

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

**Radisson Hotel Old Town
Alexandria, Virginia
August 13, 2007**

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INDEX OF MOTIONS

Move that the Lobster Conservation Management Area 6 Proposal for conservation equivalency based on the options related to a natural mortality rate equal to 0.15 be adopted by the management board as indicated in the document dated July 26th, 2007, and submitted by Connecticut DEP and Connecticut LRAC (Page 19). Motion by Eric Smith; Second by Pat Augustine. Motion carried on Page 20.

Move to amend or rescind Addendum XI (Page 20). The motion was read again as follows: Move to amend Addendum XI, Section 2.1.3.2.2, maximum gauge size, to allow an exception for the recreational dive fishermen in LCMA 4 and 5 to possess one male lobster above the maximum size length of five and a quarter inches per trip. Motion by Peter Himchak; Second by Eric Smith. Motion fails on Page 25 for lack of a 2/3 majority.

ATTENDANCE

Board Members

George Lapointe, ME (AA)	Karen Chytalo, NY, proxy for Barnhart (AA)
Pat White, ME (GA)	Pat Augustine, NY (GA)
Rep. Dennis Damon, ME, (LA)	Brian Culhane, NY Chair/ Proxy for Sen. Johnson
John Nelson, NH (AA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AC)
Rep. Dennis Abbott, NH, (LA)	Erling Berg, NJ (GA)
Dan McKiernan, MA, proxy for P. Diodati (AA)	Dick Herb, NJ, proxy for Asm. Fisher (LA)
William Adler, MA (GA)	Roy Miller, DE, proxy for Emory (AA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Bruno Vasta, MD (GA)
Mark Gibson, RI (AA)	Howard King, MD (AA)
Gil Pope, RI, proxy for Rep. Naughton, LA	Harry Mears, NMFS
Eric Smith, CT (AA)	
Dr. Lance Stewart, CT (GA)	

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

Ex-Officio Members

David Spencer	Joe Fessenden
Penny Howell	

Staff

Vince O'Shea	Toni Kerns
Robert Beal	Nichola Meserve

Guests

Frank Montelione, Ofc. of Rep. Needleman, FL	Chip Lynch, NOAA
Bob Ross, NMFS	Bill Sharp, FWC
Arnold Leo	Roger Frate, Darien Seafood Market
Bonnie Spinazzola, AOLA	Joan Frate, Darien Seafood Market

The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 13, 2007, and was called to order at 2:00 o'clock p.m. by Chairman John I. Nelson.

CALL TO ORDER

CHAIRMAN JOHN I. NELSON: Okay, why don't we have everyone take their seats and we will start our board meeting. Welcome, everybody, to the American Lobster Management Board. My name is John Nelson; I'm the chair.

CHAIRMAN JOHN I. NELSON: You have the agenda before you. Are there any modifications to the agenda? Pete.

MR. PETER HIMCHAK: Mr. Chairman, under other business, I'd like to add two issues. One is the substance of a letter from Director Chanda to the Lobster Board, revisiting the conclusion of male maximum size limits under Addendum XI. The other is for my information. Maybe George LaPointe or somebody from New England can give us some up close and personal information on this lobster puck utilization. It is showing up and being brought up at our Marine Fisheries Council, so it might just be a very light, informative discussion. Thank you.

CHAIRMAN NELSON: Well, without objection, we will discuss the Chanda letter under other business. If we have an opportunity to get on to the hockey pucks, we will do so – or lobster pucks. Harry.

MR. HARRY MEARS: Mr. Chairman, under other business if I could just have a minute as well to just briefly go over our final EIS which is currently available for public comment for the Atlantic Large Whale Take Reduction Plan. Thank you.

CHAIRMAN NELSON: Just a minute, did you say?

MR. MEARS: Just a minute, Mr. Chairman.

APPROVAL OF AGENDA

CHAIRMAN NELSON: All right, I don't see any objections to adding the whale one either, other than myself, so we'll bring that up after the artificial bait discussion. Anything else? I can see it is going to be an interesting meeting. Without any additional changes, then the agenda is approved.

APPROVAL OF PROCEEDINGS

You have the proceedings from the May 8th meeting. Any objections, any modifications to them. Any

objections to them being approved? All right, seeing no objection, they are approved.

PUBLIC COMMENT

CHAIRMAN JOHN I. NELSON: Public comment, we have several folks listed here. We have added to the agenda the discussion on I think what is asked here about the trophy lobster; so, if that's the case, we will take that up under the other business.

And the industry update on voluntary v-notching, I imagine we will get into that type of discussion during that agenda item. So, if that's okay with the folks that have signed up here, if anyone does want to come and doesn't agree that these items are going to be addressed, please feel free, come up now, and I'll see if that's so. Anyone want to come up and speak? Okay, you will get a chance to speak when we get to each one of those items as we come up to them.

TRANSFERABILITY COMMITTEE RECOMMENDATION REVIEW

All right, the next item for us to deal with is to get an update. I know it says an action item, but Toni and I had a number of discussions on the transferability issue. Toni will give us an update on that. At this time I don't believe we will have it as an action item. It will just be an update item. Toni.

MS. TONI KERNS: Thank you, Mr. Chairman. That is correct, we are just going through an update today. The Transferability Committee met twice since the last board meeting. The most recent meeting was just last Friday via conference call, and that is why these materials were not on the CD. We were hoping to resolve all of the issues so that we could take some action, but we still have a couple of things that we need to work through in order to get in that state.

For a little memory check, what this transferability paper is looking at is looking at individual trap transfer programs to allocate privileges to fishing traps that can be transferred or sold. This came about through the Addendum VII effort control plan that we put together for Area 2. In order to have success in an ITT Program, we need to have consistency among all of the user groups, especially for those dual permit holders being a state and federal permit holder and for those that have multi-area allocations.

So, through this paper there are several problem statements that we've identified that the committee has been trying to put solutions forward to solve. The first issue is if there is one fishing entity, then that equals one fishing history. Addendum VII stated

just that; that if it's one fishing entity, then it's one fishing history, even if the single fishing entity fished under both a state license and a federal permit.

We don't have records that are precise enough to identify where a certain percentage of the catch was caught in state waters and where another percentage of that catch was caught in federal waters to partition out landings. Records on the assignment of ITT fishing rights wouldn't be any more precise than the data that we already have.

Split permits cannot retain – history cannot retain two permits once a permit has been split. If so, then we could have trap proliferations. We want to make sure that for those individuals that have split their federal and state permits, that their fishing history doesn't go double in two different directions.

The next issue that we're looking at is uniform treatment of a single history. Dual state and federal permit holders often have single individual fishing history; yet, the state permits the person, and the service permits the vessel. Under the federal laws, the history cannot be split from that federal permit, so, again, we have a potential to double count single history when allocations occur; potentially if the state allocates for them and the service allocates in federal waters.

The next issue that we're trying to resolve is regulatory consistency. Under Area 2, the Area 2 plan, the states have tried to have as consistent regulations as possible when putting forward their regulations, but any differences in regulations could have impacts on how we allocate and then how trap transfers occur or area splits could occur.

It is very important that there is regulatory consistency. For instance, if the Commonwealth of Massachusetts has a policy that allows for a medical exemption but when the National Marine Fisheries Service puts together their rules and they don't have that provision, then an individual that is permitted in both state and federal waters for Area 2 could get one allocation from Massachusetts that's higher than the allocation that he gets from the service, for example.

The next issue that we are looking at is the multi-lobster conservation management area trap allocations. Because we had different qualifying periods, the assignments of allocations in multiple areas, due to the lack of an area-specific harvest information, some permit holders have received multiple allocations that are greater than the number of traps that they ever fished.

For example, a person might have historically never fished more than 800 traps at any given time, but because of the different years that were used to qualify for history programs, they received 800 traps in Area 2, Area 3 and Outer Cape Cod. So, these additional traps, once transferring occurred, could increase the actual number of traps that are fished in waters.

Lastly is administration of an ITT Program. For an ITT Program to work effectively, we would have to put together a tracking system. Currently we do not have a mechanism to track track transfers that would be consistent amongst all regulatory agencies. Some of the solutions that the committee has come forward to – again, these are still a work in progress. There are a lot of questions that are still unanswered that this group is trying to solve.

It is the goal of the group, when they are done, to bring forward all the solutions and almost for an addendum and as close to regulatory language as possible so that when states go to implement any options that are chosen in the addendum, if any, that the regulations could be consistent across all agencies because it would be spelled out precisely in the addendum to make this as simple as possible.

So, first off, when allocating traps, for those people that have dual permits with split history, the history would always follow the federal permit. The history cannot be split from the federal permit, and so it has a single way we deal with this for all areas. In the Area 2 Effort Control Program, both Massachusetts and Rhode Island have followed these rules when allocating traps to individual users when coming across dual permit holders with split history.

The second thing that we have found is that until we have resolved all the issues, that there should be no trap transfers for individuals with both state and federal permits until we can resolve all of these issues, so that we don't have to go back and correct mistakes. It will be more difficult to correct mistakes in the future than it is to just not have any now.

We can have transfers within the state. There also can be a sale of an entire business, and that could be for both state and federal. Just as a reminder for those Area 2 sales, there is the 10 percent conservation tax that was put forward by Addendum IX, and that is for partial or whole sales.

Next is a tracking system. We would need to develop an expandable web-based tracking system for all jurisdictions to use. It would be best if this was web-

based and expandable to allow for other areas if they want to put together transfer programs. This tracking system should be managed by one entity, but all agencies should be supplying the supporting data in a timely fashion.

Some of the things that we are still trying to resolve with this is where would funding costs come from to put together this system; how much would it cost to build and how much would it cost to maintain and how long will it take to build.

Next are solutions to look at the multi-trap area designations. This is where things get a little bit harder to follow and understand; so, if you get a little lost, just stop me and I will try to re-explain. What the committee is recommending is applying the most restrictive rule to trap transfers; meaning that allowing a fisherman to only transfer the maximum number of traps that that individual can fish.

So, a fishing entity must subtract the number of traps transferred from its starting number of traps fished. For instance, if an individual qualified for 800 traps in Area 2 and 400 traps in Area 3, that individual cannot fish at any given time more than 800 traps total. Currently the individual fishes 600 in Area 2 and 300 in Area 3.

He decides he is going to transfer 400 of his Area 2 traps. That means that he now fishes 200 Area 2 traps and 200 Area 3 traps. The way that goes is because if he originally was only fishing 800 traps, that was the maximum he was allowed, and he sold 400 of his traps, he now only has 400 total left to fish. Does that make sense? I know it's a little bit hard to follow.

Next taking this another step further under the most restrictive rule is assigning a fishing right to that trap. Again, we qualified for 800 Area 2, 400 Area 3, currently fish 600 Area 2 traps and 200 Area 3 traps because he can't fish more than 800 total traps. He decides he is going to transfer 200 of his Area 2 traps and 200 of his Area 3 traps.

That means he now only has 400 Area 2 traps. When he transferred, he transferred 200 Area 2 traps, and they will always Area 2 traps – they can never be anything but Area 2 – and 200 Area 3, and those will always be Area 3 traps. They can never be anything but in the transfer.

To add a little twist as another option, if an individual fishes no more than 800 traps and he wants to assign an multi-area designation to those traps so there is a

little bit more flexibility in how those transferred traps can be fished, he originally had 400 Area 2 and 800 Area 3. Currently he fishes 400 in Area 2 and 400 in Area 3, but in reality 400 of those traps he kind of has a choice of fishing either Area 2 or Area 3 under the most restrictive rule.

So if he transfers 400 traps, then those could be two-three traps, and the person who buys them can decide if he wants to fish them in Area 2 or he can say he wants to fish them in Area 3, but those traps, through the tracking system, will always have that designation of two-three, so if that individual who bought none decides he wants to sell and the person who buys from him says, "You know what, I don't want to fish from an Area 3; I want to fish from an Area 2," he can because it's been tracked through history that designation. So, assigning this fishing right gives a little bit more flexibility to the fishermen when selling traps over time.

I know this is very confusing and it takes a long time to let it soak in. Some of the suggestions that we're still trying to work out is if we were to only assign – you could only have up to three area designations per trap or up to two area designations per trap; and also to put a trap cap down for all areas, so that you can't build higher than any area's trap cap.

For instance – this may make it even more confusing, but I'll try not to – if a person only got 200 Area 2 traps in the allocation and they're wanting to build up, so they start buying two-three traps, two-four traps from other individuals, he can only ever buy up to 800 Area 2 traps, because that is the trap cap in Area 2.

In his last purchase, say, he was buying Area two-three traps, and he only needed 100 more Area 2 traps to get to his cap, but he bought 200 traps, and those traps were two-threes, then 100 of those 200 traps would be Area 2 traps, two-three traps, but then 100 of them would only be Area 3 traps, because he has reached that cap.

I know this is confusing. So, those are some of the things that we have discussed. Other issues that would need to come in individual lobster conservation management area plans, if they're putting forward a transfer program, is the group is suggesting a conservation tax that would be set up through that individual area, as well as assigning a trap cap if that area does not already have one.

That is where we are. Some of the things that the committee needs to kind of work through is Mark had suggested going through the university. I think it's

URI has the program where we can look at shuffling these allocations and what would really happen if we started making these transfers and what kind of situations we could run into, to make sure that we're exploring all of our options and not backing ourselves into a corner or creating more problems.

We're going to try to do that. Some of the other questions that we have are some issues with trap tag vendors, would this be – figuring out how to work it out with Stouffel or do we need to go out and make some other bids for trap tags, just in terms of numbers being on there, number of trap tags being purchased. Instead of buying them in bundles now, we probably would have to look at it in a different way.

Are there any questions on some of the issues that we brought forward? If anybody has other solutions that you think of that can get at these issues, I would be more than happy to take them. The last time I didn't hear from anybody when I asked for those solutions, so just throwing it out there one more time.

CHAIRMAN NELSON: Okay, any questions on the examples that Toni has presented? Eric and then Bill.

MR. ERIC SMITH: Toni, could you go back to the first of your solutions, the examples, the matrix. I want to make sure I understand this because I didn't through the presentation. When you say in Area 2 you're qualified for 800 and Area 3 you're qualified for 400 traps now, is that the new allocation based on the most recent addendum which set history-based allocations?

MS. KERNS: It's based on the most restrictive rule that says you – and this is actually a little bit backwards, because I should have made it the other way and have it apply better. But, the most restrictive rule says that you can't fish more than the total number of traps fished for that area. So, under here the individual can't fish more than 800 traps at any given time because he is capped at 800 for his Area 2 traps.

So, if he is fishing in Area 2 and Area 3, he can't fish more than 800 traps at any given time because he has those Area 2 traps, with 400 in one area and 400 in the other; or, he could fish 200 in Area 3.

MR. SMITH: I guess I don't understand how if you transfer 200 Area 2 traps and –

MS. KERNS: He transferred 400 traps total, so you're subtracting the number of transferred traps from the maximum number of traps you can fish at any given time. And at any given time, he can't fish any more than 800 traps, this individual. So when he transfers, you're going to only have 400 left, and this is so that –

MR. SMITH: But at that point, how do you know that it becomes 200 for Area 2 and 200 for Area 3?

MS. KERNS: Because he was already fishing 200 Area 3 traps, and he transferred only Area 2 traps is how I came up with that. I mean, that doesn't –

MR. SMITH: Okay, thanks.

MS. KERNS: And, Eric, once we go deeper into how the assignments go, whether or not you do one area designation or multi-area designation, those left-to-fish numbers could change, but this is just more the principle.

MR. SMITH: The methods, to me, is – what I think we all know is this is going to be incredibly complicated to deal with and more work needs to go. Thanks.

CHAIRMAN NELSON: That's why it's an update. Okay, Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I just wanted to suggest to Toni that these particular charts that you've got here aren't in this, but that's clearer to me. That little square with those numbers and the other one you had there, that's clearer to me and it might be helpful to work with those types of little charts. It's clearer.

MS. KERNS: Thank you, Bill, that's helpful.

CHAIRMAN NELSON: Any other points? Go ahead, Karen.

MS. KAREN CHYTALO: Toni, was there a consensus on the committee on these solutions that were offered? Are there any outliers that were of other concerns that were encapsulated in here?

MS. KERNS: For solutions one, two and three and four, we have consensus. When we get to Solution 5, where there is some differing opinions, and that's why we have two different methods, either assigning a specific area to the trap or allowing multi-areas. We also have been trying to grapple with a couple of

things that aren't – I don't know if you're referring to some things that Kim had shared with you or not.

With Area 6, in general, because Area 6 is the only area that is just state waters, it's a little bit simpler in some cases that makes it complicated in the dealings with this, but I think we're getting to resolution with those issues, but we are working on them, and how you deal with history following permits.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Good presentation, Toni. In response to the question that Karen asked, it appears that the board action that you want us to consider this afternoon is to initiate an addendum to address the trap transfer program and LCM?

CHAIRMAN NELSON: No, right now the committee still is working on a number of possible solutions, and I would rather have it come back to the board for a look-see before we try to do anything else on it. Go ahead, Pat.

MR. AUGUSTINE: Then the right question, Mr. Chairman, would have been in view of those that were identified as outliers, are any of those that are just going to be absolutely left off or are you going to address all of the remaining ones that you have on there for further consideration?

MS. KERNS: Pat, I don't think that there were any that was an outlier in particular. I was just saying under Solution 5 that it's split amongst the group and that both solutions are possible solutions. One is simpler; 4A is a little bit simpler to a certain degree I think administratively to track while 4B, as I pointed out, allows a little bit more flexibility to the fishermen. I think both are strong potential solutions that have different pros and cons associated with each one that I think would be good to go out – to have them both go out for hearings.

CHAIRMAN NELSON: Anyone else? Dennis.

REPRESENTATIVE DENNIS ABBOTT: Thank you, John. Toni, is there an incremental number of traps that can be transferred; is it lots of 50 or 100?

MS. KERNS: That is something that we still need to identify. I think it would be something that there would be some options in the addendum that would go forward to see what types of increments. But, for the states that have put in regulations, they do have increments. I think it's in increments of 50 as one example.

Another thing that we did say was that there would be a date in which – an end date to do partial transfers. You would have to apply by a certain time of the year to have a partial transfer; whereas, a full business sale could occur at any time during the year to reduce some of the administration, as well as that we are ensuring that we're tracking everything properly on a timely basis.

MR. DAVID SPENCER: Thank you, Mr. Chairman. I just wanted to reiterate from an industry standpoint there are two areas that are waiting patiently for a transferable plan to be implemented. I think this committee has made good progress. These are very difficult issues, but I will just say that – and I don't mean to say that this should be rushed at the expense of thoroughly flushing these things out, but there are two areas that really need to get this done, and I would hope the next board meeting we can come back and start an addendum. We have people that are depending on it.

Part of the buy-in to some of these very extreme and rigid allocation systems was the fact that there would be the opportunity to adjust afterwards, so there is industry concern that this be done as expeditiously as possible. Thank you.

CHAIRMAN NELSON: Okay, is there anyone else for any questions? All right, if you do have ideas that come into your mind or you have other questions, please get hold of Toni, and she will pass it on to the committee for their consideration. They will be meeting again shortly to wrestle with this a little bit more.

Hopefully, as David has pointed out, we'll be able to have this kind of flushed out so we can start the process. Obviously, it's a little more complicated than we all had hoped it would be, but that's the way lobster management does go.

MR. ROBERT BEAL: Thank you, Mr. Chairman. One quick thing, Toni brought it up briefly in her presentation, and it's the administration of this whole program. It's going to be fairly expensive, I have a feeling, to put together the data management system to track. Depending how much – it's a tradeoff, the increased flexibility increases the administrative burden, so if you decrease flexibility, the administration gets easier.

So, I think the system that is evolving is fairly complex and it's going to take a fair amount of money, some computer folks to pull together the tracking system. I think this group is going to have a

– you know, even once the rules are set, there is another hurdle which is finding money to support the administration of this program. The committee that’s working on this can bring up some options and estimates on prices, but somewhere along the way we’ll have to figure out how we’re going to pay for that.

CONNECTICUT CONSERVATION EQUIVALENCY PROPOSAL

CHAIRMAN NELSON: Okay, great, and that “we”, I am assuming that you inserted yourself into this so you want to help with that figuring. Okay, now we move on to Item Number 5. This is the consideration of Connecticut’s conservation equivalency request. Staff has said that Eric would like to give a review of the Connecticut Proposal. Eric, has everyone got a copy of the material?

MR. SMITH: Yes, the information went out to all the board members on the CD, and there are paper copies in the back of the room.

CHAIRMAN NELSON: All right, and I am making the assumption that people went through all of it, as I did. You can briefly summarize it and then we can see what questions people have. I will do the question scenario, and then we will get into the technical review also.

MR. SMITH: All right, thank you. What I had intended to do is have a brief summary of the key points and then ask for Toni or Penny to give the presentation of the technical committee review, a few more concluding points and then questions and answers.

The presentation is up there. This v-notch plan was developed by a committee established by our General Assembly. It had members from ASMFC commissioners, lobstermen, representatives of the three participating schools, Connecticut Seafood Council, and DEP Law Enforcement. It’s very similar to the North Cape Program in the sense that you notch lobsters, release them at the site that they were notched, compensate fishermen for the lobsters that they’ve thrown back.

It’s a voluntary program, but obviously the teeth in this proposal, which is for conservation equivalency, means there are add-ons in here that effectively make the value or the outcome of the program mandatory, and I’ll cover that in a minute. But, it’s a voluntary program; not all fishermen have to participate. We’ve got about 30 boats, a little over 30 boats, that have already expressed a willingness to be involved.

The students, of course, are key, and I’ll mention why in a moment, but these three schools that are geographically along the coast, that’s the labor force that will notch the lobsters to verify the program. A new notch is about a half inch in depth, and what we adopted in May in Addendum XI is a protective size of one-eighth inch.

Through some work done in Rhode Island and our own work, we see this as protecting lobsters for two molts, which could be just under 24 months to a little over three years of protection. So, a notch, under this definition, confers a fair amount of protection to the lobster. The key features of the proposal, I tried to design it – there was a cover letter and then there was a two-page executive summary because no one, including myself, wants to read a whole bunch of stuff prepared by other states.

Then there is a six- or seven-page document for those who are so inclined to read more. Then there was a technical committee report that we submitted back in June, which is even longer. So, there is a series of documents, but essentially by looking at the executive summary, you could get the high points.

We’re basically proposing that 58,000 legal females or some combination of mature females, legal and sub-legal sizes – and the example we used in the document was 73,000, but that would vary depending on how many shorts and how many keepers – those would be notched in each of the next two years.

What we did was an equivalent evaluation, if you will, that basically used spawning stock biomass per recruit as the currency to say what kind of protection do you get out of a gauge increase for males and females, what type of protection do you get out of v-notching of females only. Essentially that means we have to notch almost twice as many or a little more than twice as many females only to be the equivalent conservation value to the males and females protected by the gauge. So, that’s very conservative but it’s the right thing to do.

Importantly, the last two or three times, over the last two years, that I’ve spoken to the board on this subject, we always thought we’d have lobsters in the bank, already notched, before we got to the point where the commission was adopting its management strategy. Well, that changed in May when the board adopted Addendum XI.

What we have now in this proposal is what I call backstop measures. It basically says if we don’t hit our target, 58,000 lobsters, what happens? Well,

something has to happen. The gauge goes up. If we only hit like 85 percent or 65 percent, the gauge goes up either a 32nd of an inch or a 32nd six months delayed. That's all in the executive summary on Page 1. It's essentially the way to make sure that if we don't meet our goals, the same number of lobsters still gets protected.

That is a very key point because it's the first time you've seen that strategy in this current proposal. To me, it's what gives it the conservation value, the backstop value that we need to have before it is approvable.

Just then quickly, some of the benefits, this, unlike a gauge increase, it reduces the fishing mortality rate on females of all sizes, so it expands the age structure, builds spawning stock biomass. That's a value that is in addition to what you get out of a gauge increase. It provides economic assistance to Connecticut lobstermen. I mean, let's face it, the million dollars was because the Connecticut General Assembly wanted to provide economic assistance to Connecticut lobstermen.

The lobstermen, to their credit, said that's great, but let's make it have some value for lobsters, so they're the ones that said if we do a v-notch program and we protect lobsters at the same time, two things happen. We get some economic assistance, but the lobster stock benefits. And, they don't like the idea of gauge increase and this is the alternative that they would prefer to do.

So, there is a value that comes to the industry, but there's also a value that comes to the lobster from what the legislature had voted to do. I mean, this got sponsored by the Speaker of the House, passed overwhelmingly by the legislature, and signed by my governor. I'm an advocate of this. I mean, I'm doing everything I can to make this thing work because that's from the highest levels of state government, and that's we wanted to do. And there are some biological benefits that capture me very easily.

The third great benefit of this is the educational opportunities. These legislatively funded maritime high schools were kind of an outgrowth of a settlement to a lawsuit twenty years ago that found that Connecticut wasn't funding public education fairly. You know, rich towns had great school systems; poor towns had rotten school systems. They said you've got to fix that.

A series of magnet schools and focused high schools, usually in cities in this case, came about to try and

meet that judicial requirement. And these schools, basically the reason for being is to put kids on the water to experience marine science, marine trades, everything from fixing outboard motors to looking at fishery biology.

One of these schools has a wet lab system that would rival that of most small colleges. I mean, it's amazing what happened. And the kids are predisposed to want to go out on the water, so the lobstermen actually put this idea together, put the kids out there, the labor force, they get an educational opportunity and conserve some lobsters and aid the fishery. So, that's kind of the overall third benefit.

That's the end of the slides. I just wanted to bring people back up to where we've gotten to in past discussions so you knew how this evolved. The fundamental is approximately 60,000 lobsters each of the next two years is what we recommended to the technical committee as equivalent to the effect of the gauge in terms of spawning stock biomass per recruit. Thank you.

CHAIRMAN NELSON: Okay, thank you, Eric. Toni or Penny is going to go through the technical committee report, and then we will open it up for general discussion.

MS. KERNS: To keep Penny out of the hot seat, the TC asked me to give the report back to the board. The TC did not come to consensus on the evaluation of this proposal. There was, I would say, one and a half TC members that did not agree, but the majority of the TC did find that the proposal had the potential to be equivalent to the increased gauge.

The TC was also very pleased to see a program that allowed for the evaluation of the efficacy of a management measure. It is something that they haven't been able to do in the past. The TC also would like to – I know it's in the program for every two years to evaluate, but they also wanted to evaluate the program annually and just come back to the board with updates on progress on where we are with F; also, looking at the total population.

There were a couple of concerns that the technical committee had as a whole. The first was that the proposal used an age-based model over a length-based model. They stated that using an age-based model adds an additional level of uncertainty in the model due to the little information that we have on lobster aging.

The second comment that they made was that the ability – there is a little concern on the ability to actually notch 50 to 100,000 lobsters, and they strongly feel that the number of animals that should be v-notched should be in the higher end of the range of the proposal for conservation equivalency to the gauge.

They also have concerns that the model assumes equilibrium conditions over time, but I do need to point out that any equivalency model is going to assume equilibrium over time. It is part of the methodology that you would use. Lastly, all the TC members had this concern, but this was the stop issue for one of the members, and this is why this person was in the minority on approval of the report.

That was that the addendum option that was adopted was there for common biological measures as stated out in the addendum. This TC member was concerned that this would undermine the comprehensive management program, as well as that it is not consistent with the advice that was given by the peer review in the stock assessment that called for consistent biological measures in each of the stock areas.

Then, lastly, with that, it undermines the efficacy between the LCMAs that do have the higher gauge versus those that have a lower gauge, and that benefit would be lost on those boundary areas. Anybody have any questions?

CHAIRMAN NELSON: Let me see if there are any questions on the technical committee report, and then we will have questions in general for the overall plan. Mark.

DR. MARK GIBSON: Thank you, Mr. Chairman. What I'm trying to understand here is what was the mortality rate reduction that is supposed to be achieved by Area 6? It is not clear to me how this – I understand, I think, the technical demonstration by Crecco and Howell shows how this conservation equivalency between this v-notch program and the proposed numbers to be notched and the marginal gauge increase, but where does the rest of the mortality rate reduction come from. And if there isn't any other, am I correct to assume that just the gauge increase alone would have met the mortality rate reduction needed for this management area?

MS. PENNY HOWELL: No, this was a first attempt to just reduce mortality. We haven't done a stock assessment completely, so no goal or target F reduction has been established, but because it's been

– you know, years have gone by. After the die-off, the stock is not recovering in any measurable way. This was meant to be kind of a first step, so what we're trying to do is put in a measure that is equivalent but no target F or goal has been set up yet. I hope that's answering your question you asked.

DR. GIBSON: Could I follow up, Mr. Chairman? I mean, I thought any of these management areas within the Southern New England stock area had a mortality rate target they had to achieve – is that correct, Toni – and a time table to do that. I mean, I'm a supporter of v-notching and so one, but I just don't – I'm not making the connection. This is clear that this trades off for the marginal gauge increase, but I don't know where the mortality rate reduction that we have to achieve in that Southern New England area comes from.

MS. HOWELL: We've already done the two gauge increases to make the F reduction required. This new measure was to start stock rebuilding, so we were doing two steps. One was to meet the F median on a stock-wide level. That's been accomplished, I believe.

MS. KERNS: The TC hasn't approved – because we haven't had the updated stock assessment, we can't say whether or not any area's measures have achieved the F, but it is the hope that those two gauges have done so. That is the intention of those two gauges that were put in place, but I don't want to say that they have because we would need the next stock assessment to show that.

MS. HOWELL: Yes, that's good clarification. This was meant to be the first step for stock rebuilding, which is bringing up the stock abundance and not necessarily meeting an F reduction. Obviously, the two are related, but you can see how it's difficult to put the two together on a mathematical basis without a full assessment, which we haven't finished.

CHAIRMAN NELSON: The question I had, and I think it's probably for the technical committee, there was a question raised as far as whether Vic's overlaying of the models added an uncertainty that needed to be addressed. I guess that's my question; did it need to be addressed further or was that adequately reviewed and felt that whatever variance that created was within certain acceptable parameters? That's a layman asking a modeler did they use the right one or – not that he used the right one, but did we come up with a value that really has credibility to it? Eric, let me see if the technical folks can do it before you jump right in there.

MS. HOWELL: I'm trying to wear my chairman's hat and not my Connecticut hat, which is what makes this a little difficult.

CHAIRMAN NELSON: No, keep the chairman hat on, and I'll keep –

MS. HOWELL: As chairman of the TC committee, the first issue of uncertainty is length versus age. Some people on the committee were uncomfortable that the model was age-based versus length-based because the feeling is that age-based adds a level of uncertainty. As chairman of the technical committee, I bring that forward and make that statement.

I think age and length are both uncertain, so I'm not sure it makes a whole lot of difference. But the tenor of the committee was they were more uncomfortable with an age-based model than a length-based, so that is uncertainty Issue Number 1. That's why the majority felt that the Connecticut target at the higher level would compensate or buy some insurance for the stock, ensure stock rebuilding was actually going to occur given the uncertainty of the model exercise that produced those numbers. So when in doubt, go with the higher range numbers that came out of the model.

CHAIRMAN NELSON: Thanks, Penny. And then, Eric, I think there is a followup, and then I'll turn it over to everybody. You were looking at M of 0.15 and 0.3 to bracket that sense of uncertainty, but a lot of your numbers are based on the 0.15, providing that 10 percent increase in the spawning stock biomass as the equivalency of the gauge increase. Do you feel that you would want to have more of a level of higher certainty associated with it rather than sticking to that lower number? I guess that's the question that I think I have, anyway.

MR. SMITH: Thanks. Yes, three things all wrapped up in that. We only used the age-based model and we only used the equilibrium approach to compare dissimilar measures. It wasn't to put a new model in. It was simply to say if you get this out of a gauge increase, get the same amount of conservation out, so it was simply the currency.

That's why they used age-based just as a way, in both cases, evaluating the gauge and evaluating the v-notching, so I wanted to put that one away first. I have got a staff member who really feels strongly about what he feels strongly about, and I think we've all dealt with that before, and sometimes it bruises people, and they get talking to themselves, and this one got me talking to myself.

I have had one talk on it; I'm going to have another one. Here is how I understand why the technical committee endorsed a higher rather than lower number. When we did the last stock assessment, the stock assessment and the peer review said over time the average natural mortality rate is 0.15. Well, Vic disagrees with that. He thinks it was 0.3. The stock assessment and the peer review didn't agree with them.

Now, when I put this management proposal together, I said, well, here is how it is. You've got an approved stock assessment that says 0.15. I am going to make the management proposal based on that, but clearly say in the document that what we really want to do is notch as many lobsters as possible over that number. That's approaching the point where the numbers would have you believe it's a higher number, but most of that is because of this whole M is 0.3 versus M is 0.15.

So, my view is these numbers, the 58,000 to 73,000, that is based on the approved stock assessment value for natural mortality rate. Anything else we get in addition to that, because we'll keep on notching after we hit that number, that's all to the good for the lobsters, it's good for the lobstermen, and it leans – and that's why I accommodated Vic's strongly held view that, okay, that leans towards what you think M is, but nobody else did.

So, that's why this document says the 58,000 of legal lobsters only is consistent with what the stock assessment said, but we'll do more if we can. When you get to the backstop measures, though, they don't kick in unless – they don't kick in at a higher number. They kick in if you don't hit any number of lobsters based on the 58,000. I hope that responds to that technical committee comment, because I saw that, and I said what is this, and that's the answer I got from two different people.

It's because they asked Vic, "What do you think the numbers ought to be," and he says, "Well, because I think M is 0.3; it ought to be higher." That's not the way we ought to be doing business. That's why the management document didn't come out that way. Thanks.

CHAIRMAN NELSON: Okay, Toni has one question for you, Eric, and then we'll open it up to the board members.

MS. KERNS: I just have a question. The stock assessment committee and the peer review report for

the 0.15 for the national mortality, it was my recollection that from '97 forward, that both committees agreed that for Southern New England M was higher from '97 forward, so is that what you're saying. I was just trying to clarify.

MR. SMITH: Yes, you're part right. What I said was the long-term stable value of M, they all agreed it was 0.15, leave the die-off aside. During the die-off, the assessors and the peer reviewers said, well, of course, M rose, look what happened. This whole method of equalizing based on spawning stock biomass recruits is to try and hold everything common, average conditions, M equals 0.15 in both parts of the analysis.

That's why we did it that way. It was because leave the die-off aside, you're looking at what the average conditions are. You know, most people are saying the lobsters are healthy and they're not dying and things, and it's probably dropped back down from whatever caused it to rise six, seven, eight years ago. Again, that's why we used that number. It pre-dates the die-off.

CHAIRMAN NELSON: Okay, opening it up to the board for comments, and, Pat, I had you first.

MR. PATTEN WHITE: Yes, Mr. Chairman, and I know the questions are supposed to be directed through you, but where Eric made the presentation, how do we do the questions?

CHAIRMAN NELSON: Let's see, you say, "Mr. Chairman, may I ask Eric?"

MR. WHITE: Mr. Chairman, may I ask Mr. Smith a question, a number of questions?

CHAIRMAN NELSON: Yes, go ahead.

MR. WHITE: On your proposal, Eric, under Number 1, it is proposed that as many legal-sized lobsters be notched as possible, and it said that a number of times on this first page, but I have to assume that is female, because it didn't specify that.

MR. SMITH: Yes, all of this is based on notching females. We went around and around on how many times we ought to say that or not, but, you're right, on the executive summary it says legal size. It is notching of females only.

MR. WHITE: Okay. And, I guess I just would support trying to move towards that 80,000 number only because if you are really in a rebuilding mode,

that just seemed like a better number. Under Number 3, you had "will be required to respond accordingly", and that just raised a flag with me. I don't know what that means, according to if you did not meet the target?

MR. SMITH: Well, no. What that Number 3 means is that the next assessment is going to come out before we get to 2010 and 2011, so we'll know what the new advice is. If things have deteriorated, we're going to have to do more. If things have gotten better, we do less. I couldn't put anything in there about what the states will have to do without knowing where we stand with the next assessment. That whole thing is about the duration of the protection, and it gets us actually into 2010 and 2011, at the farthest extreme.

MR. WHITE: And one more quick question, I guess, the reference in here was to notches are to be about a half inch deep, under discussion at the bottom of the page, Page 5. What is that based on?

MR. SMITH: The tool that were –

MR. WHITE: Is that the standard tool that we all use?

MR. SMITH: Yes, the standard tool, you know, I only said about a half inch deep because dependent on operator error, you know, you either jam it in entirely and get a little more than a half inch or you may be careless with it and you get less.

MR. WHITE: Okay. That's all for now, Mr. Chairman. Thank you very much for allowing me to talk to Mr. Smith.

CHAIRMAN NELSON: The question I had and I think would need to be looked at a little bit is Long Island Sound has got a little bit of an area there between two states. So, just for the board's edification, Karen, what is New York going to do? Are they going to do a similar v-notch, or are they going to do a gauge increase, combinations?

What are they doing just so the board has this to kind of look at for the whole thing? I know Eric said that he fishes most of your waters with his fishermen, and therefore maybe there are no New York fishermen left; they're all Connecticut fellows. But, nevertheless, could you give us that information also.

MS. CHYTALO: The way I understand it right now is that the proposal will cover the entire Sound, and that, therefore, this should cover both halves of the

Sound, the Connecticut waters as well as the New York waters. So, therefore, we would not need to go to a gauge increase. Right, Steven, am I correct on that? It is my assumption that we would not need to go to a – because the conservation equivalency would be sufficient for the entire biomass of the lobster population in the Sound.

MR. SMITH: Let me add to that. Yes, that's a great question because it points out to me something that I neglected to say in here the statement of the obvious, the way the analysis went. When we expanded the number of lobsters that then were protected by a gauge or v-notching, we added their landings in with ours, so the v-notch targets are based on landings from the whole water body, not just state landings. So, the number of v-notched is the same as would be protected by the gauge increase in both states.

So, they don't have to notch anymore. If we hit our targets, we're covering their need also. Now having said that, the other thing they have to do, according to Addendum XI, is they've got to throw back notched lobsters of one-eighth inch or more just like we do, and that's another key point for making sure that the conservation value of this is water-body wide.

CHAIRMAN NELSON: Okay, let me open it up for board members. Dan, go ahead.

MR. DAN McKIERNAN: A technical question for whoever can answer it. What is mentioned in here, the notching of legal-sized females, does that include egg-bearing females?

CHAIRMAN NELSON: Well, why don't we have Eric answer those types of questions.

MR. SMITH: That part of the analysis, they are not included. If you read the larger management document, not the appendix, we've also analyzed an option where you would do mature shorts, and we made mention in the management document the proposal that we might want to also do egg bearers as, quote, legal-sized lobsters, but they are not included in the analysis, so that would be additional.

MR. McKIERNAN: So, to the follow up, if the target is 80,000 legal-size females, these would be 83,000 females that do not have eggs on their tail?

MR. SMITH: That is correct. That's analyzed as legal-size, non-egg bearing lobsters.

MR. McKIERNAN: Those that would otherwise be taken to market?

MR. SMITH: Yes.

CHAIRMAN NELSON: Okay, other questions on the proposal? Mark, go ahead, and we will work our way right down.

DR. GIBSON: Thank you. I guess I'm still looking for help with my original question. I don't want Area 6 to be held to a higher standard than the other areas, but my direct question, I guess to Toni, is what were these proposals supposed to attempt to do? I recognize we won't have an updated stock assessment until some time down the road, but are these proposals not supposed to target a mortality rate reduction of a certain magnitude.

MS. KERNS: Back in 2005, I think, when we started to send around the call for the states to put together their LCMTs, to make recommendations for measures to achieve the rebuilding goals, it was a 10 percent reduction in F and a 70 percent increase in abundance. So, those were the two measures that the addendums were trying to get at specifically for numbers.

What that 70 percent increase in abundance equates to for F is not precisely related, so the TC did not make recommendations there. They had just made the recommendations that we all saw about four times on all the different types of input controls that could potentially meet those goals, as well as they also had suggested putting together some sort of a quota for the fishery. That's that same proposal, if that helps jog your memory. That is the advice that the TC had given at the time.

CHAIRMAN NELSON: Mark, all set?

DR. GIBSON: No, but I'll think of a better way to ask it or not ask it anymore.

MR. SMITH: I have an answer for that one, too, if I may, Mr. Chairman, because –

CHAIRMAN NELSON: To that point, then, Eric.

MR. SMITH: -- we talked about the concern earlier. Addendum XI as opposed to what Toni just described only said go up on the gauge, impose a maximum, do a few of those things. It had no target, so the answer you're looking for isn't there. What we did in the analysis – and, Penny, correct me if I'm wrong, but I'm pretty sure Vic's analysis said under the M equals 0.15 option, you'd be looking at around a 20 percent reduction in fishing mortality rate on females.

That's why that's in the very last paragraph of the monitoring – that management document that talks to the annual monitoring that the technical committee had asked for and that we had already agreed to do. So, it's not a provision of Addendum XI. There is no mortality target reduction in the addendum. The equalization, if you will, is we're anticipating a 20 percent reduction in F on females based on the v-notching. Is that clearer?

CHAIRMAN NELSON: Penny, did you have a different number?

MS. HOWELL: It's 16 percent.

CHAIRMAN NELSON: Okay, 16 percent, Eric. Okay, marching down the list here, Dennis.

SENATOR DENNIS S. DAMON: Thank you, Mr. Chairman. First, as an editorial comment, I want to say that I fully support v-notching as a conservation measure. I think it probably stems from the fact that I've been involved with that literally all my life, given where I come from and my family's background, and we just notched females.

So, I also want to support Connecticut's attempt to bring this before us today, but I have a couple of questions I guess I hadn't thought much of until the discussion started, and that is the responsibility or the effect that this v-notch program in the Sound will have between the two states, New York and Connecticut, and is there any responsibility and thus effort on the part of the New York fishermen to be notching any of these females. And, I think I heard them say that they're not going to be able land those v-notched females in New York. Is that all correct information, and is there any effort on behalf of the New York fishermen?

CHAIRMAN NELSON: All right, Karen was next, so I am sure she will be happy to answer that, and then she can also ask her questions.

MS. CHYTALO: There have been discussions about – we don't have a program in place right now to do v-notching or to fund a program like that. It's something we would have to explore. That's why we're very interested to see how this pilot on the Connecticut side really operates. You know, do they get the numbers; is that working? I think that's something that we can then sell a lot more to our fishermen that, you know, this program has some validity to it for here; it's working here.

I mean, your examples worked well up in Maine, but we'll just have to see how does it work for our body of water. So, for us, we're watching, and, of course, we're going to assist Connecticut however we can in this whole process, but we don't have anything in place right now to do a similar thing to help our fishermen out. My question was a technical question going back –

CHAIRMAN NELSON: Let me just check, Karen. Did all your questions get answered, Dennis, or do you want to ask any of them again.

SENATOR DAMON: Mr. Chairman, I just have one more, if I might, but I will yield this to the lady so that she could ask her technical question, if you'll promise to come back to me.

CHAIRMAN NELSON: All right, just remind me that you have a place marker. Karen, go ahead with your question.

MS. CHYTALO: Thank you. This is a question having to do with – this conservation equivalency, though, does take care of protecting a lot of the female lobsters out in the Sound and Area 6, but the male lobsters will not be protected as a result of that. Do we have any idea of the ratio of males to females and will we be fishing so many more males that we could be setting up some imbalances? That's the one question I have.

CHAIRMAN NELSON: Okay, Eric, to that point.

MR. SMITH: We did address this point because the technical committee raised this concern last year during their review. There are a couple of reasons; and just on one point, Penny, our sex ratio I always get mixed up – it's weighted towards females, yet the fishery seems to select for males. It's in the back end of the document.

You would have to have a very, very disproportionate sex ratio before it made an effect. The other reason for that – I didn't anticipate that question, so I'm a little disorganized in the answer. The other point is we have the two molt periods in the Sound as opposed to one that's a conventional thought for lobsters.

So, approximately half the lobsters are molting in June and the other half are in October, and the males are available to inseminate them at all times, so that was another reason, when we thought this through last year, that you could have a fewer number of males in the population and still satisfy the

reproductive requirements of the females. We don't think that's a problem. We did look into it in some detail last year. I think it's on the last page as a technical committee concern last year. We explained it a lot more eloquently than I'm doing now.

CHAIRMAN NELSON: Okay, next on the list was Harry and then Peter.

MR. MEARS: Thank you, Mr. Chairman. I have one question for Penny, which was just answered, about not v-notching males. One question I have for Eric is on the logistics of contracts with participating vessels. I was wondering if, number one, contracts are already in place, that the fishermen have been recruited. I guess my second question, I believe you referred to the students as notching agents. What degree of quality control will there be to monitor and essentially notarize numbers of lobsters v-notched on a daily basis and to encounter any problems that come up.

And as I understand it as well, one final subset of this overall question is that v-notching will occur when water temperatures are within certain limits. Are there any other factors such as market prices of lobsters that could make it not enticing to v-notch versus sell lobsters on any given day?

MR. SMITH: Harry, you're going to have to help me out because I'm going to deal with these one at time, but I couldn't write as fast as all of those questions came. Let me see if I get them in order. No contracts with boats. They volunteer. They decide to participate or they don't. Where we do have a contract is with the city of Bridgeport.

Their Board of Education is going to administer this whole thing. They are going to pay the lobstermen; they're going to pay the students of all three schools. We have to have a contract with them, and that's been driving me crazy for six months because the issue of insurance coverage – obviously, kids on lobster boats became a real issue. We have got that resolved now.

We have a policy waiting to be let; we just need to get the contract with the city of Bridgeport and our attorney general signed, which is what is underway now. It's with the city attorney and we're waiting for him say, okay, you had two or three concerns; we said those are fine, we'll change it, so we're underway with that, but we haven't got the signatures yet.

So, that's the nature of the contract battles that have been going on since February. It started with insurance, and now we've got that resolved. That's one point. The kids as the agents, they're going to be two-person teams, and there are a couple of reasons for that. We didn't want to put one kid on a boat with lobstermen and find out that, you know – all fishermen in the room excluded from this statement – some lobstermen might be kind of overbearing with a kid and say, "I want you to say that I did 500 lobsters today."

So having two kids there is a little bit of insulation against making sure that the number actually notched – that's what they're out there for is to do the notching and verify it for two purposes. It's accountable for the conservation value that we're claiming for it – it is directly observed – and also for the expenditure of public dollars, so we know that if a hundred lobsters were notched and that is what the guy is getting paid for, it was really a hundred lobsters.

The school faculty advisors have said they are going to rotate their kids around so you don't develop a good working relationship with any one boat where the same kids always go on the same boats and they develop that relationship. So this is kind of an observer-based independent monitoring.

That's why it's expensive, but it's why it's a verifiable program, unlike something where you say, you know, we're taking somebody's word for it, that they did what they said they did. So that was the second point you made, the agents on the boats. The third part I didn't get, would market conditions – oh, temperature, you are right.

Temperature, when it's above 20 degrees centigrade, we don't notch because in all of the research that was done on the die-off, temperature wasn't the cause of mortality, but it seemed to be the catalyst and concentration with all the other things like hypoxia and adverse sediment quality, and if you accept the notion that pesticides plays a part of that – I mean, that's what the lobstermen believe – all of those things that made for a stressful environment got triggered by a high temperature.

So, we're trying to stay away from the high temperature period. We're not notching now, for example. We had started an interim program, a voluntary program, so we're into 1,500 to 2,000 lobsters already, and we haven't got the contract yet. But, we stopped when the water hit 20 degrees. We start up again probably in October sometime when

the water temperature goes below, bottom water below 20 degrees. That was your temperature point. Please explain the market one again because that one I didn't get.

MR. MEARS: Right, recognizing this may be just a short open window that it is okay to v-notch lobsters; is there anything where a participating fisherman may be reluctant to participate receiving money to v-notching a lobster to a higher price they can get in the market?

MR. SMITH: There may be. What we're going to do is pay market price plus 5 percent, but, frankly, the backstop measures make that not so desirable because the bottom line is if they don't – if this system doesn't produce the target number of lobsters, the gauge goes up. Now, it doesn't go up entirely.

If they got to 89 percent, it goes up a little, and it is six months' delayed. I mean, you have to read that whole first page of the executive summary to see the strategy of trying to make sure that we don't overburden them with a gauge and a v-notch. But the bottom line is if the target isn't hit, the gauge goes up, and that's why the conservation value is assured.

The answer to your question is if somebody says, "I don't want you v-notching lobsters; I'll give you fifty cents or a dollar a pound more", a fisherman can do that. There is no rule against him doing that, but he does so at the expense of the value of the program. They have got to have that in the back of their mind. I think they're going to be wanting to make darned sure they get that whole required number of lobsters in each of the two years, so they don't have the gauge go up.

MR. MEARS: So you do feel, as one final question, there will be an adequate process in place to give a very accurate indication of real-time numbers of lobsters that have been v-notched?

MR. SMITH: Actually, the schools are going – I hate the term "chad", but that's because I'm a democrat and I remember Florida. Pardon me, I hope that wasn't on the record. I don't care if it is. The fact is they call these little notches "chads" now, and the school faculty advisors are going to save the chads so that when they get to the dock, they'll count them up and they'll either archive them in their own school or they will throw them away because they don't need them anymore.

I mean, one of the values of this program – Lance just reminded me – they're recording a whole lot of

biological data, too, you know, lengths and sex ratio information and the catch and things like that; not to get in the way of the v-notching, but to collect the supporting information so when we get to evaluate the effectiveness of the program, we know what the size distribution of the females were that were notched, for example, all in the sense of evaluating the biological value of the program.

So, the kid and the lobster boat owner, the two kids – I shouldn't say that – the two student workers and the lobstermen all have to sign the form. Okay, you asked about notarization. Well, they don't have to notarize it, but they do have to sign saying, yes, they did a hundred lobsters, and everybody agrees to that, and the chads are available on the dock for the faculty advisor to count, if he so chooses.

There has been a lot thought that went into making sure it's a tight administrative system. I mean, we heard the war stories of the early efforts in Rhode Island, and we're trying to build on that to make sure that we don't have problems of our own.

CHAIRMAN NELSON: Okay, thanks, Eric. Peter.

MR. HIMCHAK: Thank you, Mr. Chairman. I have a very practical question for Eric, I guess through you. The way I'm looking at this, you have a million dollars for doing this program for two consecutive years. That's a million dollars for two years, and that sounds like a lot of money, but you know how administrative costs tend to sometimes siphon off significant portions.

And now we're grappling with the fact of 58,000 lobsters per year versus 81,000 legal-size females. I don't think it would be too much to ask – you're talking about approving a two-year program. In the powerpoint presentation there was mention about we'll continue or as long as money holds out.

I don't think it would be too much to ask for Eric, at the end of the first year, to give us some kind of a financial accounting of have you reached the target, what did it cost them, and then is there sufficient funding or was there new funding for the second year. That would be my request.

CHAIRMAN NELSON: Okay, without objection, that will be part of the program. Okay, Eric, one quick question before I get to the next side of the room here. If New York is harvesting more than 50 percent of the lobsters from the Sound and they don't have a v-notch landing prohibition, did you factor that in or did you factor in that they were going to

have the throw-back restriction on the possession of them? Which way is it?

MR. SMITH: New York is required to throw back lobsters with a notch bigger than one-eighth of an inch. The addendum requires that. They have to have that in effect by June 30th. It's not an issue right now because any notch put in there today is a half inch deep, and it's going to take two molts before it's below an eighth. So, I don't care that their law doesn't say it now; I care that it says it next July 1st, and that's what they have to do or they're out of compliance, and I'll offer the motion.

CHAIRMAN NELSON: All right, let me go around to the other side of the room. Bill.

MR. ADLER: Thank you, Mr. Chairman. First of all, I like the v-notch idea because I believe in v-notching. However, I wanted to ask Eric, Mr. Chairman, in the North Cape Program even the dealers got paid something, and is that in your plan. That was the first thing. Did you anticipate that the money that you have to work with here; did you do some calculating to figure that money would cover all the costs and come up to that many lobsters being notched?

MR. SMITH: Yes, two questions. Nothing in this for dealers, It just didn't come up or if it did, it got written out fairly quickly, and it's just how different states deal with different things. They had \$10 million to deal with and we have a million. Will the money cover all the costs? Yes, for a year and then some; not enough for two full years.

You know, there is a division of labor on all this. I have been doing this proposal; the staff has been doing the technical presentation. The lobstermen are the advocates of the money. I can't go to the legislature and ask for money, but I know the legislators love this program because of the educational, conservation, support for lobstermen, that three-part benefit.

They're very receptive to funding it in the future. We didn't go back this year for funding in the spring '07 session because we hadn't started to spend the money they gave us in '06. They are going back come December/January to get the next year funded. So when we go through '07-'08 on this first million, and we expect to have some left over after we pay the lobstermen and we pay the kids, we pay Bridgeport's overhead, pay all of those things, in the '07 session they're going to be asking the legislature to fund this again starting July 1st, 2008, through June 30th of '09.

If they don't get that money – and, I mean, I'll be supportive of that, but I just can't go with my hat in my hand to the legislature, like we can't go to congress. Point 4 in the executive summary, should funding not be forthcoming, the states have to respond accordingly, again, whatever the board tells them to do.

If it happens in a year, the gauge has to go up because that's what the plan is for a gauge increase. The answer to your question is it hinges on going back the legislature and looking for continued funding. And all the signals we have gotten from the Speaker of the House is he likes this program. He just wants to see us get on with it.

So, the advocates, not just the lobstermen, but we have some very political influential people on this committee – yes, the Lobster Restoration Advisory Committee, who are very close to the legislative leaders, and they say this thing is imminently supportable in both parties. I can't guarantee it, but that's better than I've ever heard for a prognosis.

MR. ADLER: What a great state Connecticut is. The same question several times has been answered about where is New York here with chipping in on the piggy bank. I guess my concern over this thing is the disparity between the Area 2 and Area 6 fishermen having to throw over a lobster and then right next from the next wave, they can keep it.

I think that is what is bothering me in this whole thing. I love the v-notch idea. I think your program is great, but I somewhat think it's a little unfair when you're so close to the next guy. That is a concern I have over this whole program. Thank you, Mr. Chairman.

CHAIRMAN NELSON: All right, thank you, Bill. Roy and then I'm going to go to the audience.

MR. ROY MILLER: Thank you, Mr. Chairman. As an interested observer, I'm just curious. New York would have to do nothing further, do I understand that, other than to institute the recognition of the notch; is that correct?

CHAIRMAN NELSON: Who is answering that? Karen, go ahead.

MS. CHYTALO: We do have to change the regulation of our definition of v-notch. We have to make sure it is the – change it to the one-eighth, with or without setal hairs, to make sure this whole thing properly does work, so we do have a response that we

do have to take right now, that regulatory change, but that's all we physically have to do other than, you know, making the requirement of having the v-notched lobster thrown back in.

CHAIRMAN NELSON: All right, anyone in the audience want to make some comments on this? Yes, sir, state your name and where you're from.

MR. MIKE TYLER: My name is Mike Tyler. I'm a lobsterman from New London, Connecticut. I was on the sign-up sheet for the industry update. I'd just like to give you a quick update on behalf of the industry. We have, in fact, started to institute this program voluntarily already. Until the water temperature warmed substantially, we were taking observers on v-notching trips.

Most of them were either state employees or they were doing the sea sampling or, in fact, teachers at these schools. And, unlike some of the media reports, the lobsters that were notched were not all shorts. They were lobsters of all sizes. The lobstermen worked hard to make their vessels compliant.

One of the issues that the LRAC Committee brought up was that they had to pass a coast guard voluntary inspection. Many boats, including myself, I mean, we have six-man raft rather than a four-man raft now because if you're going to be carrying a couple of the school kids, you want to make sure everyone is covered.

I also would like to just comment on a few things that were spoken about before, particularly the Area 6/Area 2 border dispute, if you want to call it that. Number one, for years Rhode Island had a smaller size than Connecticut. Most of the tagging studies that were done by Connecticut in Millstone show that a migration is west to east, out of the Sound.

It is interesting to note that the area in question here, the border between Wachill and Montauk is only 20-something miles long, so we're talking about a very small border that we share. This isn't a border that's miles and miles long like some of the areas. I mean, compared to the Area 2/3 border or other areas, Outer Cape/Area 2, it is very small.

The one question I have is that throughout the Sound, the past few springs we have seen a tremendous amount of juveniles and sub-legals, which we normally see. However, it seems to me that after the past few gauge increases, we're seeing fewer of

legals compared to the amount of the biomass or short lobsters we see.

There are only a few things that could happen to those lobsters. I mean, they don't fly. They're either being preyed upon, which most of them at that point are too large to be preyed upon, or they migrate out. That is what we think has happened is as we continue to increase the gauge size, more of these lobsters have already begun to migrate out. In fact, that is one of the primary points that we'd like to make for keeping the gauge size where it's at right now. Thank you.

CHAIRMAN NELSON: Okay, thank you very much. Anyone else in the audience? Roger.

MR. ROGER FRATE: Thank you, Mr. Chairman. Roger Frate, president of West End of Long Island Sound. I'm also representing the fishermen with the v-notch committee for the last period. It must be nearly a year now, you know. We were the first boat to take the state people out, the biologists, to v-notch, myself, my son. We took them out and we v-notched 500. They were all shorts, three inches to three and five-sixteenths.

You know, we have done a lot of hard, hard work. I know Lance Stewart, he's the chairman, and Eric Smith worked their brains off, and Doc Gunther, and everybody else just about killed themselves. We put a lot of money and a lot of effort into this. We believe it; we will work it. It works in Maine.

And I talked to the fishermen up in Rhode Island, up in Newport. I was up there a couple of weeks ago, and they claim this is the answer. I just hope you all listen and let us try this thing out. I know the state and the way Doc Gunther talks, we'll get money. Right now, the lobsters – I own Derry Ann Seafood, 26 years in the business – the lobsters are too big, what we're catching, three and five-sixteenths.

I mean, we're catching so many halves down our way that I'm actually selling them for colds. I don't have enough clientele to buy the halves. I was up in Newport watching a boat unload and the same problem. The fisherman brought in a good catch, but the stuff was so big, it's actually too big for the market for the volume. The three and a quarter inch is a preferred lobster.

So, I just want to say we're all for this. It will help the market. I thank you very much. There is just one other thing; I don't want to get off the subject, the Long Island Sound is loaded with stripers and

bluefish, dogfish, bass. I just wish you would open it up for more fishermen. Sports fishermen, let them take more, even commercial fishermen. Every time we cut them up – and that’s coming from the sports fishermen – there are little baby lobsters in their belly. Thank you very much.

CHAIRMAN NELSON: Okay, thanks, Roger.

MR. NICK CRISMALE: Good afternoon. My name is Nick Crismale, president of Connecticut Lobstermen’s Association. Just a couple of points here, not to be redundant from what Mike Tyler says, because I support him and everything he said. But, you know, this is the first maybe unprecedented corroboration between academia and the lobster industry.

I know a lot of people have worked extremely hard to make this work, including the schools and the kids. I think it would be a very viable program. But what makes it really interesting is the logistics of Long Island Sound in that there have been studies done that talk about the lobster population being basically a resident population in Long Island Sound, unlike the other areas. We’re very excited about it, in bringing back the resource by returning the females. So, I just wanted to make that point that unlike the other areas – and we do have two studies that have been done by our DEP that this is basically a resident population, and hopefully what we do there will stay there. Thank you.

CHAIRMAN NELSON: Okay, thank you very much. Anyone else in the audience? Okay, I’ll come back to the board, and I had George, Dennis, Dan. We are going to take just a few more minutes.

MR. GEORGE D. LAPOINTE: Thank you, Mr. Chairman. I want to give credit to the folks in Connecticut for coming up with a pretty innovative program, but a concern for the commission and a concern for the state of Maine is the premise of paying for conservation of a public trust resource. And, again, I think what they’re doing is good, but the idea that we pay for conservation that we need in the resource, if it goes beyond this program, is something I think we need to discuss as a commission.

CHAIRMAN NELSON: Thank you. I meant to also point out with the public input there were a couple of letters. One was in your binder or on the CD and another one apparently did not get to that. It was not sent to ASMFC. That was folks from Area 2 that were concerned about Connecticut’s v-notch program

in that they just wanted us to be aware of that type of thing, so they were in opposition, a couple of letters. All right, Dennis.

SENATOR DAMON: Thank you, Mr. Chairman.

CHAIRMAN NELSON: That was the other Dennis. You haven’t got your marker in yet. It hasn’t been called yet.

SENATOR DAMON: A promise made is a debt unpaid, Mr. Chairman.

REPRESENTATIVE ABBOTT: Thank you, John, for recognizing the gentleman from New Hampshire being me. As usual, Eric is doing a fine job fighting an uphill battle here as he tries to make us buy into going along with a voluntary program with something that has the potential to be the equivalent of a gauge increase with the hope that 58,000 female lobsters will be tagged and also that we’re going to v-notch juvenile undersized lobsters.

He is doing a pretty good job, but I have two questions for Eric. First, how do you establish the market value of a sub-legal size lobster, number one? And, will your minimum gauge size stay at three, I believe, and five-sixteenths during this time?

MR. SMITH: With your leave, Mr. Chairman, market value, we talked about that in the LRAC, the lobster committee, and Lance can correct me if I’m wrong. My recollection is it’s simply the same price per pound but a smaller weight lobster to figure out the value, if we do sub-legals. We’re going to start just doing legals; and if we have to do the sub-legals – I’m being corrected here by a couple of places.

I think what I’m hearing is no price paid for sub-legals. The point I wanted to make on that was if you look at it – and it’s to George’s point, too, and I’ve heard him make the point, and I agree with the point that we ought to be very wary about paying for conservation and in this case paying for shorts.

The reality is I don’t look at it that way. I look at it as the legislature is going to give these guys a million dollars anyway, and what kind of conservation value can we get out of that while they’re getting their million dollars? From my perspective, even a short into the population before it’s had a chance to be exploited, that then is protected by a notch, that’s very good news.

Most lobsters get caught in the first few months after they molt into legal size in that summer period; and if

they're notched first, then they're protected all through that summer. And at the size we're talking about, they're all mature in Long Island Sound, so it's not a question of immature lobsters. It's a question of lobsters less than the minimum length all being – three inches and up they're all mature. That was the market value question, and the second was?

REPRESENTATIVE ABBOTT: Eric, first I want to thank you for that answer; and if the answer is that you will be v-notching sub-legal size and it not costing you, I think that is a very good point and one that I hadn't made in the original presentation, so I'm very pleased with that answer. It was actually a better answer than I expected, though as usual a bit lengthy from you, Eric. But the second question was is three and five-sixteenths going to be the minimum size through the duration?

MR. SMITH: Yes, for the duration of this program –

CHAIRMAN NELSON: Thank you, Eric, very good. I had Dan.

MR. McKIERNAN: Thank you. I want to turn back the clock a year when Penny first gave us a presentation on what was going on in Southern New England and a presentation focusing on relative exploitation. What she showed us last October was that in Long Island Sound the abundance of lobsters of all sizes was going down while landings were going up, and that trend was not seen in Area 2 where the landings were going down, but abundance was going up.

So I think Long Island Sound has an additional burden here that I think we're missing if we've forgotten Penny's presentation. From what Penny showed us, things are worse in Long Island Sound than they are in the other areas of Southern New England. What I'm bothered about with this program is there are a lot of caveats, and there are even some warnings from the technical committee that they may not meet their targets. I would argue that not only should the targets be met, but the targets ought to be exceeded because of the relative exploitation situation. I would like Penny to comment on that.

CHAIRMAN NELSON: Well, I think we've heard that precautionary note already from the technical committee, so I think that is still fresh in everybody's mind. Anything else? Okay, Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. I need some clarification. I think the program is tremendous in the way I see it, using student. Today

we seem to be under fisheries management to push everybody out of the fishing industry. I like bringing the students to be active participants in the fishery and maybe someday they'll turn to that livelihood if it's still there, if we don't destroy it totally.

The notching is a benefit; females, big benefit; returning to sea, big benefit. These are all pluses in what Eric has said. My question, Mr. Chairman, to you or to who you ever ask to answer this question, is why does it have to be either/or; why can't there not be the gauge increase that everybody else is going to do and still do their program? Why is it either/or?

And another question I had and what confuses me a little bit, being an ex-fisherman myself, is that we listened to two fishermen that have been in the industry a long time, fish in the same area, one says there is residency in the lobsters; the other one says they're leaving the area. That one there I just don't understand it.

One said to me where are all the lobsters going; yet, striped bass and bluefish are knee deep in that area. I know where they are going, in their mouth. I mean, that's the answer to my own question. But one is why can't we do both, the increase in the gauge, and he has his program anyhow, because it sounds like a darned good program. I think a lot of work has been done by Eric and crew there, that I think it's a fabulous program. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Okay, thank you. Did you really need an answer for that?

MR. CALOMO: Yes, really, I do. You were sidebarring there, and I don't think you heard me ask the question.

CHAIRMAN NELSON: All right, I apologize for missing the question, Vito. Briefly, Eric.

MR. SMITH: To the point of why not do both, you have to appreciate the only time a lobsterman gets paid is the date that it's notched and thrown back. Every other time, when he recaptures notched lobsters, he's throwing those back just as if they were a short. If you imposed gauge increases and the v-notch program at the same time, you've just doubled up the conservation burden on the fishermen.

We want to restore lobsters, but I'm not trying to drive a nail in their coffin either by saying they have to do the gauges and they have to throw back all these v-notched lobsters all the times they catch them, other than that one time when the guy who

carried the kids got paid for the lobster that went over. So, that would be a real problem because it would double the burden on people.

CHAIRMAN NELSON: Okay, Dennis.

SENATOR DAMON: Thank you, Mr. Chairman. I just want to, again, commend Connecticut for this conservation effort, but I have to be on record of asking the question of what is the responsibility of our fishermen in helping to conserve and preserve their resource; and what is their role in that.

And, all of this discussion about compensating them for helping to do this confuses me a little bit. I had a conversation with Mr. Smith earlier, and he talked about the economic impact and the fact that the state legislature of Connecticut wants to be able to help mitigate that noble effort, send them all checks, and then have them go out and notch the lobsters.

I'm going to be supporting this, but I have to be on record as saying I believe truly that the fishermen have a role and a responsibility in their resource. It's not just the management side and it's not just the legislative side, but they have to take part in this, too. Thank you, Mr. Chairman.

CHAIRMAN NELSON: Thank you, Dennis. We have spent an hour and fifteen minutes on this subject. I am going to offer that if there's a need to have one more for and one more against, I'll be happy to entertain that. Otherwise, I would like to have a motion put forward. Okay, Eric.

MR. SMITH: Mr. Chairman, I move that the Lobster Management Area 6 Proposal for Conservation Equivalency be adopted by the Lobster Management Board as indicated in the document dated July 26th, 2007.

CHAIRMAN NELSON: That has the timeline of the two-year duration on it, right?

MR. SMITH: Right, it's actually Page 4 of that document.

CHAIRMAN NELSON: And, Eric, you also have in there as the intent is that you're going to provide your report on the economic and also the biological progress on this at the end of one year. Is that the annual meeting that you would be doing it; does that make sense on that timeframe or is it a different timeframe?

MR. SMITH: That would be fine, because we'll have been into it – I mean, I'm talking about the

annual meeting in '09 – I'm sorry, '08. It will be a little bit more than a year after we've gotten going.

CHAIRMAN NELSON: So that would give you some time to summarize it and everything, get all the hanging chads. Okay, that's the motion; I need a second. Pat, could you second that?

MR. AUGUSTINE: As usual, thank you, Mr. Chairman, I second that motion.

CHAIRMAN NELSON: Okay, why don't we take a – Bob.

MR. BEAL: As we're looking at this motion, this is one of these motions that in five years down the road we may have a question as to what document exactly you're referring to. Is it okay if we add something along the lines of Connecticut's Proposal or something to clarify what document so future generations know what we're talking about.

MR. SMITH: Yes, that's a good suggestion. I had hiccupped a little because I didn't want to call it a Connecticut Proposal. I wanted to call it an LMA 6 Proposal, which is more accurate, but you could say the document dated July 26th submitted by the Department of Environmental Protection. That way you know how to track back to that document.

CHAIRMAN NELSON: Okay, why don't we have a caucus on this? Go ahead, Dan.

MR. McKIERNAN: Just a quick question, maybe Eric could actually put into this motion what the benchmarks are because I'm looking at the numbers of lobsters as ranges. What are the exact numbers, Eric, that we're going to judge this by?

MR. SMITH: Well, that's a good point. The targets that I have said in the powerpoint presentation and in the discussion today are the ones that relate to M equals 0.15, and perhaps that ought to be in there. We intend to do more than those if we can, but we propose that we held accountable to meet the numbers that are consistent with the stock assessment approved natural mortality rate. So, "as indicated in the document dated July 26th, 2007, based on the options related to the natural mortality rate equals 0.15".

CHAIRMAN NELSON: So, Eric, you're looking as a minimum of the 0.15, but as noted by the TC, they would prefer the higher end, and I guess basically you're going to be shooting as high as you possibly can above that minimum?

MR. SMITH: I tend to round these things, and the way I looked at this was we're going to shoot for 60,000 to 75,000. The 60,000 is at M equals 0.15, legals only; the 75,000 is M equals 0.15 if you were to do some number of shorts in there. That's the kind of ballpark ranges that we're looking at. Again, it gets you – we will do as many as we can, given the funding and number of trips and so forth available. But, the backstop measures kick in at the numbers that relate to M equals 0.15.

CHAIRMAN NELSON: All right, any other questions on the motion? All right, are you ready for a caucus? All right, why don't you take a 30-second caucus, then?

(Whereupon, a caucus was held.)

CHAIRMAN NELSON: All right, the motion is move that the Lobster Conservation Management Area 6 Proposal for conservation equivalency based on the options related to a natural mortality rate equal to 0.15 be adopted by the management board as indicated in the document dated July 26th, 2007, and submitted by Connecticut DEP and Connecticut LRAC.

Is that correct? Okay, and, again, that has in it the report requirement, which was not in the document, but has been requested by the board. All right, all those in favor of the motion, please raise your right hand; opposed, likewise; abstentions; null, 1 null vote. Okay, the motion passes seven to one to zero, one.

RECONSIDERATION OF AMENDING ADDENDUM XI

All right, the next item is New Jersey's letter requesting – Peter, should I classify this as requesting a reconsideration of the motion that was passed on Addendum XI?

MR. HIMCHAK: Yes, Mr. Chairman, I believe that would be the best term.

CHAIRMAN NELSON: All right; and since the Addendum XI was a final action, there is a two-thirds vote necessary to reconsider this. Let me have the motion to reconsider.

MR. HIMCHAK: Okay, thank you, Mr. Chairman. There is a letter dated July 26th –

CHAIRMAN NELSON: Peter, let's see if we have a two-thirds vote, so you want to move to have a reconsideration of the Addendum XI vote. I think

that's the way it should be phrased. Does staff want to phrase it differently? Just to make sure we get it right on what you're saying, Peter, you would request to amend or rescind the action of Addendum XI; isn't that what you were going to say?

MR. HIMCHAK: I believe so, Mr. Chairman. I'm new to some of these procedural issues, but I would like a discussion on the letter, please.

CHAIRMAN NELSON: Well, I just got corrected myself. I will look for a second for your – okay, Eric has seconded. Now, please give the background of what you would request, and then we will see if, indeed, the board has a two-thirds vote for you.

MR. HIMCHAK: Thank you, Mr. Chairman. As you recall at the last Lobster Board Meeting I think I went down in flames twice or maybe three times on trying to get our divers a one-female exemption over the maximum size limit as is allowed by the National Marine Fisheries Service. I was quite unsuccessful in that attempt.

At the same time, the approval of Addendum XI included a maximum size limit for male lobsters, so the diving organization lost on all fronts. First let me explain that our diving community in New Jersey is pretty well organized and very involved in management both on lobsters and tautog. This is a pretty contentious issue for them.

I would like to go through the content of the letter expressing the views that they expressed to me following the last board meeting. There were six public hearings on Addendum XI, and I went through the public hearing record, the number of people that wrote letters, the fact that there was no option for commenting that included maximum size limits for male lobsters. This was something new in the history of lobster management from what I can see.

I went through the public hearing record. There were very few comments in support of a maximum size limit for male lobsters. On the contrary, there were a number of letters that supported an allowance for the female exemption from – well, one female from the maximum size limit, commenting that there were no maximum limits for males.

So, this particular option, if it had been in Addendum XI, we're pretty confident that it would have evoked a rather serious outcry. It is also noteworthy to state that the option for male size limits was not put forward by any of the LCMTs, the technical committee or the board itself. It is my understanding

that the advisory panel leaned heavily or did not – I mean, there was one individual that supported this.

We can debate the issue of whether it was a consensus or non-consensus, but of the six people involved in the advisory panel meeting, two were from New Jersey, so I'm going by what they told me. So, in light of these facts, we are wondering why there needs to be an inclusion of a male maximum size limit particularly for the non-commercial sector.

I think that's the basis of my case is we have no technical committee recommendation on whether there was a need for this; and, therefore, the letter that Director Chanda wrote requests either removing the maximum size limit for males or taking it back out to public hearing. I think the fact that – you know, I know the board can adopt options that are not in public hearing documents, but this one threw us for a loop, and it really kind of like – you know, it kind of like flies in the face of public participation in the management process. For all of these reasons, I'm asking for a reconsideration on this issue. Thank you.

CHAIRMAN NELSON: Okay, thank you. I have some staff and technical comments first, and then we will open it up.

MS. KERNS: Pete, I wanted to just make one correction to David Chanda's letter concerning the Lobster Advisory Panel's discussion. They did have a discussion on having a maximum size for males and females at the time of their advisory panel discussion, and it was, in fact, a non-consensus determination, but it was that the majority of the group was in favor of a maximum size for males and females. It was only one individual that was not.

I went back and checked my notes, and I also conferred with David Spencer, the advisory panel chair, and both of us have the same information that it was that the group was in favor of the maximum size, except for one individual. Then Penny also has some information from the TC on that.

MS. HOWELL: When we moved to F-mid and moved away from F-10, that removed all of the basis of female only for reference points and everything. From then on, to hold a v-notching equivalency and the gauge equivalency, every measure is intended to be for both sexes. We're not distinguishing males and females. So, in the case of the v-notching, we had to apply that to both sexes. At least from a TC standpoint, that's the basis we have been doing the assessment.

CHAIRMAN NELSON: Okay, Peter, what we need is just take a second here, so it's very clear on what you're asking to amend the addendum to; so, if you could work with staff for a minute and come up with exactly what it is – or if you already have the language, please.

MR. HIMCHAK: No, Mr. Chairman. I mean, I have conferred with – I'm going by what my advisory panel representative said from New Jersey; and as I said, we made up two of the six people in attendance, and maybe some clarification is warranted from the gentleman that is our advisor to the advisory panel at this point. Notwithstanding that issue –

CHAIRMAN NELSON: Peter, I think what we want to have right now is what exactly you would like to have Addendum XI amended to say. That's what we're looking for, for that language so then we can debate that motion. And, again, it will have to be passing by two-thirds to have that enacted. So, that's what I really want to have put up there.

MR. HIMCHAK: Well, I'm not really great at crafting these motions yet, but basically I want the recreational divers to have – Vince is giving me a time out.

CHAIRMAN NELSON: Why don't we take a very brief five-minute break and that will give Peter time to craft that language with staff.

(Whereupon, a recess was taken.)

CHAIRMAN NELSON: All right, we're ready to reconvene. All right, the motion has been modified so that everyone can see it. Discussion on the motion? Let's go the pro and con route first. Anyone else want to speak for the motion? Okay, against the motion? Okay, Howard, go ahead.

MR. HOWARD KING: I would just like to add to what Pete said earlier. Our Maryland diving associations have come to us with a similar request, so I would like to see this seriously considered.

CHAIRMAN NELSON: Okay, against? Bill.

MR. ADLER: Yes, I'm sorry, Mr. Chairman, but I can't support this motion. We've pretty much settled this thing. There was a suggestion at the last meeting to do something like this and it was defeated. I would offer one trophy lobster could still be taken and then thrown back after the picture was taken of this trophy lobster. Because, unlike fish, lobsters don't die real quick, so they could bring it in, they

could take their picture, measure it, and then throw it back alive. Let the states try to figure out how to do that. Thank you.

CHAIRMAN NELSON: Thank you. Eric, on the pro side.

MR. SMITH: I'd like to speak in favor of this. I understand fair is fair and everybody ought to obey the same size limit. That was a persuasive argument in May, but in reality fisheries are unique. Different fisheries have different needs. This fishery is regulated by a very small possession limit, and I'm assuming this one over the size is within the possession limit and not in addition to it.

But I think for the unique nature of that fishery, this is not going to harm the conservation of the resource, and it's something that is of value to the divers that makes them want to go diving. That's a good thing, I think. It's not going to impair lobster biology, and it is going to be something that keeps that kind of a fishery available to the public. I think we ought to support it.

CHAIRMAN NELSON: Okay, thank you. Against. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I've been diving for about 50 years, and I've found that until the advent of underwater cameras I was anxious to take trophies like anybody else was. In the state of New York, we have a permit. If you buy a recreational lobster permit, you can take six lobsters, as long as they're minimum size up to as big as you want.

You know, I agree with Mr. Adler, there is absolutely no question in my mind that these big animals should not be caught and killed. The bottom line is pictures can be taken of them, as they do with all kinds of anemone and soft and hard corals and other things on the bottom.

It just takes too long to get these big ones to the age they're at. So, if you want to take a lobster that is that large, I think you can hunt around for one of these big males that has just shed itself, and then you can take the shell home and preserve it that way. You don't even have to clean it out; it's already cleaned out for you. Therefore, I can't support this motion.

CHAIRMAN NELSON: Okay, Lance, for.

DR. LANCE STEWART: Sort of a tentative for, but I just wondered if New Jersey could supply any information on the numbers of large lobsters taken by the diving community. Do you have any handle on quantities?

MR. HIMCHAK: Mr. Chairman, could I defer that question to the representative from our Dive Council Federation, Mr. Jack Fullmer?

CHAIRMAN NELSON: If he has the number versus a perception. You guys don't keep track of the numbers; is that what you're saying?

MR. HIMCHAK: No, we don't; we have the perception and not an exact number.

CHAIRMAN NELSON: All right, I'm going to go to the audience in a minute, anyway, and Jack was on here as a person who wanted to speak on this subject, so at that time he can give us his perception of that. All right, another con, and then I'd like to go to the audience. Okay, I don't see any. I hope I'm not overlooking anybody. All right, in the audience, anyone want to speak on this? Yes, sir.

MR. JACK FULLMER: I'm Jack Fullmer, Legislative Committee Chairman of the New Jersey Council of Diving Clubs, an organization of 19 sport-diving clubs. I've also been asked to speak for LIDA, which is the Long Island Divers Association. I believe they have 14 clubs. I'm going to ask you to let me go from my little spiel, and then you can ask me whatever questions you wish.

The New Jersey Council of Diving Clubs took exception to something that happened at your last Lobster Board meeting, and we asked the New Jersey commissioners to appeal it. We want you to know why we did that. In Draft Lobster Addendum XI, under rebuilding programs, for Southern New England it had a rebuilding program for each area, and then it had something called "the Comprehensive Southern New England Rebuilding Program", which had only one option.

That option said, among other things, that there was a maximum size for female only of five and a quarter inches. I'll reiterate again, maximum size for female only of five and a quarter inches. As presented to the public, those were the only options, but the approved addendum, which also selected the Comprehensive Southern New England, added male lobsters, which was not an option.

The sport-diving community never knew that it was facing a total ban on taking larger lobsters; or as we might call it, a trophy lobster. The Atlantic Coastal Fisheries Cooperative Management Act requires public participation in plan preparation, process and submission of written comments to the commission. But, how can written comments be made if the proposed actions are not in the draft or not on the table?

In the Atlantic States Marine Fisheries Program Charter, under standards and procedures for management plans, specifically under Management Program Elements, a clear statement of management strategies, options and alternatives – and I want to ask you were the alternatives that this board considered clearly stated in that draft addendum?

Under the appeals process, the first two criteria include decision not consistent with the fishery management plan and failure to follow a process, and I submit both appear to apply. In all my years representing the New Jersey Council of Diving Clubs I don't remember an action that was more restrictive than what was published in the draft addendum.

I remember less restrictive where things were not taken into consideration and then they were adjusted, but I don't remember anything more restrictive than what was in the draft addendum. I guess we're being put in the unenviable position of questioning an action that appears to be more conservation oriented than the draft addendum, but I think the science is questionable, too.

The original draft addendum, as far as I know, was okay with the technical committee. Allowing larger male lobsters to be taken was fine with the technical committee. Page 12 of the 2006 stock assessment is telling you that you are – and I'm talking about the big stock assessment – is telling you that you are not going to have a low and stable natural mortality rate in Southern New England due to natural factors, such as warm water, disease, and that selective pressure favor earlier reproduction over a shorter life span.

Shorter life spans means that there is going to be few large old lobsters, and you will not get the benefits of the large lobster egg production that you would get further north or maybe in Area 3. Implementing a maximum size is not going to give you a return in egg production in this area. As an example I made on a charter diving boat, during the last five years there has been only two trophy lobsters taken.

I will define a trophy lobster as something more than five and quarter inches, okay. And we go out every weekend, weather permitting. In the last 30 years I've only taken two trophy lobsters. Sport diving is a recreational sport, and taking larger or trophy lobsters is very important in that sport. Most clubs have a contest to see who took the largest lobster during that season.

I don't see any maximum size for blackfish or for fluke, and I understand that both of those species are sort of in the same situation as lobster at the moment. They both have shortages. So what we're asking you to do is not to impose an absolute ban on taking trophy lobsters on a small recreational sport.

We don't want this temporary situation due to environmental factors imposing a permanent ban on the taking of larger lobsters in our area. Although sport divers only take 2 percent – and that's right out of your stock assessment on Page 17 – there are at least one to two hundred sport divers to every pot fisherman in Area 4 and Area 5. In that sense Area 4 and 5 is primarily a recreational fishery for lobsters.

Since we constitute the vast majority of fishermen for lobsters in that area, why are we not getting representation on the LCMTs; not so much a problem in Area 5 as a problem in Area 4. Finally, what I am asking you to do is to reconsider the action that was taken regarding male lobsters and the circumstances under which it took place and to put it back to what was originally published in the addendum, which was for females only.

If you want to have males, then you should have a separate addendum for that where you're making it clear to the public what you're actually saying. I'm asking you not to put a total ban on taking trophy lobsters to a small recreational fishery that values that. I want to thank you very much for this opportunity to speak to you.

CHAIRMAN NELSON: Okay, thank you, Jack. Anyone else in the audience want to make a comment on this motion? I did have Doug Soper. I don't know if Doug is still here.

MR. DOUG SOPER: My name is Doug Soper, S-O-P-E-R. Thank you, members of the commission, for entertaining my thoughts. I'll make them very brief. I'm sure that my esteemed colleagues from New Jersey have covered everything that needs to be said on this. I'll just identify myself as not being from New Jersey. I am from Bowie, Maryland, and I am a

recreational scuba diver and have been a lobster hunter for the last 25 year or so.

I just want to support Peter and Jack and my good colleague from Annapolis, Howard King, who had some remarks along the same line. I support them wholeheartedly. Thank you for your attention on what I had to say.

CHAIRMAN NELSON: Okay, thank you, Doug. Anyone else? All right, I'll come back to the board. I just want to make sure that it's clear to everybody as far as in our discussions, which I thought were very elaborate on this particular issue, but, again, I want to reiterate how that discussion came about, that there was public record associated with the maximum size on both sexes and concerns about that. But, let me just ask staff to just give a very, very brief recap of that again, so that we have it clear in our mind.

MS. KERNS: Thank you, Mr. Chairman. The maximum size issue came about through the public comment process, and it was first brought forward at a public hearing and then was also written in favor of through the RILA and the MOA organizations. So, the board then acted on that public comment to favor a maximum size for both males and females through a response from those public comments.

CHAIRMAN NELSON: Okay, any other comment on the motion, either for or against, from the board? Eric.

MR. SMITH: A second bite of the apple, very briefly.

CHAIRMAN NELSON: I didn't say anything, Eric, other than go ahead.

MR. SMITH: I found something more compelling – I mean, I previously supported this motion. The other thing I heard was if their experience is correct, this is also a rare event, which also means this, quote, trophy thing legitimately isn't a conservation issue. It's a societally valuable thing only limited to Area 4 and 5, which is way beyond anything I care about. It's down off of New Jersey and Maryland. It's just additional arguments in support of it as it not having the harm that we might be concerned about. Thanks.

CHAIRMAN NELSON: Okay, thank you very much. Any other comments? Peter.

MR. HIMCHAK: Mr. Chairman, just one additional comment. This issue is very important to us. Unlike nearly every other state, our entire fishery is out in

the EEZ. I mean, if we were out of compliance and you shut down New Jersey marine waters for lobstering, not many people would know about it. We don't have much of a fishery in state waters, so this issue is pretty important to our diving community. We're small-time players here. We go with the tide with other issues in New England. This fishery is overwhelming. Thank you.

CHAIRMAN NELSON: All right, thank you, Peter. We're getting ready for a vote on this. Again, it's a two-thirds vote, but I want to just refresh everybody's memory as far as what is a two-thirds vote. Bob, can you just provide us with that explanation.

MR. BEAL: Thank you, Mr. Chairman. The modifications to the Charter read that if a board wants to amend or rescind a previous action, it takes a two-thirds majority vote of the entire voting membership of that board. The Lobster Board is made up of 12 votes, which would require eight of those in favor of making a change for this motion to be approved. It's the entire voting membership versus the number of votes that are in the room at any given time.

CHAIRMAN NELSON: Okay, thank you very much. I think we have most folks represented here. We have several that are not; two that are not represented. Roy.

MR. MILLER: Mr. Chairman, I asked a question of our federal colleagues what applies in federal waters in regard to the maximum size, and perhaps it would be advantageous for everyone to hear their answer. Thank you.

CHAIRMAN NELSON: Well, I think we had that discussion, Roy, when we had the overall discussion of the addendum, so it's whether you want to change the addendum I think is the issue here. If you want to know what is being allowed in federal waters again –

MR. MILLER: Mr. Chairman, if I may, my only concern was Pete mentioned that their entire fishery was in federal waters. I just wondered would there be any violation of federal law if male lobsters of that size were retained. That's what I was trying to determine. Thank you.

CHAIRMAN NELSON: Well, Harry, are you adopting Addendum XI I think is what Roy's question is?

MR. MEARS: I think Roy's comment was to indicate what the current federal regulations are relative to possession of large lobsters.

CHAIRMAN NELSON: Well, I understand that might be what the question could be, but I think ultimately the question is Addendum XI was passed, and it has various requirements in there for all of the partners to implement. If it's not going to be implemented in the federal zone, then I think, obviously, that is very important for all of us to know.

MR. MEARS: Inasmuch as it's a recommendation at this point for the service to go forward to implement Addendum XI, that would be subject to public comment at a future date, in the near future.

CHAIRMAN NELSON: Okay, Harry, thank you. I should have realized that that's the answer I was going to get. Now, is there any apple left, Eric?

MR. SMITH: This is just procedural. Could Toni explain to me the difference between my count of the board, which is 10, and her count, which is 12? Obviously, I was doing a lot of discussion with various people on the Connecticut Proposal. When I approached Virginia and North Carolina, they said, "Hell, no, I'm not a member of that thing." Now maybe they are and they just never come. Is that true? Okay.

CHAIRMAN NELSON: Yes, that's true.

MR. SMITH: So you need nine votes; you need two-thirds of 12, which is eight and a – or is it eight? Eight is exactly 66.666. Okay.

CHAIRMAN NELSON: According to my math, eight is still it. All right, do you want to caucus for 30 seconds, and then we will have the vote.

(Whereupon a caucus was held.)

CHAIRMAN NELSON: Okay, are you ready? The motion is move to amend Addendum XI, Section 2.1.3.2.2, maximum gauge size, to allow an exception for the recreational dive fishermen in LCMA 4 and 5 to possess one male lobster above the maximum size length of five and a quarter inches per trip.

And, again, I think the discussion was that is within the allowance of number that they're allowed to take, anyway, so just for clarification. All right, all those in favor of the motion to amend, please raise your right hand; opposed; any abstentions, 1 abstention;

nulls, no nulls. Okay, the motion to amend needed eight votes in the affirmative to change the addendum. It received only five, so the motion has failed.

ARTIFICIAL BAIT UPDATE

The next item on the agenda is an update on the artificial bait. Pat, I think you were going to do that or George.

MR. WHITE: George will, but I will add to it.

MR. LAPOINTE: I am going to restrict it to the issue of the puck, if that's all right, Mr. Chairman. Otherwise, it could be a long night and we'd miss the herring meeting, and we don't want to do that. There has been a lot of discussion in Maine on a number of artificial bait products, and one was this thing called "the puck". It's called the puck because it looks like one pretty much.

It came to the attention of our advisory council because one of the binders in it, as reported to me – I haven't seen the label myself – is PVC, so it's glued together with some kind of polybenylchloride. So, our Lobster Advisory Council made two motions. One was to have artificial bait products labeled for the ingredients. The other one was to ban artificial bait altogether, and we're still in some discussions about that.

So, there is a lot of concern about putting this thing in the water with PVC in it, but most importantly, or more importantly, rather, when fishermen try it, it doesn't catch lobsters as near as I can tell. So, there can be discussion about the makeup, and I think we all need to be concerned about what we put into lobster traps. Pat can chime in, but a number of lobstermen have said they've tried it, and it's in their bait shack now to go somewhere else, probably the dump, because it hasn't worked.

MR. WHITE: I do feel terribly guilty because mine now is in a landfill. It did not fish well, and I tried it for over a month. The gentleman joined the Maine Lobstermen's Association and then came in a week or two ago and wanted to advertise in it after that article came out explaining that PVC was in it. The Lobstermen's Association said they could not, in all good faith, run the ad in the paper.

He said that he was sorry that – he was unaware that was the ingredient that was in it, so he didn't deny it or admit that it was. I just think it's a touchy thing, and I totally support where George is headed with this. I also support alternative baits, but we've got to

be careful what we put in the water. But, from what little bit I've done, my sternman no longer allowed me to fish with it.

CHAIRMAN NELSON: All right, any other comments? Peter.

MR. HIMCHAK: Mr. Chairman, I only bring this issue up because – well, I had read what I thought was an amusing anecdote in Tina's news clippings, and yet with male horseshoe crabs costing three dollars apiece, this pucker has shown up at our last Marine Fisheries Council meeting as an alternative bait for possibly the conch potters. I was just wondering if it was allowed in other states, if there were FDA requirements against it, and I guess it's not being used presently. That's why I brought it up.

CHAIRMAN NELSON: All right, thank you. Anyone else want to add anything to this issue? Okay, the next point is the National Marine Fisheries update on your whale-take regulations.

ATLANTIC LARGE WHALE TAKE REDUCTION PLAN

MR. MEARS: Thank you, Mr. Chairman. This is just a general announcement. On August 10th the region sent a letter to commercial trap, pot and gillnet fishermen about the availability of the final environmental impact statement that evaluates modifications to the Atlantic Large Whale Take Reduction Plan.

Public comment is open until, I believe it's September 17th. The FES itself is available either through our website or through Diane Beauregard of our Protected Resource Group in Gloucester. There is a notice on the back table, a copy of the letter.

ADJOURN

CHAIRMAN NELSON: All right, thank you, Harry. Any questions for Harry? Any other business to come before the board? The Lobster Board is adjourned. Thank you very much.

(Whereupon, the meeting was adjourned at 4:50 o'clock p.m., August 13, 2007.)