

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
HORSESHOE CRAB MANAGEMENT BOARD**

**December 16, 2003
New York, New York**

ATTENDANCE

Board Members

Lew Flagg, Maine DMR
Bill Alder, Massachusetts Gov. Apte.
Eric Smith, Connecticut DMR
Gordon Colvin, New York DEC
Pat Augustine, New York Gov. Apte.
Brian Culhane, proxy for Senator Johnson (NY)
Jack Travelstead, Virginia MRC
Bruce Freeman, Chair, New Jersey DFG&W
Roy Miller, Delaware DFW
Dennis Abbott, proxy for Rep. Blanchard (NH)
John Duren, proxy for Rep. Lane (GA)
Timothy Targett, Delaware Gov. Apte.

G. Ritchie White, New Hampshire Gov. Apte.
Pete Jensen, Maryland DNR
David Cupka, South Carolina Gov. Apte.
Susan Shipman, Georgia DNR
Kathy Barco, Florida Gov. Apte.
Tom Meyer, NMFS
Dan McKiernan, Massachusetts DMF
Jaime Geiger, US F&WS
Cathy Davenport, Virginia Gov. Apte.
Tom Fote, New Jersey Gov. Apte.
Dick Herb, proxy for Asm. Smith (NJ)

Ex-Officio Members

Gregory Breese, US F&WS, TC Chair

ASMFC Staff

Bob Beal
Nancy Wallace

Brad Spear
Vince O'Shea

Guests

Mike Litchko, New Jersey Fisherman
Rick Robins, Chesapeake Bay Packing
Benjie Swan, Limuli Labs
Jen Daetsch, Limuli Labs
Peter Himchak, NJ DFW
Perry Plumart, National Audubon Society
Byron Young, NY DEC
Wilson Laney, USFWS
Jed Brown, USFWS

Kim McKown, NY DEC
Robin Burgess, NY DEC
Kelly Place, CVWA-Waterman
Kirk Moore, Asbury Park Press
Jeff Marsten, NH F&G
Fred Frillici, proxy for Sen. Gunther
Tim Dillingham, American Littoral Society
William Cooke, Citizens Campaign for the Env.
Charlie Givens, NJ Waterman

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

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INDEX OF MOTIONS

1. **Move motion to nominate the fine gentleman from Delaware, Mr. Roy Miller, as vice chairman.** Motion by Mr. Abbott; second by Ms.Shipman. Motion carried with no objection. (Page 14)
2. **Move to table Addendum III until the next Management Board Meeting following the availability of the 2003 survey information.** Motion by Mr. Adler, second by Mr. Pruitt. Motion carries (8 in favor, 4 opposed). (Page 20)
3. **Move that:**
 - **The Technical Committee review the survey information through 2003 and report at the March meeting;**
 - **States not relax their current harvest restrictions; and**
 - **States are strongly urged to implement the monitoring program requirements and recommendations for the 2004 fishing season.**Motion by Ms. Shipman, second by Mr. Cupka. Motion carries unanimously. (Page 23-24)

**ATLANTIC STATES MARINE FISHERIES
COMMISSION**

**HORSESHOE CRAB MANAGEMENT
BOARD**

**Roosevelt Hotel
New York City, New York**

December 16, 2003

The meeting of the Horseshoe Crab Management Board of the Atlantic States Marine Fisheries Commission convened in the Terrace Room of the Roosevelt Hotel, New York City, New York, on Tuesday, December 16, 2003, and was called to order at 1:30 o'clock p.m. by Chairman Bruce Freeman.

BOARD CONSENT

CHAIRMAN BRUCE FREEMAN: Management board, please take your seats. We would like to conclude this meeting in the allotted time of one and a half hours. There is a lot of business to go over, and we need to begin that process; otherwise, this meeting will be reconvened on Thursday afternoon.

All right, board members should have copies of the agenda. We have a number of items that we need to go through. Are there any additions to the agenda by any of the board members? All right, seeing none, we'll proceed with the agenda.

We do have the August 26 minutes for the board meeting. I'd like a motion to accept those minutes.

MR. DENNIS ABBOTT: So moved.

CHAIRMAN FREEMAN: Offered by Mr. Abbott and seconded by Mr. Adler. Any comments on those minutes? Any corrections? Seeing none, without objection, the minutes will be approved.

Okay, we will have a brief period for public comment. Is there anyone wanting to make a public comment? Yes, sir, Rick, and please identify yourself when you get to the mike in order that the transcriber can identify you in her records.

PUBLIC COMMENT

MR. RICK ROBBINS: Thank you very much, Mr. Chairman. Rick Robbins representing

Chesapeake Bay Packing and Bernie's Conchs in Virginia.

The Addendum 3 quotas are based on the lower control limits of the Berkson Survey. This is clearly documented in the minutes of the June board meeting. This assumption represents a dooms day analysis.

It is inappropriate and untenable for numerous reasons. It's uncorroborated by the current body of science. It's refuted by the U.S.G.S. Spawners Survey and Delaware Trawl Survey. It's based on preliminary back-of-the-envelope analysis by the shorebird peer review.

It comes on top of a 60 percent cut in the horseshoe crab harvest, which makes it an inappropriately harsh articulation of the precautionary principle. We already have a highly risk-averse management plan in place.

The probability that the actual horseshoe crab population is at the lower control limit of the Berkson survey is close to zero.

If the actual horseshoe crab population were at the lower bound of the Berkson survey, then harvesting would exceed recruitment, the stock would be contracting, and this would be reflected in the statistically robust U.S.G.S. Spawners Survey as well as the Delaware trawl survey, but they are not.

The U.S.G.S. Spawners Survey and Delaware Trawl Survey show no trend in the data since 1999, indicating a stable population. Berkson's 2002 survey shows a 51 percent increase in newly mature females, a 46 percent increase in immature females and a 251 percent increase in immature males over 2001.

While this may or may not be statistically significant, it should be noted that if it is accurate, it is prima fascia evidence that the existing plan is working as designed. A strong case can be made for using the mean estimate of the Berkson survey for calculating the quotas for Addendum III.

It is conservative for two reasons. It assumes 100 percent gear efficiency. It does not count crabs seaward of 12 nautical miles or inside the Delaware. Consequently, the board should have the benefit of an analysis of quotas based on the mean estimate of the Berkson survey.

The risk at this point of making a Type I error, in

which the industry is unnecessarily punished, is imminent. If you go too far in applying the precautionary principle, there is no cure for the industry that you are poised to disenfranchise.

I would point you to the source of a lot of this addendum, and that is the work of Larry Niles for the state of New Jersey, which was largely refuted by the British Trust for Ornithology Report Number 307, which was conducted at the same time.

They concluded that late arrivals were the primary problem facing the red knot in Delaware Bay. While unfortunate, that is not related at all to commercial fishing. A vote for Addendum III today is a vote against the scientific method.

It's a vote for a blatant political concession to the bird groups. It places greater value on birds than on the livelihoods of the people engaged in a multi-million dollar industry, thereby subverting the natural order without scientific justification.

It's a vote to disenfranchise an otherwise sustainable industry.

Addendum III is not a compromise. Our industry has already been cut by 60 percent. Addendum III is being advanced under the banner of "adaptive" management.

Where will this board find the resolve to increase harvesting if and when the body of science confirms that the stock is rebuilt, knowing that the avian spin doctors will not be happy about this until the fishery is under complete moratorium?

The current body of science, logically applied, builds a compelling case for maintaining the status quo and allowing the current fisheries management plan to work as designed for the mutual benefit of all stakeholders.

If you have to close the beaches, as Dr. Schuster has recommended, for a period of time to allow the birds to feed for five or six weeks, that's one thing, but to increase the quotas at this point -- or to decrease the quotas, rather, is not at all scientifically justifiable. Thank you very much.

CHAIRMAN FREEMAN: Thank you, Mr. Robbins. Anyone else? We'll ask for public at this point and then ask for board members. I saw other hands. Benji, please come forward.

MS. BENJI SWAN: Thank you. My name is Benji Swan, and my company is called Limuli

Laboratories, and I'm a small manufacturer of the medical product *Limulus Amoebacyte Lysate*. My company is located in Cape May, New Jersey.

My concern today -- well, actually we're going to talk about the reserve but that's later, but I wanted to address the Addendum III, specifically the closure during May. I collect horseshoe crabs usually from May through the end of November. May has always been a critical month for my production.

The closure of May really would devastate my company producing the product. What I do now is during the month of May, I have a hand harvester that goes and collects horseshoe crabs 1,000 feet from the Delaware Bay shoreline.

He does this primarily during the nighttime hours. It has really no impact on the feeding of shorebirds. I would like to be able to still collect horseshoe crabs during that time, at least at the historic levels that I have in the past, which is approximately 6,000 horseshoe crabs I collect during the month of May.

I would like to kind of leave it open as far as letting my state decide how they would like me to collect my horseshoe crabs, either if its by trawl or if I could still hand collect. Hand collect during this time during may means that the horseshoe crabs come out of the water in the middle of the night.

We work with them during the morning hours, and they're released back to their natural environment in the afternoon. They're out of the water a very short time, so the stress on the crabs is very low. I have a really good survival rate during that time.

Also, hand harvesting, there is no incidental loss. Every crab that's picked up is utilized. Really, if I'm not allowed to work in May, it really puts a real -- it makes it very difficult to produce the contracted quota that I need to produce.

If the state of New Jersey feels that it's not in the best interest of the shorebirds for me to collect off the Delaware Bay shoreline, I would like to at least have the option to trawl collect horseshoe crabs.

That would mean to send a fishing vessel out and to trawl in deeper waters, either in state waters of New Jersey or in the reserve. I also could approach the state of Maryland and collect horseshoe crabs from their state waters during this May.

But if Addendum III is closed to all landings, then I have no option. My only options would be to either

gather the crabs from New York or Virginia, and that would put a greater stress on the animals.

A greater stress on the animals means a smaller yield, which means I would have to use more horseshoe crabs. I would like to keep the month of May open to historic biomedical collection of horseshoe crabs. Thank you.

CHAIRMAN FREEMAN: Thank you, Benji. I don't know your name, so please identify yourself.

MR. TIM DILLINGHAM: Thank you, my name is Tim Dillingham. I'm with the American Litoral Society. We are a coastal conservation group based out of Sandy Hook, New Jersey.

We've been involved in the debate about preparation of the addendum and the complementary regulations at the state level for the last several years and with horseshoe crab and shorebird issues for a much longer period of time than that.

I want to commend and urge the committee to move forward on the options in the paper that move away from the status quo. I think the trends are very much there in terms of the crabs themselves and their impact upon the shorebirds.

The science, I would like to commend the directors, Mr. McHugh and Mr. Miller, about the rigor which they did pursue answering the questions that were out there. I think that the best experts that are available have been brought to bear on this, and the options that are before you today reflect those recommendations.

The only two things we would add, which are reflected in our comments earlier, is that the commission move forward on completing and working on the stock assessment and the predictive abilities to answer the outstanding questions that are out there and continue to pursue the adaptive management model; and also that there not be exemptions granted to the proposals.

I think that opens a door, which is troubling given the debate we just went through. So, thank you very much for your hard work on this and we urge you to support the options that move forward.

CHAIRMAN FREEMAN: All right, thank you. Perry.

MR. PERRY PLUMART: Thank you, Mr.

Chairman and members of the board for the opportunity to talk with you today about the Addendum III. My name is Perry Plumart, and today I'm representing the National Audubon Society, Audubon New York and the American Bird Conservancy.

I think that we have an opportunity today to take an important step forward in horseshoe crab conservation, probably one of the most significant steps forward since the creation of the Horseshoe Crab Ocean Sanctuary.

What is being done today is based on sound science. It's based on the U.S. Fish and Wildlife Service Shorebird Technical Review Committee. It's based on sound science out of the state of New Jersey.

It's based on the compelling evidence, not just from what has gone on since the year 2000, but the totality of what we know and what we don't know, the totality of the landings of horseshoe crabs in the last decade, the fact that pregnant females have been targeted, the fact that it takes 10 years for horseshoe crabs to reach sexual maturity.

We have the opportunity today to take another important step forward in horseshoe crab conservation. Although Audubon submitted the parts of the addendum that it agrees with, I'd just quickly outline for you the points that we believe should be taken today.

Limit New Jersey and Delaware's quota to 150,000 crabs each year and Maryland's quota to its 2001 landings per year. New Jersey, Delaware and Maryland shall prohibit the harvest and landing of horseshoe crabs from May 1st to June 7th.

Encourage states, where appropriate, that have both a bait and biomedical fishery to allow biomedical companies to use horseshoe crabs that are destined for the bait market for biomedical purposes and require the subsequent return of horseshoe crabs to the bait market.

Adopt a new monitoring and research provisions including requirements for better reporting of biomedical harvest and the use of horseshoe crabs. In addition, Mr. Chairman, we believe several actions should be considered.

We believe that New York's quota of horseshoe crabs should be limited to 150,000 crabs per year, and we're hoping that they will offer that today as part of the Addendum III process.

We also believe that in order to be consistent, that Maryland's quota should be limited to 150,000, that New York shall prohibit the harvest and landing of horseshoe crabs from May 1st through June 7th and require bait bags be used in all conch pots and a limit of one whole male and one-half female for each conch pot.

That summarizes what we talked about and encourage that you adopt today as part of your Addendum III process. In addition, Mr. Chairman, I would to have entered into the record, Mr. Gerald Winegrad's letter of support.

Basically, he agrees or endorses the same actions that I've just outlined to you from the National Audubon Society. In addition, I think Gerald is offering some well-deserved praise for the board here today. I will quote from his letter.

"We applaud the board's actions at the spring 2003 meeting in approving a motion to initiate the development of Addendum III to the fisheries management plan for horseshoe crab.

"The board took this action to increase horseshoe crab egg abundance and availability for migratory shorebirds by imposing further harvest restrictions in New Jersey, Delaware and Maryland. New Jersey and Delaware have already adopted these measures in Addendum III and they are to be congratulated for their leadership."

Mr. Chairman, I would like to point out that we do believe additional monitoring and study is needed on the populations of horseshoe crabs. I have to say that the environmental community, along with the Horseshoe Crab Research Center at Virginia Tech, has stepped up to the plate for the second year in a row.

And while the congressional process is not finished, currently within the fiscal year 2004 Omnibus Appropriations Conference Report, which only has to pass the Senate at this point, under NOAA Fisheries is \$650,000 for horseshoe crab research.

And as I would note, this is for the second year in a row. We believe that we need to take further conservation actions right now, but we do also believe that we're ponying up as far as doing additional research.

I would like at this point, Mr. Chairman, to examine New York state's horseshoe crab management policy.

As we all know, their quota currently is 366,000 crabs, approximately, and in the last five years they've landed 1,670,000 horseshoe crabs.

In a letter that I'd like to submit for the record, Mr. Chairman, National Audubon, American Bird Conservancy, Audubon New York and the Citizens Campaign for the Environment, a New York-based environmental organization who you will hear from their representative later on today, recommended that New York put its quota in the Atlantic States Marine Fisheries Commission process at 150,000 crabs. That letter went to Governor Pataki.

From Gordon Colvin, the commissioner here today, we did get a response to that letter, and I'd like to have that letter submitted for the record also. It was directed to Audubon New York.

Succinctly or the one paragraph I would like to read, he describes the Atlantic States Marine Fisheries Commission process, which we all understand here, but he concludes, "We are aware of the concerns related to horseshoe crab management and will continue to work in concert with our sister agencies to ensure that the species continue to prosper while allowing for the appropriate utilization of the resource. If you have any further questions or comments, please feel free to contact my office."

Now, the stated policy, according to Mr. Colvin, of the state of New York is to work with the sister agencies. This is not a new request to the commission and the New York State Department of Environmental Conservation.

In March of this year, in a letter I'd like to have submitted to the record, I wrote to Commission Crotty and attached the letters from Delaware and New Jersey regarding the efforts that New York's sister agencies were proposing that eventually resulted in Addendum III reducing your harvest to 150,000 crabs.

Additionally, I would like to -- since I only have it electronically and it's fairly short -- enter into the record a letter to Governor Pataki from Dr. Jim Berkson, Director of the Horseshoe Crab Research Center from Virginia Tech.

"Dear Governor Pataki, I'm writing to provide input regarding the current horseshoe crab harvest policy discussion. I'm the director of Virginia Tech's Horseshoe Crab Research Center, the largest research institution in the country dedicated to the study of horseshoe crabs.

"I'm also chairman of the Atlantic States Marine Fisheries Commission Horseshoe Crab Stock Assessment Subcommittee. Horseshoe crabs are an ecologically, economically and medically essential species.

"Regarding the status of the horseshoe crab population much is still unknown. Over the past three to five years a number of important research and monitoring programs have been put into place, including our annual benthic trawl survey which will provide information on horseshoe crab population numbers coastwide.

"The SAS is in the process of conducting an updated stock assessment on the horseshoe crab population. For this assessment, we are analyzing all available datasets coastwide. Our goal is to have this assessment completed in February.

"Due to the new monitoring programs, we should have more than double the datasets we've had in the past to review and analyze, although the short duration of the new datasets will initially limit their usefulness.

"The good news out of all this is that we now have many of the monitoring programs in place that will allow us to develop scientifically based management of the horseshoe crab population.

"In the meantime, fisheries policies must be developed in the absence of a strong scientifically based strategy. In cases like this, I believe that management should be based on and guided by the precautionary principle.

"The precautionary principle has become a guiding principle for natural resource management worldwide. It is now at the center of much of the international and national law and policy. The goal of the precautionary principle is to protect the natural resource and the species that depend upon them, including humans.

"The precautionary principle states that the more uncertainty you have regarding the status of a resource, the more conservative your management policy should be. At the present time we have tremendous uncertainty regarding the status of the horseshoe crab population and particularly the number of spawning horseshoe crabs required by migrating shorebirds.

"Because of this uncertainty, the need to protect both the horseshoe crab population and the shorebird

populations, I believe a conservative management strategy is warranted. The Horseshoe Crab Research Center is dedicated to providing the information required to manage the horseshoe crab population."

That's a letter from the Virginia Horseshoe Crab Research Center to Governor Pataki requesting that they take the similar management steps that the three sister state agencies of New York are engaging in.

Finally, Mr. Chairman -- and I know you're familiar with this letter because it's on state of New Jersey stationery -- is a letter dated December 9th to Commissioner Crotty of the state of New York. I'd like to have this letter submitted to the record also.

It's signed by Bradley M. Campbell, Commissioner of the New Jersey Department of Environmental Protection; John A. Hughes, Secretary of the Delaware Department of Natural Resources and Environmental Control; and C. Ronald Franks, Secretary of the Maryland Department of Natural Resources, all I believe sister agencies of the state of New York, asking the state of New York to impose a 150,000 crab limit and have that -- or take similar actions and have that enshrined in the Atlantic States Marine Fisheries Commission process, not just a regulation of the state of New York.

In addition, Mr. Chairman, in discussions with the state of New York officials, we at Audubon have asked for information on the economic effect of doing something like this on the state of New York and the state of New York fisheries. To date, we have received no information.

Often in discussion here, when there is no information, then actions should be taken because there will be no effect. And so I would suggest that up to this point, because the state of New York has been unable or unwilling to provide data on the economic effect of reducing their horseshoe crab limit to 150,000 horseshoe crabs, that there is no effect.

Mr. Chairman, I believe that the right action is being taken today, hopefully will be taken today, but the right action is being taken by New Jersey, by Delaware, and by the states of Maryland. They are being responsible.

They are responding to the compelling scientific evidence. They are doing what's in the right long-term interest of commercial fishermen, commercial seafood dealers, and it's a policy that should be endorsed by the horseshoe crab management board

here today.

In addition, I would urge the state of New York to follow this responsible, proper fisheries management policy for the long-term benefit of the horseshoe crab, the migratory shorebirds and commercial fishermen. Thank you very much, Mr. Chairman. I appreciate your indulgence in this today.

CHAIRMAN FREEMAN: All right, thank you very much, Perry. Yes, would you please come forward.

MR. WILLIAM COOKE: Good afternoon. My name is William Cooke and I'm the director of government relations for Citizens Campaign for the Environment. Citizens Campaign for the Environment is the largest environmental group in New York state and in Connecticut.

I will not spend much time on this. I tell you clearly we support what Perry Plumart just addressed in his comments. I do want to say clearly that we've had meetings with the appropriate folks in New York state; and when we ask them, how do you make your decisions on what the harvest limit should be they said, "Well, we looked at historical numbers, what we've been taking right along and we look at what the bait men want."

We're like, where's the science? Well, there isn't any. But they have told us quite clearly that they will not move from their position without being provided clear science.

We have brought to them letters from the most knowledgeable people on the planet when it comes to the North American subspecies of the red knot and its relationship with horseshoe crabs and their eggs.

I read from the man who everybody in the scientific community who deals with birds and the North American subspecies of the red knot acknowledge to be the authority on this. His name is Brian Harrington and he is the author of the "Flight of the Red Knot."

His written comment, which I have provided to you folks, says, "New York state should reduce it's crab harvest to 150,000 per year as other key states have agreed to do. And, further, New York state should close the fishery from mid-May to mid-June, the peak egg-laying season."

Now, New York state has not agreed to do this, at least they haven't told us they've agreed to do this.

We believe that they should step forward. They should do the right thing and that it should be part of the addendum process.

We think that anything other than that would be reckless and irresponsible. We acknowledge that many people in the scientific community have raised serious concerns about how New York state is managing this issue.

Some have likened their conduct to a scene from the "Three Stooges." I am clearly troubled that their lack of action, their lack of interest may mean that in this decade the last living red knot, North American subspecies, will die.

We've heard from folks before, you should weigh jobs. Well, what is this? Is this \$100,000 industry, a million dollar industry? Hey, folks, many of you here have children or grandchildren. Think about them never, ever getting the chance to see one of these birds because we killed their food supply.

I think New York's conduct has been appalling. I think they should lead instead of trying to keep their feet in cement. We urge you all to move forward.

We urge you to move forward based on good science from Cornell's Lab of Ornithology, from Mr. Harrington, from others. We urge you, we beg you to do the right thing. If New York refuses to add this to the addendum process, it should be added over their objections. Thank you for your time.

CHAIRMAN FREEMAN: All right, thank you, Mr. Cooke. Anyone else? Yes, Charlie.

MR. CHARLIE GIVENS: Good afternoon. My name is Charles Givens. I'm from Cape May, New Jersey; and while I am a fisherman, I am not a horseshoe crab fisherman. However, I feel it's important for me to be here today to talk about the science.

Several people have just been up here and talked about one discipline of science. I'd like to speak about four. Those disciplines would be biology, ecology, economics and sociology.

In the department of biology, as far as the science -- and I have reviewed it and I have read these studies from cover to back three and four times some of them. There is no scientific evidence that shows that red knots are declining or that links that to the activities of fishermen.

I beg you to search the science yourself and find the

cause and effect that shows that the harvest of horseshoe crabs is putting these species into a decline. It's just not there. The science that has been done on this has been largely shielded from the public, shielded from the fishermen.

Most of the science that was broadcast into the media on this issue has been by the commission's own peer review found to be untrue. As far as the ecology of this matter, you want to manage the Delaware Bay as an overall ecosystem, and I can understand that.

I don't understand the wisdom of managing avian species through the Atlantic States Marine Fisheries Commission. The fisheries commission can regulate the activities of fishermen but do little to regulate the activities of anything else.

So in that way it may not be the proper place if you really would like to protect red knots to come here and speak. However, I really want to protect red knots because it appears that if anything happens to any more red knots, a lot of my friends and the way of life that we know, where we live, will be gone.

As far as the economics, there were economic studies done in '97 on the value of the fishery and the value of the biomedical industry. Those economics are in '97 dollars or earlier. They're not up to date.

There is no economic science here on the table to see what this has done to this fishery. There's no dollars and cents meaning here that you can say, look, these fellows lost this much money; these people lost this many jobs; these people have sacrificed to help the red knot.

We cooperated with the state of New Jersey. We gave up the beaches. We went 1,000 feet back. We gave up days of the week, and 300 fishermen in my state lost their jobs based on science from 1998, which I defy you to tell me that you can believe was true.

The trawl studies that were done there at that time, the National Marine Fisheries Service was not good. The Delaware Trawl Survey was not good. The egg counts were not good. And, in fact, the peer review from Atlantic States informed New Jersey scientists that these surveys were not good.

They had six years since '97-'98, five years -- they had five years to redo, modify these studies and make them meaningful. They used the same timeframe and they used the same amount of sampling. They have not changed these studies.

If this was an imperative action to take place, I would think that they would have modified those studies and would have had the science. I don't think that you can logically argue that the absence of valid science means that you automatically jump to the precautionary principle.

And my fourth item of science, discipline of science is sociology. I don't think there's any sociology being done here. When you have large groups of people, powerful people that are able to broadcast these ideas and these theories and hypotheses through the media and through non-government organizations, and we later come to find that they're not true, there's a sociological effect on fishermen.

Frankly, it makes them angry because they feel that they're being oppressed. They feel the weight of this science. They read the studies. They know it's not true. Sadly, in the state of New Jersey, our non-game endangered species program is not funded. It relies completely on contributions.

And I'm going to speak now, I'm speaking now for the red knots. I'm not speaking as a fisherman. If you ecologically want to manage this ecosystem and you only want to restrict the recommended restrictions of fishermen, you're not going to do very much for the red knot.

I would very much like to see the red knot prosper and thrive. I'm going to suggest to you that you investigate the funding of the science in all these matters, particularly New Jersey. Maybe we should look at some of the states that are de minimis states and see how their activities affect red knots.

The state of New Jersey takes contributions from Aventis. Aventis is an agriculture chemical and insecticide business worldwide. They have a product called Phentheon that was sprayed in the state of Florida, all through South America, in many other states on the East Coast which literally knocked birds from the sky, from the trees.

In one incidence -- excuse me if I'm wrong -- in the de minimis state of Florida 25,000 birds were killed with one incident of the application of Phentheon made by Aventis who is a sponsor of my own state's non-game endangered species program.

I find that to be a little bit strange that of all the sources of mortality in my state and other states and South America, that of all these wonderful people that are speaking here for the red knot, no one has

identified that as a problem.

I think some of the fishermen from New Jersey identified another problem in New Jersey. We have large communications towers. Now, that issue at this present time is before the Federal Communications Commission.

It wasn't brought by the non-game endangered species. It wasn't brought by the Atlantic States Marine Fisheries. It wasn't brought by the U.S. Fish and Wildlife Service. This issue is currently being investigated by the Federal Communications Commission.

They have entered into memorandums of understanding with different agencies and groups to study this problem at the base of cell phone towers and large communication towers which, if you all know, every time you turn around, there is a new cell phone tower.

There is nothing that says you can't put a cell phone tower next to a wetland or a meadow or bay or a marsh. That law doesn't exist because they want the digital technology to advance and they've waived that exemption.

Now, if we're here today to solve the problems of the red knot, I believe that we should look at the whole thing ecologically, look at it sociologically, look at it biologically, and economically.

And one of the things we need to do is identify the mortalities of red knots, no matter what they be, whether it be Phentheon or an embarrassment to the DEP or their own sponsors. If they have any mortality of red knot, that has to be on the table here or red knots will never thrive and fishermen will be sociologically oppressed, defamed. Thank you.

CHAIRMAN FREEMAN: Thank you, Charlie. Anyone else? Mike.

MR. MICHAEL LITCHKO: How are we doing everybody? My name is Mike Litchko. I'm a fisherman from the state of New Jersey. 1998, the state of New Jersey, the states claimed that the horseshoe crab population in that state was at 85,000 in 1997.

I have court documents that they told the Atlantic States that there was only 85,000 breeding horseshoe crabs left in existence.

If you were to believe the science of New Jersey and everything that has happened, let's look at the past

performance of New Jersey in their science. According to New Jersey, there were 785,000 horseshoe crabs and 85,000 breeding horseshoe crabs, and they would be extinct in another three years, according to New Jersey.

When you take a look at Woods Hole, Massachusetts, the Monmouth Center of Science -- Brad Spears knows it -- they estimate the population in the Cape Cod Bay of 15 million horseshoe crabs. That's a far cry from 85,000. The trawl survey that was done between Ocean City, Maryland, and Atlantic City, New Jersey, estimated that population at 11 million.

Now we're up to over 26 million-plus horseshoe crabs. Now, if we take into consideration from the Yucatan Peninsula of Mexico to Virginia, we're looking at another 30 million based on the harvest rates from those other states and what they have out in front of what little bit of science they have.

We're talking about in excess of 50 to 60 million horseshoe crabs, not 85,000 that New Jersey has spoke about, nothing like that. It's unbelievable. This is what started this in 1997 with the Atlantic States forming this commission because of the science.

Now Atlantic States was supposed to have good, sound science. They've have five years to get that science. If New Jersey's two marine fishery council meetings that they had said that the science is no good, they didn't agree with it, Delaware had two council meetings from their marine fisheries council in which they said the science was no good and took them to court for it, and then on top of that you have the peer review team who peer reviewed the peer review, that's how bad New Jersey's science is.

When you take into consideration that you have to have a peer review on top of a peer review. there is something seriously wrong with it. The Horseshoe Crab Technical Committee deemed that the egg density counts in New Jersey were fine and stable, if not slightly increasing.

How can anybody say there is a depletion of horseshoe crabs? New Jersey has a depletion of habitat. Sand is what New Jersey has a depletion of, a failure in the New Jersey system by not identifying the habitat, the mercury.

Just in the last three years, the aerial spraying of the Denlon 4L and the Phentine that Charlie had talked about were dropping birds dead out of the air in New Jersey in 1999 and 2000. It was supposedly

attributed to the West Nile Virus.

That wasn't the case when the birds came here to New York to be tested. Five thousand birds were tested here in the state of New York by the Board of Health here in the state of New York. Five thousand of those birds all tested negative for West Nile Virus. They all died of chemical contaminants.

If we're to have an agreement here between fishermen and the environmentalists, the Atlantic States is supposed to whittle out the truth in the science and look at all surroundings here. It seems to me that everybody is here on the table of reducing the fishermen, reducing the fishermen.

Nobody has talked about the real atrocities that are here. The states are taking money from the very same people who are polluting and hiding the secret ingredients in the chemicals. What everybody doesn't know here is that everybody is under the assumption that glasso-phosphate is what is being sprayed and it's safe.

It's rodeo and all that. What they didn't tell you, that there is an inert ingredient and an active ingredient. The trade secret is what they have kept from you, and that is the secret chemicals in that. That's the Demlon 4L and the Phentine. They won't tell you about that.

Let me tell you something about glasso-phosphate and Demlon 4L in our state of New Jersey. It has wiped out 75 percent of our fisheries in the Delaware Bay in the last three years of the chemicals that have been sprayed.

The blue coral crab industry, I had to write our state a letter to tell them that we've reduced. I mean, I'm reduced by 75 percent. You've killed all our crabs. I sent these crabs to Texas to have them analyzed. They come back and told me there is some severe problems -- chemicals. The state of New Jersey would not address this issue.

Weakfish in the Delaware Bay, there is not a charter boat in Delaware Bay caught a weakfish this summer. Shad, I mean, where are the shad at? When they sprayed this stuff, they wiped out food chains, whole migratory food chains.

They wiped out the shrimp, the green crabs, the little crustaceas crabs, all the little sand fleas, all the insects that these birds feed on. That's another thing that these people don't want you to know about is the insects that's in the sand, the little micro-organisms

that's in the sand.

When they aerial sprayed this, they wiped them all out, everything. There's only horseshoe crab eggs left. What do you expect? In two feet of beach, where most of the information that you all receive here, you wouldn't believe it only comes from two foot of beach on the Delaware Bay where the Loomney Lab is.

That's unbelievable to me, two feet of beach. When I was a kid, there was a thousand feet of beach in some of those areas, 500, 300, not today.

And let me tell you something about the aerial surveys in Delaware Bay and South America, if you think that those aerial surveys are yearly surveys or an assessment of a weekly or a month, you're all wrong.

Those surveys are a one-day, a one-day flyover. If it's raining, snowing, wind blowing 100 miles an hour, it's a decline because they're not there that day. It's a one-day aerial survey.

South America surveys were one-time flyover, one day. That's all it is. This isn't an assessment of a year-long study. It is very short, very limited. But they're not going to tell you the ins and out of it. They're just going to tell you that it's a decline. It's a decline. The trends are all declines.

I hope that you people on this council realize that there is a bigger issue being played here, not just the fishermen or the ones that are depleting these birds. My God, everybody has got to realize that's not true.

I mean, everything is in decline no matter where you live. Land is in decline. Parking space in New York City is in decline. You know what I mean?

And you're trying to say that the fishermen are put the blame on this. Do you know the fishermen since 1998 have been reduced by over 80 percent in our harvest in New Jersey. I mean, how much adverse-risk approach do we have to have here?

We need to take a look at the real issues here and stop New Jersey from covering up the real problems that exist in the Delaware Bay. I mean, we're here tonight, everybody is here, we came here. Let's take the real issues that are at hand here.

Let's look at the science that's involved in it. If six times New Jersey science was voted down -- and it came to this because they want you to believe all this.

Everybody's wrote you and said, oh, yes, the science is good.

Your own committee, the Horseshoe Crab Technical Committee assessed the population in South America at 70,000-plus. I talked to the surveyors that were in that plane, Guy Morrison, who told me -- Ken Morrison, who told me that -- or Ken and Guy Ross and Morrison.

They told me that the population in South America was 79,000, the same as it was in 2001. It's just that New Jersey -- the way they did their science was that in South America they were aerial surveys. There were no ground counts included in that.

There was just a flyover. They estimated that population in 1982, one day, 1982. New Jersey is going to come back in 2002 and say that there is a decline based on he couldn't go down to the ground and count the birds; so since he couldn't count -- since they counted the birds in the air and then he couldn't count them on the ground, then that's a decline.

That's not all how this survey was done. This survey was done in aerial, just a general, 20 years ago, not a recent survey of it, 20 years ago. And you're going to come back here and come to this meeting and say, oh, yes, the science is all good?

Yes, he went down to South America, flew over there, counted the red knots, counted 45,000-50,000 red knots. But when we go down to the ground and try counting them, we can't get to them. The oil fields wouldn't let me there. The winds were 60-70 knots.

The tides were so high we couldn't get to them and count. That's what New Jersey's good science is and that's what they call a decline. This is why the Horseshoe Crab Technical Committee voted all their science down and said it's no good. None of this is no good. You had six years to produce good science. The good science that they had is out there.

CHAIRMAN FREEMAN: Mike, you're got to wrap this up.

MR. LITCHKO: This is it. Thank you very much.

CHAIRMAN FREEMAN: Thank you.

MR. LITCHKO: I hope all you people here do the right decision here and think about really what

you're voting for here. You're voting for either the environmentalists and the money that they used to persuade the biostitutes. Thank you.

ELECTION OF A VICE CHAIR

CHAIRMAN FREEMAN: All right, anyone else? All right, seeing none, we'll move forward with the agenda. Most of the meeting, obviously, is going to be pertaining to Addendum III of the plan but there is one housekeeping. We need a vice chair. Is there someone willing to make a motion or volunteer for vice chair? Dennis.

MR. ABBOTT: Thank you, Mr. Chairman. **I'd like to make a motion to nominate the fine gentleman from Delaware, Mr. Roy Miller, as vice chairman.**

CHAIRMAN FREEMAN: Okay, a motion by Mr. Abbott and second by Ms. Shipman. Mr. Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I think that was a wonderful nomination. I move that nominations be closed and the chairman cast one vote on behalf of Mr. Miller. Thank you.

CHAIRMAN FREEMAN: All right, any other nominations from the floor? Seeing none, then by acclamation Mr. Miller is vice chair. Okay, Brad will summarize the public comment.

PUBLIC COMMENT SUMMARY

MR. BRADDOCK J. SPEAR: Thank you, Mr. Chairman. For the board members, in case you don't have a copy of the public comment summary, there are copies on the back table. I will be giving a brief summary of that summary of the comments that we received in the public comment period that are relevant to the discussion today.

The first public hearing was in Dover, Delaware, the largest public hearing. There were about 40 public in attendance. Of those 40 that stated their support, 4 supported Option 1 for the harvest level threshold reduction, which is a status quo in Maryland, New Jersey and Delaware; 6 supported the reductions that are being proposed in Addendum III.

Two alternatives that were suggested at the public meeting were a complete moratorium in those three states. A second alternative was to include New York and Virginia in the harvest reductions.

In regards to the closed season option in Addendum III, four showed their support for Option 1 which is, again, status quo, and status quo is no closure of harvest. Six supported Option 2, which is a closure from May 1st to June 7th in New Jersey, Delaware and Maryland.

A couple alternatives that were suggested; one was to allow fishing one day per week during that closure; another alternative suggestion, to include New York and Virginia in that closure.

For those that commented on the biomedical option in Addendum III, 0 supported Option 1, which is status quo; 6 supported Option 2 which encourages states to allow the transfer of crabs that are destined for the bait market to be bled by biomedical companies and then returned back to the bait market in states where this makes sense.

An alternative suggested was if Option 1 is put forth by states, that 10 percent of the biomedical harvest be counted against the state's quota.

And just a comment from one of the public attendees, Option 2, if implemented by a state, it was suggested that it will decrease – again, if the crab is bled and returned back to the bait market, it will decrease the value of that crab for bait.

One management tool that was not put forth in Addendum III but was commented on was to allow harvesters to collect stranded crabs at low tide during the closure.

The second public hearing was in Berlin, Maryland. There were about 20 in attendance. Again, in regards to the harvest level threshold, two supported Option 1, status quo. Three supported Option 2, stated their support for Option 2.

Alternatives again that were suggested, to cap New York and Maryland's harvest at 150 crabs per year each -- 150,000. I think I did that last time, too. Another alternative was to include New York and Virginia in the harvest reductions.

For the closed season option in Addendum III, two supported Option 1, status quo; three supported Option 2, which is the closure from May 1st to June 7th in the three states.

The biomedical options: zero supported Option 1; three supported Option 2. And, again, comments, Option 2 will decrease the value of crabs that are

used for bait.

And, also the issue was raised if in a state all crabs are harvested and transferred to the biomedical community, there is the possibility that all those crabs will be funneled through the biomedical company before return to the bait market. I think the implication there, again, was that these crabs would be not as useful as bait.

A couple management tools not listed in Addendum III but mentioned during public comment: to require the use of bait bags in the conch fishery and also to require that one full male or one-half female be used as bait at the most.

Third and final public hearing was held in Absecon, New Jersey. There were about 25 in public attendance. Four stated their support for Option 1, five for Option 2. Alternatives proposed were the complete moratorium in New Jersey, Delaware and Maryland.

Another alternative was to reduce harvest in Maryland, New York, Virginia by 75 percent of the reference period landings. Comments on the closed season option: four supported Option 1, five supported Option 2, and one alternative was suggested that states should restrict public access on key spawning beaches.

Comments were split for the four regarding the options for the biomedical applications. And, again, a management tool that was suggested during public comment was to require the use of bait-saving devices in the fishery.

Let's move right along to the written comment summary. There is, again, a summary on the back table for those board members who don't have it. Comment period closed November 7th. There were 581 total written comments. For those interested, I have brought along every single one of those comments in the back if you are so inclined to take a look at those.

It turned about 543 of those were somewhat of an identical form letter that was faxed in to the commission from various members across the country. Most of them were from New Jersey, but there were some from California and Maine and all over the country.

An example of that form letter was sent to you on the briefing CD as the first letter on the public comment package that was included. A summary of the

written comment that was submitted: 8 supported Option 1 for the harvest level reduction, which again is status quo; 555 supported Option 2, the reductions in New Jersey, Delaware and Maryland.

Several alternatives that were written in: moratorium, moratorium except for biomedical purposes, limit New York and Virginia's annual quota to 25 percent of the reference period landings, and limit New York and Maryland's annual quota to 150,000 crabs annually each.

Closed season comments. Seven commenters supported Option 1, status quo. Five hundred sixty-one supported Option 2, which is the closure from May 1st to June 7th. A bunch of alternatives that were suggested include New York in the closure; include New York and Virginia in the closure; allow for historic biomedical collection during the closure; closure to be focused on full moon cycles; extend the closure either by one week or through July 9th; and also to close the area around the Ocean City Inlet in Maryland to trawl fishing, all trawl fishing, during the closure that's being proposed in Addendum III.

Comments on the biomedical option. Twelve supported Option 1, which is essentially status quo. Five hundred fifty-four supported Option 2.

Again a couple alternatives: Option 2 without the option of status quo; Option 1, if it is approved, that 10 percent of the biomedical harvest count against the state quota; and if Option 2 is chosen, that the closure should apply to biomedical harvest.

Some comments on the monitoring program that's being proposed in Addendum III. The biomedical industry should be required to report landings. ASMFC should establish biomedical landing reference period, require reporting and cap the biomedical harvest.

Tagging should be required for crabs used for biomedical purposes and returned to the water. The shorebird horseshoe crab monitoring should be expanded beyond Delaware Bay. That concludes the summary of written comment and public hearings. Are there any questions from the board?

CHAIRMAN FREEMAN: Okay, any questions on the public hearings and the written comments? All right, seeing none, move on to the advisory panel report.

ADVISORY PANEL REPORT

MR. SPEAR: I'll also be giving the advisory panel report. I held a conference call to discuss Addendum III and had two members of the advisory panel call in and participate on that call; the chair, Bob Munson, who was unable to attend today because of his health, but has sent along his comments; and Jay Harrington, a commercial fisherman from Massachusetts.

Subsequently, after the call, a couple panel members who couldn't make the call submitted comments; Rick Robbins, a processor-dealer from Virginia; and Michael Dawson, a biomedical manufacturer from Massachusetts.

I'll just run through this quickly. Of the participants of the call, they supported Option 1 for harvest level threshold, which is the status quo. However, one participant on the call proposed an Option 3, which is to increase quotas in New Jersey, Delaware and Maryland to what they were previously before Addendum I.

One participant on the call liked to raise to the board's attention a more holistic view should be looked at when looking at horseshoe crab management. The issue he raised is more eloquently stated and more stated in detail in the letter that was just passed out to the board.

The AP report was handed out, but there is also an appendix which is a letter submitted by Jay Harrington to elaborate on the issue. But, generally he is saying that horseshoe crabs are predators of shellfish and benthic invertebrates and at times these are the same food sources that the birds are after.

His argument was that if the horseshoe crab population is allowed to flourish, they would be competing for the same food source that the birds are competing for.

Another issue raised by the advisory panel was talked about by Mr. Rick Robbins during the public comment, that the 75 percent reduction from the reference period landings recommended in the shorebird technical committee report was based on the lower control of the Virginia Tech Benthic Trawl Survey, and that this was too conservative of an approach.

In regards to the closed season, the advisory panel participants supported Option 1, status quo, no closure. And in commenting about the biomedical requirements, participants on the call suggested that the biomedical industry be given no special

exceptions with regard to horseshoe crab harvest.

However, they supported Option 2 which allows crabs to be brought back to the bait market and used for bait if the states were sensitive to the individual situations.

One advisory panel member commented that with regard to the monitoring requirement of biomedical harvest, which is attached as Appendix A of the addendum, there's the sample survey for biomedical companies, he suggested that biomedical companies alone cannot monitor the horseshoe crabs every step of the way that is suggested in that survey and said that some of that information is better collected from fishermen.

And one final comment was just a general comment that the participant felt that there have been large numbers that have entered the media about how valuable the eco-tourism industry is based around bird watching and just wanted to enter into the record that there are also multiplier effects from the horseshoe crab fishery that don't often get talked about. That's it for the advisory panel summary.

CHAIRMAN FREEMAN: All right, any questions to direct to Brad, advisory panel report? All right, seeing none, we'll move forward. Does anyone have a motion at this point? Otherwise, we can go through the various sections and ask for any action or no action. All right, I'll have Brad do that.

DISCUSSION OF ADDENDUM III

MR. SPEAR: Okay, we'll just step through the addendum one issue at a time and have the board vote on each issue. At the conclusion of the addendum, the board will vote on the addendum as a whole with any further writing instructions to staff.

CHAIRMAN FREEMAN: Jack.

MR. JACK TRAVELSTEAD: Before we do that, I had a question relative to the science that I wonder if we could get an answer to before you go through the provisions of the addendum.

CHAIRMAN FREEMAN: We can try to answer that, Jack, go ahead.

MR. TRAVELSTEAD: Earlier during the public comment, Mr. Robbins mentioned Dr. Berkson's 2002 survey and the results of that and indicated that there was a 51 percent increase in newly mature females, a 46 percent increase in

immature females and a 251 percent increase in immature males over 2001.

I can't recall if that information was presented to the board. Has the board been given a summary of the 2002 results of the survey? And whether or not they did, did the technical committee take any of that information into consideration in the preparation of the addendum?

MR. GREGORY BREESE: As far as whether the technical committee had the advantage of seeing those numbers when the addendum was being drafted, no, they did not. The survey occurred afterward and a draft report from that survey was provided to the stock assessment committee, which met after the addendum had gone out for public comment.

I don't know those numbers well enough off the top of my head to comment on the accuracy and what was being measured, whether it was just the Delaware Bay portion of the survey or it included the New York and the South Carolina portions as well.

CHAIRMAN FREEMAN: Jack.

MR. TRAVELSTEAD: Just as a follow up, I don't know the numbers either, and I suspect the rest of the board members don't, but there seemed to be some indication in Mr. Robbin's comments that the 2002 numbers were a significant improvement over the 2001 numbers.

I'm just wondering if that changes where we should go with this addendum and whether or not there is any desire on the part of the technical committee to look at that and reassess where we are?

CHAIRMAN FREEMAN: Okay, as I understand it, Jack, there may be some discrepancy in the area covered so if in fact those numbers that you use are the ones in the report, I'm not certain that they area they compared was comparable. I just don't know the answer to that. Bill Adler.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. I read over just about everything you sent me on these letters from the public. I've got copies here where the horseshoe crabs are declining; they're increasing; we need a moratorium on the planes because they hit the red knots.

We have misinformation about how many horseshoe crabs; we have misinformation on the red knots. And, you know, we've got all these things going on

here that just lead me to believe that we don't have the information here to have good science and good decisions other than what I think was a good decision, which is what we did already.

We took the vague science on both the bird populations and the horseshoe crab populations, and we took some steps to ensure that there were going to be horseshoe crabs for the birds. We took those steps already, as you know, by curbing the catch of horseshoe crabs or the harvesting.

We've done that. We did what I think was good in order to ensure that there be horseshoe crabs for the birds. I think that we've done that already. These states that want to do something in their particular states certainly are free to do it without an addendum from the Atlantic States.

The information I heard today about the pesticides and about the other things that the birds face concern me, and I know we can't do anything about it, but I don't think it's the fishermen's fault for any decline.

I don't even know that there is a decline. I could support several parts of this addendum, particularly the reuse of the biomedical one, crabs for bait, because that would provide the bait and at the same time would save some crabs.

I can see the advantage of that, but I just don't see the advantage of shutting down fishermen because of what I'm looking at here for statistics. I'll be back with more later, but thank you.

CHAIRMAN FREEMAN: Okay, let me refer that issue, Bill -- or two issues you raised. One is the shorebird technical committee did look, I think, at the available information, made a recommendation to the board, and let Brad review that. And now relative to this information that Jack just mentioned, you know, where we stand or what the issue is there.

MR. SPEAR: To your point, Jack, the technical committee did have, as Greg pointed out, access to the 2001-2002 draft data for the Virginia Tech Trawl Survey. They were not comfortable basing or making any strong recommendations on that information because it was only two datapoints, and the methodology was changed slightly or the range was changed slightly between the two surveys.

The Stock Assessment Subcommittee and the Technical Committee will be evaluating the 2003 data along with the prior two years this upcoming year, and Dr. Berkson is scheduled now to report to

the board at a March board meeting on all three years of those results.

CHAIRMAN FREEMAN: Jack.

MR. TRAVELSTEAD: Just one additional point. I now have a copy of Dr. Berkson's information in front of me. He shows two values for the 2002 numbers, one using the original study area in 2001 and one reporting for the expanded survey area.

Both of those are very similar and they're both quite a bit higher than the 2001 number. My concern is this, if those two numbers had been a lot lower than the 2001 number, you all would be jumping on this thing like crazy trying to lower quotas and shut down fisheries.

Now we've got two numbers that are a lot higher and it seems like we're ignoring it. I for one would just like to see us delay a vote on this thing until the technical committee has had a chance to evaluate this thing thoroughly and come back to us with a recommendation.

I think the practical affect of that is minimal because it's my understanding that the states that this addendum applies to have already implemented the regulations to comply, so in that sense it doesn't cause any harm to the stock.

It would at least say to people that we are going to take an opportunity to look at some new available science before we make a final decision.

CHAIRMAN FREEMAN: Jaime Geiger.

DR. JAIME GEIGER: Mr. Chairman, if I could ask the chair of the technical committee what other datasets may have been available for the technical committee to review prior to the development of this addendum? Thank you.

MR. BREESE: The technical committee had benefit of the shorebird assessment report, which included a cursory review of a number of horseshoe crab datasets as well as the bird datasets that were available and the understanding, as well as the datasets that were available from the initial trawl survey and the spawning survey.

One thing that I haven't heard discussed so far is the spawning survey, and the spawners' survey is probably the strongest dataset we have on commenting what the horseshoe crab population is

doing, especially in relationship to what it's providing for shorebirds.

I would like to point out that whether we have a couple of datapoints in the trawl survey that are indicating some positive trends, we still don't know what the power of analysis is for that.

We don't have enough datasets to really rely on that in great detail. There is one part of that that's still being worked out, which is identifying new female recruits to the population. After that gets sorted out, then there still needs to be applying that to the model and then using that to direct management.

So we're still a few years away as far as the benthic survey in relying on that as a good director for the management action. The spawner survey, on the other hand, has proved to be a very effective tool and has been getting better, more accurate, than we anticipated.

It is showing a level trend over the last four years. That's not to say that the population is at the level it was ten years ago, but it is to say that over the last four years, the short-term trend is flat within a pretty high level of probability.

What the shorebird technical committee was pointing out is since we don't know what the population of the spawning crabs were, we can't say for sure whether there is an adequate supply of eggs or not. There seem to be some indication from some datasets that there are not.

Further, there seems to be, from the best data we have, an indication of a pretty rapid decline in the knots as best can be seen from the various surveys that have been done in the Artic, in the wintering area, and on Delaware Bay.

While it's true that we're not sure what the conditions are further south and how that may be affecting the bird population, what has also been pretty apparent is that the birds can make heavy use of eggs if they're in sufficient supply and can perhaps make up for a lot of limitations further south.

So we're still in a situation where we don't have a lot of data, we don't have a good model to feed data into and we are still working in a fuzzy arena of risk-averse. The question becomes how risk-averse do you want to be, and I think that's where we're really at.

CHAIRMAN FREEMAN: Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. This report from Dr. Berkson, assuming that it gets to the technical committee, will it be required of the technical committee to put that out to a peer review in view of the fact I think he's done this work independently, or has he done it in conjunction with our protocol that we've used through our technical committee to do the assessments we've done so far?

MR. BREESE: I'm not sure if you're referring to the peer review that's scheduled to take place this coming year. The Stock Assessment Committee is in the process of re-evaluating the stock using existing datasets which will include Berkson's work, as well as others trawl surveys and other datasets such as the spawner survey.

In addition, the mathematical model that's going to be used for stock assessment and management purposes is scheduled to be peer reviewed, so I don't know if that answers your question.

MR. AUGUSTINE: Yes, it does. The only question that then begs to be asked is when is that going to occur? Is it going to be late in the year of 2004? And if so, what might be the timeframe for that information to get back to another ASMFC meeting? Will we be sitting here a year from now looking at the result of that to take action on this particular amendment?

MR. SPEAR: Pat, right now we're on schedule for the full stock assessment of the population to be ready for report back to the board by the March meeting. That will not be peer reviewed. It will just be a comprehensive assessment of the population with available data.

The parallel assessment that will be peer reviewed, the model and the data that feeds into that model, is expected to be completed by fall '04 and reported to the board most likely a year from now.

CHAIRMAN FREEMAN: Any other comments? Susan.

MS. SUSAN SHIPMAN: Just a quick question of those states who have already put in the recommended caps. Are those set annually or are they in place indefinitely until they're changed?

CHAIRMAN FREEMAN: Let me just speak, Susan, for New Jersey, and I'll let Roy speak for Delaware, but our regulations cap the catch at

150,000. There is no harvest during the five-week period when the birds are at their maximum population in Delaware Bay. That regulation will remain in place until it's altered or changed. Roy.

DR. ROY MILLER: Ours are the same way. The 150,000 cap and the May 1 to June 7 closure will remain in place. That's an annual cap, incidentally. That will remain in place until it's changed by regulation.

CHAIRMAN FREEMAN: Mr. Adler.

MR. ADLER: So, what are we doing here with this addendum, doing something you already did?

CHAIRMAN FREEMAN: Well, there's issues in here that address what some of the states have done, but there are other issues here that deal with items that the states have not dealt with, so it's a combination of the issues.

MR. ADLER: Did I hear that there would be a technical report at the next meeting with more information on some of this stuff at the very next meeting? Is that what I heard?

MR. SPEAR: That's the anticipated timeline.

MR. ADLER: Can I make a motion to table this until the March meeting?

CHAIRMAN FREEMAN: You have the ability to do that.

MR. ADLER: **I'll make a motion to table the work on this addendum until the very next meeting of this board in March.**

MR. WILLIAM A. PRUITT: I'll second that motion.

CHAIRMAN FREEMAN: I would suggest, Mr. Adler, you may want to include some words about getting the 2003 -- as I understand, and Brad correct me, but by that meeting we'll have additional information from this past year. So it's not just the time, I think you want the information as well; is that correct?

MR. ADLER: Yes, that would be very good and I'd be glad to add it. Give him the words you just said. But that's fine. Is that all right, Mr. Pruitt?

MR. PRUITT: Let me see what it looks like; I don't hear very well.

CHAIRMAN FREEMAN: Susan.

MS. SHIPMAN: Just a question for Mr. Adler and the seconder of the motion. Would it be your intent that there be a recommendation to states that they not relax their current harvest regulations and that those be maintained in this interim period?

MR. ADLER: I'll be silent on that.

CHAIRMAN FREEMAN: Other comments. Bill.

MR. PRUITT: I accept that wording as the maker of the second.

CHAIRMAN FREEMAN: All right. Further comment on the motion?

MR. ABBOTT: Mr. Chairman.

CHAIRMAN FREEMAN: Yes, Mr. Abbott.

MR. ABBOTT: Yes, thank you, Mr. Freeman. I appreciated Susan's question. Bill was silent on it, but I still would like a comment at least from the states who would be affected. Would there be any changes to the harvest if we table this addendum until then or would we keep the same regimen of regulations in place?

CHAIRMAN FREEMAN: Well, what I'll speak for New Jersey --

MR. ABBOTT: I understand that.

CHAIRMAN FREEMAN: -- is if make any change, it has to be a regulatory change. We have not started that process. So far as it takes nine months to make a regulatory change, we would not have any change unless it was done by emergency action by the governor.

MR. ABBOTT: And then I would put words in your mouth that you anticipate no changes?

CHAIRMAN FREEMAN: Yes, that's true. And Roy may want to comment.

DR. MILLER: I would reiterate that as well for Delaware. If action on this addendum is tabled until the March meeting, Delaware will be unable to

take any additional action for the 2004 harvesting season; so any action that may result from March action by this board won't take affect for us very likely until 2005.

I wanted to come back to, I guess it was Bill Adler's comment concerning the reason for this addendum. At the time we felt that the evidence was compelling enough to generate risk-adverse action on the parts of the Delaware Basin states.

The Delaware Basin states looked to the Atlantic States Marine Fisheries Commission for support and for additional knowledge concerning the horseshoe crab and the dependency of horseshoe crab on shorebirds.

That additional support and additional knowledge was shared with the board through the deliberations of the technical committee and the Shorebird Technical Committee and peer review group. We don't see any — I don't see. I won't speak for everyone — I don't see any evidence before us today to refute that information at this point.

I see no need to detour from the course we have set upon. I think it's fair to say that the support given thus far by the Horseshoe Crab Board was very instrumental in the state of Delaware being able to withstand legal challenges to its rule-making capability in regard to horseshoe crab harvests.

Had there been no action taken to date by the board, we might have a far different regulatory climate in the state of Delaware. So, I'm appreciative of the board's efforts thus far and would urge the board to give serious consideration to straying from that path that they had set upon at the last board meeting. Thank you.

CHAIRMAN FREEMAN: It was just pointed out to me by staff that there are some monitoring requirements and also monitoring recommendations that are meant to provide more timely information from bait harvesters, as well as biomedical, that if we delay beyond this year may have repercussions.

Those are outlined on Page 9 and 10 of the Addendum III document. I just want to bring that to your attention. It's the board's prerogative to make that decision. Jaime.

DR. GEIGER: Thank you, Mr. Chairman. I, like Roy, see little compelling evidence on the table to further delay determination and discussion on this

motion. My sense is we have all the necessary information now.

I see very little additional information forthcoming. I see that we would be abrogating our responsibilities as managers to further delay action on this addendum, and I would urge my colleagues to reject this motion and let's get on with the business at hand. Thank you.

CHAIRMAN FREEMAN: Mr. Travelstead.

MR. TRAVELSTEAD: I certainly understand Mr. Geiger's concerns, but it seems to me as we have managers also have a responsibility to make use of the best available science, that science now being the 2002 information that this board hasn't seen.

I believe I heard that by March we'll have the 2003 survey results. I mean, we went to a lot of trouble to get that survey paid for by the states initially and now by the federal government, and now we're about to make some very serious management decisions and we're going to ignore it even though it will be available in a couple of months? It just doesn't make sense to me.

CHAIRMAN FREEMAN: Any further comments? Roy.

DR. MILLER: Just in response to Jack's comments, I appreciate what he is saying. I think we've set a course for ourselves and we need to stay the course; however, should compelling information become available to us in the next calendar year indicating that population trends for horseshoe crabs are different than what we believe them to be at present, I see no reason why we can't revisit the Horseshoe Crab Plan via the addendum process in 2004, which would probably, if it results in change to the plan, would take place in 2005. Thank you.

CHAIRMAN FREEMAN: Other comments. Eric.

MR. ERIC SMITH: Mr. Chairman, is there a way to act on the monitoring program changes in this addendum and table the fishery management options until March, or does that kind of a splitting result in having to start the clock entirely on an addendum for the fishery management measures? I just do not know how you do part and hold off on part.

CHAIRMAN FREEMAN: It's a reasonable

question, Eric. Let me see if we can get the answer. Bob Beal.

MR. ROBERT E. BEAL: Thank you. The document doesn't contemplate splitting the issues. In the past we've drafted some of the addenda to accommodate exactly what you are asking for, Eric, saying we are going to deal with all these issues through an addendum or multiple addendums, we're just taking it out as one package for public comment, so I think this document probably has to stand as a whole document and deal with all the issues at once.

If the board wanted to split the issues, we'd probably have to reopen a public comment period just on the management level threshold -- or the harvest level threshold sections and address that through Addendum Number 4. So, we'd have to start a new addendum in order to do that.

CHAIRMAN FREEMAN: Eric.

MR. SMITH: Boy, I was hoping for you to give me a different answer to that because I really can't see making ourselves so cumbersome. I mean, I'm not disputing. If that's how the process is, that's how it is.

But, if we can't salvage a way to at least get on with the additional data collection work that needs to be done and wait for three months to decide on the management measures, that is really a shame.

MR. BEAL: Just a follow up. When I mentioned opening another public comment period, that doesn't mean we have to have all the public hearings. It's the states' prerogative whether they do or do not have public hearings.

It can be a 30-day public comment period on the exact same language in the exact same document so it's not -- you know, there's not a lot of staff work and it's not a very cumbersome thing to do it. It's just process-wise this document just doesn't contemplate splitting the issues.

CHAIRMAN FREEMAN: Susan.

MS. SHIPMAN: I tend to agree with Eric. At least the components that are on Page 9 and 10 or the bottom of nine, I mean, those are recommendations and we could certainly move forward with a recommendation to the member states that everyone go ahead and implement those.

Those are not compliance measures. I guess the

sticking point, correct me if I'm wrong, is components A1, A2 and A3. Is that where the real issue is?

CHAIRMAN FREEMAN: Yes, they would be -- well, the way it's laid out they would be monitoring requirements.

MS. SHIPMAN: But to me it would seem we can make a strong recommendation to those states that they implement that until action is taken on this addendum. We've certainly done that before. We've done it with sturgeon and a number of other species.

CHAIRMAN FREEMAN: I think you're correct there. I mean, certainly, the board can make a recommendation. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. In terms of sending this out to the public for another rehash or new information, new comments from them, I guess my question, Bob, what will be gained by doing that?

I thought the idea for a delay here would be primarily because we've got a stock assessment and a report coming in within March, whenever it happens to be. So, why would we have to go out to public hearing on it? I'm dumb I guess on this one.

CHAIRMAN FREEMAN: Well, Pat, the issue was if we split out some of the requirements, and that was Eric's suggestion, Bob's reply was rather not do that because it may now make this a more lengthy process.

The recommendation Susan had would simply be that, a recommendation to implement and jurisdictions could take that into consideration for the 2003 season until we meet again in March. That process would not require additional public comment. Other comments. All right, seeing no other comments we'll take the motion. Jaime.

DR. GEIGER: Mr. Chairman, can I request a roll call vote, please.

CHAIRMAN FREEMAN: Yes. Do we need a thirty-second caucus? Thirty-second caucus.

(Whereupon, a caucus was held.)

CHAIRMAN FREEMAN: All right, roll call vote. I'll have Brad call the roll. The motion is to table Addendum III until the next management board meeting following availability of 2003 survey

information. Mr. Miller.

DR. MILLER: I have a question. I believe the seconder of the motion, Mr. Pruitt, offered some wording concerning status quo until this time. I don't see that in the motion anywhere.

CHAIRMAN FREEMAN: No, I don't think so.

DR. MILLER: That the states that have — didn't you offer some wording? Bill, correct me, please.

MR. PRUITT: Mr. Chairman.

CHAIRMAN FREEMAN: Yes.

MR. PRUITT: What I did was ask to put it up on the board so I could see what the maker of the motion was saying. I couldn't hear him. I didn't offer any additional wording. That's the motion right there.

CHAIRMAN FREEMAN: Okay, Susan.

MS. SHIPMAN: It would be my intent to offer that motion after this motion is acted upon, that along with strongly urging the states to implement the monitoring requirements.

CHAIRMAN FREEMAN: Okay, any further discussion? Brad.

MR. SPEAR: Maine.

MAINE: Yes.

MR. SPEAR: New Hampshire.

NEW HAMPSHIRE: Yes.

MR. SPEAR: Massachusetts.

MASSACHUSETTS: Yes.

MR. SPEAR: Rhode Island. (No response) Connecticut.

CONNECTICUT: Yes.

MR. SPEAR: New York.

NEW YORK: No.

MR. SPEAR: New Jersey.

NEW JERSEY: Abstain.

MR. SPEAR: Pennsylvania. (No response) Delaware.

DELAWARE: No.

MR. SPEAR: Maryland.

MARYLAND: Yes.

MR. SPEAR: Potomac River Fisheries Commission. (No response) District of Columbia. (No response) Virginia.

VIRGINIA: Yes.

MR. SPEAR: North Carolina.

NORTH CAROLINA: Abstain.

MR. SPEAR: South Carolina

SOUTH CAROLINA: Yes.

MR. SPEAR: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

MR. SPEAR: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MS. SHIPMAN: You skipped Georgia and Florida.

MR. SPEAR: Excuse me, Susan. Georgia.

GEORGIA: Yes.

MR. SPEAR: Florida. (No response)

CHAIRMAN FREEMAN: All right, we have 8 yeses, 4 no's, 2 abstention. The motion carries. Susan.

MS. SHIPMAN: **I have a three-part motion. The first is for review by the technical committee of the survey information prior to the March meeting and that we receive a report from the technical committee on that survey information.**

The second part is that states not relax their current harvest restrictions and retain those in place. The third is that the states are strongly urged to implement the monitoring program requirements and recommendations, Components A and Components B, and the subcomponents, for the 2004 fishing season.

MR. CUPKA: I'll second that.

CHAIRMAN FREEMAN: I had a second from Mr. Cupka, motion by Susan Shipman. What I'll do is wait until that gets up on the board and then ask for any discussion. Any discussion on Susan's three-part motion? Susan, does that capture your motion?

MS. SHIPMAN: Yes, Mr. Chairman, and it's my intent that Item Number 2 would include spatial, aerial, harvest restrictions, harvest caps, whatever. It would not just be limited to quota, but if there are seasonal prohibitions, that would be included as well.

CHAIRMAN FREEMAN: All right, Eric.

MR. SMITH: Susan, I believe there is a word change in Number 3, the word "regulations". You meant "requirements"?

MS. SHIPMAN: I meant both requirements and recommendations. Yes, that's correct. Thank you.

CHAIRMAN FREEMAN: I had Jaime and then Dave Cupka.

DR. GEIGER: A question to the technical committee chair. Is it possible that we can have the report prior to the March meeting so that we will have a chance to review? Thank you.

MR. SPEAR: That's the idea. Right now the Stock Assessment Subcommittee is on a timeline to do that. Ideally, it will be on the briefing CD for the March meeting. If not, it will be distributed prior to your arrival.

CHAIRMAN FREEMAN: Okay, Dave Cupka.

MR. CUPKA: I believe what Susan intended was that the technical committee look at the survey information through the 2003 results; is that correct?

MS. SHIPMAN: That is my recommendation. I believe it's the report that I think Jack Travelstead may have the preliminary report in hand. It just sounds to me like the technical committee has not looked at that report and they really need to do that before we take final action.

CHAIRMAN FREEMAN: All right, other comments? Comments from the public?

MR. LITCHKO: Mr. Chairman.

CHAIRMAN FREEMAN: Mike, you have a comment? If you have a comment, you have to come to the mike.

MR. LITCHKO: The comment is that they need to -- I mean, you have information on stock assessment on horseshoe crabs. U.S. Fish and Wildlife is the one who assessed the population in Massachusetts, in Cape Cod Bay at 15 million.

Now, U.S. Fish and Wildlife is the peer review team. They have this information. It's just that they didn't want to put it out because it would interfere with New Jersey's addendum to shut the horseshoe crab fishermen down.

Now, that report also states in there that 12 million of them are juveniles. They did not do a thorough study on the breeding female horseshoe crabs. They were just looking at the juveniles there.

So we're not talking about, you know, just the population of horseshoe crabs in a hole that nobody knows nothing about the juvenile ratio. We already know it. I mean, you already know it. It's just that you have shielded it from these people on the panel. You don't realize how much information you guys have been shielded is what I've been trying to tell you.

CHAIRMAN FREEMAN: All right, Mike, what we'll do is the Stock Assessment Committee will look at all that information and report to the board at the March meeting, so that will be included. All right, Susan, do you want a roll call vote or just hand?

Do we need the motion read? Okay, move that the technical committee review the survey information through 2003 and report at the March meeting; two, states not relax their current harvest restrictions; three, states are strongly urged to implement the monitoring program requirements and

recommendations for the 2004 fishing season.

All right, all those in favor of the motion, please raise your right hand; all right, those opposed, same sign. The motion carries, no opposition.

There are several other items but we'll hold those until the March meeting. They are simply reports by the Shorebird Technical Committee. That will add to our information. But Tom Meyer needs to quickly talk about the sanctuary.

NMFS SHUSTER HSC RESERVE

MR. TOM MEYER: Thank you, Mr. Chairman. Back in the latter 2000-2001, we closed an area outside of Delaware Bay to horseshoe crab harvest, and we named it the "Carl N. Schuster Jr. Horseshoe Crab Reserve", after Dr. Schuster who has spent a lifetime working on horseshoe crabs.

At that time there was a recommendation from the technical committee to allow 10,000 horseshoe crabs for biomedical purposes from the reserve. At that time we developed an EA which examined the amount of horseshoe crabs that we felt we could allow, and 10,000 was a good number.

We received a proposal from a biomedical company, and we ended up giving that company 10,000 horseshoe crabs under an exempted fishing permit for 2001, 2002 and 2003.

Now the EA that we developed initially, our protected resources gave us three years on that EA, so this year we're going to have to develop another EA to allow any more horseshoe crabs as exempted fishing permit for biomedical.

I'd like to come back to the committee and maybe even the technical committee and request that we receive some guidance, if the 10,000 horseshoe crabs is still a viable number to issue, and that would be very helpful in making our decision. Thank you.

CHAIRMAN FREEMAN: Okay, are there any comments from the board relative to Tom's request? Seeing none, does that help you?

MR. MEYER: So the board is saying 10,000 is a viable number still? Thank you very much.

CHAIRMAN FREEMAN: All right, thank you. Because of time and the fact we've gone over again, we need to convene our next meeting so we

will conclude the Horseshoe Crab Management Board. Thank you.

(Whereupon, the meeting adjourned at 3:30 o'clock p.m., December 16, 2003.)

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