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ATLANTIC STATES MARINE FISHERIES COMMISSION

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Washington, D.C. 20005

LOBSTER MANAGEMENT BOARD

Sheraton Providence Airport

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Warwick, Rhode Island

THURSDAY, NOVEMBER 30, 2000

Approved April 25, 2001

PROCEEDINGS

[3:12 p.m.]

CALL TO ORDER

CHAIRMAN GORDON COLVIN: Good morning. I want to call to order the meeting of the American Lobster Management Board. And I will ask Heather to call the roll.

HEATHER STIRRAT: For the State of Maine, George Lapointe.

GEORGE LAPOINTE: Here.

HEATHER STIRRAT: Pat White.

(No response audible.)

HEATHER STIRRAT: Senator Jill Goldthwait.

JILL GOLDTHWAIT: Here.

HEATHER STIRRAT: For the State of New Hampshire, John Nelson.

JOHN NELSON: Here.

HEATHER STIRRAT: Richie White.

RICHARD WHITE: Here.

HEATHER STIRRAT: Representative Dennis Abbott.

DENNIS ABBOTT: Here.

HEATHER STIRRAT: For the State of Massachusetts, Paul Diodati.

JIM FAIR: Jim Fair for Paul Diodati.

HEATHER STIRRAT: Bill Adler.

BILL ADLER: Here.

HEATHER STIRRAT: Representative Anthony Verga.

(No response audible.)

HEATHER STIRRAT: For the State of Rhode Island, Tom Angell.

TOM ANGELL: Here.

HEATHER STIRRAT: Gil Pope.

GIL POPE: Here.

HEATHER STIRRAT: Representative Eileen Naughton.

(No response audible.)

HEATHER STIRRAT: For the State of Connecticut, Ernie

Beckwith.

(No response audible.)

HEATHER STIRRAT: Lance Stewart.

(No response audible.)

HEATHER STIRRAT: Senator George Gunther.

(No response audible.)

HEATHER STIRRAT: For the State of New York, Gordon Colvin.

GORDON COLVIN: Here.

HEATHER STIRRAT: Pat Augustine.

PAT AUGUSTINE: Here.

HEATHER STIRRAT: Brian Culhane.

BRIAN CULHANE: Here.

HEATHER STIRRAT: For the State of New Hampshire, Bruce

Freeman.

BRUCE FREEMAN: Here.

HEATHER STIRRAT: John Connell.

JOHN CONNELL: Here.

HEATHER STIRRAT: Senator Louis Pisano or Tom Fote, proxy.

(No response audible.)

HEATHER STIRRAT: For the State of Delaware, Charlie Lesser.

(No response audible.)

HEATHER STIRRAT: Tim Targett.

(No response audible.)

HEATHER STIRRAT: Representative John Schroeder.

(No response audible.)

HEATHER STIRRAT: For the State of Maryland, Eric Schwab.

(No response audible.)

HEATHER STIRRAT: Bill Goldsborough.

(No response audible.)

HEATHER STIRRAT: Delegate Ronald Gunns.

(No response audible.)

HEATHER STIRRAT: For the State of Virginia, Jack Travelstead.

(No response audible.)

HEATHER STIRRAT: Catherine Davenport.

(No response audible.)

HEATHER STIRRAT: Senator John Chuchester.

(No response audible.)

HEATHER STIRRAT: For the State of North Carolina, Preston

Pate.

(No response audible.)

HEATHER STIRRAT: Damon Tatem.

(No response audible.)

HEATHER STIRRAT: Melvin Shepard.

MELVIN SHEPARD: Here.

HEATHER STIRRAT: For the National Marine Fisheries Service,
Harry Mears.

HARRY MEARS: Here.

HEATHER STIRRAT: AP Representative David Spencer.

DAVID SPENCER: Here.

HEATHER STIRRAT: Technical Committee Representative Carl
Wilson.

CARL WILSON: Here.

HEATHER STIRRAT: LEC Representative Joe Fessenden.

JOE FESSENDEN: Here.

HEATHER STIRRAT: Mr. Chairman, you have a quorum.

APPROVAL OF THE AGENDA

CHAIRMAN GORDON COLVIN: Thank you. I would like to ask if everyone has a copy of the agenda. We have a couple of minor additions to the agenda. Under Agenda Item 9, NMFS Status Report, Update on ASMFC Recommendations, that will include our discussion of the status of the DEIS for federal rulemaking that's just been released for public hearings. And under Other Business --

HEATHER STIRRAT: LCMT-3 nomination.

CHAIRMAN GORDON COLVIN: We want to -- yeah, just discuss a nomination we received for LCMT Number 3 and the process for --

Are there any other additions or corrections suggested to the agenda?

(No response audible.)

CHAIRMAN GORDON COLVIN: Seeing none, let's proceed.

PUBLIC COMMENT

CHAIRMAN GORDON COLVIN: The next order of business is public comment. We would entertain public comment at this time on any matter with the understanding that public comment can and will be entertained under specific agenda items. Is there any general public comment to come forward at this time?

(No response audible.)

CHAIRMAN GORDON COLVIN: Thank you.

UPDATE ON STATUS OF STATE COMPLIANCE

CHAIRMAN GORDON COLVIN: Update on Status of State Compliance. Virginia, North Carolina and New York responses to PRT Report. Heather.

HEATHER STIRRAT: Just to review, in August the PRT reported that New York, North Carolina and Virginia had deficiencies in their state lobster management plans, specifically New York lacked a regulatory provision requiring all traps aboard vessels to be tagged, as well as implementation of the required circular vent size. North Carolina and Virginia specifically lacked the necessary regulatory tools to implement Section 3.1 of Amendment 3. The Commission is in receipt of written notification that all three states have made provisions to be in full and complete compliance with the FMP and the latest addenda.

CHAIRMAN GORDON COLVIN: Thank you. Are there any questions or comments on those issues at this time? I'll go to the public in a minute. Is there any question or comment from the Board? Bill.

BILL ADLER: Only did we approve the minutes?

CHAIRMAN GORDON COLVIN: I'm sorry. We did not.

BILL ADLER: I'll make a motion to approve the minutes.

UNIDENTIFIED: Second.

CHAIRMAN GORDON COLVIN: Discussion on the motion?

(No response audible.)

CHAIRMAN GORDON COLVIN: Objection to the motion?

(No response audible.)

CHAIRMAN GORDON COLVIN: The minutes of August 24, 2000 stand approved as submitted. My apologies. On the issue, Bruce.

BRUCE FREEMAN: Yes. Gordon, I'd like to raise an issue relative to New Jersey and it's something that we have reported to the Commission that our laws were in compliance. That was with the understanding that there would be a bill to modify one of our statutes which allows the retention of lobster pots. Although that bill was submitted, it didn't pass the legislature and technically we have a regulation that doesn't allow pots, but a statute that does.

What I'll do is put a letter together to you with a carbon to Heather specifically indicating the difficulties that exist and then perhaps it would be useful to have a letter sent from the Commission to our governor and our legislature indicating this would lead to a noncompliance -- possibly a noncompliance. We're just not getting movement out of our legislature to make that change.

CHAIRMAN GORDON COLVIN: Bruce, are you suggesting that the Board should take action on this now or are you suggesting that we await your report to us?

BRUCE FREEMAN: Well, I'm suggesting that we send a letter to you indicating the specific deficiency and have the Board or the Commission send a letter to our legislature and our governor to get movement.

CHAIRMAN GORDON COLVIN: Is there any comment or

questions about -- with respect to what Bruce is suggesting? I believe that it would be appropriate then, Bruce, to proceed as you've recommended. I appreciate your bringing this forward. We will be meeting in January and so it would be timely to act on a letter that we receive between now and then.

BRUCE FREEMAN: That would be fine.

CHAIRMAN GORDON COLVIN: Thank you. Any further issues with respect to these? Let me recognize Jim King.

JIM KING: I have a question on the V-notch.

CHAIRMAN GORDON COLVIN: Jim, I need you to come to a microphone and identify yourself.

JIM KING: Yes. My name is Jim King. I fish out of Mattituck, Long Island. I had a question on the V-notch protection. I believe in Amendment 3, it applies to everyone and I think when our legislation was written in New York it only applies to licensed fishermen and licensed dealers. I was just curious why.

CHAIRMAN GORDON COLVIN: Heather, can you help with that question?

HEATHER STIRRAT: Yes. According to Amendment 3, the V-notch protection does apply as a coastwide requirement. So, I would leave it to New York if they have any other elaborations on their regulations.

CHAIRMAN GORDON COLVIN: I don't at this time, but it's an issue that we can report back to the Board on. I don't know -- have we all examined that issue in terms of the scope of our V-notch protection in our compliance reports that we've submitted? I don't know how deeply the -- I mean, obviously the last review by the PRT was very thorough in respect to a number of aspects of the individual state regulations, very thorough; because they turned up stuff on ours that was -- that took some digging to turn up on our emergency rule, so

obviously they have looked hard. So, I sort of wondered about whether this particular issue of the scope of V-notch prohibition had been in fact examined at that time and does it need to be.

HEATHER STIRRAT: Gordon, I would assume that it would be reviewed, but again that's an assumption and I would need to go back to the office and double check.

CHAIRMAN GORDON COLVIN: Could you check on that and report to the Board, please, Heather? Thank you.

HEATHER STIRRAT: Yes.

CHAIRMAN GORDON COLVIN: Any other issues here?

(No response audible.)

CHAIRMAN GORDON COLVIN: The next item here is Rhode Island compliance. Do we have a report coming?

GIL POPE: Tuesday night there was a meeting in Rhode Island Marine Fisheries Council and at that meeting they gave the Director emergency powers to reinstate the 100/500 provision that was removed about I guess three or four months ago. I am not sure if the director has filed the emergency legislation yet. I am under the assumption that he has. But as of this moment, I am not sure.

CHAIRMAN GORDON COLVIN: Are there any questions?

(No response audible.)

CHAIRMAN GORDON COLVIN: Gil, you referred to emergency powers?

GIL POPE: Yes.

CHAIRMAN GORDON COLVIN: Is that unconditional and is it permanent?

GIL POPE: It's for 120 days, then it goes back to the Marine

Fisheries Council and from there it has to either be made permanent or it has to be done for another 120 days.

CHAIRMAN GORDON COLVIN: Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Does that mean that they then could be considered having met the requirements of the compliance from noncompliance, or would that be a temporary type of a thing?

CHAIRMAN GORDON COLVIN: I'm not sure. Mark Gibson is just about to walk in, and maybe he can give us an update on the status of the director's actions. Good timing, Mark.

MARK GIBSON: What was the question?

CHAIRMAN GORDON COLVIN: Mark, Gil has just given us an update on the actions of the Marine Fisheries Council and left open the question of whether the Director had yet filed the change in the regulation that he was authorized to by the Council.

MARK GIBSON: Since I haven't been at the office this morning, I don't know in fact if it's been filed. That was the intention, to file it in as expedited a manner -- filing left our office, was processed yesterday, went on for signatures. I believe if it hasn't been filed yesterday it probably will be today. So, what I'm going to do is check on that at noontime and probably will get actual copies of the filing and make those available to the Board. That was the intent, to do it in as expedited a manner as possible and it doesn't take us very long to do that under an emergency action.

CHAIRMAN GORDON COLVIN: Pat, to come back to your question, I think one of the issues -- there isn't presently a motion before the Board. I think the Board can only recommend to the Commission on an issue of this nature and further I believe, if I recall, that the Chairman of the Commission is empowered to make a determination of a change in a state's compliance status upon presentation of a complete record that indicates that

the terms of noncompliance have been completely resolved.

There are two issues here. One is what is the status of the rule, and the other is what will the status of the rule become in 120 days. I think that -- I'm not sure what we did in this case. I'm not sure what the Commission did, and perhaps Heather here can help us. It may well be appropriate for the Commission to recommend, if we did not already, that the matter of the emergency rule be considered by the Service in the ordinary -- I shouldn't say the ordinary, but the available six-month review period that we sometimes recommend be utilized to give a state that opportunity, and 120 days would come and go within that six-month period and we would know where we stand at the conclusion of it.

At any rate, it would seem that if an emergency rule was filed today or tomorrow, it would be inappropriate to find the state out of compliance, but we would need to know what happened at the end of that emergency rule in order to be clear on all that. So, that's how I sort of see where we are.

Dieter or Heather, or maybe Harry or Pat, do you recall what the terms of the Commission's noncompliance finding letter were and what recommendations we made with respect to the Service?

HEATHER STIRRAT: Gordon, I can answer your question. In reviewing the letter which was submitted to the Secretary, there was no mention of the six-month period of time. However, that is within the Secretary's discretion and if they wish to go that route, I believe that they have the power to do that.

CHAIRMAN GORDON COLVIN: I guess the question I would ask is whether this Board wishes to make such a recommendation at this time. Harry.

HARRY MEARS: Just to add a bit to Heather's remarks, once the Secretary receives the recommendation a determination of the compliance issue needs to be made within a 30-day period, and without having the language of the Act in front of me, I

believe the way it reads is that in making that determination if in fact the finding of noncompliance is concurred, that the Secretary can establish an effective date for the moratorium within a six-month period. So, it's not like he has six months to make the determination, but that pertains explicitly to the timing of the moratorium.

So, within this 30 -- day period which ends I believe on December 5th, it would be very appropriate to submit supplemental comments or suggestions to the National Marine Fisheries Service or the Secretary for additional consideration.

CHAIRMAN GORDON COLVIN: Does the Board wish to make a recommendation? Senator Goldthwait.

JILL GOLDTHWAIT: I would move that we table this until this afternoon, when we can determine whether this was actually filed or not.

CHAIRMAN GORDON COLVIN: Well, we don't need to table it if there is general consensus that we simply defer discussion until later in the day. Without objection, we will take it up again under Other Business. Without objection, that is what we will do, and Mark, perhaps you can check on that for us later this morning. I don't know if we're going to take a lunch break or not. Only time will tell.

BOARD DISCUSSION ON ADDENDUM II

CHAIRMAN GORDON COLVIN: Next agenda item is Board Discussion on Addendum II. The draft of Addendum II is in the handout. Does everyone have a copy? Heather, do you want to give us a brief rundown on what's here?

HEATHER STIRRAT: Sure. Again, this will be very brief. Just to review and make sure that we're all on the same page, in August the Board requested development of Addendum II to revise the egg production rebuilding schedule on Amendment III based upon the latest stock assessment information.

In addition, the addendum was intended to address area management proposals which were approved and accepted by the Board in 1998. The staff has prepared a draft of this addendum for action and review by the Board today.

To walk you through the document, on page 2 it starts with a brief introduction, as do all of our FMP modifications, basically expressing the purpose and the background material for the addendum.

Section 2 provides details on the management program specifications, specifically 2.1 section describes the revised egg production rebuilding schedule necessary to meet the FMP goals, objectives and the rebuilding target -- the rebuilding target date. The schedule in this addendum was derived directly from the information presented in the peer reviewed stock assessment conducted in 2000.

Section 2.2 outlines a suite of options, commercial management options relative to the proposals presented and accepted by the Board by the LCMTs back in 1998.

Options 1 and 2 you will note are separate, but they are not mutually exclusive options. It was unclear whether or not LCMTs 4 through the Outer Cape were interested in moving forward with their original proposals given that the egg production rebuilding schedule has changed a little bit since 1998 when those proposals were first submitted.

To date, again, the staff has not received any request for the LCMTs to remove those initial proposals, but again there may be updates here today. I know that at the last Board meeting there was some discussion that the LCMTs would need to consult and report back to the Board.

In addition, you will note that Section 2.2.2 tries to address the minimum escape vent size that would be associated with the gauge increase which may be

proposed in Options 1 and 2. You will note that the two circular vent sizes in your draft have not been specified.

A Technical Committee meeting, or a conference call rather, was held yesterday and the Technical Committee is now recommending that the two circular vent sizes be two and one half inches in diameter, so you may want to write that into your draft. I apologize for not being able to get it out in this initial version.

And finally, the addendum notes that the LCMTs that do not move forward with gauge size increases or with their proposals which were submitted in 1998 may need to reconvene and that they will need to submit a management program proposal to the Board by June 1 of 2001 for implementation by January 1 of 2002.

The addendum closes by reiterating previous recommendations to the Secretary of Commerce, which may be another point of discussion today, and no compliance schedule has yet been inserted into this draft. Mr. Chairman, that concludes my brief summary.

CHAIRMAN GORDON COLVIN: Thank you, Heather. Just a couple of points I'd like to underscore before we entertain questions and discussions. Number 1, just a kind of a reminder and an overview for our guests about where we think we may be headed over the next year.

Basically, the schedule lays out more or less like this. If this addendum is approved for public hearing purposes today, we would propose to submit it for public review and comment. Hearings are optional at the discretion of states who want to hold them. The states will need to hold the hearings because the budget doesn't permit ASMFC staff support. We would expect to conclude public comment and hearings in time for our January Board meeting, adopt an addendum at that time.

The addendum at that time would presumably include at a minimum a new egg production rebuilding schedule that would serve as the basis for area management

programs coastwide. It may or may not include other specific measures, only time will tell, consistent with the options that Heather just outlined.

At that point, those LCMTs that would need to do so would need to be reconvened and develop new management recommendations to achieve a successful egg production rebuilding program consistent with a new schedule by June 1st, I believe is the day, so that sometime after June 1st the respective states and jurisdictions would resubmit proposals to the Board based on the LCMT recommendations for a series of management measures over time to comply with the new egg production rebuilding schedule.

Those recommendations when approved by the Board would serve as the basis for Addendum 3 to be developed sometime after next June 1st, submitted for public comment in the summer or fall of 2001, be adopted thereafter and become compliance measures for implementation January 1, 2002.

Now, there was a little bit of unclarity and confusion about this schedule after our August meeting and I just wanted to reiterate it now so that if there was any still we could discuss it at this time. George, on that --

GEORGE LAPOINTE: Just on the schedule. And I'm going to -- where's Dieter? I was told this morning that the January Board meeting was not the week of the 16th, but the week of the 29th. I wasn't aware of that until this morning. And that will clearly -- I mean that gives us two extra weeks to hold hearings in the context of Addendum II.

CHAIRMAN GORDON COLVIN: Dieter.

DIETER BUSCH: Mr. Chairman, I don't know how I can answer the question. You're right. It is during that week. And I think that's pretty well now established. I'm sorry that you didn't get that information. I don't know what I --

GEORGE LAPOINTE: I raised it because it gives us extra time for Addendum II to hold the hearings.

CHAIRMAN GORDON COLVIN: Was that generally known? I didn't know it either. I see as many heads nodding as I see shaking. We got a problem. Dieter, I think we better do some emergency notification to Commissioners.

DIETER BUSCH: At the Clearwater meeting, Mr. Chairman, we talked about changing the April meeting by a week. My understanding was that the other meetings were pretty well set including the January one, the July one and the October one. And in your most recent version of the Quarterly Alert, the minutes of the meeting weeks actually identified not by months but by days. So, we're trying to do that and I'm sorry for --

CHAIRMAN GORDON COLVIN: I think what happens is that -- when we change dates that probably needs some kind of a separate stand-alone red envelope transmission, especially once they're already in the book, so that our secretaries pick them up and so that we don't just scan right over them.

And that meeting -- I understand the location is not yet scheduled, but that meeting will occur during ASMFC meeting week, which is now the last full week in January. No, it's the last week in January. I think it laps into February.

DIETER BUSCH: That's correct, Mr. Chairman. It's starting the 29th of January, and the location is going to be in the Baltimore/Washington area. We're still trying to find the most cost effective place to have the meeting.

CHAIRMAN GORDON COLVIN: Are there any other questions on the schedule as it lays out over the coming year? Bill.

BILL ADLER: Did you say that if any of these areas which we currently have plans for in the addendum -- I'm thinking 4, 5, 6 and the Outer Cape mostly -- that they would have an opportunity to reassemble and as long as they have something in by June, they could do a different thing? Is that what you're saying?

CHAIRMAN GORDON COLVIN: Let me tell you how I feel about

it. Okay. With respect to Areas 4, 5, 6 and the Outer Cape, personally I believe it's necessary to reconvene those LCMTs if for no other reason than the original egg production rebuilding schedule they were working from had different dates. They also had to some degree differing egg production benchmarks, and those benchmarks were changed in the new assessment. But they clearly had different dates -- wildly different dates. The schedules extended for a number of years now.

So, even if the LCMTs wish to stick with the measures that they previously recommended, we at least need to examine the implementation schedule, if nothing else. We may -- and yes, they have an opportunity and in some cases they may have a need to re-examine the measures, because it may be that if we examine the measures previously recommended, they don't get the job done. I don't know. But it's possible. And that needs to be looked at and maybe some additional recommendations changed.

Now, Areas 2 and 3 are a little different because Areas 2 and 3 have specifically requested that Addendum II include the gauge increases that they originally recommended, and that's why they're shown separately as Option 1.

I don't know, again, personally I don't know what the evaluation is of those and the other measures in place with respect to the new egg production rebuilding schedule. If in fact these recommendations do in fact result in the new egg production benchmarks being met, and if Option 1 is adopted in Addendum II, they could be finished, they could be done. But the others I think have some more work to do, and clearly Area I has an awful lot of work to do. Pat.

PAT AUGUSTINE: Two questions, Gordon. First of all, I guess one to Heather anyway. On the circular vents, you said the Technical Committee or the Scientific Committee came up with a figure of two and a half inches for the circular vent. Was there any study done on that or what was that recommendation based on?

CARL WILSON: Pat, a lot of the work was done by Maine DMR under Jay Krauss and there was no specific work done on that size. It's an extrapolation from bracketing gate or vent sizes.

PAT AUGUSTINE: And the second question is we're getting deeper into the discussions of further gauge and increase in the minimum size now, but I wonder if what came out in the draft EIS with National Marine Fisheries Service would influence what some areas do with it when they're not enthusiastic about it.

CHAIRMAN GORDON COLVIN: And I can't answer that question today. I don't know that any of us can, but we will discuss a little later on a desire that I think some of us have to try to marry the federal EIS process better to the schedule that I've just laid out for you. Are there any other questions on the addendum? Ernie.

ERNEST BECKWITH: Yes, Gordon.

CHAIRMAN GORDON COLVIN: Ernie, can you get closer to the mike?

ERNEST BECKWITH: I'm looking at Section 2.2.1 and the options and for the reasons you had just mentioned, our Area 6 LCMT has not met and as you stated the egg production schedule and also the targets have changed, and also the situation with the stock in the fishery in Long Island Sound certainly is quite different than it was prior to the last time the LCMT met with our large die-off.

So, I really don't feel comfortable including those gauge increases in Addendum II. I would propose that at least for area 6 that we take that out of there and have an opportunity which will give us an opportunity for our LCMT to meet and perhaps we can include then in Addendum III.

CHAIRMAN GORDON COLVIN: Right now we don't have a motion on the table. I guess when we do that we could address that formally, Ernie, and -- but I

-- personally I sort of -- you know, from a non-chairman New York state perspective, I pretty much agree with your comment. I think it's not really necessary to have that in there. I think it's appropriate to go back to the LCMT and see if they want to pursue that same course or something different. We have that option at that time.

ERNEST BECKWITH: And at the appropriate time, I can make a motion. But I think there are members of our LCMT here today if they want to comment on that. We'll certainly do that.

I've got a few other comments about Addendum II, if it would be okay. Let me get my notes here and get them straightened out. I think I'll pass for the moment and I'll come back.

CHAIRMAN GORDON COLVIN: Bill Adler.

BILL ADLER: My question relates to the starting dates that are in this addendum of 2001, which I know that was the thought, but at the same time this addendum isn't going to be approved until 2001 and I thought it was our intention to have perhaps the gauge increases for the various areas approved if they're going to be approved at this -- in this addendum, but that the implementation date would be 2002. We go out to public hearing with this one and they're going to say well, you're proposing 2001, we're already in 2001, so this isn't going to work because it takes time for the states and everybody else to put the things into place.

So, I'm wondering why we have 2001. I know that was the intent, but looking at the schedule, what we're doing, why do we have 2001 when I thought it was going to be if approved it would be in place and begin January of 2002 and go on from there.

Massachusetts in particular would need legislation to go up on the gauge and if everybody knows what their legislative process is like, it isn't going to be a 30-day done deal certainly. So, I'm wondering why we have 2001 there. Is it realistic?

HEATHER STIRRAT: Bill, 2001 was put into this draft because

that was the date that was discussed back in August. Certainly your points are well-taken, and if there's no objection I'm not opposed to changing the commencing dates and the schedule to 2002. It's the will of the Board.

BILL ADLER: Yeah, because when we discussed this, it was that the ideal situation was going to be that we were going to move ahead with the proposals that were already submitted to us that you see here and we were going to take this and get it going by putting it through the addendum process and we seem to know that the addendum was going to - by the time it finally got in, was going to be into 2001. And so that's why we had put the date of 2002 as the startup.

Meanwhile, we were also saying to those other groups, Area 1 in particular, you haven't met, you've got to meet, you've got to come up with a plan, you've got to do it by June. And Addendum III was then going to be put in with hopefully the same 2002 January implementation dates so everybody ends up on the same page. It's just that the people that waited till June 1st, that addendum would have to go through a little faster and there'd be less lead time than with this group. And I thought that was more or less the scheme of the plan.

CHAIRMAN GORDON COLVIN: Bill, I think from a practical perspective, what you say makes a lot of sense. I think the question becomes how do you do that at the top end? Do you push everything back a year or do you leave it where it is and adjust all the numbers in between. And that's a decision the Board will have to make, if we make that change. David.

DAVID SPENCER: If I could, I'd just like to point out -- and this is from an Area 3 perspective, that we -- which will come up later today -- have proposed for additional gauge increases that if we start in 2001 we'll just finish in the end of the rebuilding schedule. So, by pushing it back a year, we'll actually be not in compliance and as far as Area III is concerned, we would prefer to start as soon as possible and not continue to push the

rebuilding schedule further and further down the road. Thank you.

CHAIRMAN GORDON COLVIN: Ernie.

ERNEST BECKWITH: Yeah, I've got a comment that pertains to the schedule, but I'm looking at Section 2.2.2 which deals with a vent size requirement for 03, and that would apply to all areas, including Area 6, but it does not include Area 1. And I thought that perhaps we could defer doing that until Addendum 3. I think we would better know what all the states are going to do in terms of gauge sizes. And it really fits in with Addendum 3 schedule anyway. So, I guess I would -- at the appropriate time, I would propose taking that out of there and deferring that -- including that in Addendum 3.

HEATHER STIRRAT: Ernie, to that point, I think the intent was to match up a gauge size increase with a circular escape vent increase. And certainly those areas which do not move forward with a gauge size increase would not be affected by the escape vent increase as well, if that clears it up. In other words, --

ERNEST BECKWITH: That's certainly helpful. I didn't realize that.

HEATHER STIRRAT: Right. And it may not be completely clear. I tried to include some verbiage to that effect in the brackets following Section 2.2.2 where it says 2, 3, 4, 5, 6 and Outer Cape vent increases should be coincident with an increase in gauge size.

So, for instance, just to make sure we're all on the same page, if Option 2 is not adopted and only Option 2 was adopted, then only Areas 2 and 3 would be required to implement the minimum escape vent size.

CHAIRMAN GORDON COLVIN: So, the intent is I think is consistent with your comment, Ernie. Maybe we need to do some wordsmithing.

ERNEST BECKWITH: It's a timing issue, too.

CHAIRMAN GORDON COLVIN: Other questions, comments or discussion?

(No response audible.)

CHAIRMAN GORDON COLVIN: If there are none, it would be appropriate to move this matter forward. What we would need to do is adopt a motion to approve an addendum for public hearing purposes. George.

GEORGE LAPOINTE: Mr. Chairman, I move that Addendum II be approved for public hearing with the schedule discussed earlier for public hearings between now and January and approval at the January meeting week.

CHAIRMAN GORDON COLVIN: Is there a second to the motion?

PAT AUGUSTINE: I'll second.

CHAIRMAN GORDON COLVIN: Pat Augustine. Discussion on the motion? Bruce Freeman.

BRUCE FREEMAN: How did we resolve the issue going back to page 3 of the original egg production schedule, if in fact now the 2000 -- the implementation realistically will be in 2002 there's a two-year hiatus here. Because the table begins in 2000, but implementation won't occur till 2002.

CHAIRMAN GORDON COLVIN: At this point based on the motion what you have is Table 1. If there is to be a suggested change, we'll need a motion to amend.

BRUCE FREEMAN: Well, I would suggest we do need a motion in order to make this compatible. Otherwise, this is going to be very confusing. Implementation as indicated would occur -- well, the way the options are indicated, it's impossible -- it's impossible to implement except in Area 3 for the rest -- (inaudible).

CHAIRMAN GORDON COLVIN: I think that was Bill's comment

earlier.

BRUCE FREEMAN: I agree. I just think we need to take some action. I mean, to just approve this the way it is without taking some action is going to be very confusing and it's going to complicate the issue.

CHAIRMAN GORDON COLVIN: George.

GEORGE LAPOINTE: Are you recommending we take out the year 2000 and 2001 from that table?

CHAIRMAN GORDON COLVIN: The year 2000 basically sets the numbers where we start from. That doesn't represent a reduction. And that doesn't change except that arguably if we don't do anything, those numbers would be the same in 2001 as they are in 2000, in reality. So, it comes back to the question that I asked before in response to Bill's comment. Do we push everything to the right one year and add a 2009 column or do we push the first year to the right one year and adjust all the internal numbers proportionately so that it still says ten plus under 2008?

If the viewpoint that's been advocated by Bill and Bruce is to come forward in terms of an amendment, it needs to do it one of those two ways, I think. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. What would be the cleanest way to do that mathematically, to squeeze -- well, I mean -- simply a mathematical exercise, is that all we're talking about?

UNIDENTIFIED: -- forward and divide by a different number, that's all.

PAT AUGUSTINE: If there are no nuds in the no position around the table, why don't we just do that? And George, can you include that in your amendment as a part of the whole thing? Do we need to do that?

GEORGE LAPOINTE: And that would be to start the actual

reductions in 2002 and then compress the schedule a year?

PAT AUGUSTINE: Yes. So, you still get 10 at the end of 2008.

GEORGE LAPOINTE: I can live with that. Who was my seconder?

PAT AUGUSTINE: I seconded it.

CHAIRMAN GORDON COLVIN: Before we do that, a comment on that proposal, Mark.

MARK GIBSON: I guess I would want to ask the Technical Committee Chair if by doing that do the measures as scheduled then match up so that we get the desired egg productions? I can understand taking a year out of that schedule and simply adjusting those numbers so we get to 10 again. But that assumes that there are measures coming on line that meet those number machinations.

CHAIRMAN GORDON COLVIN: So that question becomes do we then need to readjust all the tables under Option 1, Option 2 and --

MARK GIBSON: Exactly. Otherwise they're not realized egg production gains. They're just --

GEORGE LAPOINTE: Weren't Option 1 and Option 2 based on the egg schedule -- the egg production schedule from Amendment 3 and not from this addendum anyway? No? Yes? I see a yes and a no. I thought that was one of the reasons we were going back to the LCMTs was that in fact with the change -- the changes inherent in Addendum 2, we were asking them how -- trying to evaluate how that would impact the actions they proposed.

HEATHER STIRRAT: George, I'm sorry, I misunderstood your question. You're correct. They were based on earlier egg production rebuilding schedules.

CHAIRMAN GORDON COLVIN: Jim.

JIM FAIR: Mr. Chairman, one final comment on Option 1. I believe that the LCMT-3 and I think 2, as well, voted to take the skip out so that there was no

interruption in the schedule -- 2004.

CHAIRMAN GORDON COLVIN: Let's set that issue aside for the moment and come back to it, Jim, once we resolve the egg production rebuilding schedule. We can certainly tinker with that at that point. Ernie.

ERNEST BECKWITH: Are we finished with the schedule? Do we know what we want to do?

CHAIRMAN GORDON COLVIN: I'm not convinced that we do. George was kind of making a proposal and Mark had an observation. I think what we heard was that maybe these schedules don't need to be adjusted the Option 1, Option 2, because they're the original proposals. So, that wouldn't necessarily get followed up if we change the schedule. Then George, do I understand your proposal is to perfect the motion by including in it a change to Table 1 that begins the schedule in 2001 and adjusts the internal benchmarks proportionately to come -- to still end at 2008?

GEORGE LAPOINTE: That's correct. Agree.

CHAIRMAN GORDON COLVIN: That's all right with -- (inaudible) -- understand the perfection to the motion? If you examine Table 1, Table 1 will -- the year 2001 will become the first year on the table. The numbers under 2001 will be 3.2, 6.2 and 8.3, which are presently the numbers under 2000. They represent the starting point for egg production rebuilding. The numbers under 2008 will remain the same at 10 plus. All of the numbers for the intervening years, 2002 through 2007, will be revised proportionately to reflect a one-year compression of the schedule from the starting point to the end point. Okay? Ernie.

ERNEST BECKWITH: -- ask the maker of the motion -- amendment -- I'd like to propose that in Option 2 in 2.2.1 -- Area 6 gauge increase schedule be deleted.

GEORGE LAPOINTE: And that -- be put on the same schedule as

Area 1 where you come back in June?

ERNEST BECKWITH: Yeah, correct.

GEORGE LAPOINTE: That's -- that makes sense to me, Mr. Chairman, and I think consistent with our past comments about going back to those -- the LCMTs to get their views on that.

CHAIRMAN GORDON COLVIN: That change is acceptable to the mover and the seconder, so the motion is modified to remove Area 6 from Option 2. Are there any further items? We should come back to the item that Jim Fair raised with respect to Option 1. Jim, do you want to indicate again what the suggested change to that table is?

JIM FAIR: In 2004, I know Area 3 definitely voted to eliminate the skip and I believe -- if someone can help me out -- I think Area 2 did, as well.

CHAIRMAN GORDON COLVIN: Mark or Bill, can you help with that one? Area 2?

MARK GIBSON: I need to hear the question again. I was looking -

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CHAIRMAN GORDON COLVIN: The Area 2 group -- the management group want to remove the skip in 2003?

TOM ANGELL: I can help with that, Mark.

MARK GIBSON: Go ahead.

CHAIRMAN GORDON COLVIN: Tom.

TOM ANGELL: Yes. At the last meeting, unfortunately, I recorded the minutes wrong and they do want to have that year removed to finish the schedule in 2004.

CHAIRMAN GORDON COLVIN: Then if I understand it, Jim, the proposal would be to amend the Area 2 schedule to eliminate the skip in 2003 and then move the final two increments to be years 2003 and 2004; similarly for Area 3, to remove the skip in

2004 and make the final increment in the year 2004.

JIM FAIR: Correct.

CHAIRMAN GORDON COLVIN: Is that perfection acceptable to the mover?

GEORGE LAPOINTE: Yes, it is.

CHAIRMAN GORDON COLVIN: And the seconder?

PAT AUGUSTINE: Yes, it is.

CHAIRMAN GORDON COLVIN: Bill.

BILL ADLER: Which returns me to my problem. The skip -- eliminating the skip is fine, but you still have 2001 for all these -- these schedules, and I can see where it would work if you moved it to 2002. It would still be done in 2005 because they've eliminated the skip. But I'm still saying that the date 2001 in all of these things, Area 2, 3, 4, 5, Outer Cape, since 6 is eliminated, is not practical.

CHAIRMAN GORDON COLVIN: Bill, you lost me.

BILL ADLER: The 2001 date for the first gauge increase in all of those, see the 2001?

CHAIRMAN GORDON COLVIN: Okay.

BILL ADLER: Not practical, because it isn't going to happen. We're not even going to approve the addendum till 2001, so remember that gets back to my thing about --

CHAIRMAN GORDON COLVIN: My point would be that we would have 365 days, year 2001, in which to get it done. If you don't think that can happen, you need to make a motion.

BILL ADLER: How do you figure you have -- if you approve it -- if the gauge increase is supposed to go up to 9/32nds in 2001, that's January of 2001.

GEORGE LAPOINTE: It could go into place December 31, 2001.

BILL ADLER: To go into place -- that's okay. Oh, okay.

GEORGE LAPOINTE: That won't make it any easier for your legislature, but it will give you more time.

CHAIRMAN GORDON COLVIN: Jill.

JILL GOLDTHWAIT: Thanks. The process in our state would be that once the legislative deadline is passed, which is coming up in two weeks, the only way to get a bill admitted is by the approval of the leadership council, which may or may not be forthcoming. So, we might not even have the option to get a bill in in 2001, let alone pass it.

CHAIRMAN GORDON COLVIN: I'll go to the audience in a minute. I want to stick with the Board until we're finished with these things. Bruce.

BRUCE FREEMAN: This date still bothers me. The issue of -- the one that Bill Adler just raised, if in fact it is in place on December 31, let's say Area 2 for example, the size increase is in place December 31, 2001. It's not going to have any impact on the biology of the lobsters for 2001.

CHAIRMAN GORDON COLVIN: I understand, but we just adopted a change to the egg production rebuilding schedule which doesn't show any increase in egg production in 2001. So, that should be consistent, I think. I think that was the purpose of doing that. The first increment in egg production doesn't occur till 2002.

BRUCE FREEMAN: Right. Well, it just -- if you go to a public hearing, this is going to be confused. These dates -- it's simply not going to be understood, I think, by most of the public.

BILL ADLER: I'm sorry, but Gordon, yes, I think the public will -- they always think when they see 2001 or they see any date they think January of that year is when it takes effect. So then the question comes up okay, so we have until December 31st to do

the 2001 but does that mean then that we're going to run it till December 31st of 2002 for the next one or is it going to be the next two days?

CHAIRMAN GORDON COLVIN: Maybe it would be helpful if there was a footnote here or a very clear statement that the years in which gauge increases or vent increases are indicated, the compliance time is throughout the entire year. It's easy enough to add text that addresses this question. But the fact is that we've never required a compliance measure due in a calendar year to be done on the first of the year. I'm a little puzzled by the discussion. You have the entire year in which to get it done.

But if it's the desire of the Board -- and I think it clearly is -- to add text to the addendum that makes that clear, then that's easy to do. Let's do that.

BILL ADLER: All right. I still think it's going to be confusing at public hearing and I think it also leads to the opening of different gauge sizes within the year within different states.

CHAIRMAN GORDON COLVIN: That's going to happen anyway, because there is virtually no way to guarantee that every state's legislature will do all of these things, much less do them in a synchronous manner. I think we all understand that. That's absolutely true. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. To that point then, Heather, could you wordsmith a phrase or a paragraph or one or two sentences that would actually accommodate Bill's concern and be clear enough -- I think we're going to have the problem that has been suggested by Mr. Freeman that when people see 2001 and we all know around the table that these things aren't put in place January 1 and that they are flexible within the whole 365 days. But for clarity purposes could we just address that in a simple statement of some sort?

HEATHER STIRRAT: I don't see any problem with that, Pat.

PAT AUGUSTINE: Thank you.

CHAIRMAN GORDON COLVIN: Bonnie.

BONNIE SPINAEOLLA: Thank you. In the situation where Areas 2 and 3 specifically asked for implementation in 2001, speaking for Area 3 I'd like to say that we would like very much to still have the Board move forward on that, because we're in the situation where we have to wait for the Fisheries Service to move forward and they can't move forward without a specific recommendation from the Commission. Thank you.

CHAIRMAN GORDON COLVIN: I think that's why Option 1 is here, Bonnie.

BONNIE SPINAEOLLA: Okay.

CHAIRMAN GORDON COLVIN: Tom, did I see your hand? Where did he go? There you are.

TOM ANGELL: I just wanted to make a quick comment that it has been kind of the standard practice to come -- and this is from the industry -- that the gauge increases, escape -- new escape vents and things like that be implemented at a June 1st date, and that that's the way it's recommended and the reason our regulations and I believe in the area -- the original Area 2 proposal to have the June 1st date as the implementation date for gauge increases. Whether that makes a difference or not that needs discussions, I'm not sure, but --

CHAIRMAN GORDON COLVIN: I understand and -- you know, that could be articulated as a goal, but given how gauge increases have to get done, we'd probably need to give ourself every possible amount of time to make these things happen. And I -- you know, I hear what Senator Goldthwait said, I hear what Bill said about legislatures. This is important. Is there any further discussion on the motion? Yes, David.

DAVID SPENCER: I think it's later in the agenda, but the LCMT-3 did meet and came up with some additional proposals that we were hopeful could be included in

Addendum II. And I guess before this gets approved if we could look at those.

CHAIRMAN GORDON COLVIN: Are these proposals the Board has seen before?

DAVID SPENCER: No, I believe it's in the packet that was sent out.

CHAIRMAN GORDON COLVIN: One of the Board members want to put that on the table? Jim.

JIM FAIR: Yeah, we held a meeting of the Area 3 LCMT in the beginning of November. I sent a memo into the Commission the following day. Their concern at the time was that the clock was ticking and they wanted to get moving with their plan, and hopefully achieve compliance with the rebuilding schedule on targets.

In other words, they wanted to accelerate their schedule that they had originally proposed to allow for the delay. They proposed a new minimum size increase schedule starting in 2001 and going right through to 2008 now if necessary. They would be at 2000 -- three and three-eighths by 2004 and then if the situation demanded, they would just continue with that schedule until 2008 to come in line with Addendum III -- Amendment 3, I'm sorry. Addendum III.

The other provisions obviously are not related to the egg production, but they're concerned about the need for at least a logbook in Area 3 equivalent to what is filled out by the multispecies permit holders and the need -- recognizing the need for a trip level reporting in that area. And they've also revised their trap reduction schedule again moving ahead a year, trying to take a larger increase the first year and get back in sync with their schedule.

CHAIRMAN GORDON COLVIN: Reflecting on the memo, Jim, it appears that Item Number 1 has already been done in the motion. Do you want to make a specific proposal for change to the motion with respect to Items 2, 3 or 4?

JIM FAIR: Well, I'm a bit unsure how to handle Item 2. Basically, what they're saying is that what they've already proposed previously may not be enough and if necessary they want something on the table and in their plan that provides for continued gauge increases beyond 2005 if necessary. I don't know how you accommodate the words if necessary in the official plan, but this is the idea.

CHAIRMAN GORDON COLVIN: Well, I think one of the ways you accommodate it is the way everybody else is looking at it, was in Addendum III, that the process for including measures that will get all the way to the final egg production goal are expected to be in Addendum III. That's clear. So, that's one option.

JIM FAIR: Okay.

CHAIRMAN GORDON COLVIN: And what about --

JIM FAIR: 3 and 4 also -- Item 3 hinges on the acceptance of their historical participation item in their plan. If that's approved at some point this is the new schedule that they would recommend -- again, taking a larger cut at the beginning so that they come back into schedule -- into line with the proposed schedule that was originally in their plan.

CHAIRMAN GORDON COLVIN: The status as I recall -- we need to make this clear for everybody on the Board I think -- is that this Board did approve the Area III history based proposal; and I think what I'm hearing is that what is being proposed now by the LCMT is to add to that previously proposed proposal a trap reduction schedule that begins at the point of where the participants are at the present time. On the other hand, we still don't know what the final federal rule will be.

JIM FAIR: Right. That's where we have a problem.

CHAIRMAN GORDON COLVIN: Harry.

HARRY MEARS: There are several related issues here that are relevant not only to what would be incorporated into the public information document for

Addendum II, but also issues that are relevant to the Draft Supplemental Environmental Impact Statement that addresses historical participation in Area 3. And certainly if the Board were so inclined to endorse a trap reduction schedule which is different than the reduction schedule on record, we're currently in a public comment period.

So, one of my points is if the Board in fact supports the revised trap reduction schedule, this would be an appropriate time during the public comment period -- which ends January 9th -- to forward that recommendation to the National Marine Fisheries Service.

That's one of my comments. The other pertains to Item Number 4 in the Area 3 recommendation. I don't know if we're there yet, but at the appropriate time, I'll have a comment.

CHAIRMAN GORDON COLVIN: Why don't you make it and then there may be some reaction to it, Harry.

HARRY MEARS: From the very beginning, going back to our original Amendment 3, to the interstate plan and also the original Draft Environmental Impact Statement which transferred regulations for American lobster from the Magnuson Act to the Atlantic Coastal Act, the importance of data was certainly acknowledged. And I think everyone agrees it's necessary as we go forward to be a necessary factor in evaluating and monitoring the success of the various area management plans.

Initially in the draft Environmental Impact Statement, there was a brief discussion of mandatory reporting which essentially was deferred and those of you might remember that the primary take-home message was that this would be a very intensive staff demanding exercise on whoever would implement and administer such a mandatory program and it certainly was a very appropriate topic for on the ACCSP group to look at and to prioritize lobster amongst the other species from an interjurisdictional state/federal perspective.

So, my point being here is that I don't -- I would have reservations on only treating with Number 4 as it's worded and perhaps incorporating it as an option. I think that would be doing a disservice to the issue at hand. Rather, I would encourage in whatever way we can that lobster be highlighted and perhaps moved up in priority to address this issue within ACCSP -- within the ACCSP arena.

CHAIRMAN GORDON COLVIN: Thank you. Bonnie.

BONNIE SPINAEOLLA: I just wanted to say that the reason we wanted to do this although the Area 3 plan is already -- has been accepted, we realize the delay with the Fisheries Service and we were hoping that the Draft -- Supplemental Draft Environmental Impact Statement would be out so that this would be the timely place -- the time and place to give the Service these recommendations. Further, if we don't do it now, God only knows when they'll be able to move forward on it, should we not make the new egg production schedule.

And further, as far as reporting is concerned, in the Supplemental Environmental Impact Statement, it is stated that 70 percent of the Area 3 participants already fill out a multispecies report. So, therefore, we would really only be talking about 30 percent of that resource, which is perhaps another 30 people. So, it's not a huge administrative burden. Thank you.

CHAIRMAN GORDON COLVIN: Thank you. Jim, I guess I need to know what you would suggest here. We have the option of putting one or more of these recommendations into this public comment version of the addendum and seeing what kind of public comment we get and perhaps buying us a little time to ascertain the possibilities for syncing up with the federal rule.

We also have the option of deferring these issues to Addendum III. And I'm going to need your advice on how you'd like to proceed. Or the other Area 3 folks.

JIM FAIR: Mr. Chairman, would you like to take these items one at a time or the whole thing?

CHAIRMAN GORDON COLVIN: I think we should.

JIM FAIR: Okay. I'd like to make a motion to include the Area 3 gauge increase schedule as approved in their plan for discussions. Actually, you know, for purposes of moving the addendum forward.

CHAIRMAN GORDON COLVIN: The motion would add an option that increases gauge in Area 3 in increments from 2005 to 2008 as to ultimately three and a half inches. Is there a second to the motion?

JOHN NELSON: Second.

CHAIRMAN GORDON COLVIN: Seconded by John Nelson. Let me ask before we go further is there objection to the motion by the original mover and seconder for incorporation into the original motion?

GEORGE LAPOINTE: Fine.

CHAIRMAN GORDON COLVIN: Without objection, it's accepted as a friendly amendment. Dieter.

DIETER BUSCH: Mr. Chairman, instead of making this motion a text for editorial comments in this draft I would suggest that maybe the motion would just be to accept the document as modified by the Board and then have staff make those changes in that document.

CHAIRMAN GORDON COLVIN: I think that's -- I think that's -- when you say accept the document as modified by the Board, do you mean the addendum or the memo from Jim?

DIETER BUSCH: Right now the motion is for the addendum.

CHAIRMAN GORDON COLVIN: The motion on the board is for

the addendum, right.

DIETER BUSCH: So, if you're making any changes to the addendum, whether it is in the document itself or based on other correspondence related to this document, it could be all done through the editorial process and then the final document -- the motion would be just to accept the document as modified by the Board today.

JIM FAIR: That would sure get me off the hook, wouldn't it?
Would it be in order to make a motion to accept the recommendations of the LCMT-3 --

CHAIRMAN GORDON COLVIN: Well, let me ask if there is -- if the original mover and seconder have objection to what Dieter has suggested, which is the incorporation of what would amount to recommendations 2, 3 and 4 in the LCMT-3 recommendations into the addendum as options to be incorporated by staff?

(No response audible.)

CHAIRMAN GORDON COLVIN: No objection by mover, no objection by the seconder. Accordingly, those three options will be added to the text of the draft -- public comment draft of the addendum.

Now, there's also a memo here with respect to Area 2. Does someone want to address the issues in that memo? Tom, your name's on it. Tom Angell. I'm not sure if there's anything specific that can be done here. We should address the memo, though.

The memo appears to -- it appears to present an issue and ask whether it can or should be addressed in Addendum II or Addendum III. If we don't have a specific proposal now, I think the answer is self-evident. It needs to go to III. That fair enough?

UNIDENTIFIED: (Inaudible.)

CHAIRMAN GORDON COLVIN: Thank you. Are there further

suggested revisions or comments on the motion? Dick Allen.

DICK ALLEN: Dick Allen. And my comment relates to the process that's going to be followed to kind of let the LCMTs know what they have to do. It seems to me my recollection when this was adopted was that only those LCMTs that wanted to change the programs had to meet and review whether they wanted to stick with their original program or make a change.

CHAIRMAN GORDON COLVIN: It would be those who wanted to or those who needed to as a result of the changes in the schedule.

DICK ALLEN: Okay. That's my point is that in order to know whether they need to, somebody has to tell the LCMTs whether the plans that they previously submitted are still acceptable or not, and I don't see any formal procedure for that spelled out; and the time is relatively short for them to meet and come up with a whole new plan.

So, is it planned that the LCMTs will get a notification saying the plan that you submitted and was previously accepted is no longer acceptable under the new schedule and you are required to meet and come up with a new plan by June 1st?

CHAIRMAN GORDON COLVIN: Here's -- I mean -- I went by that pretty fast in my outlay of the schedule, Dick, but technically speaking we haven't changed the egg production rebuilding schedule until we adopt the addendum.

I think it's -- I think clearly it's required that once the new egg production rebuilding schedule is adopted, it's incumbent on the managers of each area, with whatever technical input they need, to communicate to their LCMT members exactly where things stand with respect to the new schedule and the status of their original recommendations. That we must do.

I think the issue may be should we not give the LCMTs a heads-up ahead of time. I believe that we should. I believe that's kind of up to the state and federal

managers who are working with each of the individual LCMTs to do that. That's certainly our intention.

DICK ALLEN: Thanks.

CHAIRMAN GORDON COLVIN: Bonnie.

BONNIE SPINAEOLLA: Do we know when we will get a definite new egg production schedule?

CHAIRMAN GORDON COLVIN: I believe the last week of January, if all goes according to plan and we don't get singled out or something. Bruce. Harry.

HARRY MEARS: Mr. Chairman, for clarity purposes, is this the motion that would approve the draft amendment for purposes of public hearing or is there another motion that's needed after this one?

CHAIRMAN GORDON COLVIN: It's my interpretation that that is the motion before us, to approve this --

HARRY MEARS: Thank you.

CHAIRMAN GORDON COLVIN: -- this draft for public comment purposes. Bruce Freeman.

BRUCE FREEMAN: The issue was raised I guess by Ernie earlier relative to the escape vent, Section 2.2.2 with the suggestion that it be taken out and put into Amendment 3. Was that just conversation or was there any action taken on that?

CHAIRMAN GORDON COLVIN: I believe that the response from Heather indicated that the bracketed statement in bold at the top of the section indicates that in the absence of a coincident increase in gauge, the vent increase should not be required. On the other hand, since Area 6 has explicitly been removed now from Option 2, perhaps it's pointless to even include it in 2.2.2. I think you make a good point, Bruce. What do you think, Ernie?

ERNEST BECKWITH: Yeah, I think we'll probably take it out of

there if there's no problems with that.

CHAIRMAN GORDON COLVIN: Is there objection?

UNIDENTIFIED: No.

CHAIRMAN GORDON COLVIN: Thank you, Bruce. Appreciate that. That does make it consistent internally. Is there further discussion on the motion? Pat Augustine called the question.

PAT AUGUSTINE: Yes, I did. I called the question quite some time ago, Mr. Chairman.

CHAIRMAN GORDON COLVIN: Will all in favor please signify by saying aye.

(Response.)

CHAIRMAN GORDON COLVIN: Opposed, same sign.

(No response audible.)

CHAIRMAN GORDON COLVIN: Are there abstentions?

(No response audible.)

CHAIRMAN GORDON COLVIN: Are there null votes?

(No response audible.)

CHAIRMAN GORDON COLVIN: The motion carries. It would be my intention to take a break in approximately a half-hour, 45 minutes, to allow for checkout. Hopefully it will be a brief break. I don't know how we're going to do as we go forward, but we have some chance of actually concluding our meeting before the appointed hour if we don't break for lunch.

So, sometime around noon, I think we need to do kind of a process check, see where we stand and make a collective decision about whether we will break or continue through.

UPDATE ON PID DEVELOPMENT IN SUPPORT
OF AMENDMENT 4

CHAIRMAN GORDON COLVIN: Next item, Update on PID Development in Support of Amendment 4. Heather.

HEATHER STIRRAT: Okay. In August, Amy informed the Board that initial work to develop the draft PID had in fact occurred. The staff is currently following up on Amy's last action by actively communicating with both Bob Glynn and Tom Angell to coordinate the consolidation of two separate draft PIDs.

For those of you thinking that there had been no actual work done on this, there is substantial work that has been done. Two substantial documents have been drafted. So, Bob and Tom will be working to consolidate these two versions into one draft document for review at the Lobster Board Management next scheduled meeting.

So, specifically the draft PID will provide background information and request public input on two issues; namely, conservation equivalency for V-notch protection and conservation equivalency for limits of non-trap gear. If you have any questions, Tom Angell is here and to the degree that I can, I'd be happy to try to follow up.

CHAIRMAN GORDON COLVIN: Questions?

(No response audible.)

REVIEW OF TRAP TAG PROGRAM

CHAIRMAN GORDON COLVIN: Review of Trap Tag Program.

HEATHER STIRRAT: Okay. You should have received today -- and I want to apologize for the fact this did not go out in your initial mailing. I was under a strict time deadline and I needed to consult with the necessary individuals to really develop the

one-page document that you see in front of you. And really this is a piggyback onto the discussions which went on in August.

If you recall, both Ralph Mallozzi and Bob Ross presented issues that have been experienced throughout the process of the first year of implementation of the trap tag program. And what staff was requested to do was to basically take a look at those issues and try and outline some recommendations and/or resolutions to those issues.

So, what you'll find in front of you is basically a table that denotes what the issues are. It gives a description of the issues and then it goes into some of the recommendations. And in fact, if you read this very carefully, you will find that a number of these issues are already in the process of being resolved currently.

Just to give you a very brief summary, what I'd like to do is just go through this document. I don't really know what the status is of this Board taking any action on these issues. So, this will be informative for me, as well. But just to review, there have been some issues reported by states relative to fishermen claims that the tags are coming off too easily, and this gets really at the tag strength.

Stoffel Seals is investigating product modifications, notably a new polymer which would increase the breaking strength of the trap tags significantly. According to Ralph, the new tags will be 100-pound breaking strength, which in his opinion if the tags were lost due to pressure-washing or something like that nature, that will not happen under this new breaking strength. It would be a significant blow to the tag for it to actually come off.

Tag price issues. This gets at the issue that the prices vary for the trap tags throughout the ASMFC states as well as with NMFS. Historically, this was a problem. NMFS has agreed with Stoffel Seals to one standardized price now. They will be paying the 14 cents per tag that most of the other ASMFC states are currently paying.

It was made aware to me at the very least that Maine will still

continue to be purchasing their tags directly from Stoffel Seals and therefore, they will probably have a varying price. But this is done to try to weigh out some of the enforcement and administrative costs that they are using in their state to go through their trap tag program.

In addition, I would note that Joe Fessenden tried to raise this issue and say that most of the law enforcement agencies have not yet set aside appropriate funding for the enforcement of the trap tag program and that he advises the states to look into setting aside a portion of the money received from trap tag sales for these purposes.

In terms of trap tag lists, there was variation amongst the ASMFC states and NMFS as to when these tag lists are submitted to Stoffel Seals for tag distributions. It doesn't appear to be so much of a problem for those states that are submitting complete lists at the beginning of the seasons, but rather for those individuals that submit lists as that information is received.

According to Stoffel Seals, there are a number of individuals, including NMFS and the states, who are working together to try to resolve this issue. In talking with Ralph yesterday, he provided me with an update.

It looks as though New Hampshire and Massachusetts are in the process of developing an MOU currently with NMFS to establish the state as the primary tag distributor. Rhode Island, according to Ralph, has not really taken much action, but did have some discussions to this effect. Connecticut and New York, apparently there isn't much of a problem in this effort because most of the fishermen are fishing in Area 6. And in New Jersey and Connecticut, the program -- the trap tag program is facilitated currently solely through NMFS, so it's not a problem.

Relative to data consolidation and exchange, MOUs between NMFS and the ASMFC states allow federal permit holders with state licenses to purchase tags from either the state or the federal agencies. And without regular monitoring of this process, it's

difficult for either agency to be sure of how many tags are actually distributed.

In talking with Bob Ross, NMFS is proposing that each state ask their state permit holders at the time of the state license renewal if the individual has a federal lobster license. If the answer is yes, then NMFS proposes that each state collect the permit holders federal permit number and provide that information to Stoffel Seals as dated during the trap tag ordering process.

Bob also noted that the federal permit number would then become an easy link for the state and for NMFS to use as match-up data, and that approval by the National Marine Fisheries Service and participating states to allow Stoffel to directly release this information to any valid NMFS and/or state personnel would facilitate consolidation of this material.

In terms of replacement tag orders, MOUs between NMFS and ASMFCs allow permit holders to request tag replacements through either agency, both state and/or federal. So there's a need for monitoring program and/or a mechanism to access tag replacement requests and distribution. Again, this gets back to trying to facilitate data consolidation and exchange between the agencies.

It was also noted by Joe Fessenden to this degree that allowing the fishermen to receive a small portion of replacement tags up front may reduce the number of tag requests for replacement purposes during the fishing season. And as you'll see, it's the next -- a good segue into the next issue, which is tag replacement procedures. It will also -- rather coming down here -- it will also reduce the frustration that fishermen are experiencing when time is of the essence and they need to get their replacement tags to fish.

In terms of tag replacement procedures, time efficient turnarounds are necessary and again this is something that could be avoided by providing some tags up front.

Information on trap tags. Inconsistencies exist among the ASMFC states and NMFS relative to the information collected on trap tags. According to Ralph, Stoffel Seals notes that next year every tag that goes out will have a consecutive number, and the area fished -- a state in which the tag is coming from, a permit number, and the year it's issued. And I'd just note here that Addendum I is pretty clear on what needs to be on each tag, but that the state also has the right to request additional information to be supplied on those tags as necessary.

In terms of tag issuance procedures, this basically gets at the problems that have been not really experienced now, but may possibly be experienced later relative to sold, transferred and/or voided tags. This could be an occurrence that's associated with distribution of trap tags relative to catastrophic loss. And Stoffel's notes that they really think that they got this under control, because they keep a very good list of those trap tags which are issued. If they're issued in duplication, they're also issued in a different color in terms of numbers. So, if that happens, Stoffel feels as though they've got a pretty good paper trail by which to trace that.

State and federal coordination. Dual status identification can be complicated with the ASMFC states where proof of current federal permits is required, given that the dates for state and federal permit renewal are not simultaneous.

In talking with Bob Ross, he has suggested that NMFS proposes if a state agrees to issue all tags and ask the state permit holder to provide the permit holders federal lobster permit number, then the tags issued to that permit holder by the state could identify the permit holder as a dual state federal permit holder with the EEZ on all area designations on the tags.

And finally, vendor exchange data. NMFS is currently experiencing some difficulty in extracting and submitting information on new permit holders only and has

requested that Stoffel Seals allow them to alternatively submit an updated list of federal permit holders authorized to get trap tags.

Stoffel Seals agrees that one consolidated list of state and federal lobster permit holders should be developed. The list should be maintained by -- maintained and updated by one party. If Stoffel Seals assumes this responsibility, then that information could be available to all necessary states and federal users for use in stock assessments, technical committees needs and in rulemaking analysis.

If there are any questions, Bob Ross is here, I can try to answer some questions as necessary. Ralph apologizes that he could not be here today.

CHAIRMAN GORDON COLVIN: Questions? Harry.

HARRY MEARS: I have a few general comments. I think Heather certainly did an excellent job of summarizing on the type of issues which were encountered during the first year of establishing a trap tag program, and also the shakedown year for the MOUs which the National Marine Fisheries Service entered into with interested states in terms of streamlining trap tag requirements.

Certainly the first year was very intensive in terms of the magnitude and frequency of the need for data information exchanged not only between Stoffel Seals and the National Marine Fisheries Service, but also on ad hoc issues with each of the states exchanging information, responding to individual constituent requests by telephone, and in turn coordinating that with the respective state, etcetera.

I strongly support the establishment of such a committee. There's a lot of issues to be resolved, but I'd also like to say at least from a National Marine Fisheries Service perspective considering it was the first year of the federal trap tag program and it was the first year of an MOU with the participating states to streamline tagging procedures, it did work amazingly well given all of the new issues which had to be encountered and all of the new

type of coordination and collaboration which needed to be implemented. We're not where we need to be, but certainly I think we've made an excellent start.

CHAIRMAN GORDON COLVIN: John.

JOHN NELSON: Thank you, Gordon. The only question I have is on the tag replacement and I guess I'm not clear on -- maybe even what the problem was or what do we mean by a small -- allowing fishermen to receive a small portion of replacement tags up front? I think we -- they get 10 percent beyond what they -- is allowed right now as routine losses. So, are we looking at the recycling of tags because they're replacement traps and therefore need to put new tags out there? I'm not sure what --

HEATHER STIRRAT: John, no. That was just a suggestion based upon the experience of Maine in particular, that they did issue the 10 percent up front and again, I'm learning here, so it may be that all of you do that, but that has reduced some of the frustrations that fishermen are experiencing relative to replacements.

JOHN NELSON: Okay. Well, I think everyone gets those additional. I was just wondering if that was a recycle approach. Thank you.

CHAIRMAN GORDON COLVIN: Ernie.

ERNEST BECKWITH: Yeah, just a question. Issuance procedures, I have a question about it says issues arising from sold, transferred or voided tags. I wasn't aware that tags could be transferred or sold. I know licenses can be. In our state, you can transfer a license, but if that happens, the person getting the license has to purchase a whole new set of tags.

HEATHER STIRRAT: To be honest with you, Ernie, I can't elaborate on that. I pulled this information directly from some of the August discussions, so I don't know if Bob has any additional comments on that or not.

ERNEST BECKWITH: Yeah, I think the issue there wasn't the tags

themselves. In our case it was the permit holders that transfer the vessel -- the vessel sold or transferred and then the disposition of the tags became an issue and we're dealing with that on a case by case basis. And again, this would be a good area to sit down under some umbrella of a subcommittee to exactly see how the different states are addressing situations like this where a permit holder sells his vessel, do the tags go, are they nullified, and again in your case, you know, they're nullified.

We've gotten different information from different states on how they address that issue and it's another part of the standardization of -- you know, up and down the coast, as well as for federal permit holders.

CHAIRMAN GORDON COLVIN: Any other discussion? I'm not quite sure -- I guess this report was compiled by Heather with input from Bob and from Stoffel.

HEATHER STIRRAT: And also Joe Fessenden from law enforcement.

CHAIRMAN GORDON COLVIN: Joe. I want to compliment you all on a very good report. This is excellent.

If there's nothing else on trap tags, may I suggest we take a ten-minute break at this time to allow people to check out? Mark.

MARK GIBSON: Well, there seems to be a recurring theme here, a need for a subcommittee. Is that something you require some action on or --

CHAIRMAN GORDON COLVIN: Heather, what do you think?

HEATHER STIRRAT: Actually, that gets at my comments earlier. I'm not really sure where we're at with this. Certainly there was a lot of discussion at the August meeting about how do we resolve some of these issues. And clearly from -- in speaking with Bob Ross, in particular, there are some issues that really need to be further fleshed out. And the suggestion of developing a subcommittee for those purposes may actually be one that the Board

wants to look into further.

CHAIRMAN GORDON COLVIN: What do you suggest, Mark?

MARK GIBSON: Well, I was prepared to make a motion to that effect if it's appropriate. If it's something that can be simply done by consensus and the appropriate Board members submit --

CHAIRMAN GORDON COLVIN: I need a motion. This almost falls within the purview Plan Review Team, perhaps with some kind of ad hoc modifications to its membership. And I think we just heard the names of the four people that have been doing the work; and at least one of them, if not two of them, are on the Plan Review Team.

So, perhaps if there is no objection, we could ask Heather to organize a subcommittee, if you will, or an adjunct to the Plan Review Team that would consist of herself, Bob, Joe, and with support from Stoffel and any other volunteers to address the issues that have been raised here that require some additional work and report back to the Board.

Without objection, that's how we'll proceed. Thank you, Mark. Pat.

PAT AUGUSTINE: Mr. Chairman, would you want a date certain on that or would you want it just to occur when it occurs?

CHAIRMAN GORDON COLVIN: I'm sure that they will work with all due dispatch consistent with their other assignments, Pat.

PAT AUGUSTINE: Thank you.

CHAIRMAN GORDON COLVIN: I'm not going to tie them down too tight.

PAT AUGUSTINE: Thank you.

CHAIRMAN GORDON COLVIN: That said, let's take that break, allow people to check out and give us a few minutes. We'll try to get back here by about -- well, let's say 15 minutes.

[BREAK: 10:22 A.M. to 10:53 A.M.]

NATIONAL MARINE FISHERIES SERVICE STATUS REPORT

CHAIRMAN GORDON COLVIN: The next agenda item will be Item 9, the National Marine Fisheries Service Status Report. Harry Mears.

HARRY MEARS: Thank you, Mr. Chairman. I still try to operate under the guidance of Ralph -- (Inaudible) -- to be as brief as possible. So, with that charge in mind, last Friday a Notice of Availability was filed in the Federal Register with regard to the Draft Supplemental Environmental Impact Statement responding to several recommendations made by the Commission, notably relevant to Addendum I to the plan, which was approved back in August of 1999. And just as an aside, I'd like to indicate that there have been some recommendations, including a waiver or removing a trap tag and trap number restriction for black sea bass permit holders in Area 5 have been separated from this particular EIS and will be treated separately due to logistical reasons, notably because it's associated with a resource which is currently being regulated under the Magnuson Act. That rulemaking should appear for public comment in the very, very near future.

What we have before us here today has three primary components. One is a preferred alternative for implementation of historical participation in Areas 3, 4 and 5.

The second component deals with a preferred alternative to approve conservation equivalent trap limits in New Hampshire waters for federal permit holders who also possess a full commercial New Hampshire lobster license.

And the third component deals with boundary clarifications for certain lobster conservation management areas in Massachusetts waters.

The comment period is open through January 9th, 2001. Unlike the initial draft EIS, which transferred management authority from the Magnuson Act to the Atlantic

Coastal Act, this EIS does contain preferred management alternatives. So, in some sense, it could be construed as the preliminary proposed rule versus a list of alternatives all of which -- not one of which was preferred as we initially dealt with the transferring of federal management authorities.

So, the reason I bring this up is that what's contained in this EIS is in many ways much more specific in terms of what the preferred management alternative is and arguably will shorten the time between which we have an EIS, which would then result in the next stage of a proposed rule, which will have another public comment period, and then the subsequent filing of a final rule for implementation of the proposed management measures.

I'd like to bring attention to certain other components of the EIS and we strongly encourage comments during this public comment period. One deals with a recommendation from the Commission to essentially do what we can on the federal end to begin the logistics for entertainment of management measures addressing a gauge increase. That particular discussion is on page 20 of the EIS and it in many ways dovetails with our earlier discussions here today concerning Addendum II to Amendment 3.

There are also from our perspective very important narrative sections in the Draft Supplemental EIS. Under issues to be resolved, which is -- if you look at the table of contents on small Roman Numeral i that deal with issues again relating to the minimum size issue, as well as recommendations from the Commission which we were not able to support at this time pertaining to closed areas, notably in Area 4.

The narrative endorses pretty much the findings of the Lobster Technical Committee that certainly closed areas by themselves have considerable potential for future consideration as a bona fide management measure, but in the current case we could not support or defend that this proposed approach using the areas which were recommended for a prohibition on the possession of lobster caught by lobster traps in this current case would afford

any substantive biological benefit to the lobster resource.

One other area, my final comment, there's also an area of concern section, which begins on page 18. It reiterates some of the complexities and apprehensions as we go forward with public comment on implementation of historical participation wherever it may be proposed in any management area, notably relevant to the ability or the ease of federal permit holders to assemble the necessary documentation.

And the final issue deals with conservation equivalency, notably to the extent that where as conservation equivalent proposals are approved under this interstate plan, the extent to which they may involve modification of federal regulations over time obviously necessitates considerable socioeconomic and biological analysis which in many cases conceivably delays the time period during which we can move forward with preferred management measures because of federal requirements under the National Environmental Protection Act or NEPA, and also the Administrative Procedures Act.

And that essentially summarizes where we are now. Once again, the comment period is open through January 9th. We have four public meetings scheduled during the week of December 11th. One will be held in Portland. Another one will be held in Narragansett. Another one will be held in Riverhead and the final one in Tom's River, New Jersey.

CHAIRMAN GORDON COLVIN: Thank you, Harry. Anybody have any questions about the schedule -- I'd like to stay out of the substance for just a minute -- about the schedule that NMFS is on? Bruce.

BRUCE FREEMAN: No.

CHAIRMAN GORDON COLVIN: No. George.

GEORGE LAPOINTE: Harry, how were those dates picked? Because the date in Portland coincides with our Lobster Advisory Council and our DMR

Advisory Council.

HARRY MEARS: The dates were picked within the scope of the public comment period and also trying to avoid obvious conflicts with the holiday season. We tried to be -- to the best extent we could to try to find out what concurrent meetings were taking place, recognizing that we couldn't obviously find ideal dates, but it was pretty much, George, an issue of trying to identify available facilities and also available personnel to conduct the hearings during the open public comment period.

BILL ADLER: Harry, given a perfect world, when do you think that you would then be coming out with a proposed final rule? What's the schedule on that more or less?

HARRY MEARS: As soon as possible.

BILL ADLER: Thank you. Any idea that it would be this year?

HARRY MEARS: Once again the question?

BILL ADLER: This year?

HARRY MEARS: This year, no.

BILL ADLER: No, I mean 2001.

HARRY MEARS: Arguably, yes.

UNIDENTIFIED: I love it.

CHAIRMAN GORDON COLVIN: Bill, in a couple of minutes I'm going to have something to say about schedules and trying to put things together. Let me do that now. I think it might be helpful before we got into any further discussion of the issue.

Obviously the appearance of the EIS that will -- is a precursor to federal rulemaking presents us with an opportunity that can occur simultaneously with the Commission's work on Addendum II and later Addendum III to consider the prospect for trying to conduct these decision making processes in a way that puts them together rather than

continues the kind of leap frog difficulty we've been having up until now with the kind of inconsistent timing in the decision making between the Board's actions and follow-up federal rulemaking under ACFCMA.

We had some discussion last evening with Harry and Pat involving Commission staff, myself, John Nelson, and Lew Flagg for George, and I think there was some feeling that it's worth the effort at this time to have our staff work with the NMFS staff to explore fully the procedural requirements, the timing and to ascertain the possibilities and the processes that might be used, and we might have to get creative about this, to try to put together a program whereby federal rulemaking and the Commission's decision making on the substance of its coming addenda could be put into sync.

And I don't have much more to say about it at this time other than that I think the agreement last night is that we would assign the staff to do that, we will have more to say about the details of it in January, and we all know that -- you know, our process is a little bit arcane.

We know about the federal process. It's very complex and can be very time consuming. It is going to take an effort, but I think that we all think that it's worth the effort to try to bring this together. And I -- you know, just think in terms of what we have on the table now from Area 3 where there's a great deal of the overlap occurs. And I think you can get a sense of the challenge. But I think we can rise to it if we work hard at it and as I said before, get creative.

At any rate, that's the vision and I want to thank Harry and Pat for coming forward and offering us an opportunity to work with them on this. And we're very hopeful that we'll be able to have some success. Does anybody have any questions about all that? I know it's kind of open-ended at this point.

(No response audible.)

CHAIRMAN GORDON COLVIN: No? This is too easy. Any comments? Bonnie.

BONNIE SPINAEOLLA: Quick comment. I'd just like to congratulate both agencies for making that decision and I think it will make everybody's life much easier.

CHAIRMAN GORDON COLVIN: Thank you.

BONNIE SPINAEOLLA: Great.

CHAIRMAN GORDON COLVIN: It does leave us with the issue of the comment schedule and the commentary on the EIS. And many of us as individual members will want to comment on the EIS, and we should. It will be difficult, obviously, for the Board to submit a comment on the record within the comment period.

I'm wondering whether the Board would have any concerns about authorizing the staff to offer some comments, basically along the lines of what I've just said that express for the record our desire to establish a process to connect the federal and interstate process better in time.

PAT AUGUSTINE: Why not?

CHAIRMAN GORDON COLVIN: Without objection, I think we can do that, and a draft of course of such comment will be shared with the Board before it goes, probably electronically. Okay, George?

GEORGE LAPOINTE: Yeah.

CHAIRMAN GORDON COLVIN: Everybody on board with that? Good. Anything further on this item?

(No response audible.)

CHAIRMAN GORDON COLVIN: Holy smokes. We've never spent this little time on a federal item and we've never had so much on the table. That's great.

UNIDENTIFIED: Let's review it page by page, just to stay on track.

CHAIRMAN GORDON COLVIN: No.

BRUCE FREEMAN: I had a question. Harry, when will this document be available?

CHAIRMAN GORDON COLVIN: It's in the back of the room today.

HARRY MEARS: There's copies on the back table.

BRUCE FREEMAN: All right. I just asked staff and they weren't aware of it. Secondly, you mentioned the issue of lobsters taken in the black sea bass fishery, and you indicate there will be separate rules published, and you indicated soon. Could you give us a little more feel for what soon is?

HARRY MEARS: I feel comfortable in saying it should be available within a couple weeks, if not sooner.

BRUCE FREEMAN: And that will be a proposed rule?

HARRY MEARS: Yes. There's already been an Environmental Assessment that's been developed in connection with it, so that type of time frame within two weeks to me is a very reasonable expectation.

CHAIRMAN GORDON COLVIN: Harry, is that rule going to be a Magnuson rule under the Sea Bass Plan or an ACFCMA rule?

HARRY MEARS: ACFCMA rule.

BRUCE FREEMAN: The reason I asked, we've had difficulty organizing the LCMT for Area 5 with this whole sea bass issue. We now have many people that want to become involved. We are trying to schedule a meeting very soon, and this obviously is a very important component of that meeting. In fact, it's been some of the hinderance of trying to get an LCM-5 together because it's primarily a sea bass fishery with a bycatch of lobster, as

you're well aware. And this issue is of great importance to the middle Atlantic states.

CHAIRMAN GORDON COLVIN: Thank you. Anything further?

(No response audible.)

LOBSTER HEALTH ISSUES

CHAIRMAN GORDON COLVIN: Let's move on to Agenda Item 10, Lobster Health Issues. Just by way of background, recall please that this Board authorized the creation of a Steering Committee as an adjunct to the Board, a Steering Committee on lobster disease issues.

The committee has been established. Its current primary function relates to providing management oversight to the administration of the research program underway for the Long Island Sound lobster die-off pursuant to emergency appropriations that occurred in -- earlier this year in the federal fiscal 2000 budget.

There was some hope that some additional appropriations might be going forward in the 2001 budget, perhaps focusing on lobster shell disease research. As we heard from staff at the annual meeting, it does not now appear likely that that line appropriation will be in the 2001 budget, but there may well be some other developments.

In the meantime, the Lobster Steering Committee is active in dealing with the Long Island Sound program. A few weeks ago, the minutes of the committee's first meeting were mailed to all ASMFC Commissioners and presumably all the Board members have had an opportunity to see them. The Steering Committee has authorized the issuance of a request for proposals for lobster disease research and has met to conduct a preliminary review of pre-proposals at a meeting held in Milford on November 8th.

The minutes of that meeting were distributed to you today. They have not yet been officially approved as the minutes of the Steering Committee simply because

it hasn't met to do so, but all the Steering Committee members have electronically signed off on the release of these and they stand for your information.

I don't have anything more to say, other than to entertain questions that you may have. Ernie or Harry, do you have any comments on this -- both obviously as members of the Steering Committee?

ERNEST BECKWITH: I don't.

CHAIRMAN GORDON COLVIN: Are there questions?

(No response audible.)

CHAIRMAN GORDON COLVIN: I guess it's my expectation that we'll continue to share the minutes of the committee with the Board as they come forward.

And let me just make one other statement. Any of you who are interested in more detail in what's going on, please do hit the Web site address that's listed here. There is a great deal of information there.

TECHNICAL COMMITTEE REPORT

CHAIRMAN GORDON COLVIN: Technical Committee Report, Carl.

CARL WILSON: I think we can get through this one pretty quickly, as well. The Technical Committee tried to get a meeting -- a face to face meeting in November together. It was not possible, due to scheduling conflicts. As a result, we had a conference call on Tuesday, a three-hour conference call in which we discussed a few of the points that Gordon, you directed us to look at on socioeconomic reference points and the final -- let me just get right -- and the effort reduction as well.

So, just to get to what we talked about, really the Technical Committee and as expressed with Gordon and George in a four-way conference call, as well,

referenced -- our dealings with reference points is really or could be the start of a very long process, where we're really going back to square one.

Before Amy left, we decided that we wanted to try to give the Technical Committee kind of reference points one on one discussion and we thought bringing in Larry Jacobsen from the National Marine Fisheries Service would be a good person to kind of get us all on the foot of where reference points are coming from.

Having said that, Larry was unavailable due to scheduling conflicts to meet with us in November. So, we're going to try to meet face to face in January and have a two-day meeting to discuss reference points. And the idea being is we'll generate a table or a list of areas that we can investigate and then generate those for the Board -- start dealing with and hopefully the Board can come back with us or -- you know, specific areas where they want -

A time line for reference points discussion, again we're meeting in early January. We don't expect to have the table ready by the January Board meeting. Hoping for the following meeting to have something ready.

The next major point that we talked about was the Socioeconomic Subcommittee. There were names thrown out in our August meeting and largely as a result of everyone being very busy and Amy leaving, we really haven't moved forward on the socioeconomic side of things.

Again, we confirmed internally names being thrown out for the Technical Committee or for the subcommittee on socioeconomic stuff, but we're going to confirm with those people and then present those names to you, Gordon, for acceptance.

Basically, the idea behind the socioeconomic study would be to investigate the impacts of implementation of the FMP and potential management measures, and try to get some of this very much needed social side of things.

As far as a time line, again we felt that having a graduate student work -- who's currently working in this area might be a good first step to get kind of a literature review going under the guidance of the subcommittee, feeling that this person could do a lot of the legwork behind it and then the subcommittee could then put the polishing touches on the discussion and we should be able to get a fairly fast turnaround, but again, probably not by the end of January. And if anybody has any questions, please speak up or they'd like me to clarify things.

We also talked about effort reductions and actually Bob Glenn and Joe Idoine prepared an excellent document that basically reviewed past Technical Committee and literature review of the relationship between effort reductions and fishing mortality.

The bottom line is we don't really know what that relationship is. We do know that in order for effort reductions by trap limits or however to impact fishing mortality we're talking dramatic, dramatic cuts. And it doesn't necessarily mean that lowering trap limits would have other impacts, such as socioeconomic impacts, but as far as fishing mortality effects we'd have to reduce a long ways.

There was also discussion basically between effort reduction and fishing mortality you have to basically interrupt what would be the hauling schedule, the trap hauls, and the soak time relationship in the fishery and you'd have to get to a point where they are not optimizing their effort with their soak times and haul frequencies.

There's also some discussion on any kind of competition between traps in the fishery and if in fact we're so far to the right with the numbers of traps, traps are very likely competing with each other; therefore, reducing their efficiency. And some studies have shown that if you reduce your traps somewhat, you could actually increase the efficiency and increase fishing mortality. So, at some point there is a relationship. When you reduce the traps to some point, your fishing mortality is going to decrease. We don't know where that is right

now.

Further work in this area, each state representative is going to try to compile a list of license holders and how many trap tags are issued to them and an estimation of how many traps are actually being fished. For example, in Maine, the numbers of tags being fished -- the average number of tags are well below the maximum trap limit.

So, there's actually just with existent permit holders there's the potential to increase dramatically with effort into the fishery. And just as a Technical Committee, we want to kind of go through the exercise and just see how much more could get in without any further restrictions on that, as well. So, that -- we're going to be generating that list for the next meeting.

We did talk about Addendum II requirements and specifically escape vents. And there was a good relationship established for rectangular vents -- increases back in 1998 put together by Bruce Estrella.

This was not applied to circular vents at that time. As I told Pat earlier today, any estimation of circular vent size is an extrapolation in that the proposed two and a half inch circular escape vent was actually not tested, but was an extrapolation from other escape vent sizes. But as a Technical Committee, we felt we had a consensus that the -- we should recommend for the two and a half inch escape vent size -- to go along with the two-inch rectangular vent.

We finished up the meeting with just a basic description of how people felt the fishery was going. The dividing line seemed to be from bad south of Cape Cod and good north of Cape Cod, I think could be summarized by good and bad. So, that's about it. I don't know, Heather, if there's anything else that we wanted to talk about.

HEATHER STIRRAT: I don't have anything to add to Carl's summary other than to request some input at least from the Board as to how we want to deal

with the graduate student and this perhaps small but monetary contract that we would need to enter into. I don't know if there's a formal process. It's not something that I as staff am familiar with, and perhaps this is something we can take care of just between Gordon and I. I don't know. I'm looking for a little bit of direction as to how we can move forward with that or not.

CHAIRMAN GORDON COLVIN: Well, I guess the issue of a Commission contract boils entirely down to whether or not we have funds available in the budget budget and I'm looking at Dieter. He's shaking his head.

DIETER BUSCH: Do we have a cost estimate on what a grad student would cost for this kind of project?

CARL WILSON: Well, in just offhand conversations around \$400. Enough to gather some literature and start the -- you know, start to put some thoughts down on paper.

DIETER BUSCH: 400?

CARL WILSON: Yeah.

UNIDENTIFIED: Go for it.

CHAIRMAN GORDON COLVIN: You can find \$400, can't you, Dieter?

HEATHER STIRRAT: There are enough moneys for that within the Technical Committee appropriations that remain for this calendar year, so I think we could go ahead and --

CHAIRMAN GORDON COLVIN: Any objection?

(No response audible.)

CHAIRMAN GORDON COLVIN: Fine.

DIETER BUSCH: I thought we were going to be talking about --

CHAIRMAN GORDON COLVIN: I know.

DIETER BUSCH: -- increments of fives of thousands. So, this comforts me greatly.

UNIDENTIFIED: -- contributions from Maine.

CHAIRMAN GORDON COLVIN: Are there questions for Carl? Harry.

HARRY MEARS: Mr Chairman, sticking with the topic of the socioeconomic study, is there any action needed by this Board to formalize the constitution of the socioeconomic subcommittee?

CHAIRMAN GORDON COLVIN: That's a good question. I think that we have authorized the establishment of such a committee in the charter that we adopted sometime back. I think that was one of the specific subcommittees that was identified as authorized. I think the issue may be at some point formally approving with membership and I'm not quite sure we're there yet.

CARL WILSON: Well, what we wanted to do was go and ask the people if they would be willing to participate first, and then bring those things forward.

CHAIRMAN GORDON COLVIN: I think at that point it would be appropriate for us to do that as a formality to approve the membership, maybe at our next meeting. Other questions for Carl? Yeah, Harry.

HARRY MEARS: I have one final question for Carl. Under Item -- Other Business, 8A. It speaks to the Draft Supplemental EIS and there's a narrative there concerning clarification made by Claire McBain and then the subsequent item on this information. Could you explain that in further detail?

CARL WILSON: Not very well, I don't think. Basically I was alerted of the DEIS over the weekend and making calls to figure out what it was about. And that's pretty much it. But as a Technical Committee, we really didn't know too much about it,

and so we -- that was just another thing -- what is it, what's going on.

CHAIRMAN GORDON COLVIN: Anything else? Other questions?

(No response audible.)

CHAIRMAN GORDON COLVIN: Thank you. Carl indicated that there had been some follow-up discussion on the issue of reference points that involved myself and the Vice Chairman. It might be worthwhile to just comment on that for a minute because there is a certain near parallel to yesterday's discussion on a similar subject involving Striped Bass Technical Committee.

And I think the advice was the same, although I don't -- I wouldn't characterize where we are with lobsters as kind of difficult as the situation was portrayed with striped bass yesterday.

I think the advice we gave was that however was consistent, and that is that it's important and we encourage the Technical Committee to not operate under an arbitrary deadline to try to rush something together, but rather to take the time and follow the process that's necessary to move forward constructively on the basis of sound science, and hopefully consensus, and to advise the Board what you need from us to help make that happen. I think that's a fair representation. Isn't it, George?

GEORGE LAPOINTE: Yeah.

CARL WILSON: I think the Technical Committee is looking for directions back to it as well from the Board.

CHAIRMAN GORDON COLVIN: I think -- and that's exactly what we heard on striped bass. I think the best way for that to happen is frankly for the Technical Committee and the staff to bring to the Board for all intents and purposes a decision document that presents the issues, analyzes them, identifies the options and the consequences and then we

can make some choices. But we're not going to see the Board spontaneously self-generate complex advice without that kind of assistance. We need your help in order to get the issues laid out that way. We're not smart enough to do that on our own, not in this area.

Anything further on the Technical Committee?

(No response audible.)

ADVISORY PANEL REPORT

CHAIRMAN GORDON COLVIN: Advisory Panel Report, Dave. I know you have one issue you'd like to bring forward to us, at least.

DAVID SPENCER: Thank you. I don't have a report because we have not -- the Advisory Panel has not met since the last Board meeting, but I do have a request of the Board on behalf of the Advisory Panel.

At our last Board meeting, the Advisory Panel gave a report which contained three main items. One was Amendment 4 issues, the second was the composition of the Advisory Board, and the third was a request the Advisory Panel had to discuss transferability of trap allocations.

The first two items there was some discussion, especially on Amendment 4. I believe the composition of the Advisory Panel had been discussed in a previous Board meeting, but there was no discussion on the third item and I honestly feel that the Advisory Panel spent quite a bit on time on this and when somebody asked me what was the Board reaction, I can't give them any.

So, my request at this point is -- especially on the third issue, which is the recommendation was to set up workshops to talk about transferability of trap allocations, that the Board discuss it and -- at least give me something to take back to the advisors. Thank you.

CHAIRMAN GORDON COLVIN: Thank you. This is probably one where we're going to miss Amy because this is something that clearly happened before Heather was working with us. And I'm not quite sure myself if I can recall specifically how we responded to that advice. So, I would throw this discussion open to the Board to try to help with this now or we could ask Heather to kind of research our records and try to be prepared to respond to Dave's request, which is certainly appropriate and in order.

And I know that the issue was discussed. I just don't recall the degree of formality with which we reviewed, discussed and decided on issues associated with that advice. I just don't recall frankly.

Without objection, and Dave, can you bear with us a little while while we ask Heather perhaps to check the records, talk to some of us, talk to perhaps Amy and try to get back to you with a clear answer to your question? We'll proceed accordingly.

Any other issues on behalf of the AP, Dave?

DAVID SPENCER: No.

CHAIRMAN GORDON COLVIN: Bill.

BILL ADLER: Did we have a move to accept these applications for the AP?

CHAIRMAN GORDON COLVIN: That's coming up under Other Business in a couple of minutes.

BILL ADLER: Oh, okay.

LAW ENFORCEMENT REPORT

CHAIRMAN GORDON COLVIN: Law Enforcement Report. Joe, do you have anything for us today?

JOE FESSENDEN: Well, I don't have a report, but I have a couple

of comments I can make. First of all is on the tag issuance issue with -- between the states and the feds basically having an MOU on tag issuance, and in some cases members of the industry, harvesters, have contacted the feds and got additional tags issued to them.

And I've received concerns from a number of states on this particular issue and it's becoming more and more confusing to law enforcement. And it's something we need to work out. I've been talking to Bob Ross and Peter Burns about it and we need to deal with that issue sometime down the road, because enforcement officers really looking for tags in the traps and when the traps are being transferred on the waters, and it becomes quite confusing when there's a federal tag or a state tag. And the harvesters certainly don't -- really don't know what's going on.

In Maine, we're in the process right now of sending out a mailing to all the federal permit holders with state licenses, informing them that they need to have a state tag in all their traps. And if they choose to put a federal tag in there, that's fine, but it seems to me it's really confusing -- the trap tag issue -- it's confusing the fishermen. I think we understand it, but I'm not sure the fishing industry understands that.

And it's not just in Maine. I just heard from Kurt Blanchard in Rhode Island a few minutes ago during the break about this very issue, but I've heard from other law enforcement members on this particular issue. So, I'd just throw that out. It needs to be resolved sometime down the road.

CHAIRMAN GORDON COLVIN: I would suggest that an appropriate venue to begin to address it is that subcommittee that you'll be part of, Joe, that we talked about earlier.

JOE FESSENDEN: Okay. And the other issue is enforcement of the trap tag program. I know from our own experience in Maine we have been very successful and we're receiving very high compliance from the industry, and I think that's a result of some

enforcement actions we've taken, plus fishermen wanting to make this thing work.

They've seen an increase in their catch. Things are going very well for them up our way and they have an expectation from us, enforcement, that we're going to enforce the trap tag program. And I'm hearing from fishermen from outside the State of Maine of a lot of concerns that the program is not being enforced and enforcement people are telling me that they don't have the tools and resources to enforce it.

So, I'd just throw that out that I think it's important to give the Law Enforcement the tools and resources to enforce these trap tag programs. If you've got a program and it's not enforced, I'm not sure how effective that program really can be.

Voluntary compliance just goes so far and I really have not heard of any success stories coming out from the other states about effective law enforcement in this particular program. And I just -- just stressing that issue again. I hear it from the Law Enforcement Committee. They're kind of jealous over what's happened to us in Maine where we actually get support from the fishermen to enforce the program, but it's an effective way to operate and we've been successful. I will answer any questions. Bill.

BILL ADLER: Joe, could you talk to the Massachusetts guys and see -- maybe give them some hints as to how to do it because it's horrendous down our way and the fishermen were about ready to throw the tags over and say it's a joke. So, I don't know what the tips are, but it's a bad situation down in Massachusetts with the enforcement of the tag system and I don't know if there's a way through it, but I think I need to go on record as saying that they're very concerned about it. They want it enforced. They do want it enforced, but we're having a tough time in Mass.

CHAIRMAN GORDON COLVIN: Any other questions? Thanks, Joe.

OTHER BUSINESS

CHAIRMAN GORDON COLVIN: Other Business. First item is Connecticut's recreational fishery proposal. Ernie.

CONNECTICUT'S RECREATIONAL FISHERY PROPOSAL

ERNEST BECKWITH: Thank you, Mr. Chairman. This past year we had encountered some problems in administering our tag program for our personal use fishery and we'd like to address those this coming year. And our proposal -- our solution to the problem is to change the effective date of the tags or the fishing year from June through May to a calendar year basis for the tags that would be issued and be effective January 1st through the following December.

Some of the problems that we had encountered, first I'd like to tell you that we have about 1500 personal use fishermen and they have a ten-pot limit. And they -- we got a lot of feedback from them this past year that -- this new system was quite burdensome to them because they had to get a money order or a credit card and send that over to Stoffel Seals, and it's only \$2.14 to get ten tags. They thought that was awfully burdensome and they thought that there's no reason why the State of Connecticut could not issue those tags to them directly and we feel that they are correct.

Also this system was burdensome for Stoffel Seals, also, because we have so many recreational personal use fishermen they only get ten tags a piece. They thought it was very, very burdensome but they agreed to go ahead and do it for us and administer the system.

So, essentially what we're proposing is instead of having Stoffel Seal administer this, the State of Connecticut would issue the tags directly.

Another problem that we encountered was that the ten trap limit

according to our law enforcement people could not be effectively enforced. Because of the way the Stoffel Seals printed up the tags they could not stop the press for ten tags and put an individual fishermen's license number on it and run those ten tags and do another one. Obviously they just -- it was much, much too burdensome for them. So, they just issued the tags with consecutive numbers, and the way it worked out they just could not -- you could not enforce it.

The law enforcement person was out there. He had no way of knowing whether a personal use fisherman was pulling his tags or his traps or someone else's traps. Also, a personal use fisherman could -- each one is limited to ten. They could have their wife, brother, friend, whoever, purchase tags, get licenses and give him all the tags and so he could fish as many as he can get people to give him tags.

So, one solution that hopefully we can put in place if you do allow us to go forth with this is that we have a license plate that all commercial fishermen and the personal use fishermen have to show on the vessel and they get an annual decal, and Stoffel Seals has agreed that they can run the tags in series of tens with the same number. For instance, they can run ten tags with number 1, ten tags with number 2.

And what we can do is key our decals with the same numbers so when we issue a license and ten tags to a personal use fisherman he'll also get a decal with that same number on it, so when the law enforcement officer checks someone he'll see what the number that's on the tag on the pots. He'll also check that against the decal number and that way we can effectively enforce the ten trap limit.

We don't feel that by going to the calendar year change it's going to have any effect on area management. We -- our personal use fishermen can't fish in other waters. We don't think it's going to have any effect on the commercial fishery at all or the way that it's currently managed.

So, we really don't see any problems with it. It really solves a lot of issues and problems for us. It's much more customer friendly for the commercial fishermen. And with that, Dieter has a motion up on the -- he'll put a motion up on the screen which I would like to offer. Would you like me to read the motion?

CHAIRMAN GORDON COLVIN: Please. We need to read it into the record.

ERNEST BECKWITH: Okay. I move to allow under adaptive management a change to Addendum 1 to Amendment 3 of a Lobster FMP for states to issue personal use trap tags on a calendar year basis in order to be on the same schedule with the issuance of required recreational fishing licenses.

CHAIRMAN GORDON COLVIN: George.

GEORGE LAPOINTE: I'll second that if it's necessary, Mr. Chairman. One of the concerns I have is based on our individual use tags, which we allow five. I mean, have you had rapid growth in this category of tags?

ERNEST BECKWITH: Actually not. It's gone the other way. We used to charge \$25 for the license. We went up to 50 and we lost about half of the people.

GEORGE LAPOINTE: From our perspective, our number is increasing and so that's something we're watching for just for the management implications of the individual licenses.

CHAIRMAN GORDON COLVIN: Mark.

MARK GIBSON: Does this motion apply just to the State of Connecticut or --

GEORGE LAPOINTE: I think it gives you options.

MARK GIBSON: We have the option of retaining our current here in Rhode Island because we're just the opposite. Our license schedule doesn't work to do that

issuances of --

CHAIRMAN GORDON COLVIN: As I interpret the motion, it would apply to any state but it is a motion that provides an option and is not mandatory. Bruce.

BRUCE FREEMAN: I support the motion. My question concerns the last phrase, Ernie, where the issuance of this is required because of a recreational fishing license. It would seem to me this would be very useful, certainly from our case, to issue it on a calendar year basis. But we don't have a recreational fishing license, so this motion appears to me to be useful, but with only those states that have such requirements. Was that the intent?

ERNEST BECKWITH: Well, the -- to be quite frank with you, the original intent was just to have a motion for the State of Connecticut. That was my primary concern. Dieter helped me draft a motion when it came up on the screen that included all the states. So, I don't care. If you want to just make it specific to the State of Connecticut, that's fine.

BRUCE FREEMAN: No, no. I don't want to do that. I'd rather make it general. No, I think this is very useful. It just gives flexibility and this issue of issuing trap tags for recreational use can be a nightmare or it can be simple. And I think we're making it a nightmare. This makes -- simplifies it.

My only concern is would you be willing to leave out the phrase with the issuance of required recreational fishing licenses, just drop --

ERNEST BECKWITH: Yeah, you really don't need that. Just as long as we're allowed to have the effective date of our trap tags for a personal use fishery to be a calendar year. That's all I'm trying to achieve.

BRUCE FREEMAN: Yeah, I would agree. If you'd be willing to drop that phrase, --

ERNEST BECKWITH: I have no problem dropping that.

BRUCE FREEMAN: Okay.

CHAIRMAN GORDON COLVIN: George.

GEORGE LAPOINTE: I'm fine with that.

CHAIRMAN GORDON COLVIN: Okay. The other thought I had, consistent with the comments, Ernie, is what about the option of having the first line of the motion read motion to allow states the option under adaptive management to change -- no, a change. And that makes it very clear that this is an optional -- an option the state may select if they choose. Okay. It's accepted.

Further discussion on the motion?

UNIDENTIFIED: Call the question.

CHAIRMAN GORDON COLVIN: Question being called, all in favor, please signify by saying aye.

(Response.)

CHAIRMAN GORDON COLVIN: Opposed, same sign.

(No response audible.)

CHAIRMAN GORDON COLVIN: Abstentions?

(Response.)

CHAIRMAN GORDON COLVIN: Abstention by the National Marine Fisheries Service. Null votes?

(No response audible.)

CHAIRMAN GORDON COLVIN: The motion carries. Anything further on that, Ernie?

ERNEST BECKWITH: No, thank you.

CHAIRMAN GORDON COLVIN: Okay.

ADVISORY PANEL NOMINATIONS

CHAIRMAN GORDON COLVIN: Advisory Panel nominations.

We have in our mail-out -- well, by way of background, remember that we are in the process of phasing in changes to the composition of the Advisory Panel. Heather can bring us up to date on the proposed nominations that bring us closer to doing that. It is in your packet.

HEATHER STIRRAT: There are two new nominations for the Advisory Panel. They include George Doll, who is a lobster trap fisherman from New York, and Warren -- and I hope I get this right, Warren -- Warren Apel.

WARREN APEL: Right.

HEATHER STIRRAT: Commercial trap fisherman from New Jersey. Staff is kindly requesting that the Board review the applications which have been included in your briefing packet and submit these two nominations for approval.

BILL ADLER: I move approval.

UNIDENTIFIED: Second.

CHAIRMAN GORDON COLVIN: Seconded. Discussion?

(No response audible.)

CHAIRMAN GORDON COLVIN: Is there objection to the motion?

(No response audible.)

CHAIRMAN GORDON COLVIN: The motion carries. Appreciate that both new Advisory Panel members are here today. Thank you.

UNIDENTIFIED: Stand up.

UNIDENTIFIED: Let's see who they are.

CHAIRMAN GORDON COLVIN: Go ahead, Mark.

MARK GIBSON: I have a question relative to Advisory Panels.

We're listed as having Rhode Island two representatives. This results from the downsizing we

did relative to Commission structure and panels, technical committees and all that. We had an interest in coming forward with a replacement for Robert Smith. Since we've been downsized, am I to conclude that -- we currently have three people listed -- that we don't have the opportunity to do that?

CHAIRMAN GORDON COLVIN: That's correct.

MARK GIBSON: Okay. All right. We'll take that under advisement --

CHAIRMAN GORDON COLVIN: Obviously --

MARK GIBSON: -- (Inaudible.)

CHAIRMAN GORDON COLVIN: Yeah. You understand. Bill.

BILL ADLER: I brought this up at another meeting at another time, and if we could request Tina take a look and see when reconfirmations are necessary, because there are several that were confirmed in '95 and reconfirmed in '99. So, I'm assuming that the '96 advisors are due for reconfirmation. So, if we could just bring that to Tina's attention to take care of that.

CHAIRMAN GORDON COLVIN: I think Tina's -- pretty well standardized now, Bill. And I'm at the point where I'm basically expecting to see from her annually a list of advisors whose appointments need to be reviewed because their original terms have come up. I think you're going to find that's more and more a routine process.

Anything further on the Advisory Panel nominees?

(No response audible.)

PROPOSAL FOR MEMBERSHIP OF LCMT-3

CHAIRMAN GORDON COLVIN: The last item of business concerns a proposal for the membership of LCMT Number 3 that was passed out this morning.

There is a letter to me from Paul Diodati indicating a desire to appoint Bob Colbert -- I'm sorry -
- Mark Palumbo to Area 3.

Now, this is just my request to the Board to confirm the Chair's recollection that with respect to the membership of the LCMTs, their composition and the appointing authority, i.e. you know which members -- which states is laid out in our administrative record for want of a better word in the past. And that by and large, so long as there is no objection to Massachusetts authority to appoint this member, the actual selection is up to Massachusetts and the Board takes note of it but does not approve it.

Is that -- I'm seeing a lot of heads nodding, and so I would say at this point is there any objection to Massachusetts making this appointment?

(No response audible.)

CHAIRMAN GORDON COLVIN: Seeing none, that appointment is fine and Jim, thank you for bringing this forward. Bruce.

BRUCE FREEMAN: Does the Board really have -- I don't recollect the Board having a say in object -- is this --

CHAIRMAN GORDON COLVIN: In this case, it's not to the appointment, but as to whether or not -- Area 3 many different states appoint members and just for the record is there any objection to Massachusetts continuing to appoint this member. The answer was no.

BRUCE FREEMAN: Okay. But I don't recall us asking for objections to any other of the areas?

CHAIRMAN GORDON COLVIN: No. Area 3 gets a little -- you know, interesting sometimes, but -- you know, for example, Bruce, New York and New Jersey each appoint four to Area 4 and I would not propose to bring them forward here. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Point of

clarification. Heather scanned that very quickly. Did you see any problem with that in your review of it?

HEATHER STIRRAT: No, I don't see any problem with that and to this issue, Jim had requested earlier for me to elaborate on the process; and the process, as I understood it, was that the state makes the nomination and as Gordon has mentioned, without objection, that moves forward.

PAT AUGUSTINE: Thank you.

FURTHER BUSINESS

CHAIRMAN GORDON COLVIN: Is there any further business to come before the Lobster Board today? John.

JOHN NELSON: We still need to deal with --

CHAIRMAN GORDON COLVIN: We need to come back to something that we deferred earlier, yes, we do. And I know Mark has a report for us. Mark.

RHODE ISLAND COMPLIANCE

MARK GIBSON: Okay. I keep taking my candy out of my mouth. We're in compliance. No.

I have copies of the November 29th filing that was done on an emergency basis that was filed under the condition of effective immediately, so that was filed with our Secretary of State yesterday with an effective -- immediate effective date and I guess you're probably aware earlier emergency actions by our director have a time period and we have secured authorization from our Marine Fisheries Council for a public hearing, probably be in the middle of February, which will fit in the 120 day window where they will take public comment on this regulation which now exists and then they would be in a position to affirm that action by

the director.

There's also a possibility that they might not concur at that time, but the time line is now set. The regulations have been reinstituted by emergency action. The time line has been set for additional public hearings and our Marine Fishery Council action. So, we can provide copies and we'll make sure the Commission gets a copy of that.

CHAIRMAN GORDON COLVIN: Thank you. Is there any action the Board would like to take at this time? Jill.

JILL GOLDTHWAIT: Is there any process in Rhode Island for appeal of such emergency action?

MARK GIBSON: Not in the emergency part of it, but certainly we're required under Administrative Procedures Act to have a public hearing within 120 days of this action. Our Council has agreed to do that.

I'm sure there will be extended public comment from the same parties who oppose this regulation and there is -- there's no certainty that the Council will affirm that. This remains a big problem for the State of Rhode Island. This isn't going away because of emergency action or necessarily Council action.

Our Council is going to want to see from this Commission a clear statement that Amendment 4 is going to happen and the states are going to get the flexibility they need to make allocation decisions within their states waters on the lobster resource. If -- I believe that if our Commission doesn't think that that's going to happen, they may very well take a different course when their turn comes up again.

JILL GOLDTHWAIT: My concern, if I may follow-up, is just that if we are looking at this as -- Rhode Island's compliance of 120 days, is there any other mechanism which next week somebody could file something else, which means that this order is not in effect?

MARK GIBSON: Not within a Department, but certainly fishermen who are in opposition to this have their legal recourse to look for things like declaratory judgements in a court of law and that could very well -- they could very well avail themselves of that possibility.

CHAIRMAN GORDON COLVIN: Mark, earlier in the meeting we took up the agenda item of the update of the PID for Amendment 4. I believe you heard that discussion. Does that give you concern with respect to the Council's reaction to the status of our progress on Amendment 4?

MARK GIBSON: A little bit. I mean, I understand that just chronologically Amendment 4 can't happen until Amendment 3 and its addendums have worked their way through, and those are the Commission's priority. Minimally, I'll be able to report to our Council that documents have been prepared by the two states that are interested in it and it simply remains now for those documents to be merged in order for a unified public information document to be produced.

So, I certainly can produce -- advise them of the progress that's being made. I think they will still have some fairly pointed questions about how long is this -- how long is it going to take and when are we going to have the flexibility that we're asking for, and how does that fit in the context of 120 days and complaints from the industry.

CHAIRMAN GORDON COLVIN: I would just want to point out and note here that of course that it's clear that the Board's willingness to proceed on Amendment 4 is predicated on the necessary staff work being provided by the states of Rhode Island and Massachusetts and that -- you know, that's kind of for the record again.

There seems to be no reason from my perspective, given where we are now, that that PID cannot be cleaned up and before this Board at its January meeting, but the ball's kind of in your courts, gentlemen. And I would hope that everybody's aware of that and

will be able to find the time to make that happen. Thereafter, then we need to have the necessary public hearings and decide how to proceed.

Again, I'll ask the question. At this point does the Board wish to take any further action on the subject? George.

GEORGE LAPOINTE: I should know this, but I don't. Is it our normal course of action when a state comes back into compliance to notify the Secretaries -- the Secretary of that fact?

CHAIRMAN GORDON COLVIN: Well, I'm going to ask Dieter.

DIETER BUSCH: If a state was back in compliance, then yes, through the normal action of withdrawing the noncompliance finding. But in this case, I don't think that really applies at this point in time. The state is taking some action, but the action is not finalized. It doesn't resolve the noncompliance issue.

GEORGE LAPOINTE: Why? It's an emergency action. My understanding of emergency action is as of today you have the 100/500 in Rhode Island state waters.

DIETER BUSCH: We may have to find them out of compliance again if at the end of 120 days a different action is taken, but for the next item period, for this 120-day period --

CHAIRMAN GORDON COLVIN: Let me offer a suggestion. I think this is based on the Commission's process. My understanding has been that when a state is in a noncompliance situation and the Commission has so ruled, and the state takes the appropriate action, the adoption of a rule, the enactment of a law or whatever it takes, to bring their status back into compliance the ordinary practice -- and this doesn't usually happen within the time frame or the convenience of a meeting of the Commission, it usually happens between meetings, the usual practice is the state formally notifies the Commission of the change in status

with the documentation and requests action by the Commission to change the Commission's determination.

Our procedures authorize the Chairman of the Commission on the advice of the Executive Director where the situation is clear to advise the Secretary that the state has come into compliance. And that's been done. I know I've done it. And that may well be the best situation here given some of the procedural questions that Dieter has raised and the fact that although we've heard from Mark, and he's brought a copy of the rule, and I'm very glad to hear what he's told us, formally the state has not yet written to the Commission and stated on the record in writing what has happened and requested the Commission to change its advice to the Secretary. And I think that step needs to happen before anything formal can really occur.

I did talk to Jack a little bit about this yesterday and he mentioned some of the same concerns that Dieter raised, and I think those would need to be examined by staff before they would be comfortable advising the Chairman to send such a letter to the Secretary.

Bruce, was that your hand that went up? No? Anyone else? Jill.

JILL GOLDTHWAIT: Would it be appropriate, Mr. Chairman, to authorize you to make a -- to send such a letter to the Secretary once you are in receipt of the written explanation from Rhode Island and staff and address those concerns?

CHAIRMAN GORDON COLVIN: Well, I don't think so, and the reason is that technically it's not the Board that's in custody of this now. It's the Commission and it is the Chairman of the Commission that needs to take that action. The Board -- at this point the only role we have is advisory to the Commission. The only action that we could take today is to pass a motion to advise the Commission of our thinking based on what has been reported by the Rhode Island members.

JILL GOLDTHWAIT: Then I would so move.

CHAIRMAN GORDON COLVIN: And we are going to advise them, we need to say what that advice will consist of.

JILL GOLDTHWAIT: That pending receipt of the written documentation from the state of Rhode Island regarding their compliance with this provision, that it would be our recommendation that the Secretary be notified that they are in compliance for that 120-day period.

CHAIRMAN GORDON COLVIN: Is there a second to that motion?

PAT AUGUSTINE: Second.

CHAIRMAN GORDON COLVIN: Pat Augustine. Discussion on the motion? I'll get to you in a minute, Jerry. Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Would there be a clarification statement in there? I think you said that, that it will be clearly stated it's for 120 days?

CHAIRMAN GORDON COLVIN: Yes.

PAT AUGUSTINE: Thank you.

CHAIRMAN GORDON COLVIN: Part of the motion.

PAT AUGUSTINE: I didn't see it up there.

CHAIRMAN GORDON COLVIN: Dieter.

DIETER BUSCH: To maybe step back from this a little bit, if I understood you this afternoon, you indicated that this was not a done deal and the process is underway to get this sort of system, but it may not be approved.

I also had some discussion with some Rhode Island members as far as Amendment 4 and the time for Amendment 4 and I respectfully would like to suggest that it does not have to wait in line for other things to happen.

As soon as the documents are available and the two states provide

information in a format that we can help with so we can move that forward. So, the hope is that whatever happens that the Amendment 4 process will resolve the issues, also, and that's a permanent and more solid solution than these emergency actions.

So, I also want to be cognizant of the cooperation with National Marine Fisheries Service in that the state was found out of compliance, whether it -- the Board decided on that at its last meeting and this emergency action is a step to resolve an immediate need, but not necessarily to resolve the out of compliance issue, especially if it expires or it's not completed.

So, right now the Commission can of course contact the Service and under its time line and ask it not to close down the fishery during this six month period or whatever the time line is, so again that fits into all this and hopefully we can get all this cleaned up for Amendment 4. Thank you.

CHAIRMAN GORDON COLVIN: Thank you, Dieter. Jill, there is a motion up there now. Is that your motion?

JILL GOLDTHWAIT: Yes, except for the mysterious appearance of the word not after 100/500.

CHAIRMAN GORDON COLVIN: Okay. Secunder is satisfied with the motion?

PAT AUGUSTINE: Yes.

CHAIRMAN GORDON COLVIN: Dennis Abbott.

DENNIS ABBOTT: Thank you, Mr. Chairman. Following the passage of this motion, would you tell me what would happen if in February when Rhode Island has their meeting that they decide to go out of compliance again, where would the Board -- what would the Board do at that point in a time sequence?

CHAIRMAN GORDON COLVIN: I don't think the Board would do

anything. This motion advises the Commission that based on what we heard today and pending written confirmation Rhode Island is in compliance for the period of time covered by their emergency rule, period. And what happens at the end of that is not addressed by the motion. And presumably it wouldn't be until we knew.

The other thing is that -- again, based to some degree on my experience with the staff's handling of these situations, the staff will review carefully with Rhode Island -- among themselves and with the Chairman of the Commission exactly what the situation are, what the contingencies are, and will make I believe an appropriate determination, if necessary in consultation with the full Commission, but that's rarely necessary because usually these situations are very clear.

But I don't think this motion does anything more than just contribute this Board's advice to that group of deliberation -- that deliberative process that the Executive Director will manage.

DENNIS ABBOTT: If I may, maybe I'm not making myself perfectly clear. After passage of this motion, you're going to go about the business of putting things in order. In February, Rhode Island meets. Their Council decides to go out of compliance. Will the Board at that time have to meet to put them out of compliance again and we're going back and forth and back and forth?

CHAIRMAN GORDON COLVIN: My belief is no. I believe that this motion -- and this is how I read the motion -- this motion covers the existence of an emergency rule so long as it exists. And if it doesn't exist anymore, the motion disappears and our previous position pertains.

DENNIS ABBOTT: Thank you. That's what I want --

CHAIRMAN GORDON COLVIN: Ernie.

ERNEST BECKWITH: Yeah, I think I may have a solution.

Actually, you even mentioned the solution sort of sidehand there. But I think what bothers me and I think what's bothering Dennis a bit is that there's a period -- a definite period in there of 120 days and the issue is what happens in 40 days or 50 days if they change their mind and this rule is no longer there. Perhaps we should say instead of a period of 120 days say for -- during the effective period of the emergency action or until it's affirmed. That way it's not tied to any specific time period.

CHAIRMAN GORDON COLVIN: Jill.

JILL GOLDTHWAIT: I have no problem with that.

CHAIRMAN GORDON COLVIN: Pat.

PAT AUGUSTINE: No problem.

CHAIRMAN GORDON COLVIN: Let's see how that looks.

PAT AUGUSTINE: Point of clarification. Mr. Chairman, to the maker of the motion, are we assuming then that the written notification that we've heard from Mr. Gibson is indeed effective as of now or --

CHAIRMAN GORDON COLVIN: No. We are assuming that the written notification from the State of Rhode Island will confirm what Mr. Gibson has told us, that the emergency rule was filed yesterday.

PAT AUGUSTINE: Fine. Thank you for that clarification.

CHAIRMAN GORDON COLVIN: Harry.

HARRY MEARS: Just for the record, I'd like to emphasize the sensitivity of the time factor here, because we have only 30 days following original notification of noncompliance in that 30-day period will end December 5th. So, it's extremely urgent that any changes to the finding of record that exists now be made in the next three days.

CHAIRMAN GORDON COLVIN: I'm sure that the state's aware of that and I'm quite sure that Mr. Dunnigan is. Jerry.

JERRY CARVOLLO: It's my understanding that the Service has to provide a recommendation to the Secretary of Commerce in a certain time frame. The State of Rhode Island is supposed to meet with the Service on December 5th and then the Service's recommendation goes to their legal and then the legal clears it or doesn't clear it and then it's forwarded to the Secretary of Commerce. I don't know how you're going to do all this in that short time period.

Suppose Rhode Island, as an example, raises some bona fide objections and it wouldn't pass muster. Does that mean that the Service is not going to make the recommendation or would make a recommendation contrary to what this group has proposed?

HARRY MEARS: You've made a series of statements and questions and I'm not sure I agree with all the statements, but with the questions, the December 5th meeting date is problematic. The State of Rhode Island is aware of that and certainly of the importance of the provision of written comments during the 30-day period prior to the determination.

JERRY CARVOLLO: Okay. I agree with the statements that Dieter has given us in his description of the position we're in. I would like to point out that I don't think it's right that this issue should seesaw back and forth, that it's still a contentious issue, it still has to be settled at our Marine Fisheries Council level.

And I would hope that the Board wouldn't make a recommendation today and then change it back tomorrow and then back and forth again. I think we need to bring this issue to a head and a final settlement before any substantive changes or recommendations are made from the Board, and I would hope that Rhode Island has the opportunity to follow through and accomplish that.

CHAIRMAN GORDON COLVIN: Any other comments? Ernie, Bob and I just conferred, and we don't think the last part is consistent with what precedes it, so

we're going to ask you just look at the motion ending with the words emergency action and see if that accomplishes your purpose.

ERNEST BECKWITH: Actually, what I was trying to get at, they have an emergency action in place and that will either expire or it will become affirmed. I think that was Mark's word. And once it becomes affirmed, I'd assume that it becomes permanent, Mark.

MARK GIBSON: It becomes a rule of the Marine Fisheries Council. They can go back and take public comment and they can change their rules at any time. They have a process to do that. Our Director may or may not concur with that action. Nothing becomes permanent in our regulatory package. I mean, they can go back and change them as they see fit.

ERNEST BECKWITH: Well, that's true of any state --

CHAIRMAN GORDON COLVIN: Yeah, and I think it's understood that should there come a time when permanent -- a permanent rule was adopted, that that would -- at that time would be timely to review the situation and perhaps probably make a recommendation that the compliance issue is completely resolved. But that's speculative at this time. At this time the only thing we know is that there's an emergency rule in effect and therefore it might be best not to try to address what might happen in the future.

ERNEST BECKWITH: So, are you saying that the emergency -- if it's affirmed, the emergency rule ends and then there's something else in place.

CHAIRMAN GORDON COLVIN: And there will be a final rule that we can then evaluate. Yeah. Thank you, Bob. That leaves us with the motion and the status as indicated. Pat.

PAT KURKUL: I'd just like to clarify for my own benefit in the action that we need to take in response to this. From your comments earlier, I'm assuming that

what this means is that the Commission wouldn't be asking the Secretary to find the state in compliance. The Commission would be asking the Secretary to continue to find the state in noncompliance, but not to implement the moratorium for the duration of the emergency action; is that correct?

CHAIRMAN GORDON COLVIN: I think that that's a likely outcome, and I think that that's one of the options that Jack spoke to me about yesterday. The difficulty we find ourselves in is that this Board, strictly speaking, is advisory to this process. We are not in custody of it and between meetings of the Commission, which is the only body empowered to act, the only procedure that exists is a procedure for the Chairman of the Commission, who is not here, in consultation with the Executive Director, who's not here, to notify the Secretary that a state has come back into compliance.

The best we can probably do as a Board is offer this advice to the Commission, that we are aware that an emergency rule has been filed and that the affect of that emergency rule will be to result in a compliance situation for its duration. And the Executive Director and the Chairman will unfortunately need to figure out what to advise the Secretary.

I do think that that's a likelihood, Pat, based on what Jack told me yesterday, that perhaps this is a good case to -- because of the uncertainty of what will happen, to use the six-month process to give us time to see what -- how the matter is finally resolved.

PAT KURKUL: Okay. Thank you. As long as it will be clear in the letter.

CHAIRMAN GORDON COLVIN: I think -- well, I'm confident that Jack will make it clear. He certainly intended to.

PAT KURKUL: Thank you.

CHAIRMAN GORDON COLVIN: Thank you. Anything further on the motion?

PAT AUGUSTINE: Call the question.

CHAIRMAN GORDON COLVIN: All in favor, please signify by saying aye.

(Response.)

CHAIRMAN GORDON COLVIN: Opposed, same sign.

(No response audible.)

CHAIRMAN GORDON COLVIN: Abstentions?

(Response.)

CHAIRMAN GORDON COLVIN: The National Marine Fisheries Service. Null votes?

(No response audible.)

CHAIRMAN GORDON COLVIN: The motion carries. Now I'll say it again. Is there further business to come before the Lobster Board today?

UNIDENTIFIED: Move to adjourn.

JILL GOLDTHWAIT: Mr. Chairman? Mr. Chairman? I would simply say that we've all been aware that Heather has very big shoes to fill and Heather, so far so good. Thank you very much for your help.

CHAIRMAN GORDON COLVIN: Yes, indeed. Thank you.

UNIDENTIFIED: Wonderful. Wonderful.

CHAIRMAN GORDON COLVIN: Anything further? Jim.

JIM KING: Yes. My name is Jim King from Mattituck. I'd just like to comment on the historical participation concept for a trap cap for Area 6. And I'm only speaking for New York. I don't know how Connecticut has fared with theirs. But my opinion is it's a complete, utter failure from what it was supposed to do.

We have people with more than one license, it gives them multiple

trap allocations. We've got people that don't own a boat, they've never owned a lobster trap, they have never landed a lobster, and they have significant trap allocations, some in excess of 1,000 traps. I think we need to look at it again. Thank you.

CHAIRMAN GORDON COLVIN: Thank you, Jim. Anything further? Mr. German.

JOHN GERMAN: My name is John German. I'm a fisherman from Area 6, New York side. I'm also President of Long Island Sound Lobstermen's Association. I'd like to comment on this historical participation.

This was a plan that was come up with the LCMTs, been going on for quite a while, and it was overwhelmingly approved by the LCMTs and I think it's an LCMT shall we say subject to talk or discuss but it is not -- as far as we're concerned, it's past history. We went through this for many years to get to that point, objections were not raised at the time, and now after the fact many -- some -- a very small minority of objections are being raised. And as I said before, it comes down to a grass roots program.

Is this going to be a program that is put up to this Board from the LCMTs as it was planned to be or a small group of people after the fact who want to change things to their own benefit? And I think the process has worked up till now and I hope to see it continue in that manner. Thank you very much.

CHAIRMAN GORDON COLVIN: Thank you. Anything further?

PAT AUGUSTINE: Move to adjourn.

CHAIRMAN GORDON COLVIN: Is there objection to the motion to adjourn?

(No response audible.)

CHAIRMAN GORDON COLVIN: We stand adjourned. Thank you.

WHEREUPON:

THE MEETING WAS CONCLUDED AT 12:15 P.M.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 17th, day of January, 2001.

PAUL T. WALLACE, Notary Public
My Commission Expires
October 12, 2001

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