

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING SECTION**

**Atlantic Sands Hotel  
Rehoboth Beach, Delaware  
October 20, 2008**

Section Approved: February 3, 2009

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## INDEX OF MOTIONS

1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of August 19, 2008** by Consent (Page 1).
3. **Move to initiate an addendum to include the following: monthly or bimonthly quotas with payback and carryover; determination of landing and fishing days; no fishing prior to June 1<sup>st</sup>; timely reporting of state-registered landings; restriction on harvest of juvenile fish.** Motion by G. Ritchie White; second by Bill Adler (Page 18). Motion carried (Page 18).
4. **Move to recommend that the ACCSP Coordinating Council allocate funds for continuation of the shoreside herring sampling program.** Motion by David Pierce; second by Doug Grout (Page 22). Motion carried (Page 22).
5. **Motion to adjourn** by Consent (Page 22).

## ATTENDANCE

### Board Members

George Lapointe, ME (AA)	Mark Gibson, RI (AA)
Pat White, ME (GA)	Everett Petronio, Jr., RI (GA)
Doug Grout, NH (AA)	Dave Simpson, CT (AA)
G. Ritchie White, NH (GA)	Pat Augustine, NY (GA)
Rep. Dennis Abbott, NH (LA)	James Gilmore, NY (AA)
William Adler, MA (GA)	Peter Himchak, NJ DFW, proxy for D. Chanda (AA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)

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

### Staff

Vince O'Shea	Toni Kerns
Robert Beal	Chris Vonderweidt

### Guests

Matt Cieri, ME DNR	Chris Weiner, ECTA/CHOIR
Brian Hooker, NMFS	David Pierce, MA DMF
Bob Ross, NMFS	T. Stockwell, ME
Harold Mears, NMFS	Lara Sifka, Cape Cod Comm. Hook
David Ellenton, Cape Seafoods, Inc.	Janice Plante, Commercial Fisheries News
Jeffrey Marston, NH F&G	Arnold Leo, East Hampton, NY
Mary Beth Tooley, Small Pelagic Group	Eric Thadey, DC Fisheries
Wilson Laney, USFWS	

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Swan Ballroom of the Atlantic Sands Hotel, Rehoboth Beach, Delaware, October 20, 2008, and was called to order at 8:00 o'clock a.m. by Chairman Terry Stockwell.

### **CALL TO ORDER**

**CHAIRMAN TERRY STOCKWELL:** Welcome to the Atlantic Herring Section Meeting. I would like to call this meeting to order and look for approval of the agenda.

### **APPROVAL OF AGENDA**

I have a couple of minor revisions. One is that there was no section conference call, so there is no section conference call summary. Bob will be making the Amendment 4 update rather than Chris.

### **APPROVAL OF PROCEEDINGS**

Does anybody have any changes, additions or deletions from the proceedings of August 19, 2008? Without objection, the proceedings are approved. Public comment from those in the audience on items that are not on the agenda. Mary Beth.

### **PUBLIC COMMENT**

**MS. MARY BETH TOOLEY:** Thank you, Mr. Chairman. Mary Beth Tooley, Small Pelagic Group, just a couple of quick comments. I think that many people who have been involved in the Atlantic Herring Fishery in 2008 have experienced a very chaotic season, one we have never seen before. I think it's a combination of different things.

A reduction in TAC has certainly been felt. The effort controls that are implemented by the states have had significant impacts on the participants in the fishery and the continuation of spawning control measures that changed, I believe, in 2006. All of these things combine in a way that affects fishermen, their activity on the water, and their ability to work. Your agenda, I think, covers many of them. It does not highlight the spawning issues, and I think that many fishermen in the industry have anticipated that the section would address this at their earliest convenience. Thank you, Mr. Chairman.

**CHAIRMAN STOCKWELL:** Thank you, Mary Beth. I would suggest that we include some discussion on that on Agenda Item Number 5, which is Area 1 Effort Control Measures. Are there any other comments? Seeing none, we'll move right to

the updated landings and days-out measures, Matt Cieri.

### **UPDATED LANDINGS AND DAYS-OUT MEASURES**

**DR. MATT CIERI:** Good morning. My name is Matt Cieri. I'm the Chair of the Atlantic Herring Technical Committee from Maine DMR. I'm just briefly going to go over today the updated catch and landings' information for Atlantic Herring, as well as some of the days-out effort control measures that we've used through a small group of the section over the years to sort of extend the TAC.

Where we are right now with the Area 1A catch is right about 27,346. There is an overall TAC of 45,000. Ninety-two percent of that comes out to be 41,400 from which you actually subtract 500 metric tons bringing you down to 40,900 and of that 34 percent is left. For Area 1B, basically we've taken roughly 60 percent of the TAC. Likewise, for Area 2 we've taken quite a bit. We have about 32 percent of the TAC left, of the fishable TAC left; and, for Area 3, roughly 87.

There has been some recent activity off Georges Bank, and some of those results are still coming in, but for the most part they, in the last couple of weeks, have been running somewhere between 2,000 and 2,500 metric tons. We've done a number of days-out meetings in Durham, New Hampshire, this year to try to look at effort controls and tried to slow down the catch rates for various purposes.

The initial meeting was actually March 20<sup>th</sup>, and during that meeting the members of the section from Maine, New Hampshire and Massachusetts suggested that we should go with seven days out or no fishing in 1A, January 1<sup>st</sup> through May 31<sup>st</sup>; and then after June 1<sup>st</sup> to four days out of the fishery, three days fishing.

At a July 31<sup>st</sup> meeting we met and went over the landings, and the members of the section from those states decided to make no actual changes. At an August 28<sup>th</sup> meeting fishing days would include September 1<sup>st</sup>, 2<sup>nd</sup>, 15<sup>th</sup> and 16<sup>th</sup>. At a September 24<sup>th</sup> meeting – I believe Chris also has a handout on that –

**MR. CHRISTOPHER VONDERWEIDT:** It was on the CD.

**DR. CIERI:** It was on the CD for those of you who get CDs. October 1<sup>st</sup>, 8<sup>th</sup>, 15<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, 28<sup>th</sup>, and 29<sup>th</sup> were landing days for October, and then for

November it's the 4<sup>th</sup>, 5<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup>, and then two days out until the TAC is reached.

If we take a look at catch rates by week, a couple of things stand out. The light blue is for 2008; and as you can see, the catch rates have been fairly low, which is a good thing because we've been putting in lots of days out. If you compare it to previous years, the catch rates, for example, for 2006 were fairly high for this same point. So, for example, here we are at October 12<sup>th</sup>, the week of October 12<sup>th</sup>, and we're roughly at about 37 – I'm sorry, we're roughly at 27, and in 2006 we just almost done with the fishery completely, so we were about somewhere around 57,000 metric tons. This is quite a significant drop from 2006.

2007 and 2005 were roughly around the same; again, roughly around 45,000 metric tons by this point. So it appears that the effort controls have done something in reducing the catch rates, which is a good thing, because unlike those previous years our TAC this year will come in right at about this 40,000 line. That's all I've got.

CHAIRMAN STOCKWELL: Thank you, Matt. Questions for Matt. David Pierce.

DR. DAVID PIERCE: Matt, as you well know, the three states, Maine, New Hampshire and Massachusetts, put a lot of work with the fishing industry to come up with a days-off strategy to slow down the catch rates. Certainly, the industry was on pins and needles for the longest of times and probably still is regarding how many days would be off as opposed to how many days they would actually be allowed to fish or to land. The catch to date – I can't recall the date that you gave us as to – these landings are as of what particular date; I missed that?  
DR. CIERI: For week ending October 12<sup>th</sup>.

DR. PIERCE: The week ending October 12<sup>th</sup>, okay. Well, it seems to me that we were either very effective with our strategies for slowing down the taking of the Area 1A quota or something else happened. Could you offer any opinions regarding why we are still with what appears to be a significant balance left for the Area 1A quota?

What happened with the fishery; were environmental conditions, weather, specifically, did they impact the nature of the landings; were fish unavailable; what can account for our being in this position right now, which is the fishery is still open. That was one of our concerns, of course, that we would be closing the fishery sometime in the middle of October or the

National Marine Fisheries Service would do so, anticipating high catch rates. So, can you give us some further insights as to what might have happened?

DR. CIERI: If you're asking why people are or aren't catching fish, I would defer probably to the people that actually make their living fishing.

DR. PIERCE: Okay, good answer. Well, I'll offer up one opinion and if anyone cares to confirm it, then that would be wonderful. My understanding is that one reason why we had lower landings as of October 12<sup>th</sup> is that the fish were unavailable to the gear in some areas where we had expected the fish to be available and catch rates to be high; and because the fish were unavailable to the gear, the fishermen actually – those who could, they went to Georges Bank to fish.

So we had a desirable consequence actually of having boats go to Georges Bank to fish, mid-water trawlers in particular, where they, of course, were successful in catching herring, and that's good news. So, that seems to be one reason why we were successful, the days off, less opportunity to fish, and then the fish just did not cooperate for the industry in that they weren't available to be caught.

So these are just some of the factors that we have to deal with as a sea herring section, and certainly the three states in the Gulf of Maine, these are some of the certainties of which we have to deal when we project catch rates, and we meet frequently to try to slow down landings to extend the Area 1A quota as long as possible into the fall; the purpose being to do whatever we can to provide availability of fresh bait for the lobster fishery and other fisheries, of course, that use herring as bait. So, anyway, that's my conjecture as to one reason why we, as of October 15<sup>th</sup>, are still left with a rather significant balance of the Area 1A quota.

DR. CIERI: I would still defer to people who actually fish for a living.

CHAIRMAN STOCKWELL: Before we go to Mary Beth, Pat White.

MR. PATTEN D. WHITE: Maybe you can help me on the dates, Terry, but I remember either one or a two-day opening session that we had where it blew really hard and they got very little opportunity to go fishing. I can't remember if that was the October 1<sup>st</sup> or the tail end of September, but that seriously

curtailed what we had projected for landings during that period.

CHAIRMAN STOCKWELL: You're right, the two days we had open in the middle of September were very low landings. Anyone else on the section – Vito.

MR. VITO CALOMO: Terry, maybe you can help me since you come from Maine and have the heartbeat of that fishery. Was there a decrease in the catching of very juvenile fish this year compared to last year at this point in time?

CHAIRMAN STOCKWELL: I think Mary Beth will be able to better answer it, but, quickly, what I understand is that at the second September opening the purse seiners made a set and there were juvenile fish and they let them go. When they went further offshore to look for other fish, the fish were on the bottom and they couldn't make a set. The fish were there, but they didn't set on them.

MR. CALOMO: That's my understanding. I just wanted to hear it from you, but that is my understanding. Compared to the 15,000, you know, metric tons they caught last year, they're really not catching that amount of fish at this time because they're hard to the bottom.

CHAIRMAN STOCKWELL: My understanding this last week is that there are almost no landings if not no landings at all out of Area 1A. All the landings are from Area 3. Other members of the section. Mary Beth.

MS. TOOLEY: Thank you, Mr. Chairman. I would ask just one question, if I could. I wondered if Matt had the total landings for Area 1A for the month of September. I can't recall right at the moment how many days were allocated to the fishery, but they were extremely few. There were a lot of nuances to the herring fishery. In the past vessels fished together, fleet activity, purse seining or mid-water trawling for that fact.

They tend to stay with a body of fish for a period of time, and they watch the fish as they move, as the fish come through in waves, and the fishermen sort of have a process they go through. When you take the fishermen off the fishing grounds for ten days and then they have to go back out and find those fish that creates a significant hardship for those vessels.

The first day that they went back, obviously, a hurricane came through. They did not catch any fish.

As it was indicated, there was an opportunity a week later. They did find some very small fish; I guess what people would determine as juvenile fish. These were probably Year One fish, not suitable for anything and, yes, people did let their end go and moved on to other places.

With such limited fishing opportunity, being able to land one day a week, this has not worked for this fishery, and I think this is one of the reasons why the section needs to revisit the process. We need to either compress fishing time to allow fishermen to find fish and work the fish for a few days or think about how to do it differently.

The way it worked out this year in the month of September, I don't think anybody could have really anticipated. We hadn't done it this way before, but certainly there were few landings by the purse seine fleet in the month of September, and there was significant hardship to our end users, particularly the lobster industry in New England.

CHAIRMAN STOCKWELL: Thank you, Mary Beth. Any other comments? Dave Ellenton.

MR. DAVID ELLENTON: Dave Ellenton from Cape Seafoods and Western Sea Fishing Company in Gloucester, Massachusetts. I just want you to keep in mind that when we're talking about days out or landing days, this is one day in the week not to be interpreted as a fishing day. The purse seine fleet was fishing two or three days in advance of that landing day, and they did have the ability to search for fish at that time, so they were not off the fish for as long as some people may have you believe.

CHAIRMAN STOCKWELL: Thank you, David. Any other comments from the audience? Section members, Dennis.

REPRESENTATIVE DENNIS ABBOTT: The meetings that we had in Durham, New Hampshire, the story about being off the fish for so many days and that affecting the fishery, that's an argument that I didn't hear until this morning.

CHAIRMAN STOCKWELL: Thank you, Dennis. Other section members; any other questions for Matt?

#### **AREA 1A EFFORT CONTROL MEASURES**

Okay, on to Area 1A Effort Control Measures, et cetera. Staff has passed out a set of ASMFC herring talking points, and I want to be clear that these are my talking points and not that on behalf of the section or the staff. They're just thoughts that I have

written down over the last two years in driving to umpteen number of section meetings to try to work with the days out.

There are a number of different issues; from the days-out measures to the spawning measures to monitoring bycatch, all the above. I think we can sum up this year as saying nobody is happy. The industry is not happy, the staff is not happy, the technical people aren't happy, and certainly all of those that drove to a lot of meetings producing the work that we did aren't very happy.

### **DISCUSSION OF AN ADDENDUM**

It seems timely to consider changing the way we're doing business, and these talking points were solely intended just to put some thoughts out so people can react to them. I would like to defer to Chris and/or Bob to talk about a timetable and whatever actions that we might propose to make; whether it would have to come in the form of an amendment or an addendum.

MR. ROBERT E. BEAL: Thank you, Mr. Chairman. The rule of thumb for a full amendment is about 18 months by the time you go through the public information document hearings, drafting the document, bringing them back for one or two revisions at the board level, so it can be done faster than that. If you really fast-track an amendment, you could do it in about a year, but everything would have to line up and go fairly smoothly.

For an addendum it usually takes two board meetings. For example, if the board were to initiate something today, they could come back at their next section meeting and approve a document for public comment. For an addendum we need a 30-day public comment period, so we have that 30 days, and at their second meeting the section would be able to approve that document, if that's the action.

I think you and I have had conversations about having section meetings, possible one before the end of the year outside of the normal ASMFC meeting weeks; and if that were to occur in November or December, a document could be approved for public comment at that time, assuming it's not very complicated and we're able to draft it in that amount of time. Public comment could be late December, January, something along those lines, and then the section could consider approval of that document in February would be the fastest that something could get done.

Obviously, the two meetings could be February meeting and the May meeting if that's the course the

section chose. I think a lot of that depends on how complicated the document is and how much time it is going to take for the plan development team to pull that together.

CHAIRMAN STOCKWELL: Thank you, Bob. It was my intention to share our conversation with the rest of the section here. Clearly, to have an action or an addendum to move forward so that we can make a change for the next season, I think the best goal would be to have a vote at our winter meeting.

If that's the case, we could have – we have a fair amount of time today to talk about if and how to move forward; and should you all concur that it's the right thing to do, we could then have the advisory panel and the technical committee meet and then have another section meeting and then go to public hearing and then have a vote at our winter meeting. That would then serve the industry and our process well to have some new measures in place for the next season.

DR. PIERCE: I think for many members around the table here today, section members who are not from Maine, New Hampshire and Massachusetts, much of what we have discussed so far and reported on have been somewhat foreign to them because these issues are specific to the inshore portion of the Gulf of Maine, for the most part, not entirely but for the most part.

Area 1A Effort Control Measures That's why the three states have worked so hard this past year to, working within state regulations in a cooperative manner, develop approaches to slow down catch, working with a relatively small quota for the Area 1A location. So with that said, I guess it's important, Mr. Chairman, for us to, as a section, understand why it is necessary for us to actually, let's say, pursue an addendum to make changes in the current plan.

Why do that as opposed to our continuing to work the way we have as three states struggling, with mixed success, to slow down landings in the Area 1A location. I think that's the first issue. What can be accomplished through an addendum that would be, let's say, of specific benefit to the three states initially, anyways, to help those three states better manage the inshore portion of the Gulf of Maine.

What can the states not do now that they can do with an addendum? In addition, are there any issues in your list or are there any issues from other areas, from other states, southern New England states, Mid-Atlantic states? Are there any issues that those



particular states would like us to address collectively as a section? I see that as two issues for us to address.

I certainly don't mind having all the meetings that we had in the Gulf of Maine, the three states up in Portsmouth. It worked rather well. Sure, it was an inconvenience, a bit controversial at times. We had a full house. The industry was present in large numbers at a few of our meetings, and understandably so, concerned about the days-off strategy.

I would think that an addendum, if structured properly, perhaps we would be able to provide more advanced notice to the fishing industry as to what is going to happen, so they can better plan their business, plan their fishing operations. Less meetings of the three states means less opportunity for confusion; again, better planning, but we need to have some more discussion regarding the better planning aspect of it versus the flexibility that we have had through three states getting together to meet – to act to, again, slow down landings.

Well, I'll stop there. Those are the two issues as I see them; and if we address those issues, those questions, then I think we'll be in a better position to know whether we should put in the time and the effort and certainly ASMFC staff time to develop an addendum.

CHAIRMAN STOCKWELL: Thank you, David, good issues. Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. David said a lot of what I was going to say with regard what things would require the amendment process, which you can't do in that timeframe you just gave, and which things can be done in an addendum that would help. Of course, this is my first shot at looking at this thing, and it would all need to be ferreted out as to what is in our current system that we can do for the issues that you've brought up in your little note here. It's a little bit confusing so we definitely need to have time to think this over and meet again, not to be done here. Thank you.

CHAIRMAN STOCKWELL: Thank you, Bill. We do have a significant amount of time allocated this morning, but I absolutely agree, we do need to meet again and we need input from the industry as well. Chris has a clarification.

MR. VONDERWEIDT: I think it's fair to say that everything on Terry's bullet points that were handed

out would be within the range of an addendum and fast-track could happen in two board meetings, as Bob said before; so to answer your question, Bill, I think an addendum – unless you have something outside the range of what was handed out.

CHAIRMAN STOCKWELL: And, Bill, I do want to repeat myself again. These are just thoughts to get the dialogue going. There is no agenda, no preconceived notions. I'm looking for everybody's input into hopefully helping us do a little better business. Doug.

MR. DOUGLAS GROUT: Thank you, Mr. Chairman. Clearly, several of these issues, particularly the effort control and the bycatch issues I'm very familiar with, given the number of days-out meetings that we had to deal with and the bycatch issues that we've been hearing about for several months, either at the council or at these meetings.

I was wondering if you could elaborate a little bit more on the monitoring issues here, the state-only permit holders. From the state of New Hampshire that doesn't allow mobile gear in state waters, we don't have the need to – we don't have state permit holders for herring, so I was wondering if you could elaborate on that a little bit before we start moving forward in our discussion.

CHAIRMAN STOCKWELL: Absolutely! The state of Maine has no reporting requirements for state waters pelagic fishing. We have a fairly active state waters purse seine fishery and a fixed gear fishery. We are remanded for fixed gear reporting for federal permits but not for state permits. We do intend to submit legislation this winter to move forward a pelagic license, but it would be nice to have some consistency between the three states and the feds for across-the-board reporting. Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. Following up on Dave's ideas, I certainly enjoy meeting with our fellow commissioners on a regular basis, but I think this year probably our time could have been better served by figuring this out in advance. I guess kind of cutting to the chase, is there any reason – again following Dave's comments – that we couldn't implement a monthly or a bi-monthly quota with days out attached just with the three states? If we decided we wanted to go down that road, would that have to be an addendum or could we have the three states agree to that?

CHAIRMAN STOCKWELL: Chris advises me that it would have to be through an addendum. Pat.

MR. P. WHITE: An extension of a similar question for Chris; would that also hold true for spawning tolerances and closures; is that included in an addendum?

MR. VONDERWEIDT: Yes.

MR. CALOMO: Does that also hold true for the stoppage of the harvesting of juvenile fish?

MR. VONDERWEIDT: Well, I guess it depends on what you mean by that. If you mean getting rid of the spawning closures, then it would be an addendum.

MR. CALOMO: No, not getting rid of the spawning closures; stopping the harvest of immature fish.

MR. VONDERWEIDT: I guess I would need more specifics on that to answer the question.

MR. CALOMO: Having a size limit on the fish, going below, say, eight inches and down not to be harvested.

MR. VONDERWEIDT: An addendum.

MR. CALOMO: It would be part of the addendum process, then?

MR. VONDERWEIDT: It could be, yes, if the section wanted it to.

MR. CALOMO: Okay, that's what I need to know. Thank you very much.

DR. PIERCE: All right, with regard to the upcoming year and what can we do better in the upcoming year specific to the Area 1A fishery, of course, we spent the majority of our time with thought-provoking discussions and scintillating meetings. We did a lot of things last year that were, well, let's say, done on the basis of voluntary actions by the fishing industry itself.

We tried to reserve fish for the end of the fishing year, October-November, of course. We're in October now. We tried to keep fish – reserve fish in Area 1A for the end of the fishing year by slowing down catch. We strove to have around 12,000 metric tons available for harvest October and November. That was what we tried to do, and we tried to accomplish that. We were successful, I think, fortuitously by the fish not being available in Area 1A, but we tried to do that by just slowing down landings.

And, of course, there was no exact science. It was an art of sorts, and it worked, I think, in large part because of the cooperation between the three states and the support of the industry itself, recognizing that support was somewhat – well, they realized that the support had to be there because of the low quota that we had and the high catch rates we expected, and we didn't want to see the fishery being shut down by the National Marine Fisheries Service in September, let's say.

That was always the risk that we faced with high catch rates, potentially 3,000 metric tons per week. I think it was per week. That's a lot of fish being landed in a very short period of time, and that was perhaps our greatest concern, the high catch rates and our trying to account for those catch rates, once again by slowing down landings.

Perhaps it would be wise for us, through an addendum, to make some actual changes that would no longer then be voluntary actions on the part of the fishing industry itself. For example, in 2008 the fishing industry itself – and I think this was predominantly the mid-water trawl fleet because that was the fishery operating at the time. The mid-water trawlers agreed that they would not fish in Area 1A from January through I think it was the end of May.

MR. CALOMO: 5,000 metric tons.

DR. PIERCE: 5,000 metric tons has been reserved for that period of time through the New England Council and Mid-Atlantic Council action – I think principally New England Council action – 5,000 tons reserved for that period of time. That was an amendment to the Herring Plan not too long ago, the federal plan.

But that 5,000 tons was not touched. It was agreed to by the fishing industry that the 5,000 tons would be reserved in some way for the end of the year. And the three states, we agreed that seemed to be a very sensible approach. Then through days off, we and industry cooperation, we accomplished that purpose. No fish were caught at the beginning of the year, and that amount was then available for harvest throughout the summer and then, hopefully, October and November – late September, October and November.

Therefore, would it make sense for us, through the addendum, to prohibit the taking of any landings – fishing for Area 1A fish January 1 through the end of May – so 5,000 tons is actually reserved for later on in the year, and would it make sense for us to be very

specific with regard to the amount of fish that would be reserved for the end of the year.

Instead of our just agreeing to certain amount and hoping we get there, why not say, for example, that as of October 1 or October 15 or thereabouts when the New Hampshire and Massachusetts spawning closure lifts, we have 12,000, 14,000, 15,000 – I don't know what the number is – have some significant amount available for that period of the year as a hard-and-fast quota that, again, we manage as states – and principally that we would manage that as a group of states.

To me that might be one thing we could do as part of an addendum, getting all the other states to sign on to the strategy as well, because, obviously, the Area 1A fishery is not just a fishery taken advantage of by states in the Gulf of Maine, Maine, New Hampshire, and Massachusetts. I believe there are New Jersey boats that have expressed interest in that fishery and have come up to that area as well when it has been possible for them to get up there to fish. They've been there, so, clearly, New Jersey is a player in the Gulf of Maine and needs to be aware of what is being considered for measures in the Gulf of Maine. So that's one thing we could do.

In addition, as you said, Mr. Chairman, there seems to be the need for us to deal with reporting issues that would be of benefit to the states, certainly to the state of Maine; monitoring issues that you have identified in your talking points. I'm not making a specific suggestion relative to those monitoring issues, but you have identified some that are quite important.

Bycatch issues, I don't know how we, as a group of states, can address those issues because they are predominantly issues that relate to the EEZ, and it's my understanding that the councils, having plan development teams working with state staff, like Matt Cieri; my staff, Mike Armstrong and others, you know, they're working on some options for the New England Council to consider, with the Mid-Atlantic Council being part of that discussions, options that would entail perhaps seasonal area closures that would deal specifically with the river herring bycatch.

And, again, river herring bycatch is not just in the sea herring fishery. It's in other fisheries as well and not just in the mid-water trawl fishery for sea herring, but also in other fisheries directing on sea herring, other gear types, so it's not specific to mid-water trawling. So, I could be wrong on this one, but I don't think that this section can actually deal with the bycatch

issues, but we certainly can deal with the monitoring issues and ways for us to better deal with how to manage the Area 1A quota in the ways I've just suggested.

Now, the effort control and days-out issues, I still labor with that one, and I labor with that one primarily because the catch rates are so variable that it seems that we have to respond quickly to what catch rates we're observing, and then we act accordingly by having days off. I'm not sure how to deal with that one yet.

However, it seems to me that we would be in a better position as certainly three states in the Gulf of Maine and collectively as a section to better work with this effort control need in the Gulf of Maine by doing a couple of things, and perhaps these could be accomplished through an addendum.

Number 1, we need to finally square away this issue of days landing and days fishing. It seems to me that part of our problem earlier on in this year was that the catch rates were very high because boats were not out there fishing for one day and then landing. Some boats were out there fishing for at least two days, maybe three days, and then transferring their fish to carriers, large vessels, to hold those fish and then those carriers would land that large amount of fish on the day when landings could be allowed.

So, I stand to be guided by your wisdom, Mr. Chairman, but it seems to me that we could, through an addendum, make some changes so that it would be days off for fishing and landing and not just for landing. Perhaps, as well, we could have a limit on the size of carriers that would be involved in the sea herring fishery. This is a bit of a new one to me.

I have always understood that the carriers were, you know, boats X, Y and Z of a specific size and status quo carrier operations seemed to be okay for me, but this year, again, the carrier size increased dramatically, so I understand, with actually some mid-water trawl vessels being used as carriers, meaning the fish were offloaded to them and then landed on one particular day when landings were allowed.

So, I think we might get to the point today, before we conclude our business, with a motion to develop an addendum that would better control fishing effort in Area 1A, that would better increase the probability of our extending the fishery into November and maybe to the end of the year, improve catch reporting and

monitoring, basically allow for a more orderly management of the Area 1A fishery.

This addendum could include – and I’m just offering these up further discussion – it could include, once again, restrictions on the numbers of days fishing as well as landing; limits on the size of carriers; an October through December seasonal Area 1A quota; prohibiting the directed fishing on sea herring in Area 1A at the beginning of the year; in other words, we don’t take the 5,000 tons that has been reserved for that time of the year.

So those are some of the things that we might want to consider in this addendum, and then I suspect that the charge would be given – because it’s an Area 1A fishery, the charge would be given from the section to Maine, New Hampshire and Massachusetts and any other state that wants to invest the time in this to develop this addendum, and working, of course, with our staff and state staff to put it together, with industry input, of course, to bring it forward to the next section meeting for further work and consideration. So, those are some of my thoughts as to how we might want to proceed, and I welcome any reaction to that.

CHAIRMAN STOCKWELL: Thank you, David, and thank you for not making a motion yet. Matt has a response and then I have Ritchie and Doug.

DR. CIERI: I just wanted to go over some of the technical things that do affect a lot of the other states. For example, the effort controls that we put in as the three states, as an agreement, has in some ways – within the plan itself has really no sort of teeth. There is no mechanism within the plan itself that if Maine, New Hampshire, and Massachusetts don’t agree, there is no other recourse except to bring it back to a section meeting.

And so there needs to be some sort of a better plan of what happens in that agreement among those states. It has basically been left for those states to decide, but in some cases there is no clear direction on what happens if those states don’t decide. The effort controls so far this year weren’t really that effective in many ways.

The effort controls are being used to do something that they were not designed to do, which is not just to extend the fishery, but to extend it by a certain hard amount, and that’s something that no analysis is going to be able to give you is to reserve fish. The result is a continual tweaking of the fishery and of the catch rate using those effort controls, and the result is

a large degree of variability when it came right down to it.

So in many ways there are a lot of linked issues that are important for other states. Those include, for example, monitoring and not being able to factor in state-only landings in some of the states into where we are with the particular quota. So there are a number of different issues here from a technical standpoint. One thing I would keep in mind is that there is a differential mixing rate in the Gulf of Maine.

For example, the longer that you extend the fishery later in the year, the more likely you are to be removing inshore Gulf of Maine fish. That has implications as well as implications for changing of fishing patterns from inside the Gulf of Maine outside the Gulf of Maine, which can affect some of the other states as well. So there are a number of different issues here that you probably might want to address on a technical basis as well.

MR. R. WHITE: Thank you, Mr. Chairman. I guess a question of process. You previously said thank you for not making a motion. I’m prepared to make a motion unless you request that I don’t. My question of process is can I make a motion with elements that I would like to see as part of the addendum with the ability of additional elements?

CHAIRMAN STOCKWELL: Could you hang on until after Doug and Vito speak, and then I’ll go right back to you? Doug.

MR. GROUT: You might want to move on to Vito because I was prepared to make a motion at this point, too.

MR. CALOMO: I’m not going to make a motion. I’m going to agree with Matt Cieri, and he left the room, on what he said, but I’m also going to say that the three states got snookered – and that’s a word that I’d like to be thought of in the kindest way – snookered because of the gentleman’s agreement that was set up and broken by the gentlemen fishermen.

So the three states have done a great job all the time working as a section. It’s similar to what we do in shrimp. The three states get together and set the season and that’s gone well for many, many years, and so has this herring section gone well for many, many years except they told us to stick the gentleman’s agreement where the sun don’t shine, and that’s what happened.

I think we weren't prepared as a section to figure that the gentleman's agreement would be broken, so all that Matt said was true and all that I've said right now is true. I think we've done an admirable job on working on sea herring in a time when sea herring became very valuable and the power that's there to fish the sea herring. I think we would have had a much better season and things would have worked much smoother if they had stuck to the gentleman's agreement as we know it. I think you, Mr. Chairman, for that.

CHAIRMAN STOCKWELL: Thank you, Vito. Any other comments before we go to Ritchie? Pat.

MR. P. WHITE: Well, Vito makes a good point, and listening to what Dave Ellenton and Mary Beth said, I think we need to consider long and hard the ramifications of what a fishing day and landing day difference is, whether the fishermen are able to stay on the fish. If they hadn't been able to stay on the fish this year, it would have been entirely different. I think that in itself is going to be a very complex issue to compare because we aren't the same at 60,000 metric tons as we were before, so we don't have the numbers to play with that we did before.

MR. GROUT: I just had a question right now about the state-permitted herring fishery. Are those landings not included at all right now into the landings' data that we're getting? They're completely missed, or are they in there and they're just not in there in a timely fashion?

CHAIRMAN STOCKWELL: The latter. Dr. Pierce, Quickly.

DR. PIERCE: Just for the benefit of the section, I think it's important for them to also understand that we didn't have this problem the year before for a number of reasons. The quota was a bit higher, and also approximately 30,000 metric tons of herring came from the upper portion of the Gulf of Maine, Canadian waters, and it's all really Gulf of Maine fish that gets discounted, so to speak.

I wouldn't call it a gift, but it's a wonderful opportunity for a segment of the sea herring fishery, certainly Downeast Maine. It's good for that area, but it provides a supply of fish to that area above and beyond the Area 1A quota. Last year, if you think about this, 30,000 metric tons or so was pumped – well, I don't know how much of the 30,000 came into the state of Maine, New Hampshire or Massachusetts, but certainly there was a very large amount of fish

taken in the New Brunswick weirs that went into – that supplemented the Area 1A quota for the states.

This year, for whatever reason, that fish has not been taken in Canadian waters; therefore, fishermen, lobstermen in particular, in desperate need of bait have not found that bait coming to them from those Canadian sources. They've had to rely primarily, I believe, on Area 1A fish caught by U.S. fishermen and not coming from Canadian waters.

So, that was a real monkey wrench thrown into the works. We don't know whether next year, for example, we'll have a repeat of 2008 or maybe 2007 where this big supply of fish can come across the border to take advantage or to help sooth the demand for lobster bait. Now, I don't know what the motion is going to be, but obviously you're going to go perhaps to Ritchie for a motion.

If indeed it's going to be a motion that involves bi-monthly quotas – I don't know if it is, but if it does, I hope that motion would be sensitive to the fact that with either monthly quotas or bimonthly quotas we run the risk of having gold rush fisheries. Again, it's the old hard quota management, and what do you do with that especially when you're working with quotas that start on a particular date.

We could have a rush to fish, and so that will involve – if indeed that is part of the motion, that will involve I hope some clever approaches for slowing down landings so that we don't end up with, again, gold rush fisheries at the beginning of each quarterly period. Anyways, with that said, I'll turn it back to you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Dr. Pierce. Do New York, New Jersey, Connecticut or Rhode Island want a bite at the apple? Pat.

MR. P. WHITE: I've got a quick comment relative to what David just said. To fairly complicate our planning, we did have – I think it was about 20,000 metric tons that came down from Canada last year. I don't know if we have any kind of even estimated figures on what we got out of the menhaden fishery in the lower Gulf of Maine this year as a supplement, but I think we also have to think in the back of our heads if we don't have that and we don't have the Canadian fishery, then what happens?

CHAIRMAN STOCKWELL: Ritchie.

MR. R. WHITE: Thank you, Mr. Chairman. My intent is to make a motion to go forward with an

addendum, and I have a number of elements that I want to see included, but I don't want to limit it to those. That is my intent.

I would like to move to proceed with an addendum to include the following: monthly or bimonthly quotas with payback and carryover; landing days; no fishing prior to June 1<sup>st</sup>; timely reporting of state-registered vessels for state landings. Those are what I'd like to see in it, and then obviously it's open for people to add additional.

CHAIRMAN STOCKWELL: Could you repeat so Toni can add the other bullets?

MR. R. WHITE: Monthly or bimonthly quotas with payback and carryover; determination of landing days; no prior to June 1<sup>st</sup>. That's it.

CHAIRMAN STOCKWELL: Is that it? Is there a second? Seconded by Bill Adler. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. One of the other things that you might consider is a problem statement about what you're trying to do here. I'm bringing it up now because maybe some – there has been a good discussion for the past hour about symptoms, but I'm wondering if you had consensus as to what the problem is, and that would then help you craft what elements you want in your addendum.

That's why I asked you to recognize me before this started, but whether you do it now or later, from a staff perspective I think you ought to have a clear understanding of what problem you're trying to solve here, because there are a lot of them out there.

CHAIRMAN STOCKWELL: Thank you, Vince, you beat me to the punch. Ritchie, do you have rationale before we go to Dennis and Doug?

MR. R. WHITE: Well, the rationale is to try to give some sense to the industry so there is planning as to the harvestability throughout the course of the season, and that the harvest gets spread out so there is a steady stream of product and trying to accomplish that.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. As the only one of the Maine, New Hampshire, and Massachusetts contingent who hasn't spoken yet this morning, but I've surely agreed with everyone that has spoken and what they're saying. What we did this summer I've found is something

that I don't think that we want to repeat, and that has been said already.

Essentially what we're trying to do, as Vince said in putting us I won't say back on track, but given us some focus as to what is the problem. I think in your bullet points where you talk about effort control and days-out issues, nowhere does it list providing adequate fresh bait to the lobster industry. I think the implication as to what we're trying to do is to supply bait for the lobster industry throughout the season, which we want to do, but really which is not part of the herring management plan.

That's essentially the big problem, and I found that this summer it was very uncomfortable sitting there surely for Doug and yourself running the meetings with the various factions all having different ideas about how things should be. They're all self-interested as well they should be. We were sitting there as arbitrators for these folks when it was really none of our business, in my mind.

I mean, we have to do it as fisheries managers in the one sense, but as part of the herring management plan I don't think that we did. We keep talking about lobster bait, and I have been wondering what percentage of the herring catch goes to lobster bait versus what percentage of the catch later in the season or whatever is used for other purposes. Then we could think about how we divide all of that up.

It's not possible, but I mean that's part of the equation. If I was in the industry and I had a better market for something other than lobster bait, it would seem like it would be within my prerogative to use that herring to go where I wanted, and maybe some of those folks are making those decisions.

But all of these things greatly complicate this issue and thinking we can do it in an addendum in a couple of weeks or two meetings to me is – you know, hopefully we can, but I'm questioning with all the various factors our ability to reach that goal of trying to ensure that we have bait from the beginning and all the way to the end and have it constant throughout the season while Matt Cieri is in the background doing the figures and keeping – he is a scientist but he ends up being somebody that is doing a tally and then trying to work that all in. I just think it's – I'll leave it at that.

CHAIRMAN STOCKWELL: Thank you. I suspect we're going to have plenty of attention from the lobster community in this next addendum. I believe Matt has an answer to one of your questions.

DR. CIERI: Yes, roughly somewhere between 60 and 70 percent given the year. Many of the issues that we've heard, as you well know, has been a continual supply of fresh bait, so it's not that you need a lot of landings and a lot of amount of time, but this continuous supply throughout the entire year of affordable fish I guess is one of the issues. I guess I would just suggest that you might want to, as has been suggested, go through and look at what your problems are within the fishery and set up goals that you want to address.

MR. GROUT: And to that, Mr. Chairman, and also this probably deals with some of the problem statements that Vince was looking at, as the person who was running the multiple meetings we had this summer, and they were very contentious, things were fairly smooth through the first three months, through October, because we had a consistent number of landing days that we were allowing, but we also had a goal of trying to have a certain amount of that quota left over for the month of October and November.

What we ended up having to do was to – because the catch rates ended up being greater than the predictability of Matt's models, which are very good, I mean, they're based on historical patterns, but obviously there were some different things happening this year. So as a result we had to really put on the brakes in September and October.

And so my goal – what I'd like to see out of this addendum is to have something that would be able to provide a consistent supply of product throughout the fishing season. I think it doesn't have to necessarily be the exact same amount every week or every month, but as long as some product is coming in every single month from what we're talking about here, June 1 through whenever the quota is used up, hopefully, in October or November.

DR. PIERCE: Regarding the objectives, I think the ones I was suggesting are pretty much the same ones that have already been indicated by other members of the section. I have already alluded to some of those earlier on in my previous remarks, more orderly management of the Area 1A fishery and better control of fishing effort in Area 1A, and that involves reducing catch rates, steadier supply of product to the shore, and by product I mean product for bait and product for other use.

It still astounds me that we have a fishing industry, the sea herring industry that apparently is predominantly for the landing of bait. I remember many years ago when I got involved with the herring

fishery back in the 1970's, actually, there was a strong market for butterfly fillets, herring to be used as food, human food as opposed to bait. It's amazing how things have evolved, but, again, economics being the way they are, markets being as they are, this is, I guess, the market that provides the best value to the industry for bait for the lobster industry and for other uses of bait.

So, again, a steadier supply of product to the shore for bait and other uses; those to me would be the central objectives for our moving forward, and those objectives would involve our taking those actions that are part of the motion, but I would suggest to Ritchie that – Ritchie made the motion, right – I would indicate that I would like to see the list revised somewhat to have us determine landing and fishing days.

We can't just have landing days; it has to be landing and fishing days. If we just continue to go with landing days, then we have the same problem in 2009 that we have in 2008, and that is catch rates can be extremely high, much higher than they have been in the past because of the way the industry has adapted and evolved to deal with just prohibitions on landings. They can fish on more than one day, stockpile their fish on a carrier, and then land them on the day when it's allowed.

That just undoes the whole strategy for our trying to slow down effort because we can't project catch rates accurately with that. So, in fact, I'll make this as a motion or maybe it can be a friendly, but I'll give my entire list first; a determination of landing and fishing days – I did say that I was hesitant to go with the monthly and bimonthly quotas because of the potential for a gold rush, but, frankly, the more I think about this, the more I see this as being consistent with my earlier suggestion that we actually have an amount set aside for later on in the year as a hard quota, and that would not penalize someone who would give up – a segment of the industry giving up landings at the beginning of the year, because, as you say, no fishing prior to June 1<sup>st</sup>.

Well, what do we do with that 5,000? It has to go someplace. Let's then move it around by this concept of a monthly or bimonthly quota. So, I can go along with that. The timely reporting of state-registered landings, that seems to be a good suggestion. I would only ask the Chair to make sure that particular aspect of the motion is completely sensitive to the needs of the state of Maine and problems that the state of Maine has identified that need to be addressed.

Again, that's another part of the problem statement, that we appear to have an inadequate system for our accounting for all the landings, especially landings coming from states' waters, and in this particular case, I guess it would be the state of Maine. It's not a problem in Massachusetts or in New Hampshire.

The other bullet I would add – again, I would ask the maker if he would consider this to be a friendly amendment. So my first suggestion for a friendly amendment would be – well, it's in there, okay, and we'll see if Ritchie will approve that. The second one would be a restriction on the harvest of juvenile fish. I'm not saying we do that, but I think it needs to be moved forward for further discussion and for further evaluation, because I continue to insist that we still run the risk of having a fishery that actually could focus, more so than ever before, on juvenile fish.

That is bound to have a very adverse outcome on the health of the industry itself, certainly the health of the stock if we end up with significant harvesting of juvenile fish that could come from certain areas where that harvest should not come from. So I would ask the maker of the motion if he would consider that suggestion to be part of his motion; that is, a restriction on the harvest of juvenile fish.

CHAIRMAN STOCKWELL: Are you feeling friendly?

MR. R. WHITE: Thank you, Mr. Chairman. I am, but first I have a question, though. The way this motion is worded this does not lock us into changing any of these at our next meeting, so that's a question. In other words, all of these – at our next meeting, if we decide that we don't like one or more of these, we can pull them out. They don't have to go into the addendum the way this is written; that's my question.

CHAIRMAN STOCKWELL: That would be my assumption, but it would be with the concurrence of this section that it goes forward to the technical committee and AP as well.

MR. R. WHITE: Okay, thank you. That being said, then I accept both the friendly amendments.

MR. ADLER: Thank you, Mr. Chairman. I just wanted to – this goes back to Dennis' discussion. There have been a number of figures over the years pushed out about the uses of herring. It might be useful in the foreword of an addendum to have a few of these statistics if they can be found. Examples are things like it's been said that the total catch of U.S.

herring, for whatever reason, has been somewhere in the hundred thousand to 120,000 metric tons.

This may vary and you probably have better figures, metric tons a year out of all areas combined. Okay, somewhere is that figure, up, down, whatever. Then there has been discussion that almost a hundred thousand metric tons of herring are used in the bait business. It's been said throughout New England and not just Maine if you add it all together.

Then there were other figures that said – the last one I saw was something about 30,000 metric tons for the sardine industry, of which some of that turns into bait, and then a lesser amount for the food business. Now, this may have changed a little, but these are the figures that would be the up or down and would give some picture of where this stuff goes, what is it for.

I was upset with the federal amendment that we got in our packet here where they talk about food fish. It's almost like they don't even mention bait, and I think it's probably the biggest use of herring. So, it would be helpful if there was any way to grab some of these figures for informational purposes to put in. The other thing I've heard over the years is that – and this may be wrong, but the last I heard, it was right – was that the herring seems to be worth more as lobster bait and maybe tuna bait than it is for export food.

If that's the case you can see why it heads that way, that it's worth more as bait. So, any of this informational interesting things to talk about that you could put into an addendum might paint the picture of why this is so important. I'll leave it on that. Thank you.

MR. P. WHITE: I'm having a little problem with definitions. I feel a little funny about "timely", but I'll let that go for now, but can someone define what a juvenile fish is or can we be a little bit more specific as to what David's intent is in that?

MR. CALOMO: I'll take a shot at it, if you don't mind, Mr. Chairman. I would say it's a fish that cannot reproduce at that time. It's not able to spawn just like any other species. And it's usually – through the course of time that Maine educated me, it's usually been a size of about an eight-inch fish and down.

I also believe that if we go to this restriction of harvest of juvenile fish because of the urgency to rebuild the Gulf of Maine fishery that everybody seems to rely on, except when there is a closure, and



they all go to Georges and catch the fish, but being a fisherman myself, it's a lot easier to catch the fish around home plate.

Mr. Chairman, I also believe in the restriction of the harvest of juvenile fish not only for the rebuilding of the Gulf of Maine, but also you should have in that restriction that there should be a percentage of fish allowed in the harvest of the adult fish, say a 10 percent bycatch, 5 percent, wherever you may go, wherever the section believes it should go, but I think that during the course of time, being a fisherman once myself, even if you catch adult fish, nines and above – and I'll use that at this time – nines and above, you sometimes catch some eight-inch fish.

Even if you catch 14-inch fish, there sometimes is eight-inch fish. But, in the abundance they're catching fish at this time I would say that you would need some kind of a percentage of bycatch of juvenile fish in this restriction. But the restriction's intent, along with the spawning closure, Mr. Chairman, is to rebuild the Gulf of Maine that I heard so much from the lobstermen in the Gulf of Maine and other fishermen that fish in the Gulf of Maine, that we need to preserve the Gulf of Maine. We need to rebuild it, we need to keep it strong, so I support all these issues. Thank you.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chair. One question that I would like to have answered probably by the industry at a little bit later time here is we know that the lobster bait industry is looking for bait variably through the year. It's not constant in the amount that they want.

Matt gave an answer to the question that I had about lobster bait taking up 60 to 70 percent. Assuming it was – well, whatever you want to assume – the other being 30 to 40 percent, is it not fair to ask the question of those folks, the non-bait use folks, when is the best time for them to have their opportunity to catch fish, both economically and for whatever other reason, and should that not be a factor into our decision-making?

MR. JEFF MARSTON: Jeff Marston from the Law Enforcement Committee. As we go forward with the addendum, I'm going to encourage the states to work together to set hard-and-fast fishing days or landing days or whatever you want to call them. It concerns me a little bit about the overfishing and the carryover and the payback. You're going to force the states to adjust their days either monthly or bimonthly.

I think the most consistent rules and regulations we can set are going to help both the fishermen and enforcement. I've got a couple of concerns about the juvenile fish restriction. One is that law enforcement doesn't want to be measuring the herring when they come in. The second is that I like sardines, so I don't know where they're going to go. If we want to go in that direction, then perhaps gear restrictions, mesh sizes, other things to control the harvest of the juveniles might be something to look at rather than a measurement on the fish. Thank you.

CHAIRMAN STOCKWELL: Thank you. Just sidebarring with Chris, we will absolutely take input from the law enforcement folks during the development and after the development of any proposed addendum.

MR. MARSTON: Thank you. Looking at some of these requirements, it's going to take a hard look.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. New York doesn't have a dog in this fight, so we're listening very intently to see how this is unfolding. What consideration would be considered – I'm sorry, what impact would this have on bycatch and would that be a consideration of this addendum? It seems like we're covering restricting fishing and we're now trying to sort out how we protect juveniles.

It sounds like we're now talking about maybe a maximum size somewhere in there with the items you have on here, but one of the major issues is bycatch. I don't recall whether time area closures are now in existence or whether you considered something even more difficult, which would be GRAs. Those are things that I've thought about and wonder if all those are being considered by the section.

CHAIRMAN STOCKWELL: Thanks, Pat. The time area closures I think you're referring to, for everyone's benefit, are proposed in Amendment 4 which Bob will be briefing us on after this discussion. Any other comments from the section before we go to the audience? David.

DR. PIERCE: A number of people, including myself, have expressed concerns about the status of the resource, and that reminds me that we'll be in a better position to know where we stand regarding that status next year. I believe a benchmark assessment is going to be done. I turn to Matt to remind me as to when that is going to take place. Matt, is that benchmark assessment involving Canadian scientists

going to take place this coming winter or is it the spring and the summer of next year?

DR. CIERI: Probably more towards fall or early winter of 2009, end of the year, I'm guessing.

DR. PIERCE: Okay, therefore, we will not have, unfortunately, the benefit of some updated assessment information that would, well, put us in a stronger position to know how conservative we should be regarding the Area 1A fish and maybe fish from other areas, too. Well, that's the way it is, but still I'm going to be inclined to be cautious with my attitude towards the status of the Gulf of Maine sea herring resource if for no other reason than what has happened up in Canada, because it still is Area 1A fish, the lack of fish.

Maybe they moved elsewhere and they didn't catch them because they moved, but they didn't land 30,000 or so. It was far less than that. In addition, from what I have been able to obtain from talking with my staff and with other members of the industry, I have reason to be cautious as opposed to my being liberal with my attitude towards Area 1A fish.

Finally, with regard to the bycatch issue, I did indicate earlier that I didn't think that we would be in a position to act on strategies to deal with bycatch because the bycatch will be occurring principally if not entirely in federal waters. However, if we indeed do get from the council's plan development team some suggestions regarding seasonal area closures to be considered for dealing with bycatch issues, river herring specifically, then I wonder out loud if we might, as a group of states, be able to enact some specific regulations that would involve, for example, prohibitions of fishing in certain areas.

Well, again, we have to wait for the plan development team to give us their recommendations, and we haven't got those yet, so it may be premature to include those sorts of strategies in this particular addendum. That might be something we would have to initiate in another addendum if we get some good information from the plan development team in a sense of great confidence that they've actually got some seasonal area closures that will do some good.

If they've got those good approaches, then I would be more than willing to grab a hold of those strategies and try to enact them as a group of states. I'll hold off on that one, but I'm anxious to get something from the plan development team that will help us with this issue.

MR. CALOMO: Thank you, Mr. Chairman, I'll be brief. As far as juvenile fish, we don't want law enforcement to be measuring every fish. That's why we're talking about allowances. Say 10 percent on a million pounds is a hundred thousand, so they wouldn't have to worry too much there. But to catch 700 to 500,000 pounds of juvenile fish, the human eye would see the eight inches and below.

We're not talking about picking out one fish at a time. As far as sardines in a can, I don't think anybody is cutting sardines like they used to with scissors in their hand, and most of the fish are chopped up from adult fish to make sardines in cans today. I visited Blacks Harbor and I've seen all the automation go through, and it's a far cry from what I used to cherish actually when I was a younger seiner myself looking at the girls in Maine cutting fish with the scissors. It was an art.

I always supported that industry. I didn't fight it until now to subsidize in the juvenile fish. As far as bycatch issues, my friend from New York maybe don't realize that the federal plan has a bycatch issue that if too many fish in the bycatch are being caught, such as juvenile haddock are caught, that fishery is shut down. They have a percentage already in safeguard.

What we're talking about more on bycatch issues is other herrings and shads and stuff like that that we seem to have found that the boogeyman isn't there as it was stated for the past several years. It isn't there. There are some bycatch issues that we're working on, especially in the Commonwealth of Massachusetts where we shut down river herring and curtailed also the bycatch of shads, so on and so forth.

So, I think the states are working along that avenue, and I think we're making great progress. Working with the industry itself, which is a very important issue, that their suggestion maybe not being in certain areas at certain times of the year that there are runs of river herring, so this is something that we in the Commonwealth of Massachusetts have long fought to bring back that industry. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Vito, points well made. Other comments from the section? Before we go to the audience, I just want to check with staff; are you comfortable with summarizing the rationale from the comments that we have received from the section so far?

MR. VONDERWEIDT: I think so, yes.

CHAIRMAN STOCKWELL: And they can be provided as guidance to the industry and back to the section?

MR. VONDERWEIDT: Yes.

CHAIRMAN STOCKWELL: Okay, thank you. Mary Beth.

MS. TOOLEY: Thank you, Mr. Chairman. I do support moving this motion forward. I don't agree with all of the bullets that are listed, but I think the discussion around them needs to occur. I do have some concerns particularly about the restriction on the harvest of juvenile fish, but I think the section should discuss it as should the industry.

There is a need to decide to what goals you're trying to achieve, protection of juvenile fish or protection of adult spawners, while still maintaining a fishery. I think there needs to be a balance between those two items, and you can't fully protect juvenile fish while fully protecting adult spawners and still have a fishery. I think the discussion needs to go forward.

I did have some concerns about the rationale that was proposed for protection of juvenile fish and the need to rebuild the Gulf of Maine. Currently there is not a separate stock assessment for the Gulf of Maine. There has not been identified a need to rebuild the Gulf of Maine. Our present reduction in TAC is based on a risk assessment and an adverse risk approach.

You need to consider a juvenile fishery in the state of Maine that is historic, and I think you need to move forward and get some input from the industry through the advisory panel. I wouldn't suggest at this time that you take anything off your bullets, because I think you do need to have a discussion.

While I don't like to speak for other aspects of the fishery, the question did come up about how the other percentage that doesn't go to bait and those particular industries, how perhaps they would like to see the fish float ashore. Certainly, in the state of Maine we do have a sardine plant, and I do know that one of the most important things for them is consistency in landings and maintaining a workforce, which is particularly a struggle for them in the summertime in the state of Maine, when if you can't keep people coming into work on a regular basis, I mean, they're going to find other work to do. So, I'm not speaking directly for them, but my impression is that consistency in landings is important.

MR. ELLENTON: Thank you, Mr. Chairman, Dave Ellenton from Cape Seafoods and Western Sea Fishing Company in Gloucester, Massachusetts. I just have some comments on various points that were made during the previous hour or so, so I'm just going to go through that list. The first comment I would make is that I'm presuming that the reason for this move towards an addendum is purely as a reaction to the number of meetings that have taken place this year with regard to the days out.

I just feel that if we'd only one or two meetings and things had worked out the way those first two meetings had indicated, we would not even be talking about an addendum, and that's a little bit of a cause for concern for me.

It is interesting that here we are having had a number of difficulties and differences take place during this herring fishery that we're actually still at a point where we wanted to be on the 19<sup>th</sup> or 20<sup>th</sup> of October, and that is that it was everybody's desire to have somewhere between 10 and 12,000 tons of herring available for the industry once the Massachusetts and New Hampshire spawning closure came off, and that came off at midnight last night, and we have about 12,000 tons of quota to catch.

As Matt Cieri has often said, we actually get to where we want to be even though getting there can involve a number of different paths and a number of different events that take place during fishing. Surprise, surprise, it's fishing. So I am pleased that we have got to that point where we were intending to get.

Just as far as the objectives and use as lobster bait, in the executive summary of the Amendment 2 to the plan that I have there is an objective, which I don't think has changed, and it does say to maximize domestic use such as lobster bait, sardines and other products for human consumption and encourage value-added products utilization, and I hope no one is arguing with that. There actually is an objective to maximize domestic use such as lobster bait.

That was one of the comments I had. A concern I have as far as going to an addendum is going to be a loss of flexibility. I've always been pleased as someone who is actively trying to make a living in this herring industry and has been doing for many, many years. We operate a substantial facility in Gloucester for packing and freezing whole fish and also for supplying fresh fish to the bait market.

I would hate us to lose the flexibility that you folks have in this fishery. Some of the things that the feds

would not include in the original FMP you are including, such as spawning closures. They rejected the idea and you folks have been dealing with it and dealing with it I think somewhat successfully.

One of the areas of flexibility, where I may agree today that there should no fishing until the 1<sup>st</sup> of June may be completely different next year. There may be other circumstances in the mackerel fishery, for instance, that says, hey, we could be catching herring in May. Catching herring before May, you're actually catching some pretty poor quality fish, but if you're catching herring in May, and if you look back at the records, at 5,000 tons, the vast majority of it is caught in May if we are catching it. This last year we agreed as an industry not to catch it. I don't think it was written in stone anywhere.

We agreed not to catch it and we didn't catch it. But, you know, in 2009 or 2010 we may want to catch it, so to have something like that actually in an amendment or an addendum, which we would presumably have to have another addendum for if we want to change it is a little bit of a concern.

And just to go to my first point as to the fact that it has worked out as far as tonnages available, a couple of the things that have changed this year, with the lack of availability of fish coming down from Canada, but what came in its place was the supply of menhaden which we haven't seen in the northern waters for quite some time, and a goodly supply of menhaden went into lobster bait, and quite agreeably so according to many of our lobster bait customers.

There are some guys who don't want to touch it, but there are a lot of people who come to our bait shop now and ask for menhaden. Whether it's fresh, whether it's salted, whether it's frozen, they're asking for menhaden, "Hey, this is what we used to use; we're please to get back to it." That supply may be there for some years to come and maybe ease the demand or split the demand for bait between menhaden and herring.

It's never going to totally replace herring; it's never going to totally replace over 50 percent of the supply for bait as being herring, but it is a major supply source now for the lobster fishery. To the extent that – you know, there was a concern that there was a shortage of bait this year for the lobster folks, but when we started to fish on Georges Bank just a few weeks ago, we were landing fish in Gloucester, and every fish, every single fish that came in on our boats was going into the lobster bait distribution industry.

And there is an industry for distributing bait, too. There are folks between the catches and the lobster fishermen themselves, and that's the distributors. Some of those folks are also on the catching side, but there are many that are just distributors. They got to a point where they didn't want anymore fresh herring for bait; they've got enough, and that was just a matter of weeks after we had heard we don't have enough.

Things change; it's fishing, and we ended up freezing that fish, and there was a question as to what will happen to that frozen herring. I don't know what's going to happen to that frozen herring. We'll hold on to it as a source of supply for the bait industry because, believe it or not, they actually take frozen herring as well, but if we hold it for a long period of time it's going to go into other markets, and some of those markets are domestic markets.

It may go to the cannery. It may go to the west coast for bait usage there. It may go south. It all depends on market situations. There are lots of things to keep in mind. I think Mr. Bill Adler mentioned before about the value of bait. There is no doubt that two of the vessels that catch herring the most lucrative market for them is the bait market.

We operate a plant that can process a goodly quantity of fish everyday and we cannot afford to pay the boats the price that the fresh herring bait industry pays; and so as far as them able to get whatever fish they want in the lobster industry, they are paying the best price, and they will get the first shot at the fish. On the question of monthly quotas, I presume there is going to be a discussion as to whether that's a percentage or whether that's a quantity. If it's a quantity, we don't want to be locked into a quantity that again may change if the quota goes down again or if it goes up again, so we need to think whether that's going to be a percentage of that total quota each month or bimonthly.

Juvenile fish, a couple of things to keep in mind there is that we do see roe in some pretty small fish these days. I have talked to people about this in the scientific community. The growth rate of herring has changed. The weight by age is different these days than it used to be. We see roe in some pretty small herring, so we've got to be very careful about what we determine is a juvenile fish, and it's certainly smaller than eight inches.

And it depends whether that eight inches is to the tip of the tail or to the fork in the tail. There is a difference, and I think you as the ASMFC use a

different overall length or different lengths than NMFS uses. I know there is a difference somewhere between some of the management authorities, and I'm not quite sure which, but we do need to be very careful what we describe as a juvenile fish.

As far as the question as to – I think it was Dennis Abbott who asked when is the best time for those folks who are catching fish perhaps not for the bait industry. From a mid-water trawling point of view, there is no best time because we're not allowed to fish from the 1<sup>st</sup> of June to the end of September, but by default the very best time for us to get the fish is right now.

That's why we always ask for an availability of quota to be held back from the middle of October from this year, from today, until maybe the middle of November when that fish starts to move out of 1A and will move into Area 3 and Area 2, presumably, actually, into the extended Area 3, which we now have with the change of the line. But that is really, really top-quality fish.

They have spent their roe, the fish is clean, it's very firm, and to pack 10,000 tons of that fish, if that's what is available for the industry, my guess is a lot of that fish will eventually get back into the bait market domestically before it gets shipped overseas for food, but it can be used for food and it does go to the canneries for food, and they are selling domestically and overseas.

And just one little point, just to come back to the – and it's my last one, Mr. Chairman – just to come back to the size of fish and the size of juvenile fish, if we're going to control this fishery and manage this fishery, we've got to also remember that the Canadians – what happens in Canada affects us a lot.

For instance, the fish that comes down through the weirs, if there was a lot of that fish, we wouldn't have been having this discussion today. If there were 20,000 tons come through, we wouldn't be having this discussion. Another thing to keep in mind with the Canadians is I constantly get inquiries from Canadian lobster fishers asking for fish that we would never ask our guys to catch because they're too damned small.

They have a need – they have had historically a use for extremely small herring in some of their lobster fisheries, and they do get them. Pat White has just spread his fingers to show how small they are; and he is absolutely right, they are extremely small; and if anything was a juvenile fish, that's it. Thank you.

CHAIRMAN STOCKWELL: Thank you, Dave. Before you go, Ritchie has a question for you.

MR. R. WHITE: Not a question but a response. I want to thank you, Dave, for pointing out what I had previously said, and I want to expand on it, about the reason for the motion being the commissioners might not want to meet three times during the summer, and I did say that. What I intended to say was that the reason for the motion is the public outcry at those three meetings.

I'll attend all the meetings necessary to accomplish what needs to be accomplished. The public was very upset at all three meetings, and I listened to that. This is a response to that, so thank you for allowing me to clarify that.

MR. ELLENTON: Just one quick response, and thank you, Ritchie, and I know you always think very deeply before you go forward with any of these types of motions. What we saw at those meetings this year was certainly driven by a temporary shortage of fresh herring for the lobster industry. The lobster industry is going through, as we all are, as we all are, going through some extremely difficult financial business times.

You know, I have every concern for those guys. They're not getting enough money for their lobsters. They're paying too much for their fuel as we are paying too much for our fuel. They're paying the market price for herring, which frankly is high for herring bait. They're getting a good deal on menhaden. That emotion came out at those meetings was driven by the serious situation that we're all faced with. Thank you.

MR. CALOMO: Thank you, Mr. Chairman. I heard about clarifications, and I think that's very good. I just want to make a little clarification about the juvenile fish again, Mr. Chairman. Being a member of the New England Council at one time and going to many of the council meetings, that's all I heard prior to everything was localized depletion, a term I'm not familiar with, but I've been hearing it now, localized depletion in the Gulf of Maine, localized depletion down here in the menhaden industry down in the bay, and there was some new term that came out "localized depletion".

I also heard the precautionary approach in the Gulf of Maine. Well, that's one of the reasons I believe that we need to take care of our juveniles and our spawn fish. I also hear from the biggest producers – excuse me, biggest processors is Bumble Bee Tuna, the

Bumble Bee Sardine Industry, Bumble Bee with Al West coming to the meeting and say, “We do not want these juvenile fish.”

I heard Cape Seafoods, David Ellenton, say, “We really don’t want to fish on juvenile fish. They turn to mush quick.” The bait industry in the United States – I don’t know about Canada. I’m not familiar with Canada too well – really didn’t want small fish that turned into mush in the bait industry. My friend over here, Bill Adler, has just told me that’s right.

And it is right to have a good product, whether you use it in the food fish or in the bait industry, is premium. And that’s the reason that I have always said that we should restrict the juvenile fish destruction because they reached heavy poundage last year, heavy tonnage last year. You know, I’m hearing 15 to 20,000 metric tons last year, prior to 2008. I think that’s an abundance of fish that shouldn’t be taken.

I think a bycatch of 10 percent is working because I fished that, so that is my reasoning behind it, just to clarify for some of the people that have been kind of wondering what is going on. It’s the processors that really don’t want them, and we shouldn’t be killing them fish for no apparent reason. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Vito. Any other comments or questions from the audience? Back to the section. All right, we’ll take a couple of minutes to caucus and I’ll read the motion into the record:

**Move to initiate an addendum to include the following: monthly or bimonthly quotas with payback and carryover; determination of landing and fishing days; no fishing prior to June 1<sup>st</sup>; timely reporting of state-registered landings; restriction on harvest of juvenile fish. Motion by Mr. Ritchie White and second by Mr. Bill Adler.**

(Whereupon, a caucus was held.)

CHAIRMAN STOCKWELL: All right, everybody ready? Those who support the motion, please indicate by raising your hand. It looks like everybody. No nulls and abstentions are zero. The motion carries.

It has just been pointed to me, and I absolutely concur, that this is going to be a bucket load of work. I will work with staff to set up the AP meeting, consult with law enforcement and the technical committee meeting and schedule another section

meeting as soon as we can. I think probably some time – can we do it in November, Bob? Could you help us out, please?

MR. BEAL: It’s going to depend on the folks around the table and their schedules, but it will probably take staff, working with the plan development team, a month or so to pull this thing together, I suppose. There is a fair amount of work here. I think the other thing going on is a lot of the folks on the ASMFC Plan Development Team or Plan Review Team are also on the PDT for the New England Council, and the council is working on a pretty ambitious schedule as well, so I think those folks are going to be hit on from a couple of different angles to work on herring documents. We’ll be in touch, Terry, and we’ll keep working together and see how much time it takes to pull this together.

CHAIRMAN STOCKWELL: Okay, and I’ll stay in touch with all of you about dates and areas. Matt, you have a follow up?

DR. CIERI: Yes, the next council herring PDT meeting is the 12<sup>th</sup> of November, so there is a possibility for starting to do some joint management stuff because we’re rolling along on the New England Fishery Management Council side.

MR. R. WHITE: A question; staff is comfortable with the statement of the problem issue or does the staff need more input on that?

MR. VONDERWEIDT: Well, I think it was discussed kind of at length before we even got into the addendum process, so pulling that and then what was said after Vince asked for clarification, I’ll summarize that and bring it together, and it can be changed at the next meeting, but I will try and include more things than – you know, it’s better than not enough, so I’ll do it that way.

CHAIRMAN STOCKWELL: Well, thank you, all, for a good discussion. The next item on our agenda is the Council’s Amendment IV. Bob.

#### NEFMC AMENDMENT IV UPDATE

MR. BEAL: Thank you, Mr. Chairman. Just as background, following the last section meeting, the New England Council placed one of the ASMFC staff members on – or made a place on the Herring Oversight Committee for an ASMFC staff member. I have been serving in that role, so I figured I’d just give an update of what the oversight committee has been working on.

Assumingly, we'll continue to have a staff seat on the oversight committee, depending on how the committee assignments shake out with the New England Fishery Management Council. The Herring Oversight Committee met September 30<sup>th</sup> - October 1<sup>st</sup> of this year, and the New England Council got together earlier this month and reviewed the recommendations from these meetings.

The purpose of both of these meetings was to refine the document that staff and the plan development team had worked on and give further guidance to the plan development team on moving forward with Amendment IV. Amendment IV, the committee took some actions and recommendations to the council, and the council took some actions.

The largest action or most noteworthy is that they removed LAPPs from the amendment, which are any allocations, group, sector, individual allocations, et cetera, so all the allocation discussion has been pulled out of Amendment IV. The plan development team has also been charged with developing time and area closures in southern New England, including Cape Cod, and this is designed to protect river herring runs.

This is based on some preliminary information or the information that came out of the '05, '06 and '07 monitoring of the herring and mackerel fisheries. Those are going to be developed over the next couple of months, and we'll have those to present to the oversight committee and to the council at their next meeting.

The oversight committee and the council passed a motion to increase collaboration with ASMFC, the Mid-Atlantic Council, and the New England Council, obviously, to deal with river herring management. Both groups noted that river herring management is a bigger issue than any one of the bodies can deal with. Some of the bycatch issues cross over jurisdictions between the New England and the Mid-Atlantic Council.

ASMFC manages river herring; however, a lot of the bycatch appears to be occurring in fisheries that are not managed by ASMFC, so there needs to be greater collaboration there, and I think to continue having staff serve on the oversight committee as well as some of the plan development team interactions that we can hopefully foster will help out that as well.

I think coordinating with the Mid-Atlantic Council is still going to be one of the things we need to work on. The Northeast Regional Coordinating Council can discuss this at their meeting actually next week, so it

will be another venue for increased coordination. The plan development team is developing a range of options for bycatch monitoring.

That is the key element that's in the document right now. It's a combination of at-sea monitoring. They're looking on-board observers as well as electronic monitoring. They're shooting for a CV of 20 percent coefficient of variation on the bycatch. They're going to focus on Atlantic herring, river herring and haddock, continuing on bycatch monitoring. The New England Council has issued a request out to the general public seeking ideas for bycatch monitoring options.

Those proposals are due to the council by December 5<sup>th</sup>. If a proposal is submitted, it's not necessarily going straight into the amendment. It's going to be considered in a suite of all the other options by the plan development team and written into Amendment IV. The ACLs and AMs, there is a section of the document that hasn't been worked on as much as the bycatch monitoring. This is kind of the second step of the development of Amendment IV. They're going to continue to work on this as the bycatch monitoring sections are developed.

There is also the mackerel fishery and bycatch in that fishery. There are some issues and options included in the document right now, and, again, these are probably going to be fleshed out a little bit more as the development of Amendment IV continues. The tentative timeline for Amendment IV; mid-December the oversight committee is going to get together and review the catch monitoring options and proposals that were submitted to the council, as well as the plan development team's reaction to those.

They're also going to initiate their discussions on annual catch limits and accountability measures. In February of next year the council is going to convene at their regularly scheduled meeting and review the progress and provide additional guidance to the plan development team. It is anticipated that November of next year, so about a year from now, Amendment IV will be out for public hearings.

In April of 2010 the final measures will be selected for the 2011 implementation with final implementation of Amendment IV in January of 2011. That's a quick summary of where the New England Council is. I'll be happy to answer any questions.

MR. MARK GIBSON: Thank you, Mr. Chairman. Bob, in that timeline when we will first see

something on the time area closures that the PDT has been tasked with? My reason for asking is that I was willing to go along with Dave Pierce in holding back on including time area measures in the commission's action, but should the council's PDT work reveal that time area closures would work and there was a state component to that or a state component to that might be appropriate, there may be a need to add into our recently scoped-out addendum time area closure alternatives that would match with the New England Council's.

I'm wondering when those are going to come in. The next crack we have at our addendum is at the February meeting. I'm wondering if we're going to have sufficient information to think about that at that time.

MR. BEAL: I think the plan is for the plan development team to work on those over the next few weeks and bring at least an initial review of the information back at the mid-December oversight committee meeting. Then it will be referred to the council for their February meeting. There should be a fair amount of information, at least preliminary options and direction that the group is moving by the ASMFC February meeting.

DR. PIERCE: To Mark's point, regarding where there might be bycatch levels of river herring that we would consider to be collectively as unacceptable, I would suggest the timing of that fishery where that bycatch might occur will be this winter and early spring, so we wouldn't be able to do anything anyways at the state level if indeed there was an area identified in state waters where there might be a problem.

But, certainly, if an area is identified as a problem, you know, this section, I suspect, will move very quickly to address it. Regarding the presentation given by Bob, I wanted to make a point with regard to the Amendment IV decisions made by the New England Council and to highlight for the section the hot-button issue.

Even though the button wasn't pushed very hard at the New England Council meeting – and I was very surprised it wasn't – well, now it's being pressed very hard in the form of e-mails being sent left, right and up and down. It's the level of observer coverage to deal with bycatch issues in the directed fishery for sea herring.

I'll just call your attention to the CD that you have and Page 28 and 29 in that document where you will

see the proposed measures to address at-sea monitoring. There is some data in the council document, of course, that would be useful, Table 1 and Table 2 in particular. I will highlight this point for you because it's quite significant.

In Table 1 it describes 2005; Table 2, 2004; bycatch data for river herring obtained from observer coverage. And, as indicated by Bob, the council, at this point in time has decided to go with the 20 percent coefficient of variation, that level of precision. As opposed to 30 percent, 20 percent gives you a higher level of precision.

However, when you look at those particular years, the database being used to estimate the observer coverage that will be required in the future, we see that for the pair trawl fishery, percentage coverage of total trips is either 3-1/2 percent or 12 percent. If we go with mid-water trawls, using the 2005 and 2004 data, it's either 10 percent or 34 percent. Now, just a heads up; clearly, there is a large constituency out there that wants a hundred percent observer coverage; 80 percent, 90 percent, 100 percent.

Therefore, right now the council is looking at relatively modest levels of observer coverage, and you might wonder why is that so. I'll draw your attention to Page 28; and when you have the chance, if you're interested in this issue, you will see that the council is pretty much following the formula that has been created in the standardized bycatch reporting methodology.

The amendment that both councils I believe adopted to enable the National Marine Fisheries Service and the council to determine the appropriate level of observer coverage to get certain levels of precision, so that's where we ended up. Using that formula, that amendment, we come up with 20 percent CV.

I suspect that this issue will be revisited because it's a low level of coverage. Now, if we have electronic monitoring eventually of the fishing vessels, that might help out in a major way, but until we have that it's just observer coverage. I'm concerned about the relatively low level of observer coverage as defined so far in this amendment.

I suspect that I and others will return to this issue as we attempt to grapple with it and get ourselves in a position where collectively the councils and certainly the section is a position to have – well, is in a position to say that we feel as if we truly do have a handle on our knowing what is being taken as bycatch for river herring and other species in the



directed fishery for sea herring, be it mid-water trawl, be it otter trawl, be it whatever, bottom trawling.

You know, river herring is caught in many, many fisheries as a bycatch, including mackerel. When you go into the Amendment IV document – well, go into the CD, you will also see a presentation that has been given by the observer program, the National Marine Fisheries Service Observer Program, and you'll be amazed to see where the river herring bycatch has occurred offshore and where trips have been taken by numbers of vessels that weren't sampled.

I consider that data to be a heads up for all of us because it's not just an inshore problem. It's a potential offshore problem with regards to bycatch of river herring, shad and other species that are of great concern to this section.

CHAIRMAN STOCKWELL: Thank you, David. Other section comments or questions for Bob? Any questions or comments from the audience? Seeing none, is there any other business to come before the section today? Mary Beth.

MS. TOOLEY: Thank you, Mr. Chairman. Just one comment about the council process; the council is looking at monitoring both at sea and shoreside, and our current shoreside monitoring programs are now administered by the states. I think it just brings up the issue of the commission working in tandem with the New England Council as they move forward with Amendment IV. I just wanted to mention that before we adjourn.

DR. WILSON LANEY: Thank you, Mr. Chairman. I thought Matt was going to give his river herring bycatch summary, but whether he gives it or not, I did want to ask a question. I noticed that Dr. Pierce alluded to the fact that there is some American shad bycatch as well, and Dr. Cieri had indicated to me the last time he and I discussed those observer data that there are some American shad data as well.

They just hadn't had time to analyze those, and so that was going to be my question to Matt. I will go ahead and ask that question as well. It's more appropriate I guess after he finishes his summary, if he is going to give that. Thank you.

CHAIRMAN STOCKWELL: I do know he is going his full summary at the Shad and River Herring Board meeting. Matt, do you have a quick answer?

DR. CIERI: Yes, stick around until Thursday. Yes, there is some shad bycatch, and we're working with the state of New York to try to contract to bump up that sort of sampling.

CHAIRMAN STOCKWELL: Dr. Pierce, closing thoughts.

DR. PIERCE: Yes, closing thought regarding what we do with the sampling dockside. Critical point; the Division of Marine Fisheries, my agency, has gotten more involved in it. We have done some sampling within the plants, and we're sharing that information, of course. It has been very enlightening and very helpful. But, I should point out that ASMFC, through ACCSP, I believe is no longer funding what I consider to be an extremely important long-term sampling program in the plants, initiated by the state of Maine principally with other states assisting.

That money is no longer there for that work – very untimely. That money should be considered by the Policy Board, for example. They're the ones who would address this. That money should be reallocated back into that initiative because that is an extremely important database that no longer will be there for us to tap into. That means that each individual state is going to have to struggle to come up with the monies to do the necessary sampling to keep track of what is going on. So, that's, again, a heads up for this section and a matter for attention at least by the policy board.

CHAIRMAN STOCKWELL: A quick follow up by Bob.

MR. BEAL: Actually the ACCSP Coordinating Council is going to meet on Wednesday afternoon to make the decisions on funding for next year, so there has not been a final decision on whether to fund the proposal from Maine, either to fund it or not to fund it yet. The Coordinating Council is going to consider that later this week.

CHAIRMAN STOCKWELL: Back again, Dave.

DR. PIERCE: Yes, is a motion needed by this section to request that the coordinating council provide the necessary funds for continuation of that sea herring sampling?

CHAIRMAN STOCKWELL: And do you wish to make that motion?

**DR. PIERCE: I'll make a motion that we indicate that the ACCSP Coordinating Council allocate**

**funds for continuation of the sea herring sampling program.**

CHAIRMAN STOCKWELL: Is there a second? Seconded by Doug. Comments. Pete.

MR. PETER HIMCHAK: Mr. Chairman, I think it's somewhat inappropriate for an individual management board to recommend to the coordinating council a particular project proposal that was submitted on any species or any combination of species, because the coordinating council has to weigh 30-some proposals with a budget of \$3.5 million to allocate.

While certainly this sampling project may be vital, there are other project proposals submitted by other states and federal agencies that are equally vital to keeping states in compliance, to addressing stock assessment issues on other FMPs. I just don't think it's appropriate for the herring section to essentially be a proponent of a proposal submitted under an RFP.

We were approached two years ago by the menhaden industry to essentially back their proposal under an RFP for Chesapeake Bay funding, and, again, I think the same tenor of the board was such that they're all equally – let the coordinating council grapple with the priority of the project proposals. Not everyone is going to get funded, and we go through this every single year.

At some point states are supposed to be weaned off the ACCSP funding on continuing projects. This will be the heart of the discussion at the coordinating council, backsliding, new ideas. We can't afford to fund everybody; so to make it short, I would leave this project proposal to the discussion at the coordinating council. Thank you.

CHAIRMAN STOCKWELL: Thank you, Pete. Before we take anymore comments, Bob, is there a reason why this section can or cannot make a recommendation?

MR. BEAL: There is nothing procedurally that prevents this group from doing that. I think the reality is that the state directors around the table from – I mean, all state directors aren't, but from this section, New Jersey and north are all on the coordinating council and they can, either through this motion or through a discussion that is going to occur or that is occurring, bring the idea forward of the importance of this project.

MR. GROUT: Thank you, Mr. Chairman. I believe that this section, if they feel that this is an important part of our monitoring program, can make a recommendation, trying to let the coordinating council know how important we think it is as a section. Certainly, the state of Maine, who put in the proposal, thinks this is an important thing. I think it's not saying this is how you have to vote.

Clearly, when we get to the coordinating council, the directors will be evaluating all the proposals there, and I think the more information we have on the importance of these things, I think the better. That's the reason I seconded this motion.

MR. HIMCHAK: Just one final comment on this procedure, and it's that the state representatives on the operations committee and the advisors from the individual states have already made their case to the operations committee in the prioritization of all the project proposals, so it's not that the coordinating council will not have prior knowledge of how the entire Atlantic coastal states feel about priority projects. With that, I have no more comment.

CHAIRMAN STOCKWELL: Thank you. Any other comments on this motion? Okay, I'll read it into the record: Move to recommend that the ACCSP Coordinating Council allocate funds for continuation of the shoreside herring sampling program. Motion by Dr. Pierce; seconded by Doug Grout. Caucus, please.

(Whereupon, a caucus was held.)

CHAIRMAN STOCKWELL: Those in favor; those opposed; no nulls or abstentions. The motion carries.

**OTHER BUSINESS AND ADJOURN**

Any other business? Well, we've had a great discussion today. We've got a lot of work ahead of us, and I appreciate you all putting a lot of thought and time in today. This meeting is adjourned.

(Whereupon, the meeting was adjourned at 10:12 o'clock a.m., October 20, 2008.)