

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

World Golf Village Renaissance
St. Augustine, Florida
November 2, 2015

Approved February 2, 2016

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1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of August, 2015** by Consent (Page 1).
3. **Move to initiate an addendum to remove the non-trap bycatch limit from the Jonah Crab FMP or increase the trip limit to 1,000 crabs** (Page 24). Motion by Mr. Stockwell, second by Mr. Simpson. Motion carried (Page 26).
4. **Move to have the Technical Committee examine the tasks provided today: Review the SNE projections; methods to increase egg production; examine the cost/benefit of existing regulations; recalculate targets and thresholds without the bubble years (88-99) and based on the existing productivity; table of egg production by size for each LCMA; examine the relationship of the inshore vs. offshore stocks and describe with a budget need studies; review statement of the problem from Addendum XII and XVII and provide recommendation on how to solve the described problems; characterize the 2014 existing effort by LCMA** (Page 26). Motion by Mr. Borden; second by Mr. Augustine. Motion carried (Page 30).
5. **Move to approve the 2015 Lobster FMP Review, state compliance reports** (Page 30). Motion by Mr. Adler; second by Mr. Augustine. Motion carried (Page 31).
6. **Move to accept Maryland, Virginia and Delaware for *de minimis* status** (Page 32). Motion by Mr. Augustine; second by Mr. Adler. Motion carried (Page 32).
7. **Move to approve Grant Moore, Massachusetts; John Godwin, New Jersey; and Earl Gwin, Maryland, to the American Lobster Advisory Panel** (Page 32). Motion by Mr. Adler; second by Mr. Borden. Motion carried (Page 32).
8. **Move to continue collaboration on federal/state onboard observer programs, including a discussion at the fall Northeast Regional Coordinating Committee meeting, so that agreed-upon changes can be implemented by the start of the 2016 fishing year** (Page 33). Motion by Mr. Keliher; second by Mr. Borden. Motion carried (Page 34).

ATTENDANCE

Board Members

Pat Keliher, ME (AA)	Lance Stewart, CT (GA)
Terry Stockwell, Administrative proxy	James Gilmore, NY (AA)
Sen. Brian Langley, ME (LA)	Steve Heins, NY, Administrative proxy
Douglas Grout, NH (AA)	Emerson Hasbrouck, NY (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Pat Augustine, NY, proxy for Sen. Boyle (LA)
G. Ritchie White, NH (GA)	Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
William Adler, MA (GA)	Tom Fote, NJ (GA)
Rep. Sarah Peake, MA (LA)	Tom Baum, NJ, proxy for D. Chanda (AA)
Dan McKiernan, MA, proxy for D. Pierce (AA)	Roy Miller, DE (GA)
Jason McNamee, RI, proxy for J. Coit (AA)	John Clark, DE, proxy for D. Saveikis (AA)
David Borden, RI (GA)	David Blazer, MD (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
David Simpson, CT (AA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Mark Alexander, CT, Administrative proxy	Peter Burns, NMFS
Rep. Craig Miner, CT (LA)	

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

Ex-Officio Members

Rene Cloutier, LEC Representative

Staff

Megan Ware
Toni Kerns

Robert Beal
Jeff Kipp

Guests

Allison Murphy, NMFS GARFO
Chip Lynch, NOAA
Kelly Denit, NOAA
Chris Wright, NOAA
Danielle Rioux, NOAA
Brandon Muffley, NJ DFW
John Bullard, NMFS GARFO
Michael Petony, NMFS GARFO
Derek Orner, NMFS
Mike Armstrong, MA DMF

Tom Hoopes, MA DMF
Michael Luisi, MD DNR
Bob Ballou, RI DEM
Mark Gibson, RI DEM
Marin Hawk, MSC
David Bush, NCFA
Arnold Leo, E. Hampton, NY
Abden Simmons, MEFA
George Peterson, MA

The American Lobster 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 2, 2015, and was called to order at 8:00 o'clock a.m. by Chairman Dan McKiernan.

CALL TO ORDER

CHAIRMAN DANIEL MCKIERNAN: Let's start the Lobster Board Meeting. My name is Daniel McKiernan from the state of Massachusetts, on behalf of Director David Pierce, as his proxy.

APPROVAL OF AGENDA

CHAIRMAN MCKIERNAN: First on the agenda is the approval of the agenda. Are there any additions to the agenda? I see none; we're going to accept the agenda as is.

APPROVAL OF PROCEEDINGS

CHAIRMAN MCKIERNAN: Second is the proceedings. Are there any comment, additions, or edits to the proceedings? Seeing none; we'll accept the proceedings. Next on the agenda, I'd like to just recognize Terry Stockwell. Terry wanted to inform us about his role today.

MR. TERRY STOCKWELL: Mr. Chairman, I did want to clarify for the record that I'm sitting at the table as the representative of the New England Fishery Management Council. I will only be voting on the Jonah Crab related issues and abstaining on all the other actions brought forth by the board.

CHAIRMAN MCKIERNAN: Thank you, Terry. I want to add as well under Number 9, Other Business, Megan is going to give a short presentation on the outcome of the state/federal meeting concerning the Lobster Observer Program that was held in early October up in our Gloucester office.

MANAGEMENT RESPONSE TO THE 2015 AMERICAN LOBSTER STOCK ASSESSMENT

CHAIRMAN MCKIERNAN: Moving on to Agenda Item Number 4, discuss the management response to the 2015 American Lobster Stock Assessment, I think you folks are well aware from the last presentation the status of the stock was considered quite robust everywhere except Southern New England. This board and the commission does face a conundrum of how to deal with this particular component of the lobster population in this changing environmental situation.

Did you have any slides you wanted to show on that?

PUBLIC COMMENT

CHAIRMAN MCKIERNAN: I was informed that there wasn't any requests for public comment.

REPORT FROM SNE SUBCOMMITTEE

CHAIRMAN MCKIERNAN: At the request of this board, a subcommittee was convened on October 2nd, hosted by David Simpson in Connecticut. We brought together the heads of the LCMTs, some of the leading state agency officials, and the technical committee members and discussed in depth, over about seven or eight hours, the conundrum and the challenges that we all have in Southern New England.

We were tasked with trying to come up with management objectives for taking on the dire condition of the stock. It was a very challenging meeting, a very challenging discussion. It fell along somewhat predictable lines in terms of the industry's concerns about impacts of conservation measures on their business plans. The technical committee presented a number of projections suggesting that under a whole array of natural mortality levels the stock is unlikely to recover certainly to the historic levels that the current plan requires in terms of targets and thresholds but even to arrest the decline of this

stock may take some pretty dramatic actions and pretty dramatic conservation.

The group really struggled with trying to come up with various objectives, and everyone in the room certainly agreed that doing nothing is certainly inappropriate, but at the same time the moratorium option or something close to a moratorium is extremely difficult. Certainly, no one in the room had an interest to do that as well.

There are a number of possible competing objectives in the document on Pages 2 and 3; and they include rebuilding the Southern New England stock, which we all agreed couldn't be done to historic levels; prevent further declines in spawning stock biomass, which could have a devastating effect on the economics of the fishery, which is for many of the guys pretty marginal.

Another objective would be to slow the rate of decline in the spawning stock biomass as well as preventing the loss of fishery infrastructure. I'd like to have some discussion with you this morning about what we as a group should lay out as objectives for this area. I think we are in a very unique situation. Everybody talks about climate change and ocean warming; I think in some ways this is really the poster child for the effects of the environment on these fish stocks.

The press has picked up on a lot of other environmental fishery stories like cod in the Gulf of Maine; but we laid the groundwork for this argument about six or seven years ago with some of the work that folks in Rhode Island and Massachusetts did and described the mechanism for which the stock seemed to be failing in terms of reproductive potential and the loss of optimal habitat because of warming waters. I'd like to open up the discussion around the room, especially to those who participated in the meeting, and get your thoughts on how we should move forward.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Just real quickly before the board jumps into the meat of

that conversation, I just wanted to introduce three people that are at the table. They're generally familiar faces to the commission, but they are new to the Lobster Board or back to the Lobster Board.

Senator Brian Langley is here. He was a commission before and now he is back as a commissioner. We've got Ed O'Brien from Maryland. Ed is familiar to a lot of you that have been with commission working on striped bass. He has been on the advisory panel for a long time. Then we've got a gentleman named Pat Augustine that is back at the table once more from New York.

CHAIRMAN MCKIERNAN: I'd like to add Rene Cloutier is here from the Maine Marine Patrol representing the Law Enforcement Committee as well. I'm looking for my colleagues from Southern New England to start the discussion. David.

MR. DAVID SIMPSON: I wish I had the answer and then we could just kind of go toward that; but I think the central question we've been struggling with for quite some time now is understanding that in all likelihood it is the warming waters that we've experienced since about 1998 that is at the heart of the change in prospects for lobster.

Do we subscribe to a climate change theory that says it is bad and it is going to get worse; so it is a hopeless cause for lobster; let the fishery just go ahead and catch the last one; and when it is over, hopefully something will replace it; or, do we look at it and say, yes, it is a much more stressful environment that they're in, but there remains some productivity in this stock and maybe we can achieve the level of productivity and harvest that we once enjoyed; but is there a new lower level of productivity that could be sustainably managed and harvested?

I think that's the central question. I haven't decided myself. I think it comes down to whether you're just a pessimist or believe that

there might be something worth holding onto. Then I always go back to our coastal policy in Connecticut, which says one of my jobs is to prevent the depletion of indigenous species.

If there is something that could be done to stem the decline in this stock, which has been consistent for 15 years, then we have a responsibility to do it. I think that, to me, kind of sets the frame for the conversation. Do we just give up or do we acknowledge that there is a lower level productivity and try to manage toward that?

MR. THOMAS FOTE: Again, when I'm talking about the Mid-Atlantic with the New England interloper's district or what you call Southern New England, I look at this the same way as Dave does, but I also look at it as a business model. Lobstermen are not going to go out unless they can make a living. It is an expensive business. They lose traps. They have boats that are heavy on gas or diesel, whatever they use.

You're probably going to see a thinning out of the lobster fishermen. It is a real shame because it is such a historical fishery, but some of that is going to be self-regulating. If you can't make a living and if it is not going to be profitable, you're going to stop doing that. We should be looking at how do we address that; how do we basically help the industry get through this tough period besides basically with lobster.

I think no matter what we're going to do, it is going to go down and the industry is going to need some help to either adjust to another industry or maybe to look at some kind of kind federal buyout for the program.

I'm not positive right now if we did something we were going to going to make a big difference on that. I'm just not sure. Do we let it self-regulate itself down; because as I said when they stop making a profit, they are going to stop fishing? It just perplexes me and I'm really interested in what lobstermen have to say about some of that.

CHAIRMAN McKIERNAN: Tom, to your point about a federal buyout, it was about ten years ago when the stock was declining significantly and some of the Rhode Island folks and some of the Massachusetts folks, I think both went to congress looking for some kind of federal support and failed. There was an interest in doing that.

What has been taking place in the Area 2, which is the Rhode Island/Massachusetts, a little bit of Connecticut, and the Area 3 gang is a self-funded buyout, so a lot of those vessel owners are kind of cannibalizing other businesses in order to prepare for the trap cuts that they have agreed to. It would certainly be a different outcome to see federal support for this, but I guess it is not out of the question.

MR. FOTE: You only had two states involved. When you have more states involved, you've got more congressmen and more senators, so it might be more politically advantageous.

CHAIRMAN McKIERNAN: Fair point. Mark Gibson.

MR. MARK GIBSON: First, thanks to David for hosting a very difficult meeting. I tend to agree with him that I think there needs to be some reassessment of the reference points, what is realistic given the conditions of stock productivity, environmental change and ecological challenges that lobsters face.

The difficulty is we don't have any estimations of a reference point. If they didn't come out of this last stock assessment, we're probably not going to see those anytime soon. I think a pivotal issue here is we have some stock projections. We had some at that meeting. I don't know if they're revisions or just refinements from Burton Shank of the Fisheries Service.

I think those are pivotal on this question; and I'm not really sure of the status of those. They're in our briefing material, but I don't know if they've been endorsed by the technical committee or the PDT. I think that's critically important

because some of those projections, as you noted, Mr. Chairman, are quite pessimistic.

Just stabilize biomass at its current level required a substantial cut in mortality, either cutting M, which we really don't know how to do, or cutting fishing mortality, which we think we know how to do are reluctant to do so. I think I need to understand what the status of those is in terms of their peer review and their acceptance by the technical committee. Maybe that's a charge we need to make to the technical committee in terms of reviewing of those projections and giving us some insight into how reliable they think they are and then what do they tell us about a potential reference point adjustment.

MS. MEGAN WARE: Just to clarify, the projections in the meeting materials were from Burton, and it was a request from the subcommittee that the units be changed from spawning stock biomass to reference abundance; so that is what is shown there. In terms of them being reviewed by the technical committee or peer reviewed, they have not. If that's something the board would like to do, then that should be tasked to the technical committee.

DR. LANCE STEWART: My concerns have been the concerns that have been expressed to me for the last two or three months from the Western Long Island Lobstermen's Association and several others that are involved in that kind of restricted area for habitat. Through the fifteen years of different levels of mortality that we've had, I don't think we've really mounted a good scientific study across the board inclusively that deal with temperature and pesticides at the same time lobsters are fading or what is affecting them.

I think we need an ultimate synchronized, organized through the technical committee, a study of one of the greatest populations that are going through mortality along the east coast. This would be alarming and should be alarming

as any other that the federal government and the states have coordinated in the past.

All I'm doing is asking and appeal, as all the fishermen have expressed to me, to get this data together. I have bits and pieces of DO and temperature that don't really correlate with a site station with a fixed number of lobsters in the traps that are really enumerated over and over again as far as how far they have died or whether they do die. They may have a weakened condition and not die.

I don't think we've done the science justice for this largely important animal, and that's what I'm asking the board inclusively, all of the Chesapeake, whatever, to take the attitude that this is one of the major stocks on the eastern border and we haven't given it a definitive study yet. We're looking at shutting down the fishermen and closing a traditional fishery.

Those are the words that I get by phone; and as a biologist this was my animal for 40 years. I have these subtle ideas and they're real by a lot of scuba studies that some lobsters in traps that come up and they may or may not die, but they have to be really verified to be in the condition that causes mortality.

But, in the environment there are tremendous numbers of mud burrows in these grottoes that go into the sediment of Long Island Sound where lobsters that are free and are able to roam to avoid a two degree or three degree temperature for a week or two – they could; I don't know whether they do, but it is certainly a possibility.

These sorts of subtle things that affect this multimillion dollar species or industry should be laid out and studied. It is a close geographical area. It is not like studying the whole continental shelf; so it is an easy study to do. The funding would be generated from congress, we feel, instantaneously, but I think we need to have the urgency and the appeal made a little more prominent than we have in the last 15 years.

MR. WILLIAM A. ADLER: First of all, I mirror the other comments on new reference points. I think that's important to lower the bar a little and the expectation. As far as the – I think the fishermen are still reducing, I believe, traps and, of course, also the number of fishermen are being reduced as well as you just mentioned.

There is something going on, which is reducing mortality. I do recognize what the subcommittee had done, and I read the material. What can we do? I don't think closing the fishery; I don't think that even reducing it by 75 percent – you know, I don't think that's working or going to work. We do have the natural mortality. What do you do?

Well, I think that we bring an iceberg down and put it in Buzzards Bay and it might cool the water a little. We could up the predator count so that we can catch more of those; because those things were also listed as a problem. Now, that's not going to bring all the lobsters back. I also think that the ventless study; there should be a ventless study done outside where these fishermen are saying, yes, we're doing fine; where are you?

Deeper, colder water, south of Vineyard; un huh, that's what the biologists said, the lobsters leave town when it gets too warm; and then when they have their eggs, they don't come back into Buzzards Bar or Narragansett Bay. They go somewhere else. So, anyway, a ventless study I think should be done out there just to put more information into our hands.

CHAIRMAN MCKIERNAN: Bill, to that point, I know that the Massachusetts Ventless Trap Survey is going into the EEZ. Mark, did the Rhode Island Ventless Trap Survey go out there?

MR. GIBSON: Go where?

CHAIRMAN MCKIERNAN: The Rhode Island Ventless Trap Survey; does it put traps in federal waters or just state waters? All right, next I have David Borden.

MR. DAVID V.D. BORDEN: I attended the subcommittee meeting, and my take-away message from that is this a really difficult issue for all of us to deal with. I think we've got to be right up front about the circumstance we find ourselves in. The will of that group was we can't envision doing the two extremes, which to me the take-away conclusion of that is we need to do something.

I favor that type of approach. I think we've got to be fairly deliberate in terms of what we do. Once again this is in the mode of big picture. I think we should identify a whole number of taskings and at this meeting ask the technical committee or whatever the appropriate committee is to review it and bring action items back to the commission so that in fact we can take action.

I don't think that we should ask the technical committee, which the commission did the last time they found themselves in this situation, what is the most effective way of conserving this stock? There is a simple answer for that; close the fishery. If you ask that question; that is what the response is going to be, and we all know that.

I think the message from the subcommittee was don't go there; that's not the appropriate message. I think we've got to be up front with ourselves and all the commissioners and the public that we're not going to close the fishery, but personally I don't think we should give up on the fishery. I think there is a whole series of potential actions we can take to try to buffer the lobster resource if Southern New England.

If you were to look at – and this is all out of the scientific reports. If you were to look at some of the condition of the fishery, it is horrible. There is no other way to describe it. The recruitment is down, the landings are down, but there are some positive things that are going on in the fishery. The fishing mortality is one of the lowest in the time series. The effective exploitation is one of the lowest in the time series.

In terms of Area 2 and 3, the number of traps fished is one of the lowest in the time series. Just using Rhode Island and Massachusetts on traps fished, in the heyday of the resource, 1999, those two states were fishing about 300,000 traps. After the trap cuts the commission has approved, those two states will be fishing about 60,000 traps. At some point those trap cuts are going to bite into the fishing mortality.

My position on this is I think we should walk away from this meeting today with a whole series of taskings and have the technical staff and even the LCMTs actually work on some issues. I think one of the strategies should be to try to increase egg production. I'm not personally convinced that environmental change was the sole reason that this stock has gone down. I think it is a function of many factors, one of which is natural mortality and predators in the environment.

There are ways to put more eggs into the water and increase the recruitment level with minor tweaks. The PRT looked at a whole series of recommendations, one of which was to look at consistency in some of the regulations and the impacts – I think a better way of saying it the impacts of inconstancy on the regulations. I think that should be one of the taskings we should task the committee. I've got a number of other suggestions, but I'd like to hear other members of the board first.

MR. EMERSON C. HASBROUCK: The other speakers have said much of what I wanted to comment on. We really need to reexamine the reference points. The reference points are being driven by that peak of the population, Long Island Sound, Block Island Sound, Buzzards Bay, back in the eighties and nineties. That is what is driving this. That's what those reference points are based on. I don't think we're ever going to get there again.

In fact, even the staff memo indicates that we may never get there again. We can't be in a situation where reference points are being

driven by a situation that we're never going to achieve again. If we look at abundance, abundance now is about where it was back in the late seventies. If we were having this conversation back in the late seventies, we'd say, well, things aren't too bad; but we're having this conversation now after that peak in the eighties and nineties and we're saying, well, things might be pretty bad. As the other speakers have said, we need to reexamine that.

In terms of effort, we've had a significant reduction in effort already. During the peak of this Southern New England inshore fishery, there were almost 600,000 pots being fished. Now we're down to about 150,000; so there has been a significant reduction in effort already. Some of the issue, though, is that the number of pots being actively fished is significantly reduced again from about 600,000 down to about 150,000; but a lot of that gear is still out there.

It is still out there in the water; it is still fishing. We received some funding through NFWF and NOAA to remove some of these derelict pots; and so far we've retrieved 14,000 abandoned pots. Nearly half of them have the escape vent – I'm going to say compromised; and when I say compromised, I mean that the escape vent is either still attached, the hard rings haven't deteriorated so that escape panel is still in the pot; or, that end of the pot where the escape vent is has either sunk into the mud or partially sunk into the mud.

Even though the active number of pots being fished is less, there is still a lot of ghost fishing going on. Again, we've removed 14,000 pots, there is still a lot of abandoned gear out there, it is still fishing, the escape panels aren't coming off, and they're still catching lobsters. Probably about at least a third of the gear that we're retrieving have lobsters in them.

MR. MIKE LUISI: I'll keep my comments on one specific point that I think is going to be an issue that is going to be a difficult one to try to fix, and that has to do with this concept of ending the

fishery. Ending the fishery I think means different things to different areas and the different fished areas of the Southern New England area.

What I'm getting to is that south of the Delaware Bay the Lobster Fishery is not an inshore fishery. The Lobster Fishery is a deepwater offshore fishery that requires enormous efforts to get to, prosecute, return home with a profit margin hopefully large enough to make the day worth it or make the trip worth it over a course of a couple days.

When I read through the documents and hear the suggestions that reductions on the order of 75 percent, even if it was 25 percent, if we were to even consider something around 15 percent, I'm not sure that the fishermen that I represent would be able to continue operating due to where this fishery is being prosecuted south of Delaware Bay.

I'm also hearing from them that offshore stock – and I know that this issue was discussed at the subcommittee, but that offshore stock in the deep waters and the canyons, they're not experiencing the same declines – they're not seeing the same declines in their catch-per-unit effort over this period of the last five or ten years. It is just not there; they're not seeing it. It is a challenge when talking with them and explaining to them what the science is saying when they're not experiencing that themselves. We don't collect a lot of information south of the Delaware Bay on lobster. We've begun a sampling program in that sea-sampling program to try to start gathering information; but in my mind I think we might need to think about the science of the stock and looking at these different areas and determining whether or not these reductions are absolutely necessary with the inshore versus the offshore fishery. I'll just leave it with that.

CHAIRMAN McKIERNAN: Toni, can I ask you a quick question about funding opportunities or attempts at getting funding to look at the

offshore stock? Didn't the technical committee try to pursue that to no avail; do you remember?

MS. TONI KERNS: Like, for example, doing the ventless trap survey in the offshore fishery or just general data collection in the offshore fishery?

CHAIRMAN McKIERNAN: I think they were trying to do some tagging studies to determine the linkages between the nearshore and offshore and some of the movement of lobsters in the deeper water.

MS. KERNS: I believe that someone may have applied for a couple of funding projects and they were not successful.

CHAIRMAN McKIERNAN: That's my recollection as well. Do you want to speak to that, Doug?

MR. DOUGLAS E. GROUT: Yes; I know there was an ACCSP grant that my staff got involved with and going out and having the AOLA do at-sea monitoring. I thought they were going to try and add some tagging to that particular study, too. I can find out from my staff if they did indeed start doing the tagging, if you'd like.

CHAIRMAN McKIERNAN: I only raise that because I think that is the conundrum that we're all facing. When you think about it, we have nearshore areas that don't produce lobsters like they used to. We have offshore areas that appear to be producing lobsters at a much higher level. The technical committee I think espouses the traditional linkages of nearshore shallow habitat produces young lobsters and those lobsters are eventually taken as adults offshore.

That is the traditional thinking and yet to Mike's point there seems to be this reservoir of older lobsters that continues to be available to the offshore fleet; and that's the disconnect. Nobody is going to deny that the landings haven't plummeted in Long Island Sound or in Buzzards Bay; but how we manage this stock as a whole is really, really challenging.

EXECUTIVE DIRECTOR BEAL: Dan, is there an estimate of what this would cost just so we can put that into the priorities of the commission. As funding opportunities are available, how much would this work cost and we can get a sense of where that is on the commission's priorities and start weaving that into our process.

CHAIRMAN McKIERNAN: I don't have it, but I'd be happy to produce it subsequent to this meeting. I'll talk to Bob Glenn about that.

EXECUTIVE DIRECTOR BEAL: Yes, I think it would be helpful just to know what ballpark we're working in and then we can see if there is SK funds or whatever it might be available that we can latch onto and then fund this work. It sounds pretty important to the discussion and sorting through the Southern New England issue.

MR. PATRICK C. KELIHER: Mr. Chairman, I wanted to lend some support to the concepts that Dave Borden brought forward as far as tasking the technical committee. However, I do want to encourage the board to consider not looking only at Southern New England if we are going to be tasking the technical committee.

My staff has just completed or are in the process of completing the settlement survey for our state. It looks like we're going to be well below average for settlement for this year. This will be four out of five years we're continuing to see some reductions within Western Maine within our fisheries compared to what we're seeing in mid-coast and Downeast Maine where landings are still quite high.

However, I want to make sure that we as a board take lessons and learn some lessons from Southern New England about being ready to react to a changing stock. I think the signs are starting to show that we will see a changing stock in the Gulf of Maine. We know there is relationships from the Gulf of Maine stock back to Georges as far as tagging studies that have been done. I would encourage the board to

consider adding some tasks to the technical committee that would look at some of those relationships and some of the differences with regulations between those areas.

MR. G. RITCHIE WHITE: Mr. Chairman, we started this ten years ago, fifteen, whatever, with the recommendation of a moratorium. We did, what, a 10 percent cut. I think we're to the point now where it is clear that the problem is environmental. We can't solve it with reducing fisheries' mortality. It seems that a moratorium is not an option.

I think the commission, though, needs to call what we're going to do what it is. I think it is important that we don't take some steps as it seems like we're going to take and call it that we're trying to restore the stock. I think we need to call it that we don't think the stock is probably recoverable based on peer-reviewed science; and we want to maintain a fishing industry and fishing infrastructure; and that's our goal. I think we've danced around this for 15 years, and I think we need to come out publicly and describe what we're going to do as what it is.

MR. PETER BURNS: Mr. Chairman, it is certainly a very difficult problem; and I think that Ritchie makes a good point. I think what we have to really do is find some definitive goals on how we want to move forward and not just a 10 percent or some kind of a number that we're going to use.

I think we need to look at if we can't look at the reference points, then maybe it is Burton Shank's revised projections that we can use. I think it was Mark Gibson that suggested that and I thought that was a good idea to maybe give us some kind of benchmark of where we're headed on this; so that we can think about how we want the fishery to look, both the fishery and the stock, and what our expectations are going to be. Then from there we can decide what kind of measures are going to work so that we can maximize the opportunities for the industry and do what we can for the stock within the limits of natural mortality and other problems there. I

think as far as taskings go, one thing that comes to mind is to keep in mind that we have a trap transferability program that we just unveiled; and fishermen are taking advantage of that in Southern New England, mostly in Area 2 and 3.

Moving forward that may be a very important tool for these fishermen to use to be able to mitigate through whatever measures that we end up having to put in place for this fishery moving forward. I would recommend that any kind of tasking or any kind of development of measures would consider banking and the aggregate trap limits that we have in place in Addenda 21 and 22 – we’re looking at that right now, our agency, as part of changes to the trap transferability program.

It there is going to be any significant changes to how perhaps we do trap reductions, maybe the timing of those, those are going to impact some of the measures that have already been adopted into the plan; and if those need to be adjusted, then I think we should take all the things into consideration that we already have in place now to deal with Southern New England that we’ve done already.

MR. PATRICK AUGUSTINE: I’m going to try not to babble, but listening to what we’ve heard around the table, all the points are very salient and very important. Ritchie hit it right on target. Let’s face the facts. We’re either going to close the fishery or not. We’re either going to hurt the fishermen economically and put them out of business or not.

The real problem is not the fishermen. We keep thinking that we can solve our problems by reducing fishing effort; and that’s not the answer. The answer is a different approach, what is the mortality being caused by. No matter what the stock assessment is on black sea bass, for instance, and porgies, for that matter, the SSC is a day late and about three years short.

What is really happening on the water, we are doing single-species management to try to save

a species; so we’re going to try to save lobsters by wiping out the fishermen. What are we doing with black sea bass? We’re reducing the quota. If you’re a fisherman and have been out on the water for the last three years, you’re saying, my, God, what are we going to do with these things; and yet the SSC is reducing the quota because we’re worried about the stock, because we don’t know what the status is.

The same way with porgies; what are we doing with striped bass? We reduced the take on striped bass by fishermen and what is happening? You’re seeing a resurgence in one year. I guess the point I’m making is in listening to things that Emerson said, getting ghost traps out of the water, they’ve done 14 or 15,000 already, quietly going on about their business.

If you were to drive out on Long Island and look at some of the ports where the ghost pots are packed and stacked, you would say, oh, my God, they’d fill this room; and yet the average person doesn’t realize that. Has Connecticut had any funding to do the same thing? Would they do it if they had it?

Yes; they probably would. I haven’t talked to Mr. Simpson about it, but I would think that would be another approach rather than wiping out the fishery and killing off an industry that is very viable. We know that habitat is an issue; water conditions have changed. Connecticut has put in place a reduction – I’m sorry, not being able to use certain chemicals in their waters, methoprene and some other things. They feel that has been very beneficial to lobsters. That in addition to New York is still using it, and maybe we have to look at that.

We’re looking at trying to reduce the fishing effort and not what is causing natural mortality. Why don’t we look at ecosystem management for those major species of fish that are attacking lobsters? If they’re black sea bass, let’s get a real number. You cannot fish for black sea bass on Long Island Sound without pulling up a black sea bass, eight or ten inches long, that doesn’t spit

out baby lobsters; and that's throughout the whole of Long Island Sound.

Now they've expanded up into the New England area. If you think you have a problem now, you have no idea. We thought we had a problem with spiny dogfish. These things are worse than spiny dogfish. The assessment is dragging its feet. I don't want to blame the SSC, but none of them want to make a mistake and say, "Oh, gee whiz, we gave you too much quota; you're killing them off."

They're like ants. They produce the way they have to produce to sustain their species. It seems to me that we need to review the reference points. They were moved up based on how the status of the stock was changing. As Emerson said, if we look at where the baseline was in the seventies and to what it is right now, it is about the same.

If you look at the active fishermen in our area, there are about the same number of pots in the water fishing that there were then. In the meantime, the stock increased so the change the threshold and the target. We've done the same thing with every species of fish. As the species come back, we increase the target and the threshold.

The real question is are we trying to bring the levels of these species up to artificial levels that will compete with each other? In the meantime, there are some species such as winter flounder are falling by the wayside. What is eating them? If you're a diver, Dr. Stewart will tell you what is eating them; everything in sight. Why don't we really take a real hard look at this?

If we decide we're going to do anything other than send this back to the technical committee with advice as to what other studies they should perform, we are admitting that we don't know how to come up with a solution. With all the brains around this table, we don't know how to come up with a solution other than hurting the fishermen.

I would think if there is funding available, one of the first things that we might look at is awarding grant money to those states that feel they can support removing ghost pots. That's an active move. You talk to Emerson about it and he will tell you the number of lobsters they found in the pots that they've taken out. They continue to fish.

Go back and review the reference points as Mark Gibson has mentioned. We need to look at the economic value of other species of fish versus lobsters; which one is the most important? It just so happens around this table the most important species is the one we're talking about that affects your community. If it is striped bass, oh, boy, we've got to save striped bass. In this case lobsters, which are very important. Those are the points I'd like to make. Single-species management is good to a certain point only if it works in our behalf.

CHAIRMAN MCKIERNAN: Thank you, Pat. I've got Craig and Dennis. I want to come back to Dave Borden after that and talk about the multispecies aspect of fishing. We took a substantial action at the last meeting to basically co-manage the Jonah Fishery with the Lobster Fishery, so I think in some regards we're heading there.

REPRESENTATIVE CRAIG A. MINER: Mr. Chairman, I gave a lot of thought to this meeting on the way down here; and having read the passage number three where it says, "In particular, human changes to the coastal ecosystem"; it seemed to be something that people agreed was of great importance to this species.

I'm concerned that we might reach the conclusion that we have so damaged the ecosystem that it isn't recoverable or at least isn't recoverable at some very low level. I've been in the constituent business probably for 25 years; and one thing that I will tell this board is

that when you lose a constituency, you lose the interest and you will lose the money.

If we have any interest in trying to find out what the drivers might be, whether it is predation, damage to the ecosystem, water temperature, an imbalance between effort and what this animal can sustain as a population, then I would suggest that the time to do it now. If we make a determination that this is a done deal, congress isn't going to appropriate a nickel. I can tell the Connecticut government isn't going to appropriate a nickel.

This is an area that has been cut from the budget more times in the last five years than I care to admit. It is not because some people don't care; it is because a majority of people don't care. My suggestion would be that we're very careful in how we craft whatever the guidance is; because if the guidance comes back with a determination that a moratorium, and this is done, is the direction we need to proceed, I can't imagine the state of Connecticut appropriating fifty cents to figure out why this fishery has gone away. That isn't where I want to be.

MR. DENNIS ABBOTT: I think the biggest problem facing us today is, first of all, whether Pat Augustine's voice will last the full week. He is off to a shaky start this morning. Good to see you, Pat. To this issue, we're heard an awful lot of good comments; and I think for every point that is made, there can be a counterpoint made in another direction.

Bill Adler would have us looking at predators. He has always been against the striped bass and now the sea bass have entered the equation. Lance Stewart would like us to do more studies on the biology of the lobsters, which would be a good idea. The problem facing us has grown past just Southern New England.

Pat Keliher alluded to issues going on or beginning to go on in Maine; and I've been reading in the papers and in the clippings of things that are happening. I think whatever

study that might be proposed really should be looking at a more global – this being a more global issue; is it going to spread north of Cape Cod? Is it heading for Maine?

The fact is it is climate change and we have to realize that climate change is a big driver. It is changing what is going on in the ocean. As far as trying to limit the Southern New England fishermen, I'm reminded of a governor's appointee that I rode to a number of meetings with when I first started. It was Steve Driscoll who was a commercial fisherman. He said trying to restrict us to catching certain things isn't going to do a lot.

If they're not there, we're not going to go catch them; and I think Tom Fote alluded to that; that if it is not economically viable, they're not going to go fishing. Trying to change the amount of fishermen or place restrictions on them; they'll place their own restrictions. Do we want to have the responsibility of imposing a moratorium on Southern New England and be the bad guys?

Do we want to be the ones sticking our finger in the dike trying to solve a problem that is really unsolvable? We have to acknowledge that the environment is changing; and if any study is to take place, we have to look at the bigger problem of what is happening and try and ask the technical committee to look at reference points and whatever is peeing into the wind.

As Ritchie said and I've said, we've been looking at this for over 15 years and fooling with the reference points and whatever is not going to change a darned thing. Surely, I don't know the answer, but I think our problem is much bigger and growing and we really have to pay attention to that problem.

MR. BORDEN: Mr. Chairman, just to kind of move this along, I'm not going to make this as a motion, but I'd like to just read what I think the strategy should be and then let people make comments. I think there have been a lot of good comments here. I think the way forward is to do

some tasking for the technical committee; and I'll just read a list of items that I think are appropriate and anybody can offer suggestions otherwise.

I think we should task the technical committee with looking at the projections that were done by Burton. While I'm on that issue, I'd like to compliment Burton for the work that he and the Center staff are doing on this. They've really gotten engaged on the issue; and I think it is really helpful. That would be one item on the list.

The next item on the list is I think we should ask the technical committee to look at different ways of increasing egg production. Some of you have no doubt seen it, but there was a recent paper that published in the Canadian Journal of Science on the Bay of Fundy, which basically indicates that egg production between 2008 and 2013 in the Bay of Fundy has decreased 8 to 10 percent per year; and they attribute that to environmental change.

I think we need to look at ways to keep the egg production going. Pat Keliher made the point that the recruitment indices are falling in the Gulf of Maine and has been a continuous recent trend that way. One way to react is to figure out strategies that increase egg production. I think we need to look at it in a holistic form in all areas.

We need to examine the cost and benefits and implications of our existing regulations. That does not mean standardizing all those regulations. I think it means – nor does it mean doing the most restrictive. I have spoken to this point in the past, we have a situation where we have two sets of regulations in some areas. We two different minimum sizes, two different maximum sizes. We have areas that have four different v-notch definitions.

At some point these have negative consequences, and I think we need some technical advice on that. I think the technical committee should recalculate the targets and

thresholds. I don't want to delude anyone that you're going to get the same conclusion out of that analysis, but there will be an order of magnitude difference between the results. The resource is still going to be overfished. I think we need, which I've been trying to get, a table of egg production by size for each one of the LMAs. I just note the sexual maturity is very different. If you look at sexual maturity in Long Island Sound, it is completely different than it is out on Georges Bank.

I think we need to look – and Bob Beal raised this point before – I think we need to look at this whole relationship of the inshore and the offshore stock. Most of the tagging studies that were done date back to the period of time when I was tagging lobsters, which was 35 years ago. I think there would be a lot of merit in having the technical committee look at those tagging studies and basically come back to us with some recommendations.

I also think that the technical committee, as part of that review, should go back – Toni Kerns, when she was just doing staff work on lobsters, wrote what I viewed as a superb summary of the problems in the lobster fishery. This was kind of a holistic summary of the problems in terms of data collection, reporting systems and so forth. I think we need to dig those documents out.

I think it was Addendum XII or whatever, and Toni can correct that if that's wrong, but I think we need to dig those out and have the technical people look at that and then bring us recommendations on how to solve some of those problems. I think my conclusion is we have to get on with solving some of these problems and kind of standardizing some of the systems in place.

Above all, I think we've got to figure out ways and strategies to increase egg production. I also think that any strategy going forward should include the strategy of capping effort in these fisheries. I understand that we don't have a perfect relationship between effort and fishing

mortality; but the one thing that I would point out to everybody is that lacking such a strategy in all areas, you can be assured that the fishing industry will redeploy effort as we rebuild this population.

Somehow we have to have a strategy that caps fishing mortality or not fishing mortality but fishing effort in all of these areas. Otherwise, we're going to take steps – and I would point out Bob Glenn has pretty much documented this in Massachusetts. He did an analysis of what is happening in the Massachusetts fishery in the last year, and what you find is that the landings are going down and the catch per unit is going up; and so the perspective from the industry is things are getting better, but it is a smaller and smaller industry is what is happening.

The people that are still surviving in the industry in Massachusetts are actually seeing the benefits of less traps in the water. Personally I think we need a strategy to effectively cap the effort; and for Long Island Sound, as an example, that may mean starting – I think they're down 96 percent from their record high amount of effort, but that may mean just capping it at 4 percent or something like that. On my list those would be the tasks for the technical committee.

CHAIRMAN McKIERNAN: Can I get some feedback? David Simpson.

MR. SIMPSON: I think Craig and I are on the same page in terms of the need for a constituency to have anyone out there who cares about an issue. Whatever Area 2 is doing, that's fine. I think it is a very expensive way for people to stay in business to have to pay somebody else to leave; so I'm not an advocate.

All of the conversation and a lot of our conversation about lobster and effort controls to me is reminiscent of the 1980's and groundfish management; and we know what that did; not much. I think if you want to manage a fishery, we learned with every other species you have to manage output and not input; and you would

need some kind of quota and cap and let individual areas decide how to manage that fishing mortality rate.

The idea that cutting traps is going to do anything for conservation I think is faulty logic; and some of the results that are shown in the report I think support that. We hear that over and over from fishermen, you know, effort has been reduced 90 percent, there isn't a problem anymore. I look at this room and somehow it reminds me – it makes me think of Long Island Sound, the western two-thirds, and I think of the center as being the center of the Sound and down in the corner being the west.

There used to be 750,000 pounds of landings out of this space right here between us. Last year there were 2,000 pounds. What good did it do that all that effort went away? It means nothing. The effort remains down where Steve and Bob are sitting where there is a couple of pockets where lobsters are left and that's where the pots will go.

We've had tremendous contraction in this stock, from 75 to 85 percent occurrence in our trawl survey of lobsters down to as little as 10 percent occurrence; so 10 percent of sites left are producing lobsters. Well, guess where fishermen set their traps – in the places that still have viable concentrations of lobster; so it is a losing cause to engage in this conversation about trap limits and conservation. If you want to do it for economic reasons, that's fine. I think that is for governments to decide. If our mission here is conservation, then it is a misplaced conversation.

I think again we get that from every angle; effort is down 90 percent, so there shouldn't be a problem. It is concentrated where any remaining stock of lobsters are; so I'm very wary of the Area 2 approach of make remaining fishermen buy each other out, being exported to Long Island where I frankly have a little different view of how many constituents we can support with small numbers of traps versus a few big players that concentrate their traps, which will

then be concentrated in remaining pockets of viable concentrations of lobsters. I'm all for conservation, but let's be clear and distinct whether we're talking about economic and social engineering or whether we're actually talking about lobster population conservation.

CHAIRMAN MCKIERNAN: Let me circle back to the document. There is a number of possible objectives and one of them is to slow the rate of decline in the spawning stock biomass. David, that seems to capture what you're attempting to do with that motion. The second one is to prevent loss of fishery infrastructure, and that's what you're trying to do.

Then I think you mentioned looking at regulations, and I'm interpreting that to mean you want to improve compliance and enforceability with the existing rules and not have one LMA's fishermen undermine another – especially in overlap zone, and that you want to make these rules cleaner and maybe some conservation comes out of that at the end of the day because some lobsters get put back in the water because you have consistent rules. Is that accurate?

Okay, does that get us towards some objectives among the others that you put on your list that we could ask the technical committee for help? David objects to the formula of sort of a self-funded buyout among participants, but I think you have some nuggets here of trying to slow the rate of decline, prevent a loss of fishery infrastructure, improve compliance and then some of your other measures which you mentioned could even go north, looking at improving egg production.

MR. BORDEN: Yes; that the general direction. I honestly don't think we have the information at this point that we need to make the decisions on where we want to go. David Simpson's point, I totally agree with his point. I was not suggesting that Long Island Sound adopt an Area 2 or Area 3 type trap program. What I was suggesting is if you don't do something about the traps in the

traps in water, then they're going to come back. The population increases unless you have output controls. I think it is just a way of making the other measures actually work.

CHAIRMAN MCKIERNAN: David, why don't we do this? Why don't we try to make that list up and give to staff? Why don't we move on to some of the Jonah crab issues and then come back to this one and we'll all sort of see if we can come to consensus on your list of ideas. Does that make sense? Are you good with that? Toni, are you good with that?

INITIATION OF ADDENDUM TO SET EFFORT CONTROLS FOR JONAH CRAB-ONLY TRAP FISHERMEN

CHAIRMAN MCKIERNAN: All right, we're going to suspend discussion on that for now and let's go to a discussion of a future addendum to set effort controls for the Jonah crab-only trap fishermen. Megan, did you want to speak a little bit to that as background.

MS. WARE: At the last meeting we passed the Jonah Crab FMP. Since that time, we've been trying to go back and learn a little bit more about the fishery to make sure we had made the right decisions. There are three areas that we would like to discuss today to just kind of open it up and see what thoughts are.

I'll start with the first one, which is the Jonah crab-only trap fishermen. I'm going to pass it over to Jim Gilmore, who is going to talk about this. The last board meeting we said we would create an addendum for effort control measures on these fishermen; so that is following through with what we said we were going to do.

MR. JAMES J. GILMORE, JR.: Just a quick refresher. At the last meeting we had an issue with state-only fishermen in that they were sort of kept out of the fishery. The motion on the board that was passed allowed for them to participate in it, but we needed some sort of effort control. The point back at the August

meeting was that we really didn't have any data to figure out what that would be; so we agreed to look into that and maybe initiate an addendum today, which we actually may have to delay a little bit longer as we get into this.

First off, the data that we have compiled to the fishery – we'll go through the slides in a minute; but the data is a little bit inconsistent, for lack of a better term. We also looked at the claw fishery, which we'll get to in a little bit, and the data is kind of poor on that. What I thought we would do is maybe first go through just the crab-only fishery in state waters, give you the data we've got and then show you what some of the problems are and then maybe have some discussion about it.

I think we need to get consistent data before we start initiating an addendum because the solution may be different depending upon the data we have. If go through our slide presentation that Megan did a great job putting together, what we know so far is there are fishermen in Rhode Island, New York and Maryland. There are about 15 state-only fishermen in total that fish both in state and federal waters and the total landing of about 143,000 pounds.

Again, the data, I think even up until the middle of last week we were getting different numbers depending upon – Megan was sending out e-mails and then we get responses; and even from New York we were getting just different information. We still need to get the data correct, but we really came up with a few questions.

First off is the goal to cap the effort at the current levels and what is an effective effort control? Is it trap allocations? What data is needed to establish the effort control? What criteria can be used to identify these fishermen and is it necessary to identify these traps differently from the lobster traps? What seemed to be a little simple thing back in August got a little bit more complicated.

The recommendation we really have is maybe to send this back to get the baseline data so that we can then more effectively answer these questions, but we figured it would be a good time to talk about them at this point so we maybe focus our efforts with the PDT as we move forward. Then the plan would be to initiate an addendum at the February meeting once we get all the data and the approach that we think is the most logical. At this point, I'll hand it back to you, Mr. Chairman, for any discussion. Thank you.

CHAIRMAN MCKIERNAN: I think some of the key questions that I can bring out at this point would be the eligibility time period; what window of time does the board want to consider to qualify a boat to participate in the Jonah crab trap fishery? What data would be accepted? Is it side-catch reports, would it be logbooks?

I look at Peter Burns; NMFS have had a lot of experience with these limited access programs and sometimes we have to get creative and be flexible in terms of what data are going to be accepted. Then how do you determine the number of traps fished if the data is kind of squirrely? I did have a question for you where you talked about state-only fishermen who fish in state and federal waters.

I guess we have to try to determine through the investigations of the individual fishermen did they fish in state waters and did they also fish in federal waters; because ultimately NMFS is going to have to qualify them as well if that's the intent to do some something in the federal zone. Is there any discussion on some of these points among the board?

MR. ROB O'REILLY: I was in touch with Megan and I'm just making sure I'm not out of step, but at the previous meeting there was some discussion about non-lobster gear and specifically gear that was set for sea bass, for example. I think it would be partly state but mostly federal waters. There was a recognition

that there would be some type of landings' records that would be needed in order to allow continued participation for it is really a bycatch of Jonah crabs.

What has changed on that compared to August? I did not attend the last Jonah crab meeting; so I'm not really sure what the next step is, but it sounds like it is going to fall similarly to what Jim is talking about at least for the federal waters. For the state waters, if you can prove there has been state landings in whatever the amount of years is or recent time, how will that play forward?

MS. WARE: My understanding from the wording of the permit section from the FMP review is that those fishermen you are talking about would require an incidental permit from the state to be able to land Jonah crab; and right now what we're talking about is Jonah crab-only trap fishermen who do not have a lobster permit. I don't believe anything has changed from the last meeting in regards to those fishermen.

CHAIRMAN McKIERNAN: But I think it would be very useful to delineate the level of landings and the participation because I think that's an important part of what we want to capture in this addendum is to institutionalize that fishing opportunity for the guys who have been doing it, especially if they were doing it in a sea bass trap. Maybe a trip limit would make sense for that fleet as opposed to what appears to be more of a directed fishery on the part of the lobster pot fishermen, which in a lot of areas is kind of a lobster and Jonah crab target fishery. I think it is valuable to get that out; and so we'll make sure that when we pursue this between now and the next meeting that we reach out to you and you can bring that data forward. Would they be on VTRs?

MR. O'REILLY: Yes; but also there is a little bit of state access, too; not a lot, but as you go further north in the state, there is some.

CHAIRMAN McKIERNAN: And would those data be captured in trip-level reporting of some kind?

MR. O'REILLY: They would be captured in mandatory reporting for the state.

CHAIRMAN McKIERNAN: That's great! Ritchie White.

MR. WHITE: Dan, can you remind me for these 15 fishermen why we can't just require them to have a lobster license?

CHAIRMAN McKIERNAN: What was passed in the previous meeting was to accommodate these folks; and I know that my colleagues at the National Marine Fisheries Service were sensitive to this because there was no federal requirement for vessels that did not have a lobster permit to report or to participate. The rules are very clear. If you had a lobster permit, you had to account for all of your traps.

If you had no federal lobster permit whatsoever, you were free to set gear, period. That differs from New England and the Gulf of Maine where Maine, your state, and Massachusetts all require the landing of Jonah crabs to be done by only those who hold a commercial lobster permit; but once you get west of Massachusetts, the rules were not as clean; and so we're trying to capture the historical participation of some number of vessels, and that has been the challenge for me is to try to really get a handle on this.

That's what we're hoping to do between now and the next meeting. I think we're really trying to sort of kick the tires on that particular motion that was passed to see if we can capture these vessels and see if they have legitimate landings' records so that we can – not we, my state – I don't think your state would be accommodating them because of your historical laws, but maybe the states to the west would be doing that.

MR. GILMORE: Ritchie, we have a prohibition on new lobster licenses in New York; and the purpose of this was that if – yes, if I could give them the licenses, that was one way of solving it,

but I can't; so therefore they would be excluded from the fishery, which was not the intent.

CHAIRMAN McKIERNAN: This population may be so small that we might decide at the end of the day that it might be the way to go; but I think we still are struggling trying to enumerate the scale in the fishery. Doug Grout.

MR. GROUT: Jim, you referred to these as 15 state-only fishermen between the three states, but you said they fish in both state and federal waters, so they can fish in federal waters for Jonah crab without any other permit or do they have – you know, how are they fishing out in federal waters if they're state-only fishermen?

MR. GILMORE: I'm not sure; Megan may have to answer this. In New York they're state-only permits, whatever, and that was actually the number we had. I thought I had about a dozen and actually a fewer than that right now; but then we get into – it seems like Rhode Island had more than we had, so that is why it started getting a little confusing. Maybe Megan can answer that better than me.

MS. WARE: From the e-mails I've had with the different states, the New York and Rhode Island fishermen are only in state waters. The Maryland fishermen are in state and federal waters, fishing in both state and federal waters.

MR. GROUT: And they have some kind of a federal permit to fish out there or they just go fishing out there?

CHAIRMAN McKIERNAN: Mike Luisi, do you want to speak to that?

MR. LUISI: Mr. Chairman, this is news to me. Seeing Maryland up on the board wasn't something – I wasn't aware that fishermen were landing Jonah crabs outside of having a lobster permit; but what I can speculate is that those fishermen have sea bass permits and they're bringing some crab claws in and landing those and reporting those, and it is showing up in

somebody's data warehouse somewhere. That is a point I'd like to figure out who those folks are so that I can understand a little more how our fishery is operating. Thanks.

MR. GROUT: And so to follow up, then that really would be an issue related to the other addendum on our agenda here. It seems to me when we at least initiated this what we were just trying to do is cap the participation. We just need to figure out who is just doing Jonah crab only and just say, okay, cap the number of people participating.

I agree with you that we probably have to have some kind of a timeframe; but again we don't know the status of this resource. We're trying to put in some basic measures here, basic conservation measures and to cap the level of effort. I don't think we should get too complicated here at least during this initial round of management.

CHAIRMAN McKIERNAN: I agree, Doug; but I think just to put this issue to bed, what we really need to do is have the states and maybe NMFS reveal in the most detail they can about these landings so that we can intelligently look at some of these records to say, aha, to Rob O'Reilly's point, this is a sea bass pot that was landing Jonah crab as bycatch.

Maybe that is resolvable by a bycatch limit for sea bass pots as opposed to creating a whole new stand-alone fishery with its own trap tags and all of that. A lot of this data I've discovered is not that reliable. I got a call from Jim Gilmore's staff that said, "Hey, you've landed 30,000 pounds of claws in your state. What do you mean nobody is landing claws in your state?"

Well, it turns out there was a dealer that was miscoding the records; and so when we called him, we said, "Do you buy claws?" He said, "No, we only buy whole crabs." You've got to get into this data and understand it in its finest level of detail before you create policies to capture all of this. I don't think we truly understand yet the

scope and the specifics of this. People on my staff call it a phantom fishery; but I'm sure it is being done so let's capture it. Let's let the PDT pour through it and let's figure out what permits these vessels held and then let's come back with a really smart proposal – a set of proposals for the next addendum.

That's what we want to do; and that's what I'd like to see come out of this meeting today is an examination of the records of who is participating and under what permits did they hold it and how detailed are the records about catch and effort and also during what time period. I would suggest like a three-year window. What I would like to do is to task the PDT – Bill Adler, go ahead.

MR. ADLER: I think that's what I was going to do to move this along to task the PDT to do what? List the things to help them go off on their way; can we do that?

CHAIRMAN MCKIERNAN: Yes; I would say that working through the plan coordinator the PDT would examine catch and landings' records from states and from NMFS to try to characterize the participants in the fisheries who are landing Jonah crabs with traps who did not have a lobster trap permit to understand the scale of this fishery and to determine and make recommendations for a future addendum, to be able to write an intelligent regulation, to capture them or to institutionalize that activity if possible. Toni.

MS. KERNS: Dan, just to make sure it is clear, it will be that the coordinator or the chair of the PDT, which is Megan, will be asking each state to give us your information for your individuals and how many traps they're fishing. This is not something that we can find in the data, so we will be relying on the states and the agency to tell us who these individuals are. Until the states give us that information, the PDT will not be able to begin their tasks.

CHAIRMAN MCKIERNAN: And part of the challenge, Toni, is to not only look at the vessel and the landings, but to look at the permit status of that vessel during those times of landings so that we understand under what authority they were fishing and setting whatever traps. I think then it will all become clear. Right now it is just so hazy. Bill.

MR. ADLER: So is this sufficient and we don't need a motion to do this; can we just take what you have listed and Toni's response about coming after the states to get that information; is this sufficient to move this issue along?

CHAIRMAN MCKIERNAN: Toni, is this sufficient just based on that discussion?

MS. KERNS: Yes.

CHAIRMAN MCKIERNAN: Okay, and are there any objections? Rob O'Reilly.

MR. O'REILLY: Not an objection. I'm just trying to figure out something here. I was under the impression – which is why I asked the question earlier from Megan about the state permit, the incidental permit; and so I can understand with what Jim brought forward that you want to know the universe of those who are bringing in Jonah crab, which is a very small universe in Virginia.

It is going to be confidential data; so number of trips within the last three years, within the last five years, whatever it is, is fine. I sort of think what Doug was saying is a little bit of reality that if other states are like Virginia, really it has been the lobster permits. That's where the Jonah crab landings are coming from. You're not going to find much magnitude with the non-lobster trap folks or the non-lobster permit folks. Nonetheless, if this is now going to be an addendum, to get at that detail I just would recommend that maybe trips and participation – I'm not sure what ASMFC really would want to see. Again, I can tell you it is going to be a very, very small amount of participation coming out of Virginia.

MR. TOM BAUM: Mr. Chair, just a clarification. These tasks are for those who land Jonah crab only or is it for – you know, because most of our lobster guys do land Jonah crabs, but this is just for those who only land Jonah crabs?

CHAIRMAN MCKIERNAN: Yes; the motion that was passed at the last meeting allowed states to come forward with records on the finite number of individuals that did not have a lobster permit and was setting traps for Jonah crabs. We're trying to get a handle on the number of people who did that, the scale of that fishery in terms of traps fished.

It probably means sharing some confidential records about the trip and then us being able to – or someone being able to look into the permit status to determine if in fact that was fished under the authority of the lobster permit or not. We're just trying to see how many guys there actually were. Again, this has been so frustrating because it is had been kind of a boogey man. Even during the scoping meetings, we had very few people show up.

I guess a handful of Rhode Islanders did show up and talk about that they did it in state waters; so we need to get a handle on it. If this is a state waters only issue, if so that would be great. Is this a federal waters issue; and if so, Peter Burns' group is keenly interested in finding a way to accommodate that under the plan.

NON-TRAP BYCATCH LIMIT AND CLAW EXEMPTION PROVISIONS

CHAIRMAN MCKIERNAN: Okay, so let's move to the brief discussion on claws. Do you want to continue that conversation, Jim?

MR. GILMORE: We're going to continue our slide show. Actually I'll frame it a little bit. We talked about at last meeting there were some exemptions for I believe it was Maryland, Virginia, Delaware and New Jersey in terms of the claw-only fishery was – or the claw fishery.

The claw fishery was looking at just a handful of participants; but as we started compiling the data on that, it turns out that was a bit of a surprise because some of the states were correct and some of them weren't.

It turns out when I got back home, in New York we had some claw fishermen. Anyway, if you look at the presentation, only whole crabs may be retained and sold with the exception if individuals can prove a history of claw landings before the June 2, 2015, control date in the states of New Jersey, Delaware, Maryland and Virginia.

What we know so far is that there is fishermen in those states but also in New York. New York is not exempt under that motion. We kind of did that motion on the fly. We didn't have the data. Again, after we looked at the data, we were looking at – I think most of the permits, we were talking one or two per state. Some of them went up into 15 or 20, depending upon which state you were in.

There was a total of 46 fishermen, which is much more than expected in state and federal waters. Then not all the reports distinguished between the claws and the whole crabs; and there is some reporting information problems. As Dan had indicated, when we first looked at it and said, "Oh, My God, Massachusetts has got a whole lot"; but it turns out, no, it was a coding error. Are the current claw exemptions appropriate from what we passed our last motion; and it seems like if no, which I think it might not be, are other management measures more appropriate?

A minimum size or a maximum poundage might be a better way to handle this than just giving a grandfathering exemption to a handful of fishermen because it really appears like we don't have a handful of fishermen; we have a lot more. What data do we need to support these management measures? What criteria should be used to exempt the fishermen to landing claws?

Some of the information my staff found out is that even though the way they're doing the claw fishery is very different from area to area. One guy is breaking off one claw and throwing the whole crab back; one guy is keeping the whole crab, breaking the claws, but then they're doing both. They're using the claws and the whole crab. Some guy was breaking off both claws and sending them back thinking that was a conservation measure, whatever was in his brain.

But in any event, the way the fishery itself is prosecuted doesn't seem to be consistent or make a lot of sense. Again, we need some more information about this fishery. Again, what we did at the last meeting doesn't seem to be addressing the proper management of it because that exemption was not on a handful. It is actually a significantly larger number. It is still a small amount, but we still need to address it better. At that point we'll open it up for discussion on this.

CHAIRMAN McKIERNAN: Jim, in talking to some of your staff, I was told that in some cases whole crabs are landed but sometimes only the claws are sold; and so that sort of speaks to the challenge of the data reflecting reality.

MR. GILMORE: That's correct, Mr. Chairman, the way the claw fishery is done is very different even within a state.

CHAIRMAN McKIERNAN: I think it is probably going to require some personal interviews beyond what we can learn from SAFIS to try to get to the root of this. Are there any questions or comments around the table? Tom.

MR. BAUM: I just wanted to share with the board that I met with our at-sea observers that go out on the lobster trips. Most of their trips, the lobstermen will land the Jonah crabs. It looks like as far as whether they're going to land claws or whole crabs depends on the demand. Buyers will go to the dock and tell the fishermen I'm

buying whole crabs, and that's when they'll bring back the whole crab.

Otherwise, it seems like they're bringing back the claws. Some observations that they have made, they've seen crabs come up with no claws and no new growth for the new claws to come in. I'm not sure about the regeneration at all. If someone wants to enlighten us, that would be great; but it seems like as far as claws versus whole crab, it is the demand.

MR. ADLER: If we have to change this – this is technical stuff – if we have to change this to make some adjustment, this was an amendment and can you do it by an addendum or do you have to go back around amendment-wise? How does that work?

MS. WARE: We would be looking to do an addendum to change it.

MR. ADLER: Okay, so an addendum can modify the amendment? The wording is in there that will allow us to do it by addendum.

MS. WARE: Really, it is in the adaptive measures' part.

MR. GROUT: So again, certainly, the people that are landing whole crabs and then selling the claws; that really should be irrelevant to this issue, because they're landing the whole crabs. They shouldn't even be included in this analysis from my perspective. Even though they're marketing the claws at the dock, they're complying with what the intent of this plan was. I'm, again, arguing here for simplicity here as we move forward.

If you want to grab more information, but the point was let's just cap this. The other thing I'd still like to add into this if we are going to allow a claw fishery to go forward under sort of a grandfather clause, it behooves us to try and do a study to see what the impact of removing a claw is from a crab. Do they grow them back; do they survive?

If they're dying or not surviving, then why don't we just continue to require them to land them whole and then they can sell their claws and maybe figure out another use for the body as bait in a lobster trap or something like that? Let's go out and find more information, but let's not get too complex right now with it.

CHAIRMAN McKIERNAN: Megan, maybe we can ask the technical committee to do a literature review on the regeneration rates on Jonah crab claws. Again, we're going to ask the PDT to look at the same kind of records that the states are going to bring forward; and it probably means the states are going to have to do a little homework on their own informal fact-gathering because the data is so inadequate.

CHAIRMAN McKIERNAN: I think the next issue we should cover is the non-trap bycatch limit; and, Megan, did you want to speak to that?

MS. WARE: This issue was raised by both the New England Council and GARFO. They were concerned that the trip limit or the incidental bycatch limit that was set at the last meeting was inappropriate for some of these larger trawl fishermen. Just for review, this is what we have right now. We have a 200 crab per calendar day, 500 crabs per trip incidental bycatch limit for non-trap gear. I also have the lobster trip limit up there just in case we want to be consistent between the two species on trip definitions.

For lobster it is no more than a hundred lobsters per day up to a maximum of 500 lobsters per trip for trips that are five days or longer. I asked both the council and GARFO to send me data to kind of support what they were saying. This is the New England Council there. It shows the number of trips from this non-trap gear from 2010 to 2014.

The green area is those trips that are within the current ASMFC limit, and the red are the trips outside of the limit. Right now between 99 and 97 percent of trips are currently within the ASMFC limit. I also had GARFO send me data;

and their data pretty much corroborated what the New England sent me. Their data went from May 1, 2013, to August 31, 2015. There were a total of 372 trips and 98 percent of those were within the current limit. 95 percent landed less than 200 crabs, which is right now our 24-hour calendar day trip limit; and only seven trips exceeded the current limit with three trips over 900 crabs. I believe, Terry, I'm just going to pass this over to you because I think the council is still interested in increasing the bycatch limit for non-trap gear, so I'll let you speak to that.

MR. STOCKWELL: Thank you, Megan, for providing part of the summary I was going to provide. Following the summer board meeting when I objected to the non-trap landing limit based on the comments submitted by the council, as Megan said GARFO also submitted somewhat similar comments. Both the council and GARFO provided the information which is included in our supplemental materials.

In summary, as Megan presented, it is a very small but historical day boat fishery primarily based in Southern New England. At this point the data captures the number of trips but not the number of vessels; and overall the non-trap landings are only about 1 percent of the total amount of Jonah crabs landed per year.

As Megan indicated, 2 to 3 percent of these trips are greater than the commission's limit; and most of these trips were greater than 900 crabs. I will continue to argue that these vessels should be able to continue their practice of landing more than the current limit particularly given the previous discussion when other small-scale effort is being considered to be allowed as part of the FMP.

At the next board meeting or whenever we're ready and it is timely, I will make a motion to either increase and/or eliminate the non-trap limit as part of the Jonah Crab Addendum. Any board discussion today will help inform the council's discussion for the December meeting

when the council will determine its 2016 priorities.

MR. BORDEN: Mr. Chairman, I support the concept that Terry is discussing. As I think everyone around the table knows, I represent an association that has the predominant landings in the Jonah crab fishery; and as such I kind of recused myself from making motions and voting, but I can speak. This is a non-issue. As far as I'm concerned the percent is so small that if we accommodate, as Terry has suggested, a liberalization, it is going to be virtually meaningless in the scheme of things. I would support that when it comes up.

CHAIRMAN McKIERNAN: David, would you support eliminating the non-trap limit or liberalizing it?

MR. BORDEN: Liberalizing it.

CHAIRMAN McKIERNAN: Terry, if the limit were liberalized; do you have a number?

MR. STOCKWELL: Not at this point; I was going to listen to the board's discussion. The numbers are so small, as David said, it is inconsequential.

MR. BORDEN: This is for everyone's edification. The Jonah crab fishery – and this is why I said what I just said – the Jonah crab fishery, the boats that are participating in that fishery now are basically offshore lobster boats. They're all equipped with RSW systems. The boats that Terry is talking about are draggers and gillnetters and so forth. Just so everyone is clear, no one in their right mind would ever go target Jonah crabs with a gillnet.

If you've ever picked a Jonah crab out of a gillnet, it is the most aggravating, dumbfounding think you could possible imagine; so this is truly is bycatch. No one is going to do this, coupled with the fact that the market then supports it by most people don't want to eat Jonah crab that have been on ice for five or seven days. They want an RSW product; so liberalizing this is fairly

meaningless. It wouldn't trouble me at all to bump the limit up to a thousand crabs a trip.

CHAIRMAN McKIERNAN: I have a thousand; do I have another bid? David Simpson.

MR. SIMPSON: I frankly never understood and never supported the idea of a default dedicating a resource to a certain gear type unless there is some compelling conservation issue that I'm not aware of. I don't know why we would just adopt a restriction on a fishery that has been going on out there; so I don't see the need unless somebody told me that a targeted non-trap fishery would cause some kind of concern, getting into habitat that would be destructive or something like that. I don't see a need for separate rules.

CHAIRMAN McKIERNAN: So you'd be in favor of an addendum that repealed the non-trap limit. Doug.

MR. GROUT: Currently Terry is right and so is David; this seems to be non-consequential trying to put a cap or to try and prevent further growth of the crab industry here. The question is are we going to be able to continue to monitor this to make sure that in the future there isn't some growth of this kind of landings.

Maybe somebody starts putting it in raw sea water. There is a lot of groundfish fishermen out there looking for things to add value to their catch; and this could be something that they could be looking at in the future. I think it would behoove us if we did remove the trip limits on the; that we monitor the fishery closely on a regular basis as a part of our compliance plans.

MR. STOCKWELL: Certainly, these are federal permitted vessels fishing in federal waters. As David said, they're primarily day boat draggers and gillnetters. They do daily VTRs. We have the data. Council staff can work with the commission staff to share this data. If it looks like it is going to be a runaway issue, the council will be the first to step forward to move forward with a management plan to constrain effort.

CHAIRMAN McKIERNAN: The council wouldn't ask the commission to do it?

MR. STOCKWELL: The council would be leading the charge probably requesting the commission to do it. My sense of urgency in getting some support from the board here is to circumvent the council from becoming directly involved.

CHAIRMAN McKIERNAN: Understood and if we have a viable management plan, we could make that addendum pretty quick, probably in the span of six months, so we'll work together on that. All right, I think we're done with this item. Do we want to circle back to – go ahead, Toni.

MS. KERNS: It would be great to have on the record a motion to initiate an addendum to review the components.

CHAIRMAN McKIERNAN: Do we want an addendum that would be taking on all three issues or do we want a motion that only addresses the non-trap limit?

MS. KERNS: That's the discretion of the board. I don't know how long it will take to tackle some of the other issues. If we can get all the data from the states for the Jonah crab-only trap fishermen and get that information for February, we would be happy to include it all in one document. I don't know if that is going to be a feasible timeframe for that, though. We can do these addenda probably with little hearings since it is a pretty simple document.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, I think it would be wise for this board to get a list of items you want to change through the addendum process or implement through the addendum process. We can make that either as a series of motions or you can do it all as one wrap-up motion toward the end of the meeting.

Then the staff can work with you on the timing of those and how quickly the data becomes available. If the data is slow for some of the

components when you want to move forward with the trap limit issue very quickly, we can separate out some of the different items into multiple addenda if necessary. We will need motions to initiate an addenda. It is up to your discretion if it is for each item or as sort of a catchall at the end of the process.

CHAIRMAN McKIERNAN: Well, I'm confident that the claw exemption and the Jonah-only trapping could probably take six months to resolve. Terry, do you want to comment on whether you think a modification to the non-trap limit done sooner would be desirable?

MR. STOCKWELL: **Given the timetable, I would then make a motion to initiate an addendum to remove the non-trap landing limit from the Jonah Crab FMP.**

CHAIRMAN McKIERNAN: Is there a second? Dave Simpson seconds. Any discussion? Terry, do you want to speak to it?

MR. STOCKWELL: Well, I'm comfortable with the thought of the board responding to deal with the non-trap issue in an upcoming addendum. Should the crab claw issue and the other Jonah crab issues drag out for some part of a better year, particularly as this board gets involved with Southern New England activities, I'm concerned that the non-trap issue will fall between the cracks. If it is a simple process as Bob outlined that we can move forward without public hearings, we could do it expeditiously and get it behind us.

CHAIRMAN McKIERNAN: All right, any other comments? Doug Grout.

MR. GROUT: My comment is a question based on the big picture here. We have two other issues, the Jonah crab state-only issued and then the crab claw issue. Under the amendment that we just passed, what happens on June 30th if we don't have some kind of management action in place for these fisheries; do they end? I was under the impression that when we approved

that; that we were going to try and do a follow-up addendum quickly to have something in place by June 30th, because otherwise these fisheries were going to end.

MS. WARE: My understanding is for the Jonah crab-only trap fishermen; that right now they are able to fish at their will; so they are not cut out of the fishery on June 1st. They are just able to fish unlimited amounts of Jonah crab if they desired to do that; so that is why we were trying to put in the effort controls. Likely those will not be in by June 30th, so that will be what happens on June 30th. We can implement the other measures of the FMP such as the minimum size. That is something that states can implement and give me their plans by January 1st; but these other measures where we were going through addendums, the group would have to wait on those.

MR. GROUT: So it isn't going to stop either fishery right now?

MS. WARE: No.

MR. BORDEN: My assumption is this wouldn't be a one-alternative addendum. I think it would better serve the public purpose if we had like a range of options, including this option on it. I think if we're going to adopt this strategy because of the points that Doug Grout made earlier about trying to cap the effort in the fishery – in other words, not allow an expansion of effort – if for no other reason than to continue to protect the species; that it would be desirable to have some other options in here; for instance, doubling the existing bycatch limit, putting a cap on the fishery so that it would operate under this rule with no restrictions unless it exceeded a certain level, at which point it would trigger some restrictions. I'm not saying we want to do that, but there are some other alternatives I think would probably enhance this.

MR. GROUT: Yes; I would support that and maybe having even a higher trip limit in addition to the five-day trip limit. We have some data

here now which to base a trip limit on; maybe just having an option like that in there.

CHAIRMAN MCKIERNAN: Do you want to offer a friendly amendment or do you want to make a substitute motion; what do you want to do?

MR. GROUT: Yes; I can offer a friendly amendment unless the maker of the motion – are you willing to take a friendly amendment to also have an option to put a higher trip limit in and to also cap the fishery at the percentage level that they are at right now?

MR. STOCKWELL: I think we could certainly be friendly to remove or increase the non-trap bycatch limit, but we have a limited fishery as it is. There is an X amount of federal permits; and I don't believe it is a trip fishery. I think the thought of having a split limit is somewhat inappropriate for this fishery.

We're not going to have boats out there on a five-day trip fishery. As David said, we're putting crabs on ice. If the board was comfortable with the technical committee coming up with a – I mean, off the top of my head I would suggest a bycatch limit of a thousand pounds as a secondary cap. It would be higher than some and lower than the maximum, but there would be at least some discussion.

CHAIRMAN MCKIERNAN: Any comments? You're accepting that friendly amendment to have two options. The first is to remove the trip limit and secondly to enact a 1,000 pound limit. Dennis.

MR. STOCKWELL: It would be up to David, if you accept that, I guess, and then a subsequent board discussion.

MR. ABBOTT: Mr. Chairman, just from a parliamentary sense, I think if someone wants to modify the main motion, they should amend the motion rather than asking the principal whether he likes it or not. In most cases he may or may not, but I don't think procedurally we should be

talking friendly amendments. In our parliamentary lessons, we've learned that we shouldn't be doing that; so I'd urge the members not to ask for friendlies. It is either do it or don't do it.

MS. WARE: Terry, can I ask you a clarifying question on this? Are you still looking to have the 200 a day trip limit or just one trip limit of a thousand pounds?

MR. STOCKWELL: It is a day boat fishery. I would have just one trip limit.

CHAIRMAN MCKIERNAN: David Simpson, are you good with that modified motion? Eric.

MR. ERIC REID: In our last meeting we talked about 200 pounds versus 500 pounds and now we've got a thousand pounds. I was against the pounds versus pieces then and I'm against it now. I would rather see it be a thousand pieces.

CHAIRMAN MCKIERNAN: It was changed.

MR. REID: It was changed, yes, but that's because we changed it from pounds to pieces because you can count pieces.

MR. ADLER: We changed it to pieces from pounds.

CHAIRMAN MCKIERNAN: Yes, you're right, Eric, the current plan as enacted last meeting was pieces.

MR. REID: Yes; I'd prefer this motion to say "pieces" as well.

CHAIRMAN MCKIERNAN: Terry, the issue of pounds versus pieces?

MR. STOCKWELL: I remember that discussion. My recollection is that one crab equals approximately one pound and I'm comfortable with the piece designation.

CHAIRMAN MCKIERNAN: And I assume David Simpson as the seconder accepts that as well. All right, Alli.

MS. ALLISON MURPHY: Mr. Chairman, I'm just wondering if instead of "pieces" it should say "crabs"; and that was just fixed.

CHAIRMAN MCKIERNAN: Fair point. Do we need to caucus? **All right, the motion is to initiate an addendum to remove the non-trap bycatch limit from the Jonah Crab FMP or increase the trip limit to 1,000 crabs. Motion by Mr. Stockwell; seconded by Mr. Simpson. All those in favor raise your right hand; opposed; null votes; abstentions. It passes unanimously.** Bob Beal.

EXECUTIVE DIRECTOR BEAL: Mr. Chairman, is the expected timeline for this board to see a draft in February and final approval in May and that will affect the June 1 start date of the fishery; is that correct?

CHAIRMAN MCKIERNAN: I would say so, yes.

MANAGEMENT RESPONSE TO THE 2015 AMERICAN LOBSTER BENCHMARK STOCK ASSESSMENT

CHAIRMAN MCKIERNAN: Okay, can we circle back at this time to David Borden on the list that you worked on with staff to put up on the board for the technical committee? David, do you want to review it on the record?

MR. BORDEN: **So that everyone is clear here, the technical committee after this meeting and prior to the next meeting would review the Southern New England projections; develop methods to increase egg production; examine the cost and benefits of the existing regulations; calculate targets and thresholds without the bubble years of 1988 through I think '99 is the correct number, but that could be a discussion point, and based on the existing productivity or reduced productivity; develop a table of egg production by size for each LMA; examine the**

relationship of the inshore versus the offshore stock and describe the budget requirements for studies on the issue; and then review statements of the problem from Addendum XII and XVII and provide recommendations on how to solve and describe the problems; and, finally, characterize the 2014 existing effort by lobster conservation management area. I would move that, Mr. Chairman.

CHAIRMAN McKIERNAN: Is there a second; Pat Augustine. Any discussion? Doug.

MR. GROUT: When would you like to have this information back to the board; what is the timing?

MR. BORDEN: I would hope that there would be a report at the next meeting and at that point the board could have a discussion with that in hand and have a discussion on how we move forward.

MR. WHITE: Mr. Chairman, I just want to expand a little bit on the comments I made earlier. I don't disagree going forward with this. Our Northern Shrimp Fishery is under a moratorium; and when we've got science saying you should go to a moratorium, we did.

MR. ABBOTT: Three states.

MR. WHITE: That was three states. We're going to be in our third year of a moratorium this year. It is affecting fishermen; it is affecting infrastructure. If I was a shrimp fisherman and I was watching how this looks like it is going to progress, I'd be saying why aren't these two fisheries being treated the same?

I think this is an issue that the commission needs to look at that if we're maybe for good reason not following the science, we need to say that and we need to be very clear about that; because maybe since the shrimp fishery is due mostly to environmental, maybe that should be opened up and we should be fishing on that some. I just believe that we should be very careful on how

we describe what we're going to do as we go forward.

MR. KELIHER: David, I think it is explicit in your motion as you talked about this when you originally started to list these ideas, but the intent here is to include any relationships between Gulf of Maine, Georges, Area 1, Area 3. Those types of issues would be brought forward through this process; correct?

MR. BORDEN: The answer to that is yes; and the reason I say that is this issue was flagged. If anyone wants to see the cite, it is in the PRT report; the issue that Pat is raising. This whole issue of connectivity and the relationship between the regulations in the different areas has already been flagged. It wasn't something that I developed. It was something that the PRT already recommended to the board that should be done.

CHAIRMAN McKIERNAN: David, we have yet to accept that report, but that is coming up in another part of the agenda. Pat Augustine.

MR. AUGUSTINE: To Ritchie White's comments, I unfortunately apologize for not having looked at any possible status of the change in the stock of northern shrimp in the last three years. Is there any evidence that other than just habitat that they moved out of the area or is there any evidence that they're coming back in any way, shape, form or any manner?

Is there any incident of incidental catch by other fishermen? I'm not trying to put you on the spot, but I understand your point. I'm saying that the northern shrimp fishermen have taken it on the chin for this; and the real question is have we seen any net result other than the economic impact? I don't need an answer; I just want to put it on the record. Thank you.

MR. SIMPSON: I think there are some things I'd like to know more about from the technical committee, including as was discussed close to the beginning, a review of the work that Burton

provided, which I think is extremely helpful, the projections that he did, the relationship between effort and exploitation rates.

I also think it is really important for those in the industry if we could provide more insight into the relationship between our inshore stocks and our offshore stocks. I think it would be really helpful, but I don't want to – we have a pretty long list there of things for the technical committee to do; and I'm not sure a lot of it is going to change a vote at the table.

I don't want to ask them to do a lot of work that isn't going to really change anyone's perspective on this in terms of whether to take action or not, kind of to Ritchie's point. Again, a review of what Burton did, which was extremely helpful, including the relationship again between effort and exploitation.

That's something we have asked for years; and to me it tells a pretty discouraging story if you want to try to reduce mortality by reducing traps. This information tells me you can't get there; and I'd like the technical committee to review it and give it some kind of peer review. I guess I'm also not certain what "recalculate targets and thresholds without the bubble years" means exactly. I guess that's meant to say that productivity since 2000 – what might our management objectives be based on recruitment since 2000; is that what that means?

CHAIRMAN MCKIERNAN: I think so. David, is that your intent?

MR. BORDEN: Yes; the first bullet to review the Southern New England projections is Burton's work. The other point I would make while I've got the microphone is that this issue of the relationship between the inshore and the offshore stocks was flagged and is an issue that needs further refinement as part of the lobster assessment and the peer review of the assessment.

The logic for doing that is pretty simple. Most of the tagging studies are fairly old and in fact the environmental conditions inshore have changed. The question is, how has the lobster resource responded to that. The other issue is that a significant portion of the offshore area, there is very limited sampling that takes place. Most of the sampling that takes place is within 25 miles of shore; so I think we need the best and the brightest minds in the room to discuss this and try to figure out a way forward. Thank you.

MR. SIMPSON: I think that is a good place to focus some extra study. If I were an offshore fisherman, I'd want to know how close Bob Glenn is to having it nailed that the faucet has been shut off inshore and the flow of water to the offshore fishery – you know, your fate is sealed.

Is that really what is going on or is there some kind of dynamic out there that makes the offshore stock self-sustaining; so I think they really need that kind of information. Right now I think a lot of them feel like it is an inshore problem; it is not our problem. I think we need more insight into that.

MR. GIBSON: Mr. Chairman, I support the motion. I might disagree with some of the elements in terms of their importance, but I won't argue about that. The technical committee will rank these and tell us what our best bang for the buck is. I just wanted to speak a little bit to what Ritchie White spoke about. My support or advocacy for strong reductions in fishing mortality is going to be contingent on the viability of the stock projections that we've seen so far.

If the technical committee were to come forward with the conclusion that they are reliable and appropriate for management use, it would be very hard for me to ignore the projections that show an abundance increase can take place in the face of very low fishing mortality. I certainly haven't written that off yet, but I need to hear more about the stock projections and what the

technical committee thinks about them and whether they're appropriate for us to use in management.

MR. BURNS: I think these tasks are certainly a step in the right direction as we try to see our way forward here. I guess I'm just thinking about the process. I understand the technical committee would look at this and do these runs and get this information for us.

Would it be worthwhile in the meantime to maybe reconvene our Southern New England Working Group or perhaps the PDT to take what the technical committee comes forward with and be able to maybe do a preliminary assessment on what that might mean for subsequent management measures? That way it might preclude the board from having to come forward here in February, five months later, and trying to pick its way through a lot of different information at the meeting.

CHAIRMAN McKIERNAN: Are you suggesting the technical committee work product be reviewed by the PDT and then the PDT and the technical committee both report at the next meeting?

MR. BURNS: If the board thinks it is appropriate. I just think it might help to focus the conversation a little bit better at the next meeting.

CHAIRMAN McKIERNAN: Well, that's probably a good idea since the PDT – some of the members are also going to be convened on Jonah crabs; so maybe we could – I don't know if it would overburden them or if they can discuss it all in the three- or four-month period.

MS. KERNS: Your PDT for Jonah crab is a little bit different than your PDT for lobster. This is a fairly substantial list that you're asking the technical committee to tackle. I don't know how much time there is going to be between when the technical committee finishes looking at this and the February meeting; so I don't know how

much time there will be to have the PDT examine this list.

The majority of your PDT members that we've had in the past are mostly technical committee members. You had been on the PDT the last time and you've have to form a PDT to examine these. We would need to know who it is; but if it is just going to be technical committee members, then you're probably not going to get much different advice back from your PDT if it is a typical PDT.

CHAIRMAN McKIERNAN: So are you recommending the technical committee report back and then we task the PDT in the spring?

MS. KERNS: I'm just worried that we won't have time to get the PDT to examine these tasks or to respond from the technical committee. They won't have enough time to actually look over what the technical committee sends back because I don't think the technical committee is going to have a lot of wiggle room between when meeting materials are due for the next board meeting. We can do our best to do so, but it would also be good to identify who is on the PDT. If you don't have any non-technical committee members on the PDT, then you're just asking the technical committee to review the same thing twice.

CHAIRMAN McKIERNAN: Okay, I appreciate that. Any other discussion? David.

MR. SIMPSON: Does it help, Toni, the timeline if the technical committee focused on number one and got a response back on that in a shorter timeframe and then the subcommittee could get together? To me and it sounds like to Mark that's the crucial thing; are those projections usable in management, and then everything else I think we have more time for.

MS. KERNS: That's fine; they can focus on that and do that first. They can also work on the other things simultaneously and then we can get that to the PDT; but again if the PDT are technical

committee members, then there is no reason to ask them to look at something twice.

CHAIRMAN McKIERNAN: We got sidetracked a little bit I think by Peter's hope that we could convene the PDT in advance, but it sounds like we won't be able to do that. We have the motion and we still need to vote on this motion. Are we ready to vote? Do we need to caucus? Peter.

MR. BURNS: Sorry to belabor the point, Mr. Chairman. Like I said, I think these tasks are a good way forward, but what is the expectation, I guess, when we get this? I understand that there is not a lot of time in between, and there is budgets and things like that, and I certainly understand that. In doing this, is the intent at the next meeting for the board to look at this and then move forward with management measures in response?

CHAIRMAN McKIERNAN: I would say yes.

MR. BURNS: Then does the motion need to express that or is it implicit?

MS. KERNS: I think you've asked for some advice back from the technical committee for the board to think about. The board then needs to give some direction to a plan development team on what type of management response you're looking from them. The document that Megan provided as an overview of how the Southern New England meeting went had a series of goals and objectives to move forward in responding to the Southern New England stock assessment results.

What we're hearing today is that we want to re-examine reference points; and so the technical committee is going to come back and give you some advice on that. I think based on that advice this board can then probably provide a goal and objective to the plan development team and some specifics on how you're looking for that goal and objective to be reached.

Then the PDT can provide some advice back to the board based on the work that the technical committee does and the clear direction that this board gives them. I think it would be really hard for the PDT to give much substantial advice back to the board just based on what the technical committee comes back on; because we don't know what you're trying to achieve for the Southern New England stock.

Even for the technical committee, they can give you responses for each of these items because David has outlined specific tasks, characterize what is going on in certain aspects of the fishery or look at the inshore/offshore stocks; but until you give them a goal and objective, they can't tie that back to how to go forward with a plan.

CHAIRMAN McKIERNAN: Okay, Toni, thank you. Let's vote this up or down and then let's meet in February and create the objectives and task the PDT based on the technical committee's feedback. **We have the motion to have the Technical Committee examine the tasks provided today. Motion by Mr. Borden; seconded by Mr. Augustine. All in favor; opposed; abstentions; null votes. It passes unanimously. Did you abstain, Terry? Okay.**

APPROVAL OF THE 2015 LOBSTER FMP REVIEW AND STATE COMPLIANCE

CHAIRMAN McKIERNAN: All right, we have ten minutes left and we have a couple more items of business. One is the approval of the FMP review and the state compliance. Megan.

MS. WARE: Would the board be comfortable approving the FMP Review via e-mail? We do have other items on the agenda. I'm seeing a general nodding of heads.

MR. ADLER: Is it appropriate to put a motion on the floor at this point to approve this?

MS. WARE: If you would like to approve it, that would be great, sure.

MR. ADLER: **I will so move if it is appropriate.**

CHAIRMAN McKIERNAN: Bill, your motion is to approve the 2015 Lobster FMP Review and state compliance reports?

MR. ADLER: That's correct.

CHAIRMAN McKIERNAN: Do we have a second; Pat Augustine. Any discussion? Mike.

MR. LUISI: I just have a question. I know the *de minimis* status for states is part of that package of compliance. I would want to be clear whether or not – well, I'm looking at something different from what was just said a minute ago up on the board. Before we finalize any decision here on pushing this forward, I'd like to have a moment to speak to the *de minimis* status issue.

MR. WARE: I think what we're going to do is two separate motions. We will do one to approve the FMP review and then we will do one for *de minimis*.

CHAIRMAN McKIERNAN: **So we're going to amend the motion to strike the language about *de minimis*, which we've done, so the new motion is to approve the 2015 Lobster FMP Review, state compliance reports. The motion is by Mr. Adler and seconded by Pat Augustine. Any discussion needed on this? Seeing none; all in favor; opposed; abstentions – Terry abstained on behalf of the council – and no null votes. The motion carries.** Now we want to break out the *de minimis* issues.

MR. WARE: We received *de minimis* requests from Maryland, Delaware and Virginia. The current definition is that the average commercial landings have to be below 40,000 pounds. Delaware and Virginia met that *de minimis* request, but Maryland did not so I'll let Maryland speak on that.

MR. LUISI: This isn't the first time that Maryland has had to come before this board after requesting *de minimis* status and being told that

we had exceeded the threshold for that status. This issue is a concern given that we have such small landings; and it is only slightly over what the threshold of 40,000 pounds is at this current time.

We have such small landings and it is such a small part of what we do in Maryland that we would be very much challenged to put together a program that would meet the compliance requirements. We have committed over the past two years to collecting information. We have a small but hopefully it is going to become an effective at-sea sampling program that we've been working with a couple of lobstermen in our state.

However, we're just unable to produce the young of the year, the larval survey, the independent ventless trap surveys that would be required if we were not given the *de minimis* status. Now, with all of that said, between 1995 and 2012, over the 17 years of time we exceeded the threshold once. Since 2012 we have been hovering around 60,000 pounds.

What I'd like this board to understand is that in 2011 and 2012 we had somebody heavily invest in and participate in the lobster fishery in Maryland. It was the reason why landings went from 10,000 pounds in 2009 to almost 70,000 pounds in 2012. We had this spike in harvest in our state and we knew that this was going to be a concern given the *de minimis* status that we were seeking.

I want to report to this board that permit and that vessel is no longer participating in Maryland. What we anticipate is that as soon as this year landings will again go back down to the point for which we probably averaged about 20,000 pounds over the 17 years prior to this individual fishing in Maryland. I know there is not a motion on the table yet; however, when there becomes one, Mr. Chairman, I'd like to amend that motion to include Maryland. Thank you.

MR. AUGUSTINE: To that point, this would be an exception to the rule; so is this something that would have to go before the ISFMP Policy Board as an exception or do we as a board have the authority to override? I understand what you're saying, Mike. There is no question it was an anomaly by the sounds of it and that the issue has been resolved; but I would need clarification would it have to move up or could this board bypass that?

MS. KERNS: The board can grant *de minimis* to a state if they think it is appropriate.

MR. WHITE: A couple of questions. What is the state that is in compliance with the lowest landings or how far apart is 60,000 pounds with the next nearest state? Where did the 40,000 pounds come from; what was the basis for assigning that amount?

CHAIRMAN McKIERNAN: I'm looking for help from staff.

MS. WARE: I currently don't have whoever the lowest landings' value is for 2014 because it is confidential in that report and I don't have access to the landings right now. I don't have that number for you.

CHAIRMAN McKIERNAN: Question for Mike; is this an Area 3 vessel that fishes exclusively in federal waters that you were describing?

MR. LUISI: Yes, it was in Area 3; that fished in both the Area 3 and Area 3 and 5 overlap, but that particular vessel is no longer participating. What I just see is that by the time we were to try to become compliant with sampling protocols that would be required, we'd find ourselves again below the minimum 40,000 pound threshold.

MR. HASBROUCK: A question for Mike, if I might. Is that vessel just out of the fishery completely or are they landing in a different state and may come back to Maryland in the future?

MR. LUISI: It is my understanding that the vessel and the permit were both sold off and currently it is not a participating vessel in Maryland. I don't know where it went.

MR. AUGUSTINE: With that follow-up information, I would suggest that the board – reviewing the circumstances that have been described and the cost that it would take to put a system in place, I think it would be appropriate for the dilemma that we're faced with, and I would suggest that we approve Maryland as a *de minimis* state. When you're ready for a motion, Mr. Chairman, **I would so move that the three states that were noted, Virginia, Delaware and Maryland, received *de minimis* status for 2016.**

CHAIRMAN McKIERNAN: Second from Bill Adler. Any further discussion. All in favor raise your right hand; opposed; abstentions; null votes. **The motion passes 10 to 1 to 1 to zero.** Okay, the last item in the agenda is under other business and it covers – I'm sorry, we have consider approval of the Lobster Advisory Panel membership. Megan Ware.

APPROVAL OF AMERICAN LOBSTER ADVISORY PANEL MEMBERSHIP

MS. WARE: We are currently trying to revitalize the Lobster AP so that we can get them to have more meetings and just be more integrated in the process, especially as we move through the Southern New England management. We right now have three nominations for AP members. We have Grant Moore from Massachusetts, John Godwin from New Jersey and Earl Gwin from Maryland. **We're looking for a motion to approve those individuals to the Lobster AP.**

CHAIRMAN McKIERNAN: **Bill Adler moved; second, David Borden.** Any objections to those three members being added? **I assume it is unanimous.**

OTHER BUSINESS

CHAIRMAN McKIERNAN: Under other business, there was a very important meeting held earlier in October that had to do with the relationship

between the state and federal sea-sampling program, and Megan is going to present on that.

MS. WARE: I was asked to just give a brief overview of what happened at that meeting so people have an idea of what the status is on the Lobster Observer Coverage Programs. We met October 6th in Gloucester. There were 20 attendees, including technical committee members from Maine, Massachusetts and New Hampshire. We had representatives from NOAA, GARFO, New England Fishery Science Center and then members of the Northeast Fishery Observer Program.

The goal of the meeting was to understand what the actual goals are of the current observer programs, to understand what data is collected and what redundancies there are between the different programs so we can try and eliminate those. There were presentations from Maine, Massachusetts, New Hampshire and the Federal Observer Program, going over what their specific aspects for the observer programs were. That's where we tried to find these redundancies.

There were three main concerns we think that were expressed in the meeting. The first is whether or not it is mandatory for a fisherman to have observers on board. Right now for Maine and New Hampshire it is not mandatory. For Massachusetts it technically is mandatory, but they've never had to evoke that. For the federal program it actually is mandatory.

The second issue was the sampling frame of the Federal Observer Programs so right now they're only sampling from vessels that have VTRs, which is a very small portion of the lobster fishery, and really does not capture the Maine fishery. There were questions as to whether that sampling frame could be altered or increased.

The third issue was the Federal Observer Program collects weights so it requires extra time and extra gear; whereas, a lot of the state programs do not collect weights. They just collect lengths and use a historic length/weight

ratio to understand more about the fishery. There was a question as to whether those weights really need to be measured.

Some of the outcomes of the meeting are a matrix, which compares all aspects of the sampling program. That is something that we are currently finalizing. Some of the states in the Federal Observer Program, they said that they might be able to develop similar codes for shell disease, egg status, molting just to make sure that we're kind of getting on the same methods here.

NOAA also said that they would look at the length/weight relationship to see how well they could predict the weights measured if they only had lengths. They also said that they would investigate application of the SBRM Program with or without VTRs by extricating trip-level data from individual states; so that would be addressing the sampling frame issue. Then also just getting uniform safety training and fish identification findings, specifically looking at bycatch through SBRM. That was kind of the outcome of the observer meeting.

MR. ADLER: This movement into the lobster fishery people is troubling. I think the state, for instance, of Massachusetts is doing much of this monitoring of stuff that the observers are trying to do; and it is a duplicate. I think there is too much duplication here. I don't know if they're looking for jobs or what.

There was one statement made to a lobsterman that he had to fill out his vessel trip report on his way in. Of course, you don't keep the vessel trip reports like on your dashboard as you're coming into the harbor; and, of course, you shouldn't be filling things out as you're coming in the harbor, anyway. He said, "Well, when I get in, I'll find out how many pounds I have." "Well, no, take a guess and write it down before you reach your dock." The guys says, "Are these people out of their minds?"

CHAIRMAN McKIERNAN: Bill, I think this particular program, we all have some great anecdotes of how screwed up it has been. I know that this is going to be the topic of probably the next meeting as well. We are working really hard to dovetail the two programs; and I think NMFS is showing kind of a good-faith willingness to sort of meet us halfway in terms of fixing this. I think Pat had a motion or wants to make a comment.

MR. KELIHER: Yes, my comment is to the point that we do need to make sure that there is no delay associated with this; so I do have a motion to make. **I would move to continue collaboration on federal/state onboard observer programs, including a discussion at the fall Northeast Regional Coordinating Committee meeting, so that agreed-upon changes can be implemented by the start of the 2016 fishing year.**

CHAIRMAN McKIERNAN: Can we get a second? David Borden seconds. Discussion? Do you want to speak to it in any detail? No, okay. David.

MR. BORDEN: Just a quick point in support of this. This actually works very well with the task list. One of the issues on the task list is for the technical people to go back and look at all the deficiencies in the plan. These two issues work together.

CHAIRMAN McKIERNAN: Can we explain NRCC? Pat, what does NRCC stand for? Toni.

MS. KERNS: It is the Northeast Regional Coordinating Council. It is a committee of the commission, the New England Council, GARFO and the Science Center as well as the Mid-Atlantic Council. We work on issues that crosscut all of those groups or at least a portion of those groups. I think that this affects us, the New England Council, GARFO and the Science Center, so it is a great place to make sure we get those timeframes going and the commitment to those timeframes and we have it on the agenda.

CHAIRMAN McKIERNAN: All right, no further discussion, can we take a vote on the motion? **All in favor; opposed; null votes; abstentions. Terry abstained.** All right, is there any other business to come before this board? David Borden.

MR. BORDEN: Just a quick point. Was I was out of the room when you took up the PRT Report, Dan? Have you taken up the PRT Report?

MS. WARE: That was the FMP Review.

MR. BORDEN: Just so I'm clear; so the recommendation on this issue of prioritizing enforcement in the areas where there are trip limits; that will be forwarded to the Enforcement Committee, correct?

ADJOURNMENT

CHAIRMAN McKIERNAN: Certainly. Okay, we're ten minutes over and no other business, Bill Adler with a motion to adjourn.

(Whereupon, the meeting was adjourned at 10:40 o'clock a.m., November 2, 2015.)