAN TRAIN: Yes, I'm sorry. I made a little joke about that. But you clearly put your hand up for abstention, even though the state voted one way, but I get that okay thank you. We have nothing else on Agenda Item 4.

#### **REVIEW PROGRESS OF DRAFT ADDENDUM XXVIII**

CHAIRMAN TRAIN: We're going to move on. Colleen, thank you very much. Review Progress of Draft Addendum XXVIII, Toni.

MS. KERNS: I debated really on how to go through this PowerPoint presentation, based on the results of the TRT. But in the end I decided to go forward and just let you all know sort of what the Plan Development Team has been doing on Addendum XXVIII. Just as a reminder, how did we get to Addendum XXVIII, which is looking at vertical line reductions in the lobster fishery?

Back in last October, the Board reviewed some ongoing discussions related to right whale conservation and fisheries management. The Board put together a workgroup to discuss management measures the Board could potentially provide. That workgroup included several different partners and agencies.

Due to the high economic value and social significance of the lobster fishery, the workgroup made recommendation to the Board, and the Board thus took that recommendation and initiated Draft Addendum XXVIII. That Addendum considers up to 40 percent vertical line reduction in the fishery, elimination of the 10 percent replacement trap tag provision, as well as vertical line reporting.

The Plan Development Team has been meeting weekly since March, to try to address these issues. As we started to dig into things, we realized that this was an even more monumental task than we originally realized. We came through and made a lot of progress on the document, and I will go through some of the progress that we did make.

But, ultimately we didn't have a document to present to the Board today due to some challenges that we found, and those challenges included data sources, the risk reduction support tool, as well as the TRT recommendations. Some of the challenges included the base year that we should be using, how do we get the different states who actually already collect end line data into the document, instead of using the data that was coming from the contractor that NOAA Fisheries had identified to determine endline data for those states that do not collect that data?

Then the PDT really struggled with how to give credit to those states that already had ongoing reductions in vertical lines, as well as area closures, then how to reconcile the differences in how the data are collected, and how it impacts quantifying end lines in the long run. In addition there was the Risk Reduction Support Tool.

I think we've sort of covered some of the concerns that the states had through our discussions with Colleen just now. But when the PDT was discussing the Addendum document, we didn't have a Risk Reduction Support Tool to really dig into, so that was a challenge for them to see how. It's not that we

needed the Risk Reduction Support Tool to develop the document itself, but we wanted to be able to inform the Board and the public of what the management measures that the PDT would be proposing, how much impact that would have on risk reduction.

I think where we are today is that we do have this Addendum document. We have some recommendations that came out of the TRT. The states need to determine what measures, or how they want to implement the measures that came out of the TRT. Most of those measures are state-specific plans.

The Commission is able potentially to implement some of those measures, and we might have some roadblocks on implementing some of those measures as well, due to things like the National Standard 4, which NOAA Fisheries would need to implement measures that are somewhat similar, for fishermen that fish within the same lobster conservation management area.

In order to provide as many options as we can to the states, I think it would be wise to leave this management document open, in case the states do need to utilize an addendum for any measures to look at risk reduction, and move forward in the best way that is for the states to get these measures implemented.

There are some things that the PDT did discuss, in terms of making some changes to data collection protocols that we think would be helpful, in being able to quantify end lines in the future. I think some of those changes potentially could be made by the states on their own, but at some point it probably would be useful to codify those data collection protocols in an addendum.

There may be other things that the states determine that they want to include in an addendum. If we leave this document open for the next couple of months, I think it would be a useful tool, just in case type of measure. Then in addition, the Board did talk about the

removal of the 10 percent additional trap tags that get issued by the states.

I'm not necessarily sure that that has to be removed through an addendum process. States can always be more conservative, so I think that the states may have the ability to not hand off those 10 percent additional trap tags at the beginning. But I think it is something maybe the Trap Tag Committee could discuss; to see what's the best path forward.

In order to do that in the same process with all of the states, because not all of the states actually give out the additional 10 percent of tags when the fishermen get their first set of 800, or their allocated trap tags. That is sort of my long winded story of we have a document that we've been working on really hard that we may or may not need anymore. I'll leave it at that for now.

CHAIRMAN TRAIN: Are there any questions about Toni's long winded story? Pat Keliher.

MR. KELIHER: I would just concur with staff that we should be leaving it open. The states have a lot of work, and if all goes well we'll be able to implement anything that comes out of the TRT on a state-by-state basis. But there may be a need for additional work by the Commission, and leaving the Addendum open, I think at this time, is important. As we heard in the public comment by Attorney Davenport, we also had an issue of ESA and Jeopardy here. I am in hopes that the TRT process goes far enough, but if it hasn't then we need to be ready to potentially act.

CHAIRMAN TRAIN: David Borden, and Dan McKiernan next.

MR. BORDEN: A quick point, Mr. Chairman is that Colleen Coogan noted that NOAA is going to try to set up whatever comes out of the TRT as a menu of items that fishermen can select from. I think that's really critically important, given the geographic range of this fishery. When we get down into, and I'll just give you a simple example.

What might work on the U.S. Canada Line, up in the Gulf of Maine, may not work when we get down to the New Jersey offshore industry in Area 4 and 5. But it is really important to have a menu of items; you have weak lines, weak links, and sleeves, whatever it is. Then you have the credit that they get. Then when we get back to the point that the Commission is going to implement this, the industry can tailor make the measures for their LMA. That is I think, important to keep in mind.

CHAIRMAN TRAIN: Thank you, Peter, any other? Dan McKiernan.

MR. MCKIERNAN: Just briefly. While Toni presented a report that said it's a document we may not need. I do want to recognize Toni and my other state counterparts, and the PDT members for working really hard on these issues, because we're in a much better place understanding what some of the challenges are, and also how to come up with more uniform reporting. I think each of the states has a better understanding of the other states permitting and reporting features. It was not a waste of time whatsoever.

CHAIRMAN TRAIN: Toni, do you have something else?

MS. KERNS: Colleen touched on this before, but I just want to make sure that the full Board is aware. At the last meeting we had made a recommendation that we take to the TRT that we implement vessel tracking in federal waters to the TRT. There is going to be a webinar, and I do plan on being on that webinar.

I'll make that ask for tracking in federal waters for the lobster fishery, in order to better enforce our fishermen out there. That is a recommendation from the Law Enforcement Committee as well as this group forward. We will do that and I will work with the Law Enforcement Committee on being very specific about what we are going to be asking for, what kind of standards we want from that tracking.

We'll also utilize the pilot project that we'll have ongoing this summer that will be testing some of the devices, as well as some information that a lot of those devices are also being tested in the Gulf right now. We'll look at the information coming out of that testing, to also inform our recommendation.

CHAIRMAN TRAIN: Pat Keliher.

MR. KELIHER: To that point, Toni. I think it's going to be really important for the Law Enforcement Committee to revisit some of this prior work, so we have much more specifics on the law enforcement requirements around vessel tracking. I think some input from them on why it is not needed frankly, in state waters. I mean the enforcement capabilities in state waters are so much better than as soon as we move beyond that three-mile line, and I think we should just document that as well. The Law Enforcement Committee would be a great place to start.

CHAIRMAN TRAIN: Who's down there? I can't read that from here. I know it was John, I just couldn't remember your last name. John McMurray.

MR. JOHN G. McMURRAY: I'm trying to follow this, and I'm not entirely clear on some things. Why is this a document we may not need, and what exactly are we doing? Are we putting this on hold, or are we continuing to work on it?

MS. KERNS: John, we're going to put this on hold. The reason why we may not need it is because the recommendations that came out of the Take Reduction Team were for state plans. For example, you saw that in Maine waters of LCMA 1, they're going to do a 50 percent vertical line reduction. But in Mass waters of LCMA 1, I think it was a 25 percent reduction in vertical lines. Figuring out what the best way to implement those measures will be a discussion amongst the states, and maybe a little bit with NOAA Fisheries on what's the best path forward to do that.

Is it through a Commission document or is it through measures through NOAA Fisheries through the Take Reduction Plan and the MPA. We're putting this on hold to sort of figure out what's the best path forward, and then move forward, because originally we thought vertical line reductions would not come out of the TRT. But they ended up coming out of the TRT.

CHAIRMAN TRAIN: All right, John?

MR. McMURRAY: I think I understand a little bit better now, not much. How does this affect the timeline then and you know I asked that question in relation to the ESA listing and the potential finding of jeopardy?

MS. KERNS: I think we'll be able to figure out the best path forward in the next month or so. I'm hoping we'll be able to figure that out potentially, and if we need to do measures through a Commission document, then perhaps we can get that document pulled together in time for you all to review it at the August meeting, and approve it for public comment, and then have final action in October.

That would put us relatively close to the timeline that we were at before; it's a two months difference. Even if the TRT had not made these recommendation, or the states hadn't come up with these individual state plans. We would have been in the same boat, because of the complexity of the data issue that we ran into as the PDT. It's not much of a delay, it's two months. We discussed that with NOAA, and they recognize the need for it, and sort of gave us a little bit of a nod that that would work out.

CHAIRMAN TRAIN: Peter Burns and I see nobody else after Peter, I don't think, so I'll move on to the next item.

MR. BURNS: Yes just a final word on this then Mr. Chairman. This gets back to my earlier comment that I made at the end of the TRT discussion that yes, NOAA Fisheries certainly supports keeping this Addendum open, because

we're going to be going forward to try to figure out the best way to implement these measures that have come through the TRT, and having this option open in case any additional measures might need to be considered, so we support that. We understand what the limitations were to the PDT earlier on, and we can try to keep this opportunity open moving forward, and use it as necessary.

**REPORT FROM THE  
LOBSTER BAIT WORKING GROUP**

CHAIRMAN TRAIN: Next we have a report from the Lobster Bait Working Group. I've got Mike Schmidtke going to give that? He's coming.

MS. KERNS: Mike, you can just come to a microphone at the back of the table that's fine.

DR. MIKE SCHMIDTKE: My apologies. You all moved faster than I expected. This is going to be a fairly brief update from the Bait Working Group. This group has met several times via conference call, and we do have a resolution drafted. It's in kind of editing and final signoff stages, but we should have it on track to be reviewed by the Board at the summer meeting in August.

The overall goal of the resolution to this point has been to develop a process for assessing the risk of imported baits. This would entail a working group being formed to define this process, and then the states would apply it to the baits relevant to their waters and their fisheries. That is about where we are right now. I can take questions as needed.

CHAIRMAN TRAIN: Hang on, Toni wants to follow up, and then I'll take some questions.

MS. KERNS: Just as a reminder to those that have not been as clued in on this issue as others that the Atlantic herring fishery has had dramatic decreases in their quota, and there is concerns about what kind of bait would be moving into the lobster fishery with the lack of herring. We pulled together this working group, in order to make sure that we don't have any unwanted baits moving into that fishery.

CHAIRMAN TRAIN: Are there questions for Mike or Toni? Mike thank you for your presentation.

**REVIEW THE IMPLEMENTATION OF THE JONAH  
CRAB FISHERY MANAGEMENT PLAN FOR  
DELAWARE AND NEW YORK**

CHAIRMAN TRAIN: We need to Review the Implementation of the Jonah Crab Fishery Management Plan for Delaware and New York. This reminds me of the thing that my grandfather would say. "Don't make me go behind that stove and get that razor strap."

MS. KERNS: Wow! I wanted to provide an update on where Delaware is as a reminder. Both states have not fully implemented all the measures in the Jonah crab FMP, or Addenda 1 and 2. I am happy to report that Delaware does have a scheduled hearing on May 23, to review these measures. Either July 1, or August 1, those measures will then go into their Register. Once they are in the Register, then ten days later they will be final and approved. They will have their measures in place no later than August 11, so hopefully we won't have to revisit this again. Now John does have an update from here.

MR. JOHN CLARK: Well, just August 11. I'm pretty sure we'll be done by then, but if not it will be before the annual meeting, I'll say that. We will be fully in compliance before the annual meeting.

MS. KERNS: Thank you, John. Maybe we'll be revisiting this in August again, who knows? Then for New York, they are in the process of implementing all the measures except for two. One is the measure that ties your Jonah crab to your lobster permit, for those individuals that are fishing with Jonah crab with pots, as well as the 1,000 crab bycatch provision. I will let Maureen speak to that issue in particular, but the rest of the issues the state is moving forward, and I think you might even have a date in which you think that the rest of those measures would be implemented.

MS. MAUREEN DAVIDSON: Since the fall we have proposed regulations to bring us closer into compliance with the FMP for Jonah crab. Our regulations went out to public comment, we have received none. We are poised to have them become adopted by the end of May. As to the two points that we are still not in compliance, well before I say that I would like to add that the way the Jonah crab fishery is being prosecuted in New York State, our actions are within, we're in compliance with the FMP in our behavior.

Okay, those fishermen who hold crab licenses do not take more than 1,000 crabs per day, in fact it falls below that. We already prohibit the taking of berried females, and we limit our recreational catch to no more than 50 crabs. Those are things that were already in effect before the FMP went into effect.

The two points where we are not in compliance with the FMP, we need legislative action in order for that to happen. We cannot change the constraints on crab fishing, where you are allowed to do it with a lobster permit; it has to be done by the legislature. We are exploring, talking to our legislators.

But we're also trying to see if there is a way we can do this by regulation. It's kind of sneaky, kind of the back door, and I don't have permission to talk about it, but we are looking at other means of coming into compliance. But right now, our actions and the way the fishery is being operated in New York, we're not outside the FMP.

CHAIRMAN TRAIN: Thank you, is there anybody that has any questions for Delaware or New York? I think we're moving in the right direction, and that's the whole point, so I don't see this as an action item any longer. Dan, did you have something? Dave.

MR. BORDEN: Will we have an update on this at the next meeting?

MS. KERNS: We certainly can, David.

CHAIRMAN TRAIN: We should have a resolution by the annual meeting. I got that from John. Are there any other questions?

#### **UPDATE ON THE BENCHMARK STOCK ASSESSMENT**

CHAIRMAN TRAIN: All right, we're on to Item Number 8, an Update on the Benchmark Stock Assessment. Jeff Kipp is giving us that.

MR. JEFF J. KIPP: Just here to give an update on the benchmark stock assessment progress. The last couple of months the Stock Assessment Subcommittee have been working to finalize data inputs for the assessment models, most notably the 2018 data that we hope to include, and also some data holes that were identified at the first assessment workshop back in January, most notably among those is updating the ventless trap survey in the seas for the assessment model.

We've also had a few calls focused on addressing the term of reference relating to identifying environmental drivers. We've also been working on some supporting analyses that we would hope to provide inputs directly to the stock assessment models, and how those models are configured.

We've run into some delays in those supporting analyses, and we will be having a call in early May to discuss those analyses and where they stand, and how impactful they are to the assessment results, and advice that come forward in the stock assessment. We will be having that call, and then we will be reporting back to the Board what comes from that call. That is the update on the stock assessment, and I can take any questions on that progress.

CHAIRMAN TRAIN: Are there questions for Jeff? Pat Keliher.

MR. KELIHER: Jeff thanks for that update. The call will be in May, are you expecting to report directly back out to the Board as soon as that's over? I'm just trying to make sure I get an

understanding if the PDT will meet, or the Stock Assessment Committee will meet the June 1 deadline, and if not whether we should be looking for delays here.

MR. KIPP: Yes, I think that is what we're going to be talking about relevant to the June 1 deadline that the Stock Assessment Subcommittee agreed to have, specifically assessment model inputs finalized for the Assessment Team to consider. I think the plan right now was to have that May meeting, come forward with kind of recommendations on how everything we're hoping to do fits in with the current timeline, and how that would impact that timeline.

I think the plan was to come forward to the Board at the August meeting for these stock assessment updates and provide just an update on the assessment, and anything that would impact that current timeline as it stands. But I think that we could report that out to the Board immediately following the May call, if that is what the Board would desire.

CHAIRMAN TRAIN: Anything else, Pat?

MR. KELIHER: I would suggest that we report it out to the Board immediately after that May meeting, if we need a delay, if you need those additional data inputs. I know there is some growth-at-age information that will be coming up through some additional work as well that could be beneficial. I would rather make sure we get the information into the stock assessment, and we do it with the best available information, and if a delay gets us there great. If we don't need it, and it's not going to be beneficial, then well let's understand that and go from there.

CHAIRMAN TRAIN: Jay McNamee.

MR. JASON McNAMEE: Along the same, this scheduling line of questioning. The lobster assessment will be reviewed through a Commission review? I see Toni nodding there. That's good then, we're not bound to external

schedules and things like that. Well maybe I'll pose it this way.

One of the things I started thinking about, knowing that a lot of the folks that are working on the assessment were also working on the stuff for the whale discussion that we had earlier. There is only a limited amount of these folks, and so what I was thinking about was the data available the terminal year of the stock assessment, and what any delay would do to that.

How offset are we going to get from the most recent data, and when the actual assessment materials come out for the Board to consider? Can you add that specificity to when you come back to the Board with the information after you talk? That would be something that I would be interested in hearing is if there is a delay, what that gap between data available and when you believe the assessment information will come out, because that can be a part of that e-mail, or whatever it is.

MR. KIPP: Yes, I think that's a great point, and certainly we will include that in the discussion on our May call. But basically we'll go through these different analyses that we kind of have in mind, but that we're uncertain if they'll meet this June 1 deadline, and prioritize those. That will all play into how much of a delay we would need, if we think that that is necessary. But certainly right now, our terminal year is 2017 but including 2018 data, where available, to help kind of anchor the model estimates. But we will reconsider that and incorporate that into the discussions there on the timeline.

CHAIRMAN TRAIN: Toni.

MS. KERNS: If this ends up being something simple, we'll send out an e-mail update. But if it is not something simple, I'll be asking for a Board call, just as a heads up to the Board.

#### **OTHER BUSINESS**

CHAIRMAN TRAIN: Are there any other questions of Jeff? David? Okay, thank you, Jeff.



Is there any other business to come before this?  
Pat Keliher.

MR. KELIHER: The last one, I promise Mr. Chairman. I think for a placeholder for the summer meeting, we should put the Resiliency Addendum back on the agenda for discussion, and talk about the timing of that Addendum, and whether we should be restarting any efforts on it.

**ADJOURNMENT**

CHAIRMAN TRAIN: Thank you for that anybody else? Toni wants credit for ending the meeting early. I'll entertain one final motion, anybody. I have all kinds of them, we're adjourned.

(Whereupon the meeting adjourned at 2:30  
o'clock p.m. on May 1, 2019)