

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
WEAKFISH MANAGEMENT BOARD**

**October 25, 2006  
Atlantic Beach, North Carolina**

Board Approved: February 1, 2007

## **ATTENDANCE**

### **Board Members**

Paul Diodati, Massachusetts DMF	Catherine Davenport, Virginia Gov. Apte.
Mark Gibson, Rhode Island DEM	Kelly Place, proxy for Sen. Chichester (VA)
Eric Smith, Connecticut DMR	Louis Daniel, North Carolina DMF
Gordon Colvin, New York DEC	Damon Tatem, North Carolina Gov. Apte.
Pat Augustine, New York Gov. Apte. (Chair)	Jimmy Johnson, proxy for Rep. Wainwright (NC)
Brian Culhane, proxy for Sen. Johnson (NY)	John Frampton, South Carolina DNR
Tom McCloy, New Jersey DFW	Malcolm Rhodes, South Carolina Gov. Apte.
Erling Berg, New Jersey Gov. Apte.	Robert Boyles, proxy for Sen. Smith (SC)
Roy Miller, Delaware DFW	Spud Woodward, Georgia DNR
Bernie Pankowski, proxy for Sen. Venables (DE)	Luiz Barbieri, Florida FWC
Howard King, Maryland DNR	April Price, Florida Gov. Apte.
Bruno Vasta, Maryland Gov. Apte.	Steve Meyers, NMFS
Russel Dize, proxy for Sen. Colburn (MD)	Tom Meyer, NMFS
A.C. Carpenter, PRFC	Wilson Laney, USFWS
Rob O'Reilly, Virginia MRC	

### **Ex-Officio Members**

Russ Allen, NJ DFW, Technical Committee Chair  
Billy Farmer, Advisory Panel Chair

### **ASMFC Staff**

Nichola Meserve	Bob Beal
Brad Spear	Vince O'Shea
Erika Robbins	

### **Guests**

David Whitaker, SC DNR	Bennie Williams, USFWS
Chris Batsavage, NC DMF	Tom Sinclair, USFWS
Chip Lynch, NOAA	Joe Lynch, NC DMF
Bob Ross, NMFS	Thomas Lewis, PRFC
Phil Curcio, UBNY/NYFTTA/RFA	

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Move to grant *de minimis* status to FL for 2006. Motion by Dr. Daniel, second by Mr. Woodward. Motion carries on page 9.

Move to approve the FMP Review. Motion by Mr. O'Reilly, second by Dr. Daniel. Motion carries on page 12.

Move to approve the supplement to the addendum selecting the status quo option. Motion by Dr. Daniel, second by Mr. Carpenter. Motion postponed.

Move to postpone the motion until the January meeting. Motion by Mr. Smith, second by Mr. Gibson. Motion carries on page 27.

Move to initiate an addendum to make ASMFC's BRD requirements consistent with the SAFMC's Amendment 6. Motion by Dr. Daniel, second by Mr. Woodward. Motion carries (13,0,0,0) on page 29.

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**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**65TH ANNUAL MEETING**

**WEAKFISH MANAGEMENT BOARD**

**SHERATON ATLANTIC BEACH  
ATLANTIC BEACH, NORTH CAROLINA**

**October 25, 2006**

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The meeting of the Weakfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Fear/Outlook/Atlantic Room of the Sheraton Atlantic Beach, Atlantic Beach, North Carolina, on Wednesday, October 25, 2006, and was called to order at 4:45 o'clock, a.m., by Patrick Augustine

**CALL TO ORDER**

CHAIRMAN PATRICK AUGUSTINE: Good afternoon. I'd like to welcome you all to the Weakfish Management Board. Welcome you folks in the public. As we go through the proceedings today and motions are put on the table I'll ask for your public comments if you would so desire to point them at the motion on the table.

**APPROVAL OF AGENDA AND  
PROCEEDINGS**

We're going to try to move along quickly but clearly and cover all the issues. So this is not going to be a "slam-dunk" meeting. All right, so please take a look at the agenda. Are there any changes, corrections, substitutions? **Seeing none, the agenda stands.**

Please review the proceedings or if you have reviewed the proceedings from the August 17<sup>th</sup> meeting are there any additions, corrections, changes, deletions? **Seeing none, the proceedings stand.**

**PUBLIC COMMENT**

Public comment. Unless you have a specific issue that hasn't been addressed in any of the public documents that we put out or relative to Addendum II I would hope that you would hold your comments until later. Item 4, the FMP review and state compliance report, Nichola, would you please do that for us.

**FMP REVIEW AND STATE COMPLIANCE  
REPORT**

MS. NICHOLA MESERVE: Thank you, Mr. Chairman. The Weakfish PRT met in September to complete the FMP review and also to look at the state compliance reports. The FMP, the last actions have been Amendment 4, implemented in 2003 with revised reference points and a revised reference period, and Addendum I, implemented for 2006, and this replaced the biological sampling requirements in Section 3.0 of Amendment 4. And later on we'll be getting into Addendum II.

This graph shows the technical committee's last estimate of the coastwide weakfish biomass, showing the decline since about 2000. The fishery in 2005, the total coastwide landings for the recreational fishery were about 1.6 million pounds and in the commercial fishery about 1.3 million pounds.

This figure, however, does not include the Massachusetts landings. They weren't available at the time. And it includes 100 pounds for Georgia; the exact landings were confidential but no more than 100 pounds. As such the commercial fishery was about 45 percent of the total landings.

This graph shows that those numbers, it was a slight increase in the recreational fishery from 2004 and a continuing decline in 2005 for the commercial fishery. And it's the first year that the recreational fishery has surpassed the commercial fishery in the time series since 1982.

The commercial fishery was led in 2005 by North Carolina with about 32 percent of the catch; Virginia, 26 percent; and New Jersey, about 16 percent. The recreational fishery is heavily dominated by New Jersey which had about 72 percent of the landings and second by North Carolina with about 10 percent. The recreational releases in 2005 were about 1.8 million fish. And this exceeded the recreational harvest.

The state compliance reports were reviewed and all states were found to be in compliance with the regulatory requirements. The monitoring requirements in Section 3.0 of Amendment 4 provide requirements of the states to collect a certain number of otoliths and lengths of fish. And this is based for the 2005 year on the 2004 -- sorry -- 2003-2004 landings.

This next table, it's a little busy but I'll draw your attention to the important parts. Based on the 2003-2004 average only four states were required to sample in 2005, although there was a number of states that went above and beyond their requirements and the PRT commends those states for doing so.

There is one state, New Jersey, that did not meet its requirements and this was the third year in a row. For 2006, I wanted to show the preliminary sampling requirements for the year.

This will be the first year that it's based on Addendum I. And that addendum states that each state will be required, each non-de minimis state, will be required to collect six lengths per each metric ton of commercial landings and three ages per metric ton of total landings.

The table has the ages and lengths required of each state. In italics are those states that have requested de minimis for 2006. They are Florida, Georgia, South Carolina and Connecticut.

One thing that I would draw attention to is the requirement of ages for New Jersey as well as the lengths. And this is largely due to a very large increase in the recreational landings in New Jersey in 2005.

In 2006, de minimis is set at 26,665 pounds. This is 1 percent of the '04-'05 landings. In the reports, Connecticut and Georgia requested de minimis status and the PRT determined that they do meet the de minimis status.

South Carolina and Florida also requested de minimis status; however, the South Carolina landings were 3.9 percent of the coastwide average. However, the state contends that the MRFSS estimate for the 2004 recreational harvest is incorrect.

Florida also requested de minimis and doesn't meet the criteria because they had about 2.6 percent of the landings. The state contends that part of the recreational catch is actually sand sea trout rather than weakfish.

Because this is going to be an issue when we're talking about Addendum II, I wanted to provide a little bit more detail on the South Carolina and Florida numbers. The 2004 recreational number is what South Carolina has a problem with. It's the 119,428 pounds.

The state, this puts their '04-'05 average at 104,930 which is quite beyond the 26,000 pounds for de minimis. The state draws attention, however, to the percent standard error for that estimate from the MRFSS survey which is 50.9. The NMFS guidelines state that a 15 percent PSE, anything beyond that is not considered acceptable.

The Florida landings, the 2005 recreational landings is where the state has a problem. That was 99,729 pounds, placing their average at 70,103. The state, however, did, based on genetic work, provide a separate estimate for the recreational harvest which was 23,379 pounds.

However, using this it still places the state with an '04-'05 average of 31,912 pounds which is just slightly above the de minimis status. It's about 1.2 percent. And states are required to be under 1 percent to be de minimis.

As such the PRT recommends to the board that Connecticut and Georgia be granted de minimis and asked that the board consider Florida and South Carolina. The board, the PRT also requests the board to consider the New Jersey compliance status regarding the sampling requirements.

The PRT suggests that states having trouble aging weakfish should enlist the help of other states. Now that Addendum I is in force the PRT asks that the sampling requirements be enforced and also that states submit the NMFS preliminary commercial landings prior to the compliance report due date so that de minimis can be calculated and states will know how to, whether or not to request de minimis.

And there is also a list of research needs in the document which, again, I didn't mention this but everything is on the back table. And that's all. Any questions?

CHAIRMAN AUGUSTINE: Okay, thank you, Nichola. That was very complete, very thorough, very direct, and there aren't any hidden agendas here. We're being asked to take some action. The PRT recommends three or four specific actions.

And if none of the board has a problem with it, I'd like to move forward in addressing the issue of approving the de minimis request for Connecticut and Georgia for 2007. Mr. McCloy.

MR. TOM McCLOY: If I may, Mr. Chairman, just a comment or two before we proceed addressing New Jersey's delinquent sample collection. As has been said at this board on a number of occasions, we've had difficulties with collecting these samples due to personnel and fiscal constraints.

We did make a commitment last year to try better at collecting some samples. And although we did not hit our target for 2005 we did, I think, in my personal opinion, make good in-roads in that direction.

I actually thought we were doing pretty good in 2006 until I look at the chart and see we need 1,000 ages and probably 500 and -- yes, 1,000 ages and 560

lengths. And I understand that that's a result of the significant fishery we had in 2005 recreationally.

And it seems that whatever fishery we're talking about when it comes to the MRFSS estimates you know we have the same discussion and I'm sure this board doesn't want to spend a lot of time discussing that today.

But I think it's important to make the point that, you know, those million fish that New Jersey caught that year came in one wave from Northern New Jersey -- I think Raritan Bay.

And interestingly enough our neighbor to the north of us, New York, had about 100 fish caught I think. That's 100 fish, not 100,000 fish. So obviously there is some concerns about the accuracy of those numbers.

And the fact that they're now driving this new level of sample requirements for us in particular that is having difficulty meeting the lower numbers, I don't know where that leaves us. But I hope the board will take that into consideration in their discussions. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. McCloy. There is no question, New Jersey is to be commended for having moved forward and having at least done five-hundred-and-whatever that number was, a very large number for the 2005. I'd leave it up to the board as to which direction you want to go relative to New Jersey. Any board? Yes, Rob, Mr. O'Reilly.

MR. ROB O'REILLY: Not to New Jersey, Mr. Chairman, but I have questions. Are you planning to go through the de minimis now and then take questions on South Carolina/Florida and start with the Connecticut situation? Is that how you're doing that?

CHAIRMAN AUGUSTINE: That's exactly right, just the way it's broken out on the sheet. I'd like to address the issues that way so we aren't confusing one issue with another.

MR. O'REILLY: Okay, thank you.

CHAIRMAN AUGUSTINE: So I would actually go back to the first item and look for a motion for Connecticut and Georgia to receive de minimis status. Dr. Daniel.

DR. LOUIS DANIEL: **I would move that we grant de minimis status to Connecticut and Georgia.**

CHAIRMAN AUGUSTINE: Thank you. Do I have a second?

MR. BRUNO VASTA: Second.

CHAIRMAN AUGUSTINE: Mr. Vasta. All right, any discussion? I don't believe it's required. Board members all in favor, aye; opposed; null; abstain. **The motion carries.** Thank you. All right, now relative to the arguments that have been presented by South Carolina as Nichola made the presentation, let's discuss that. Concerns or questions about — Mr. O'Reilly.

MR. O'REILLY: I guess I understand the high PSEs but at the same time it looked like the 90,428 for 2005, so could you let me know again, Nichola, what — was there an adjustment such as there was with Florida for South Carolina? Was there a revised estimate trying to consider the effect of the high PSE?

MS. MESERVE: South Carolina in the report stated the reasons why they did not think that this was an accurate estimate; however, they did not provide a different estimate for me to do the same calculation with.

CHAIRMAN AUGUSTINE: Other questions. Yes, Mr. Boyles.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, just a comment, and you all recall last time, the annual meeting last year, the discussion we had about the data points in 2004. And I would just like to remind the board in the report I believe on Page 15 of the report goes through the time series of our recreational

catches and you see just the rather large and unexplainable jump in the year 2004.

And I would like to point out for the board that again you know finding myself here throwing rocks at MRFSS that the 2004 numbers came from, we dug down to the data. Two of the four intercepts for Wave 5 were taken at the same location on the same day and were taken by the same interviewer.

So, again, I find myself in the situation of throwing rocks at MRFSS. I just don't believe that we do have that large a take as reflected in MRFSS. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Boyles. Any further questions from the board? Yes, Mr. Meyers.

MR. STEVE MEYERS: I was just wondering, Mr. Chairman, if the states involved contacted the MRFSS staff to try to seek clarification on the data.

CHAIRMAN AUGUSTINE: Mr. Boyles, is that true or not?

MR. BOYLES: We did for 2004. The 2005 numbers I believe we just got like several weeks ago so, no, we didn't have a chance to dig down in 2005.

CHAIRMAN AUGUSTINE: Mr. Meyers, is there further action they can take?

MR. MEYERS: Yes, sir. I would suggest maybe that we contact the MRFSS staff and ask them to put this on a priority given the fact that we're looking at issues of compliance to the FMP here and that they move forward expeditiously with an analysis of this. Let's see, today we're in, what, October? Our next meeting is when? January, late January?

CHAIRMAN AUGUSTINE: Yes.

MR. MEYERS: That they have an explanation for this or excuse me a review of this by that meeting so that they can then brief the board as to the play in the numbers.



CHAIRMAN AUGUSTINE: Okay, would that satisfy the board's need before we take action on South Carolina, that we actually, we move that forward to our January meeting? The issue would be addressed and resolved at that time.

Any objection from the board? Seeing none, so be it. All right, let's go on to Florida. From Florida would you like to comment on -- yes, Mr. Barbieri.

DR. LUIS BARBIERI: Thank you, Mr. Chairman. This is an issue that we've been, Florida has been dealing with for a while. You know the issue that there are other these species there. Sand sea trout looks very similar morphologically to young weakfish. Very difficult for samplers in the field and anglers to identify or separate the two species correctly.

We tried to address this problem by conducting a study using state-of-the-art genetic techniques. And through that study we have indeed identified that at least an appreciable component of our recreation and commercial catch is composed of sand sea trout. Based on those results we request to be granted de minimis status.

CHAIRMAN AUGUSTINE: Mr. Barbieri, do you think a review by the MRFSS folks similar that's being asked for by South Carolina would be beneficial and maybe Mr. Meyers might want to respond to that and see if there is really a divinitive difference between those -- I don't want to call them subspecies of fish.

MR. MEYERS: With respect, Mr. Chairman, I believe they are separate species in the textbook so one thing maybe would be if we have some sort of assay and we can figure out a percentage proportion of the two species through sort of testing of this with individuals on the survey maybe we could come up with a correction factor that might be able to describe the situation in a bit more detail.

CHAIRMAN AUGUSTINE: Mr. Meyers, could we have action on your staff from your position similar to what we did on South Carolina -- I know we're

leaning on you pretty heavily but -- working through the process that way?

MR. MEYERS: Oh, Mr. Chairman, after menhaden it's all downhill. Yes, certainly, we'll do that.

CHAIRMAN AUGUSTINE: Got you. Okay, we had two hands up. Mr. O'Reilly and then Dr. Daniel.

MR. O'REILLY: Florida has already submitted a correction factor. I know I saw that awhile back and went through an analysis where they partitioned out the sand sea trout and the gray trout so that is available. I don't know, don't recall the partitioning off the top of my head but that may be helpful for us to move on this.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel.

DR. DANIEL: I'm very familiar with this problem, having worked with these species in the past. I think Florida has done above and beyond in order to try to resolve this problem. I think it's going to be, it's going to vary by year. It's going to vary by area. And it's going to vary by wave.

And I think to try to do something of this magnitude to correct this every year is a pretty monumental waste of our time and effort, in my opinion. So I think they have addressed the issue to my satisfaction and I would make the **motion that we grant de minimis status to Florida.**

CHAIRMAN AUGUSTINE: Thank you for that motion. Do I have a second to that motion? We have a second by Spud. Where are you down there, Spud? Mr. Woodward, second by Mr. Woodward. Is there any further discussion on that motion? Are there any comments from the public? Okay, let's move forward.

All in favor aye; opposed; null; abstention; two abstentions. Thank you, guys. You just saved some work, Steve. Two abstentions, **the motion carries.** Thank you. May we have a motion to approve the FMP review. I'm sorry, Mr. McCloy, we're not ready. Go ahead, Mr. McCloy.

MR. McCLOY: Thank you. I'm sorry, Mr. Chairman, I'm going to have to get some clarification on Table 1 on Page 4 of the review, the one that lists the required ages and lengths for the states for 2006. I forget what the number of ages and lengths were per whatever but was not the number of ages required less than the number of lengths?

CHAIRMAN AUGUSTINE: Nichola.

MS. MESERVE: I'm working on bringing up the slide but, yes. It's three ages per metric ton of total landings -- there is an error in that slide -- and six lengths per commercial landings. Because New Jersey has such a large recreational harvest --

MR. McCLOY: Okay, you've answered my question. Thank you.

MS. MESERVE: Okay.

CHAIRMAN AUGUSTINE: Thank you, Nichola. Any further questions? Mr. O'Reilly and then Dr. Daniel.

MR. O'REILLY: Just to the presentation that Nichola made and I think she indicated that four states submitted age data. And after hearing from the technical committee a few times on the indication that there was a dichotomy between the southern and northern areas in terms of the trend in the fisheries and that there actually was a rise in the southern area -- that was one of the findings of the technical committee -- I would hope that there can be some move later on to talk about regional sampling which may help to solve some of the problems that we're facing with states now but also might fill in some of the gaps that we have from some states some years, other states other years.

And the way things look right now I think it would be very important to have samples regardless of whether you meet the threshold criteria. I mean I can't imagine that if you are out sampling if you have a fishery, even if it's a small one, that there aren't some samples and some regional approach to this. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly. Would you have a comment in response to that or a suggestion, recommendation?

MR. RUSS ALLEN: Rob, just to answer your question, you know we have had some analysis done on north versus south split. I'm looking for it right now on the computer. I'd be willing to talk about whatever you would like to talk about later, as soon as I can pop it up.

Obviously we have done some work, Vic Crecco had done some work regarding the South Atlantic population of weakfish increasing while the Mid-Atlantic was going down. And we just don't know where there might be a split, where that data -- the data is kind of generated from North Carolina anyway because we don't have enough data from South Carolina, Georgia, or Florida. But we're getting there. So if you want to talk about that more I'd be willing to do that.

CHAIRMAN AUGUSTINE: Thank you, Mr. Allen. Yes, please, Mr. Boyles.

MR. BOYLES: Thank you, Mr. Chairman. To that point I'd just like the board to know that based on the discussions beginning a year ago the state of South Carolina is embarking on some directed and targeted sampling, particularly on the northern part of our coast where we believe that the majority of this fishery is located.

And we are doing both some cooperative research work, fishery-dependent work, as well as fishery-independent work to help paint the picture. Thank you.

CHAIRMAN AUGUSTINE: Thank you very much. Was it Mr. O'Reilly? Did you have your hand up again?

MR. O'REILLY: No, sir.

CHAIRMAN AUGUSTINE: All right, I'm sorry. Mr. Meyers, did you have your hand up again? Don't say anything if you didn't. Dr. Daniel, go.

DR. DANIEL: I was going to go back to Rob's suggestion. I think it's a good one and may have been misinterpreted a little bit in terms of some regional examination of age sampling.

North Carolina historically has sampled more otoliths than anybody over the time series and we're having a difficulty now as well collecting the numbers of otoliths in the representative sizes.

I mean we don't want, you know, 10,000 12-inch weakfish otoliths. That's not going to do us any good. And so I think if New Jersey is being put into a position where they've got to collect a thousand otoliths from one wave, I'm not sure what that's going to really get us in terms of the data quality.

So I think we definitely need to have the technical committee take a look at some of the alternatives. The slide that I wanted to see was the one after the numbers that you put up that showed exactly what the states would have to achieve over the next year. And I think it was in the neighborhood of 4,000 otolith samples.

We may not even need, we may even be able to come up with a modeling technique that doesn't require us to use otoliths if we use the new forward-projecting model out of the Beaufort Lab that uses lengths.

I mean those are some alternatives that I think we should ask our technical committee to look into to try to resolve some of these problems that are just going to get worse as personnel and time dwindle. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you. Mr. Allen, do you want to respond? I noticed you were taking some notes on that.

MR. ALLEN: One of the things that I was just looking up was the amount of, the number of ages that we have to collect from the commercial/recreational fisheries.

And the way it's described in Addendum I is that you need to have six lengths per metric ton of commercial landings and three ages per metric ton of all landings.

So that changes things a little bit from what we were talking about.

And just to let you know where we are in New Jersey, right now. For 2006, we are right on schedule to have all those otoliths and lengths collected. As far as trying to get those samples, as the stock has dwindled it has become very hard to — it's hit or miss going to the docks to try to get those samples.

And the technical committee would be glad to look into that at our next meeting and decide whether or not that's exactly what we want to do or go into using you know different alternative models, which we have been doing in the past to see if we really need to do an age-based assessment. And I think that will be coming up in our next go-around.

CHAIRMAN AUGUSTINE: Thank you, Mr. Allen. Further comments or discussion concerning the PRT's recommendation to find New Jersey out of compliance for 2005? Do you want to take action or not? It's the board's choice. I see a group of heads saying no. Do we just let it slide until our next meeting? Do we let it slide? Mr. Smith, put some words on the table.

MR. ERIC SMITH: Well, Mr. Chairman, I'm reasonably confident that there is a suspicion that this is a sampling anomaly as opposed to, that creates the large target that they have to meet.

And it seems to me if they've made a good-faith effort over a two-year period to try and meet a reasonable target I don't, much as I'd love to hold my colleagues in New Jersey's feet to the fire for any old reason the fact is this is not one that I think is worth doing so I'm inclined to say that I'm comfortable with their good-faith effort to meet the otherwise realistic-looking targets so no motion from me.

CHAIRMAN AUGUSTINE: Thank you. I see a lot of nodding heads around the table. May I assume or may we assume that the board concurs with Mr. Smith's comment? All right, anyone that has a vehement opposition to that?

Seeing none, thank you, Mr. Smith, for your wordsmithing on the position on that. We'll let this little dog lie on the side of the road. Okay, and now we're ready to ask for a motion to approve the FMP.

A.C., you're looking like you're ready to do it. Are you going to approve the FMP? Okay, someone. Mr. King, you're scratching your chin. Would you like to do that, Mr. King? Mr. O'Reilly, please.

MR. O'REILLY: Yes, **I move to approve the FMP.**

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly.

MR. O'REILLY: **Review.**

CHAIRMAN AUGUSTINE: Do I have a second?

DR. DANIEL: Second.

CHAIRMAN AUGUSTINE: Who seconded it? Ah, Dr. Daniel, thank you. Discussion on the motion. Seeing no discussion on the motion are we ready to vote? Yes. All in favor of the motion please raise your right hand; thank you; opposed, same sign; null vote; abstentions. **The motion carries.**

#### **REVIEW OF DRAFT ADDENDUM II AND SUPPLEMENT**

Thank you. Okay, we're moving on to Draft Addendum II. This is a final action that we're looking at, review the addendum and public comments on Addendum II. Nichola, it's your turn.

MS. MESERVE: Thank you, Mr. Chairman. Just to briefly look at the timeline of this addendum, the board initiated this process with Addendum I in May of 2005. In August of 2005 the board approved a -- reviewed and approved the draft addendum for public comments.

In November 2005 the board approved the biological sampling provisions that were in Addendum I. And in August 2006 the board approved Draft Addendum II with the supplement for public comment. And

now we are considering final approval of Addendum II.

Because the board has not, did not have the supplement at the last meeting I just want to review some of the additional analyses that were provided by the parts of the TC for it and go over the management measures.

The original addendum had the 0-, 25-, 50-, 75- and 100-percent reduction options but at the last meeting the board stressed that it was looking more at the 0-percent reduction or status quo and the 25-percent reduction so this is Management Measure 1 for the fishing mortality.

The second management measure that was reconsidered was de minimis status, Option 1 being that de minimis states not be required to implement the provisions of Addendum II which would be the status quo. And Option 2, that de minimis states be required to implement a recreational bag limit only.

Following the August board meeting the board asked the TC to develop some examples that would provide the states, that would provide the states examples of what would be necessary to achieve a 25-percent reduction, mortality reduction.

For this the TC did some analyses on the recreational creel limit and provided both coastwide and state-specific examples. The TC looked at the recreational size limit and provided three states of examples.

The TC also looked at the recreational seasonal closures and provided three state examples. The TC looked, the supplement includes a table that has the landings per month for the commercial fisheries.

And this was meant to provide the board with a way to see how closing a certain month, how much of a reduction that would have. The TC was not able to look at the commercial size limit and mesh sizes that would be required to reduce landings by 25 percent.

All of the analyses that were included in the supplement are preliminary examples for the board's

consideration. They are based on reducing landings by 25 percent from a 2003-2004 baseline.

This table looks at the recreational bag limit. I'm going to guide you through it a little bit. The status quo is on the left-hand side in the third column. The states have a variety of bag limits right now.

The TC provided an estimate of the bag limit that would be necessary to reduce coastwide landings by 25 percent, including all of the states for weakfish. And this would bring the bag limit down to four for each of the states.

The TC also did the same calculation to reduce landings by 25 percent but excluding those states that are de minimis. And this was done under the assumption that Connecticut, South Carolina, Georgia and Florida would be de minimis.

The TC also provided a state-specific 25-percent reduction. As you can see, these vary from less than 1 to 16 fish for the bag limit. Those that are less than one it means that the state would also be required to implement some other restriction for the recreational fishery such as reducing or increasing the size limit to achieve the 25-percent reduction.

The TC also wanted to draw your attention to the last column which has the percent standard error range. This is, the PSE is a measure of sampling variation and anything above 30 percent can be considered to be unacceptable. And about half of the states' examples are above 30 percent for that column.

The TC also provided some recreational size limit analyses. They did this for New Jersey, Virginia, and North Carolina. These examples are in the supplement. For example it shows that if New Jersey were to increase the minimum size to 14 inches it would achieve a 25.9 percent savings for the recreational harvest.

However, if you moved to Virginia and implement the 14-inch size limit it would only be a 5.28 percent savings so it would have to be state-specific in order to achieve the required savings.

The TC also looked at recreational season to reduce the recreational landings. And I'll leave it to you to also, to look at the supplements and it provides the different savings per wave that are based on two months for each wave.

And again there is the table of the commercial landings by state that can provide a similar analysis. This slide is just to draw attention that an implementation schedule would have to be identified by the board if they were to choose to move forward with this addendum.

I will now summarize the public comment that was received on this addendum. There was, because this went out as part of Addendum I earlier there was some comment from the fall of 2005 and I put a brief summary of this comment on the CD just to provide a background.

In the fall of 2006 after the board meeting we collected written comments for about one month. There were eight comments received and again no public hearings were held. Of the eight comments six spoke of the recreational fishery specifically.

Four requested or commented in favor of status quo. And two favored the mortality reduction. For those that wanted the mortality reduction they suggested certain measures such as a 16-inch minimum size limit coastwide, using a slot reduction that would have a 25-inch maximum size limit, or changing the season so that there would be a closure during spawning.

Again of the eight comments five spoke to the commercial fishery. Two favored the status quo and three favored the mortality reduction. Each of the individual comments were the same except for one that wanted a moratorium until the fishery was rebuilt for the commercial fishery.

There was also some additional comments that there should be a catch-and-release education program for the weakfish fishery, that weakfish abundance is cyclical and inversely proportional to the croaker population, that there is low confidence in the MRFSS estimates' accuracy because of the reduced

weakfish availability, and that converting landings to discards through stricter regulations would further decrease confidence in the MRFSS estimates.

One comment also suggested that there is still a need for more scientific work and better stock assessments. And one suggested that for any commercial closure there should be a consistent recreational closure.

I have also passed out one additional letter that was received from the North Carolina Marine Fisheries Commission. It wasn't included in this summary because I received it past the date.

The letter favors status quo because of the uncertainty on the status of the stock and how reducing fishing mortality would play out in terms of the stock as well as the socio-economic reasons and the potential waste that would result from unquantified discards.

Also, the Weakfish Advisory Panel met to discuss this addendum. A summary of that conference call has just been handed out as well. And Billy Farmer is the chair of the AP and he is going to give you an overview of that. Thank you.

CHAIRMAN AUGUSTINE: Mr. Farmer, please.

MR. BILLY FARMER: Thank you, Mr. Chairman. We had a conference call October the 12<sup>th</sup> at 3:00 o'clock and discussed at great length. We decided to vote on these items. The fishermen are not responsible for the decline and should not be penalized for it. That was pretty much a statement from everybody in attendance.

Such a decision should be based on the science that says the effect will contribute to the stock improvement, i.e., reduced harvest won't improve stock status due to the fact that the fishermen, recreational and commercial fishermen, are not the problem.

Economic concerns, especially in light of pending decisions for other stocks, seasons that overlap with shrimp and other fisheries are not practical. And a lot

of the area guides in North Carolina, particularly, are specifically targeting gray trout now. We would hate to see them lose. That vote was 3-6.

A 25-percent reduction needs to take a precautionary approach in light of the stock decline. There, again, it was due to the fact that it was a natural mortality that we did not believe this would help in any way increase the stock.

Cuts should be made state-specific. Some states are not having the reduction and other states are. The reduction from 7.5 to 5 five fish, 7-12, 5-14, and I think you all have heard even greater than that. We were 1 to 6 on that. And we've fought in North Carolina specifically to get the recreational fishermen their fish. So we would, a commercial stamp, I'd hate to see them lose.

A four-fish bag limit for recreational fisheries, spawning closures should be considered, that one was a hard one because of different areas of which they do spawn and different times. That was 2 to 6. De minimis state requirement, no requirement for de minimis states, 1-6. That would be no rules whatsoever implemented against them. We went along with that.

Bag limit requirement for the de minimis states, we went along with that. Let them have an open bag limit. Bycatch allowance, commercial fisheries, we believe we already do enough on the bycatch allowance that we should not be penalized in any way for that so that went 2 to 6.

Other comments, desire for a rule stocking for bait fishery for weakfish. We ask that you all consider no weakfish to be used in any type of fishery -- crab fishery, king mackerel fishery, any fishery.

Water quality, that was another great concern from every state that represents us on the advisory panel as to something you all can take into consideration if it is making the stocks decline.

Request for multispecies, multi-factor assessments that consider dogfish, menhaden, summer flounder, porpoise, striped bass, Atlantic croaker, water

quality. There again there is the problem. Other fisheries are eating the young, immature gray trout, we believe. We cannot prove that but we believe that.

Questions regarding the stock split, thinking that stock is much healthier south of Cape Hatteras where fishermen are only beginning to target weakfish. As a result, harvest restrictions should be more specified in the northern section of North Carolina and the other states. We ask that you take that into serious consideration. And I thank you for being allowed to present it.

CHAIRMAN AUGUSTINE: Thank you for that report, Mr. Farmer. Are there any comments or questions from the board? Okay, I guess we're ready for some action, then. In reviewing the addendum I think we should move forward collectively unless someone has a particular line item that they want to present individually.

Now that could mean we could ask for a motion to accept it with a choice of one option versus another but we'll go to Mr. Smith and see what his choice would be.

MR. SMITH: Well, before a choice I have a question for Nichola. On your slides where you had the column with the state-specific creel limits a lot of the states that have ten fish limits the conclusion of that analysis was that they would have to have a limit of less than one fish and the PSEs were enormous. I mean, I think for Connecticut it was 99 or 97 percent.

And I just wonder, is that a function of the fact we just don't take many fish and it just was incredibly noisy or is there something in the analysis that by doing it state-specific it meant you had such small bits of data to analyze that you had a huge variance in that you're trying to parse the data too fine?

MS. MESERVE: I'm going to let Russ Allen answer your question and any other technical, any questions on the technical analyses.

CHAIRMAN AUGUSTINE: Mr. Allen.

MR. ALLEN: To answer your question I'm looking at, you know how we derived those numbers right now. Massachusetts, the most they had in the two years of analysis, 2003 and 2004, was a harvest level of one; Rhode Island, a harvest level of one; Connecticut, a harvest level of one; and New York --

MR. SMITH: Data?

MR. ALLEN: Yes.

MR. SMITH: In other words, the observation of the creel sampling.

MR. ALLEN: Right from the MRFSS dataset. New York had a harvest of three. It was the highest they had so there was no bag more than three or more creel caught in those states and caught by MRFSS.

MR. SMITH: Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Smith. Mr. O'Reilly. No, I'm sorry.

MR. O'REILLY: I think this will lead to a --

CHAIRMAN AUGUSTINE: Mr. Boyles after --

MR. O'REILLY: I'm sorry.

CHAIRMAN AUGUSTINE: Who have we got? We have Mr. Daniel first then we have Mr. Boyle.

DR. DANIEL: Thank you, Mr. Chairman. Maybe to get the ball rolling I would **move that we approve the supplement to the addendum with status quo**. And if I get a second I would like to speak to my motion.

CHAIRMAN AUGUSTINE: Okay, we have a motion on the table. We have a second by Mr. Carpenter. Discussion on the motion. Mr. Daniel.

DR. DANIEL: Thank you, Mr. Chairman. You know Pres said we were in a tight spot yesterday with flounder and I think we're in the same tight spot with weakfish. We are usually dealing with peer reviewed population assessments. We don't have that.

We have a tremendous amount of information from our technical committee that suggests that the stock is in decline. But the problem is the discussion on Page 3 of the draft supplement where it indicates that presuming that the reducing exploitation will result in recovery ignores the uncertainty imposed by ecological interactions and that high natural mortality does not provide managers much leverage for recovery by managing the weakfish fishery alone.

However, projections indicate that cuts in fishing mortality are needed for timely recovery if natural mortality declines. Well, I'm not sure I understand and maybe Russ will be able to help me with this but how that comment, that statement can be made accurately without an assessment.

What projections? And projections based on what? And so I believe based on you know the pain that we've gone through with Amendments 2, 3, and 4 by implementing size limits, by increasing size limits, particularly in the southern area, specifically North Carolina that has had significant impacts on our fishery, the flynet closure south of Hatteras which achieved a 42 percent reduction for the last 10 years, the things that we have done and the need is there.

We've done, we've shown a -- we can see back what the impacts of those restrictions were before we had this problem occur with natural mortality rise. The stock increased. We added a year class to the age structure of the population every year.

Things were going great. So I would argue that we have the measures in place in the event that the natural mortality cycles turn around and the population is allowed to recover with all the measures that we've taken over the last ten years.

So I think to say that -- well, and let me just say one more thing and then I'll shut up. The other issue is we have no way without an assessment to determine whether or not we've had any impact or not.

And we're at a situation right now where the landings are so low that in order to achieve the 25-percent reduction for North Carolina, say, I don't know how

you do it without having tremendous amounts of discards.

If we go -- we can achieve it in North Carolina by going to a 13-inch size limit maybe in the commercial fishery. Well, what's that going to get us when we're dumping thousands and tens of thousands of pounds overboard because they happened to be caught incidental to a flynet targeting croaker because they're not going to be able to target flounder because of the reduced quota?

So I think what you're going to see is you may see a paper reduction in some of the major player states but what you're going to really end up with is a bunch of unquantified discards and then you're really not going to have any idea what's going on in the population. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Points well taken, Dr. Daniel. Mr. Boyles.

MR. BOYLES: Thank you, Mr. Chairman. I don't want the management board to think that South Carolina is sitting idly by while Rome or fiddling while Rome burns.

I just wanted to let everyone know that we are pursuing legislation with our general assembly when they convene in January to implement both size and bag limits. And part of that of course will hinge on what the management board decides to do. So we recognize the issue but I just wanted everyone to be aware of that. Thank you.

CHAIRMAN AUGUSTINE: Thank you for that information. Mr. O'Reilly.

MR. O'REILLY: Thank you. I think based on the instability of a lot of the recreational estimates, I mean I know we're hearing today from some states that were typically fairly low in the amounts of recreational harvest, you know, the Mid-Atlantic if you go back through time was the major contributor on the recreational side.

I think there is a little doubt in my mind about looking at that type of data. And we are looking at a



harvest reduction. And I suppose to Louis I could say, well, we're going to do a harvest reduction so that's going to reduce harvest. But I don't know that.

One reason I don't know that is the type of data, the two different types of data, the recreational data and the commercial data, but secondly if you look at what we've done in the past with Amendment 2 we had seasons for the commercial fishery.

They extended anywhere from a few months to almost an entire year in some states. And we partitioned those to make a 32-percent reduction in the fishing mortality rate. So what we did was we kept the traditional good seasons for our landings and eventually after a little bit of the time we were able to have bycatch in those other periods.

Any type of a reduction on the commercial fishery now will have to dig in to areas where there are good landings, albeit low, still the better times for fishing. So what will happen? And Louis is correct. What will happen is you'll have unquantified discards.

I neglected to even think about it during the assessment report but one thing that the technical committee has asked in the past is to get a quantification of the bycatch. And I don't think even that is being followed through state-by-state.

So I do see problems not so much with whether it's a reduction, a harvest reduction, but will we get a harvest reduction. And, as I said last time, in 1990 and '91 the message to this board was if you truly want a reduction it has to be gear out of the water, it has to be seasonal closures that are aligned geographically.

Of course we all know that wasn't done. We all know that that's impractical today. We all know that it's a mixed species fishery. And we all know it does lead to discards. So really I'm having difficulty not with the idea of trying to improve the status of weakfish but the way that we're trying to go about it. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly. Mr. Carpenter. Remember, we're trying to

focus on the motion that is at the bottom, move to approve the supplement to the addendum selecting the status quo options. So, Mr. Carpenter, you have the floor.

MR. A.C. CARPENTER: I seconded the motion because there is nothing that upsets me any worse than having discards that would have otherwise been landings and we haven't changed the mortality.

The only thing that I see this addendum would possibly do is convert landings to discards. And that's the wrong way to move. In times when we don't have any information at all on discards at least we would have some information on landings. And we still have the problem with discards but at least we'll know what was landed. I support the motion.

CHAIRMAN AUGUSTINE: Thank you for that clarification, Mr. Carpenter. Is there anyone who is opposed? Mr. Miller.

MR. ROY MILLER: Thank you, Mr. Chairman. I am going to oppose the motion and I'll briefly say why. I think if we maintain status quo in terms of creel limits I noted in the discussion presented this afternoon that recreational harvests for the first time have exceeded commercial harvests.

I believe I quoted you correctly in that regard in 2005. So, therefore, the recreational sector becomes more of a concern to me at this point in time. And I wonder if we don't change our respective recreational regulations I wonder if we're being conservative enough.

We all recognize that total mortality or Z is climbing in this stock. We heard that from our technical committee and our stock assessment committee. Granted, the peer review of their report was not accepted. But I don't think anyone disputed the fact that the available measures of total mortality have increased.

So what can we do as managers? The only thing we can do in the short term to affect that total mortality rise is to attempt to institute controls or caps, even, on fishing mortality. I don't think this does it.

This stock may recover on its own. I don't know. I don't have a crystal ball in regard to this stock. But to do nothing is to admit that we're powerless to affect that recovery and that recovery is just going to take place on its own or maybe never.

Therefore, to prevent states from overexploiting localized abundances of weakfish, providing we get good year class in particular estuarine areas such as Delaware Bay, key estuaries, I think some conservation is called for.

And I'm, as I stated, I'm most concerned with the recreational sector in my own state as opposed to the commercial sector. So, that leads me to examine Table 1 in more detail. And if we were to vote in and vote down this particular motion what would be the recreational guidance for the 25 percent?

Would it be creel limits of four? Would it be creel limits in the next column or creel limits state-specific? At this point I don't know. Having asked that I hope someone will help me out. And I've stated my opinion. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Miller. Dr. Gibson.

DR. MARK GIBSON: Thank you, Mr. Chairman. I share Roy's concerns. I think it would be irresponsible not to ask for some fishing mortality rate reduction in the face of uncertainty as to what is going on. And I would point back to our last meeting when a lot of, there was a lot of notoriety on the part of the board on the estimated rise in natural mortality.

But I pointed out that even with that happening there was a rise in fishing mortality. And because of the scale of the graph it didn't look that impressive but it was on the order of 20 percent.

And you simply can't let that happen, let fishing mortality creep when you don't know why the stock is in the straits that it's in. So I don't support this motion. I'm not going to move to amend to a 25-percent option because I think it's a loser and I won't

waste the board's time but I said what I had to say. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Dr. Gibson. Dr. Daniel and Mr. O'Reilly.

DR. DANIEL: I just want to address Roy and Mark. And I realize we're all in a difficult position here. And as managers this is the only thing we have to control. But again I go back to something that Rob said and I think A.C. said as well, I mean North Carolina can achieve this reduction on paper. But we're going to be throwing back a lot of dead fish.

I mean you look at the average catch per trip in the flynet. It's 50,000 pounds. All right? That's going to go overboard and it's going to be the exact same issue that we dealt with in '96 when they proposed closing the EEZ.

Some states direct on weakfish. They can go out and they can catch weakfish. We can't do that. The poundnet fishery in Virginia can't do that. So in these multispecies fisheries we're going to have a tremendous amount of unquantified discards. And I just hate to see that happen.

I don't think it would have that significant of an impact, to be honest with you. But I think when that big catch occurs off of Hatteras in the winter time and the season is closed or they're mostly 12-inch fish and we've gone to 14 or whatever to meet the mandate of this reduction, that's not going to be able, we're not going to be able to determine if it had any effect. It's going to -- we're not going to know what the issue is.

CHAIRMAN AUGUSTINE: Thank you. Do you have new information you want to add to this, Mr. O'Reilly?

MR. O'REILLY: Yes.

CHAIRMAN AUGUSTINE: Go.

MR. O'REILLY: One small point would be just to address Mark's idea on the rising fishing mortality rate since it was mentioned last meeting as well. My

understanding of the fishing mortality rate is that it is a relative, relative fishing mortality rate and analysis the technical committee did by essentially dividing catch per private boat trips and into the landings.

And it used the 1998 ADAPT output to seed that analysis. The ADAPT output bombed, of course, beyond 1998. So I do, just as a point of you know maybe contention, think that saying absolutely that F has risen, we don't really know that. And it is relative F.

The more important thing I wanted to mention was if you look at a little bit of an unlevel playing field, recall that with Amendment 2 the management measures were set in place for the commercial and recreational fisheries and at that time it was a 32-percent reduction in fishing mortality rate, as I mentioned.

When Amendment 4 was adopted there was some liberalization of the bag and size limit options for the states. There was not for the commercial sector. In effect the jumping-off point for any reductions, it's a little bit uneven.

And I leave it up to the board to think of whether that's significant or not but it is a little bit uneven the way things have been determined by past amendments. The other part is for the commercial fishery there is a closed season option and North Carolina chose an area closed option.

And I would think that rather than dwell on the idea as Roy pointed out of which bag limit might be possible if you consider all the detrimental comments about looking at the harvest data you may want to think closed season for commercial essentially, except for North Carolina, then closed season for recreational.

And, you know if there is a will to move forward here then I strongly urge everyone to consider the parity of closed season options. We don't know what a bag limit change is really going to do.

We already heard that on the state-specific information the PSEs are so high I can't imagine that

that's going to be very useable. I don't think there has been a regional approach as we've done many times in the past.

And the coastwide approach, you know, probably is the best of all considerations. But the season, you know to get some parity on both fisheries might be looked at favorably.

CHAIRMAN AUGUSTINE: Okay, Mr. Carpenter and then we're going to go to the public.

MR. CARPENTER: Thank you. I, too, am concerned with the recreational side of this more so than the commercial side. But I do want to remind the members of the board that there is nothing preventing them from lowering their own creel limits in response to their belief and need for more conservative action. It doesn't take an addendum by this board to do that.

CHAIRMAN AUGUSTINE: Excellent point, Mr. Carpenter. Now we'll go to the public. Tom, would you come on up to the microphone, please.

MR. THOMAS FOTE: I hate to disagree with Rob but what happened under Amendment 4, if you remember right, is that the people that went to 12 inches were actually allowed to increase their bag limit from four fish to seven fish. And the only two states that did that was Virginia and North Carolina.

As a matter of fact, New Jersey went from 14 and 14 to 8-fish bag limit, I mean down to a 13-inch size limit and actually a much smaller -- as a matter of fact they did take a reduction. So did Maryland. So did Delaware. And so did the states that were under the 13-inch size limit. So they actually did take a reduction.

I mean, yes, and you look at our 2005 figures in New Jersey. I mean I don't know where they came from. I mean I wish we had 1.1 million fish and everybody else only had, you know, it seems kind of ludicrous to basically look at those numbers.

And to get that number out of there and you get a more realistic number. It brings down the mortality.

It brings down the recreational catch and everything else. And we all, I'm not going to sit here and bash --

CHAIRMAN AUGUSTINE: Do you support the motion, Mr. Fote?

MR. FOTE: I support the motion of status quo but I just wanted to clarify that point.

CHAIRMAN AUGUSTINE: Thank you very much.

MR. PHIL CURCIO: Thank you, Mr. Chairman. Phil Curcio, United Boatmen, New York Fish and Tackle Trade Association, Recreational Fishing Alliance, I just want to put two points on the record for these organizations.

They've been stated already but we, first of all we support the motion as it stands. I just would like to remind the board that peer review rejected the stock assessment. So what is it that we're reacting to here?

Is this a perceived decline? There is really no scientific basis to move, to make any kind of a reduction at this time. Perceptions cannot form the basis for a management decision. Second, a quote from the draft addendum, "projections indicate that none of the cuts in fishing mortality alone would result in recovery."

So once again we're poised, if we make any kind of reductions we're poised to punish fishermen for something that they have no control over. This is also an implicit affirmation that these fish are cyclical, a notion that is also supported by quite a bit of the scientific literature.

So why should we institute a mandatory cut? We support the status quo motion and we say let the stock do what it does naturally. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Phil. We appreciate that. Our chairman would like to speak from the public point of view and he has moved himself from up here to back there so Mr. Farmer please come to the phone.

MR. FARMER: Thank you, Mr. Chairman. As a representative of the commercial industry in the state of North Carolina I traveled before this meeting and spoke to commercial fishermen and commercial fish houses and asked them their feelings on this.

When we had a moratorium on gray trout the commercial fishermen lost their sale. We are now slowly recovering. To cut our quota 25 percent would virtually take it back away from us and make us hammer another fishery so we'd be sitting here discussing maybe croakers, maybe something else where we've had to change over to that fishery.

As Dr. Daniel stated, North Carolina implemented some very good rules on reduction of gray trout. We increased our gillnet size. We put escape panels in the shrimp trawls. So at this time we would ask for you all not to impose any more restrictions on us or the recreational fishery.

We're going to have to support them in this as there is no actual proof that they are the cause of the problem. And I thank you for those statements.

CHAIRMAN AUGUSTINE: Thank you, Mr. Farmer. I think we had pro and con. Mr. Miller, one final comment please before we caucus.

MR. MILLER: Mr. Chairman, I wish I had the opportunity to tweak this proposal further. It's not that I have the answer to everyone's dilemmas, I don't.

But I sometimes wonder if a proactive conservation stand would be beneficial and desirable, such as what if -- and this is just a "what if" scenario -- what if we had a cap on commercial landings over some time, some recent time frame, just as a for instance.

What if we had a fairly conservative recreational creel limit, on the order of four? What would be the potential benefits of that concerning stock recovery? And then we added favorable environmental conditions?

If we had these institutional controls in place such that natural mortality decreased, the stock would be

in a position to affect some recovery, kind of like we did in the early 1980s with striped bass, before we had more institutional controls like we do now.

So, I wish we had that flexibility at this point but clearly we're here to vote on what is before us today so I'm with Mr. Gibson in that I'll oppose the motion but I'm not terribly comfortable with suggesting anything else beyond that. Thank you.

CHAIRMAN AUGUSTINE: Thank you for your comments. Is there any new information to come before the board relative to the motion that's up there? Mr. Smith.

MR. SMITH: I don't have new information but I would like to make my comment because I've been unusually silent listening to other people and we're nowhere near the end of our allotted time on the agenda so I hope the chairman will indulge us to comment on the motion.

CHAIRMAN AUGUSTINE: I am not rushing through this.

MR. SMITH: Thank you.

CHAIRMAN AUGUSTINE: This is too important an issue and that's why I keep asking is there any more information or further discussion so, Mr. Smith, please go forward.

MR. SMITH: Thank you. I respect a lot of the people who have spoken and I have listened to them over time, Lou Daniel and Phil Curcio and a number of other people. I can't get past the nagging feeling that when I look at Figure 2 in the document and I see a precipitous decline in biomass it almost makes no difference to me why it's happening.

I'm not trying to blame fishermen for things but fishermen are -- and I've done this before. I equate this to lobsters in Long Island Sound. They died off for natural reasons. Fishermen say, "Why are you asking for more regulations? You know, we didn't cause the problem."

And my response I finally came upon was, "No, you didn't cause the problem but every fish you take out of the spawning stock is cutting away the possibility for recovery when natural mortality does decline."

So it's not a blame game and it's not, you know, the fishermen caused the problem; it's you only have so much biomass left and you have to hope that natural mortality declines and that's when the control on mortality is most effective because then the biomass can balloon.

And Lou made a good point that, you know, perhaps things have already been adopted that would have that effect if M had declined or did decline. But we don't know that. All we know is I'm looking at a rollercoaster that is not pretty because, you know, the biomass has dropped from 30,000 to 10,000 in five years. And you don't get any more precipitous than that.

I like, frankly, the creel limit option that is four fish coastwide. I don't like the implications of the commercial fishery limit that would be tantamount to a massive increase in discards.

And therefore I'm more or less stuck like Roy was that we've got an imperfect tool here and it's the only one that we have in front of us. And I think it's important to do it. So I guess I'm going to vote no on the motion and then see if in the next half hour we craft something different. Thank you.

CHAIRMAN AUGUSTINE: Thank you for your comments, Mr. Smith. Mr. Colvin.

MR. GORDON C. COLVIN: I find myself in the same kind of conflicted position I heard Roy Miller express. I'll look at Figure 2 and I'll say let's take ourselves back to 7:30 this morning and ask what we'd be talking about in managing this fishery and this stock in this condition under the requirements of the Sustainable Fisheries Act.

I think we'd be obligated to just about close the fishery down, wouldn't we? To do what we can consistent with our ability as managers to move towards achieving any defensible reference point for

stock restoration. And I don't think where the commission wants to be is on the opposite pole from the requirements of the Sustainable Fisheries Act.

And I think that, I'm afraid that doing nothing in light of this puts us at the opposite pole or is going to be perceived in some quarters as putting us on the opposite pole. And I don't know where that perception is going to go so that's a concern that I have.

At the same time I'm not crazy about the options that are on the table for a lot of the reasons that have been talked about here and particularly what I'm hearing about discards. I'm just not sure that we've got the right set of tools yet identified and in front of us.

But I think we need to do something as managers. I think we need to have some additional safeguards that will preserve opportunities for stock recovery in the event that we get some recruitment.

You know we've had evidence of recruitment last year, a year ago, a year and a half ago now in New York Harbor, and it got pretty well nailed. I don't think a million or whatever the hell the number was got landed but an awful lot of them did.

And I don't think they've come back this year in any particular numbers. And that's a shame. And that can happen anywhere. So I'm not sure what the answer is, Mr. Chairman. I don't have it either.

I don't have an alternative or a substitute motion to throw up there. But I do think that some form of management intervention is called for here to try to preserve opportunities for stock recovery. I just don't think status quo is it.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Mr. O'Reilly, are you going to get us off the dime?

MR. O'REILLY: No.

CHAIRMAN AUGUSTINE: Okay.

MR. O'REILLY: And I don't think this is particularly new after 16 years of looking at information finding out that we're probably where we were 16 years ago. It makes it very difficult.

But one thing we don't talk about -- and I asked at the last meeting that maybe we should know more -- I don't think a small presentation on the state compliance reports gives everyone an idea of what we're all doing, what the fishery are doing, what the fisheries are doing along the coast.

And I know we can all read through the documents and get an idea but I also know after cranking out a lot of those state reports and being on the PRT for quite a few years that you have sort of a cut-and-dried version and you don't hear about everything.

So I want to tell you just a little bit about Virginia. I looked at some information. Two thousand two was the last good year. The bottom dropped out in Virginia commercial fishery in 2003.

Consider that the poundnet fishery was very strong in Virginia up to about 2002 and really still in 2002 over a million pounds, probably 1.3 million pounds. And if you go back 5, 6, 10 years, very strong harvest from the poundnet fishery.

The poundnet fishery has changed remarkably since 2002 and there are two reasons. One is related to sea turtle conservation rules, bottlenose dolphin rules, and another is related to such factors as Hurricane Isabelle, Ernesto, Tropical Storm Ernesto which actually did more damage in locations than Isabelle did up in our, what we call our "northern neck."

So the reality is that while it might be good to think about doing something and focusing on Figure 2 at the same time I agree with Gordon it's how you do it. And so what I wanted to look at before I came here was just an idea.

I said, okay, let's look at 2002 and look at a fisherman-specific basis of their harvest and then find out three years later in 2005 how many of those fishermen were still harvesting weakfish.

I found 80 fishermen, not that many poundnet fishermen over that three-year period but a lot of gillnet, haul seine, fykenet, different types of gillnet, drift gillnet, anchor gillnet. The magnitude of landings over three years is about a third in 2005 as to 2002.

But the important point is 80 fishermen. They're going to be there in 2007, 2008. And this idea of trying to find a way to reduce harvest which is what we're doing because I mean with all due respect I don't think we know what we're doing with reducing fishing mortality rate.

I don't think we have any reference to that. So if we're going to reduce harvest, will we really? I mentioned just a moment, again, I said if we were talking about a harvest reduction strategy that on the front-end was 25 percent and on the backend we came out with 15 percent, that would be a real victory.

But I don't have any even close certainty that that will happen in the commercial fishery and concerning the recreational fishery there is a lot of emphasis on the bag limits but again I think probably people should look to the season.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Reilly. Mr. Daniel or Dr. Daniel.

DR. DANIEL: Well, and I'd like to give you a similar perspective on what's happening in North Carolina because it's about the same thing. With our flynet fishery that operates north of Cape Hatteras they're searching for croaker.

And if they get a mark it might look like croaker but it might be weakfish. All right? And when that happens those catches are made. And they're going to continue to be made. So I don't think it's the same thing as fluke and the issues that we were talking about this morning. That's a directed fishery.

And if you want a 25-percent reduction you can reduce the quota by 25 percent and you achieve a 25 percent reduction. It's also, at least dealing with the South Atlantic Fishery Management Council if we

had a rejected peer review we wouldn't move forward until we had some answers and some reference points and some projections that were based on an accepted peer review.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel. I think we've pretty well beat it up. I'd like to look at someone calling the question. Mr. Carpenter are you going to call the question? No. A comment?

MR. CARPENTER: No, I have sat here and listened to the entire debate and there is no easy answer to it and maybe our problem is that we don't have the right combination yet.

The idea of -- and as much as I hate the idea of a commercial cap but a reasonable commercial cap, a reasonably conservative creel limit for the recreational fishery, some kind of combination like that may be giving, give us the ability to feel like we have done something to protect the resource and at the same time haven't destroyed the fisheries that go with it.

And I don't know whether that's going to take a tabling this addendum and developing another addendum but I don't believe we've got our answer here. And maybe we didn't do our homework right before we started this addendum process but I can't support this addendum. I may be able to support some other options that -- at a later time.

CHAIRMAN AUGUSTINE: Thank you for your observations, Mr. Carpenter. It seems like it's along the lines that Mr. Colvin was suggesting he was having some problems dealing with it the way we're moving forward. The next step might very well be that we should --

DR. WILSON LANEY: Thank you, Mr. Chairman. There have been lots of excellent discussion on both sides of the motion. I am presently in a position of not being able to support the motion. I guess the major reason that I can't is because I went back and looked at the minutes from our last meeting and read on Page 18 the comments of Mr. Colvin and Mr. Miller. And I concur with them that you know when

things are good we can enable greater use and when they're not, we can't.

At the same time I recognize the fact that we don't have a really viable option in front of us right now. I would be happy to second a motion if Mr. Carpenter could craft what he thought was a viable option.

But I'm going to ask the chair and staff if there is any way, if there is any process, mechanism, that would allow us to sleep on this overnight and come back tomorrow and possibly craft something that would be -- if not I don't feel like I have any alternative but a vote against the status quo because I agree with the comments my colleagues have made about how that is going to be perceived.

CHAIRMAN AUGUSTINE: Thank you. I looked over and saw Vince shaking his head no so I'm assuming that nothing short of postponing action on this addendum and moving forward is going to get us where we want to go.

So at this particular point in time we're not quite stalemated but we obviously do not have the right options on the table to move forward to do the right thing, both for the fisheries and for everyone concerned.

So at this point in time I believe I would entertain a motion to table and I would think to a date -- well, Mr. O'Shea is shaking his head. He's got a better idea.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I don't know that I have a better idea. You know I don't think you want to, I mean if the intent here is to try to get some more options within the range of what you took out to public hearing, if that's what I'm sort of hearing and you think that with more options in front of you, you might be able to make a better decision then postponing this to the next meeting of the Weakfish Board, whenever that might be -- I was looking around for Bob Beal.

I'm not sure if we were going to schedule this board to meet in January. But that would be one option here I suppose is to postpone it until the next, just put

it the next meeting of the Weakfish Board and task staff with coming up with something that does more than the status quo but does less than the apparently 25-percent option that you all are wrestling with right now.

CHAIRMAN AUGUSTINE: Thank you for that insight, Mr. O'Shea. Mr. Beal, the ball is going to be in your court. We've just discussed the dilemma we're faced with. We have a strong sense around the board that the addendum the way it's written doesn't really address the major concerns and other issues that we should be concerned with.

And the question would be: 1, could we put this, postpone this off until the January meeting? Before you answer that question, did you have an intention of having the Weakfish Board meet in January?

MR. ROBERT E. BEAL: We haven't drafted the schedule for the January meeting. I, you know, feel pretty confident there would be time for the Weakfish Board at that meeting if that's what you choose.

You know obviously the question is what new information are you going to have between now and January that may change people's minds. But, yes, the board definitely can meet in January if that's what you feel you need to do.

CHAIRMAN AUGUSTINE: Okay, with that commitment I would like to go back to probably Dr. Wilson or Dr. Laney or Mr. Colvin or Mr. Smith to articulate the one or two things that we would like to have the staff look at to bring forward that would more appropriately describe where we're going. Mr. Smith or even Mr. Miller. Mr. Smith first.

MR. SMITH: Well, the thought I've had as we've discussed this and Vince actually you know put a good point on it, and I've asked the AP and Nichola, was there something through the public comments, either the ones in '05 or '06 that get us closer to using closed area/season-type of management in the commercial fishery as opposed to you know just keep fishing in the same patch of water but don't take as much fish which is where you get the discards.



I just don't know. I don't want to start a whole new addendum and go out to public comment all over again. I'm looking for trying to feed off of something that might have come forth in those two public comment periods.

CHAIRMAN AUGUSTINE: Nichola.

MS. MESERVE: I'm just more familiar with the comment that was received in this second round and there were a couple of suggestions for a spawning closure mostly as a closure option.

CHAIRMAN AUGUSTINE: Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Yes, Mr. Chairman, you know one of the difficulties here is there is obviously concern around the table and there is interest around the table and it seems to me I recall two meetings or so ago of us even looking at, this board even looking at a regional split.

And that got wrapped up in the biological basis for it even though that might have offered, quite frankly, a policy solution to this. But people weren't interested in -- they didn't seem to be interested at that time in pursuing that. And of course we have problems now with accepting a status quo and going forward.

But just as sort of a reminder this stock is important to some states. And people have spoke about that around the table. You know there is nothing to prevent any state from taking steps to protect weakfish on their own. Now, I understand the difficulty in doing that but just as a reminder.

And ultimately that may be the answer to this, the people that feel very strongly about it, the states that feel strongly about it, it may be up to them to take action on their own given that we've sort of rejected the regional approach to addressing the concerns. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. O'Shea. Any other comments? Mr. Miller.

MR. MILLER: Just very quickly, although the idea of taking unilateral action on your own sounds

attractive, a few states like mine lack the ability to do so. We can by regulation act in concert with an approved interstate fishery management plan. We do not have the ability to go out on our own. Thank you.

CHAIRMAN AUGUSTINE: Thank you for that. Mr. Carpenter.

MR. CARPENTER: I'm going to ask a question that's going to lead to what I hope is some discussion and an idea. Is there anything in either the public hearing draft or the supplemental public hearing draft that would allow this commission to adopt a coastwide creel limit of four, a commercial cap at the 2003 level, with a provision that once the cap is reached all of the state would then convert their fishery to a bycatch-only and reduce the bycatch from 300 pounds to 200 pounds? Is there anything in there that would allow that kind of a solution without having to go back out to public hearing and --

CHAIRMAN AUGUSTINE: Let's ask, Mr. Carpenter, and see if there is. Mr. Beal.

MR. BEAL: Dr. Daniel had his hand up. He may have a comment and then I'll answer.

CHAIRMAN AUGUSTINE: Dr. Daniel.

DR. DANIEL: Yes, and I mean please don't misinterpret my motion as thinking that there is not a problem here. I mean I'm trying to come up with a solution as well. And I don't know what it is. A.C. brought up a point.

I mean that's a great idea but like I said, I mean, what good is a 300-pound trip limit with a 70,000 pound catch? If we're going to have this fishery I can't close the flynet fishery off North Carolina to protect weakfish when the principle fishery is for croaker and maybe black sea bass or any other fishery up north of Hatteras.

One option that you may want to think about -- and I know I may be selfish but I mean recognizing how the fishery in North Carolina operates -- do a North Carolina-south split and deal with it that way.

I mean if we can't come up with a biological basis for the Hatteras split come up with the North Carolina-Virginia line split if that's acceptable to Virginia. And then you can take the necessary management measures you need north of North Carolina where you won't have the discard problems and then let the southern states stay at status quo. That's an option.

CHAIRMAN AUGUSTINE: Thank you for that option. Mr. Beal.

MR. BEAL: Getting back to A.C. Carpenter's question, the four fish bag limit is clearly, you know, within the bounds of the document that went out to public hearing. I think a commercial cap is probably a bit beyond the scope of what was included in the public hearing document.

But you know ultimately it's up to the management board. You know what's your comfort level with the range of options that went out to public hearing and the breadth of public comment that you received?

If this board feels that that issue is adequately covered and the public was aware that that may be a consideration then it's, you know it's ultimately your call. It's your comfort level.

CHAIRMAN AUGUSTINE: Mr. Carpenter.

MR. CARPENTER: Is it possible to have the technical committee review the commercial Option 2 there for the 25 percent and convert it from days' reduction in fishery to a cap at the 2003 or 2004 or 2002 so that you would get your 25-percent reduction but you would use a cap instead of a seasonal closure?

CHAIRMAN AUGUSTINE: Mr. Allen, do you want to look at that or Mr. Beal?

MR. ALLEN: Without having the numbers in front of me it's very hard to know if that's going to be a 25-percent reduction and exactly what you're looking for. I'm not so sure. Thank you.

CHAIRMAN AUGUSTINE: Thank you.

MR. CARPENTER: What I'm looking for is something that was taken out to public hearing to indicate that there could be a seasonal reduction and I want to try to substitute a cap instead of a seasonal reduction.

CHAIRMAN AUGUSTINE: Mr. Smith and then Mr. Miller.

MR. SMITH: You know I'm torn between two courses of action. One of them is just simply have you call the question on this and conclude our business by either deciding if we like this motion or not.

The other one is frankly to move to postpone the debate until the next meeting. We clearly aren't comfortable with the solution. I'm not comfortable with what I recall in the addendum document.

As much as I think A.C.'s got an interesting idea there, that's too far out of bounds for me regarding public scrutiny of that approach. And I'd want to have more discussion, debate, analysis. I'm going to **move to postpone until the January meeting.**

CHAIRMAN AUGUSTINE: Okay, do I have a second?

DR. GIBSON: Second.

CHAIRMAN AUGUSTINE: Seconded by Dr. Gibson. Okay, I don't believe there is any discussion on that motion. Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Yes, Mr. Chairman, I think you know a motion to postpone is, always has attractions to it but in order to avoid spending another three hours in January one thought that occurred to me is that we could offer from a staff perspective to try again to get together with the states that, I think we know where the pressure points are in the states.

And the staff would, with your permission, be willing to try to carve something out that we think fits within what you've already taken out to public hearing and

see if we can find an alternative to you and with that understanding would try to bring that back to you in January for you to chew on.

CHAIRMAN AUGUSTINE: Okay, Mr. Miller.

MR. MILLER: Mr. Chairman, I was just going to say that there may have been a third alternative and that would be to consider what we can do today such as a four-fish creel limit for recreational and postpone action on any commercial cap or any other commercial measures until the technical committee can come back with us, to us with appropriate advice.

But we could defer all this until late January. But I think we would be smart to give the technical committee as much guidance as we can at this time as what we want them to look at. It's still a little vague in my mind what we want them to look at.

You know you can superficially consider the idea of commercial caps and look at landings for 2002 through 2004. And if you did a three-year running average you would come up with some level, just as an example of one thing you could look at. I'm not suggesting necessarily we do that. But those are things the technical committee could consider.

Now, I don't for a minute think that a recreational creel limit of four truly will result in a 25-percent reduction in recreational fishing mortality. And I base that on living in a state to whom weakfishing used to be extremely important. And no one I know catches four weakfish.

So I don't think that's a realistic 25-percent reduction any more. But it is a number that would prevent a potential windfall situation were the stock to show signs of recovery. That's the only reason I'm currently gravitating toward that four-fish creel limit. Thank you.

CHAIRMAN AUGUSTINE: You're welcome, Mr. Miller. Mr. Allen, I think you were going to respond to that.

MR. ALLEN: Thank you, Mr. Chairman. Back to A.C.'s question, one thing to remember about what is

in the addendum are examples of 25-percent reductions such as the bag limits, seasons for rec, cutting back on days for commercial. But the actual addendum is a 25-percent reduction in harvest.

And there is nowhere that I know of in there that it tells you exactly how you have to come up with that 25 percent. You can correct me if I'm wrong. But a cap on a certain amount of harvest from whatever time period is decided would be a 25-percent reduction if that's how you wanted to do it.

CHAIRMAN AUGUSTINE: Mr. Boyles.

MR. BOYLES: Thank you, Mr. Chairman, that does raise a question about -- again forgive my naïveté about conservation equivalencies and some of the other things. Again, you all know the situation we've got in South Carolina. And, again, our interest is in moving forward one way or another. But I do have concerns about the "one size fits all" on the recreational side. Thank you.

CHAIRMAN AUGUSTINE: All right, I think we've got enough side conversation going back and forth. We do have a motion on the table to move to postpone the debate further until the January meeting.

Is there a need for a caucus? Seeing none -- do you want to caucus? All in favor of **the motion to postpone until a date certain** please raise your right hand; same sign, opposed; thank you; null; abstentions; 13-2-0-0. **The motion carries.**

Now, just one last point, in response to what has been asked of the staff or the technical committee to do, do we have enough information that: 1, you're going to search where we can go, what we can do and so on so that the board will have ammunition or items on the table, meat and potatoes, to try to figure out which way we're going to go? Thank you. Bob.

MR. BEAL: Obviously there have been a lot of ideas kind of floated around this meeting and we can pull those out of the minutes and work from those, I mean. And we'll definitely contact a lot of the states. As Vince said, we know where the pressure points

are I think and what states have concerns about how this is implemented.

And we will talk to those states directly and see what different scenarios they would like for the staff, the plan development team, the tech committee, whoever it is or whatever the appropriate group to deal with it as and we'll come back with a list of options.

CHAIRMAN AUGUSTINE: Thank you very much. Mr. O'Shea.

EXECUTIVE DIRECTOR O'SHEA: Yes, thanks, Mr. Chairman. I know you want to get out of here but you know the motion that you voted on before we could get to you was we were trying to capture it was to postpone debate and that, I know you're trying to do that but in effect what you're really doing, you had a motion that you had a second and you're deferring voting on that motion.

So it seems to me that what Mr. Smith wanted to do was postpone the motion until January. That means we'll put it on the agenda. And when you guys come in in January the first thing you're going to have to deal with is deal with a motion, an approved motion to approve the status quo or amend it. So with that understanding, I don't want you to think that staff is amending motions.

CHAIRMAN AUGUSTINE: Exactly, thank you for that clarification.

### **SHRIMP BYCATCH REDUCTION DEVICE CONSISTENCY**

We have one final item and that's the certification of the shrimp bycatch reduction devices consistent with the South Atlantic Fishery Management Council. You did receive a document describing the difference between the two.

What we're trying to accomplish here is we are trying to be consistent with the bycatch reduction devices that are presently being used and are being used successfully in the South Atlantic, so, Nichola.

MS. MESERVE: This is an issue that came up to the board at the last meeting but there wasn't enough time to consider it. But essentially the South Atlantic Fishery Management Council's Amendment 6 is inconsistent with our Amendment 4 for the bycatch reduction device measures.

The Council's Amendment 6 requires at least a 30-percent reduction in the bycatch of finfish from their BRDs and our Amendment 4 requires a 40-percent reduction. This is an issue that was brought up by the South Atlantic Board. And the Policy Board then asked the Weakfish Board to consider it.

The options on the table today would be to have no action, status quo, keep our 40 percent that is in Amendment 4 or to initiate an addendum that would modify the BRD provision of Amendment 4 to be consistent with the Council's Amendment 6. Or Option 3 would be another, something else that came from the board. Thank you.

CHAIRMAN AUGUSTINE: Okay, comments from the board. Dr. Daniel.

DR. DANIEL: Yes, I'd like to **move that we initiate an addendum for the ASMFC BRD requirements for weakfish to be consistent with the South Atlantic Shrimp Amendment 6.** And if I get a second I'll explain why.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel. And we have a second by Mr. Woodward. Discussion.

DR. DANIEL: The primary issue when we first approved the 40-percent reduction in the BRDs in Amendment 3 there was a lot of testing going on. The testers were having to go to areas where they knew there were high quantities of weakfish in order to get enough to satisfy the testing requirements.

And so what we've done is because of that problem and because of some other testing problems the South Atlantic turned the BRD testing protocol over to National Marine Fisheries Service and they've come up with a much better way to statistically test the BRDs and have implemented that.

It actually gives us more options and more devices that we can test and approve for the fishermen so it's been both fishermen-friendly and resource-friendly in terms of getting these new devices that achieve in some instances up to 60- to 70-percent overall bycatch reduction.

CHAIRMAN AUGUSTINE: Thank you, Dr. Daniel. Is there anyone who is opposed to this motion? Any comments from the public? Seeing none, I think we should move forward to call the question.

Do you need a caucus? I don't think so. Okay, all in favor please raise your right hand; thank you; opposed, same sign; abstentions; nulls; 13-0-0-0. **The motion carries.** Thank you very much. Is there any other business to come before the board? Mr. Beal.

MR. BEAL: Just a question on timeline for this new addendum that was just approved. Is the idea to draft that and bring it back at the January meeting?

CHAIRMAN AUGUSTINE: The January meeting.

MR. BEAL: I think it's a pretty straight-forward document. The South Atlantic has done everything. Fair enough.

### ADJOURN

CHAIRMAN AUGUSTINE: Any further business to come before this board? Seeing none, the board is adjourned. And thank you for your help.

(Whereupon, the meeting adjourned at 6:30 o'clock p.m. on Wednesday, October 25, 2006.)

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