

PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SUMMER FLOUNDER, SCUP & BLACK SEA BASS
MANAGEMENT BOARD

Crowne Plaza Hotel Old Town
Alexandria, Virginia
August 14, 2007

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INDEX OF MOTIONS

1. Move to adopt Option 5, extension of the state-by-state management program with no expiration date (Page 4). Motion by David Pierce; Second by Tom McCloy. Motion carried on Page 4.
2. Move Option 1, status quo, under summer flounder recreational allocation (Page 4). Motion by David Pierce; Second by Tom McCloy. Motion carried on Page 4.
3. Move to adopt Option 2, redefine the status determination criteria (Page 5). Motion by David Pierce; Second by Eric Smith. Motion carried on Page 5.
4. Move to adopt Addendum XIX as amended today (Page 5). Motion by Bill Adler; Second by Tom McCloy. Motion carried on Page 5.
5. Move to adopt the 2006 recommendations by the technical committee for an F threshold of 0.28; a stock threshold of 98.6 million pounds spawning stock biomass; and a stock target of 197 million pounds in terms of spawning stock biomass (Page 8). Motion by Pat Augustine; Second by Eric Smith. Motion carried on Page 9.
6. Move to support one summer flounder peer review update, provided the technical committee's 2008 terms of reference are included in that review (Page 13). If not, then we should proceed with an ASMFC external peer review. Motion reworded on Page 18.

Page 18: Motion read in the record and voted upon: Move to support a summer flounder SAW/SARC peer review of the benchmark assessment, provided the board-adjusted technical committee 2008 terms of reference are included in that review. If not, then we should proceed with an ASMFC external peer review. Motion by David Pierce; Second by Mark Gibson. Motion carried on Page 18.
7. Move to remove last sentence (Page 18). Motion by Harry Mears; Second by Roy Miller. Motion failed on Page 18.
8. Motion to nominate A.C. Carpenter for Vice Chair (Page 20). Motion by Louis Daniel; Second by Pat Augustine. Motion carried on Page 20.

ATTENDANCE

Board Members

David Pierce, MA, proxy for P. Diodati, (AA)	Roy Miller, DE, proxy for P. Emory (AA)
William Adler, MA (GA)	Bernard Pankowski, DE, proxy for T. Target (GA)
Vito Calomo, MA, proxy for Rep. Verga (LA)	Bruno Vasta, MD (GA)
Mark Gibson, RI DFW (AA)	Howard King, MD (AA)
Gil Pope, RI, proxy for Rep. Eileen Naughton (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Eric Smith, CT (AA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
Lance Stewart, CT (GA)	Kelly Place, VA, proxy for Sen. Chichester (LA)
Karen Chytalo, NY, proxy for Gerald Barnhart (AA)	Catherine Davenport, VA (GA)
Pat Augustine, NY (GA)	Louis Daniel, NC (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)
Tom McCloy, NJ, proxy for D. Chanda (AC)	Harry Mears, NMFS
Erling Berg, NJ (GA)	Wilson Laney, USFWS
Dick Herb, NJ, proxy for Asm. Fisher (LA)	A.C. Carpenter, PRFC

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

Ex-Officio Members

Paul Caruso, MA DMF
Steve Meyers, NMFS

Staff

Vince O'Shea
Robert Beal

Toni Kerns

Guests

David Perkins, USFWS
Fentress Munden, NC DMF
Jessica Coakley, MAFMC
Ron Howey, US FWS
Greg DiDomenico, GSSA
Charles Lynch, NOAA
Arnold Leo, Baymen's Assn.
Dick Brame, NC-CCA
Rob Winkel, NJ Fed. Sportsman Clubs

Bruce Freeman, JCAA
Joe Meyer, NJ F&W
Bill Sharp, FL FWC
Bob Ross, NMFS
Patricia Kurkul, NMFS
Bill Hyatt, CT DEP
Michelle Doran McBean, ER/AK Watershed Assn.
Ron Regan, AFWA
Eugene Kray, ASMFC Commissioner, PA

The Summer Flounder, Scup and Black Sea Bass Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 14, 2007, and was called to order at 8:05 o'clock a.m. by Chairman Jack Travelstead.

CALL TO ORDER

CHAIRMAN JACK TRAVELSTEAD: Good morning. Welcome to the Summer Flounder, Scup and Black Sea Bass Management Board. We've got a fair amount of material on the agenda today, but I think we've got enough time allotted. Does everyone have a copy of the agenda?

APPROVAL OF AGENDA

There are a couple of additions under other business. The first is a short presentation by Paul on scup assessment data needs in response to a request of this board from the technical committee. We will add that under other business. The second item under other business is nomination and election of a vice-chair. Are there any other additions or changes to the agenda? Seeing none, it stands as amended.

APPROVAL OF PROCEEDINGS

You have been provided the proceedings of the May 9th meeting. Are there any corrections or additions to those minutes? Seeing none, they stand as printed.

PUBLIC COMMENT

Public comment; is there any public comment at this time on any items not on the agenda. Seeing none, we're going to keep moving along.

DRAFT ADDENDUM XIX

Item 4, Draft Addendum XIX, this is a final action. Toni is going to take us through a review of the public comments.

MS. TONI KERNS: Thank you, Mr. Chairman. I'm going to go through the comment that we had for Draft Addendum XIX to the Summer Flounder, Scup and Black Sea Bass Plan. The public comment period ended July 11th and was May through July. Addendum XIX, as a refresher, was the addendum that looks at exploring extending the black sea bass state-by-state commercial shares.

It also looks at exploring alternate state-by-state allocations for the recreational fluke fishery, as well as exploring the stock status determination criteria, meaning the process in which the board sets the reference points for summer flounder, scup and black sea bass. We had nine hearings in the states of Massachusetts through North Carolina. In total there were 100 attendees at all of the hearings.

We received 31 written comments, seven of those which were from organizations that included the Recreational Fishing Alliance, the Recreational Fishing Alliance of New Jersey, Garden State Seafood Association, the Tri-State Anglers Club, the North Fork Captains Association, Jersey Coast Anglers Association, and the Jersey Coast Shark Anglers.

For the first issue, the black sea bass state-by-state shares, under the written comment, five of the commenters preferred that we have no sunset of the state-by-state shares, just to extend out into perpetuity. There was more comment on the different options. One person preferred status quo. Status quo actually would put us back to the quarterly quota system for black sea bass instead of the state-by-state shares. One person preferred a two-year extension of the state-by-state shares. Three people preferred a five-year extension, and 23 people preferred no sunset of the shares.

The Black Sea Bass Advisory Panel had a conference call to discuss the addendum. They preferred Option 5, having no sunset of the state-by-state shares. They felt that the current system that we are under is working well and would like to see it continued moving forward.

Under Issue 2, looking at the state-by-state fluke recreational shares, for the written commenters, ten people preferred status quo and eight people preferred to use more current landings to set the shares. Of those people that had comments about status quo, most people said that because the MRFSS data is not well received in the recreational community, they felt that we should not be changing allocations based on MRFSS data. And if you recall, all of the options that were in the addendum set the shares based on calculations that we would use from MRFSS data.

For the hearings under the fluke recreational shares, the majority of the people at the hearings preferred status quo, and this was because they very strongly felt that MRFSS data cannot support any management changes. There were five people that

preferred to use landings other than 1998 to set the shares. Of those, some of them felt that we should establish a new baseline, and others felt that we should use the years 1980 through 1989 to set the shares.

Fourteen individuals preferred an option that was not in the addendum, and they felt that we should not be using state-by-state shares and we should be using coast-wide measures for the fluke recreational fishery.

The advisory panel also met via conference call and discussed this. They preferred status quo. They felt that MRFSS data isn't strong enough to support any management changes right now. Once the MRFSS has been revitalized, we had a license out there, then we may be able to consider making some changes, but until there is improvement in data, they felt that we shouldn't make any management changes based on MRFSS data.

Lastly is Issue 3, the specification-setting process. Under the written comment, three people preferred status quo. Most of this was for lack of faith in the science. Ten people preferred changing the process. They would like to see us have the flexibility in how we set the reference points and especially using more up-to-date science on a timely basis.

For the hearing comments, six people preferred status quo and 24 preferred changing the process to allow more flexibility. There were some comments that thought maybe we should take two board meetings to change the reference points; the first meeting, letting people know that we're thinking about making a change to a reference point, allowing them to see what the science is based on; and then at the following meeting, take the action.

This would allow for some public comment, but we wouldn't have to go out for hearings and it wouldn't take quite as long as an addendum or an amendment. And, lastly, the advisory panel also spoke on this issue. They preferred having more flexibility in the process and allowing the board to have a motion to make changes in the reference points. And, again, they suggested possibly having two board meetings to set the measures to allow for some time for public comment.

That is my summary of the comment. All of the information and written comments were included in your packet on the CD. Does anybody have any questions?

CHAIRMAN TRAVELSTEAD: Any questions for Toni, clarifications? Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Toni, back on the two issues, one was the fluke where they said the MRFSS data isn't strong enough, so they wanted it to stay status quo; and the next one on the issue, they wanted the specifications – most of them wanted specification changes? They wanted status quo, don't change anything; and the next one more people wanted some changes?

MS. KERNS: The specification changes is how we set the reference points, so that third issue looks at – currently, when we want to make a change to a reference point, we either have to go through an addendum or an amendment process. We get updated information from a peer-reviewed stock assessment and then we go through that process to make any recommended changes to the reference points.

What this addendum would allow the board to do is use the specific science that comes out of the peer review and make a motion to change the reference points, and this would allow you to use that updated science on a very timely basis. For example, we always do the fluke stock assessment at the beginning of the summer, in June, and we will have those results by August, most often, when we set the TAL for the upcoming year.

If that stock assessment had recommended a change in the reference point, we wouldn't be able to use that information in the next year's specification-setting process because we wouldn't have time to do an addendum or an amendment between June and August. So, what this option allows you to do is make a board motion at the August meeting to adopt those new reference points based on the peer-reviewed science and then use that information to set the next year's TAL.

So, that specification-setting process, the data that is used for that is a series of data that we use for the assessment, which is a little bit different than just looking at MRFSS data to change the allocation for each state in the recreational shares.

CHAIRMAN TRAVELSTEAD: Other questions? Seeing none, I guess we should go through this issue by issue. The first issue is the black sea bass commercial management options. It starts on Page 6 of the addendum. There are a series of options presented there with respect to the length of time that

a state-by-state management program would remain in effect. We will need a motion to proceed. David.

DR. DAVID PIERCE: I would move that we adopt Option 5, extension of the state-by-state management program with no expiration date.

CHAIRMAN TRAVELSTEAD: Thank you, David. Is there a second to the motion? Seconded by Tom McCloy. Comments on the motion? Either everybody is asleep or everybody is happy.

MR. ERIC SMITH: I'm not asleep and not happy, but I am curious. No, I am happy. I am a little surprised that that motion came from my colleague from Massachusetts; not anything more than surprised because there has been discussion over the years of, you know, could we do this differently.

Something like Option 3, which is a five-year period of maintaining where we are now, gives us the opportunity to open the door and look at it again. Indefinite is what it means. I don't necessarily disagree with the motion, but I take it that – and, David, maybe you could help me with this – if after five years you want to decide to do something different, you start a new addendum. So, whether it's five years or indefinite, is that kind of the basis of the motion?

CHAIRMAN TRAVELSTEAD: Eric, just to that comment, I mean, just because the state-by-state management program would be in place with no expiration doesn't mean that the board couldn't come back at any time and reconsider it. I would also note that this is also a part of Amendment 15, which we agreed to last week. It's one of the provisions that will be looked at. I don't anything new will be decided, but the option is there under Amendment 15. David.

DR. PIERCE: You pretty much provided the answer I was going to give; however, I will add a little bit, and that is with all the other options that essentially says that at a specific date and time we go back to the quarterly quota, I see no sense going back to the quarterly quota. Therefore, those other options were not attractive to me. Option 5, because it doesn't mention quarterly quotas, is my preference.

CHAIRMAN TRAVELSTEAD: Any other comments on the motion? Seeing none, do you need a moment to caucus? We will take about a minute to caucus and then we'll vote.

(Whereupon, a caucus was held.)

MR. PATRICK AUGUSTINE: Mr. Chairman, point of order. Let's assume a year from now we decided we wanted to change this, would it require an addendum or could we do it through the flexible program, our flexible ability to do this?

CHAIRMAN TRAVELSTEAD: Yes, an addendum. We're using an addendum to establish it now; I think it would take another addendum to change it. Ready to vote? All those in favor of the motion, please raise your right hand; opposed, raise your right hand; abstentions; null votes. The motion carries nine to zero, with two abstentions.

Okay, the next issue is the summer flounder recreational allocation. Toni is going to go through the various options so everyone is clear.

MS. KERNS: Really quickly, I'll just go through the options that are in the addendum. If you don't have a copy of the addendum, it is on the back table. It was also on the CD. The first option is status quo, where we would continue to use 1998 as the base year for landings. The second option is using your state's fishing population compared to that of the coast-wide fishing population to set your state's percentage.

Under this option, if the board wishes to use it, we would need to indicate whether or not it was just your resident fishing population or the total fishing population, which would include those coming in from out of state. The third option is using effort, the number of trips in your state compared to the coastwide to set the percentages. Option 4 is using landings to set the state percentages, and that would be landings other than 1998. It could be a combination of years or a single year.

This is also the option where the TC had suggested if you wanted to use landings other than 1998, that we set a new baseline. In order to set a new baseline, we would have to significantly increase the length frequency data that we're receiving for the recreational fishery, as well as set some coast-wide measures for a couple of years to be able to establish that baseline.

Option 5 is using catch-per-unit effort compared to the coastwide to set each state's percentage. You could either use harvest or catch numbers for catch-per-unit effort. This is just a quick reminder of what the different options were.

CHAIRMAN TRAVELSTEAD: Any questions on the options? Is there a motion? David.

DR. PIERCE: I would move Option 1, status quo.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Tom McCloy. Comments on the motion? David.

DR. PIERCE: Just a brief explanation as to why I've made the motion for status quo. In going over all the TC comments relative to the other options and after reading the public comments that were provided regarding this particular part of the addendum, status quo definitely seems to be the most attractive option. Clearly, it's got some problems, but we've lived with it for quite a long time now; and, frankly, to my way of thinking, it's the best of all possible options.

CHAIRMAN TRAVELSTEAD: Thank you, David. Eric.

MR. SMITH: This is another one where in the final analysis I guess I agree with David, but I only make the – obviously, yesterday exhausted my ability to communicate in the English language. Let me start over. The only thing that I think is attractive in all of this, in addition to the status quo option, is the notion that if we could somehow find our way to set common rules – and this is the technical committee's suggestion – set common rules for two or three years, figure out what each state actually catches and then try and design an allocation system based on that.

You'd have to have the same size and the same creel limit. Seasons would be really hard because the fish availability varies by region. It might be something like the scup model that we've used in New England where – or New York through Massachusetts – where you get 60 days, and you can pick what 60 days.

I only make the point that that would be a possible way out of the dilemma. But, having said that, there is such a disparity in size limits along the coast that we'd take all day and probably never get there today to try and get to a common size limit, let alone bag limits. So, unless there is somebody else that also wants to kind of try and pull on that oar, then I'm in favor of the status quo, too, as the most realistic thing to do. I just put that out there to see if anybody grabs on to it. Thank you.

CHAIRMAN TRAVELSTEAD: Anybody want to grab? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I'd like to grab. New York, as you know, no matter what we do in our very situation, we end up over, over, over, and I look at landings as the way to go. If we

could go ahead and look at the comments where the TC committee – I'm not supporting this motion, by the way – that the TC committee indicates about what the value of doing that might be, as Eric indicated, if we could set a coast-wide regulation somewhere along the line for two or three years, that maybe we could come to some level meaning of what quotas mean on a state-by-state basis.

New York is doing it again. And without beating an issue to death, New York is already at 83 percent of our quota by the end of the third wave, at 19.5 inch fish with a 3-fish bag limit. And, I'm not sure where we next year, whether we have a season at all. And, state by state, the way it is right now, is not cutting it for us. Something has happened to the fishery out there. I would like to move to substitute Option 1 to Option 4, landings.

CHAIRMAN TRAVELSTEAD: There is a substitute motion to adopt Option 4. Is there a second to that motion?

MR. SMITH: Point of order, I don't think that is the correct number. In my document, Option 4 is fishing population.

MR. AUGUSTINE: Well, this one says "landings".

CHAIRMAN TRAVELSTEAD: On Page 8, Option 4 reads "landings" on my document, too.

MR. AUGUSTINE: Yes, that's what it is in mine.

CHAIRMAN TRAVELSTEAD: Let's make sure everybody has got the right – this is the April 2007 copy of the Draft Addendum XIX. Is there a second to the motion; is there a second to the substitute motion? Seeing none, the motion fails for lack of a second. Other comments on the original motion? Ready to vote? Is there a need to caucus? We will caucus for a minute.

MR. SMITH: I'm sorry for catching up; did that die lack of a second?

CHAIRMAN TRAVELSTEAD: Yes.

(Whereupon, a caucus was held.)

CHAIRMAN TRAVELSTEAD: Ready to vote? All those in favor of the motion to adopt Option 1, status quo, under summer flounder recreational allocation, please raise your right hand; opposed, please raise your right hand; abstentions; null votes. The motion carries eight to one, with two abstentions and one

null vote. On to Issue 3, which appears on Page 9 of the addendum, stock status determination. Is there a motion on this issue? David.

DR. PIERCE: I would move that we adopt Option 2, redefine the status determination criteria.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Eric. Comments on the motion? No comments, ready to vote? Is there a need to caucus? All those in favor of the motion to adopt Option 2, to redefine the status determination criteria, please raise your right hand; opposed, like sign; abstentions; null votes. The motion carries seven to two. Let's move to the compliance schedule on Page 13. Toni.

MS. KERNS: Under the compliance schedule, January 1st, 2008, would be the effective date for the black sea bass commercial shares. That is the date that the current addendum expires. We would not need to set a compliance date for the summer flounder recreational allocation. Since we went with the status quo option, it will just continue forward as it is today. Effective today would be the reference points' change, so it would be today as outlined in the addendum.

MR. A.C. CARPENTER: With the change in the ability to change the reference point, is that going to follow the public request that it be done over a two-meeting period or is that spelled out in the option that was adopted?

MS. KERNS: No, it was not. That was just a suggestion from the public. The option that was adopted was that the board can make a motion at any given meeting based on the peer-reviewed science and act on it at that meeting.

CHAIRMAN TRAVELSTEAD: In fact, that's the next agenda item, if you look at the agenda, is to proceed to do that immediately upon adoption of this document. Are there any concerns about the compliance schedule as it's provided here on Page 13? Everyone is okay with that? I don't think we need a motion specific to that, then. I think the last motion we will need is adoption of Addendum XIX as amended here today.

Moved by Bill Adler to adopt Addendum XIX. Is there a second to the motion? Tom McCloy seconds the motion. Comments on the motion? I don't think there will be any need to caucus. All those in favor of the motion, please raise your right hand; opposed, please raise your right hand; abstentions; null votes.

The motion carried. Thank you. That moves us to Agenda Item 5, consideration of summer flounder reference points. Toni.

SUMMER FLOUNDER PEER REVIEW

MS. KERNS: Thank you, Mr. Chairman. In your briefing materials, you received the summer flounder assessment and biological reference point update for 2006. This is the document that Dr. Methot went over at the annual meeting last year from the updated peer review for summer flounder.

I am going to just quickly go over the recommendations for the reference points that came out of that assessment. Currently, under Amendment 12 to the Summer Flounder, Scup and Black Sea Bass Plan, we are looking at a total stock biomass as a rebuilding measure, as well as an F-max. The total biomass is calculated on January 1st as our reference date.

It includes age zero fish, which on January 1st have lower body weight than the weight that they attain as they enter the fishery, as well as the spawning stock biomass that's later in the year. The age zero abundance is not as sensitive to the effects of fishing or the degree of rebuilding, and there is sufficient technical information available for us to move from a total stock biomass reference point to spawning stock biomass.

This also confirms with Magnuson guidelines that each FMP must specify to the extent possible objective and measurable status determination criteria for each stock or stock complex covered by the FMP and provide an analysis of how the status determination criteria were chosen and how they relate to reproductive potential of that species.

Moving from total stock biomass to spawning stock biomass follows those guidelines. Also, it includes the contribution of 38 percent of the age zeroes that are now mature on the spawning stock biomass calculation at the November 1st date. The spawning stock biomass is calculated on November 1st instead of the January 1st that total stock biomass is calculated on.

So that would include the fish that are age zero and older, and this means that it includes the fish that were spawned the previous fall. However, the fish that are spawned in the current fall, those newborns, are not included in the calculation. The recommendation is move from the total stock biomass threshold and target reference point to a

spawning stock biomass threshold and target reference point.

That would mean that we would go from a threshold of 107.5 million pounds total stock biomass to an SSB of 98.6 million pounds. The target would move from a total stock biomass of 215 million pounds to a spawning stock biomass of 197 million pounds. This updated stock assessment also recommended that our F-max or F-threshold goes from 0.276 to 0.28.

This is a slight change but not a significant one, but a change there. If you have any questions, I'm going to give you to my esteemed TC chairman, Mr. Caruso, to answer any questions on moving from total stock biomass to spawning stock biomass.

CHAIRMAN TRAVELSTEAD: Questions? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. It just boggles my mind to believe that in the next five or six years we're going to double where we are right now. The one chart that kind of just absolutely blows me away is the one that is on Table 5, input spawning stock biomass, age zero to seven, and recruits.

I guess it's just a dumb question because I'm not a scientist and I'm not a numbers cruncher, but I can observe here that in the year class of 1983 the spawning stock biomass was, at that time, 22.5 million pounds. From then, we went in '84 to 24.5 million pounds; '85 we dropped to 21; next year, 19; 18, 19. Then in 1989 we dropped to 10.5 million pounds.

In 1990 we're at 7 million pounds; in 1991, almost 10 million pounds; '92, 8.5 million pounds; '93, 9.9. Now we're up to 1997 and we jumped all the way back up to 20 million pounds. I don't know if there is something wrong with my eyes or the calculation in my brain, but it just tells me – now we're all the way up in 2004 and we made it to 44.7 million pounds; 2005, 43.9 million pounds.

I must be missing something. I'm not sure what it is, but I don't know how we have this leap of faith to go from '83 to 2007, to think we're going to go from – continue to grow in this pattern that is being projected as real, when in fact in 25 years or 23 years, we have never been there. And it is just a dump question on the record as to how do we project these fish or anticipate that these fish are going to multiply to that degree during that period of time.

I just want that on the record. I believe we have good scientists, I believe we have data that's good and

questionable at times. I am not sure how good the model is, and I am not sure there's an answer to my question of how do we get there. Even if we stopped fishing, I still don't know how we're going to get there.

I think it's just important that other people should step up to the microphone and speak their piece. We are where we are; we're going where we have to go; and we have a law that tells us we'll get somewhere. We basically look at the information that we have in front of us; and other than a pencil and a computer-generated number and a congress that says we will get there, I just don't know how we get there.

I go back to our simple little example in New York. We've had our catch rates put out on the table for everyone. All of you know what has happened to us. We've gone from a 17, 18, 18.5, 19.5 inch fish. We've gone from a very short season to now a very long season; and no matter what we do, unless we kill off our fishermen, it just seems that we keep catching them no matter where we go.

And if we went to 21 inches next year, I'm sure we would continue to catch at the rate we're catching. It's a dilemma. The state-by-state thing that we just approved, the addendum we just approved just drives another spike in the souls and hearts of our fishermen, both recreational and commercial. I guess all of this package, when you look at it together in one lump sum, it just doesn't compute. I just want that on the record and hope that someone else will pick up on that. Thank you for the opportunity to speak to it, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you, Pat. Any other comments or questions? David.

DR. PIERCE: Currently the ASMFC Fluke Section has a target of – what was the number again?

CHAIRMAN TRAVELSTEAD: 215.

DR. PIERCE: All right. So, right now we have a biomass target of 215 million pounds total stock biomass.

CHAIRMAN TRAVELSTEAD: That's right.

DR. PIERCE: All we're doing now is considering the recommendation from the peer review to go from total stock biomass to spawning stock biomass?

CHAIRMAN TRAVELSTEAD: That's correct.

DR. PIERCE: So it's just a transformation.

CHAIRMAN TRAVELSTEAD: That's right.

DR. PIERCE: So, it's not a question of our adopting a specific biomass target that we will therefore have to be ruled by. We already have done that.

CHAIRMAN TRAVELSTEAD: That's right.

DR. PIERCE: We're just going from total stock biomass to spawning stock biomass. Pat's questions and concerns are certainly valid, but with reference to what we're about to do, it's almost a moot point, because we're going –

CHAIRMAN TRAVELSTEAD: Right, and in fact the council has already adopted these measures, and just last week we set TALs based on the assumption that we would adopt these measures here today.

DR. PIERCE: I have no objection going from the total stock biomass to the spawning stock biomass that was the recommendation that came out of the peer review. It certainly makes a great deal of sense. My principal objection, which isn't relevant to today, of course, is that I feel that by our continuing to rule ourselves with a biomass target for fluke, we will find ourselves very soon in a situation where we might be – well, we'll find ourselves in a position pre-reauthorization to the Magnuson Act where we might have a closure of federal waters and the states will be anticipated to take reciprocal action.

That is a possibility, a very distinct possibility, but that's not a subject for today's discussion. We have already bought the horse, and now we're riding the horse. The question is, is it a palomino or is it some other breed, and I will go with the breed of a spawning stock biomass.

CHAIRMAN TRAVELSTEAD: Other comments or questions? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. Earlier there was sort of a question posed, and I didn't really hear an answer, but I see that we have the chair of the technical committee here, where there are people on there that are formally trained in stock assessments and fishery science. My question is if the fishing mortality rate was consistently higher over a series of years than the rebuilding rate, what could we expect the stock to do?

MR. PAUL CARUSO: If I get your question right, Vince, you just asked if the F was higher than the projected Fs for the rebuilding. You won't meet your rebuilding target, it's that simple, based on the projections and our assumptions about recruitment.

DR. MARK GIBSON: I knew where Vince was leading the technical committee chair on that one. I would advance an argument that you could have the same phenomenon occur if sex ratios were changing to favor males so that more of your SSB was in males, which do not produce eggs, and growth rates were changing over time and there was compensatory recruitment occurring.

We've heard reports of at least two of those happening, so I'm not so convinced that the F overages are what is causing the deflection in SSB and biomass from its intended or its planned target.

CHAIRMAN TRAVELSTEAD: Other comments or questions? Can we get a motion on this issue? Bill.

MR. ADLER: Thank you, Mr. Chairman, another question, and actually it is on Page 23. I noticed that the recruitment numbers, while they were pretty close to what the spawning stock biomass was, except in 2005 there was this drastic reduction in recruitment, even though the spawning stock biomass was high – and Pat's comments about where we have to go from 43 up to some number, we've never been there – but, what is the 14965; anybody know why that dropped like that?

CHAIRMAN TRAVELSTEAD: Paul, any comment?

MR. CARUSO: You'll have to ask the fish on that, Bill. I mean, we talked about the recruitment index at length at Woods Hole when we reviewed it. You know, a lot of the feeling of biologists that are familiar with flatfish is that the kind of trends we're seeing in recruitment for this animal are kind of typical of what you would see as the stocks do recover.

They're not putting out a lot of eggs to compensate for the high fishing rates, so that we would expect recruitment to tail off. Obviously, this was a bad year, and you will have bad years and you will have very good years. But, overall, flatfish tend to have this life history that has a fairly constant level of recruitment.

I don't think anybody, at least at the level that I work at, the people on the TC and on the working group is uncomfortable with the trends that we're seeing in recruitment. It's kind of what is expected from the life history of that animal.

MR. ADLER: If I may, Mr. Chairman, all right, so they don't put out as many eggs when they're getting better in their stock biomass, you said, and is it true what Pat was getting at that that 43 is supposed to way up higher in this plan over here? And if so, what does that do, they only put out two eggs?

MR. CARUSO: Well, Mark is making the argument that there is compensation going on and that recruitment is dropping off because biomass is increasing past some minimum threshold. And, like I said, the other people that work with flatfish and stuff are making a counter-argument that you would expect a leveling off in recruitment, not a decline, but a leveling off in recruitment as these fish stop – you know, they're not getting – every year you don't get the same recruitment, anyway, but, you know, you're not expecting the fish to try to compensate – the stock to try to compensate for over-harvesting.

A lot of these animals have the ability to compensate to some degree. Some of the stock theory is that when you do fish stocks down to very low levels, when they're in their death throes, they're throwing out these very large year classes. That's not necessarily a good thing. It will save you at time, but it's not necessarily a good thing.

MR. CARPENTER: Can somebody convert 179 million pounds to metric tons for me; what is the number and how close are we to it?

DR. GIBSON: 89.4

CHAIRMAN TRAVELSTEAD: Mark says 89.4.

DR. GIBSON: You have to double that number in that table, Table 5.

CHAIRMAN TRAVELSTEAD: Any other comments, A.C.? No. David.

DR. PIERCE: Regarding the point that Bill Adler made, it's important for us to reference Figure 1 in the document made available by Jessica. This is a July 10th document to the Summer Flounder Monitoring Committee. This is a document that was discussed last week, I believe, in Long Island by the Mid-Atlantic Council and by this board.

In particular I draw everyone's attention to 2006 and that figure. In 2005, yes, the recruitment was astonishingly low in light of the SSB we had on hand, one of the worse-case scenario recruitments that we hope we never get, and we did get it, apparently, but fortunately it bounced back up again in 2006.

Hence, I'm hopeful that will result in 2009 management measures not being as restrictive as 2008; that is, the low quota, the low TAL that we will apparently have for 2008. I would have hoped, as all of us would have hoped, that the recruitment trends would have been upwards with spawning stock biomass increasing so significantly and with the older fish being more prominent within the stock, older fish, multiple spawners, more fecund.

That was my hope; it is not happening. If it doesn't happen, then I think we're going to have to take another look at the targets that we've set for ourselves because we just won't get there if we don't get promising recruitment that would be consistent with increasing SSB. The relationship just doesn't seem to be there yet. Increasing SSB means increasing recruitment on average; again, on average.

So, anyway, it is not as bad as it could be. If the 2006 bar representing the recruitment for that year was like 2005, then all would be lost. There is some promise here. I hope that promise continues to be true; and that once we get beyond 2008, assuming we do, that things will improve for us.

CHAIRMAN TRAVELSTEAD: Anyone else? Is there a motion on this issue? I think in order to proceed we will need a motion to accept what was on the screen in the way of the 2006 recommendations. Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. So whatever your words were, move to adopt the – what was it referred to?

CHAIRMAN TRAVELSTEAD: 2006 recommendations –

MR. AUGUSTINE: 2006 recommendation by the technical committee for reference point – is it reference point? Give me the words.

CHAIRMAN TRAVELSTEAD: We'll put those in the motion. It's an F threshold of 0.28; a stock threshold of 98.6 million pounds, spawning stock biomass; and a stock target of 197 million pounds in terms of spawning stock biomass. Is that your motion?

MR. AUGUSTINE: Okay, fine, that's my motion, and then I would like to speak to it.

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? Seconded by Eric. Pat.

MR. AUGUSTINE: Well, my comment is to along with what Dr. Pierce reiterated just a few moments ago. We did pass it at the council last week, and it's the right thing to do here if we're going to move this process forward. I just believe that we're going to be looking for a catastrophe in the next three or four years when we hear what the catch rate has been for those big fish that Dr. Pierce referred to as the basis for helping us bring up our total population.

When gentlemen like our commercial fisherman, Mr. Pope, tells me he has more six to ten pound fish this year than he's probably caught in the last 20 years, and we see people in Long Island catching, regularly, four to twelve pound fish on a regular basis, it just seems to me we're fishing down those big spawners. I just hope that we're right, that what is left out there will bring forward the bodies that we need to make us reach our targets. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Thank you. Other comments on the motion? Seeing none, do you want to take a minute to caucus and then we'll vote.

(Whereupon, a caucus was held.)

CHAIRMAN TRAVELSTEAD: Okay, are we ready to vote? All those in favor of the motion, please raise your right hand; opposed, same sign; abstentions; null votes. The motion carries ten to one.

2008 TAL FOR SUMMER FLOUNDER

Moving on, Item 6, to set the 2008 TAL for summer flounder, there is a placeholder in the event this board did not do what it just did to adopt a new terms of reference. I know there were a number of you who weren't there last week. Toni will just very briefly inform you of what happened last week in the joint session with the Mid-Atlantic Council.

MS. KERNS: The action that we just took by adopting these reference points affirms the action that we took to adopt a 15.77 million pound TAL for the summer flounder fishery in 2008 with up to 3 percent for research set asides, and we did not make any changes to the commercial regulations. That 15.77 million pound TAL will be split between the commercial and recreational fishery.

DR. PIERCE: That was the decision by the council and by the board; however, if I recall correctly – I wasn't there; my proxy was there. Of course, Bill and Vito were there. My understanding is that there was range to be considered regarding what the number should be for fluke.

The board and the Mid-Atlantic Council picked the upper part of the range; that is, it could have been as low as 11 point something, it could have been as high as 15 point something, and the 15 was picked. So, we really don't know what the number is yet, correct? That's a decision that will be made by the National Marine Fisheries Service.

It I understand correctly, the board as well as the council did not account for the retrospective error that we have with the fluke assessment, and that's a major consideration that the service will be dealing with. Therefore, that's not necessary the quota, the TAL that we will be using for 2008; am I correct? It could be as low as 11 point some odd.

CHAIRMAN TRAVELSTEAD: Well, the board adopted a specific number, 15.77 million pounds. As far as this board is concerned, it is set for ASMFC. The Mid-Atlantic's decision last week is a recommendation to NOAA and it's up to them to set the TAL for federal waters, but that decision is forthcoming.

DR. PIERCE: Thank you, and I would hope that as a consequence of the board's position last week that the service, after further reflection, finds itself in the position to actually go with the ASMFC decision.

CHAIRMAN TRAVELSTEAD: And that's what remains to be seen. I am hopeful, like you are, David. Any other comments or questions of Toni? Okay, we will move on to Agenda Item 7, Summer Flounder 2008 Peer Review. I asked that this item be placed on the agenda. You will recall when this board met here in Alexandria last, there was a decision to proceed with an external peer view for summer flounder in place of the SAW/SARC Process.

Since that decision was made, there is some additional information that has come to light that I think bears on that decision, and I am hoping will result in some reconsideration of that here today. We now know that Dr. Hogarth has committed NOAA Fisheries to conduct a summer flounder benchmark assessment.

There was a lot of discussion of that last week in New York, that the stock assessment will be through the SAW/SARC Process and will happen, I think, in June of 2008. The decision of this board to conduct an external peer review then would be in addition to an assessment being conducted under the SAW/SARC Process.

That could result in competing assessments, which is a concern to me. I'm not sure it is to you, but I think we need to have some discussion along those lines. The NRCC has expressed concern about the potential for divergent results resulting from two different peer reviews. They have raised concerns about the expenditures of a significant amount of money by ASMFC to conduct a peer review that will already be done under the SAW/SARC Process. You're essentially duplicating efforts.

There were some legitimate concerns by this board that I think resulted in the decision to proceed with an assessment, but I think they can now be addressed. For instance, the terms of reference would be vetted through the NRCC. ASMFC is a member of that group and therefore we will have an opportunity to provide input to those terms of reference.

There will be a meeting of the stock assessment working group, which will provide an additional opportunity for the states and their scientists to bring forward new data and models and methodologies for evaluation. The summer flounder is the only species on the agenda for the June '08 SAW/SARC Process, which I think suggests that there would be a significant amount of time available for attention to be given to the matter.

And, of course, the process is open to the public and open to participation by our technical committee members that I think will allow this board's concerns to be expressed even further through the SAW/SARC Process. That's sort of the new information. I don't know if staff has anything else to add. It's essentially summarized in the memo that I forwarded to you just a couple of weeks ago.

So, I'd like to have a discussion on that. My real concern is by going forward with a second assessment it gives the impression, I think, to the public that we're sort of trying to shop for the science that suits our needs. Theoretically, two different assessments should tell us the same thing if they're both well done.

I worry that if they don't, then that's going to drive an additional wedge between us and the councils and

the National Marine Fisheries Service and result in a whole new set of problems that we do not now have. Are there comments on this issue? Mark.

DR. GIBSON: Thank you, Jack. I don't have any problem with what you've laid out provided that some of the more, in my view, more important issues on the terms of reference for the 2008 summer flounder assessment – they don't seem to appear in the generic stock terms of reference. I am concerned that body would not have a charge to evaluate some of these – you know, what the working group comes up with in terms of changing demographic and biological attributes of the summer flounder stock as it relates to SSB and recruitment.

So, as long as these concepts that are embedded in six, seven and eight would come up under the peer-review process, I wouldn't have a problem with that. If they don't, then I think we'd just be walking – you know, hiding from some information that might be uncomfortable.

CHAIRMAN TRAVELSTEAD: Let me, Mark, draw your attention, there is a memo dated July 28th from the technical committee to the board that speaks to the terms of reference.

DR. GIBSON: Yes, I'm looking at that, but what was just passed out doesn't have generic stock terms of reference.

CHAIRMAN TRAVELSTEAD: That's right.

DR. GIBSON: That's my concern.

CHAIRMAN TRAVELSTEAD: If there is agreement that we not proceed with our own independent external peer review, the next item on the agenda is to discuss the terms of reference, so I think that's an opportunity for you and other members of the board to provide the staff with better terms of reference so they can present them back to the NRCC on this issue. David.

DR. PIERCE: I have no problem changing course and following your advice, Mr. Chairman, regarding how we proceed with the peer review provided, as you just indicated, we do, indeed, incorporate the terms of reference that Mark has just referenced. Frankly, I've been taking my lead from Mark. Mark has done a lot of good work regarding summer flounder reference points as of late.

He's provided us with a number of documents over the last year or so with some ideas and suggestions,

list of concerns. I have a great deal of respect for those particular positions that he has raised, and, of course, I have respect for the stock assessment background and expertise that Mark has. So, provided that the concerns specified, listed and identified by Mark are incorporated, the terms of reference for this peer review, I would be willing to go along with no additional peer review. I would be comfortable with the course of action you have recommended.

CHAIRMAN TRAVELSTEAD: Very good. Let's concentrate on the terms reference, then, for a few minutes. Mark, could you share with us your suggestions or additions to the terms of reference that might get us through this?

DR.GIBSON: My concern arose from the discrepancy between the generic SARC terms, which were just passed, and a July 28 memo from our technical committee. I think the technical committee's list is more comprehensive and reflects the issues that we have talked about a number of times, which came about, frankly, not because of my discussion but because scientists from the National Marine Fisheries came forward and said growth was changing, sex ratio was changing. We've heard all that so we put those into our list. They don't appear in this list, so that's my problem. I am not sure which one of these is applicable to what happens in the summer of 2008.

CHAIRMAN TRAVELSTEAD: Well, let me have Toni speak to that issue and then we will come back to you.

MS. KERNS: I just want to clarify for Mark a discussion that I had with Dr. Jim Weinberg, and then I will let Paul answer your question on the technical side of the terms of reference. On Monday Bob Beal and I spoke with Dr. Weinberg about the SAW/SARC process and the terms of reference and his commitment to allow our board to provide input on those terms of reference.

At the beginning stages that we are in in setting these terms of reference, right now they are working off of the generic SARC terms of reference which were passed out to the board, as well as Dr. Hogarth committed to using the terms of reference that came out of the Methot Panel. I do not have those terms of reference with me today because Jim and I just spoke on Monday, and I thought they were in the peer review report.

It's not completely clear what those are, and so I did not want to present information that could be incorrect to the board. As soon as I have those terms of reference, I will give those to the board as well. The TC made recommendations that we can then provide input in this process of establishing the terms of reference. Now I will give it to Paul.

MR. CARUSO: I don't have a lot to add except to address Mark's concerns. If you look at the TC memorandum, it basically incorporates the generic terms of reference in one through four, and actually five will be addresses, anyway. As Mark has pointed, six, seven and eight are the board's recommendations to the TC, and we included them in our terms of reference to go back to you.

As Toni mentioned, all this is still in flux. I don't see any reason why the Center wouldn't at least incorporate some of your terms of reference in their final list. The generic ones that Toni passed out aren't really that specific yet to this assessment as what they normally use. I would suggest if there is any case where they don't get incorporated in the terms of reference of the assessment, that there may be other venues to address some of these for the board. Specifically, I would think that the technical committee could do analyses on some of these items that Mark has pointed out.

I know, as a committee and a working group, we have discussed a lot of these at length. Unfortunately, discussing them doesn't get it on paper for you to get the answers. I think, as technical committee chair, I would make a commitment that any way, shape or form that we would come to resolution to answer your questions on those three items that you have questions on, even if doesn't get incorporated in the assessment itself.

DR. GIBSON: Well, that leaves me, and I bet Dr. Pierce, a little uncomfortable. We're being asked to buy into a process right now that we don't have assurances that these are going to be evaluated and incorporated in the assessment, if appropriate, and under review by the SARC reviewers. So, that doesn't leave feeling very comfortable at this point. I mean, these are important issues, and you could find yourself in the unbelievable position a couple of years down the road all the summer flounder have changed and you can't get to 89.4. Everything is different, you know.

MR. SMITH: I have an addition to discuss about the list, but I want to talk about the most recent point first, and I'll just say it in a very short sentence. If

our terms of reference are accepted for the SAW/SARC review, then I think we ought to do the SAW/SARC review. If our terms of reference aren't accepted for the SAW/SARC review, then we ought to do our own. That's it in a nutshell, even if it's expensive and even if it's duplicative.

I mean, if we're partners in this, the other side of the table ought to be listening to what we're asking for. Now, having said that, the technical committee list is much more comprehensive and it's much more focused on fluke. I think we ought to work from that one. I understand the generic one is embedded in there, as Paul just pointed out.

The one that seems to be missing to my untrained eye – and I am going to be depending on Mark and David to help me out on this – we've had a lot of discussion on why the pattern of recruitment seems to have changed from the first six years of the time series to the last – since 1989 or so. Mark made a good point – and it's in Terceiro's October summer flounder assessment biological points document – and it's in the pattern of residuals is what Mark called it.

And it turns over on itself and, frankly, shouldn't as I understand the issue. People who want to look at the thing in the document, it's on page 26 of Terceiro's October document. To me, the way I've understood this issue is something difference is happening in the last eighteen or so years with the recruitment than happened earlier. And, since this is a benchmark assessment, now is the time to really have experts focus on that and give us even better advice.

We got some advice last fall from the mini-assessment. I mean, I give the service a lot of credit for having jumped on that assessment need last fall. Right away, John Borman, to his credit, basically said something looks funny here, and we're going to look at it. And they did, but time was limited, people were limited. A full benchmark assessment really needs to look at the whole issue of recruitment.

I know what Paul said. I guess I'm curious about it a little bit. If the last 15 or years of recruitment is what we can expect out a fluke stock of the size that we're seeing now or larger; in other words, reduced numbers of fish recruiting to the population on average, that may have a pretty profound effect on projections and our expectation of where we think we can go to.

This assessment in '08, whether we charge a panel to do it or the SAW/SARC does it – and I would prefer

the latter if all things can be resolved – this is going to be it for stock assessments for fluke. Either the train goes off the tracks a year or two later or we find a way to have better science that more reflects what really is out there in the fish population.

So we've got to have that in this assessment now. I just don't know what kind of words. It needs a placeholder for a couple of scientists to sit down and say we need a number nine before the current number nine – make that ten, and the nine is deal with the recruitment uncertainty and give us advice on that. Thank you.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. I'm wondering if maybe there's an issue here in terms of process and how this should be flowing. It seems to me we have in your memo here an offer from the SAW/SARC process to try to address the questions that are of concern to this board, and I'm wondering if our technical committee is really the venue to get those concerns into that process.

There are different board members around the table this morning that have different ideas, and certainly we on the staff don't have the scientific expertise to evaluate them, but I'm wondering if it would make sense to have these concerns vetted through our technical committee and have them take another shot at this; then as we go forward, sort of an implied negotiation with the Northeast Science Center and Dr. Weinberg that the ammunition, if you were, that we would be doing would be the product produced by our technical committee.

CHAIRMAN TRAVELSTEAD: That sounds like a plan. Any objection to approaching it in that manner? Eric.

MR. SMITH: Maybe I didn't understand the exact flavor of what Vince is suggesting. I want the recruitment issue in there. If the technical committee can improve on that concept and provide the right words, fine, but what I thought I heard was if the technical committee doesn't think it's a good idea, it won't be on the list.

If that was misinterpretation on my part, I apologize, but the issue is important enough for me to say I don't want the technical committee substituting its judgment for mine. I want that on the list, but I'm open to how it's characterized just so we deal with the uncertainty in the recruitment trend and we get some good sound advice on that.

CHAIRMAN TRAVELSTEAD: Paul, I'm just curious what you think the technical committee will think of the recruitment issue.

MR. CARUSO: I don't imagine they have a big issue with adding an additional terms of reference.

MR. AUGUSTINE: I was just going to second what Eric said, the fact of just his asking to have that on there would be appropriate, I would definitely hope that we do that.

MS. CHYTALO: I just wanted to go back to – well, also about the recruitment issue, as part of that evaluation, is there going to be more of an examination of some of the ecological factors that are going on, environmental conditions, the temperatures that are going on there; is that redistributing the population in any way or changing – you know, so, therefore that's why we're seeing some of the numbers of the overages or anything like that as an explanation as well as how is that affecting the recruitment process on this organism; also, whether or not an evaluation will also be done as part of that recruitment of prey, you know, is there available prey and also – because one of the questions that comes up here is stock projections are possible.

Well, you can shoot a certain number, but is it going to be on a model, but is the model taking into account that there will sufficient food to feed all these fish, you know, out there. You know, is that going to be happening, and I think that's something that we would want to have incorporated as part this.

I really think that we are at threshold point right now with summer flounder, that we need to put in everything that we can to try to evaluate what is really happening to that population and how can we best manage it at this point. Thank you.

CHAIRMAN TRAVELSTEAD: I see Paul taking notes so I think those things will be evaluated. To that point, Vince.

EXECUTIVE DIRECTOR O'SHEA: Well, just realistically we're really talking about two things here. One is we'd like to look at relationships, and then the second part is there any kind of data to support that type of analysis. That's why I think it's valuable to have the input from the technical committee to say whether that data even exists. I think we have to be kind of – you know, we'd like to know the answers, but if there is no data, no matter what process we go through, they may not be able to give us any answers.

DR. PIERCE: I'm trying to make sure I understand where we're going with this. We have the July 28, 2007, memo from the technical committee to the board with nine terms of reference. These terms of reference that the technical committee says we should consider. Mark Gibson has referenced these terms of reference, and I believe, Mark, you have emphasized that these need to be in the peer review. Okay, I need to be assured that will happen.

Well, I will make a motion and see how it plays out. I would move to support one summer flounder peer review update, provided the technical committee's 2008 terms of reference are included in that review. If not, then we should proceed with an ASMFC external peer review.

CHAIRMAN TRAVELSTEAD: Thank you, David. Is there a second to the motion? Seconded by Mark Gibson.

DR. GIBSON: Yes, I like the motion, but it sounds like we need something to help Eric in there, because I agree entirely with his term of reference having to do with this recruitment pattern. Who knows what it's from? It could be just the wrong model being fit to it, but it might be regime shift productivity. It could be anything, so it needs to be an understanding that this additional term of reference is incorporated in there. It's not on the list right now.

EXECUTIVE DIRECTOR O'SHEA: For clarification, it says included – peer update, but there is no reference to SAW/SARC. Is the intent here that we go through SAW/SARC, just to clarify it?

DR. PIERCE: Well, the intent is to follow the process that you had initially referenced, Mr. Chairman, provided that these terms of reference provided by the technical committee – and, of course, if the board – Mark Gibson, Eric, in particular, would like to change some of those terms of reference or add to them, then, fine, I can reword the motion so that it would be – well, I guess it's up there now – provided the board-adjusted technical committee 2008 terms of reference are included in that review. That would be good language that would incorporate any suggestions – well, Eric's suggestion. That would be fine.

CHAIRMAN TRAVELSTEAD: Mark, take a look at the motion on the board now. I think the additions meet your concern. Can everyone agree that the recruitment issue that Eric raised is a part of the terms of reference, and when we say board-adjusted TC 2008 terms of reference, it includes that item?

Any objection to that? Seeing none, that's there. Eric.

MR. SMITH: Not an objection, but an expansion on it. I agree with Vince's last point or the previous last point about making sure the data is available for the kind of thing that Karen pointed out. Her point is very valid, and the way to get at it is through a stock assessment. The first thing you do is a data workshop to see what you have.

The understanding of the recruitment issue that I want in there should be understood it's expanded to include the kinds of things Karen was talking about. I want to know what is influencing recruitment and why does it look different now than it did then and what implication that has.

If we're sure that we know the record is going to account for that simply by saying "board-adjusted", that's fine; or, I would say add the words "including a term on the recruitment issue," just so we can't lose sight of that. Then I have a minor correction. It's really not an update in Line 2, it's a benchmark assessment, just so we're clear this is a full-blown thing; and if you make that change, then it's clearer as we look at the motions later. Thank you.

CHAIRMAN TRAVELSTEAD: Any objection to that, David?

DR. PIERCE: That's a good change suggested by Eric.

CHAIRMAN TRAVELSTEAD: If that's in there?

DR. PIERCE: The technical committee's memo to us does say, "Summer Flounder Peer Review Update," but then, again, when you get into the body of memo, you do see reference to the benchmark stock assessment, so Eric is correct, and the motion has been changed to reflect that point.

CHAIRMAN TRAVELSTEAD: And, Eric, I think to your other point, I think the record is pretty clear the board's intent of what additional terms to be include. Regardless of whether the technical committee supports them or not, I think they're there. Any further comments on the motion? A.C.

MR. CARPENTER: I would just like to thank the Lobster Technical Committee for their input into this process. I think it's a good idea to have this cross pollination of technical committees.

CHAIRMAN TRAVELSTEAD: I was hoping no one would catch that. It is so noted.

MR. TOM McCLOY: Thank you, Mr. Chairman. We seem to be making a lot of progress here, so I hate to slow things down and take a step backward, so I'll apologize right up front. I want to address the issue of an external peer review. First of all, I should apologize because I haven't been at all the board meetings for the last year, so that means I probably lost something in the translation.

Mr. Chairman, I share your concerns about two separate reviews going on at the same time and what ramifications we have to deal with if in fact those reviews yield two different results. However, at the same time it was my understanding that the reason that we were going down that road of an external peer review was to try to gain back some public confidence in the process and in the assessment.

If I'm mistaken in that, well, I stand corrected, but that was my impression at least. So, I'm a little bit concerned about continuing down this track where we're headed right now because I don't see this – it's still anti-public confidence again. I mean, it could be just as bad, it could be disastrous if we had two reviews and they both say something different, because then we're going to have to sort that out.

But, I would just ask board members that have been at all those meetings to think about the reason the board moved in that direction of an external peer review and see if it's really going to accomplish what they intended to do at that time. Thank you.

CHAIRMAN TRAVELSTEAD: Well, I'm not sure that was the only reason that the board wanted to proceed with an external peer review. My impression was that we wanted to ensure that our terms of reference were the ones that guided that benchmark assessment, and I think that's what this motion does. It's an "if then" type of a motion that makes it clear that we want them to use these new updated terms of reference; and if they don't, then we're back square one with a separate assessment. Eric.

MR. SMITH: Thank you. Tom does make a good point in part. The first note I made to myself when I started looking at this issue is credibility of a SAW done by the NMFS process, and that's as it's perceived by the public. I tend to keep reverting to having faith in the scientists to be objective and independent, so which body does it or charges a group to do it or not in time makes less and less difference, because I just have that optimism that

whoever charges them, the group of scientists are going to get in the room and give us unvarnished, objective advice.

But the public hasn't seen it that way, and that's where Tom has a good point. I think our challenge is we either have to say, yes, there won't be any faith if it goes through the NMFS SAW/SARC Process with the Center for Independent Experts being the peer reviewers; or, we have to kind of pick ourselves up a little and say, no, we think that will be a credible process as long as the right questions are investigated.

As much I understand the point that he's making, because that's where the public is coming from, I prefer the latter, which is the one you just articulated, Mr. Chairman, that if the right questions are asked and if honorable people really look at it in an objective way, we're going to get the best advice we can. Then if the numbers don't come out to our satisfaction, everybody is going to upset anyway, and that's just where we've been in the past.

The process is a great if it gives you the number you want, and the process really stinks if it gives you a number you don't, and that's the fact of life we have to deal with. I am comfortable with using SAW/SARC as long as the issues we've raised are in there. Thank you.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. You know, I think one of the things the public does is they listen to what our commissioners say, and if they pick up doubts and questions expressed by commissioners, I think they take those very seriously. The SAW/SARC process is the same process we use to peer review striped bass, for example, and those results are widely accepted.

Last week at the Mid-Atlantic Council we had a Northern Shrimp Stock Assessment that was reviewed to a SAW/SARC that was widely praised and commended by industry and other members of the public. So, I think one of the starts would be for the board to express confidence in this process. I think the memo that you put out addresses some of the legitimate concerns that the board did have.

I think that, quite frankly, from a staff standpoint, when we looked at lining up peer reviewers, the potential for lining up peer reviewers, it was going to be very hard for us to get the true independence that the SAW/SARC process gets by bringing people in from, frankly, places like New Zealand, England, all over the world.

We, in the past, quite frankly, have stayed right within the United States on the ASMFC peer reviewers, and a lot of times stayed on the east coast. I think the idea of having an international review of this is really much more independent than perhaps we might be able to do on our own. Thanks, Mr. Chairman.

MR. VITO CALOMO: Mr. Chairman, I believe we're just about to wrap this up and call for a vote here on this motion. My comments may not be germane to the motion. If you allow the liberty for me to make a couple of comments, I'd appreciate it. I just wanted to pass this on that from our fishing community up in Gloucester, Massachusetts, that the range of the fluke is expanding further to the north than I've ever seen in my lifetime.

They're off of Newberryport, Massachusetts, and going towards New Hampshire more and more every year. Our fishermen are starting to catch them in the nets, and some don't know what they are and some do. But, they are moving to the north just like other species. That's one comment. I think we need to probably see why that is happening.

My other comment, Mr. Chairman, is that I believe fluke is just the tip of the iceberg with the reauthorization of the Magnuson Act, and I have the worse fears of all that this rebuilding schedule that is imposed upon us by the reauthorization could be the demise the fishing industry for many of us.

I believe that the vehicle, the ASMFC commission here, needs to go on record in total support of every director or commissioner signing on to protecting not only the fisheries but the fishing industry. I think this is a cry or a shot that is going to be heard around the eastern seaboard anyhow. Again, Mr. Chairman, I know this is a little out of the way, but I think it starts with fluke. I hope that the future members of this ASMFC Commission do weigh in with a letter and do weigh in vocally on the issues that are coming about to face us. Thank you, Mr. Chairman.

MR. AUGUSTINE: Thank you, Mr. Chairman. Just to reiterate what Mr. McCloy said and others around this table, I'm not sure that it's a question on the part of the commission to walk away from the outcry that we as commissioners have heard from the public up and down and coast relative to the scientific information that we get on a regular basis.

We question it because we see differently out there on the waters than scientists see. They're working with models and so on, and they may be a hundred

percent right. On the other hand, what happened with MRFSS? The question came up again and again and again questioning the value of MRFSS.

And, lo and behold, we had the National Science body evaluate it and said, "Yes, you do have a problem." I see the ASMFC peer reviewing this stock the same way as I saw that; another outside group looking at the same problems from a different point of view. We may not like the outcome, but so be it. In my mind, it's validating either what the scientific community has already told is true and factual or not.

And it is an expenditure that I think we have to make. We are serving the public; we are serving our fisheries; we're committed to defending what is right and making sure these stocks are here forever, so to speak. But, this is one of those cases where I think the money has to be spent. It has to be shown to the public that we are reacting in a reasonable way. We can say, as commissioners, yes, we accept the scientific information blindly, and the question still goes unanswered how correct are they? We definitely would support this motion. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Is there anyone who wishes to speak in opposition to the motion? Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman. I certainly support the concept of the motion. I can't support it as it is drafted. We've heard earlier discussions that we're forging effective communications through the comments that Toni made earlier with Jim Weinberg, and I believe Bob and Toni had a conference call last week.

We also heard how Vince has an opportunity as well to formally funnel this recommendation through the NRCC. My concern is that the motion, as written at this very important crucial time, is showing division rather than unity in terms of how we're moving together at the state, the commission, the council and the federal as well as the industry and public sectors are looking at the sum total of terms of reference that should be addressed in the stock assessment.

I think at this point we should be demonstrating faith rather than distrust that that process can work. I would hope that there is some support by this board before the actual vote is taken to remove the last sentence. I also believe there is adequate opportunity to discuss how well the reception of these terms of reference are before the 2008 stock assessment. We

can certainly discuss that at the next meeting. So, again, while I do support the first part of the motion, I think the second part of the motion is, at this point, unnecessarily divisive in terms of showing the unity that we need to move ahead. Thank you.

CHAIRMAN TRAVELSTEAD: With respect to Harry's comment, I am wondering, to the maker of the motion, if you could – if you remove that second sentence, that does not mean that we could not come back after know whether our terms of reference have been accepted or not, and at that point make a decision whether or not we proceed with an external peer review.

We may, for instance, find that they accepted all but one term of reference that the technical committee comes up with, and we're okay with it, we can live with it. If not, then at that point we put it to the board again whether or not we proceed externally. David, you had your hand up, anyway.

DR. PIERCE: Yes, I am a bit surprised at the reaction of Harry. It's not a question of distrust. It's just a question of making a point that they're important terms of reference provided by our technical committee, and we want them to be included. We've already said we want to go with an external peer review, ASMFC external peer review.

Basically, we're saying these are the terms of reference, include them, and if they're not included, then we're going to have to go with the external peer review, and see what happens. I think the motion is appropriate. I don't wish to come back; I don't want to revisit this as a board. I want to deal with it right now and just send a strong signal that our terms of reference should be included. Again, this is a cooperative process. We work as partners in the management as well as the assessment side of the coin. Let's make that firm statement. I am satisfied with the motion as it stands.

CHAIRMAN TRAVELSTEAD: Other comments? Eric.

MR. SMITH: I'm not so mellow today. I can agree with the chairman's suggestion because I think that's a way to avoid any dissension, and it still gives us the opportunity to do that last sentence if we want to. But, I also agree with David. Maybe Harry got up on the wrong side of the bed, and I got up on the right one.

I have to say we went to college together; we're going to do this from time to time. I don't see how

that last sentence is really divisive, but if he does and he is representing the service who maybe is going to get up in arms a little bit over it, I don't know that it's a big deal. I will support it either way, but I want to have everybody be happy partners and get to the right scientific conclusion. If we can take that sentence out and come back at it again if we need to, maybe that's a pretty accommodating way of dealing with it.

CHAIRMAN TRAVELSTEAD: Other comments from the board? Howard.

MR. HOWARD KING: I would agree with Eric. I don't think we need that last sentence in, and we still have the option of going forward. This may be a budget issue down the road. We haven't addressed that at all, so we shouldn't make a decision without thinking about the budgetary implications.

CHAIRMAN TRAVELSTEAD: Other comments? I saw at least one hand in the audience.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. Bruce Freeman representing Anglers of New Jersey. It's interesting, having this new role that I do of sitting as a public member and not as a board member, but it's good seeing many friends. To address this issue, the concept of an independent peer review is one that the commission accepted and took the responsibility of moving forward because the Fishery Service essentially was not going to do this for another two years.

The importance of the fishery, as pointed out by Pat Augustine and Eric Smith and Dave Pierce and others, was such that it was deemed necessary by the commission to support an independent peer review if, in fact, the federal government was not going to do that, the federal agency. It's interesting now that apparently there is some change of heart by the agency and they're willing to now make adjustments in their schedule and do some of the work.

My principal concern is that not only the issues that have been raised today and by the technical committee be reviewed – and this was also summarized by Mark Gibson – but that it be determined whether, in fact, the models we're using are appropriate for the information we have. There are many things pointed here which are inconsistent.

I think Pat Augustine raised the issue which we need to look at very critically as a biomass, particularly the spawning biomass increases, recruitment decreases, totally contrary to the concepts we deal with in fishery science. If you look back in the late eighties,

the recruitment from a 10 million pound biomass exceeds what we have now with a 44 or 45 thousand metric ton biomass, which is very concerning.

The question is why is this? Can we anticipate this occurring in the future, and what is the reason for this? Obviously, biomass is not the only issue here. There are other things occurring. At the time, back in the late eighties, the yellowtail flounder population was declining very rapidly, and the summer flounder population, recruitment-wise, was increasing.

Is there a relationship between the two; is there competition between the two species that are creating this situation we see today? The concern that we have in New Jersey is that we get the best review that we can. What is concerning here is this meeting today we're talking about issues, whether they should be included or excluded, and who is going to agree upon those?

It's not very heartening to hear a discussion of what should or should not be included and who is going to make those comments. Our concern is that a very credible, independent study be done where everyone feels satisfied in the angling public and the commercial fishing public, that we're satisfied with the best models and the best information to explain some of these things that we're all seeing. I would ask that you look at this very carefully before you vote. Thank you.

CHAIRMAN TRAVELSTEAD: Thank you, Bruce, good to see you. Other comments on the motion? Yes, sir.

DR. DAVID PERKINS: It seems like the board and the technical committee have identified a number of needs in terms of the terms of reference, that they need to get addressed. We're working forward in a very cooperative manner I think to try to get them addressed through the SAW/SARC. I guess I would like to see that process go out a little bit further and give us some flexibility still to see if one or more those needs are not met, then we have options to see how we go about addressing them. One option is through another external peer review.

Maybe there are other options, too, that would satisfy the board. I guess I'm inclined to lean again towards Harry's suggestion about striking that last line, give us the flexibility down the road to see how we can best address our needs. Thank you.

CHAIRMAN TRAVELSTEAD: We cannot eliminate the second sentence – a number of you

have commented to that effect – without a motion to do so. Otherwise, we will proceed with the motion as it is. Any other comments? Harry.

MR. MEARS: Thank you, Mr. Chairman. I would like to make a motion to remove the last sentence.

CHAIRMAN TRAVELSTEAD: Okay, this is a motion to amend to eliminate the second sentence. Is there a second to that motion? Seconded by Roy Miller. Comments on the motion to amend? Seeing none, is there a need to caucus? Let's caucus for a minute and then we'll vote on the motion.

(Whereupon, a caucus was held.)

MR. SMITH: While people are caucusing, let me just ask a procedural question. Do we have sufficient time – if that sentence is out of there and we decide then we want to have it in, do we have time to do that at the annual meeting to vote for the separate peer review, separate stock assessment and not – well, then we wouldn't care about the 2008 schedule. Yes, all right.

CHAIRMAN TRAVELSTEAD: Did you answer your own question?

MR. SMITH: Asked and answered, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Okay, I wasn't clear. Are we ready to vote on the proposed amendment? All those in favor of the amendment, please raise your right hand; opposed, like sign; abstentions; null votes. The motion fails. We're back to the main motion. Is there a need to caucus? Okay, we'll caucus for a minute.

(Whereupon, a caucus was held.)

CHAIRMAN TRAVELSTEAD: While they are caucusing, I will it into the record. The motion is move to support a summer flounder SAW/SARC peer review of the benchmark assessment, provided the board-adjusted technical committee 2008 terms of reference are included in that review. If not, then we should proceed with an ASMFC external peer review. Motion by Dr. Pierce; seconded by Mr. Gibson.

Are we ready to vote? All those in favor of the motion, please raise your right hand; opposed, same sign; abstentions; null votes. The motion carries ten to one with one abstention. Vince.

EXECUTIVE DIRECTOR O'SHEA: Two quick points, Mr. Chairman. Just for clarification, the commission did not decide to do an independent peer review. It was this management board that decided that, and there are a couple of steps between the board deciding to do something and allocating the time, staff and funds to do that. That's just for clarification.

The second part is during this good discussion, there were several theories advanced around the table, scientific theories about explanations and so forth. It's my understanding that in the SAW process, stock assessment workshop process, that the Northeast Fishery Science Center has committed to providing a forum for the state scientists or other scientists to come forward with different model methodologies, different theories, different explanations.

I would suggest that the venue to discuss those is going to be at that scientific forum. While it's been good for us to get a flavor of that around this table, I don't think the expertise is here for the rigorous evaluation that those theories deserve. So, a heads up for those people that have those theories, that need to develop them, and I'll commit to working with Dr. Weinberg and Dr. Thompson to make sure there is time on that stock assessment workshop schedule to get anybody's models and theories put in front of that workshop for examination and review.

CHAIRMAN TRAVELSTEAD: I appreciate that, Vince, I think that is very important if people are going to view this as successful. Moving on, the next agenda item is update of the 2007 black sea bass and scup quotas. Toni.

MS. KERNS: Thank you, Mr. Chairman. In your briefing materials, you received a memo from me dated July 30th. This memo indicated that the National Marine Fisheries Service has restored 18,142 pounds of the research set-aside quota back into the total quota for the black sea bass fishery. This was due to the anticipation of the RSA amount for summer flounder not being enough.

UPDATE OF 2007 BLACK SEA BASS AND SCUP QUOTAS

In fact we used less summer flounder RSA than we had anticipated, and so therefore didn't have to use as much black sea bass as we thought we were going to need. So, under Table 1 of my memo, which would not have fit on the screen, is your updated 2007 black sea bass quotas. I think the highest adjustment to a

state was about 1,500 pounds, but there is a slight difference in your state quotas.

Also, the Scup Winter II possession limit has been updated due to the rollover left over from Winter I fish. The new possession limit for the Winter II trip limit is 3,500 pounds per trip. We rolled over 644,155 pounds from Winter I to Winter II that was unused. Does anybody have any questions for me on that?

CHAIRMAN TRAVELSTEAD: Everyone clear on those changes? Louis.

DR. LOUIS DANIEL: Just before we move on to another topic, I wasn't really sure where to bring this up, but I do want to get on the record my concern over the apparent disconnect between the management of black sea bass south of Cape Hatteras and the management of black sea bass north of Cape Hatteras and the assessments that have occurred and reviewed down in the South Atlantic and the apparent lack of our ability to do like assessment in the northern range.

In particular, going through the SEDAR process for black sea bass, a lot of questions have arisen due to the adequacy of the information supporting a north/south split on black sea bass. I think that is something that we need to be very concerned about. There is also a significant amount of information that has been developed through Gary Shepherd's work on tagging black sea bass, showing interaction north and south of Cape Hatteras, which significantly confounds our ability to properly manage those two stocks.

Then, lastly, I would just bring up a real concern of mine that I have been unable to discover any scale otoliths comparison work that has been done and the use of otoliths in the southern range versus scales in the northern range. If it is reasonable to use scales in the northern range, I haven't been able to find anything that shows that it's proper to use them.

Otoliths are very easy to read in the southern range. It would seem to me that would be the most appropriate thing to do for the northern range. So, I don't know the answers to my questions at this point, but it is something that there does seem to be a real disconnect. I think we need to get the analysts from the southern range together with the analysts from the northern range to try to figure out some of the differences and disparities that are coming up from these two assessments.

DR. PIERCE: With all that said, what would be the next step in this process, refer these specific questions to the technical committee?

CHAIRMAN TRAVELSTEAD: I think so, yes. There was some discussion of these issues actually last week up in New York about the scale versus otolith thing, so there is interest in that from others as well.

DR. PIERCE: Since the council did meet last week and this issue was discussed, did someone or some group get charged to investigate this?

CHAIRMAN TRAVELSTEAD: No, but I think we could certainly refer them to the technical committee for further evaluation, without objection. I see Paul has taken note of that. On to other business, scup assessment data needs, Paul.

MR. CARUSO: At the last board meeting, you recall a discussion relative to failed assessments, and I believe Eric had requested that the technical committee look at the data needs for a scup assessment and report them back to the board. I have a brief four-slide or five-slide presentation here that discusses those data needs, and I will go through that.

The statement of the problem is that there are unfulfilled data needs and/or poor data has led to failed assessments for scup in the past. New assessments should not be scheduled until needs are met was a discussion of the stock assessment committee meeting back in 2004. I think most people have pretty much gone down that track that we can't really schedule an assessment until we've dealt with the data needs.

The board charged the TC was to review the data needs for an assessment and to report back to the board, which I am doing to you now. The technical committee reviewed the past SAW/SARC documents for data shortcomings and assessment-related research needs. We discussed those needs at the Southern Demersal Working Group Meeting in Woods Hole back in June.

To put it quite shortly, the past shortcomings of most significance to the assessment was that there were issues with discard estimates for the commercial and recreational fisheries. You will recall some of the particularly bad years where the commercial discard estimates for the offshore fish were bigger than the harvest or double the harvest, I believe; and the lack of confidence from the peer reviewers and the scientists with those discard estimates.

There is the issue survey variance related to the tuning index of the VPA. It's a continuing issue. There recently has been a lack of age data for age-structured models. The present data needs are essentially the same. In our discussions the consensus was that the survey issue is still the most problematic issue that we have to deal with. The survey doesn't track the year classes well, as you all know.

The index is hit or miss within short time periods, which indicates that we're not tracking these year classes over time because of the schooling behavior of the animal and the way the water temperatures affect the way they bunch up on the shelf some years and not on others. It affects the catchability of the survey.

And because of the scope of the survey and this water temperature effect, some years the fish may be missed or some years they might even be outside the scope of the survey. This issue has been discussed I think for fifteen years and, really, there hasn't been any good resolution to it.

The discard estimation issue has kind of gone away a bit in the sense that within the last ten years the discard sampling is much better. The feeling of the group was that we may be able to get around those bad years by just dropping them from the model runs; in other words, using the last ten years of data, where the data is better.

The inshore commercial fishery discards may not be an issue if the mortality rate itself should not be excessive. The recreational estimates have improved substantially, especially in the last three years, with the for-hire sampling. We're measuring thousands of scup discard lengths now in the for-hire sampling. At least, I'm measuring thousands.

The aging issue is still out there for age assessment methods. We have no ages read within the last few years at the Center, but the samples do exist at the Center for those years. We could catch up on recent year aging using either the concept that we're contemplating using for black sea bass, have a state intern do it under Center guidance, or to find a way to get more money pumped into the Center's Age and Growth Unit specifically for scup.

My talks with Jay Burnett lead me to believe that essentially what has happened is because groundfish has been the hot button issue, that they're taking the resources from scup and sea bass and diverted them to the groundfish, to support the New England

Council's issues with groundfish. That's basically it. I'll be glad to answer any questions. Like I said, the survey seems to be the one we can't get around.

CHAIRMAN TRAVELSTEAD: Any questions for Paul? The last item on the agenda is nominations for vice-chair. Louis.

DR. DANIEL: Thank you, Mr. Chairman. I would like to nominate my friend from the Potomac River, A.C. Carpenter, for vice-chair.

CHAIRMAN TRAVELSTEAD: Seconded by Pat Augustine.

MR. AUGUSTINE: And move to close nominations and cast one vote on behalf of the chairman.

CHAIRMAN TRAVELSTEAD: So done, without objection. Seeing no objection, thank you, A.C.

DR. PIERCE: Just to backtrack a little bit, Paul gave his presentation on scup assessment data needs, and I am not sure where we ended up. He pretty much described where we are, which is nowhere in terms of scup assessments. Nothing has changed. The ASMFC, not too long ago, put out a contract I believe – maybe it was the Mid-Atlantic Council. I lose track now.

Anyways, the contract was issued to try to do a scup assessment. That contract was unsuccessful. Those who were attempting to do the work – I think it was URI – they said they couldn't do it. We're nowhere with scup as far as I can see. The data needs are huge. We have significant problems with the trawl survey itself.

We had the Bigelow coming on board. I don't know how in the world we're going to be able to do the necessary work. Well, the work will be done; that is, the comparative tows, but conversion factors, to continue this time series, I guess time will tell us as to whether or not it's successful.

But, where are we with regards to this particular very important part of our management process? In other words, Paul gave the presentation because we requested it. What is the next step? We throw up our hands and put our heads on the tables and say – I'm as frustrated as the next person because I have been struggling with this for the longest of times.

For example, the bottom trawl survey data; what do we do? We use that to estimate whether we're overfishing or whether we're overfished. This survey

estimates abundance as best it can of age zero and age one fish, but the fishery is on age two, three and older. So, we have that disconnect. We're estimating mortality rates for ages that don't get fished. That's just a small part of the problem.

In light of the National Standard Number 1 Guidelines that have been scoped and that will eventually come out as proposed I suppose some time this fall – you know, I want all state representatives here around this table to think about where we are with scup, what Paul said, and when the proposed guidelines come out, to take the time to think about those proposed guidelines and implications of them for scup.

We can't bury our head in the sand with regards to the fact that we have nothing to use for scup and yet we're going to have to use something in order to deal with the National Standard Number 1 Guidelines once they're in final form. So, please, just a statement on my part, the state representatives, state directors, to pay very close attention to those guidelines when they come out.

I know that in the scoping process throughout the nation, only Massachusetts and North Carolina commented; again, just scoping comments. But, please, we need to have more state involvement, more state positions thought out and then presented in the context of future scup management, future black sea bass management, fluke, et cetera, et cetera.

Otherwise, we will forever hold our peace as a group of states, finding ourselves channeled into a box with there being no exit and our being put in the position of our having to say to the industry, "You have social and economic concerns; we don't care because we can't care." I don't want to be in that position, so I'm venting my last statement for now, anyways, on that critical issue.

CHAIRMAN TRAVELSTEAD: I think you've said everything that can be said at this point. I don't know that there's anything else.

MR. AUGUSTINE: Mr. Chairman, I think there are a couple of questions. According to the statements that were made in our last meeting at the Mid-Atlantic, I believe we have to wait for two years of survey information coming from the new vessel before we can consider using the data that they collect on scup.

In the meantime, we're continuing to use a proxy, and we're using a three-year rolling, whatever we call

it. As a result of that, we're still basing our TALs or TACs on a 2.77 per two reference point. As I have seen it in the last two or three years, although the quotas aren't being fully caught, and it's for other reasons other than the capacity for our commercial fishermen and the recreational to catch them, primarily commercial, if the market is not there and they're not making money on them, they're not going to catch them.

That's what Captain Ruhle has said on behalf of the commercial industry. So we continue to use this precautionary approach, and each time now the combination of the quota not being harvested and the lack of a solid base of information, as Dr. Pierce has mentioned, we can only anticipate I believe to see the quota continue to go down and down and down.

In the next two years there is no question if the catching capacity stays right where it is, and we see a change in other species available to commercial fishermen and/or recreational, as the case may be – in the case of New York, it will be a lack of a quota for summer flounder, and so we'll see a move over to catching more scup and also black sea bass.

We're going to have I think a very dramatic hit in the harvest levels, and so it just seems to me without knowing – and maybe it's already been put out. When is the next official scup survey on the docket; do we know that, Mr. Chairman, or not?

CHAIRMAN TRAVELSTEAD: What do you mean by scup survey?

MR. AUGUSTINE: I'm sorry, assessment.

CHAIRMAN TRAVELSTEAD: There is no schedule; it's not on the schedule at this point.

MR. AUGUSTINE: So as Dr. Pierce has noted, we're looking at a big whirlpool, spiral going down, down, down, down, and there does not appear to be any way to pull ourselves out of that. We don't know, other than anecdotally, that the stock is either growing or not growing. The anecdotal is all based on the information we get from commercial fishermen and what our party boat and charter boat folks see in terms of size and numbers of these animals. So, I just want to go on the record to say that we have got to press to get this assessment done somewhere.

Either that or the reference points have got to go back and be readdressed. But, this is another scary situation. I may be talking out of school, but it's a

concern that we've heard from our fishermen. Thank you.

MR. SMITH: I actually was a little more optimistic after Paul's presentation, not entirely, but, I mean, the reason the last peer-reviewed assessment was rejected, largely was because of the discard issue. What he said was we're getting better data all the time. The more recent period of time has better discard estimates in the sport and commercial fishery, and that's good news.

The survey stuff we're not going to solve anytime soon, and he pointed out that's the biggest problem, the index base and the nature of the trawl survey that David Pierce has pointed out. On the horizon, admittedly, fifteen months or so from now, the service is going to host a data-poor workshop to try and deal with some of these issues in index-based assessments and try and mine the more recent work on stock assessments to see if there isn't a method that could be used in a case like this or some of the other survey index-based assessments to get us past this problem.

So, I would say, yes, we don't have a solution right now, and I think it might be premature to say, well, now that we've heard what Paul had to say, let's schedule an assessment right now. I don't think that would help much. But, certainly, with the results of that data-poor workshop in early '09, we should be in a good position to say, you know, the discard stuff, we've got a five or so year period of data that we can use to get past that one.

We've got the benefit of the data-poor workshop, whatever that happens to produce. I guess we probably won't have enough survey information from the new vessel to give us any real confidence there, but we're probably going to be able, in early '09, to say let's get scup on the assessment schedule for doing it in '09 or early '10. We have until 2014 to rebuild this one, but that's not to be complacent. That will be right around the corner, but on the other hand it's not 2010 either.

CHAIRMAN TRAVELSTEAD: Anything further from the board. Vince.

EXECUTIVE DIRECTOR O'SHEA: Thanks, Mr. Chairman. I'm glad these topics have been raised. It seems to me there are really two issues here. One is dealing with the current index-based method of gauging abundance, and the concerns around the board table that were expressed at our last meeting in

May, as well as now, about the transition between the Albatross and the Bigelow.

And then the second issue is getting even a better methodology, a full-blown assessment – and we've just talked about that – and it occurred to me that I'm aware of a plan that the Northeast Fishery Science Center has for calibrating the results of the Bigelow against the Albatross. That's a plan that the Center spent years developing, and that plan has been peer reviewed by the Center.

It would be my suggestion, Mr. Chairman, at the policy board later this week to suggest that we engage with the Center, to have them give us a presentation in October about the plan to calibrate the Albatross with the Bigelow, what the findings of that peer review were, and, again, hopefully, get members of the board as well as members of the public maybe perhaps in a better comfort level about making the transition between the two relative to the index.

Now, the whole issue of having an assessment be better than an index, that's a whole different issue. But, I intend to bring that up before the policy board. I think it ought to go to the whole policy board, Mr. Chairman, rather than this one because it does affect other species. Thank you.

CHAIRMAN TRAVELSTEAD: Good idea. Mark.

DR. GIBSON: Just briefly, I guess I agree with Eric that things could be getting better if they're pursued properly. There are some archived age samples that need to be aged, and that's simply influencing the resource allocation to achieve that. It sounds like the discard estimation is getting better.

There's perhaps an ability to work with a truncated time series in terms of the assessment, but the survey information is the real key now, and I'm not necessarily confident that a new boat and a new net is going to catch scup better. You know, it's the stratification issue and where the fish are relative to where the samples are plopped down, where the nets plop down.

It may be that there needs to be some – there is research set-aside work being done on fixed gear, fish pots, and it could be on floating traps as well. It may be that the fixed gear fisheries were to intercept fish to come to them as opposed to the trawl randomly searching for fish may end up being a better fishery – an abundance indicator.

I won't call it fishery independent. So I think some things are going to work themselves out. I remain concerned about the survey. You know, we could be in a position of weighting – keep reducing the quota every year until we catch a giant seine haul again somewhere, and we certainly don't want to be there. Thanks.

MR. ARNOLD LEO: Yes, thanks. Arnold Leo, consultant for commercial fisheries, Town of East Hampton. It is small comfort, the discussion going on about the absolute inadequacy of the data controlling the scup fishery. It's small comfort because the TAL that was approved is almost 50 percent lower than last year's TAL.

That's seems like an awful big reduction when you've got data that is this uncertain by unanimous agreement. There are not many times when the board is unanimous on something. I think, also, what's bothered commercial fishermen about this is that the goal is being set by a totally unrealistic kilogram per tow, which has been achieved in 40 years only once, you know. Because that one year was so different from all the other years, I mean, it's almost got to be tossed out of the statistical sample. So, small comfort, but it just seems like that was an awfully radical decision that was made at the Mid-Atlantic Council last week in Port Jeff. Thanks.

OTHER BUSINESS

CHAIRMAN TRAVELSTEAD: Other comments? Is there any further business to come before the board?

ADJOURN

CHAIRMAN TRAVELSTEAD: Is there a motion to adjourn? We are adjourned.

(Whereupon, the meeting was adjourned at 10:20 o'clock a.m., August 14, 2007.)