

PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC MENHADEN MANAGEMENT BOARD

**Crowne Plaza Hotel - Old Town**  
**Alexandria, Virginia**  
May 2, 2012

Approved August 8, 2012

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## INDEX OF MOTIONS

1. **Approval of Agenda** by consent (Page 1).
  2. **Approval of Proceedings of February 7, 2012** by consent (Page 1).
  3. **Move that the board use MODA for ecological reference point development as recommended by the Atlantic Menhaden and Multispecies Technical Committee; using the approach detailed in Option 1 in the committee's May 2012 report** (Page 7). Motion by David Pierce; second by Bill McElroy.
  4. **Move to postpone the motion until the August meeting and charge the technical committee and staff to research alternative funding options for the MODA project.** (Page 13). Motion by David Nowalsky; second by Steve Meyers. Motion defeated (Page 15).
  5. **Move to amend the main motion to add "subject to appropriate funding be determined by the August meeting"** (Page 15). Motion by Ritchie White; second by James Gilmore. Motion carried (Page 16).
- ABOVE MOTIONS REWORDED*** (Page 16): **Move that the board use MODA for ecological reference point development as recommended by the Atlantic Menhaden and Multispecies Technical Committees; using the approach detailed in Option 1 in the committee's May 2012 report; amended to say "subject to appropriate funding be determined by the August meeting"**.
6. **Move to remove the ten-year timeframe from Draft Amendment 2** (Page 22). Motion by Pat Augustine; second by Dennis Abbott.
  7. **Move to amend the motion to change the ten years to one** (Page 23). Motion by Jack Travelstead; second by Terry Stockwell. Motion carried (Page 25). Carried as the main motion (Page 25).
  8. **Motion to amend adding ten years to the main motion; make it one and ten years to be removed** (Page 25). Motion by Dennis Abbott; second by Rep. Peake. Motion defeated (Page 26).
  9. **Motion to remove consideration of season, size and gear restrictions under recreational management measures** (Page 30). Motion by Adam Nowalsky; second by Pat Augustine.
  10. **Motion to substitute that recreational management measures be put into the adaptive management portion of the amendment** (Page 30). Motion by Doug Grout; second by Bill Adler. Motion carried (Page 30).
  11. **Move to eliminate trip limits and gear restrictions from the document** (Page 30). Motion by Jack Travelstead; second by Terry Stockwell. Motion carried (Page 31).
  12. **Move to reconsider the vote on Issue Number 1, the timeline for implementing the target fishing mortality rate (Page 38).** Motion by Bill Goldsborough; second by Pat Augustine. Motion defeated (Page 39).
  13. **Motion to adjourn by consent** (Page 41).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	David Saveikis, DE (AA)
Steven Train, ME (GA)	Roy Miller, DE (GA)
Dennis Abbott, NH, proxy for Rep. Watters (LA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Doug Grout, NH (AA)	Lynn Fegley, MD, proxy for T. O'Connell (AA)
G. Ritchie White, NH (GA)	Bill Goldsborough, MD (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Jack Travelstead, VA (AA)
Rep. Sarah Peake, MA (LA)	Jim Kellum, VA, proxy for C. Davenport (GA)
Robert Ballou, RI (AA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Mark Gibson, RI, Administrative proxy	Louis Daniel, NC (AA)
Bill McElroy, RI (GA)	Michelle Duval, NC, Administrative proxy
Rick Bellavance, RI, Proxy for Rep. Martin (LA)	Mike Johnson, NC, proxy for Sen. Wainwright (LA)
David Simpson, CT (AA)	Malcolm Rhodes, SC (GA)
Dr. Lance Stewart, CT (GA)	Robert Boyles, Jr., SC (LA)
James Gilmore, NY (AA)	Spud Woodward, GA (AA)
Steve Heins, NY, Administrative proxy	John Duren, GA (GA)
Pat Augustine, NY (GA)	Aaron Podey, FL (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Steve Meyers, NMFS
Peter Himchak, NJ, proxy for D. Chanda (AA)	Jaime Geiger, USFWS
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	A.C. Carpenter, PRFC
Tom Fote, NJ (GA)	

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

### Ex-Officio Members

Jeff Brust, Technical Committee Chair	Bill Windley, Advisory Panel Chair
Mark Robson, Law Enforcement Representative	

### Staff

Vince O'Shea	Mike Waine
Robert Beal	Chris Vonderweidt
Toni Kerns	

### Guests

Loren Lustig, PA Gov. Appointee	Derek Orner, NMFS
Mel Bell, SC DNR	John Clark, DE DFW
Patrick Paquette, MSBA/RFA	Jay Lugar, Marine Stewardship Council
Richard Coniff, NY Times	Wilson Laney, USFWS
Erica Fuller, Earthjustice	Clint Waters, MSSA
Pam Lyons Gromen, NCMC	Robert Geisler, MSSA
Michael Luisi, MD DNR	Raymond Kane, CHOIR
Alison Fairbrother, Public Trust Project	Rob O'Reilly, VA MRC
Jerry Bensen, Menhaden Coalition	Jeff Kaelin, Lund's Fisheries
Helen Takade-Himacher, EDF	Benson Chiles, Chiles Consulting, NJ
Bob Vanasse, Saving Seafood	Steve Ruckman, Ofc. of MD Atty. General
Taz Jons, Saving Seafood	Thomas Miller, FORVA
Tom McCloy, NJ DFW	Theresa Labriola, Pew Env. Grp.
Joe Grist, VA MRC	Ben Landry, Omega Protein
Michelle Duval, NC DMF	Ron Lukens, Omega Protein
Howard Townsend, NOAA	Shaun Gehen, KellyDrye Warren, DC
Alexei Sharov, MD DNR	

The Atlantic Menhaden Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, May 2, 2012, and was called to order at 8:00 o'clock a.m. by Chairman Louis Daniel.

### **CALL TO ORDER**

CHAIRMAN LOUIS DANIEL: Welcome to the Atlantic Menhaden Management Board. This is a four-hour meeting scheduled. We will take breaks. You do have an agenda. There are a lot of meeting materials as well. On the agenda you've the approval of the agenda and the proceedings from our February 8<sup>th</sup> meeting, which was a marathon as well. Jack.

### **APPROVAL OF AGENDA AND PROCEEDINGS**

MR. JACK TRAVELSTEAD: I assume you're going to ask for approval of the agenda, and I just wanted to add one more item. I think over the last month or so there has been a lot of dialogue about the technical committee possibly looking at more recent science and doing some selectivity analysis or sensitivity analyses on various curves, whether they're dome-shaped or not. I don't understand all the language but I would ask that be added to the agenda in the event the board wants to provide some advice to the technical committee on what they should do in the months ahead.

CHAIRMAN DANIEL: I think that's very appropriate and timely, so I will add that under other business. Anything else on either the agenda or the proceedings from our February 8<sup>th</sup> meeting? Seeing nothing, I will accept those by consensus as approved.

### **PUBLIC COMMENT**

CHAIRMAN DANIEL: The next item on our agenda is public comment. When I call your name, please come to the microphone, identify yourself and anybody that you're representing. James Price.

MR. JAMES PRICE: I was going to comment on ecological reference points. I don't know whether I should do it now or after the presentation.

CHAIRMAN DANIEL: I'll take it either way. You can wait or you can do it now.

MR. PRICE: All right, I can do it now. My name is James Price, President of the Chesapeake Bay

Ecological Foundation. The Foundation supports ASMFC's process to stop menhaden overfishing. However, the commission appears to have decided to delay addressing the problem of ecological depletion of menhaden until 2015 when ecological reference points are supposed to be incorporated into the benchmark assessment and peer review.

Currently fish populations that depend on menhaden for critical forage are suffering from disease and malnutrition in the Chesapeake Bay and along the Atlantic Coast. Predator populations as well as other forage species have dramatically declined because the menhaden can no longer fulfill its ecological role as an important species. Although CBEF has no objection to the commission's attempt to develop ecological reference points for future use in ecosystem-based fisheries management, decisions that involve multispecies management can be applied to address the current problem of ecological depletion of Atlantic menhaden.

There is no logical reason why the ASMFC should wait until 2015 to take action that directly addresses the collapse of the Mid-Atlantic forage base. I also note the ongoing study that we're conducting on striped bass and menhaden indicates that mature female striped bass numbers have dramatically declined; and without increased protection for menhaden the strong 2011 striped bass year class may not have sufficient numbers of menhaden for their ecological needs in 2013.

This is when they will require large numbers of age zero menhaden in their diet. Unless the ASMFC addresses the problem of ecological depletion of menhaden before 2015, the strong 2011 striped bass year class could suffer from disease and malnutrition. This could result in a large economic loss to the fishermen that depend on the healthy striped bass population for the future. Thank you.

CHAIRMAN DANIEL: Thank you, Mr. Price. Robert Geisler.

MR. ROBERT GEISLER: My name is Robert Geisler. I am with the Maryland Saltwater Sportfishing Association. In my career as an industrial engineer there was always controversy about how to establish work effort. There are several authors with books with magical

formulas. A time study, which is an actual observation, would quell any controversy.

It takes observation or not formulas to arrive at the right answer. Now the menhaden population is down an additional 88 percent in the last 20 years. Action is overdue. The bait industry is not the place to cut. It provides jobs for thousands of watermen, buyers and shippers, thousands of charterboats, thousands of marinas, boat builders, boat trailers, insurance companies, vehicles for towing, tens of thousands of bait and tackle shops, tens of thousands of restaurants, millions of meals, billions of dollars in state, local, federal fees, taxes and permits.

Will the 37 percent reduction stop the decline? Will it reverse it? The population is so low it might take years to reverse. The prudent action to take is a total moratorium to have the best chance for success. Otherwise, it might take another 20 years of wrangling with formulas, and a moratorium would be the easiest way to enforce the cuts. At a minimum the zeros and ones need to be protected for forage and at least increase the numbers. Thank you.

CHAIRMAN DANIEL: Thank you, sir. One last call for hands; anyone else that wishes to address the board on items not otherwise on the agenda? Seeing no more, we'll move forward. I did want to acknowledge one letter that I received from Omega regarding an April 20<sup>th</sup> memorandum to Mike Waine regarding their position. That did go out in a supplementary mail-out.

So, just to address the letter that was addressed to me; it was handwritten and I don't think it went to anyone else, but just to make sure that Omega is aware that information was included in some supplementary information and the board has seen your letter. All right, we'll move on to Item 4 on our agenda, which are options to define ecological reference points. Jeff Brust is going to take us through that discussion.

### **OPTIONS TO DEFINE ECOLOGICAL REFERENCE POINTS**

MR. JEFF BRUST: I'll be giving a presentation on how to address the ecological reference point task that the TC has in front of them. This is actually sort of a followup to a presentation that the Multispecies TC gave to the Menhaden Board back in the February meeting. That presentation was on the multiple objective decision analysis process or the MODA process, which was presented as a way for moving forward with addressing this ecological reference point task.

At the time the board was a little hesitant. They wanted some additional information about the MODA process. You asked for a specific problem statement. You requested a budget breakdown and a list of potential funding sources. I will be presenting that information today. In addition, since we only gave you one option for moving forward with this ecological reference point task, we realized that was probably a little shortsighted, so we've come up with a few additional options for moving forward.

If we go back a few years to the May 2010 board meeting, the board tasked the Menhaden Technical Committee with developing a suite of alternative reference points that might include biomass-based reference points and numbers-based reference points, both of which are single species in nature. You also requested that we develop some reference point options that account for predation of menhaden.

This is obviously a multispecies request so we were tasked to work jointly with the Multispecies Technical Committee. Over the next eight or ten months the two technical committees worked together to develop a short list of potential reference point approaches. These were presented to the board at the March 2011 board meeting in a presentation as well as in a guidance document that was included with the briefing materials.

Each of the options that were presented required a specific management goal that we needed information from the board on. The technical committee is not the right body to make management decisions and decide the priorities for management. We brought these to the board and asked for information on which direction you wanted to take.

At the March 2011 meeting the board tasked the Menhaden and Multispecies Technical Committees to move forward with the work on the, quote, multispecies approach as a priority. The management goal for this multispecies approach that was selected was to increase the forage base for predators of menhaden.

Also during that March 2011 meeting the board was informed that if we followed this multispecies approach we're going to require some information from the board, that the board is going to make some tough decisions on the

specifics of what they want the predator/prey system to look like.

We needed this information in order for the technical committee to complete their assignment. Some of the things that we were going to need; we need the board to provide some information on appropriate predator-prey ratios in the system; so, do you want ten pounds of menhaden per pound of predators or twenty pounds of menhaden per pound of predators.

Also, we need you to quantify the relative magnitude of the populations. You can do a ten-to-one ratio at ten menhaden and one striped bass or you can do it 10 million menhaden and one striped bass. Not only do we need the ratio but also the relative population sizes. Finally, we need some information on which predators you think are important within the system. Right now the multispecies model has striped bass, weakfish and bluefish, but are there others that you would also like to include; perhaps spiny dogfish or bluefin tuna. The field is wide open.

During that March 2011 meeting the board was not able to address these issues, and since that time the board has been focused on developing the interim reference points which are based on maximum spawning potential. The board has never had time to go back and revisit these questions that we've put in front of you, so the TC doesn't have the information we need to move forward.

The question in front of us is still too broad for the technical committee to answer, and it is going to require some tough decisions by the board. We're talking about value judgments on the different resources, some resource tradeoffs. What are your priorities for the systems, for the predators, for the prey, for the fisheries? It is going to take some collaboration among the different ASMFC management boards for the predator and prey species.

The problem statement that you requested is basically this; you've given us a task but not the information we need to complete it. We presented the MODA back at the February meeting as an option. As I said, there was some hesitancy, and rightly so. From now on I'll be talking about some of the other options that we have in front of us as well as the budget and timeline that you requested.

One of the first options that we came up with was simply for the board to take the task away from the technical committee. You've been working on the interim reference points, the MSP-based reference

points. These were supposed to be interim while we developed the ecological reference points; but if the board is comfortable with these MSP-based reference points, then there is no reason that they have to be, quote, interim reference points.

You could adopt these as your reference points. Also, during the February meeting there was some indication that the board might not fully support multispecies management. If that is the case, is there any need for us to be developing ecosystem reference points. Obviously, this is not the TC's preferred option for moving forward, but it is an option for the board to consider.

The second option would be moving forward with sort of a trial-and-error sort of process. If the technical committee doesn't get specific input from the board on management objectives, the TC would have to develop their own interpretation of what the system could look like, which might sound something like quantifying the amount of menhaden biomass that's necessary to sustain the forage needs of striped bass, bluefish and weakfish at their threshold biomass levels.

Once we have this in mind, we can develop a biomass of menhaden that is necessary to sustain those predator populations at those levels, and we can develop a fishing mortality reference point that maintains the menhaden biomass at that level. More likely than not the first interpretation that we come up with isn't going to be what the board is looking for; so we'll present to you guys, you'll give us some feedback and probably some further direction.

Then the TC will go back and we'll try again. Without careful consideration and some explicit statements of management objectives, this could go back and forth multiple times until we finally come up with something that is acceptable by the board. Obviously, this isn't very effective or efficient; not for the technical committee and not for the board and not for the funding. It's not a technical committee preference.

Even if we are able to develop an acceptable solution, the technical committee is concerned that this is really sort of an ad hoc quick-and-dirty approach to developing ecosystem reference points. There is no real science involved. It is sort of trial and error and it is not

going to be very robust when we take it to peer review, so it's likely not going to pass peer review. Again, this isn't a preferred method by the technical committee.

A more appropriate method would be one that identifies management objectives before we try to develop the ecosystem reference points. We have a couple of those in mind. The first of those is the multiple objective decision analysis, or MODA, which we presented to you back in February. The second one is really just sort of a subset of the MODA process.

In both of the processes we would have to develop a working group of the major stakeholders, which might include some management board members, representatives from the bait and reduction fisheries, representatives from the recreational fisheries, and probably environmental groups and any one else that you think would be important to have on board.

For both of the processes the working group would go through a couple of facilitated workshops to help define explicitly and specifically what the management objectives are for menhaden and the predator/prey system. Once we have those specific management objectives, those would go to the technical committee and we would be able to develop some ecosystem-based reference points.

Now, if we move forward with just the facilitated workshops only, we would stop at that level. We'd have specific management objectives. The TC would develop ecosystem reference points. They would come back to the board and you'd select one and we'd move forward. If we keep going with the MODA process, however, the stakeholder working group – there would be some extra steps.

First of all, the stakeholder working group would have to define some performance criteria for these reference points; how would you define a successful management strategy or how much risk would you be willing to accept in achieving those management objectives? Once we have those performance criteria, those would go to the technical committee and also a modeling subgroup where we would take the reference points that are developed.

We would model the system explicitly to see how well each of the different reference point options is able to achieve the management objectives. We might give you a reference point that has a 50 percent chance of achieving your desired goal or we might

give you one that has an 80 percent of achieving your desired goal.

That way we would know what is the probability, what is the level of risk you're willing to accept in achieving these management objectives. The suite of reference points and their uncertainty values would go back to the stakeholder working group. They would review them, select hopefully a consensus set for the board's consideration, and then the board would be able to act.

A hypothetical example would be maybe the working group reaches some objectives such as maintaining a self-sustaining menhaden stock, maintaining enough forage of menhaden to support striped bass at the target biomass, and maintain both the bait and reduction fishery at some agreed-upon level per year.

This would go to the technical committee and we'd develop some reference point options such as predator/prey ratios, which might address Objective 2, and depletion from carrying capacity reference points that would address Objective. These would then be passed to the modeling subgroup who would develop the uncertainty values around different harvest levels or predator/prey ratios, which would then go back to the working group.

The results of the MODA process would be a set of very rigorously evaluated ecosystem reference points, which would go to the Menhaden Board, as well as a set of modeling tools that we would be able to use in the future for evaluating perhaps harvest policy or error-checking the single-species models, things like that.

The alternative, if we go with just the facilitated workshops, again we'd probably have one or two workshops with this stakeholder working group. The result would be a set of specific management goals for the menhaden and the predators; and then having these would allow the technical committee to develop the reference points without the trial and error but also without the rigorous testing and the uncertainty around those reference points.

Without this testing, it's less likely that any reference point that is selected would pass peer review. The technical committee's recommendation on how to move forward is obviously the MODA process. I don't think



that's a surprise to anyone. It might seem like an academic exercise at first, but it's really the most comprehensive and most rigorous of the options in front of us. It prevents us from flying blindly into this ecosystem management that we're teetering on.

It has explicit stakeholder involvement throughout the process and not just during public comment. The stakeholders and the management board would be the ones who were defining the management objectives; how do we want to move forward with this suite of species? We would get specific and well-define management objectives as well as the acceptable levels of risk around those, and these would be used to help guide the management process.

Again, these are developed not just by the managers but as well by the stakeholders, and they are not developed by the scientists, which is sort of what the trial-and-error process is leaning towards. The reference points that come out of it are rigorously tested and we're able to evaluate their ability to achieve the management objectives.

We'd also be able to evaluate some uncertainty in the system; maybe some unintended consequences of what happens if we drive the striped bass stock even higher than it is or weakfish come back and striped bass go down. Again, it is most defensible at the peer review process.

The MODA process, the term within ASMFC might be new but it is not a new concept. It has been around since – I saw a couple of references that portions of MODA were developed back in the 1970's, others in the late eighties and early nineties. Within the management arena, it has been used for a wide array of conflicting interest issues; not just in fisheries, but there are some applications for fisheries use.

Within ASMFC we've used a similar process to evaluate harvest policies such as the adaptive resource management process for horseshoe crabs and shorebirds as well as Florida is using a similar process to help develop grouper regulations. Those are the options. Looking at the budgets, the multispecies budget is about \$20,000 per year.

If we went with the MODA option, in addition to the \$20,000 we would be looking at about \$150,000 per year and it would probably take about two years to go through the MODA process in full. If we go with just the workshops, it is about \$50,000 on top of the current \$20,000, and it would take about a year and a half.

To put things in perspective, the ARM process for horseshoe crabs, we have been about \$100,000 per year in addition to in-kind money from the Fish and Wildlife and USGS, so neither of these options is really out of the ballpark in terms of cost. If you look at the cost of the fisheries that are involved, this is really a minor amount of money.

The budget breakdown for both of these; the facilitated workshops as well as the MODA process we would need a facilitator, which would cost about \$20,000 per year. We would need additional travel funds to the tune of about \$30,000 per year. The biggest difference is if we go with the MODA process we're going to need to hire an additional modeler. The \$100,000 would cover salary and incidentals and things like that. There is the budget breakdown.

Some pros and cons of the different options; both the MODA and the facilitated workshops, we would get an explicit set of management goals and objectives. We'd have integrated manager and stakeholder involvement. With the MODA process, there would be model development. We'd have these multispecies models that we could use in the future for harvest policy analysis and error checking and things like that.

The reference points that come out of it would be rigorously tested and we'd have uncertainty values around them. Hopefully, we would have some consensus recommendation to the board from the stakeholder working group on how to move forward. Obviously, the MODA costs a lot more and takes a lot more time, but the fallback for using just the workshops is that the reference points are untested, and their ability to pass peer review would be diminished.

Funding sources; it depends on which direction we go. We listed a couple of generic ones up here. NOAA might be a possible funding source; private foundations and trusts; or a mix of stakeholder groups. A couple of similar processes that have happened recently, there is something called Fish Smart for King Mackerel in the South Atlantic that was funded by the Moore Foundation, which is a private foundation; and the Florida Grouper Project that I mentioned earlier was funded through Florida Sea Grant.

We have a list of potentials but there is no need for us starting to address any of them until we

have a direction from the board. The timeline; I hate to do this to you but we need an answer quickly. We have a benchmark stock assessment due in 2015, and the most efficient way to move forward would be to take the menhaden model, the multispecies model and the ecosystem reference points that are developed, using those pieces through peer review all at the same time.

The process is going to take a year and a half or two years at the minimum for the actual work, let alone developing these stakeholder working groups, so we sort of need an answer either at this board meeting or at the next board meeting if we're going to meet that 2015 benchmark deadline.

Again, up here I've just listed some of the options. Option 1 is to rescind the task, take it away so we don't have to do it. Option 2, approve the workshop-only concept; Option 3 is to approve the MODA concept. If we don't hear from you either at this meeting or at the next meeting, we're going to have to assume – and you want us to continue working on it, we're going to have to pick up with trial-and-error process. If you tell us, we're going to have to do something. That's the fallback; we've got to do something. That's it, Mr. Chairman.

CHAIRMAN DANIEL: Thank you, Jeff; you make us sound fickle. I think you've done an excellent job laying out the issue, so we do need to make a decision and we do need to have some discussion here. Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, let's get to the crux of the issue. The issue is money. It's not complicated; we're not going to get anymore. Unless the grants come up, I think we've got to reach out to our folks that seem to be wanting to have us do more. If there are some groups out there in the audience that believe they can come up with some money to fund this program, I think we should either speak up and step up to the plate or we're going to have to take some other approach.

From what you've described, there is no question that the MODA approach is the right way to go; more expensive, more extensive, more complete, and the package at the end of the day will be with us. It will establish a base that we have to establish. Again, unless we can get funding to start with, I don't think it matters what this board decides to do in terms of approving that we go in that direction. Once we approve it we're going to be stuck with it.

If we find in our budget process and the way we're set up for projects for this year and next year, the way funding is going to get tighter and tighter, then we're going to go down a very long path and we're going to scrimp here and scrimp there and come up with a half-baked program at the end of it. I think at the onset let's get a commitment as to where the money is going to come from before we make that decision.

The final comment is, Jeff, you indicated we'd have to go back and forth to the board and TC, back and forth to board. Everything you have presented indicates that we really don't have any options. It's either make the hard decision now and go forward or flip-flop back and forth for the next three or four years and end up I think basically where we are now with the uncertainty with some of the data you're going to be able to put forth. I don't know if you can respond to that; but as I say my concern is that we've got to identify funding sources before we, as a board, I think collectively agree to go down the MODA route.

CHAIRMAN DANIEL: I think that's certainly one significant issue. Pete.

MR. PETER HIMCHAK: Mr. Chairman, I think the technical committee really wants a definite charge out of the board. They were asking for many years are we managing menhaden for the menhaden stock and the menhaden fishery? We've been doing that as single-species management for many years; improved with the MS-VPA. Then with the most recent addendum where we have more restrictive reference points, I think the message is that we're not only managing menhaden for menhaden but we're managing it for a multitude of predators.

Now, is this really ecological reference points or ecosystem-based fisheries management? I don't think it is. I think we have to change our terminology a little bit to say that we're asking the technical committee to manage menhaden for a multitude of species as predators on menhaden. That's a little different than saying menhaden as an ecological component in the ecosystem.

I think what the TC is saying is that, well, you put in more restrictive points, we're trying to build up the SSB, how big do you want the stock to be to maintain X SSB on striped bass, weakfish, bluefish, tuna, et cetera, et cetera. Is

that really as far as the TC can take this, and I guess I'll direct to Jeff.

MR. BRUST: Was there a question there, Pete?

MR. HIMCHAK: I guess am I on the right track; is that what you're looking for?

MR. BRUST: Yes, we need to know what predators are you interested in, what level of predators do you want? Those are the two; and if not level of predators, what level of menhaden. We need one or the other; and included in that we should include human use as a predator of menhaden. If you want to include some level of harvest, we need to know what level of harvest you want as well.

CHAIRMAN DANIEL: Followup to that, Pete?

MR. HIMCHAK: Yes. I guess to get to my point is that by constantly referring to it as ecological reference points or ecosystem-based fisheries management, I think we're aspiring to something a little bit more than what we can actually produce. Is that a fair assessment?

MR. BRUST: Sorry, Pete, it's early, try that one again. I am not just doing this because you're down the hall from me.

MR. HIMCHAK: Somebody asked me to define ecosystem-based fisheries management or what an ecological reference point was, and I said that it really is a dream that we're all aspiring to, but basically what we're working on with menhaden is we're not going to get the ecological reference point.

We're going to get a reference point that provides menhaden for the menhaden stock, fishery and a multitude of predators. There is no consideration of menhaden going in the opposite direction in the ecosystem where menhaden is a predator on anything below it or any other value in the ecosystem that we don't even know about. I guess that's the point, so I'm trying to narrow what we're trying to achieve here.

MR. BRUST: All right, is there a definition for ecosystem reference points; no, not really. You could say that what we're looking for is ecosystem based because it includes more than one species. Maybe multispecies are more appropriate. We can't include the entire ecosystem, no. A term that has been kicked around minimum realistic model; so rather than just one, you take in the major players. Maybe that's what we're dealing with.

In terms of moving the other way is menhaden as predators on other things, perhaps one of the stakeholders involved is concerned with water quality, so we would need some certain level of menhaden to maintain water quality at whatever given that there is uncertainty on the role that menhaden play in maintaining water quality, but that might be one of the objectives that is included in the plan. Is this ecosystem reference points, I don't know, I depends on what the definition is. So far I don't think there is one. It is more than single-species management, I guess, is the bottom line.

CHAIRMAN DANIEL: That sounds like an interesting haul. David Pierce.

DR. DAVID PIERCE: All right, Jeff has done a very good job representing the views and recommendations of the menhaden and multispecies technical committees that were tasked by us to do a very important job as described by Jeff, and that's to develop these ecological reference points that account for predation, increasing the forage base for predators of menhaden.

Okay, they've taken this as far as they can take it and now they're looking to us for some guidance, and, frankly, they've done a very good job. They provided us with a few options for us to consider. The option that they are recommending is Option 1 in their report to us regarding the multiple objective decision analysis, the so-called MODA.

Then on Page 3 of their report to us they give us a good list of reasons why we should go in that direction, why we should ask them why we should adopt this approach, and then have them move forward, recognizing the funding considerations. I like what they've offered up for good reasons for us to go with MODA.

I don't pretend to understand all the ins and the outs. Nevertheless, as they say here, it is a good way to have collaborative building of models that account for ecological uncertainty. It indicates that through this means they would not be forced to speculate on board and stakeholder goals for ecosystem. It's a good list; I like it.

I would make a motion, Mr. Chairman, if I may. **I would move that the board use MODA for ecological reference point development as recommended by the Atlantic Menhaden and**

**Multispecies Technical Committee; using the approach detailed in Option 1 in the committee's May 2012 report.**

CHAIRMAN DANIEL: Everybody understands I think the motion, and I have a second from Bill McElroy. I've got hands up around the room and I'm going to take it in order. I'm going to let this go for a little while and if we keep saying the same things over and over again, I'm going to slow it down, because I've already got a page full, and we've got a lot to do. Ritchie.

MR. G. RITCHIE WHITE: Mr. Chairman, I support the motion. This species is clearly important enough both to the environment and to so many user groups as we continually hear from and to the economy that to go forward with something that is probably not going to pass peer review makes no sense. The chances of when we come out of this that there may be one or more unhappy user groups with the eventual outcome, I think it's critical that we go forward with good, defensible science. I support the motion.

MR. WILLIAM GOLDSBOROUGH: Mr. Chairman, a little clarification on the process on both MODA and how we would use it. I assume that our process would be some version of whatever outcome we got from MODA would then be incorporated into an addendum or an amendment and go through the normal process that included public comment; and yet my understanding of MODA is that it is to reach a consensus among stakeholders.

I wonder what happens to that consensus if in the ensuing public comment we hear a very different story. How do we handle that? I was a little confused because I thought I heard Jeff make reference public comment as part of the MODA process or maybe I missed something there.

MR. BRUST: I think what I said was that the stakeholder groups are involved with the process and not just relegated to public comment. We would have the recreational and commercial fishing industries, environmental groups, managers all together on this working group rather than the way it's usually done is the managers are the ones making the decisions and the stakeholders get one microphone at the back of the room and 20 minutes at the beginning of the meeting. The stakeholders are fully involved, fully vested in the MODA process.

MR. GOLDSBOROUGH: So that would be those stakeholders that are actually part of the process or is

it an open process? I'm not sure I get that, because my question still remains in the ensuing public comment periods that we would have – the public comment process we would have; what if there is disagreement in the outcome?

CHAIRMAN DANIEL: Can I make maybe a suggestion because I think the question is to the board do we move forward; and if the answer is yes, then I think we may need to have additional discussion on how it might work.

MR. AUGUSTINE: Point of information, Mr. Chairman. I guess I would like to interject here and ask the hard question. Now, we didn't see any hands raised in the audience of where the funding is going to come from. I support what we're trying to do here and it is very, very important; but I still ask the same question, where is the money going to come from?

Once we have approved this, it's going to have to come from our existing budget, so I guess I would put on the table we stop doing anymore board work on striped bass, American eel, shad, river herring and three or four others, maybe blackfish, and take all that funding – I'm being facetious now – take that funding, eliminate all those meetings for the next couple of years to fund this program for \$120,000.

Now maybe some of you will wake up and realize we're about to go on an adventure and we have to go on without any funding. I guess I would like to ask Bob ask can we do this before we take a vote on whether we move forward with this immediately or not.

CHAIRMAN DANIEL: Well, I'm hoping we're going to get down to the point that I hope is made, and that is I spent time yesterday with staff, probably drove them crazy, but trying to understand the current status of the stock; the current biological reference points that we're using, the interim as Jeff described them. I don't have a real strong comfort level on those yet; and so trying to explain to the public – and I think I can do it now, thanks to Genny – but how we can be overfishing and need such a significant reduction in harvest but not be overfished.

That's tough to understand and it's very tough to explain to the public, I think. It would be my thinking that before we move into some extraordinary new analysis, and full respect for the technical committee, shouldn't we

understand the basic stock assessment, the basic status of the menhaden stock before we start trying to move into higher order analyses and start including a lot of species.

The questions that the technical committee is asking are fair questions, but who in the world is going to be able to figure out if we're going to include dogfish and striped bass, bluefin tuna, king mackerel, all the various species pounds per predator, pounds of menhaden per pound of predator? I certainly wouldn't know where to start there. So, just to provide an alternate opinion and then also agreeing with Pat; where is the \$300,000 going to come from over the next two years?

MR. AUGUSTINE: But back to that point, Mr. Chairman, all the points you've made are very important. The fact of the matter is we're at a point now in this meeting where we're going to make a decision whether we're going to take another approach. Once we've committed to it, unless we rescind that at a later time, we're going to go back and we're going to take a look at what we have to do with the other species and the status of those.

I think, honest to God, we're well beyond those points. Decisions have been made. Whether we like the status of the stock as it has been presented to us, overfishing or not overfishing, the fact of the matter is we're dealing with those facts. The basic point is I really would like to have some kind of evaluation or a point of where some of these funds are going to come from even for the first year. I would love to support this motion, but, quite frankly, I'm going to say no unless you can convince me and us that we have funding to do it and we're not going to scrimp and scrape on this extremely important program.

MR. DOUGLAS GROUT: Mr. Chairman, at a previous board meeting when we voted to go down this road with an interim-based reference point in between, I have to admit that my thought that this ecosystem-based reference point was going to be akin to a biologically based reference point; that the technical committee and the multispecies technical committee were going to come back to us, maybe with some guidance from us, and say from an ecosystem standpoint to maintain enough food for a variety of predators this is what the level is going to be.

What I see this as is this is more of a policy-based reference point and something that we've already gone through with the interim base. We're looking for something that we could put in place to give a

little bit more menhaden – assure that there was more menhaden for the predators, but we didn't know exactly how much it was, so we asked the TC for a little help.

They gave us a variety of ranges. We on a policy basis had a selection of a target. We went out to the public with this; and contrary to the way Jeff put it, they a lot more input than just 20 minutes at a mike here. There were 12 public hearings. There were thousands and thousands of e-mails and comments that came in. We had our advisory panel give us advice on which direction to go here.

These were all things that we took into consideration when setting those interim-based reference points. I thought, when I saw this, that the technical committee had some questions here. Identify predator species of interest; I was going to ask the technical committee what are the major predators? We have identified four of them here; are there others?

There is feeding data that will provide us with that. At that point personally I would have said those are the predators that need to go into the model and we need to provide enough menhaden for us to at least be able to manage those species to the threshold and possibly to the target, somewhere in that range, and come back with the multispecies technical model and tell us what is the appropriate level.

To me, if we go into this MODA, it has some benefits here, but who are the stakeholders that we're going to include in here and who are we going to exclude? In our normal policy-based decision-making we include everybody. We give them an opportunity to provide comment through the management process.

If we go with this, clearly unless we're going to allow 40,000 people in on this, which is totally unwieldy, you're going to be excluding some people from this process that thinks it's very important. I think some of the details of this MODA process we need to figure out before we vote this. Who are we going to include in this and where are we going to get the money for it?

To me this is more of going into policy-based reference point rather than ecosystem-based reference points, at least the way I envisioned ecosystem as more on a biologically based reference point, which they tell us, so I'm having

difficulty supporting this process until we flesh out who we're going to include and who we aren't.

CHAIRMAN DANIEL: But we do need to get off the dime here. We need to give the technical committee some guidance here, and it's either this – what I'm seeing is it's either accept the motion that is on the floor or take the interim off the reference points title and focus our efforts and energies on coming up with meaningful and understandable biological reference points through the standard processes that we have and deal with and are familiar with. That's where I think we're heading. Jack Travelstead.

MR. TRAVELSTEAD: Mr. Chairman, I don't object to the motion but I think Pat Augustine and others have asked the right question, and that is how are we going to pay for this. I would ask that you allow the staff to comment on what the likelihood is of their finding funding to do this, whether it's in-house or from some other source.

If there is no money, we're spending a lot of time debating something that's not going to happen. That also raises another issue in my mind. If \$300,000 is that easy to find, then I'm reminded of some of the other priorities that the technical committee has listed for additional research that is needed.

For years they have been telling us, for instance, that we need an index of adult menhaden abundance, a fishery-independent index; and if we had that, that would solve a lot of the mystery around all of these stock assessments. You know, if \$300,000 is that easy to find, why aren't we spending it on high priorities like that kind of information? I'd love to hear from staff on this.

CHAIRMAN DANIEL: Thank you, Jack, good comments. Bob, do you want to address the funding issue that Pat and Jack have raised.

MR. ROBERT E. BEAL: I'll give it a shot. I don't think this will be terribly insightful, but \$300,000 is not easy to come by. A motion like this which would commit a portion of that spread out over a couple of years really would play into the commission's priorities for planning for 2013. This would be one of the things that the staff would draft into the action plan and display the tradeoffs between engaging in the MODA process and some of the other priorities that the commission has.

It will be up to the commission and policy board to decide what the priorities are for 2013. I think all the

budget discussions that we've heard coming out of Capital Hill and the National Marine Fisheries Service and the like is not good news for 2013. It sounds like the commission's budget under the Atlantic Coastal Act may be down up to a million dollars, so we may have to figure out where to cut areas rather than where to add projects. We may be taking some cuts and considering priorities such as this. How do the commissioners want to balance those tradeoffs, those are going to be the tough decisions that go into planning for 2013.

CHAIRMAN DANIEL: Thank you, Bob. I think that answers the question. We're at nine o'clock, our allotted time for this discussion. I've got at least seven people that set up to speak. Do you want me to go through the list? Okay, Tom Fote.

MR. THOMAS FOTE: I wanted to ask the question before we made a motion to Jeff. One of the things I'm looking at is when they did king mackerel, they looked at an unbiased or take the passion out of it and scientists come up and sit together and basically look at it from a scientific point of view.

I'm wondering if we go to a peer review process, it should be based on science and not feelings of what goes so. If I was looking at how you put this together, it wouldn't be this type of stakeholders. It would be where we basically get to the nitty-gritty facts of what is going on. The other thing is, as everybody else said, the funding here, how do we fund this?

Basically, if it was decided that we wanted to do something like this and maybe go through the scientific process and we needed the money, we could basically put that as part of the motion that unless the money comes forward from someplace – you know, there are a lot of decisions we've made over the last couple of years, blackfish and a few others from the states that we can't fund the thing, so we're losing fish.

It's a crime that we're making commercial and recreational fishermen suffer the penalties. I got here in the early eighties when we had all the funding coming in for striped bass and we were able to do a lot of research and things like that, and that money is no longer available. That is my concern; that is the question I wanted to ask Jeff. When we basically look for a peer review process, shouldn't we be looking at a scientific-

based peer review and not putting the passion of how people feel at a public type of meeting?

MR. BRUST: I guess, first of all, while I have the mike, I wanted to apologize. Commissioner Grout called me out, he caught me red-handed. I oversimplified the public and the advisory process. It was a poor choice of words to make a point, and it wasn't meant to minimize the process. I apologize for anyone I rubbed the wrong way. To Commissioner Fote's point, the reference points will be scientifically based.

But the question you're asking us to do is increase the number of menhaden for forage for the predators. We need someone to tell us what level of predators you want. We can't do that. We can tell you – once you give us a predator biomass or a predator number, we can tell you exactly what Doug was looking for, the number of menhaden you need to keep the predators at that biomass, and that is scientifically based. But we aren't the ones who can make the policy decision on how many striped bass do you want, so that's what we're looking for.

CHAIRMAN DANIEL: And I think that's a fair answer and a fair characterization of how the public would be involved in this process if we went in that direction. Thank you for that clarification, and Doug will get over it. (Laughter) Jaime.

DR. JAIME GEIGER: Mr. Chairman, I think we need to separate the question. First of all, what is the most appropriate action that this board needs to take to look at the best science, the best management options, the best biological outcomes; what do we need to do based upon the recommendations of the technical committee and the requirements of the species?

The technical committee has laid out a very good approach, and I believe Option 1 is the most reasonable one we should achieve. I think the first question we need to ask, is this the right thing for the board to do? In my opinion, yes. The second question, I hear questions about the funding. Well, if memory serves me correctly, when we started to recover striped bass in the 1980's, the money wasn't there, but that didn't stop the previous members and some members of this board from making the hard decisions to go forward.

We didn't have the money for the ARM model, but that didn't stop the members of this board and other board members to go forward and make it happen. That is called leadership; that's called using the right

science and using the right management to do the right thing. I would respectfully suggest to this board that I think there is an excellent motion on the board.

I know there are lots of questions. I know there will continue to be a lot of questions, but I think it's the role of this board to do the right thing and move forward. Now, in terms of the funding, I think there are a lot of opportunities to look at the available funding. I think like we did in many other species, you don't bite the elephant in one bite.

I think this is going to be a multi-year process. We're cobbling together various types of various federal, private and state funding to make it work and make it work effectively. We did it for the ARM model; we did it for striped bass. We were fortunate to have some congressional appropriations for striped bass that moved us forward. Who is to say what 2013 and 2014 and 2015 are going to look like? Again, it's about priorities, it's about doing the right thing for the species; it's about starting the process. I would urge this board to do the right think. Thank you.

MR. DAVID SIMPSON: I'm opposed to the motion. I think the idea or the concept, the Utopian view of how things should work, maybe that's good, but in practical terms – well, backing up bit. To Doug's point that are we going to change our entire approach to fisheries management to being one of not science-based but policy-based; are we really going to consider changing all of our reference points for all the other species we manage and ask the federal government to change all the reference points for all the species that they manage that come into the mix here, all through the Menhaden Board?

I think we've worked very hard on a number of species to identify objectives for fishery management plans and those have been vetted through a public process and we need to pursue those as they are. Both from that standpoint and from the standpoint of every meeting and every day we face that difficulty of not enough data to support a single-species assessment, and I picture this as a multiplicative thing.

It's the uncertainty of menhaden times the uncertainty of striped bass, which is harvested 90-some percent, approximately 90 percent recreational, which means you're dealing with estimates from a survey; add bluefish, that's 80-

some percent recreational; all of that variance; all the uncertainty, multiply that; and you're asking what species do you want us to allow to eat menhaden is almost how I hear it. You know, I wouldn't know how to do this in the backyard in a pond, never mind in the Atlantic Ocean. I think we're reaching a little beyond our means.

REPRESENTATIVE SARAH K. PEAKE: Mr. Chairman, I'd just like to comment on the funding side of it. I agree with some of the previous speakers where if we believe this is the right direction to go in – and clearly not everybody around the table believes that, but if we believe this is the right direction to move in, I think we should take the vote to support this.

In fact, if I heard the presentation correctly from Jeff, before we can seek outside funding sources, we would need a vote of the board in order to move forward. We need a commitment and the leadership exhibited by this board in order to be able to go to foundations, industry, government, all the sources we would look to to fund this. Worse case scenario, if we voted today and between now our next quarterly meeting we've come up dry or it seems like we are with funding sources, we can revisit it then, but I would hate us to use the excuse of the checkbook to not make the right management and policy decision today.

CHAIRMAN DANIEL: Nail on the head. I've got three more and then that's it. Jim Gilmore.

MR. JAMES GILMORE: Mr. Chairman, I had the same idea as maybe Sarah did but a slightly different version of it. I think Jeff asked before was that they would need essentially approval to go and look for alternate funding. We have a bit of a cart before the horse here. That's one option of doing it.

The other one I thought was maybe to postpone this and give them a separate charge to essentially look for the funding so we could decide if we actually have it or not. I think we could go either way, but I think we need to get the money issue resolved before we're going to be able to vote, and this will give us actually a little more time to think about – I guess the dissenters in the room about it. I'm in support if the MODA. I think in conflict a little bit with Dave, I know we're not there yet and probably not going to be there for a long time, but we've got to start at some point and this is maybe the right time to do it. I think we really need to start addressing the funding part. Thanks.

MR. STEPHEN R. TRAIN: I would like to like this motion. I can probably be talked into it, but I'm wondering if there is any teeth in what we're doing. We started talking about ecosystem-based management and now we've gone to a MODA based on the science, and it's still a one-way street. If we're going to put species in balance, I would think it has got to be a predator/prey relationship both ways, and right now we're just dealing with one of them.

What do we need to do to get to the bluefish population where we want it or the striper population where we want it? I wonder if we're going to manage the species that way. We might have to look the other way around; which one of these species is getting out of balance based on amount of prey available, and do we need to go that way once in a while, too? If we do it on a one-way street, it's not ecosystem-based management at all.

CHAIRMAN DANIEL: Good point. Roy, take us home.

MR. ROY MILLER: That is a big task, Mr. Chairman, but thank you, anyway. I would just like to remind the board that we've been down this road a time or two with other species. Just to follow up a little bit on what Jaime alluded to, when there was a need for funding to fund a horseshoe crab coastal assessment using trawl surveys, we made overtures to both industry and to ecological organizations.

Industry stepped up and contributed and helped us with the funding of that particular survey. For their own reasons, some of the environmental groups did not step up with funding to support that particular survey. I guess in order to vote on this proposal I would have – to vote positively I would have to have some faith that industry would be willing to step up and help with this, particularly if they become stakeholders in the process. Notwithstanding funding that might be available by reprogramming commission funding in the future, I think the slack will have to be picked up by industry. Thank you.

CHAIRMAN DANIEL: All right, I'm going to do my best to summarize where we are; and if I say anything contrary to the maker of the motion, I will give him an opportunity to correct me. I think we've had a good discussion on this issue. It is one that we need to make a decision on now and not continue to batter it about.



There are pros to the MODA analysis, for sure. Again, the money situation and the fact that we don't have the strongest handle on the status of the stock as it is now is difficult. Are you all having a – say again. You want an alternate motion right as I'm trying to clarify what all is going on? All right, go ahead.

MR. ADAM NOWALSKY: Mr. Chairman, I think we've come to the conclusion is that we all want this to happen around the table, but we have reservations for various reasons. In consultation with some of the people sitting next to me, **at this point I'm going to move to table the motion until the August meeting and charge the technical committee and staff to research alternative funding options for this project.**

CHAIRMAN DANIEL: Motion to table seconded by Steve Meyers. Do you need to caucus?

MR. NOWALSKY: In support of this motion, again the intent of this motion is I would really hate to leave here today seeing the original motion voted down. That's the concern is that there has been so much work put into this, we really don't want to see it lost entirely. Therefore, I think given the concerns that have been raised, it would give us a little bit more time.

Mr. Brust indicated that they need guidance to move forward by August to meet the benchmark stock assessment timeline. I think this is a prudent course of action to give us the time, do the research needed so that we can all make the best decision possible in support of the fisheries that we all manage.

MR. BRUST: Obviously, I'm in no position to tell the board how to vote on this, but I just wanted to clarify that the longer that we take to make this decision, the less likely it is that the technical committee is going to make the 2015 benchmark timeline. That's all I wanted to say.

MR. ROBERT H. BOYLES, JR.: Adam, I appreciate the spirit of the motion. I wonder if the technical committee is the right place to research funding alternatives. I think there are other groups, this body, this board, staff. I'm not sure that the technical committee is – I mean, go tell them to go find the money to do this. I just offer that for everybody's consideration.

CHAIRMAN DANIEL: I think the more appropriate language is postpone rather than table, if that's okay with the maker of the motion is to postpone. I think

the technical committee and the staff; maybe that helps a little bit. To Jeff's point, we've spent a lot of time discussing this. We've spent an hour and fifteen minutes today going over it. It seems like there is a pretty – I think there is a fairly good consensus around the table; but if we want to wait until August, that is the board's decision. Lynn.

MS. LYNN FEGLEY: I'm sure that I'm going to be out of procedural order, but could we not amend the motion to specifically say that this process won't go forward if funding is not found, and that would allow us to vote now whether we want it or not with the explicit understanding that it won't happen if there is no funding rather than postpone.

MR. DENNIS ABBOTT: That was my point.

MR. HIMCHAK: Mr. Chairman, I don't see the need to postpone a decision. I think the board can make a statement today that it supports a certain pathway of action. To delay until August to start looking around for money, I just don't see the sense in it. You make the statement today and then you actually go out and try and dig up the money.

CHAIRMAN DANIEL: Let me make a suggestion. If we were to – after "committee's May 2011 report, as resources allow" or "as funding permits"; would you be willing to withdraw your motion to postpone if we had that language which addresses Lynn and Dennis' points? I'm not trying to drive the train too far. I'm just trying to come up with a solution.

MR. NOWALSKY: I appreciate the efforts, Mr. Chairman, and I think that this is the right discussion to be having here. I'm amenable to making modifications to amend the original motion to address the point. I'm amenable to going down that road. I'm not ready to withdraw. I will be willing to withdraw the motion assuming we can get to the right amendments to the original motion. I'm not sure we're there right now. I'm not sure what they are.

I think it's contingent upon some funding that we can tangibly point to and say, okay, we're at least going down a road; at least we've got some commitments here. When I look around and I look at all the other species that we talk about prioritizing, we talked about eels and saying,

well, if we just had X number of pounds of glass eels, you know, we could get this project done. There are so many things that we all have to deal with. We all sit around this table to deal with so many different species, and this, to me, looks like, okay, we're going to make menhaden – you know, as Mr. Augustine said earlier, we might as well withdraw a lot of other boards for the next two years until we get this single task done. I think it's something we all have to think very hard about. Again, as Mr. Simpson indicated, we want to do this; can we do it?

CHAIRMAN DANIEL: Well, you all have thrown a monkey wrench into my whole plan. I've got a sense of where we are from the discussion, but I'm not certain I know which direction the board will go. If we decide to go and take the interim off of the reference points and continue to focus our efforts on a new benchmark stock assessment that could address the disparities or the disconnects apparently between the biomass reference points and the overfishing reference points, then that is one option. I can't tell if that's a majority opinion around the table. I've heard there are some folks that don't support moving forward with the MODA analysis, and I would be included in one of those.

MR. AUGUSTINE: Point of order, Mr. Chairman. Again, Mr. Chairman, your point is right, but the fact of the matter is we're dealing with two motions on the board. With the discussion around the recent comments that Mr. Nowalsky made was whether we postpone or not; and, quite frankly, I would like to clear the board of those and then take up your motion or your concern about which one we're going to do.

CHAIRMAN DANIEL: And that's fine.

MR. AUGUSTINE: Otherwise, we're going to go back and forth so I'd like to call the question, Mr. Chairman.

MR. STEVE MEYERS: Mr. Chairman, point of order. With respect to the discussion, I am going to recall my second with respect to the gentleman from New Jersey. My point is that we need to have a staff-to-staff discussion about budget and funding broadly with the commission's federal funds. FY 13 and 14 are going to be bears that we're going to have to live with.

I can't go into details because I have no details, but we have to start planning. \$300,000 is a lot of money for this commission. We need to understand what that is going to be as an impact. Perhaps we could go ahead with the idea of this MODA, but at the same

time we need to come up with a strategy long term as to how we're going to be approaching not just menhaden, bluefish, weakfish, striped bass, everything. With respect to the gentleman, I withdraw the second, but again we need to have that discussion sooner rather than later, please.

CHAIRMAN DANIEL: Yes, I agree. So is there a second to Adam's motion?

MR. AUGUSTINE: Another point of clarification, Mr. Chairman. Based on Mr. Meyers' comments, does that mean that he is suggesting or what is being suggested is that we reword the original motion to include something that Ms. Fegley mentioned as to pending funding or pending a staff-to-staff assessment of available funds? It just seems to me we have to close that loop so we encompass where the funds are going to come from to get this project going. If that isn't possible, I will end up offering a second to the motion.

MR. ABBOTT: Mr. Chairman, I'm really not sure where we are. We're having a discussion on a motion that is not seconded. Either we have a second or we don't have a second; do we have a second?

MR. TRAVELSTEAD: Point of order, Mr. Chairman. Once a motion has been made and seconded and debated by the board, a second can't be withdrawn. You're going to have to vote on it one way or the other.

CHAIRMAN DANIEL: Thank you, Jack. We're going to vote on this motion right now. Whether there are points of order or not, we're going to vote on this motion to postpone. Do you need to caucus? Okay, one minute.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All right, I'm going to read the motion; move to postpone the motion until the August meeting and charge the technical committee and staff to research alternative funding for the MODA project; motion by Mr. Nowalsky; second by Mr. Meyers. All those in favor of the motion raise your right hand, 3; all those opposed; null votes; abstentions, one. **The motion fails which takes us back to the main motion.** Yes, Ritchie.

**MR. WHITE: Motion to amend the main motion to add that appropriate funding be determined by the August meeting.**

CHAIRMAN DANIEL: Is there a second to that motion? Jim Gilmore seconds. Jim.

MR. GILMORE: Ritchie, I was going to do the same thing, but I was going to make it a little bit more formal because I think from what we heard from Jeff before was to charge to the TC to explore the alternate funding, so I don't know if you want to wordsmith that a little bit so it's clearer.

CHAIRMAN DANIEL: I guess, Ritchie, the question would be is it to secure the funding or to have it secured by August or have a report on where the various funds could come from; because I think with the timing that we're looking at, if we come back and we say, yes, we could piecemeal together funding from this source and this source and this source and this source, unless we have the money, that is going to delay us past the benchmark assessment issue; so just to clarify.

MR. WHITE: I think it would be a report back to the board so that the board can make a determination if they're comfortable that we would be able to achieve the money; so it's not to have the money in hand or committed, but a report back to the board from staff, not technical committee, and that hopefully the board members can assist staff in trying to come up with the money.

CHAIRMAN DANIEL: One more, and I swear I'm not trying to delay this, but, Jeff, if we come back in August and you guys have the funding sources identified but we don't have the money, when will you need to have the money and begin the work in order to meet the benchmark stock assessment deadline?

MR. BRUST: Can I say I don't know?

CHAIRMAN DANIEL: Yes.

MR. BRUST: I've never done this before; I don't know how long it's going to take. The process we're looking at is we need to develop the stakeholder working group. We need to have at least one and probably two facilitated workshops. We need to have the results of those sent to the technical committee to develop the reference points.

We need to evaluate and probably expand upon the existing multispecies models to test those reference

points, get them back to the working group for any give and take before they can get back to the board. We're looking at two years, probably, at the minimum. There are probably some things that can be done before actually having the funding such as constituting the working group but not meeting with them; identifying perhaps a facilitator but again not having the workshops. It's going to be at least, in my mind, two years of work once we hit the ground, but there are some things that we can do before the funding shows up.

CHAIRMAN DANIEL: Thank you for that clarification. If this motion carries, then essentially the board is endorsing the MODA approach and to move forward; and at the August meeting we would need to come up with our list of species that we're going to support menhaden – you know, our list of dogfish, weakfish, monkfish, king mackerel, cobia, whatever the list is going to be to give the technical committee those specific tasks, so this is basically a heads-up that between now and the August meeting, if we support this motion, we're going to need to come back and give the technical committee very clear direction on how we want to see this thing work; is that fair? Okay, any further discussion? Dave.

MR. SIMPSON: Sorry, I'm not trying to belabor this, but could Jeff answer the question that I still have on my mind is are we going down a path of revisiting our management reference points for all of the predator species?

MR. BRUST: It could come to that, yes, if you give us a list of the predators that you want involved and you tell us what level that you want them at. It could be that you want them at their currently defined target reference points; that would be fine, so you don't have to change those reference points. But if it came back that you wanted striped bass at a different biomass than the current striped bass target biomass, then the Striped Bass Board would then have to go back and revisit and possibly go through an amendment to change that reference point.

CHAIRMAN DANIEL: Clear as 40 weight. All right, Jaime, last word.

DR. GEIGER: Mr. Chairman, again, in honesty I think the opportunity to identify other than reprogramming existing funding either by the commission or by the states by the feds is slim to

none for this fiscal year. I think this is just an exercise and kicking the can down the road to give us some cover one way or another.

I hate to be so blunt and candid, but just kick the can down the road to avoid trying to do the right thing. If we vote on the main motion, we will be doing the right thing I think biologically and ecologically; and if we don't and cannot secure the funding or if priorities change, so be it, we will bring this up and reevaluate those priorities and revote. It's as simple as that.

The history of this commission is that we do this all the time. I am very sensitive to the fiscal concerns that have been raised, but I can't predict what is going to happen in 2013 or 2014. I don't think anybody around this table can. Again, people are looking for us to do the right thing biologically for these species. Again, I have no illusions; this is a paradigm shift for this commission. This is a true paradigm shift where we are setting a new direction whether we recognize it or not in the next 15, 20 or 30 years. It's as simple as that.

CHAIRMAN DANIEL: Thank you. All right, take a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: You're voting on the amendment. Question from Robert.

MR. BOYLES: This is a motion to amend?

CHAIRMAN DANIEL: Correct. All right, the motion to amend is on the floor. Motion to amend the main motion to add "subject to appropriate funding be determined by the August meeting." Motion by Mr. White; second by Mr. Gilmore. All those in favor of the motion raise your right hand, 13; those opposed, 3; null votes; abstentions. **The motion carries.** The amended motion becomes the main motion. Is there any need for further discussion? Go ahead, Doug.

MR. GROUT: I can either say it before or after because it's to what Jeff was asking for in August.

CHAIRMAN DANIEL: We'll save that. Okay, I'm going to have to read the whole thing now, right? Move that the board use MODA for ecological reference point development as recommended by the Atlantic Menhaden and Multispecies Technical Committees; using the approach detailed in Option 1 in the committee's May 2012 report; amended to say

"subject to appropriate funding be determined by the August meeting". All those in favor of the motion raise your right hand, 15; all those opposed; null votes, 1; abstentions, none. **The motion carries.** All right, everybody has got to do their homework for the August meeting and come with list of species. Doug.

MR. GROUT: The question that I think this board needs to ask the technical committee is I heard that we're tasked with coming up with the predator species. I think the technical committee, before we can make a judgment on what would be appropriate for predator species, they have to tell us which species are the major predators on menhaden.

That includes everything from fish to birds and mammals. We'd be doing nothing more than guessing as policy people. The technical committee people can look at the literature, and there has probably been some work done on this when it comes from the standpoint of the Multispecies Technical Committee. We need to have that piece of information in hand at the August meeting for us to make that decision. I would like you to task them with doing that. Is that a possibility, Mr. Chairman?

CHAIRMAN DANIEL: I don't know; let me ask Jeff if that's a possibility?

MR. BRUST: I would say that certainly the technical committee would be willing to do some of the research and help provide some guidance. A little birdie just landed on my shoulder and told me that this is actually one of the pieces that comes out of the MODA process of the stakeholder working group. They are developing the management priorities, the management objectives. What species are included is one of those. I'd be willing to say that the TC is willing to support that, but I don't know if we should be the ones making the decision.

MR. GROUT: No, excuse me, I want to make this clear. I'm not asking you to make the decision. I am asking the technical committee to provide us with biological information so that the board can make that decision. Whether we go down this road or not, we need to clearly make that decision, but I think there are scientists and ecologists on our technical committees that can get that information to tell us which ones are the major predators.

CHAIRMAN DANIEL: Yes, and I think we should task the technical committee with providing us with that information. Certainly, marine mammals are a big component; seabirds are a huge component. We can't keep thinking the Mid-Atlantic. That's what everybody keeps talking about, Mid-Atlantic, and that's a very small component, in my mind, of where the predator fields for menhaden reside.

You're going to need to get the Southern Kingfish Association certainly involved in this, because that's going to be a huge stakeholder group in terms of menhaden use. You're going to have folks up and down the beach – you know, the Spanish mackerel guys, huge component of menhaden bait – all the various fisheries that occur outside of the Mid-Atlantic.

I am not as familiar with the New England, but certainly to get some sense of – there is a very small data base I think on diet analyses that have been done. That has been one of the real concerns about ecosystem-based management is that we don't have those very detailed diet studies for many of these fisheries that we deal with.

We know, certainly, that the majority of the species that we deal with are visually oriented, opportunistic predators. If there are sand lances available, that's what they eat; if there are butterfish available, that's what they eat; if there are menhaden available, that's what they eat. It is very difficult to pinpoint exactly how many menhaden – you know, that's going to be the job, how many menhaden does the striped bass population need, the weakfish population need.

Those are going to be the types of questions and details that if the technical committee can put together for us, the information that at least from the literature shows what are the primary predators on menhaden, I think that will help our situation out a lot to make some decisions and determinations in August, as Doug suggested.

MR. BRUST: Again, I think the technical committee can put together that information, but it is not the board's requirement to develop the list of predators at the August meeting. That will come out of the MODA process, the stakeholder working group, the give and take with the technical committee.

There is not something that needs to be done before the process is started. I believe someone asked me that earlier and I shook my head, yes, that's what needs to be done, but I take that back; I apologize. That is not a task for the board at the August meeting

or prior to the August meeting. That will come out of the process as a whole.

CHAIRMAN DANIEL: I think that's inconsistent with what Commissioner Grout is looking for, and I don't know how to resolve that. I don't even know where to go at that point.

MR. MARK GIBSON: Mr. Chairman, I think what was just said is exactly right if I understand this MODA. The process of identifying objectives for optimization within MODA should derive from the stakeholder process. Then the board should look at those and whittle them down to the ones that they believe are manageable based on technical committee advice.

You're going to cast a very wide net here and people are going to come forward with objectives other than food for predators. They're going to have water quality objectives. They are going to have menhaden as FADs or fish-attracting devices for sport fishermen. There are going to be all kinds of objectives and a wide framework.

Then we're going to have to whittle those down based on technical committee advice and say this is the group of objectives we think is manageable within the optimization process that constitutes MODA. I'm willing to come forward with what I think some of my objectives are for the next meeting, but it's not going to be a list of predators.

The idea that we can manipulate menhaden populations through our management of menhaden and generate biomass out there, that is pie in the sky, that's not going to happen. I think we need some clarity as to what, if anything, we need to bring back in August, and I don't think it's a list of predators.

CHAIRMAN DANIEL: Lynn is going to tell us.

MS. FEGLEY: I guess I'm just looking for a point of clarification for Jeff. Back in the alternative reference point guidance document that the MSTC and the TC provided to us a couple of meetings ago, it stated specifically that the MS-VPA was ready for a management strategy evaluation now.

Is it not the purview of the technical group involved with this sort of analysis to set the boundaries on what is possible? In my mind this MODA approach would be used to evaluate tradeoffs on the things that we can model now, which is the multispecies VPA. We have it there.

We're able to examine tradeoffs among the species that are currently modeling. Isn't the tool sitting in front of us and it would be the job of the stakeholders to state their objectives and then we would examine how those objectives would be achieved under the current tools; am I wrong about that?

MR. BRUST: The current multispecies VPA model, unfortunately, is basically a one-way model. We can model how the predators affect menhaden, but there is no process within the model to evaluate how more or less menhaden affect the predators or how the predators affect each other.

One of the things that we have been talking about for quite a while with the MS-VPA is to include that feedback loop. At least the way I see it, the additional modeling done through the MODA process would add that functionality; so that if we have twice as many menhaden, what would happen to the striped bass population and the weakfish population, things like that. Right now we can't do that. We are only modeling what happens to menhaden given a certain level of predators.

CHAIRMAN DANIEL: All right, I'm going to Bill Adler and A.C. and then I'm going to end this conversation, and then I'm going to move this topic to other business if we have time, because we're really running hard up against some pretty tight timelines here. Bill.

MR. WILLIAM A. ADLER: I'll make this quick; add the commercial fishermen and recreational fishermen to the predators and not just bass and the fish. They need to be taken into consideration, too. Thank you.

CHAIRMAN DANIEL: Absolutely! A.C.

MR. A.C. CARPENTER: If we're trying to get to the benchmark assessment in 2015 and we're going to use MODA to get there, I'd suggest the board have a backup plan because I don't see this process being complete in time for that. My backup plan would go back to the biological reference points that we do know how to do and examine them and let's fish to that in the interim.

CHAIRMAN DANIEL: Bless your heart; well said. I think we're going to break on that.

(Whereupon, a recess was taken.)

## **PUBLIC INFORMATION DOCUMENT TO AMENDMENT 2**

CHAIRMAN DANIEL: All right, back to the table, please, we are going to reconvene now. We will try to catch up on a little bit of time here. Right now we need to review the options from the PID along with the public comment summary and the advisory panel's report. For that, I'll turn it over to Mike Waine to review those comments and summaries.

### **PUBLIC COMMENT SUMMARY**

MR. MIKE WAINE: In the interest of time, I'm going to jump right into the public comment summary as I'll go through the options in the document while doing that. There were over 22,000 comments received. A hundred were personalized individual letters; 18 were organization letters; and over 22,000 of the comments were from form or co-signed letters with 13 different letters. We held 12 public hearings in 12 states with roughly 185 attendees.

Issue 1 is the time to achieve the target. A majority of the comments, over 12,000 were for a three-year timeframe. There was support, over a thousand comments for the ten-year timeframe, and over 11,000 comments wanted greater than 50 percent probability of achieving the target, and 72 comments wanted a greater than 75 percent probability to achieve the target, given that timeframe.

I also wanted to mention that there were over 20,000 comments that favored removing the ten-year timeframe from the document while there were over a thousand comments that suggested removing the one-year timeframe from the document. With the reporting, pretty much everybody that commented on reporting was in favor of a more comprehensive and timely reporting system.

Other suggestions were weekly dealer reporting and weekly harvester reporting to the ACCSP data standards and that de minimis status, if it goes through, should not exempt states from reporting; with the general comment that it

should be comprehensive, transparent and enforceable.

Moving into the recreational management options, there was a strong favor for status quo as most believed that the recreational landings were insignificant relative to the commercial sector. For the commercial management measures, most people favored quotas as an option, over 21,000 comments; and then there was general favor for all the other options in the document with seasons weighing out more heavily.

Generally people suggested using a suite of management measures that would be able to achieve the target given the timeframe that they specified, so essentially use the options necessary that would be needed to achieve the target in the given timeframe. Just to remind the board, when we took these options out during Addendum V, the favoritism was similar in that over 87,000 of those comments favored quotas in Addendum V.

For de minimis, pretty much everybody that commented on de minimis was in favor of including it in the management plan. They suggested that the criteria should be strict and evaluated annually for status determination and that de minimis states should still have to provide biological monitoring.

I'm going to read through some of the other additional comments that were pretty consistent in all the comments received. Those were implement complementary management measures in federal waters; remove the ten-year option from the timeline; consider the impacts the reductions will have on local communities; industry sees plenty of menhaden and they question the science; conserve menhaden; timeline to achieve the threshold and target should be immediate; manage the reduction and bait fisheries separately; take reductions slowly; remove the one-year option from the timeline to achieve the target; protect menhaden for ecological purposes; the new adult survey conducted in New England should be included in the stock assessment update; allocation should be based on history by state and regulated by the state; moratorium should be considered; consider discard mortality when using trip limits; penalties for violations should be large enough to discourage violators; days at sea should not be considered; reduce the reduction fishery only; perform a full economic and social impact analysis, including other fisheries that rely on menhaden for bait; environment drives the stock change and not fishing; fishing is much more expensive now than it was historically; ecological depletion of menhaden is the main issue;

ecological-based reference points are needed; implement management measures to achieve the target in three years; restore menhaden to historic abundance; perform a benchmark stock assessment as soon as possible; the biomass reference points need to match the new fishing mortality reference points; if recreational fishery landings increase substantially, reconsider it for management; a complete social and economic analysis is needed before any recommendations on management options can be made; more information should be gathered before moving forward with the amendment; allocation of any quota should be based on history of each fishery; act now; and not enough landings history information is provided to implement a limited entry program. That's a quick run-through of public comments on the document. Thank you.

CHAIRMAN DANIEL: Thank you, Mike; any questions for Mike on the public comments on the PID? Seeing none, I'll turn to Mr. Windley for the advisory panel's report.

#### **ADVISORY PANEL REPORT**

MR. BILL WINDLEY: The advisory panel met via conference call on April 23, 2012, to make recommendations to the board on the public information document for Draft Amendment 2 to the ISFMP for Atlantic menhaden. Panel members in attendance represented the conservation community, commercial harvesters for bait and reduction, bait dealers and recreational fishermen. Starting right out, Issue Number 1, achieving the target timeline; some members suggested using management measures to achieve the Target F in as short a time as possible. Three years or less is a reasonable amount of time to achieve the target.

Including a five-year option for public comment is acceptable, but the ten-year timeframe is not reasonable and should be removed. Some members suggested a ten-year phase-in option should be included as it is often used in the federal council system as it relates to a rebuilding schedule. This allows the process to be implemented over the timeframe allowing the fishing industry to survive the reductions that are being proposed.

Some members suggested achieving this threshold in three years and the target in ten. The probability of achieving the target; some members of the AP were in favor or a 0.75

probability of achieving the threshold and Target F. It was noted that the probabilities are based on the last stock assessment and will change when the update occurs, so some of the AP object to the AP making recommendations on this issue.

Catch reporting; it was suggested that we use ACCSP and their standards for catch monitoring and reporting inherent to the SAFIS system. The changes to the reporting should meet ACCSP data elements and submission standards. Some members suggest daily reporting by harvesters and weekly reporting by dealers, but generally reporting should be as real time as possible. Consider the use of VMS. The reporting should be comprehensive, transparent and enforceable.

Number 3, recreational fishery management tools; the AP recommendation is to consider bait questions on the MRIP intercept surveys. There is concern about the distinction between bait harvested recreationally and bait purchased at a bait shop for recreational purposes. Therefore, reporting by the recreational fishery should only apply to fish that are immediately caught and not menhaden that were purchased for bait.

However, consensus that recreational harvest is less than 1 percent of the total harvest and it is unnecessary to implement management measures if the fishery continues to make up a marginal amount of harvest. There was consensus for status quo on recreational fishery management measures.

Number 4, commercial fishery management tools; status quo, some AP members did not support status quo. Trip Limits; some AP members believe trip limits are not workable for the reduction or bait fishery. A majority of the AP is in favor of keeping the trip limits as an option for management. One member is not in favor of trip limits unless it's an incidental catch allowance in the bait fishery. There is a concern regarding discard mortality as an issue with trip limits.

Gear restrictions; some AP members believe this option should be eliminated for the reduction fishery. Purse seine is the only way to harvest for reduction purposes, so restricting this gear is not a workable option. Some members of the AP support keeping gear restrictions as an option. If gear restrictions are used, it should be appropriate to the fishery and take into account the investments that have been made for specific gears already in use.

Season Closures; there is consensus supporting keeping season closures as an option in the management program. Area closures; some AP members support keeping area closures as an option to protect spawning and or nursery areas. However, other AP members don't consider it an effective tool for F-based management. Quotas; there is consensus from the AP in support of keeping quotas as an option and suboptions. A number of analyses need to be performed if quotas are included as an option. A catch share program would be difficult to implement given the lack of information regarding fishery participation and landings history in the bait fishery.

Effort controls; there is support keeping effort controls as a management option. Some members were concerned about days at sea as an effective effort control measure. Other members thought days at sea could be used to achieve a target F goal. Vessel restrictions should consider both harvester and carrier vessels.

Limited entry; some AP members are not in support of limited entry as a management tool at this time. Other AP members were in support of a limited entry program. There is also support for some mechanism to identify participants in the bait fishery. The AP is fine with including a definition of *de minimis* in the amendment; but regardless of *de minimis* status, every state should be required to report and monitor to the standards developed in the FMP through Amendment 2.

Complementary management measures in federal waters; the board should consider implementation of management options in federal waters as a percentage of the fishery is prosecuted in the EEZ. Social and economic impacts; the AP suggested that an impact section be included before specific management options are chosen through the amendment. The impact section should include an analysis of potential long-term benefits given a change in the management program of Atlantic menhaden. Some individuals submitted written comments and they are included with your package. Thank you.

## **DISCUSSION OF DRAFT AMENDMENT 2**

CHAIRMAN DANIEL: Any questions for Mr. Windley on behalf of the advisory panel? Seeing none, thank you, Mr. Windley, for a very



detailed and good report. All right, that brings us down to the Draft Amendment 2. The way that I would like to proceed is to go through this guidance document that we have put together to try to facilitate this discussion.

It's a series of questions on the direction that the board would like to take. I think it's important that we try to maintain as much flexibility in the plan as we possibly can and try not to take out too many things; but at the same time if there are options or ideas that need to be removed that could facilitate staff being able to get the documents prepared, we need to have that discussion. Before I get started with Issue 1; Jack.

MR. TRAVELSTEAD: Just in the way of general comments – and I haven't seen how you're going to proceed with looking at all of the various options, but I would remind the board that we have a stock assessment right now that has a terminal year of 2008, and we really have no understanding at this point of the status of the stock since that year, but we will later this summer when the turn-of-the-crank assessment is done.

With that understanding that our – well, that our understanding of the stock will improve in a few months, I would suggest that we be very cautious about eliminating options at this point in time. I think you've used the word flexibility; I think that's exactly right. Since we don't know the outcome, can't predict the outcome of the turn of the crank, we need to leave ourselves with enough options to be able to react to what that outcome is. I just offer that up as general advice and opinion on where I am on all these various options.

CHAIRMAN DANIEL: Thank you for that and I agree. Anything else before we start? Doug.

MR. GROUT: Just a question for Jeff just so that I can make sure I understand how the tables in the PID work here; Table 1 and Table 2. Because this is sort of a new way in my mind of doing things the way we've done before; as I understand this, Jeff – and correct me if I'm wrong – is we have different probabilities of achieving the threshold or the target based on different landings and then going all the way out to 2017 in here. These are based on the fact that our most recent assessment has the terminal year at 2008; correct?

MR. BRUST: Correct.

MR. GROUT: So when we have the updated stock assessment, these probabilities, where we have more recent data, we will have a terminal year of 2010 or maybe 2011?

MR. BRUST: I believe 2011.

MR. GROUT: 2011; these probabilities are all going to change?

MR. BRUST: Yes.

MR. GROUT: And they're going to have a much higher probability of attaining either the threshold or target with higher landings?

MR. BRUST: I don't know if I can say that at this point.

MR. GROUT: They might be the same?

MR. BRUST: The numbers will change; I don't know if they're going to go up or if they're going to go down. They will change.

MR. GROUT: They might go down, the probabilities?

MR. BRUST: I don't know; it depends on what the stock status is. If the stock has gone down farther, it will probably take – it will be less likely to attain those reference points in the given amount of time. If the stock has come up, then it will be more likely to attain those reference points.

MR. GROUT: But let's say by some miracle there has been no change; the very fact that this is a more recent stock assessment would improve the chances of getting us down to a threshold and to our target fishing mortality rate with a given landings limit? As I understood, the reason these are so low is because it has been a long time since we've had an assessment?

MR. BRUST: No.

MR. GROUT: No, okay, then explain it.

MR. BRUST: The reason these are so low is because these are fishing mortality rates rather than biomass. Okay, the timing of the stock assessment has no play in this other than what our estimate of the biomass is – of what the fishing mortality rate is, right. If the new assessment says if the fishing mortality rate is

the same, then a given level of harvest is going to provide the same probability of attaining the reference points. If the stock has gone up and the fishing mortality rate has gone down, we're more likely to – the probabilities will increase and vice versa.

I believe that if the assessment says the fishing mortality rate is the same, then these probabilities won't change. If I could follow up – again, another little birdie on my shoulder here – we do have a certain amount of uncertainty and that will come into play. Because the numbers are that old, we've got some uncertainty of what has happened since 2008.

With the new assessment, we will have less uncertainty so that could affect the value some. Right now we're guessing or we're projecting what has happened between 2008 and 2012, which is the first year of the projection. Once we have more certainty of what the population looks like, then those numbers could change as well.

CHAIRMAN DANIEL: All right, everyone should have a copy of this guidance document in your supplemental materials. What I'd like to do is start moving us through and hope that this goes as smoothly as it went on the phone with staff. I think we need to make some decisions and there are going to be a few decisions in here that I think we need to make just to start sending some information forward and let the public know what direction we're heading. I hate to just say on all these, yes, let's keep everything and not make any decisions at this level.

Given that the current fishing mortality rate, the F in 2008 is 2.28, that exceeds the fishing mortality threshold at the new threshold of F 15 percent of 1.32 and the target of 0.62. We've got to take steps to reduce F to the target level. Step 1 and the first item for the board to consider is should the amendment contain options to achieve the target over one, three, five, ten years or some other number of years?

And just to add to that a little bit and to some of the confusion – and this is something I thought of since we developed this; is it also appropriate or prudent to consider meeting the threshold first and then the target or do we want to go straight to the target? I think with a lot of the uncertainty in the assessment and the unknown results of the upcoming stock assessment and the fact that we're not overfished; do you want to try to achieve that separately or go straight for the target? I think that's the first decision matrix that we need to deal with. Pat.

MR. AUGUSTINE: Mr. Chairman, the document is relatively well put together; but when we talked about how we're going to get there, the timeline to achieve the target, the ten-year thing jumped out and hit me right between the eyeballs. I said, God, why is it even in there. I think it needs to be taken out.

I think when people look at that, it's as though we again are kicking the can down the road, whether it's a real number or not. The other options need to remain in there and I only want to talk to the timeline for achieving the target. That would be it, and I do think the board needs to take multiple years to achieve the target.

Let's see what goes forward as far as other comments are concerned. One, three, five seems logical and reasonable as to it has taken a lot of years to get the status of the stock in its present condition. Again, as you mentioned earlier in the day, Mr. Chairman, we're not sure what the real status is. Do we really have a true assessment? Mr. Travelstead brought up the point it has been 2008; so rather than going too far too fast, bring options out there that are reasonable in the short term in case we are in this real low state of status of the stock.

I do think the message sent to the public is also important here that we're sitting on our thumbs and we are aggressively going to take some action. **The ten years was out of the ballpark. It does equate to what we do through Magnuson and through the councils. I would like to move to remove that.**

CHAIRMAN DANIEL: All right, we've got our first motion to remove the ten-year timeframe from Mr. Augustine and a second from Mr. Abbott. Discussion on that motion? Jack.

MR. TRAVELSTEAD: I think we had over a thousand public comments in support of keeping the ten-year option in. I don't think it should be eliminated. We don't know what the next assessment is going to say. It may say we're no longer overfishing, so I think it's entirely appropriate to keep the ten-year timeframe in.

In fact, eliminating it now just suggests that we're going to ignore the science that's going to be available to us in August. On the other hand, it seemed to me we had an almost unanimous public comment that the one-year timeframe was unrealistic. That's not part of this motion, but I

suggest we might eliminate the one year but keep the three, five and ten years as a range that captures everything that we might need to consider in August.

MR. CARPENTER: Mr. Chairman, you raised the point are these for the target or are they for the threshold. If it was for the threshold, I think the one, three and five are fine; but if it's for the target, I think the ten should be left in there. I guess the reason I want to leave the ten in there is because we can fish well below the threshold and have a fairly stable fishery and stock without being right at the target every year. I think the ten-year timeframe is appropriate. I agree with Jack that maybe the one year might be needed to be taken out, but I feel confident that the ten years needs to stay.

MR. TERRY STOCKWELL: Mr. Chair, both Jack and A.C. made the same comments I was going to make. I support the inclusion of the ten-year target and the removal of the one.

MR. JEFF TINSMAN: Mr. Chairman, I support leaving the ten-year timeframe in place for purposes of seeing what kind of harvest level that would support for a couple of reasons. One is we have a very poor stock-recruitment relationship with this stock. We can restrict it tremendously and if environmental conditions aren't right for three, five, seven years, who knows how long, we still don't get that big year class that we need.

The second reason is there is concern about restricting the harvest and the impact that is going to have on availability of bait. I think if we have a longer timeframe and steady restriction on harvesting over that period, it will allow a slightly larger annual harvest. Thank you.

MR. GOLDSBOROUGH: I look at this the same way Pat Augustine did. The ten years jumps out at me. If I'm not mistaken, what Amendment 1 says is that we have to immediately take steps to eliminate overfishing and to achieve the target. That tells me the very least we should do the first year is achieve the threshold and that we ought to be fairly prompt in achieving the target. Ten years is incomprehensible to me, frankly. I think that would justifiably open this commission up to a lot of criticism.

I would remind everybody that we've already waited more than ten years for implementation of Amendment 1 objectives, which call for restoring and protecting menhaden's ecological value. Also, to me it calls into question what we mean by interim reference points. We have decided we were going to

adopt interim reference points while we work on another process that at an earlier board meeting; I think last year the TC Chair had told us might take five years, so we're going to set a timetable – we're going to even consider a timetable of ten years for implementing the interim reference points? That just doesn't make any sense to me.

I would also remind the board that in Boston we essentially, by adopting these new reference points – no, we explicitly adopted the strategy to give the stock a shot in the arm. If we stretch that shot in the arm out over ten years, I think we dilute the effect and I think we will be waiting ten years, at the least, before we see any response from the stock. Thank you.

MR. TRAVELSTEAD: **Mr. Chairman, I would move to amend the motion to change the number ten to the number one.**

CHAIRMAN DANIEL: Motion by Jack Travelstead to amend the motion and second by Terry Stockwell to retain the ten-year option and to remove the one-year option. Discussion on the motion? Pete.

MR. HIMCHAK: Mr. Chairman, I support the amendment because, again, the threshold that we've decided upon, we're going to implement that immediately. We're not going to take ten years to work towards that. That's a more restrictive reference point right off the bat. That could be going from 8 percent MSP to 15 percent. Maybe this got lost in a lot of the public hearings, but we have to get below the threshold ASAP and then the target is another issue. I support the amended motion.

MR. ABBOTT: Mr. Chairman, I have no problem with the motion in the sense that we'll probably delete the one year, but then it would be my intention to come back and make another motion to remove the ten-year timeframe. I think that we should have the opportunity to vote on the extreme length of time on one end as well as the minimum length on the other time. I really would like to see the original; either vote it up or down, whichever is the wishes of the board, but substituting the ten for one is just dodging the question of the ten-year timeframe, in my opinion, so that will be my intention.

MR. TRAIN: I support the motion as amended. I think one year is far too aggressive. I saw too many fishermen and boats go out of business for

what I considered to be a highly aggressive management strategy in New England on groundfish that was rebuilding because of the timeframe. I would like to see this, as far as fishermen and jobs, be stretched out. If we weren't doing it, I could see being more aggressive; but if we're working towards the target, I think the longer timeframe allows people to stay working.

CHAIRMAN DANIEL: Any other comments on the amendment to the motion? One from the audience.

MS. ERICA FULLER: Thank you for this opportunity to comment on the PID. I am Erica Fuller speaking on behalf of the Herring Alliance. I have two points to make regarding Issue 1. First, I think it's important to clarify that any proposed ten-year step-down approach to achieving the new target is not analogous to a ten-year rebuilding plan under Magnuson.

It would be confusing and incorrect to choose one as a rationale for the other. In a Magnuson Rebuilding Plan the goal is increase biomass to a level that can produce MSY on a continuing basis. The law requires that this occur in as short a time as possible. Ten years is an outside limit; it's not the standard.

Menhaden does not have defined biomass reference points and for that matter is not in a rebuilding plan. In Amendment 2 the schedule refers to a length of time until the target is achieved, and we support the three-year option. The second point is that we are in favor of removing the ten-year schedule to reduce F to the target level.

The ASMFC has a mandatory duty to prevent overfishing and to end it when it occurs. This option will not get the fishing mortality rate below the threshold in the early years of the phase-in and cannot provide a safe buffer against overfishing. Simply put, you will not end overfishing now and you cannot ensure that overfishing won't occur in the future. We feel that continuing analysis of this option would be a waste of resources. We need to manage straight to the target.

CHAIRMAN DANIEL: Thank you. What I'm going to do is – and I may have goofed there and really it's up to the board. We are looking at issues to take out to public hearing so we're not making any final decisions here today. We're just taking the options out for public hearing. I know there is a lot of interest in the audience.

We can take public comment as we make these motions or not. I believe typically we don't do that because we will vote on this again later. I apologize if I've overstepped, but I see a hand and I call on it, but I'm not going to do that anymore today unless there is objection from the board to that. David.

DR. PIERCE: I understand the desire to keep as many options in the document as possible because we'll eventually have a final product to go out to public hearing. We've already gone to a lot of public hearings on the plan information document, and frankly I don't want to go back to public hearing and have the same suite of options in there. It looks stupid.

We should now be in a position to whittle this down a little bit and I frankly support the three and the five and getting rid of the one and ten for good reasons that relate to Table 1 and Table 2 specifically because we'll eventually make a decision as to the probability of getting to where we need to be at certain times.

I am going to be favoring the 75 percent, and frankly I think three and five makes a great deal of sense. It is very sensitive to the public comment that we received, and I think it's a very responsible time period for us to look at. As already mentioned, we're not bound by any particular Magnuson Act; that is, if things go wrong relative to rebuilding, we're not obliged to suddenly cut the fishing mortality down to zero if we're not rebuilding as we think we must. We have flexibility to change for whatever good reason may come up. I'm going to oppose the motion and eventually support a motion that would be for three and five years. That would really limit it for the work of our technical team and give the public a clear indication that we listened to what was said at the public hearings and we have acted.

CHAIRMAN DANIEL: Thank you, Dr. Pierce. All right, the amendment on the table is to change the ten to the one. All those in favor of the amendment raise your right hand –

MR. HIMCHAK: Hold on, Mr. Chairman, we need to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All right, the motion is move to amend the motion to change the ten

years to one. Motion by Mr. Travelstead; second by Mr. Stockwell. All those in favor of the motion raise your right hand, opposed same sign; abstentions; null votes. **The motion carries nine to eight.** We're back on the main motion. Mr. Abbott.

MR. ABBOTT: **I would like to make a motion to amend. I would like to make a motion to amend adding ten years to the main motion; make it one and ten years to be removed.**

CHAIRMAN DANIEL: Are we adding to the amended motion or are we removing ten from the main motion? I think we're removing ten from the main motion.

MR. ABBOTT: Adding; ten year is no longer in the motion.

CHAIRMAN DANIEL: Wait, go back to the main motion, please. The main motion is now – we've had one year removed, so right now the main motion is three, five and ten. No?

MR. WHITE: The main motion is to remove one year.

MR. CARPENTER: We passed an amendment to the motion but now you have to vote on the amended motion, which would be the original motion with the one instead of the ten; vote that up or down and then I think you can take an additional motion.

CHAIRMAN DANIEL: Okay, the main motion is to have the three, five and ten years as the rebuilding; correct? Somebody is saying no and somebody is saying yes. You're telling me we need to vote to remove the one year. Yes.

MR. ABBOTT: I somewhat apologize for making the motion. It surely would have been clearer if we had voted the ten up or down, gone to the one and voted it up or down. We now have a main motion before us which is to remove the one-year timeframe and leave – we're not discussing what we're leaving because whatever is left is left.

However, my motion is to add – I'm making a motion now to amend the main motion. The main motion that is before us is subject to further amendments. I offer the motion to include ten years, which would mean that we would be removing both the one and the ten years. I don't have a second yet.

CHAIRMAN DANIEL: I lost a step, I guess. Sarah seconds the motion. If we vote this up, it would

eliminate the one and ten-year options, all right? Dave.

MR. SIMPSON: I have a question and a comment about procedure. I'm deathly afraid we're going to get so tangled up in amendments to amendments and not know what we're voting on. If we could just accept that we had a motion to remove one year and we voted to do that, so that's done and then we –

CHAIRMAN DANIEL: I thought so but according to this crowd, no.

MR. SIMPSON: Right, because we're getting caught up in motions to amend. I think it would be simpler, however, to one at a time decide yes or no; move on to the next thing, yes or no; and so if we could just do that. We've made a decision to remove one year, we're done. Let's have a clean motion that just says let's remove ten years, we're done. Otherwise, I'm afraid we're going to get terribly tangled up.

While I have the mike, I do have a question related to the ten-year option, and that goes all the way back to summer flounder where we took a very large reduction, and that was sort of our introduction back in 1991 to major reductions in a very important fishery, and I'm trying to remember how long it took us to get from where we were fishing the fishing rate of like 1.47, if I remember, down to 0.23.

The Fmax moved around but, Toni, do you recall how long it took us to actually do that? I recall sort of an informal constant harvest strategy to get there, but it was several years. I'm reminding myself of that and others that some of these more challenging things took a little more time than you might imagine.

MR. CARPENTER: I believe that Mr. Abbott is correct that your main motion is what is at the top of the screen. It has not been adopted. It is subject to amendment and he has offered one, so now I think you need to vote on Mr. Abbott's motion; and if that gets passed, then that becomes the main motion. If it doesn't, I think we move back to the main motion. I'd suggest just voting on Mr. Abbott's motion.

CHAIRMAN DANIEL: And that's what we're going to do. The motion is to move to amend the motion to include the ten years by Mr. Abbott and Ms. Peake. All in favor of that motion raise

your right hand; opposed same sign; abstentions; null votes. **I've got a tie so the motion fails.** Now what?

All right, so the motion now is to move to remove the one year – I'm not going to take anymore comment – move to remove the one-year timeframe to achieve the target. All those in favor raise your right hand; opposed same sign –

MR. HIMCHAK: Mr. Chairman, could you give us a chance to caucus on this? We haven't voted yet.

CHAIRMAN DANIEL: It's all right. Abstentions, one abstention; null votes. The motion carries; I think it was thirteen to zero to one to zero. All right, so now the amended motion is on the screen, right? So we don't need to approve the motion for the three, five and ten?

MR. MEYERS: Mr. Chairman, a point of order, sir. We need to have a little bit more time to discuss some of these issues internally with a caucus in trying to figure out what motion we're actually voting on, please, sir.

MR. BEAL: I think where we are is you have no motions on the board right now that are in play. The only action that was taken was to remove the one-year option for achieving the targets, so you have the three, the five and the ten still moving forward as direction to plan development team for inclusion in the draft amendment.

CHAIRMAN DANIEL: Okay, so everybody clear on where we are? We have three, five and ten years which are now the options for reaching the target. Is everybody happy with that? Does anybody want to say something about that? Pat.

MR. AUGUSTINE: Yes, Mr. Chairman, I'd simplify it all by making a motion that only the three and five year remain in the options.

CHAIRMAN DANIEL: We just did that and it failed so we've got three, five and ten years. We just had a motion to remove the ten. Robert.

MR. BOYLES: Mr. Chairman, a point of order. I believe that you are correct to the extent that we have accepted a motion to remove one year from the public information document. We have rejected a motion to remove the ten years. That leaves three and five. If we want to deal with removing three or five – excuse me, it leaves three, five and ten. If we want another motion on three or five, I think that we're done.

MR. GROUT: Just a clarification for me on process; we have a PID document that we've sent out and got a variety of information. You have a very nice decision document that we have here. To put something into the amendment, do we need to have a positive vote on options to put into the amendment? Have we had a positive vote to include three and five in there? Don't we need a motion right now to say I move that we include Options 3, 5 and 10 in Amendment 2?

CHAIRMAN DANIEL: That's where I got confused. I got confused with thinking that we were having a motion – we had a motion for one, three, five and ten and there was a motion to amend to remove one, and that's where I got wrapped around the axle. That was my fault. At this point we have taken out one. We've got three, five and ten left.

Now, there was a lot of interest around the table to remove ten, but we had that in the motion and it failed; eight/eight was a failed vote. Right now we've got three, five and ten and that's it, and we're done. Now, Step 2, Issue 1, there are several questions here and I think these are important for us to take into consideration.

I don't know that we need to get into the severe nuts and bolts, but I think we need to take into account that if we achieve the threshold right away with the uncertainty in the stock assessment, with the uncertainty in how the stock is going to respond, we would expect if we double the spawning stock biomass or double biomass that that will have some positive impact on recruitment, but we can't say that because we don't have a stock-recruit relationship. I think we need to keep those points in mind as we move forward is that it may take us some time to realize any measurable gains or improvements in the stock. Is that clear?

So, should the amendment consider a minimum and/or a maximum probability of achieving the target? You have the tables in the PID that actually show you, as Doug brought up earlier in the discussion, the probabilities of achieving that. Should there be equal reductions each year, so will we develop step-wise reductions after we achieve the 15 percent?

Do we want to let the public know that after we achieve the 15 percent, we're going to continue to ratchet down the harvest until we reach the target? Will we wait to see what the 15 percent

actually achieves in terms of improved recruitment? We may be so far in the bottom left-hand corner of the stock-recruit relationship that that is why we don't have a stock-recruit relationship.

We also may be in a situation where we have very episodic recruitment and using average recruitment is impracticable. It is going to be very hard to model this population in terms of projections. If you lock yourself into increased reductions every year, you may get up to a point where you've reduced the fishery so much but the stock-recruit relationship compromises the ability of the stock to have any meaningful or show any positive stock responses.

Should more reductions occur in early years; should less reductions occur in early years, more in later years; and should we annually select the amount of reductions that we need as we move forward? Those are some points and some questions that we need to provide some clarification on to the plan development team and the staff. Jack.

MR. TRAVELSTEAD: Those are really difficult questions to answer and there are a lot of questions being asked. I'm almost of the opinion that we need to present as many options as we can once again to the public because we don't know the results of the new stock assessment that will be coming out.

Maybe some of these decisions will be easier later this summer, but right now they're very difficult. I think we present a range of options. My greatest fear is we don't – none of us like overfishing; we want to eliminate it, but we don't want to kill the industry as the process of trying to cure that problem. We've got to present, it seems to me, a range of options for our consideration in August.

MS. FEGLEY: Mr. Chairman, this may be a dumb question but on the last question asking whether the board should annually set the amount of reduction; what would we base that on each year? Maybe that is a question for Jeff. We don't have an annual assessment. Would we base it on an annual JI or what would we base it on?

CHAIRMAN DANIEL: Go ahead, Jeff. I'll let you try and then I've got a comment on that, too.

MR. BRUST: I guess if you selected that, we'd have to come up with something, but at this point I don't think we have anything in our back pocket that we could say, yes, you could use this. There has been some discussion about using the JI as sort of a

predictive tool, but we haven't developed anything firm yet.

CHAIRMAN DANIEL: So do you want to keep everything in for now, per Jack's recommendation, and then perhaps once we have the updated stock assessment things will be a little clearer. Okay, the next issue is catch reporting. The reporting structure has led to uncertainties in the bait fishery landings for Atlantic menhaden. There is a white paper that was put together by staff from a meeting where they looked at the unreported bait. It seems like in the last five years or so that has gotten much better.

There doesn't seem to be a huge percentage of unreported bait as was suggested early on. Certainly, the main bait companies are reporting on a pretty regular basis. There are electronic-based reporting options that we could use, so should we consider changing the catch reporting requirements? If the answer is yes, how would we want the harvesters or dealers to report?

MR. JAMES KELLUM: I think Omega has done a good job and the Virginia bait catchers have done a good job in reporting their catch at the end of each week. I think if the pound netters, the gill netters and the purse seiners in New Jersey and the northern states would all adopt a plan to report at the end of each week, it would be a system we could all live with.

CHAIRMAN DANIEL: How does that relate to the ACCSP standards? I mean, if the ACCSP standards are consistent with what Mr. Kellum has indicated, then that would certainly parse this down to a very manageable option. Are we going to require observers in this fishery? If the industry can handle weekly reporting and that's consistent with ACCSP standards, could we just simply indicate that is our intent or do we need to have all these various options in the document? Pete.

MR. HIMCHAK: Well, I can answer part of that. If you envision the situation where you get down into a quota on bait on a state-by-state basis, then certainly the state would have to look at its current monitoring program, and ours is monthly. If we had a quota in the purse seine fishery or all fisheries combined, it would behoove us to make some adjustments in reporting requirements.

But not knowing the extent of any needed reduction, I couldn't comment on that. Now, some fisheries we don't even have required reporting. We'd have to go to the legislature and get a landing license requirement for certain gear types. I don't know how to predict this, but if it came down to a quota we would have to invest in more timely reporting.

CHAIRMAN DANIEL: Yes, you would. Should there be observer coverage requirements for the commercial fishery? Do you want to keep it in there? Yes, no, indifferent? Tom.

MR. FOTE: We sent out a bunch of information. There was basically some good comments when we went out to the public hearings. All fish should be scaled – I think we should just leave the suite in there unless there is something that really needs to come out right now. All we're doing is going to public hearing and we're going to approved this document in August.

We're spending a lot of time on something that I think we're going to revisit in August, anyway, and we're going to spend a lot of time fine tuning it. I think unless there is a glaring thing to remove from the document right now, we should just move forward with a lot of the things except being real picayune about every piece that is in there; unless we saw from the public comment that went out for the PID where we should remove something, and I haven't seen one of those yet.

CHAIRMAN DANIEL: That's fine with me. Pete.

MR. HIMCHAK: I think we're putting off the inevitable here when it gets down to allocation. This amendment is going to say X percent – assuming there is a reduction, whatever it comes out to be, it's going to say the first cut is going to be, well, the recreational sector loses this, the reduction loses this and the bait loses that. Maybe the recreational won't have to do anything. Those are decisions we're headed for.

And then under the bait side you're going to have to look at the years of the bait landings by each state and then start saying, well, each state is going to have to reduce by this much. If the PDT is looking for direction from the board, that's what I would tell them not to do is start looking at reduction versus bait. Is it 50/50, 60/40 and why; age of the fish, value. The economics and social sciences has to weigh in on this. That's going to be Amendment 2; isn't it?

CHAIRMAN DANIEL: And that's where we're headed. That's what we're getting ready to get to here in just a minute. We're doing the easy stuff right now.

MR. HIMCHAK: Well, I guess I'm being a little blunt and just throwing it out.

CHAIRMAN DANIEL: Well, I like blunt. Dave Pierce.

DR. PIERCE: Okay, I think we're on timely and comprehensive catch reporting, Issue 2, correct? Okay, we make it very clear in the public information document that we have some uncertainties in the landing history for Atlantic menhaden; that the current reporting structure and inconsistencies between states have created those uncertainties.

And then we asked the public a number of questions regarding how can we improve what we say needs to be improved? I'm assuming that we will have in this amendment a strategy or a set of strategies that would – and I'm being sensitive to public comments – that we would have in this document that both dealers and fishermen would be required to report; that, indeed, there will be needed electronic reporting options, VMS, the IVR; and that there will be reporting through SAFIS; and that all state dealers will be required to report weekly to be consistent with federal reporting requirements.

In other words, we've asked those questions for a very good reason. It's to plug holes, to plug gaps especially if we end up with a commercial fishery management option that includes quotas. If that's the way we go – and I think we're going to go in that direction. That may be a strongly favorite strategy once all is said and done – we're going to need those very important ways of keeping track of what is being landed.

I can make a motion if you'd like, Mr. Chairman, regarding this particular issue or we can just agree by consensus that this document to be fleshed out, that this amendment will have those particular ways of improving our understanding of what is being caught and what is being landed, and that will lead to a dramatic reduction in the amount of uncertainty of landings.

CHAIRMAN DANIEL: No one objects to that, do they, moving forward with that recommendation from Dr. Pierce? Okay, good;



and if not, we'll move forward to the next issue. Recreational fishing measures; here is your first big decision, I guess, and we can continue to say we're going to restrict the recreational fishermen or we can make the decision that we're not going to consider limiting the recreational catch. Because if we do, I think the staff is going to have to start looking at the impacts of the various bag, season, size and gear restrictions. Dave.

MR. SIMPSON: My thought on this is that we don't need recreational restrictions on this fishery given the relative magnitudes of harvest, but I think the document would benefit from potentially a definition of what recreational fishing is in the simplest terms. That to my mind would be a possession limit probably in numbers and/or a volume; you know, a gallon type of thing because unlike most recreational fisheries, they're not just snagging menhaden.

This could be, depending on the state, a few hundred foot long gill net. I know in Connecticut we've run into real issues of what is recreational and what is commercial. I would suggest an alternative under recreational simply include an alternative that defined recreational fishing with a bag limit of 100 fish or five gallons and throw in a couple of options that are bigger than that, but the idea being to define what recreational fishing is by a volume of catch.

MR. TRAVELSTEAD: I'm not sure if we need recreational measures or not in this amendment, and the reason is I don't know enough about the size of the recreational fishery for menhaden. We read in the document that MRFSS or MRIP isn't very good at collecting that information. It seems to me the amendment would be an opportunity to try to fix that problem if we could somehow seek a modification to MRIP where anglers are asked how they're catching. If they don't bring that stuff back to the dock with them, if they haven't used the bait, they throw it overboard and nobody ever sees it so it's not counted. That's not a regulatory type provision, but it might be some provision that we see under this amendment to get us better information.

CHAIRMAN DANIEL: That's a good point. Ritchie.

MR. WHITE: I think the definition of a recreational fisherman is simple; it's personal use. If a guy is going to use a couple of five-gallon buckets or some people may put out a net, but it's personal use and not sale.

MR. GROUT: Yes, the MRIP asks the questions, it doesn't necessarily have to be anglers. What's the primary purpose of your fishing trip today; was it for fun and relaxation or was it for the sale of fish? If they say the sale of fish, it's gone, and then they'll interview. We do have intercepts of recreational fishermen that aren't necessarily fishing with a rod and reel.

We have them fishing with a net and we get that information. My suggestion is that this be put in – because of the very, very low landings at this particular point in time based on the data we have, that we put this in the adaptive management process, that we could through the addendum process. If recreational landings become significant, implement management measures, but at this point in time I don't see that they warrant us spending a lot of time on this. I would, as I said, recommend that we put this as an item to include in the adaptive management process.

MR. NOWALSKY: **Mr. Chairman, I would like to move to remove consideration of season, size and gear restrictions under recreational management measures** to save the PDT time in evaluating those things when they construct the draft amendment.

CHAIRMAN DANIEL: And that's in lieu of Mr. Grout's recommendation to put them into the adaptive management, which is basically considered but rejected alternatives at this particular point in time, but ones that we could implement down the road and then we wouldn't need to do anything? You want that motion?

MR. NOWALSKY: Based on the four options that were included in the guidance document, I think that the only – in listening to the public comment that was offered at the various hearings, there was discussion about bag limits. There was discussion from Mr. Simpson about bag limits. I think that's reasonable to leave in for discussion moving forward, but it's the only one out of these that I think is really reasonable to ask the PDT to further develop in the draft amendment.

CHAIRMAN DANIEL: All right, is there a second to Adam's motion? Seconded by Mr. Augustine. Discussion? A.C.

MR. CARPENTER: But you're leaving in closed areas as one of the options; is that how I read this motion?

MR. NOWALSKY: I did not see closed – if that was in the PID, then I would have that removed. I'm just referring specific to the guidance document that we had before us and closed areas was not one of the options offered here in the guidance document. If it does exist in the PID now, then I would like to have that also added to this motion.

CHAIRMAN DANIEL: I believe it is in the PID, so good catch. Terry.

MR. STOCKWELL: I'm not opposed to Adam's motion, but I was more inclined to favor Doug's approach. I think 0.05 percent of the total catch; we could be wasting a whole lot of staff time developing options when we have far more important work to do.

MR. HIMCHAK: I would support Doug's concept. Looking at it from a state's point of view, what I envision would be casting netting for personal use. The state would have to invest more into managing a rather insignificant component of a large harvest. I could see delaying taking any recreational measures until the future.

MR. GROUT: **Mr. Chairman, I would move to substitute that recreational management measures be put into the adaptive management portion of the amendment.**

CHAIRMAN DANIEL: Motion by Doug Grout, second by Mr. Adler to substitute the recreational measures to moved to the adaptive management section. Any discussion on the substitute motion? Seeing none, all those in favor of the substitute motion raise your right hand; opposed same sign; null votes; abstentions. **Unanimous, 17/nothing.**

Thank you, Doug, very good suggestion and we appreciate that. The substitute motion becomes the main motion. All those in favor of the main motion raise your right hand; opposed same sign; abstentions; null votes. Same result. All right, Issue 4, commercial fishing measures; we've got a series of tools here that we'd like to discuss.

This is where we may get into some discussions. Should the amendment consider limiting the commercial catch? Well, in order to achieve any reductions in harvest, if we're not going to get them out of the recreational fishery, I don't see how we're going to avoid taking reductions from the commercial

fishery. How do you want to do it? The first option is with quotas; so should the amendment consider using quotas to limit the amount of fish allowed to be caught by year or season? Jack.

MR. TRAVELSTEAD: This is a little bit sticky because, for instance, if we ended up with state-by-state quotas, then I suspect you would leave it entirely up to that state or each individual state to use any variety of measures to make sure it does not exceed its quota. That might include trip limits or seasons or area closures.

If you're not talking about state by state, then I think you might want to eliminate some of these. Some of these on a coast-wide basis probably don't make sense. A gear restriction in one state might make sense but not in another. So just thinking coastwide, I think we could eliminate some of these. I don't see gear restrictions, for instance, being that successful.

We probably could eliminate those. Trip limits, I don't see them working very well, quite frankly, either, particularly when you're looking at a gear like a pound net. You don't want people throwing back dead fish and wasting a resource. **If you want a motion, I would offer a motion to eliminate trip limits and gear restrictions as a start.**

CHAIRMAN DANIEL: That would be a good start; so a motion by Jack Travelstead, second by Mr. Adler. Discussion. Terry Stockwell.

MR. STOCKWELL: I would be supportive of removing the gear restrictions but not the trip limits. We have trip limit rules in our state that work very well for a number of reasons, and they're in specific areas. We are able to manage and enforce them. It would be an option that we could always be more restrictive and continue to use but one that I would like to keep in the toolbox. What issue comes to mind that we could remove would be the effort controls. Talking about requiring historic estimates of catch rates, VMS requirements, it seems redundant and complicated. I would be willing to make a motion after I listen to a few more comments.

MR. KELLUM: With all due respect to his comments, I think it would be disastrous in the menhaden industry if we went with any sort of trip limit. Menhaden die very fast, and in our world now some of our sets are great large sets;

nine to ten thousand bushels a set. If we have a trip limit where we can only carry five thousand bushels and we're obligated to set that other four or five thousand bushels free, we're going to have an ecological disaster. That should be stricken because we're really talking about menhaden purse seining here. We can sugarcoat this all we want, but that's what we're talking about. Trips limits need to be stricken right away.

MR. ADLER: Just a way through this; if trip limits are not in the amendment but a state wants to put trip limits in for their reason, are they still able to do such a thing?

CHAIRMAN DANIEL: Absolutely! Mark.

MR. GIBSON: Yes, that was going to be my point. We set a quota, we have imposed trip limits, we have gear restrictions on the size of the purse gear in the bait fisheries, and we intend to do that. I don't have a dog in this fight; it really doesn't matter.

CHAIRMAN DANIEL: Well, let's vote this motion up or down, but then I'd like to get back – this was a little jumping the gun for me. I wanted to get to the quota issues first because there are certain issues there that may reflect on which of the tools we want to retain or eliminate. Is there any further discussion on Mr. Travelstead's motion to remove the trip limits and gear restrictions from the document? Seeing none, all those in favor raise your right hand; opposed same sign; null votes; abstentions. **The motion carries.**

If we don't need to make this decision today – I think we need to – back to Tool 1, and Jack brought up some good points and there several options here that we probably need to clarify at least. Do we want state-by-state quotas or do we want a coast-wide quota? If we have a coast-wide quota, then the allocation argument is really moot, I guess, in that the season would start on a certain date and the commercial industries, be they reduction or bait, would go out and fish for that quota until it's taken.

I think we've got some topics here that we need to have some discussion on, state-by-state allocations between the gear types, but right now looking at about an 80/20 split between the reduction fishery and the bait fishery based on historical landings. Recognizing that those bait landings are going to be reduced, the reduction landings will be reduced; the impacts to the bait fishery, knowing that there has been some underreporting over time.

Also, I asked staff to pass out to you the recent Atlantic herring quotas and landings, where that quota has been reduced by about 50 percent. It may start coming back up a little bit, but I think we need to be cognizant of the significant and real issue that will face the bait industry and the potential impacts to the lobster fishery and the blue crab fishery along the coast.

There are various options in here in this quota. The way this quota is managed is going to have significant impacts on whether or not we have those bait issues or not in terms of quota allocations. With state by state – Jack is right, we go with a state-by-state quota share, you get your quota share, you can use trip limits, area closures, season closures. You can anything you want to as long as you stay within your state-by-state quota share.

Obviously, the states that – you know there are two states that have the lion's share of the landings, and that would really not permit for any kind of expansion or any kind of movement in our bait fisheries. A lot of hands around the table went up. I think that's good; we need to have some discussion on how we want to pare this down. I don't necessarily think we need to get into the bottom bullets; but if we can provide some direction or provide some insight to the public as to what direction we're looking at or at least some specific recommendations, I think that would be helpful for staff and the public. Lynn.

MS. FEGLEY: Just to talk a little bit about quotas and state-by-state allocation, one of the things, first of all, that came up at the last board meeting is there was an issue, if I remember, of Jeff telling us that the time to target could change depending on how you allocate between the bait and the reduction fisheries because the size selectivities of those fleets are different.

At that point I had thought that it would be important for the board to know how that time to target changes depending on how that allocation happens; because if we go state by state, then that decision really rests solely within that single state that is managing the reduction fleet, and it takes out of the hands of the board as a whole. Also, if we're going to go state by state, it worries me a little bit in that we have states that are functioning with artisanal bait fisheries that are essentially passive gears.

They're passive gears, they sit in the water, they're multispecies gears, they're not seeking and finding menhaden. The menhaden come to the gear. For those states that harvest bait that way, it's going to be a little bit harder for them because the only way that they're going to – and it's not that they shouldn't participate in the reduction, but the only way to achieve a substantive reduction would be to start throwing menhaden back or to remove nets from the water and therefore remove all associated fisheries.

I think there are a few things that we need to think through if we go state by state. In any way, shape or form we're going to have to allocate at the end of the day no matter how we do it, but there are some issues there we need to consider. Thank you.

MR. TRAVELSTEAD: Well, either way we go on this we're going to make some allocation decisions. If we go state by state, we've got that allocation to decide; or, if we stay coastwide, we're going to have to look at allocations I guess by gear type. I've long been a proponent of state by state as have a lot of people around this table. It has worked quite well for us; not unanimously, but it has worked quite well for most of us over the years.

I think it takes care of Lynn's problem for any state that has a fixed-gear fishery for menhaden. As part of your allocation you decide how you decide how you want to address it. I'm not sure we're going to hear enough today to eliminate either of those two options. I don't see us deciding today we're going to go with state by state. I think we've got to put both of them in there; state by state on the one hand or by gear on the other, coastwide with gear; and then they have something specific to fixed gear that Lynn mentioned as another option.

MR. KYLE SCHICK: I don't see it by fishery as a good option because some fish to both, the bait and the reduction. I think we are really looking at just splitting it; you know, are we going to go on a coastwide by gear or state by state; so probably taking out by fisheries would be a good option to narrow things down. That just makes sense to me.

MR. FOTE: I'm agreeing with Jack; I think we need to leave it in at this time and basically just move on to the next option.

MR. HIMCHAK: Mr. Chairman, I think we need two pieces of information to make this decision. We need to hear from the technical committee to give us advice if a certain proportion – and again this talks

about Lynn's comment about the size selectivity in the reduction versus the bait fishery.

Is there a biological reason for, say, 60 percent of the reduction to be shared by one part of the commercial fishery and 40 by the other or should 50/50 had no biological consequence in the overall stock condition; and recognizing that in our bait fishery we're getting three, four, five and six-year-old fish. That is one piece of advice I would like to get from the technical committee.

The other point is from the Committee on Economics and Social Sciences, I think that's critical in our making this decision. I honestly have never – and the reduction fishery, it's value to the nation. I mean, yes, a lot of the people, they like the bait fishery and, of course, it strikes home. They use it, but again we have a bigger picture here to deal with and what are the social and economic consequences of the reductions that we may have to take. Those two pieces of information I'd like to get before we get into any choices here.

CHAIRMAN DANIEL: All right, what I'd like to do is I'd like to take about a five-minute break to have some discussion. This will be our last break but then we'll hopefully run through it, but I need to do some checking on one thing before we move forward.

(Whereupon, a recess was taken.)

CHAIRMAN DANIEL: All right, let's get back to the table, folks.

MR. ADLER: Mr. Chairman, would it be worthwhile to move this along, on Option 6 on quotas, just to leave the A through F into the document. That's all we're doing, which leaves it in the document and then we'll see where it goes from there rather than pick and pick and picking this?

CHAIRMAN DANIEL: Well, that's kind of what I wanted to talk to staff about during the break. Most of the time when we have a public hearing draft – I mean we're past the PID stage now and we're going to public hearing drafts. Those are typically the amendment. There are not a lot of big changes that occur from the draft hearing document to the final amendment.

We've got to give I think a little more guidance to staff in terms of how we want this document to look. For example, under quotas by

state/federal waters, I don't think there is a need to keep that one in there. That's going to reduce analysis for staff by taking that one out. If we want to look at state-by-state quotas, I think we all agree that state-by-state quotas, we should look at that, and that there should be table constructed for the document that lays out – and my suggestion – I'm trying to get us off the dime here, folks – three and five years.

If we go back much past five years, we start getting underreporting in the bait landings. They're going to probably be disadvantaged. We need to use more real-time information. The further we go back the more disparate the bait landings become. If we could agree to look at, say, a three- and five-year time series for state-by-state quota allocations, we could have those numbers and those numbers could go out to the public and we could ask for their comments on a state-by-state quota share.

The other option that I think we need to look at is look at the same timeframe, the three- and five-year average allocation between the bait and the reduction fishery, because that's the logical break in terms of the major factions in the fishery, bait and reduction. It's going to be an enormous task I think for the staff, and I'm not sure we even have the information very well established.

To go through and look at by gear when we talk about purse seines, gill nets, pound nets, all these various other smaller fisheries, I just don't see us heading in that direction. That's a tremendous amount of staff time and effort to try to put together that information. It seems like to me that for quotas we've got three major options that we may want to direct staff to flesh out; state by state, by bait and reduction, and then an overall coast-wide quota.

I mean that's what I'm hearing from some of in the industry, an overall coast-wide quota. The season starts May 1<sup>st</sup>; and once the quota is caught, that's it, they're done; and not distinguish between bait and reduction. That's an option I've heard and that seems like a reasonable one to take one to take out to the public. That may not be what we do, but by going in and taking all these others, we really don't need to have many other additional options than that. With that sort of as a – I think that can get us off the dime a little bit. It can also facilitate discussions on these other issues like limited entry and some of the other options that are in the document. With that, Jack.

MR. TRAVELSTEAD: I think you've captured it, Mr. Chairman, and I'm happy with your suggestions.

Also, the staff asked me to clarify my motion eliminating trip limits, and my intent with that motion was to eliminate from consideration the use of coast-wide trip limits; but if a state or a region – if we go with some kind of regional approach who wanted to use a trip limit, I have no objection to that. It was not the intent of my motion to eliminate that possibility.

CHAIRMAN DANIEL: Thank you for that clarification, Jack. Terry.

MR. STOCKWELL: Thank you, Jack, I appreciate that from your most northern neighbor. But coming from the northern range of the stock and with a state having very episodic fishing landings, I'm more than a little anxious about the state-by-state quota concept. I request as we think our way through this for staff to consider addressing the issue. I believe one of the comments was made about an ecologic disaster. If we have another big run of pogies in our neighborhood and we can't harvest them, we will have an ecologic disaster.

MS. FEGLEY: Mr. Chairman, I wonder if there is a way that staff could include – I think that these three options sum up what needs to go in the document. I have some concerns about the coast-wide quota as a whole because I think it puts inside water bait fisheries at a disadvantage. I wonder if staff could include in the document what would happen if we had some sort of coast-wise set-aside for gears that are stationary and multispecies.

Those criteria are important; they have to be stationary and they have to be multispecies. The only way to get that reduction from that gear is to take that gear out of the water or you're throwing back dead menhaden; and if you take the gear out of the water, you're losing all the associated fisheries.

My question is if you were to include a set-aside of something ranging from six to eleven thousand metric tons, what would be the impact on the allocations of the other fisheries. What that does is it allows those states that have these multispecies artisanal fisheries to manage those accordingly. That's my question, if that can go in?

CHAIRMAN DANIEL: I think that's certainly something that needs to be fleshed out and considered. I think another option that could

help us in those situations is perhaps some bycatch allowance during closed seasons. That may be something that is reasonable to consider. Nobody is going to go out and abuse it for 500 pounds of menhaden or some type of number.

I don't what the number should be; but if you have menhaden especially in a gill net, they're going to be dead whether your season is closed or not, and so kind of bycatch allowance that would allow for that to avoid those discards, because there will be a lot and they tend to float and they tend to be a mess. Those would be two options I think, Lynn, that would address the concerns with the smaller inside fisheries, if that is satisfactory. Dave Pierce.

DR. PIERCE: Your suggestions were good, Mr. Chairman. I would support what you have offered up, but I would also emphasize what Terry did. Especially up in our neck of the woods in the northern area, we would likely favor and certainly would want some consideration in this document of regional allocations. I think that would address some of our specific concerns. For example, in terms of state by state, there are some states that have actively promoted menhaden fishing. Some states have not.

Like Massachusetts, we have strongly favored curtailing the menhaden fishery in the interest of forage, so we have been dealing with ecological considerations; so to be penalized for our favoring ecological considerations, that wouldn't make sense. That would be contrary to where this board is going relative to how we manage this fishery down the road.

All these options should be in the document with the consideration of region-wide as well. That would also help us in the northern region, in dealing with some of the fisheries that occur in waters that are shared by the different states like Narragansett Bay, Rhode Island, Massachusetts. With region included, I would feel comfortable with the options to be fleshed out in the document.

CHAIRMAN DANIEL: Could that region be, say, New York north? I think the fishery goes to New Jersey, the big reduction and bait fisheries. If you could help define a region, I think that would help staff tremendously.

DR. PIERCE: I haven't got the data in front of me so I'm not sure how landings have varied over the years, three or five years, for example, between states. At this time I'm not confident that I could offer up any region-wide approach that would be anything more

than a guess. I would like the plan development team to provide that information and to look at some different options, maybe New York north or some other breakdown. I'm not sure how New York would feel about that. Maybe New York would want to be with New Jersey; I'm not sure.

CHAIRMAN DANIEL: Okay, and what I intend to do is put together a small workgroup of this board to work with the PDT. There may be some things added or taken out, just so you know, between now and August. I certainly would like to have someone from the New England area on that group, so see me after the meeting or else I will assign four or five folks.

I'm going to try to cover the gamut of regions. The staff is going to have a lot of questions; the PDT is going to have a lot of questions between now and the next meeting, and I'd rather not be making all those decisions unilaterally as the chair because it does have multiple ramifications and we're a very minor player in the fishery.

MR. ADLER: I think the region should be included for the reason Dave Pearson had brought it up; but in terms of what you had brought up, I can see us eliminating the by state/federal waters. There is one thing you don't need. I actually would like to see by gear eliminated because they bounce around a lot of times and it just makes it very confusing if you've got to handle ten different ways of handling this fish. Rather than to do that, I would C and D just removed, which would make it a little simpler.

CHAIRMAN DANIEL: And I think that's precisely what I was suggesting to the group, that for the quotas what we would consider is three- and five-year timeframes with the most recent data. I guess it would be the '11 landings data. We'd do a three- and five-year analysis on state-by-state quotas; a coast-wide quota; bait/reduction allocation quotas; and then as the New England guys are looking or the more northern states are looking, maybe a combined state-by-state regional; so maybe if you had a regional quota from New York north and then had state-by-state quotas south of that to avoid some of the issues and concerns that I'm hearing from New England. I don't think you would want to go just regional purely. That would be a problem, but if we had state by state plus regional, that may add to it. That was sort of the

direction that I was trying to move the board in that direction of handling it that way. Mark.

MR. GIBSON: Mr. Chairman, In addition to agreeing with what you just said that should any region arise in New England or state by state, I think there is going to need to be a provision for quota transfers in a fairly expedited way, perhaps with the commission as the clearing house, that a lot a fish show up in the Gulf of Maine and not in Narragansett Bay, we may need to move fish around within that region and within the initial state allocation or vice versa if Maine is empty and Narragansett Bay is packed to the brim. If we do end up in a state-by-state situation, we'll need some kind of quota transferability alternative.

CHAIRMAN DANIEL: Yes, I agree with that. Doug.

MR. GROUT: Mr. Chairman, I appreciate the direction we're going in. I had a couple of comments to make sure that certain things were included. Clearly, the question in the decision document of payback overages I think needs to be included as we develop this. Also, I was intrigued by the idea of multiyear specifications and might want to suggest that we might have something looked at that might have a constant harvest strategy between assessments where we'd have a quota that would be consistent until the most recent assessment.

The final comment I have is you had mentioned in your introductory remarks about this particular section using three- and five-year averages. Well, at least up here in the north it has been a long time since we've seen significant adult menhaden. We've seen peanut bunker up there, and it might warrant having at least an option to look at this in a longer timeframe for some of the northern states that may not have had – particularly from Massachusetts north which may not have had that much adult bait landings in the past three and five years just because there haven't been the availability for them. I'd have to look at the landings data but you might want to go back ten or fifteen years just for one option that we consider when we're trying to determine what the quota is.

MR. STOCKWELL: I'd like to underscore Doug's comments on the three- and five-year time period being extremely problematic for the Gulf of Maine. One concept that might be fleshed would be something along the line of a regional set-aside for the Gulf of Maine. We use it in the Atlantic herring with an ability to transfer the unused quota back to the entirety. If the Gulf of Maine was receive an

annual allocation, we could ensure that it was harvested by the other states if we did not have access that year.

CHAIRMAN DANIEL: And that certainly seems fair and could be a consistent problem. I'd hate to go back for the major allocations like New Jersey and Virginia, go back too far, but certainly for some smaller – I doubt there is that significant a landings compared to the other fisheries in that area and it would certainly seem to me that we would be able to work something out within the commercial community to provide some type of regional allocation to those areas where they are episodic. I think that's clear direction to the staff to take a look at that to try to satisfy those concerns up north. Pete.

MR. HIMCHAK: Mr. Chairman, I will not raise my hand again during this meeting. As the original caretaker of the bait landings data, we did break it down geographically into four regions throughout the FMP and Amendment 1, so there is a precedent for that particular point. The only other comment I have for the day is what is the progress or what is the timeline for the Committee on Economics and Social Sciences completing their task, which is going to be pretty valuable when we meet at the annual meeting. How are they getting along?

MR. WAINE: We've met with them and they're drafting currently the section that deals with what status quo is on the fishery right now. We're going to be drafting sections through what are now your narrowing options in the document and they will be looking at the economic and social impacts of the specific options that are going to be included in this draft amendment. They've made good progress on the status quo version and now will continue to work through the options that are selected today.

MR. NOWALSKY: Mr. Chairman, do we need an additional motion on this or are we going forward with the expectation that the discussion here as part of the record is how staff will be directed to go ahead and redraw up the document as the final draft amendment for the August meeting?

CHAIRMAN DANIEL: That's the way I'd like to handle it if there is no objection from the board, but I think the direction is pretty clear from the discussions.

MR. NOWALSKY: Okay, to clarify that, would that then also exclude some of the other items in here such as catch shares, ITQ, IFQ, or if it was the desire to remove that, then I'd like to go ahead and make a motion to do so unless your direction addresses that concern.

CHAIRMAN DANIEL: My direction will address that concern. I think we're done talking about quotas; are we? We've eliminated Tool 2 with Jack's clarification that certainly regional trip limits could be established if regional quotas were developed. We've eliminated gear restrictions, so the next is season closures. Do we want to consider seasonal closures?

I see no interest in keeping that in the document so it will be removed from the document. Tool 5, area closures, is there interest in keeping area closures? I'm not sure how that would work, but do we want to flesh that out? Tom.

MR. FOTE: Well, area closures are used in many species and it should be left in there as a tool that we can always look at. There might be specific reasons for closing an area down, so I don't really want to take it out at this point.

CHAIRMAN DANIEL: Well, the other option would be to put it in the adaptive management section as we did some of the others. Would that be satisfactory instead of fleshing it out for this amendment? Is everybody comfortable with that approach, taking Doug's example earlier? I thought it was good. Is that satisfactory to you, Tom? Okay, Dr. Pierce.

DR. PIERCE: Certainly, that's an option to put it in the list of measures that could be taken or used adaptively. I just ask the question do we have information in hand right now relative to where there are areas that should be protected for immature fish and even protection of ecosystem services.

That is a particular point made in the guidance document. I don't have that information in hand, but certainly if it exists that might be something worth exploring again if the data are there and would enable us to do an analysis to augment the other approaches that we are now including. I don't have the answer to that question. I am just wondering if indeed – since we made the point; how do we respond?

CHAIRMAN DANIEL: I don't know that we have that information fine scale enough to have area closures based on that information. I think with that

point made, maybe a statement to that effect in the adaptive management section that as the data become available, it may be considered for further protection particularly in nursery areas. Tom.

MR. FOTE: It brought back old memories of Bruce Freeman sitting here explaining – they were looking at corridors along the beach when the small fish were migrating up and down the coast and maybe they shouldn't have been allowed to purse seine on the first years. There was some discussion years ago about basically putting that corridor along the beach for like six-tenths of a mile up and down. Most of the states are closed to reduction anyway so I don't know if it's pertinent, but that was the only conversation I remember going back 15 years ago when we started talking about how we would have closed areas along the beach.

CHAIRMAN DANIEL: Good historical information. Lynn.

MS. FEGLEY: Mr. Chairman, I guess I'm having angst about season closures for much the same reason of area closures. To be clear, if we're going to do quotas, then every managed entity a seasonal closure would still be applicable in order to control a quota; but if we're thinking about area closures, something an area that should be protected should only be protected during a certain time. I don't know that removing season temporal closures is necessarily if we want to take that out of our toolbox right now, and maybe that should slide in with – I hate to throw a monkey wrench in it, but I'm uneasy about pulling that out right now.

CHAIRMAN DANIEL: I think that can go in adaptive management. If there is any queasiness from anybody, it can go into adaptive management that will allow us to bring it up at any time. If there is no objection, any of the ones that we're saying we're removing just automatically goes into the adaptive management, and that way we don't lose any options in framework, but we're not going to flesh them out and we're going to streamline the document some. Is that okay?

All right, next is effort controls; days fished, vessel size, fleet size, upgrade size capacity of the vessels; adaptive management? Adaptive management. Limited entry, adaptive



management or do you want to just get rid of that one? Jack.

MR. TRAVELSTEAD: Get rid of it completely. If we go with state by state, a state might want to look at that, but I can't imagine in the short timeframe we have we're going to devise a limited entry program for this fishery along the entire coast? It's just not realistic.

CHAIRMAN DANIEL: I agree. Can we just get rid of that one? Is there any objection to that? You said you weren't going to raise your hand again.

MR. HIMCHAK: I had no objection to removing it on a coast-wide basis, but just recognize we've already put in a limited entry program in the purse seine fishery.

CHAIRMAN DANIEL: That's cool. Doug.

MR. GROUT: Mr. Chairman, my belief has always been any time you get into quota management, you have to have that tool in the toolbox, the limited entry. You may not need it right away, but I would suggest maybe putting it – as least my opinion would be to put it in adaptive management, but the rest of this board may have a different opinion on that.

CHAIRMAN DANIEL: The only way it would be eliminated is if it was a consensus; so if there is no consensus on eliminating it, it will go into adaptive management would be my suggestion. I don't think anybody will jump and down and yell and scream about that, I hope. Issue 5, de minimis; I think we've all got a lot of experience with de minimis.

Should we have de minimis criteria for this plan? I'm seeing nods around the table, yes, so we'll need to come up with some criteria that qualify for de minimis. Now, for de minimis, just for clarity, do we want to do reduction de minimis and bait de minimis? If you just do a combination de minimis I think most all of us will be de minimis with the exception of Virginia and New Jersey. I know North Carolina would be.

If we look at de minimis in terms of if you have a reduction fishery, which is Virginia, obviously they're not going to be de minimis on reduction. The bait fishery, if look at the bait fishery, there will be a lot of us that are not de minimis if you just look at bait. Do you want to look at it both ways or just look at it by the bait fishery de minimis? Dave.

MR. SIMPSON: I don't like to think about it in terms of what the product is used for as you're characterizing it. It's more the gear type that is being used and I'd like to think we could define certain types of gears, as Lynn was alluding to, that might qualify as de minimis or a certain size gill net that if you're smaller than that, then you wouldn't have to have weekly monitoring or whatever the criteria are, but you could establish what might be very modest use for local consumption, that sort of thing.

CHAIRMAN DANIEL: A little squirrel told me that we probably don't have the data to that level of specificity in order to – I mean, it sounds like a really interesting idea to address some of the smaller fisheries and some of the bycatch concerns that may arise from of the fisheries. If they're de minimis, then perhaps it would eliminate the problems that we may have with some of the smaller fixed gears. That's a good idea, but I don't know if we have the data to analyze that.

MR. SIMPSON: Yes, I think that almost reinforces the point that it's so small that it's below the detection level. I think a group could arrive at a size of a gill net that they say that's not going to change the menhaden management world. It's a few hundred pounds or a thousand pounds of bait a day or something like that.

We're trying to avoid trip limits, but just kind of characterize what are essentially artisanal, very small operations that aren't going to become growth industries and try to manage those that are less intensive – in a less intensive way than for big purse seine fisheries and real volume fisheries.

CHAIRMAN DANIEL: I think that would be unique to this plan to do it that way, but we're already in a paradigm shift and we're already going down a different direction. Is there objection to looking at it that way? If there was going to be a fishery where we were going to look at it, with the dominance of the snapper rigs and purse seine vessels in the harvest, trying to provide at least some characterization of some the smaller fisheries and assign them as such seems like a reasonable concept to look at. Roy.

MR. MILLER: Mr. Chairman, I think we need to simplify this a little bit and just look at the bait fishery for this particular purpose as a whole. Thank you.

CHAIRMAN DANIEL: Any other thoughts on de minimis? Doug.

MR. GROUT: Keep it simple or at least have an option that keeps it simple. If we want to task the PDT with developing something like Dave has suggested, that's fine with me as long as we have the option of keeping I simple enough so that we just base it on landings, whether it be bait landings or coast-wide landings below a certain amount you could qualify for de minimis.

MS. FEGLEY: Mr. Chairman, I guess I'll throw this out there, and we should keep de minimis simple. I have again a little bit of queasiness about dividing by bait and reduction rather than by rig. I think if you do de minimis criteria by rig, what will happen is that those states – and, yes, Maryland is one of them – that have artisanal bait fisheries that are large compared to those other artisanal bait fisheries, those states will be above the de minimis level, but they will have no recourse – they don't have anywhere else to go in managing a reduction than in those multispecies stationary gears.

Those states will have to ask that those stationary gears be removed from the water, which means they're removing other fishery opportunities; or, ask that dead menhaden be discarded. We need to keep it simple but I think some analysis of how de minimis is going to place the onus of the bait fishery reductions needs to be considered.

CHAIRMAN DANIEL: Anything else on de minimis? I'm hearing do a coast-wide de minimis analysis and a reduction/bait de minimis analysis, so no by gear analysis. That may be something for the workgroup to consider and think about; and maybe in time if we – I'd like to think about that a little more myself and how that may impact some of the fisheries. Anything else on the amendment for the public hearing draft? We got there quicker than I thought we would at the start. Bill Goldsborough.

MR. GOLDSBOROUGH: Mr. Chairman, I believe earlier in the meeting we experienced substantial confusion around the table with Issue Number 1; so much so that I don't think we arrived at a result that reflects the majority views of this board or is responsive to the public comment or even the AP input.

**I think we can do better so I'd like to make a motion to reconsider the vote on Issue Number 1, the timeline for implementing the target fishing mortality rate.** I believe since Maryland was on the

prevailing side of that vote that this motion is in order, assuming I get a second.

CHAIRMAN DANIEL: Motion to reconsider the timeline to achieve the target; second by Mr. Augustine. Discussion on the motion? Yes, sir.

MR. AUGUSTINE: I think Mr. Goldsborough is absolutely correct. There was a very strong position on this. It may not seem important to some folks but I do think when we had that many respondents and the advisory panel supported, I think we're just missing a point of two bodies, particularly the advisory panel that believes we really should move in that direction.

I don't see any harm done by doing it. If push comes to shove and we have to extend it beyond the numbers that we're working with, the three and five that are in there, so be it. We can adjust but to send a strong message back out to all the folks who took a serious interest in this document and how it was developed and positions that they structured coming back to us in the best interests of the fishery and its value to us, I think we're missing our point. I definitely support this motion.

CHAIRMAN DANIEL: Thus the second. Sarah.

REPRESENTATIVE PEAKE: Mr. Chairman, I support this motion as well. If I'm correct in my understanding, it's a motion to reconsider our prior vote. We're not jumping right to the timeline but a motion to reconsider. I would ask my fellow commissioners to support it as well. One of the main reasons for a motion to reconsider is if there is confusion at the time of the vote.

I think there may have been some confusion. I know I heard New Jersey asking for time to caucus. I'm not sure that their vote was ever counted. Any number of ways you look at it, Representative Abbott and I were following along with the procedural stuff, but we're sort of legislative junkies.

Unfortunately, I think that his motion and my second may have just muddied the waters more; so if you will, this is sort of a way to turn back the clock and try to put the string back on the ball, hit the reset button and say let's do this over again to make sure that the intent of the commission and all of its members really

understood. Thank you for bringing forward this motion to reconsider.

CHAIRMAN DANIEL: Any other comments on the motion to reconsider? Adam.

MR. NOWALSKY: Just to be clear, Mr. Chairman, we're considering the final motion to remove one year because there were a lot of motions made; so just for clarity, that is what we're reconsidering here. The final motion was to remove one year from the timelines and that is what we're reconsidering at this time?

CHAIRMAN DANIEL: That's correct. Pete, you keep doing it.

MR. HIMCHAK: Well, this is pretty important. Confusion notwithstanding, the final outcome of the initial vote on Issue 1, we understand what that was. Yes, we were confused during the caucuses, but that was inconsequential to the desired outcome that we already got. I don't support this motion to rehash what we took an hour and a half to unsort. And I will not raise my hand again.

CHAIRMAN DANIEL: All right, can we vote on this to reconsider? All we're doing is voting to reconsider and then I'll take a very quick motion to do whatever if the motion carries. All right, all those in favor to reconsider raise your right hand; opposed same sign. **It fails as a tie.** I think I counted them right.

BOARD MEMBER: The Chair can break the tie.

CHAIRMAN DANIEL: I can! No, I'm not. All right, so we've got three, five and ten. There is from my perspective a little comfort in the ten. The only reason I say that is not for the public perception that we're going to wait ten years to reach the target; but just looking at the stock assessment and looking at the projections and looking at the concerns that we may not see one of one of these extraordinary recruitment events in five, seven, ten years, we may not achieve the target simply because of the environmental consequences around the stock, and so we may not have that control.

At least that to me gives some justification for maintaining a longer timeframe and whether we select that at the end is going to be up to the board and public hearings. Just because it remains in the document doesn't mean that is what the end result will be. Is there any other discussion on the draft amendment? Bill.

MR. ADLER: May I make a motion at this time to accept the draft amendment as amended for public discussion?

CHAIRMAN DANIEL: No, we're not at that point yet. Bill, we don't need that motion for this meeting. We're just giving guidance to staff. We'll review the draft and approve it at the August meeting. Bill.

MR. GOLDSBOROUGH: Mr. Chairman, I had two comments in the form of requests to staff, assuming the board agrees, for some language in the draft amendment. First of all, with respect to federal waters, recognizing that a substantial amount of this fishery takes place in federal waters over which we have no jurisdiction, might it not be prudent to include some language in the draft amendment to the effect that it would be our intent to work with the councils to seek consistency with the measures we put in place through Amendment 2?

CHAIRMAN DANIEL: That would be a recommendation to the secretary, I think, wouldn't it?

MR. GOLDSBOROUGH: Would it not be prudent to put some language in the draft amendment to the effect that it's our intent to do that?

CHAIRMAN DANIEL: Yes, that will be in there.

MR. GOLDSBOROUGH: Thank you. My second request has to do with the language in the PID on socio-economics. At the last board meeting when we discussed this I raised the issue that the language at that point had only to do with short-term socio-economic impacts and that there are a range of other impacts that needed to be included.

It was my understanding that they were going to be added and they weren't. For example, we know the stock has been declining for 25 years and over that time period we've had substantial socio-economic impacts. Presumably, what are the impacts if we don't stop that decline? Another has to do with the whole intent of this exercise which is to boost the stock, in which case presumably there would be positive socio-economic impacts, and they're not referenced in there either. It's just a request that we beef up

that socio-economic impacts section to include the full range.

CHAIRMAN DANIEL: We will do our best to accommodate that request. Anything else; any further direction to staff? If not, what I would like to do is I'd like to keep it as a small group. I believe Mr. Boyles is the vice-chairman of the Menhaden Board; so if it suits the board I would like to have Robert, Jack, Lynn, Dave Pierce and Pete to be a little subcommittee of this board to kind of review and give guidance to the PDT and staff if the need arises.

Is that a reasonable distribution and interests for folks? Any objection to that list? If you have it, let me know after the meeting and I'll try to make some accommodations but I'd really like to keep it to five including myself. I think that's plenty big.

### **OTHER BUSINESS**

CHAIRMAN DANIEL: All right, the last item is Jack had an other business issue that he wanted to bring before the board.

MR. TRAVELSTEAD: This is the issue of what guidance, if any, we need to provide to the technical committee on information that they look at in doing the next assessment. I'm aware there has been a lot of dialogue between staff, some congressional folks. I think Sam Rauch was even involved. It might be helpful to start if perhaps Vince or Bob Beal could update us or summarize what has occurred recently; and then if you'd come back to me, I'll explain what I'd like to see happen and then we could have some discussion.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Last Wednesday afternoon the Acting AA for the National Marine Fisheries Service, Sam Rauch; Dr. Richard Merrick, the senior scientist for NOAA Fisheries; and myself met with Mr. Whitman. I think to summarize the meeting, Mr. Whitman's primary concern was that the science function of ASMFC look carefully at available information; that is what he was concerned about.

We told him in response to a letter that he had written and we responded to and all the members of the board received, that we were going to have an in-person meeting of the stock assessment subcommittee that is working on the update. He was pleased to hear that and he thanked us for that. Sam Rauch indicated that he was going to direct the Beaufort Lab folks to run sensitivity analyses on the

recruitment function of dome-shaped versus plateau. Mr. Whitman was appreciative of that. That was basically the summary of the meeting. Thank you.

CHAIRMAN DANIEL: And that's my understanding of where we are at this time. Also, just to add to that, some of the requests at having the technical committee look at some of Dr. Sulikowski's work and the aerial surveys, recognizing that there is just one year of data so far in that survey, but what kind of information can be gleaned from that and at least give it a review at the technical committee meeting.

One of the things, you know, we agreed to do the face-to-face first meeting with the idea that – and that was fine, but we are moving more and more towards these webinar type functions and it does save us a lot of money and a lot of travel time. I know that there is a big difference between face to face and because this one was so volatile, I felt like we need to go ahead and get off the dime and make that decision. I don't want us to start backtracking into having more and more of the face-to-face meetings and indicate that the webinars aren't effective because I believe the technical folks would tell you that they're very effective and certainly less time-consuming than a lot of traveling. That's kind of where at this point, Jack, from my understanding and Vince's recollection was as mine was. He had got another comment.

EXECUTIVE DIRECTOR O'SHEA: Well, a correction; I said the recruitment selectivity and it's the selectivity of the reduction fishery.

CHAIRMAN DANIEL: Thank you for that clarification. Jack.

MR. TRAVELSTEAD: I appreciate, for one, your decision to have that face-to-face meeting as the first meeting of the TC. I think that will be very helpful. All I'm looking for is some willingness of the TC to look at those pieces of information. I recognize that the Sulikowski work is one year.

It's hard to make decisions based on one year; but if the board could be informed later this summer as to how sensitive the models are to that information, that would inform us as to whether or not it's worth doing that kind of survey on an annual basis. The industry has

come forward; they did this work; they presented the information. It is just one year.

You can't make a lot of decisions based on one year's worth of data; but if we knew that the model was somehow significantly sensitive to that kind of information, then that might be something we want to pursue or ask the industry to continue to do for us in the future. That's all I'm looking for.

### **ADJOURNMENT**

CHAIRMAN DANIEL: Thank you, and I think we'll be able to have that discussion later in the summer. Anything else to come before the Atlantic Menhaden Board? If not, thank you for your indulgence and your participation. We will stand adjourned.

(Whereupon, the meeting was adjourned at 12:25 o'clock p.m., May 2, 2012.)