

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC HERRING MANAGEMENT BOARD**

**Crowne Plaza Hotel Old Town
Alexandria, Virginia
August 19, 2008**

Board Approved: October 2008

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ATTENDANCE

Board Members

T. Stockwell, ME, proxy for George Lapointe (AA)	Mark Gibson, RI (AA)
Pat White, ME (GA)	Dave Simpson, CT (AA)
Sen. Dennis Damon, ME (LA)	Pat Augustine, NY (GA)
Doug Grout, NH (AA)	James Gilmore, NY (AA)
G. Ritchie White, NH (GA)	Brian Culhane, NY, proxy for Owen Johnson (LA)
Rep. Dennis Abbott, NH (LA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AA)
Paul Diodati, MA (AA)	Erling Berg, NJ (GA)
William Adler, MA (GA)	Gilbert Ewing, NJ, proxy for D. Fisher (LC)
Vito Calomo, MA, proxy for Rep. Verga (LA)	

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

Staff

Vince O'Shea
Robert Beal

Toni Kerns

Guests

Matt Cieri, ME DNR
Sen. V. Susan Sosnowski, RI Senate

Joseph Fessenden, ME DMR

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 19, 2008, and was called to order at 4:10 o'clock p.m. by Chairman Terry Stockwell.

CALL TO ORDER

CHAIRMAN TERRY STOCKWELL: We're in session folks; please take your seats. Welcome to the Atlantic Herring Section meeting. We've got a lot to cover in a little bit over an hour.

APPROVAL OF AGENDA

CHAIRMAN TERRY STOCKWELL: I'm looking for approval of the agenda. Does anybody have any changes or additions or deletions? Seeing none, without objection, we will approve the agenda.

APPROVAL OF PROCEEDINGS

CHAIRMAN TERRY STOCKWELL: The Proceedings from February 4, 2008. Does anybody have any changes, deletions or improvement? Seeing none, without objection, we'll approve the Proceedings.

PUBLIC COMMENT

CHAIRMAN TERRY STOCKWELL: I see almost nobody from the industry here. Is there anybody who would like to speak on any of issue that is not on the agenda? The first item the agenda is Herring FMP Review with Chris.

ATLANTIC HERRING FMP REVIEW

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. I'm going to do my best to review 2007 state compliance. I say do my best because as of July 1st only three states had submitted their compliance reports. Currently we have – it says here four states' reports, but Massachusetts report was given to me this morning.

The plan review team will look at that. We have to go back and determine the compliance as a review team. Basically, we couldn't complete the report with only three, which is less than half, and then four reports, so kind of one of the messages here is that

we need more landings' information to figure out the state compliance.

Moving on to the status of the fishery management plan, it is currently managed under ASMFC Amendment 1 and 2. Amendment 2 was developed in conjunction with the New England Fishery Management Council Amendment 1 in 2007. Currently the New England Fishery Management Council is developing Amendment 4, and we're going to go into greater detail with that later on in the agenda, but it's to address bycatch and some other issues, including Magnuson-Stevens reauthorization.

The landings, these are from the 2006 TRAC, and basically it's the only document that gives you the fishing mortality in conjunction with the target and the threshold. As you can see, the fishing mortality rate is well below the target and the threshold. Moving on to the coast-wide landings, landings were unavailable past 2006 from the National Marine Fisheries Service Database, which poses a problem when trying to figure out de minimis landings because we don't know what the coast-wide landings were in 2007, Last year at this time they were available when going to do the FMP review.

I'm not certain of what the reason is, but one take-away here is that if you look for 2006 it's around 100,000 metric tons. Optimal yield is 145, I believe, so the landings are well below the optimal yield, so that's a good thing. The individual state landings, this is all that I had at the time to make this presentation, and it looks like Maine landed all the herring, but Massachusetts is a large player as are some of the other states that didn't submit reports in a timely fashion.

So, that's just kind what we have. Connecticut, in their report, they couldn't get the 2007 landings off the National Marine Fisheries Service Site, as well, so I'm not sure if we're going to wait for those or if there is another way to go about it, but we don't have those landings. The status of the assessment, there is no new assessment since the 2006 TRAC. However, there is a TRAC assessment, Transboundary Resource Assessment Committee assessment likely for 2009/

Like I said before, the fishery is consistently below optimum yield. The 2007 management measures were spawning restrictions in the Gulf of Maine. New Hampshire and Massachusetts areas prohibit landings after the total allowable catch has been taken. There are days-out measures to provide effort control; 165-foot vessel size limit; prohibition on

directed mealing; and there are no recreational management measures at all.

So, state compliance, New Hampshire, Connecticut and New Jersey met all compliance requirements for the 2007 fishing season. Massachusetts, we'll be able to go back and look at the report and determine compliance. Rhode Island and New York compliance is unknown without the report.

Then Maine is compliant except for the IVR issue. People probably remember about this time last year where there is language in Section 4.3.2.4 and 4.3.4 that specifically says fixed-gear fishermen must report through the IVR system, which is a federal system. At that time it was impossible because working together with NMFS there were some steps that had to happen there, and also Maine didn't have the ability to provide the list to the National Marine Fisheries Service of fixed-gear fishermen, so it was kind of impossible to do last year.

They have moved forward in that and I am sure maybe Maine staff can give more detail, but basically NMFS has agreed, and what they're going to do is normally the IVR is assigned to vessels, but they're going to give what are called dummy numbers to individuals, so they're just going to call in and then they'll have a number that's different than those given to the vessels, but they will be able to identify fixed gear.

It will be on a weekly basis as far as the real-time monitoring. I believe Maine DMR is generating a list to give back to NMFS to assign those numbers. As far as de minimis there were no de minimis requests. New York was the only state who requested it in 2007, and they didn't turn in a report – the only state who requested it for 2007, and they didn't turn in a 2007 compliance report requesting it for 2008.

We can't calculate any of the landings if a state did request de minimis because we don't have 2007 landings for all states. The NMFS landings aren't available and the next best thing would be state compliance report landings, so that's going to be a tricky one to figure out. Then as far as just kind of some issues with the FMP that have emerged, that have, you know, become a little bit troublesome. And just kind of the days-out provisions with reduced quota – and if you look back, it used to be 60,000 metric tons with a quota, and now it's 45,000 metric tons, which is a 25 percent very significant reduction. Some of the issues there are that it reads "landings" rather than – so it prohibits landings rather

prohibiting commercial fishing or directed commercial fishing.

What I think one of the symptoms of that are that you say four days out, but there is actually fishing going on two of the days. So when you go and you say, well, we're going to take five days, it sounds a lot worse than it is, because the boats can keep the herring on ice for two days, so to might be better to call it a prohibition on a directed fishing so that, you know, you're saying no fishing, and it's no fishing, and it's kind of clear.

The language in there also says by August of each year it is projected that the entire TAC will be harvested, and states must get together and agree. That's what it specifies, but it doesn't really say what the system is to do that. There are kind of three states voting, so it is going to be a two-against-one thing. It is not real clear there so it is kind of contentious.

Then also the start time of days out, it specifies that states need to agree on the time; however, states are all starting at the same time. I think they have kind of agreed amongst themselves, but this might be something that could be corrected as well. Those are just kind of the things that have jumped up in the last year, and I think we're going to end up doing four days-out meetings, which is a substantial amount of money and time for people. Any action; there is the Maine IVR Issue. There were no de minimis requests and there is really no FMP report to approve because it couldn't be completed. Thank you.

CHAIRMAN STOCKWELL: Any questions for Chris? Pete.

MR. PETER HIMCHAK: Chris, I was confused. Did you say you had our compliance report or you don't? Initially, you indicated that you had not received it, but you're saying in this last slide that we're missing it. I know we have one that is dated February 2008.

MR. VONDERWEIDT: No, I'm saying New Jersey has turned their report in.

CHAIRMAN STOCKWELL: Other questions or comments? Bill.

MR. WILLIAM A. ADLER: Excuse me, days out, if you have three days of fishing, four days out, what did you say; did you say that fishing is going on in the no-fishing days?

MR. VONDERWEIDT: Well, there is no such thing as a no-fishing day. There are only no-landing days. If you have days out for Thursday, Friday, Saturday and Sunday, there are a number of vessels that can actually fish Saturday and Sunday, and then they can ice that herring and then land them on Monday, which then becomes a landing day, so they can actually fish for two of those four days.

MR. ADLER: So, actually the three days – in the mind three days of fishing could be five days of fishing; is that correct, taking herring out of the ocean?

MR. VONDERWEIDT: Potentially four days out of the fishing only restricts two days of directed commercial fishing because of the landings' restrictions.

MR. ADLER: Wonderful, thank you.

CHAIRMAN STOCKWELL: Is that clear, Bill? It is a clarification. It's a landings' prohibition. Other questions or comments? After consulting with Chris, what we're going to do is request that the states who have not yet gotten their reports in, please do so before the fall meeting, and we'll put this as an action item at the annual meeting. If there are no further questions, Matt will give us a report on the TC's analysis of spawning closures.

TECHNICAL COMMITTEE REPORT ON SPAWNING CLOSURES

DR. MATT CIERI: Okay, recently the section, within the last couple of months, has had some concerns dealing with the amount of juvenile catch in the Atlantic Herring Fishery in reference to the spawning closures that have been going on in the Gulf of Maine. There has also been an ongoing concern from the both section as well as members of the public and industry dealing with the catch of spawning individuals during some of these spawning closures.

What I was charged to do and the TC was charged to do was actually to take a look at the amount of removal of both juvenile fish and spawning fish from the inshore Gulf of Maine during this spawning season and see how the regulations have affected it, if they have affected it, and how that type of stuff has changed over time.

To do this I used Biostat, which is just an off-the-shelf model used for developing the catch-at-age matrix, and it was approved by the TRAC and it's

used in a lot of catch-at-age matrices. But what I did was I actually sort of bastardized the version and tried to hone down on specific time area cells. Some of those area cells – in this case what I was looking at was the Western Gulf of Maine and the Eastern Gulf of Maine through a defined period, through August, September and October, to get at that spawning time of the year.

This is what we're talking about is the Gulf of Maine only during the spawning season. What pops out of the modeling runs that I have been doing is, for example, here – and I believe there is a report from the TC that you guys can all take a look at if you're really bored – is the catch of juvenile fish in the Gulf of Maine and what this has looked like over time in the spawning areas.

And as you can see it has been highly variable, but you can also see that there is a peak in 2007. Now this is numbers of removed fish, of juvenile fish, and here we define juvenile fish as age ones and age twos. If you take a look at this in another way and you look at the average by age down here, remember, as a percent – remembers ones and twos are juvenile fish – on average we usually catch our peak fish, '98 through 2006 are age threes. And in 2007 it was age twos.

And so literally, as you go through and you take a look, you know, a good, substantial portion of the juvenile fish that were coming out of the area were in fact juveniles. However, this isn't something that's very new. As you can see by this graph here, it's the same thing, age down here – remember that these are our juvenile fish percentage of the catch. In some of the selected years, 2007, which was last year here in the black, but also in 2003 and in 2000 we saw very, very similar patterns.

And this is pretty much related to year class strength. The boats catch what is there; and if you have good year class moving through, they catch juvenile fish. Interestingly enough, if you look at the percentage contribution of the juvenile catch that occurs in this time of the year, in this area, during the spawning season in the inshore Gulf of Maine, you can see that if compare it to the entire fishery, most of the juvenile fish that are caught fishery-wide come out of this area at this time, and that's historically true.

So it's been almost as much – in some cases in many years it has been a hundred percent. All the juveniles that are ever caught in a particular year come out of this area at this time. In 2004 it was only 60 percent. If you take a look at the percentage contribution –

and I'm just going to sort of blow through this graph here – you can see that by and large age twos and threes make up the bulk of the fishery, for the part. And, again, there is more detail in the report.

If we look at the catch of spawning females – and here we define spawning females as stage five and stages sixes – if you look at the catch of spawning females in the Gulf of Maine during this timeframe, again during the spawning closures, you can see that has also been highly variable both in terms of numbers of fish removed and as a percentage of the catch. It has gone from, you know, up here about 12 million down to below 2 million and then back up again

Since about 2000 and 2003 we have seen a decline in the number of spawning fish removed from the interior portion of the Gulf of Maine. However, as you remember, this is where the section took management action. In 2006 the tolerance was zero. In other words, you could not land any spawning fish. In 2007 you couldn't even fish in those spawning areas. Prior to this blue arrow, it was a 20 percent tolerance.

The TC met by conference call and discussed basically this review, as well as this analysis, and it came up with some basic conclusions and some questions for the section. Some of the basic conclusion is, of course, what any scientist will tell you any day of the week when they sit up here with a microphone in front of their face, we need more data. The difficulty in this is that we've only really got one or two years worth of data in order to compare it to an entire time series to see if some of the spawning stuff is actually working and whether it is having an effect on juvenile fish.

That being said, the feeling from the TC and their general conclusions was that the 2007 increase in removals of juvenile fish were probably the result of a strong year class rather than management action. They believe that continued removal at 2007 levels of these juvenile fish, as we've seen, may become problematic if this is not year class effect. For example, if this really is management at work that is driving the fishing industry on to juvenile fish at this time, this level of harvest may become problematic for the stock.

But in the same breath we also said that management doesn't seem to have any impact on the numbers of spawning fish or on the numbers of juvenile fish removed from the Gulf of Maine. It seems to be driven mostly by availability. Then the TC got really

kind of confused, and we started discussing some of the reasons while we were all there that day.

One of the questions that they had was for the AP in particular was, was there still a market for juveniles; was there a reason to catch juvenile fish? We know that the canneries have moved over from using individual fish to using whole fish fillets, and so there is not much of a market for juvenile fish, we had assumed, but we wanted to make sure that is still the case.

Other questions for the AP and the industry was when you set on fish, what do you do? Do you sample the fish first or do you simply dry up the bag, take a look at the fish and dump the bag, because one has a different level of discard mortality than the other. One of the questions for management is pretty much why the heck is juvenile removal so darned important when the entire fishery rebuilt when the fishery was removing more juvenile fish than it is now?

We've had a higher level of juvenile fish removal throughout history, and the stock rebuilt from the low eighties all the way up into the nineties and beyond. Without specific management action and goals, the TC does not have the resources to do this type of work, to provide in-depth and full analysis. We're in the middle of looking at a TRAC assessment. We're also in the middle of a federal amendment as well as other activities, including groundfish and lord knows what else is coming down the pipe.

Without management action, there really isn't much time or resources for the TC to do analysis without specific goals and objectives. The TC did suggest closer collaboration with the AP and the section and perhaps some joint meetings to see if we can get some of these questions ironed out. That's it.

CHAIRMAN STOCKWELL: Thanks, Matt. Questions for Matt's presentation? Dennis.

SENATOR DENNIS DAMON: Thank you, Mr. Chairman. This has probably little relevance to what we've been talking about, but nonetheless I'm trying to put it in trying to put it in the context from when I was seining. We never referred to the fish as year class ones, twos, threes, but we always referred to them in terms of numbers. I guess the numbers were how many you could get in a can, so there were sixes and eights or they were fours, and now, of course, I think they are almost all steaks at this point. So a six and a eight, that size herring that I have in my head, what year class is that?

DR. CIERI: I don't know what's in your head.

SENATOR DAMON: Neither do I. Well, how big, then, would a one- or two-year-old year class in inches or hold your hands –

DR. CIERI: Oh, jeepers, age threes are what we call 23 centimeters so they're about –

SENATOR DAMON: Really, that big?

DR. CIERI: Yes.

SENATOR DAMON: Well, then, these fish that I'm talking we were catching were this big, and so that's probably an age one year class?

DR CIERI: Yes. I mean, if you were purse seining –

SENATOR DAMON: No, we weren't, we were stop seining.

DR. CIERI: Well, especially with fixed gear, that usually tends to target the younger individuals. It is almost exclusively ones and sometimes it's twos.

CHAIRMAN STOCKWELL: Any other questions for Matt? Paul.

MR. PAUL DIODATI: Matt, just in summary, you said you don't find any evidence that spawning stock size or juveniles or fishing on juveniles; neither of those two things seem to impact the size of the stock; is that what you said?

DR. CIERI: No.

MR. DIODATI: Could you just summarize what you said.

DR. CIERI: What I said was is that management action didn't seem to have much of an effect on juvenile or spawning fish removals.

CHAIRMAN STOCKWELL: Other questions? Ritchie.

MR. G. RITCHIE WHITE: Matt, as far as time to complete this, is this something that we could get annually, continue to do this to see how the numbers –

MR. CIERI: Not without a raise.

MR. R. WHITE: A small raise?

MR. CIERI: I can pass the hat. This type of an analysis, I've got a canned model, and it can run on its own. It's not that big of a deal for me to rerun it, but it does take some time. I would suggest if you want that type of stuff, in particular one of the things that would be helpful would be to simply do it through the specifications process at the council level, because that's where we do a lot of the SAFE report stuff. If you can get Laurie to want to see that, that would make things a lot easier.

MR. R. WHITE: I think that would be positive to continue to run this because, you know, the one year class, we could see whether that has a big impact or not.

CHAIRMAN STOCKWELL: I agree with you. I think we can work with the council to keep this going. Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. I thought the report by Chris was enlightening and also the information given by Matt Cieri just now is also enlightening. I, like the good senator from Maine, remember putting little fish in cans which were four-, five-, and six-inch fish. Then they went to seven- and eight-inch fish because they didn't have too many sardines around.

I went sardine fishing for the plant in Rockland where I always opposed killing juvenile fish before they had to spawn, just like we do back in the New England Fisheries Management Council where we have size limits and we wait for them to spawn before we allow the harvest of this fish, haddock, codfish, flounder, summer flounder. We try to have them spawn. But when I visited the plants that I was fishing for, I seen there was a market and there was a lot of people in some poor areas in Maine that were making a living.

Today that's not true, Mr. Chairman; that's not true at all. They don't need the small little juveniles. And I did turn a blind eye to it. Even though I go way back into the fifties and sixties, where I started fishing, Mr. Chairman, and I turned blind eye to it because people were making a living and there was a product that they were producing that was of the highest quality. I watched them little girls cut them with scissors and stuff, and I was quite impressed.

Knowing that this was helping the economy of Mane, I turned a blind eye to it. Today we have a different world out here. We've reduced the Gulf of Maine fishery to a chosen few, allowing the rest to sit by and wait. I pushed the spawning closure because

that's what I was introduced to many years ago, to try to bring back the Gulf of Maine. Everybody has been concerned, Mr. Chairman, of the Gulf of Maine fishery yet we allow the senseless slaughter of approximately 15 to 20,000 metric tons a year of juvenile fish that will never achieve the spawning cycle.

We never allow that fish to grow up so we could take less fish for more weight, Mr. Chairman. This is wrong. This is absolutely wrong in this fishery, in the menhaden fishery, zero age class, in the spot fishery. We should not allow this, Mr. Chairman. I'll go back to – because we're talking about herring today, and we will talk about menhaden in a day or so.

I believe wholeheartedly that we should have a restriction on this fishery and not allowing the directed fishery of juvenile herring in that age class of one and two year olds, where they're five or six inches. And I know what the good senator was saying because I heard exactly what I fished for what he was saying.

And I also heard, Mr. Chairman, people like Al West, who represents Bumble Bee Tuna, I listened to Cape Seafoods, I listed to Nortel, I listened to other people that are taking those fish and they really don't want. They've spoken out to industry not to take it. They've spoken to the fishermen they don't really want it. But, like greedy people – all of us are, being fishermen and processors – if that's what there is, they'll take.

I want to run a little parallel to that, Mr. Chairman, if you'll allow me – I've been here since early this morning. In fact, I arrived yesterday. I have spoken once throughout the day, but please give me the latitude because this is a point I need to drive home, Mr. Chairman. It wasn't so long ago that the fishermen out of my state of New Bedford, Massachusetts, asked the New England Fisheries Management Council and the government to stop fishing on a small fish which was called a yellowtail flounder that showed up in abundance off the coast of Massachusetts in the flounder area.

They begged the government to stop us from fishing, begged us, but as greedy fishermen, because they were plentiful, we brought in thousands and thousands and thousands of tons of that fish. They kept cutting them and cutting them and they went from that size to that size to that size to where you held them by the eyeballs to cut them. There hasn't been a good fishery back there since.

I think we're doing the same. We depleted the Gulf of Maine, we depleted the herring fishery that has grown back fantastically because we didn't fish it for years. We lost the sardine industry, we lost the stop seine industry, we lost everything. Now it's back and we're going to repeat – Mr. Chairman, I am very emotional about this – we're going to repeat something that I was born into, and we're going to lose it again. I don't understand when we have the information in front of us, Mr. Chairman, how we can allow that.

We should not allow that in any fishery. If that was a small haddock we were taking, we'd all be in jail, but we allow the senseless slaughter of these juvenile fish while we're protecting spawn fish so we can keep the Gulf of Maine strong for the smaller vessels that aren't so small anymore, that I've heard for years – even the carriers have grown from, you know, 60 footers to about 140 footers.

Mr. Chairman, I've been waiting for this opportunity to speak about this. I talked to Bob Beal when he was in New Hampshire. I think this was my opportunity and I'd like to have a prohibition, Mr. Chairman, of allowing the senseless slaughter of juvenile fish. I guess I have spoken enough and I appreciate this opportunity to speak, and I thank you.

CHAIRMAN STOCKWELL: Well, thank you, Vito. It sounds like you're identifying another issue to be added to problems with the FMP should this board decide to move forward with another action. Representative Dennis.

REPRESENTATIVE DENNIS ABBOTT: Thank you, Mr. Chairman. The senator started with a question about how big the herring were, two or fours, eights, et cetera, and the gentleman from Massachusetts was talking about harvesting juvenile fish. The question I had in my mind that I'd like to have answered might be beneficial to everybody is what is the average weight of a one-year-old fish, a two-year-old fish and a three-year-old fish, so we could quantify how many fish we're extracting from the resource if we harvest them as one year olds or two year olds and how much damage that is doing to the stock? I have heard that talked about, but I could do some of my own math if I could figure out –

DR. CIERI: Right. What you're talking about is called a yield-per-recruit analysis –

REPRESENTATIVE ABBOTT: Correct.

DR. CIERI: And that's not a part of the stock assessment during the TRAC process for determining your biological reference points.

REPRESENTATIVE ABBOTT: Well, that's a good technical answer but for me, I want you to tell me that a one-year-old fish weighs X number of ounces and a two-year-old fish –

DR. CIERI: And if you remind me, I'll e-mail you that information later.

REPRESENTATIVE ABBOTT: I'm glad that now you've put me on your e-mail list.

CHAIRMAN STOCKWELL: I will make sure that happens, Dennis. To that point, as Matt mentioned, there is a TRAC coming up where there will be updated information coming along, but we can provide you with what there is right now. As a matter of fact, we'll provide the entire section. Are there other questions for Matt on his presentation? Dave, please.

MR. DAVID ELLENTON: Just very quickly, Mr. Chairman, Dave Ellenton from Cape Seafoods and Western Sea Fishing Company. I was pleased to hear that Matt said that there were a number of questions to ask industry. Of course, we don't usually participate in the technical committee meetings. The industry would be very interested to sit down and willing to sit down with the technical committee and answer the questions that Matt raised in his presentation. As you know, I'm chairman of the advisory panel. I don't know how we go about setting that meeting up, but maybe it's something that you folks do and let us know. I know that everybody will make every effort to attend.

DR. CIERI: Yes, honestly, that's one of the things that we talked about as the PDT and as the technical committee is during this process there is stuff that we don't know because we don't fish. Let's be quite frank, it's really important for the AP to get involved in this type of a discussion. We might be able to tell you how big those fish are at age ones or age twos when we do the sampling, but we can't tell you why they're out there catching them.

Are they catching them because they're looking for – you know, they're filling a market niche are they catching them because that's all there is or are they catching them and what are they doing with them? Do they hold up better in the hold? Do they hold up better in the bait bag? I mean, those are important questions that we need to have answered and the

managers need to have answered, and that's only going to come with a dialogue between section, AP and TC.

CHAIRMAN STOCKWELL: Bob, I know we have no money, but how little is little?

MR. ROBERT E. BEAL: There are a few dollars left for herring, and I think one of the reasons is we budgeted money for a herring section meeting outside of meeting weeks, and we haven't had one of those yet this year. There are some funds available, but I think later on in this meeting there may be a discussion of having a section meeting outside of a meeting week.

I guess the question would be either for the advisory panel or the technical committee; do both full groups need to meet or would one or two or three representatives from the industry and the technical committee meeting be enough or vice versa, would one or two or three technical folks going to an advisory panel meeting and having those questions answered; would that be sufficient? In other words, do we need all 15 people to make a 30-person meeting or would a subset be – obviously, it's much more economical but I don't know if it would get the job done.

DR. CIERI: Honestly, no, because the AP is a diverse group made up of a lot of different types of people. There are people that fish, there are people that process. There are also people that don't fish for a living that are on the AP. It would just be simply easier just to get the whole group. Likewise, the TC is made up of social scientists, biologists and stock assessment people. It's important I think for both diverse groups to meet at once.

MR. ELLENTON: Thank you, Mr. Chairman. My opinion would be the opposite unless there are more questions than there were in the report. The questions seemed to be why do people catch small fish, is there a market for small fish, do the small fish hold up, more fishing and marketing questions which I would suggest that – you know, we always have the representative from Bumble Bee, we always get representatives from the bait market.

On one hand you could count the number of people who could answer the questions that were asked in the presentation rather than having 15 people. Quite frankly, knowing the industry advisors, as I do, they certainly wouldn't need to get paid for being at those meetings and most of them would pay the cost of

being there and contributing towards the additional management information that you all require.

MR. BEAL: I think we can pull something together for later in the year. Maybe the best plan would be to see if a section meeting is needed later this year outside of meeting week and see what resources that would need. I think there is, obviously, discussion about another days-out meeting coming up in the next couple of weeks or potentially, anyway. That would take resources, so the best thing would be possibly for you and I, Terry, to work together through the remainder of the year and see what funds are available and to see what is the best way to tackle some these problems.

CHAIRMAN STOCKWELL: Yes, that sounds like the best course of action. If this board initiates another action, we'll be looking for funding for 2009, anyhow. Pat White.

MR. PATTEN D. WHITE: Mr. Chairman, I'm not sure where to go with this question. I'm stimulated by what Vito was talking about and listening to Matt, and I guess my question kind of is if the bulk of our landings are two- and three-year-old fish, how does that relate to the stock assessment and what the biomass is out there?

Is there larger predation on fish that are over that size or is there – I mean, there is an obvious benefit to us in the lobster fishery to let those things grow to, whatever, four, five and six because it's bigger fish and you don't have to scoop them out with a bottle to put them in the bait bag. But, if, indeed, we're losing them to something other fishing, natural mortality, then – I mean, do you have any kind of sense for that, Matt?

DR. CIERI: Really, that is the underlying driving thing of a yield-per-recruit analysis. It's that balance between taking the fish early and not letting them get a chance to grow up versus natural mortality which tends to cross them off; and there is that fine balance in the yield-per-recruit analysis that gives that to you. In a recreational fishery it gives you your size limits, for example, and even in some of the commercial fisheries.

So, it's that balance between – I mean, there is no sense in having your herring running around at nine years old because in order to get to be nine years old you've lost like 90 percent of your population. Likewise, you probably don't want to take them all at age ones in the same metric tonnage because, again, you're doing the growth overfishing thing.

So that balance between growth and recruitment overfishing, that's a yield-per-recruit analysis. I can give you a general feeling, but having a scientist give you a general feeling isn't going to be really that important. Your real question I guess probably should be tied up in a term of reference for the TRAC.

CHAIRMAN STOCKWELL: Any other questions concerning this issue? Vito.

MR. CALOMO: I know I'm no Matt Cieri, I don't have that background, but I do have a fishing background that's probably equal to anybody if not beyond. Just to go back to Pat White, that nine-year-old fish, even though it has been cropped off to get to the nine year old, he has produced year after year after year after year.

I'm not so sure that we're not doing the right thing by allowing that juvenile to go to that nine years and beyond to produce many, many times to the stock. Another point of interest to all us humans that can follow this is that it's a lot easier to catch a little kid than to catch an adult. In the matter of fishing, whether you be a commercial or a recreational fisher, it's easier to catch a juvenile than to catch an adult.

I guess I'll bring it down a little further. It's easier for a fishing trawler to come and catch a school of small fish that's getting paid the same price as the large fish than to go searching off of Georges Banks or down to southern New England or outside of three miles or outside of a quarter of a mile or outside a little bay. I know; I fished. I mean, this is what I did for a living. I am a pelagic fisherman. I fished with seines. I know how easy it is to catch a juvenile fish.

It's not me; I learned. It's my grandfather who taught my father and my father who taught me that it's easier to kill a small fish than to kill a big fish. But, in this age of science and this age of technology and this age of enlightening when you're at the Atlantic States Marine Fisheries and you're trying to conserve because you know you've wiped it out once, I don't want to wipe it out again.

I don't want to make the same mistakes I made 35 or 40 years ago. I want that fishery to be around for everybody to enjoy, not only the canneries, but for the bait market and for the food market and for the economics that we have up and down the coast. Especially from Maine to Rhode Island, it helps us out economically, especially during these times that need some help. Thank you, Mr. Chairman.

LANDINGS UPDATE

CHAIRMAN STOCKWELL: Thank you, Vito. Any final questions? Seeing none, then, Matt, why don't you move ahead to the landings' update for this year.

DR. CIERI: Okay, just really, really briefly, I'm just going to go over where we are as far as landings go for this year already. In the bottom table here I've got the areas and their quotas. Keep in mind that the quotas are reduced further than this. Each of these areas have basically an 8 percent reduction; 3 percent for research set-aside; 5 percent for bycatch; in the case of Area 1A, an additional 500 metric tons for fixed gear.

Keeping that in mind, as of I think probably right after midnight last night, I ran the IVR report and this is what I've gotten so far. We're at about 20,000 metric tons already for Area 1A. Last week we did almost 2,900 on three nights' worth of fishing. For Area 1B, which hasn't seen a lot of activity in recent weeks, we're a little bit over half. For Area 2 we have a fairly long way to go. We have about 63 percent of the quota taken according to the IVR.

The National Marine Fisheries Service, their website suggests when they supplement with dealer reporting, that's it's closer to 70 percent taken. For Area 3 there hasn't been much activity at all, just at about 2,000 metric tons. Now, again, for Area 1A the fishing stops at 40,900. As you can tell at the top part of the graph, these are for different years, and the cumulative catch in Area 1A, the red line here is that 40,900 mark.

And as you can see in 2006 the catch rates were fairly high, but going up to almost 60,000 up here, the fishery closed roughly around October 11th. In 2007, last year, the fishery cut off, according to the IVRs, right around 46, and the fishery closed again about the 3rd week in October, as I remember, October 25th. This is where we are already for this year. We've been averaging somewhere around 2,700 metric tons removed on a three-night set, so a little bit less than a thousand metric tons a night. And as you can see, we're almost on last year's cumulative catch rate. We're about 2,000 metric tons below. And also, as you remember, there was no fishing January through June in 1A. That's what I've got so far.

MR. P. WHITE: What is the good news?

DR. CIERI: The good news is that James probably won't be sampling for 1A much longer.

CHAIRMAN STOCKWELL: I have a quick clarification question, Matt. Was that 20,000 tons for last week or it was effective through last night?

DR. CIERI: No, that's caught as of last Sunday.

CHAIRMAN STOCKWELL: Last Sunday?

DR. CIERI: Right. When these guys go out to fish, they report Sunday to Sunday or Saturday to Sunday, and they don't have to report until Tuesday midnight. Fortunately, and to the industry's credit, everybody has gotten their reports in as of Monday night. But, yes, the industry is totally reported in.

MR. P. WHITE: Well, then, realistically, we're at about 23,000 metric tons as of midnight tonight, so to speak?

DR. CIERI: Well, I mean, I wouldn't be surprised if we were close to 23 or 22,500 by Sunday, but you won't know that until next week at about now.

MR. P. WHITE: But you said we were doing 2,700 on three nights?

DR. CIERI: Right.

CHAIRMAN STOCKWELL: So we still have a few more to be accounted for. Vito.

MR. CALOMO: Thank you, Mr. Chairman; I'll be brief this time. You said that there was approximately 2,900 metric tons caught in three days' fishing; you mean five days' fish; correct?

DR. CIERI: Three days' landing.

MR. CALOMO: But you didn't say "landing"; you said "fishing". It's five days' fishing because the gentleman's agreement that was made from the section, which really isn't an agreement anymore – it's not a gentleman's agreement; it has been broken right from the beginning, so it's five days' fishing. Well, I'm just asking you a question; it's five days' fishing.

It's yes or no for me.

DR. CIERI: Honestly, I don't know about that one.

MR. CALOMO: I think, honestly, you do know because you know it's five days' fishing because you mentioned how they were icing fish. It's really not icing; they're putting refrigeration on the fish, which

is normal to keep a good product, so it's five days' fishing.

DR. CIERI: That is the rumor. I won't be able to –

MR. CALOMO: I just need to clarify the amount of time we need to take out of this fishery so we have something left; because, what I thought was five days' out is actually two days' out. I've got it pretty straight. Thank you, Mr. Chairman, I'm all set.

CHAIRMAN STOCKWELL: Thank you, Vito. The gentleman's agreement, as you are pointing out to us, was violated the very first week in the season. Other board members have questions or comments? Dave Ellenton, please.

MR. ELLENTON: Thank you, Mr. Chairman. This is all purse seine fishing, and this 2,900 tons is being caught in five, maybe six days' fishing. The purse seiners – there are a number of carrier vessels that can hold up to 500 tons, 400 tons, with refrigerated seawater systems – they're catching their fish outside of the days out and then landing the fish on the days that apply in the regulations.

For a number of years now we've had days out, and we've had an agreement within the industry that those days out were also no-fishing days. That had to be an agreement between the industry, it had to be a gentleman's agreement between the industry because the ASMFC does not control fishing outside of the state waters, and everybody conformed with it, if it was four days out, four landing days out, if it was four fishing days out.

But these large amounts are being landed every week now purely due to the fact that the gentleman's agreement is not in place, carriers are being used and substantial quantities of fish are being caught outside of the landing days out. I'm presuming that is going to lead to a meeting between us to see where we go going forward on this 1A quota.

CHAIRMAN STOCKWELL: You're right about that. Other questions or comments from the board? The next agenda item is an NEFMC Amendment 4 Update from Chris.

NEFMC AMENDMENT 4 UPDATE

MR. VONDERWEIDT: Thank you, Mr. Chairman. Looking around the table I see a number of people who were involved in the development of this who kind of know what is going already, but for those of

you who haven't been involved in the process, hopefully this will give you a little update.

Basically, the previous action that has happened with Amendment 4 is there was scoping period from April 18th to June 30th. Then July 30th the herring operating committee and advisory panel held a joint meeting. Last week there was a Herring Plan Development Team meeting to review the scoping and the recommendations of the operating committee and advisory panel.

The scoping document, which was obviously brought out for the scoping period, the goal is listed as improve catch monitoring and ensure compliance with the Magnuson-Stevens Reauthorization Act. Basically, what it is trying to do is improve long-term catch monitoring, establish annual catch limits and accountability measures, which are consistent with regulations and the Magnuson-Stevens Reauthorization Act.

It is trying to address some issues with mackerel bycatch due to a change in permitting in 2007, and I'll go into that in greater detail, and possibly address sector allocation or limited access privilege programs. The bycatch monitoring, some of the questions here – and keep in mind that this is purely a scoping document. There are no management measures on the table. There is nothing really solid, so that's why these are all listed as questions.

In the bycatch monitoring, how do they want to deal with it? One is possibly improve on the SPR-M standard so even take a step further to see what the deal is with the bycatch. There are questions of whether or not some kind of industry-funded bycatch monitoring system would be set up.

There are questions as to whether or not to use video-based monitoring to watch the bycatch and what are the limitations of that, what are the standards and how well it works; how to get observers for at-sea processors, because I believe right now they're only on the actual commercial fishing vessels.

Possibly improve real-time TAC monitoring – right now it is about a week – possibly establish a shoreside monitoring program to look at bycatch of things like river herring in the Atlantic Herring Fishery; also monitor the cod-end contents, and basically what that is, if a boat brings more herring into their net than they can bring on to the boat, they'll just open the cod end and let those fish out, but how do you know what is in there and what the

mortality is for that, so try and get a handle on those as far as bycatch goes.

Annual catch limits and accountability measures; this isn't going to be, I don't think, a really big deal. Basically, right now we have total allowable catches based on optimal yield, which lays down a really good foundation to establish annual catch limits. There might be a slight modification for accountability measures, which is essentially just paying back any overages, but if you look at the herring stock you've got Area 1A, 1B; Area 2 and Area 3 which are assessed as a whole, and so we're only landing about half of what the optimum yield is, so it is highly unlikely that the overall optimal yield will ever be exceeded.

So, for bycatch in the mackerel fishery, as I said before, the permit system changed with Amendment 1 and basically there are three types of permit systems. The limited access permits, one allows for no trip limits and the other one allows for a 25 metric ton trip limit, which it sounded like it is okay for a mackerel fishery, for the bycatch of Atlantic herring that's going to happen there.

The problem is with the three metric ton bycatch allowance without one of the first two limited access permits. What might be happening here is there could be more bycatch that is being created that just happened as discards. It could be inhibiting mackerel fishermen from actually going out and landing. At the advisory panel meeting they talked the herring trips were significantly down.

I think the number is 50 percent, so is this a result of the changed permit system? And also allow mackerel boats greater bycatch allowance. I think those are all in the table. Sector allocation and LAPP, Limited Access Privilege Program, basically there is a core fleet that is catching the majority of herring, so Amendment 4 is giving the opportunity to evaluate approaches and just consider the biological and economic impacts. You know, these kind of system are going to take a while to develop, so it's kind of how quickly do they want to get the bycatch monitoring in place versus developing an LAPP or IFQ.

The Magnuson-Stevens reauthorization specifically says that industry members have to approve any IFQ, individual fishing quota, by a two-thirds vote, so that's going to be harder to get into place. The tentative timeline is October 7 through 9th is New England Fisheries Management Council is going to

consider what the other various group input and recommendations were.

Then February or April of 2009 the operations committee, advisory panel and plan development team will develop alternatives for council approval; then in April of 2009 the draft environmental impact statement, including management alternatives; then April 2010 the final measures will be selected for 2011 implementation. You know, there is a lot of stuff that could happen in between now and 2011 to delay this, so this is very tentative. That's it; any questions?

MR. ADLER: Thank you, Mr. Chairman. This actually goes back to something I remember about our international obligations to foreign countries. If we had excess fish we didn't use and we didn't do something with that we had to open it up; does anybody remember what that was? Did that just go away or is that still around – some international treaty or something? Does anybody remember that?

MR. ELLENTON: Yes, through you, Mr. Chairman, Bill, I think you're referring to nations that have Governing International Fisheries Agreements, GIFRs, with the United States. Herring and mackerel were the last two species where we were not fishing the optimum yield, and it gives those countries that we have international fisheries agreements with the opportunity to request for their vessels to come into the United States and either catch fish themselves, TALFF, total allowable level of foreign fishing, or receive fish from U.S. catches in joint venture operations.

MR. ADLER: If I may, Mr. Chairman, I'd like to ask Dave; is any of that going on or did any of that materialize or did it just go away or is something going on there?

MR. ELLENTON: Well, it did materialize inasmuch as it used to take place. It took place until maybe the mid-to-late eighties and sometime in the early nineties foreign vessels were coming in and taking herring from us.

MR. ADLER: I know that, but more recently.

MR. ELLENTON: More recently there has been less and less or fewer and fewer of those GIFRs renewed by the State Department. I think Russia is the only country now that has such an agreement in place, and we haven't seen one of those operations take place for a number of years now.

DR. CIERI: And during the annual specifications' process, the council actually looks at domestic annual processing and usually indicates that we have the ability in the United States to process all of those fish, and so they do not allow for TALFF at all.

MR. CALOMO: Chris, I listened to what you have to say very carefully and you said about cameras and bycatch and monitoring bycatch in the cod ends. I want to stop right there and say what happened to the purse seines? Are we not going to monitor the purse seines for bycatch; are we not going to monitor the purse seines to dump fish? As everybody seems to have this bugaboo about dumping fish, are we not going to monitor the rest of the fishing fleet that are catching the majority of the fish?

MR. VONDERWEIDT: No, I'm sorry if I came across if it was purely a mid-water trawl problem with bycatch monitoring. That's something that is specifically listed in the scoping document for Amendment 4, so I wanted to put that as a bullet, but all those other issues under bycatch monitoring – there is a whole list there – are also of consideration.

You know, video-based monitoring, improved real-time TAC that is for purse seine vessels as well. That one is specifically listed in there as monitoring the cod end contents, and it has also been discussed at, I think, every single herring committee meeting that I've been to, so it seemed noteworthy. But, I don't think anyone is saying it is just mid-water trawlers.

MR. CALOMO: I just want it fair and equal throughout the range. Thank you very much.

CHAIRMAN STOCKWELL: Thank you for the clarification, Chris. Dennis.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. I have a question, but I don't know who should answer it, and I'm not even sure if it is a question that I should be asking. As the council has been working on this Amendment 4, in years past it was my recollection that we did joint work on amendments, and I recall attending many, many meetings on herring.

It seems like they've gone off and they're doing their business and maybe they don't need us there, but in the interest of joint management it seems like there should be participation. I know Vito mentioned that in Portland at a meeting that I just chose to sit on, and I did also. Is there no obligation for us to be there? I believe that we have some participation in it, but if they're going to be doing something that is going to

require some complementary action on our part, it seems like the section should be involved. I have the feeling that we're being left out to lunch.

I also note that as Chris gave us a good report and with most of our other management boards, we have someone from the Service sitting at the end of the table to be a participant; and here we have a management plan that we do jointly and I don't see anybody even sitting there, and I find this – I think I find it distressing. Maybe it's not distressing to anyone else, but I think something has gone off the track here. Am I the only one thinking that?

CHAIRMAN STOCKWELL: No. A quick catch-up is that George Lapointe wrote a letter to the council requesting the type of placement that you just presented. There was a meeting that happened between George and Vince; John Pappalardo, the chair of the council; and Paul Howard, the executive director. The result of that was the placement of Bob Beal on the herring committee.

Bob went to his first herring committee a couple of weeks ago, but it still didn't put the commission at the table and it still didn't put a number of the state folks at the table. There is an election coming up at the council this fall, and there will be likely a recomposition of the committees and we'll see what happens. Vince, do you have any further insight?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman, just a minor thing. I have a non-voting seat on the council, so I was appointed as a council member to the herring committee. We clarified that even though I'm non-voting in the council process, non-voting members can vote on committees, and it was with the understanding I'd be able to appoint a proxy or designee when I'm not able to attend. That's how Bob got on, but he has a voting position on there.

CHAIRMAN STOCKWELL: Thank you for the clarification. Vito.

MR. CALOMO: Mr. Chairman, I'm very happy that Representative Abbott brought this up. It was in the back of my mind. I've got to bring it forward, though, and say that I've brought it up at every meeting I've been to. I think you're a witness to that, Mr. Chairman. I brought it up, not saying I represented the Atlantic States Marine Fisheries Commission, but I was part of the section and when are we coming to the table, how are you developing this amendment to the fishery management plan without us?

I absolutely have not got an answer. I've made public statements; I've gone to the table and asked the question – absolutely have not got an answer. They're very polite to me, as they always have been, being a past member, but I haven't got an answer. I sit here and wonder if the Atlantic States Marine Fisheries Commission is going to do more than just send a letter. I think we need to send more than a letter.

It's very nice that they appointed our executive director and a proxy to sit there. It's a good thing for us to have representation there but it's really not representation of the section. We used to have a vote, and we developed a plan along with them. In fact, we were much stronger than their committee. Today we're nil, and I don't understand if it's a joint plan why we're nil.

I wish she was here. She was here earlier. Pat Kurkul was saying many times – and she is a very good friend of mine -- many times at meetings, well, we've got to develop this together, NMFS, the Mid-Atlantic Council and in the New England Fisheries Management Council; yet, I didn't see anybody or anyone say, "Well, we're supposed to do this together."

This is a major issue. This is a major fishery in the northeast region that we represent, along with not only the New England states that border the New England waters, but we have New Jersey quite strongly involved in the Atlantic Herring Fishery, and Rhode Island is a participant also. Mr. Chairman, I'm a little taken aback that we're just sitting idle here, and I don't know.

The next time somebody tells me we should what the Mid-Atlantic Council is doing or we should do what the New England Fisheries Management Council is doing, I'm going to say, no, we should do what we want to do in state territorial waters. So, either we're the Atlantic States Marine Fisheries Commission that we have some kind of authority or we're just sitting here wasting time. I don't believe we're wasting time. In fact, I feel this is a better commission than most of the ones I've ever belonged to. I thank you for your time.

MR. ADLER: I'll say it again. What irks me when we had those joint meetings was that the section, which makes the final decision when it votes, sits with the herring committee of the council – this is the way it is – and the herring committee of the council makes a decision but then it is a recommendation to the full council, and, of course, as we know, the

council is a recommending body to the National Marine Fisheries Service.

So, when we dealt with herring issues all these years, I've wanted to sit with NMFS so that the decisions that are made there between the two groups are final or pretty close to it. The herring committee is just a recommending sub-group of the full council. I think we've gone through this before, because everytime we make a decision we go back, they go back, then it comes back, we have to change our mind, and it has happened everytime.

On the quotas and everything else, we have had to change and go with them. We find this in the Mid-Atlantic Council with the other species, too, joint plans, complementary plans, whatever you want. I don't know what to do about it because things just keep on rolling along, but, I mean, it's part of the same thing that Vito said. And I'll shut up. Thank you.

MR. PATRICK AUGUSTINE: I'm glad everybody beat that horse to death. If it's a joint plan between the New England Fishery Management Council and the Mid-Atlantic Council and the ASMFC has a joint part of that with the Mid-Atlantic, if we want to participate and be more aggressive, then I believe we should take a seat or be invited to the New England Council/Mid-Atlantic Herring Board meeting.

I think that's the answer to the question or a solution to the problem; that is if we want to participate. That's really where it's at. I mean, we can point fingers at the Mid-Atlantic for doing what they do. As I understand it, because I'm on the Mid-Atlantic Council, we listen to the pronouncements that come out of the joint herring committee between the New England and Mid-Atlantic Fishery Management Councils.

Those two have to agree before we can move a step forward to make a presentation or present information to ASMFC. So, it's a triumvirate sort of thing as opposed to just a dual operation. I would suggest if we want to have more clout, if you will – and I agree with what Vito said and I agree with what Bill said, but if we want to have more clout then I think we have to take an active role and participate in the full council meeting up there.

MR. R. WHITE: Thank you, Mr. Chairman. Why don't we write and ask for federal representatives here? Why don't we write a letter asking that Pat send someone?

EXECUTIVE DIRECTOR O'SHEA: We spent probably four hours discussing this topic with the New England Council Chair and the Commission Chair. While I certainly understand the sentiments that have been expressed around the room, the reality is joining the two groups together is agreement by the two groups, and there isn't agreement by the two groups right now. That's the reality.

The Chair of the New England Council is from the Commonwealth of Massachusetts and made the appointments to the council. I think one of the things that we need to be aware of certain things that happened at the council that the section doesn't necessarily agree with, and let's say if the shoe was on the other foot, I think we'd have some sensitivities about the council telling the commission what to do. That's part of the balancing act, the challenge that we all have here.

The issue of the appointment that was made was an improvement from where we were which was the two representatives, one from Maine and one from Massachusetts, that had a high interest in this weren't at the table at all. In addition, we've always had a long and strong connection at a staff level between the plan coordinator and Laurie Steele. Thanks, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Vince, it is a good first step. Pat.

MR. AUGUSTINE: He answered my point; thank you.

MR. CALOMO: Thank you, Mr. Chairman. The New England Council and the Mid-Atlantic Council do have a say. They're all sitting at the table here with us. Every director is on the council. Every person in this room, except a handful of us, sits on one of the councils, so they do have a direct decision-making of what we're doing here, absolutely. Four-fifths of the people are here, and they are on the councils. That statement that Vince said is absolutely incorrect at this time.

The other thing I'm going to bring up is the history of us, we always had our section meeting with their committee meeting to develop a fisheries management plan or an amendment, but we're left out completely this time. That's not our history. Our history is we did sit at the table. Thank you, Mr. Chair.

REPRESENTATIVE ABBOTT: Thank you. I don't want to beat a dead horse but being a legislator I

probably look at things a little differently. I appreciate Vince as our director going to the meetings and representing us, and I appreciate that and Bob Beal doing what they do, but I liken that to me working in the legislature and having my staff person sitting at the table doing things that the legislature should be doing. There is something, again, still wrong with the picture that at least our chair should be there at the table representing the section.

CHAIRMAN STOCKWELL: Well, we were unsuccessful in moving that forward.

REPRESENTATIVE ABBOTT: I understand that.

CHAIRMAN STOCKWELL: Any other board members? George.

MR. GEORGE D. LAPOINTE: Thank you, Mr. Chairman. George Lapointe, member of the public. I apologize for missing the first part of this discussion, but one of the things I heard was people wondered why there wasn't a federal representative here; is that correct?

CHAIRMAN STOCKWELL: That's correct.

MR. LAPOINTE: We have in our bylaws something called "sections" and not "boards". The federal agencies are specifically left off the sections; and so if we in fact want the National Marine Fisheries Service to sit here, we may want to look at the – I'm not sure if it's the bylaws or the ISFMP Charter, but that portion of our rules that talks about representation on the section and see if we want to change that to accomplish that representation. Thank you.

CHAIRMAN STOCKWELL: Thank you, George, for the clarification. Other board members? Dave Ellenton.

MR. ELLENTON: Thank you, Mr. Chairman; just to refer back to Chris' presentation on the Amendment 4, which is where I think this all developed from, just to give you, briefly, a real-time snapshot of observer coverage and bycatch monitoring, we've just had two of our mid-water pair trawlers return from a trip yesterday, from a trip to Georges Bank. Seventy-two hours before they left for that trip, they called the National Marine Fisheries Service asked for observers. They got an observer on each vessel.

Six hours before they arrived back at the port, they called in to say they would be arriving back at the

port. On arrival we started to offload the fish into the factory. One of the new Massachusetts Division of Fisheries inspectors was in the factory watching us offload the fish, monitoring bycatch, if there was any.

We'd already had these two observers come off the vessels telling me that it was a very clean fishery, they'd had a very good trip, everything was fine. Today I've received three e-mails at least from the Maine Division of Marine Fisheries asking if their inspector could visit the plant to have a look at the product. We're swamped with observers looking.

I'm not saying that it's a bad thing, but I'm letting you know that already in the herring fishery, particularly for mid-water trawlers, every fish that is being caught on this particular trip is being monitored by at least four people, and that's without the environmental police who have a location 200 yards away from our factory walking down the wharf and putting their head around the door, too. Again, we welcome that. So, there's a tremendous amount of observers and bycatch monitoring going on already before Amendment 4 is ever put into place.

RIVER HERRING BYCATCH WORKSHOP SUMMARY

CHAIRMAN STOCKWELL: Thank you, David. Other board comments? Well, seeing none, before we move on to the River Herring Bycatch Workshop Summary, there are two documents handed out to you. One was a summary of our most recent July 31st days-out meeting. The other one is a letter that was drafted by staff for me to send to Pat Kurkul to address late reporting issues, which was a request from the board at the New Hampshire meeting.

DR. CIERI: Before I get started, I just wanted to go over – we did do a days-out meeting July 31st. Just some of the points from that meeting; it was held in Durham, New Hampshire. The current landings were higher than expected; as I said again, about 2,700, well beyond the modeled rate.

They agreed to meet during this week informally, the state section members, to discuss some of the issues that are coming up in the days out; and if action was needed, we were going to hold another meeting sometime relatively soon to go over catch rates and possible management actions. There was some concern about late reporting during that last days-out meeting, which seems to have since been resolved. It just seems to be a coding and data error. I just wanted to update everyone on that.

Okay, in all my spare time what I've been doing actually is working with Gary Nelson from the Massachusetts Division of Marine Fisheries in looking at observer and portside monitoring bycatch of the Atlantic Herring Fishery and trying to estimate river herring removals. And, just to give the sort of nitty-gritty and rather than go through this whole blow-by-blow description because we don't really have that kind of time, for the most part things came together fairly well.

We were able to mesh both projects together and take a look at river herring removals, which is what people have been really interested in. When you do that, you come up with a percentage of trips that encountered certain levels of river herring bycatch. In this case what we did was we actually combined bluebacks and alewives together as river herring.

And as you can see here for the directed herring fishery, for those trips that landed and catch more 2,000 pounds of Atlantic herring, regardless of gear type, we looked at the percent occurrence and literally 70 percent had no interactions with river herring at all. Around 25 percent had between a zero and basically a 2.5 percent bycatch of river herring, and then it tails off from there.

This tells us a lot, actually, about the distribution as scientists because this sort of distribution allows us to take a look at what kind of an error structure and what kind of a sampling structure we need in order to nail this fishery down completely and to really examine bycatch. Okay, now the graph that everyone is most interested in.

What we did was we looked at strata and then we scaled up from there. In the River Herring Workshop you will see a report that I wrote up for them and some bullets for them as part of the River Herring Data Workshop for the assessment. Pretty much I'm going to end with I guess on this slide is to take a look at the estimated catch using both portside and observer coverage between 2005 and 2007, estimated river herring removals by the Atlantic Herring Fishery.

As you can see, it has been highly variable by gear type and by year. In general, we have this broken out by quarters and by larger areas, and so we can sort of discern that as well when the time comes. But just to give you a little bit of a flavor, by far 2007 had the most removals. It was also the year that probably had the lowest sampling coverage. The best year that had the best sampling coverage was 2005.

Nearly 26 percent of the trips were observed either by a portside individual or an observer or both. We have roughly about 20 to 25 trips which were observed by both the observers and a portside bycatch person. As you can see here, the bulk of the river herring removals – I'm sorry, I actually don't have this in presentation mode; my mistake.

As you can see here, for 2007 most of the removals come from the single mid-water trawl. But, surprisingly enough, a lot of the removals are coming from the bottom trawl fishery. These are usually small-mesh boats that are catching river herring, whiting and Atlantic herring, usually combined, as well as some other small-mesh species that occur predominantly in the area of Cape Cod and further south. We thought that was actually fairly interesting.

The other thing to keep in mind here is that the error bars – the confidence limits on these are huge, and that's because of the sampling size when you start breaking things down by strata, by area, times, gear and by year. The coverage ends up becoming fairly low, and, of course, highly variable partly because of that error distribution that I showed you.

It's much more difficult to sample a rare but significant event when it occurs than it is to actually sample something that's fairly continuous. You need a different level of observer coverage. I am just going to end this with just a slide about – in addition to the observer program, we have a portside bycatch person, and he is funded through ACCSP.

He does a lot of work, and that includes not only bycatch sampling but also commercial catch sampling for menhaden, Atlantic herring and mackerel trips throughout much of the northeast. For a hundred thousand bucks, he covers about 10 percent of the trips in the Atlantic Herring Fishery for bycatch. That's it.

CHAIRMAN STOCKWELL: Thank you, Matt. Any questions? Doug.

MR. DOUGLAS GROUT: Matt, can you put up the next to last slide with bars. Did I hear you mention that the maroon bar there for the trawl fishery in 2007 was an area-specific – it was concentrated mostly south of Cape Cod; is that what you said?

DR. CIERI: You guys will probably get a better of this when we actually have time to go over this in detail, but we certainly do not right now because this analysis took almost four months to produce. To go

over it in detail and give you the information that you need would take a whole lot longer than you have today.

CHAIRMAN STOCKWELL: Matt, to that point, are you going to have a more elaborate presentation at the River Herring Board meeting?

DR. CIERI: Not that I'm aware of.

CHAIRMAN STOCKWELL: Well, can you quickly answer Doug's question?

DR. CIERI: Okay. In general – and in general is the way it works – we have it broken down by area and by quarter, and it's not just mid-water trawl, for example. So, there seems to be a pattern, area and time in which river herring bycatch occurs.

MR. GROUT: And all three years were covered all three years?

DR. CIERI: No, that's not true.

MR. GROUT: Okay, that's all I need to know.

DR. CIERI: There was no coverage on purse seine by observers. They were lightly covered by the portside bycatch project. There is some coverage for purse seines during 2006, but the fact of the matter is that purse seine gear only works in the Gulf of Maine.

MR. GROUT: So the final question is when will we get a more detailed report?

DR. CIERI: Annual meeting.

EXECUTIVE DIRECTOR O'SHEA: Yes, I did, Mr. Chairman, thanks. Just so I understand the colored bars, Doctor, is that saying like 1.6 million pounds of river herring in 2007?

DR. CIERI: Yes, just to give you an order of magnitude, when you add up all these little bars together, that equals in-river harvest of river herring on the Atlantic Seaboard.

MR. DIODATI: This report is not on the CD or anywhere else?

DR. CIERI: This report is under the auspices of a data workshop for river herring, so it is a data workshop pending peer review type of deal going on.

MR. DIODATI: Okay, is this same information going to be available later in the week during the Shad and River Herring Board Meeting or under what provision does it come to this board and not the other board? When do we get an idea of how these estimates were actually developed?

DR. CIERI: That should be part of the record for the data workshop for river herring. Basically, I presented this at the data workshop for the assessment for river herring, as an estimate of removals from the stock, so it was presented in that framework, and it will be part of the record of that meeting. It's in the data workshop assessment report, which will be presented in February 2009.

MR. DIODATI: Okay, is this presentation going to happen on Thursday at the Shad and River Herring Board Meeting, which oversees the assessment for those two?

DR. CIERI: Not that I'm aware of unless you want it.

CHAIRMAN STOCKWELL: That looks like an affirmative.

MR. DIODATI: Well, it's not on the agenda, but I think it is very germane to our discussion on the shad and river herring. There is an obvious overlap here, and I think we should have it at the following meeting. I think if there is a more comprehensive report that's going to be developed, which I understand there is, then I think it's important to bring that to the Shad and River Herring Board, as well as this board.

DR. CIERI: I have the presentation that I gave to the technical committee and the stock assessment subcommittee for river herring, and it's right there. I will go over it and give it to you guys whenever you want pending approval by staff.

MR. BEAL: I guess there are a few things going on with river herring. One is an interim assessment in light of the reality that a full-blown river herring assessment and peer review and all the steps that it would take to get an elaborate assessment together for river herring is going to take four to five years.

What the herring board did was say, "Well, give us kind of a quick read on what you do know about river herring indices, those kinds of things." That's the report that is going to come out next February. I think a lot of this information can be included in that initial report. But in the interim I think at the annual

meeting, if Matt is available, we can probably have a more lengthy presentation to the Shad and River Herring Board and the members of the Herring Section that aren't on the Shad and the River Herring Board.

In other words, there is a lot of overlap. There is no reason to do it twice. If it's going to take Matt a fair amount of time, we'll get everybody in the same room and ask Matt, if he's available, to come down to give that presentation, if that's a reasonable timeline for the Matt and for the commissioners.

MR. CALOMO: Thank you, Mr. Chairman. Could we put that graph back on the screen? The brown one – it looks brown to me, anyhow, from here – that one there is bottom trawl survey?

DR. CIERI: That is the bottom trawl fishery.

MR. CALOMO: And out of that there you mentioned the whiting fishery?

DR. CIERI: I don't know what was directly being targeted, but those are bottom trawl trips that landed more than 2,000 pounds of Atlantic herring.

MR. CALOMO: So they would have to be small mesh?

DR. CIERI: I have the ability to go back and take a look at that if that becomes something that we wish to discuss further as we do further analysis, but I would imagine.

MR. CALOMO: I understand; but just having my knowledge, it's got to be small mesh. It's not going to a 6.5 inch mesh that the ground fishermen go into. It's virtually impossible, through my knowledge. I would say it would be the squid fishery, the whiting fishery and the shrimp fishery, so those are three that I know that use small mesh. I'm not familiar with any other small-mesh fishery at this time. I'm just trying to see if there is a large amount there we have to look at, too. To try to find this bycatch, we need to work on these fisheries to –

DR. CIERI: I would certainly agree; and as we go through the analysis – I'm not really prepared to say, yes, they're small mesh unless I actually look at the data. But when the time comes, I'm more than willing to do that type of an analysis.

MR. CALOMO: Well, I appreciate that, but once you said whiting fishery, it kind of opened the door to my mind to kind of figure out what other fisheries –

because I know there hasn't been a tremendous whiting fishery like there were in other years, so it has to come from the squid fishery, it has to come from the shrimp fishery, and it has to come from the whiting fishery. Again, I don't know any other small-mesh fishery that we have in our areas, so I'm just kind of trying formulate it in my mind. Thank you, Mr. Chairman.

DR. CIERI: There has been and currently is operating a growing small-mesh bottom trawl fishery for Atlantic herring. That is something that has become fairly prevalent. This past year, in 2007 they landed 7,000 metric tons. These were directed trips in many cases in which 75 percent to 80 percent of what was landed were actually Atlantic herring. So there is a directed bottom trawl fishery for Atlantic herring in certain areas at certain times of the year, and that's where I suspect these mostly are, but I could be wrong and I'll have to check.

MR. DIODATI: As you probably know, there is a lot of public concern about the level of bycatch that occurs in the Atlantic Herring Fisheries, particularly river herring, and what I'm not getting here is a sense of how the workshop or the scientists working on it feel about the veracity of this information or the robustness of it.

I know you said that 2007 was the year with the fewest samples, so it sounds like that one has the most variance associated with it. What about the earlier years; do you feel that the information is good? Then you also mentioned that there are some funding issues with continuing observing this, and you mentioned \$110,000 and one person, but that doesn't include – is that just Maine's investment? Okay.

DR. CIERI: Getting to the first part of your question, the CVs are roughly equal, roughly around 60 percent. The estimates are highly variable. There have been years in which they have had good coverage as far as percentage of the landings versus trips. It's difficult to tease apart, and you've only got three years. Remember in 2006 there were no observers on any purse seiners anywhere on the east coast for Atlantic herring. That put the wrinkle into things as well.

Dealing with the funding issues, we're funded through ACCSP for about \$110,000. It covers a person, a truck, cooler, gas and a cell phone. That is his job is to do bycatch sampling for Atlantic herring and mackerel; do commercial catch sampling for

Atlantic herring and mackerel; as well as sample for Atlantic menhaden as time permits.

MR. P. WHITE: Just a question, and maybe I'm off, but looking at that 2007 figure, that's pounds and not percent of catch, so the graph would look entirely different if you were looking at the pair-trawl and single-trawl and what the percent of bycatch is of that relative to the whiting fishery or –

DR. CIERI: Abso-freaking-lutely, and that is important to understand. This is a presentation directed at river herring removals to a river herring committee. They don't care whether or not it was 0.200000 percent of the Atlantic herring catch. They want to know how many pounds of river herring are getting pulled out of the water.

OTHER BUSINESS

CHAIRMAN STOCKWELL: Other board questions or comments? Well, it sounds like Bob is going to work with Matt and probably myself and Paul and we'll get a more fully developed presentation for the fall meeting. All right, under other business, does anybody have any other business?

MR. CALOMO: Mr. Chairman, my other business is a comment. If you would allow me to make this comment, Mr. Chairman, I am very proud of the job you've done here today and at other meetings in the section. You've made me quite proud that you're a chairman, not only joining the Maine DMF. I feel you do a very fair job; and when I leave a meeting, I think you've done the best. You have some adverse conditions coming out of your state, as well as I know and others, but I thank you for that. Thank you, Mr. Chairman.

MR. R. WHITE: Thank you, Mr. Chairman. Can we decide now to have the days-out meeting so we don't have to have the lunch meeting tomorrow? Isn't that something that we –

CHAIRMAN STOCKWELL: That was going to be my other business. Are there any other questions or comments before I end this party? We had committed to have an informal meeting tomorrow at lunchtime to discuss whether or not we should have a days-out meeting, and we are in fact going to have a days-out meeting a week from Thursday, 10:30, at New Hampshire Fish and Game. The date is the 28th.

I would also be interested in having an informal meeting tomorrow with anyone who is interested just to discuss the many issues we talked about today,

particular issues with the FMP; Vito had a heartfelt thought process about juvenile catch. And if we're going to look forward to the potential of proposing another action this fall, I think a lunch together might be beneficial. David, you get the last word here.

MR. ELLENTON: Thank you, Mr. Chairman, and I will be brief. I see your letter dated August the 19th that you referred to earlier to the Regional Administrator. I'm seriously concerned about late reporting, as I know you are. You say that it has been and continues to be particularly problematic to the section because it greatly increases the uncertainty involved with determining how much Area 1A TAC is available for harvest.

If we are that uncertain, and I would be uncertain also, I would suggest that you close the fishery in 1A for two weeks, get all the reports in, get the dealer reports in, and see how close the numbers are to reality as soon as possible.

ADJOURN

CHAIRMAN STOCKWELL: It sounds like we'll see you at lunch tomorrow. Thank you very much for a very long day. We are adjourned.

(Whereupon, the meeting was adjourned at 6:00 o'clock p.m., August 19, 2008.)