

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

**November 2, 2005
Marriott Seaview Resort & Spa
Galloway, New Jersey**

ATTENDANCE

Board Members

George Lapointe, Maine DMR
John Nelson, New Hampshire FGD
Rep. Dennis Abbott, New Hampshire Leg. Apptee.
David Pierce, Massachusetts DMF
William Adler, Massachusetts Gov. Apptee.
Mark Gibson, Rhode Island DEM
Gil Pope, proxy for Rep. Naughton (RI)
Eric Smith, Connecticut DEP
Lance Stewart, Connecticut Gov. Apptee.
Gordon Colvin, New York DEC
Pat Augustine, New York Gov. Apptee.
Bruce Freeman, New Jersey DFG&W
Ed Goldman, proxy for Assemblyman Smith (NJ)
Erling Berg, New Jersey Gov. Apptee.
Eugene Kray, proxy for Rep. Schroeder (PA)
Roy Miller, Delaware DFW
Bernard Pankowski, Delaware Gov. Apptee.

Howard King, Maryland DNR
Russell Dize, proxy for Sen. Colburn (MD)
Bruno Vasta, Maryland Gov. Apptee.
Jon Siemien, District of Columbia F&WD
A.C. Carpenter, **Chair**, PRFC
Jack Travelstead, Virginia MRC
Kelly Place, proxy for Sen. Chichester (VA)
Ernest Bowden, Virginia Gov. Apptee.
Preston Pate, North Carolina DMF
John Frampton, South Carolina DNR
Robert Boyles, South Carolina Leg. Apptee.
Malcolm Rhodes, South Carolina Gov. Apptee.
Arnold "Spud" Woodward, Georgia DNR
John Duren, Georgia Gov. Apptee.
Gil McRae, Florida MFC
Steve Meyers, NMFS
Jaime Geiger, US FWS

Ex-Officio Members

ASMFC Staff

Lydia Munger

Bob Beal

Vince O'Shea

Guests

Kyle Schick
John Merriner
Columbus Brown

Bennie Williams
Wilson Laney
James Fletcher

Brandon Muffley
Anne Lange
Jennie Niewood

David Simpson
Bill Goldsborough

There may have been others in attendance who did not sign the attendance sheet.

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MOTIONS

Move to approve the modified Virginia proposal that includes a ten fish per vessel per day bycatch in the river systems, only for the staked and anchored gill net fishery, for 2006 only.

Motion by Mr. Travelstead, second by Mr. Nelson. Motion carries with one abstention.

**ATLANTIC STATES MARINE
FISHERIES COMMISSION**

64TH ANNUAL MEETING

**SHAD AND RIVER HERRING
MANAGEMENT BOARD**

**Marriott Seaview Resort & Spa
Galloway, New Jersey**

November 2, 2005

The meeting of the Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Salon C of the Marriott Seaview Resort and Spa, Galloway, New Jersey, on Wednesday, November 2, 2005, and the meeting was called to order at 11:20 o'clock, a.m., by A.C. Carpenter.

WELCOME & INTRODUCTIONS

CHAIRMAN A.C.
CARPENTER: Ladies and gentlemen, I'd like to call the Shad and River Herring Board to order. Looking around the table, Joe, it looks like we do have a quorum so we will proceed.

BOARD CONSENT

I do have a couple of items that we need to change on the agenda. Item Number 5 is the plan review team report. That report has not been completed yet. They are still working on it so we will take that up at our next meeting.

And while I have the mic I want to announce to everybody that this is my last meeting as chairman of this board and that at our February meeting we will be seeking nominations for a vice chair.

Eugene is going to be taking over the role at the February meeting and that's why I've got him setting here, so that he can practice pushing the buttons. So, with that we have one item on our agenda here which is the review of the Virginia bycatch proposal but before we get to that we routinely allow public comment.

PUBLIC COMMENT

Is there any public comment at this point in the meeting? Seeing no public comment we will go into the review of the Virginia bycatch proposal. This is an action item. And I'm going to call on Lydia to give us the technical committee report.

**REVIEW OF VIRGINIA BYCATCH
PROPOSAL**

MS. LYDIA MUNGER:
Thank you, Mr. Chairman. Before I begin this presentation that staff has prepared for the board I would just like to point out that there was one letter submitted to the management board by a member of the public from Virginia.

This letter was included with the rest of the meeting materials on the CD-ROM that was sent to the board and there are extra copies available on the back table if anyone would like to look at them.

The Virginia Marine Resources Commission proposes to adopt a regulation to allow for a legal bycatch in certain fisheries that encounter American shad but are associated with a high release mortality.

This proposal as submitted would allow Virginia registered commercial fishermen using anchored or staked gillnets, pound nets, haul seines or fyke nets in the

Chesapeake Bay and its tributaries to retain up to 20 American shad per day.

Drift gillnets and commercial hook and line fishermen would not be allowed this bycatch as release mortality rates from these gear types are expected to be low. As outlined in the proposal, Virginia would continue its moratorium on all directed fishery harvests for American shad in the Chesapeake Bay and its tributaries and in its territorial waters.

The current prohibition on the setting of anchored and staked gillnets in the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers from April 1st through May 31st would also remain in place.

Virginia proposes to annually document the total landings of American shad taken as bycatch and to report the extent and nature of the non-directed fisheries. Virginia also proposes to sub-sample American shad bycatch for size, age and sex distribution.

Also in the proposal Virginia notes that their request is conservative when compared with the bycatch allowances of American shad in other jurisdictions. And Virginia outlines that they expect a similar number of fishing trips in 2006 as those reported in 2004 and estimates a likely shad bycatch harvest of 8,387 fish or about 29,000 pounds under this proposal.

And also in the proposal Virginia notes that enumeration of shad bycatch and determining the associated CPUE data from various locations throughout the Chesapeake system would enhance Virginia's ability to estimate the abundance of Virginia stocks of American shad.

The Shad and River Herring Technical Committee chair was unable to attend the

meeting today so staff has prepared the following information based on the letter from the technical committee that was written to the board chair detailing the TC findings on this proposal. That letter was also circulated on the CD-Rom and there are extra copies on the back table.

The technical committee does not recommend approval of Virginia's proposal by the management board. The committee noted that the proposal as submitted was similar to a 2003 proposal that asked to allow Virginia commercial fishermen to land American shad in the amount of 10 percent by weight of their aggregate catch for the day.

And the TC noted that this new proposal does not address the concerns expressed by the TC when that original proposal was reviewed. In addition, the technical committee expressed concern that the proposal includes mixed stocks and includes pound nets from which bycatch could presumably be released unharmed.

The committee also notes that the proposal as submitted has the potential to harvest a substantial number of fish. The harvest projections in this proposal are based on 1993. The TC points out that this is a year when shad populations were low and fishing effort for shad had decreased so the actual harvest under this proposal may be substantially higher than predicted within the proposal.

The technical committee also noted that since the proposal affects mixed stocks it has the potential to impact stocks that are under intensive population restoration. The technical committee had a few other points.

They wondered why the landings of American shad bycatch would be allowed

from haul seine catches since releasing shad unharmed from haul seines seemed to be a reasonable approach.

And the TC also noted that the proposal did not include plans to evaluate otoliths to determine if hatchery restoration programs were being impacted. So, again, based on the concerns just listed the Shad and River Herring Technical Committee did not recommend approval of this proposal.

CHAIRMAN CARPENTER:

Are there any questions of the technical committee report before I go to Jack? Jack Travelstead.

MR. JACK

TRAVELSTEAD: If there were no other questions I'd like to speak directly to the Virginia proposal, then. Are you ready for that?

CHAIRMAN CARPENTER:

There were no other questions for the technical committee report so I think we're ready for your comments.

MR. TRAVELSTEAD:

Okay, thank you, Mr. Chairman, and thank the staff for arranging this meeting on the schedule. It's essentially to hear the Virginia proposal. I don't want this board for a minute to think that Virginia is not serious about American shad restoration.

And I would like to point out a number of things that we, programs and things that we have done before I speak directly to the proposal. For instance, Virginia has had in place a total moratorium on the harvest of American shad in Chesapeake Bay and its tributaries now for over ten years.

When we closed the ocean fishery last year that made it a total state-wide moratorium.

We have also now for more than 12 years along with our sister agency, the Department of Game and Inland Fisheries, funded a shad hatchery restoration program that is, I believe, one of the largest on the East Coast.

It runs at a cost of about \$200,000 and annually places between 6 and 12 million American shad fry in the James and Pamunkey Rivers. There is a commitment to continue that program as long as it is necessary.

Likewise, for more than 75 years my agency has partially funded two other shad hatcheries that are operated by the Pamunkey Tribal government and the Mattaponi Indian Reservation on those two respective rivers. And they each annually place several million shad fry in those rivers.

Additionally, we spend about \$300,000 a year funding work by the Virginia Institute of Marine Science to monitor the status of the shad and river herring stocks in Virginia. So I think all together our commitment is there.

Now, with respect to the specific proposal, it is not our intent at all to develop a new fishery for American shad. This proposal is simply about converting dead discards to harvest. There are gillnet fisheries that operate in Virginia for other species that periodically catch American shad.

And those fish right now are thrown back dead. There is a desire on some of our fishermen's part to be able to retain those for sale and that's why we submitted the proposal. In light of the technical committee's concerns, I will not offer a motion to accept the proposal as presented.

Having reviewed the technical committee's concerns I agree with many of them.

However, I would like to offer a modified proposal for the board's consideration and would like a vote on that.

Lydia, could you put back up the technical or the description of the proposal? That just would help me describe what changes we would be interested in making. The, first the technical committee expressed concern about the harvest of mixed stocks under the original proposal. And we agree with that. Obviously, the gillnet fisheries in Chesapeake Bay potentially impact Maryland stocks which Maryland is also trying to restore.

And so I would propose that the first change we make to the proposal is that the bycatch be allowed only in Virginia tributaries, the James, the York River system, and the Rappahannock and only above the first bridges that you find on those rivers which are between five and ten miles, I guess, upstream to reduce the likelihood that this might impact mixed stocks.

The technical committee also expressed concern about the potential size of the harvest. I do not believe there is a fisherman in Virginia who will set a new gillnet simply to be able to retain 20 American shad per day. These nets are already in the water.

They're already harvesting other species and in consequence they harvest American shad. Nevertheless, because the technical committee has expressed concern I would propose or would offer to reduce the allowed bycatch to 10 fish per day as opposed to the 20.

Those changes that I have described would mirror essentially what this board has allowed in the way of a bycatch fishing in the Potomac River which has currently allowed, I believe, a one bushel tolerance for

gillnet and pound net fisheries. So there is precedent for allowing these type of things.

The other and third which I forgot to mention, the third change I would propose to make, again in light of the technical committee requirements, is that the bycatch only apply to the gillnet fishery.

And so those nets that potentially could release American shad alive, like pound nets as the technical committee suggested, would not be included in the bycatch fishery. With that, Mr. Chairman, I would offer a **motion to approve the modified Virginia proposal that includes a ten fish per person per day bycatch in the river systems only for the gillnet fishery.**

CHAIRMAN CARPENTER:

Do I have a second for that motion? I have a second from John Nelson. While we are getting that motion up on the board there, are there any questions? Yes.

MS. MUNGER: Thank you, Mr. Chairman. This is a question for Jack and I'm only asking because the original proposal specifies that it would apply only to anchored and staked gillnets and not to drift gillnets. I was wondering if you wished to specify that in your motion?

MR. TRAVELSTEAD: Yes, it would not apply to drift gillnets. That was part of the original proposal.

CHAIRMAN CARPENTER:

Jack, excuse me. You named the James, the York, and the Rappahannock as the river systems and defined the lower boundary as the first bridge across those tributaries.

MR. TRAVELSTEAD:

That's correct.

CHAIRMAN CARPENTER:
Okay, John.

MR. JOHN SIEMIEN: Yes,
my name is John Siemien. My question
relates to is the ten fish limit per waterman
license or per gillnet set?

MR. TRAVELSTEAD: We
were just having a similar sidebar discussion
on that. It would not be per gillnet set. No,
it would be per fisherman. If you would
prefer per vessel that's fine as well.

MR. SIEMIEN: That
answers the question, thank you.

CHAIRMAN CARPENTER:
Howard.

MR. HOWARD KING:
Jack, would you be willing to retain samples
so that we can differentiate in that bycatch
the hatchery originating shad?

MR. TRAVELSTEAD: I
think that was part of our original proposal
would be to sample the bycatch in the
fishery. I don't have a very specific plan on
how we'll go about that but there will be an
effort made to do that.

We also already in the state as part of the
efforts of VIMS do have an ongoing
sampling program that is designed to assess
the impacts of the hatchery programs
because those, as you know those fish are --
what marked with tetracycline? And so
there is an effort to recapture the adults to
see what percentages are of hatchery origin.

CHAIRMAN CARPENTER:
Other questions. Yes.

DR. DAVID PIERCE: Jack,
you agreed to change your motion from ten

fish per person per day to ten fish per vessel
per day. Am I correct?

MR. TRAVELSTEAD: Yes.

DR. DAVID PIERCE: Okay,
so that should be reflected on the screen.

CHAIRMAN CARPENTER:
Roy Miller.

MR. ROY MILLER: I don't
have a problem with this concept, Jack, I
just have a question. If this motion were to
pass, could we expect a similar proposal
from Maryland and the Potomac River
Fisheries Commission?

CHAIRMAN CARPENTER:
Howard, I'll let you answer for Maryland.

MR. KING: Not identically.
Maryland currently has a two-shad per
commercial licensee per day retained for
personal use but we'll probably stick with
that.

CHAIRMAN CARPENTER:
Speaking for the commission I don't foresee
any change in our bycatch plan that we have
had in place for a number of years and
modified two years ago so I would not
expect any change from us. There has been
a question about the Potomac River bycatch.

We have a one bushel daily limit and if you
figure, you know, five or six pounds to the
fish we're probably looking at ten or twelve
fish a day.

And it is restricted to just the gillnets and
our pound net fishery, we've had that
bycatch since 1982 and it was used as the
basis for a lot of the work that we did to
document the changing of the status of the
stock. Yes, Mr. Preston.

MR. PRESTON P. PATE, JR.: Thank you, A.C. Jack, do you have any idea how completely your proposed changes will satisfy the concerns raised by the technical committee, if at all?

MR. TRAVELSTEAD: How much my changes will satisfy the concerns of the technical committee?

MR. PATE: Their recommendations to not approve were on your original proposal and I was just curious to know how they might react to the changes that you've made.

MR. TRAVELSTEAD: Well, I think, you know, they expressed concerns about taking mixed stocks and I think by moving it up the rivers and out of the bay I hope that substantially addresses that concern.

By reducing it from 20 to 10 I think we reduce the total potential. And you know all I have to go on was the letter that was provided you and me from the technical committee. I was not there to discuss it with them.

But I almost had the impression that the technical committee was concerned that as a result of our proposal some new fishery might develop. And you know in talking to our fishermen in the state I just do not see that happening at all.

I can't imagine anyone is going to go to the trouble to start setting gillnets so they can keep ten fish in a day. It just is totally impractical. So all we're really -- again all we're trying to do is convert those fish that are already dead to market.

CHAIRMAN CARPENTER:

Any other questions? I'll -- yes, Jaime Geiger.

DR. JAIME GEIGER: Jack, could you just refresh my memory why with some of these latest modifications we could not engage the technical committee at an appropriate time to get a revision or a revised opinion of your revised proposal.

MR. TRAVELSTEAD: I wouldn't object to that except that, you know, we had hoped to have something in place by this spring. If it can be done between now and the February meeting, get a new read from the technical committee, that's fine with me. That doesn't give my commission much time to implement such a measure but I think we could still fit it in.

CHAIRMAN CARPENTER: Howard King.

MR. KING: Jack, perhaps if you specified for 2006 only it might bring more comfort to some of the board members.

MR. TRAVELSTEAD: With the understanding that it would be reviewed by the technical committee for future years? I don't object to that. That's fine.

CHAIRMAN CARPENTER: Dr. Geiger.

DR. GEIGER: Mr. Chairman, I think with what Jack has just said, with this having an opportunity to go through the technical committee with these modifications, certainly I'm feeling much more comfortable with the proposal. Thank you.

CHAIRMAN CARPENTER: Is there any public comment before we vote

on this particular motion? Seeing none, is the board ready to vote? Thank you. We will read it.

Move to approve the modified Virginia proposal that includes a ten-fish per vessel per day bycatch in the river systems only for the staked and anchored gillnet fishery for 2006 only. Is there any question in anybody's mind? A need for a caucus? I've got one more question here, Jaime.

DR. GEIGER: Yes, and, Mr. Chairman, again I'm going with the assumption that this will be then vetted to our technical committee, that then they will then provide some notification to the board that they either approve or disapprove and if necessary readdress this issue in our February meeting.

CHAIRMAN CARPENTER: Can we get a review by the technical committee before the February meeting, Bob?

MR. ROBERT E. BEAL: I think they can do this via conference call since they've already seen it once and it's just a modification to the program that they did review face to face.

CHAIRMAN CARPENTER: Sounds as if we have a commitment on the part of the staff to get this done. Any other questions or comments before and I'll call for the question. All in favor of the motion please signify by raising your right hand; all opposed, same sign; any null votes; any abstentions; one abstention. Thank you very much. There was one thing -- the motion did carry.

There was one thing that I jumped over in my trying to get this thing going this morning was the approval of the

proceedings from the August 18th board meeting. I see several hands wanting to make a motion to approve that, Pat Augustine and William Adler second. Is there any other business to come before the board? Jaime.

OTHER BUSINESS

DR. GEIGER: Thank you, Mr. Chairman. As I mentioned at the American Eel Board, again, I would like to mention again to this board about the importance of habitat concerns related to American shad and river herring.

Certainly the FERC re-licensing process offers us an opportunity again to make one in a lifetime opportunities to put in effective prescriptions for upstream and downstream fish passage.

As I understand it, the Management and Science Board has drafted a letter that they will be presenting later to the Policy Board. I would just urge all of us to look very hard at this draft letter when it is presented. And I would urge each and every one of your support for that. Thank you very much.

CHAIRMAN CARPENTER: With that I'm turning the mic over to our new chairman and everybody want to welcome him.

ADJOURN

CHAIRMAN EUGENE KRAY: I want to make a comment that this was really a sandbag job; I didn't expect to get in this soon. Thank you very much. The meeting is adjourned.

(Whereupon, the meeting adjourned on Wednesday, November 2, 2005, at 12:17 o'clock, p.m.)