

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

**December 15, 2003  
Roosevelt Hotel  
New York City, New York**

## ATTENDANCE

### Board Members

Lew Flagg, Maine DMR  
Pat White, Maine Gov. Apte.  
Senator Dennis Damon, Legislative Apte. (ME)  
John Nelson, New Hampshire Fish & Game Dep.  
G. Ritchie White, New Hampshire Gov. Apte.  
Dennis Abbott, proxy for Rep. Blanchard (NH)  
David Pierce, Massachusetts DMF  
Bill Adler, Massachusetts Gov. Apte.

Vito Calomo, proxy for Representative Verga (MA)  
David Borden, **Chair**, Rhode Island DEM  
Gil Pope, Rhode Island Gov. Apte.  
Jerry Carvalho, proxy for Representative Naughton (RI)  
Eric Smith, Connecticut DMR  
Gordon Colvin, New York DEC  
Bruce Freeman, New Jersey DFG&W

### Ex-Officio Members

Matt Cieri, Technical Committee Chair

Jeff Marston, LEC Representative

### ASMFC Staff

Megan Gamble  
Vince O'Shea

Robert Beal  
Toni Kerns

### Guests

Lori Steele, NEFMC  
Peter Moore, Norpel/Dona Martita, New Bedford,  
MA  
Jeff Kaelin, Stinson Seafood, Inc., Winterport, ME  
Mary Beth Tooley, East Coast Pelagic Assn,  
Camden, ME  
Bud Brown, CCA Maine, Georgetown, ME  
George Lapointe, Maine DMR  
Harold Mears, NMFS

Bob Ross, NMFS  
Linda Mercer, Maine DMR  
Roy A. Stein, Great Lakes Fishery Commission, Ann  
Arbor, MI  
Michelle Duval, Environmental Defense  
Charles Patterson, Sheepshead Bay, NY  
David Paris, Sheepshead Bay

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## MOTIONS

**1. Move to approve Plan B timeline for Amendment 2 development.**

Motion made by Mr. Nelson, second by Mr. P. White. Motion carries.

**2. Move to keep question under issue 9 in the document, revising it to include the following: Does the amount of herring provided as forage seem reasonable? And, should the Commission further alter biological targets or fishing practices to account for Atlantic herring's role as a forage species? If so, how?**

Motion made by Mr. Nelson, second by Mr. Flagg. Motion carries (4 in favor, 2 against).

**3. Move that under issue 7 the following question be added as an example of an effort control, "should area/time specific controls in area 1A be utilized to deal with user conflicts?"**

Motion by Mr. Nelson. Motion fails for lack of second.

**4. Motion to approve the Amendment 2 Public Information Document as modified today.**

Motion by Mr. Nelson, second by Mr. P. White. Motion carries.

**5. Move to approve Al West and Russell Smith as members of the Atlantic Herring Advisory Panel.**

Motion by Mr. Flagg, Second by Mr. R. White. Motion carries unanimously.

**ATLANTIC STATES MARINE FISHERIES  
COMMISSION**

**ATLANTIC HERRING SECTION**

**Roosevelt Hotel  
New York City, New York  
December 15, 2003**

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The meeting of the Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Terrace Room of the Roosevelt Hotel, New York City, New York, on Monday, December 15, 2003, at 8:00 o'clock a.m. and was called to order by Chairman David V. D. Borden.

**WELCOME & INTRODUCTIONS**

**CHAIRMAN DAVID V.D. BORDEN:** If you could have a seat, please, we're going to start. All right, let's bring the meeting to order, and I think as my first official action of the Herring meeting let me welcome everybody to New York. I'm sure Gordon is going to formally do that but welcome.

One of my suggestions, given the season here, is that people generally refrain from shaking a lot of hands and wash your hands a lot, given the flu season, so that we don't pass around the flu bug.

As far as the agenda, we've got an agenda that's been distributed and let me start off by stating that we have a new stenographer, Nanette Redmond. Welcome, Nanette. I would ask that you all have your name tags up in front of you. She is going to probably take a while to get used to everyone's name, not like Joe before. I'll try to call off the names.

**BOARD CONSENT**

**CHAIRMAN BORDEN:** So, as far as the agenda, does anyone have anything to add to the agenda before we formally begin? Anyone in the audience? I have one item I'm just going to under other business brief you on where Rhode Island stands with its IWP. There's no request for action on this so everybody can take a deep breath. It's just a briefing. If there are no items to be added to the agenda, we'll take the items in which they appear.

We have the proceedings from July 14<sup>th</sup> that have been distributed. Are there any additions, deletions, modifications to those agenda items? Lew Flagg.

**MR. LEWIS FLAGG:** Thank you, Mr. Chairman. I just noted on Page 6 of the minutes, sixth paragraph down on the left, a reference to the meeting in St. Andrews, New Brunswick, of May 9 to 14<sup>th</sup> -- that's February 9<sup>th</sup> through February 14<sup>th</sup>.

**CHAIRMAN BORDEN:** Okay, so that change. Any other changes? Any objection to approving the minutes with that modification? No objections, the minutes stand approved with that modification.

**PUBLIC COMMENT**

**CHAIRMAN BORDEN:** As we always do, we afford any members of the public an opportunity to comment early on in the meeting. We will also take public comments throughout the meeting. Are there any members of the public who care to offer comments at this time? No hands up, we'll move on to the New England Fishery Management Council update, Lori.

**NEFMC UPDATE ON THE DEVELOPMENT  
OF AMENDMENT 1**

**MS. LORI STEELE:** Thank you. My name is Lori Steele. I'm the fishery analyst for the New England Fishery Management Council who is responsible for the Atlantic Herring Fishery Management Plan at this time. I'm working on Amendment I to the Herring FMP.

Just to give you an update, I believe that Megan distributed the timeline, the most recent version of the timeline for our amendment, as well as a summary table of some of the issues that may be addressed in this amendment and some of the alternatives that are under development.

I'm just going to hit the major milestones in the timeline. At the September 2003 council meeting, the council approved a range of alternatives for analysis in the Amendment I draft environmental impact statement.

That range of alternatives was quite comprehensive, and it addressed a lot of different issues, and it's a pretty wide range of alternatives. It's going to be a lot of analysis that needs to be done in the environmental impact statement.

As a result, we revised the timeline a little bit, and we're facing some delays in the development of this amendment just to get the work done to do the analysis that needs to be done.

The timeline that you're looking at should show completion of the draft environmental impact statement and public hearing document and approval of both of those documents by the New England Council at the July 2004 council meeting.

So, right now the Herring Plan Development Team is working on the analysis of the various alternatives that have been approved by the council, and we'll have the complete EIS package presented to the council at the July council meeting.

Once that is approved, we'll be doing public hearings on the amendment around September-October 2004. The National Environmental Policy Act requires a 45-day comment period, and that would occur around the September-October time period.

The council will meet to select final measures in either November 2004 or January 2005. It really depends on the timing of the 45-day comment period and public hearings.

We're anticipating November 2004, but if for some reason the timing gets a little delayed, then it would be January of '05 and then we would shortly thereafter submit the document to the National Marine Fisheries Service.

Implementation of the amendment is scheduled for no later than January 1, 2006, preferably earlier depending on what issues there are associated with implementing the amendment.

The amendment is considering limited access for the herring fishery, and that's going to require a new permit program to be implemented by the National Marine Fisheries Service, so it may take a while, once we submit the document, to make it through the process and get implemented, but we're hopeful that it will be no later than January 1, 2006.

Also distributed to you I believe was a summary table with the issues that may be addressed in the amendment and the alternatives under consideration. This summarizes the range of alternatives that the council approved at the September council meeting.

However, a lot of these alternatives are still under development by the Plan Development Team and by the Herring Committee. We're kind of going through the process now of refining, revising, clarifying some of these alternatives.

It's likely that a lot of this may change before we get

through the draft environmental impact statement. There will be some things that will be recommended to be taken off the table. The council may take some things off the table.

There are some things, like I said, the details are still being worked out so don't be surprised if this summary table changes quite a bit over the next three or four months as we continue to refine these alternatives before we get the analysis finished in the draft environmental statement. That's about all I have in terms of summaries, so I'd be happy to answer any questions.

**CHAIRMAN BORDEN:** All right, questions for Lori on the New England Council. Anyone in the audience? Vito.

**MR. VITO CALOMO:** I heard Lori speak, but is there any place in the record that shows that this is a joint plan between the Atlantic States Marine Fisheries Commission and the New England Fisheries Management Council?

**CHAIRMAN BORDEN:** In the New England Council plan, Vito, or?

**MR. CALOMO:** Yes. We're a joint plan, aren't we joint in the herring?

**CHAIRMAN BORDEN:** It's not a joint plan.

**MR. CALOMO:** Oh, I always thought it was a joint plan.

**CHAIRMAN BORDEN:** Well, what we're trying to do is align both the plans, the timeframes and the management measures, but it's not a standard joint plan where both organizations have to approve it.

**MR. CALOMO:** They don't have any consideration of what we do in state waters?

**CHAIRMAN BORDEN:** It does, and that's the reason we're trying to align the plans.

**MR. CALOMO:** Align the two plans, okay.

**CHAIRMAN BORDEN:** It's not your typical joint plan where both organizations have to approve exactly the same document at the same time. They're parallel documents, and as close — as you know, I've raised this issue a number of times.

I think it's critical to get both of these documents as close together as possible, both of the management

strategies as close together as possible. What destroyed the original herring plan was the fact that we did not do that.

**MR. CALOMO:** I know that our input in our plan does not precede their plan in any way, but I know that we should be parallel -- I guess we'll use that word; it's better than a joint plan -- to the efforts that we put in as the Atlantic States Marine Fisheries Commission with the New England Fisheries Management Council plan. I'm just wondering are they watching what we do carefully?

I guess you've answered it, Mr. Chairman. I just wanted it clear for the record that we need to run parallel for both, and I just wanted it on the record, sir. Thank you very much.

**CHAIRMAN BORDEN:** Thanks, Vito. Anyone else on the New England Council? Then we'll move on to the next agenda item, which is discussion of the timelines, Megan.

#### **DISCUSSION ON THE DEVELOPMENT TIMELINE FOR ASMFC'S AMENDMENT 2**

**MS. MEGAN GAMBLE:** Okay, so working with the council's revised timeline, I've gone ahead and developed a "Plan B" timeline that would bring us back into step with the council. You guys should have had in your meeting materials one timeline labeled "Original Plan" and then another timeline labeled "Plan B."

The original timeline is the timeline that the Section approved back in July in Maine, I guess that was. I just want to point out the differences so that you guys can see how it brings us back into step with the council if that's what the Section chooses to do.

The original timeline would have the plan implemented by January 1, 2004; whereas, Plan B has the amendment implemented by January 1, 2006.

The first significant difference between the two timelines is the date at which the Section is going to approve the draft amendment for public hearings. On the original plan that would occur in May of 2004, and then in Plan B that would occur in July of 2004, so that gives us a couple of extra months to develop the plan alongside the council's PDT.

That's important because we're using a lot of the same information as well as a lot of the same people. So the next big step for the Section would be to review the public comment and select the preferred

alternatives.

That has been pushed back from July of next year to November. November is the time at which the council will also consider their preferred alternatives for their plan.

Then finally the Section would review the amendment for final approval in August of 2004 under the original plan, and that has been pushed back to February of 2005. That would give us ample time to implement the new amendment, all the way from February 2005 to January 2006. Actual implementation could occur January 2006 or earlier.

**CHAIRMAN BORDEN:** Questions on the timeline? **Megan, do we need a motion here to approve the new timeline?**

**MS. GAMBLE:** Yes, please.

**CHAIRMAN BORDEN:** John Nelson.

**MR. JOHN I. NELSON:** So moved.

**MR. PATTEN D. WHITE:** Second.

**CHAIRMAN BORDEN:** John Nelson made the motion and Pat White seconded the motion to approve the new time table. Bruce Freeman.

**MR. BRUCE FREEMAN:** Thank you, Mr. Chairman. Megan, just a clarification. The comments from the public would coincide both for the council and the commission?

**MS. GAMBLE:** Actually, that's an interesting point, and Lori and I have talked about this a bit. If the Section were to approve Plan B, the commission would be doing our second round of public hearing at about the same time as the council. So while nothing is said and done, Lori and I have talked about going on the road together and doing public hearings jointly.

**MR. FREEMAN:** It would seem to me that would make sense. It would seem somewhat a waste of time to have one group go out, have a hearing, and then have comments and simply have the public comment two different ways. If they could be coordinated, it certainly would save time. It would also avoid confusion, so I certainly suggest that we should try to coordinate that very closely.

**MS. GAMBLE:** Okay, if the Section approves Plan B, I will definitely work with Lori to make that

happen.

**CHAIRMAN BORDEN:** Any objections to having dual public hearings on this? I think it makes sense, given the fact to the extent the states have to promulgate regulatory actions which will follow this up, they will have to have their own public hearings.

What we don't need is three sets of public hearings on the same document. If we can limit it to two, that would be helpful so we'll try to coordinate that. It was a good suggestion, Bruce. Bruce.

**MR. FREEMAN:** Just a footnote. The Mid-Atlantic Council has, at the request of the New England Council, formed a mackerel committee. I think most people know that. Many of the same advisors, if not all, are both on the herring and the mackerel.

The council will start moving forward with its limited entry plan for mackerel to make sure that this is coordinated, because these two species need to be managed together, not separately, so this also will help that process.

**CHAIRMAN BORDEN:** All right, any other points on that? Ritchie White.

**MR. G. RITCHIE WHITE:** Megan, down towards the bottom of Plan B, February commission meeting, should that not be 2005?

**MS. GAMBLE:** Yes, I caught the same mistake last night. Thanks, Ritchie.

**CHAIRMAN BORDEN:** All right, any other points? Anyone in the audience? If not, we'll move on. The next issue is a review of the public information document. Megan.

#### **REVIEW OF THE DRAFT PUBLIC INFORMATION DOCUMENT**

**MS. GAMBLE:** Okay, you should have all received a copy of a draft public information document in your meeting materials, but if not there are copies on the back table. The objective today for the Section is to review the draft PID and then provide comments and edits back to staff.

If the Section's changes are minor, then you will be asked to consider approving the PID for public comment. If the Section does approve the public information document for public comment, the states will be asked to indicate whether or not a hearing will

be held in that state and if staff attendance is needed.

So, looking through the public information document, you will notice that the first several pages is a lot of background information, including the commission's amendment process, a brief history of Atlantic herring management, stock status, as well as status of the fishery, so there's a lot of background information, about eight pages worth.

Actually I want to go back and mention, on Page 3 there is a timeline. That is the original timeline. That will be modified to reflect "Plan B." I will do that after this meeting if the document is approved.

So if you guys would flip to Page 9, that will bring you to the first issue included in the public information document. The first issue are the goals and objectives.

The Section discussed the goals and objectives at the July meeting and requested that both the current Amendment I, that is the commission's Amendment I Goals and Objectives, appear in the public information document, as well as the council's proposed goals and objectives, so those are both included here in the amendment.

You will notice that the goals and objectives under the commission's Amendment I are kind of lengthy and include a definition of optimum yield. The council's goals and objectives are a lot more succinct for the federal amendment.

They have moved many aspects of the original FMPs goals to the objectives, and they intend to include the definition of OY in another section of the document. The bullets up here, the first one is just the issues that are identified in the goals of the commission's current plan. I couldn't fit it all onto one slide because it is kind of lengthy.

The second bullet is the proposed goal for the council's Amendment I which is to manage the Atlantic herring fishery at long-term sustainable levels consistent with national standards of the Magnuson-Stevens Fishery Conservation and Management Act. That is Issue Number 1.

Issue Number 2 is maximum sustainable yield. The table on this slide lists all of the potential maximum sustainable yields that have been discussed by various groups. The current maximum sustainable yield is set at 317,000 metric tons, which is more conservative than what was recommended under the 27<sup>th</sup> stock assessment workshop.



Earlier this year we had the Trans-boundary Resource Assessment Committee, and there were two stock assessments presented at this meeting. The first was the U.S.'s forward projection model, also known as KLAMZ, and the Canadian's ADAPT virtual population analysis.

Each assessment produced different estimates of total stock biomass, and as a result gives us different estimates of maximum sustainable yield. Because no resolution was attained at the TRAC, the New England Council referred this issue to their Scientific and Statistical Committee.

The SSC subsequently recommended yet another more conservative estimate of MSY to account for all the uncertainties associated with the assessment. So using the SSC's advice, the New England's Council's PDT developed yet another alternative for consideration in the federal amendment.

That is based on that both the assessments agree that FMSY is between 0.2 and 0.25 and the current biomass is on par with the average during the 1960s to 1970s, that being about a million metric tons.

The PDT applied the lower estimate of FMSY to the average biomass and came up with the 200,000 metric tons as yet another option. We've listed all those potential maximum sustainable yield values in the PID, and it gives us a range of 60,000 metric tons to 317,000 metric tons.

**CHAIRMAN BORDEN:** All right, I've seen a couple of hands go up, but I'm going to ask Megan to go right through the entire document and then we'll come back.

**MS. GAMBLE:** Issue Number 3 is the management area boundaries. Out of the TRAC there was a suggestion for moving a couple of the boundaries; one being the Area 1B and the Area 3 line, as well as the Area 2 and the Area 3 line.

The suggestion comes from reporting errors for landings caught along these borders. The Area 2-3 line change is also to better reflect the distribution and the movement of spawning concentrations.

Area 3, also, the intent is to reflect the offshore spawning component where there is no mixing with the inshore spawning component. Making the change would likely more accurately reflect the fishing pressure on each of the spawning components of the stock complex.

Next is Issue Number 4, spawning area restrictions. The commission's Amendment I balances the need for protection during spawning events as well as provides an opportunity for controlled harvest during the spawning events.

This slide provides bullets of the different things that the amendment does; the first being that it defines what a spawned herring is. It also delineates the areas that have the spawning restrictions and sets a criteria for the start date and the duration of that spawning closure.

The amendment also provides an allowance for less than 20 percent spawning herring by number to be caught and provides a 2,000 pound bycatch provision. There is no complementary measure in the federal plan.

This is something that only appears in the interstate plan. It was considered in the original federal plan but was not approved. Then finally the spawning restrictions are implemented through a landing restriction.

Next, Issue Number 5 is the internal water processing. In areas where the infrastructure for shore-side processing does not exist, the TAC goes largely unused.

The IWP operations have been an alternative opportunity for catcher boats, offering a short-term benefit to the catcher boat, but in the long-term these operations may compete with the domestic industry.

The Section has typically restricted IWP allocations to Areas 2 and 3, and that's an effort to complement the federal regulations and prevent further competition in Area 1A.

Because of the increasing capacity of the shore-side processing plants and competition with domestic products in the marketplace, the Section has decided that none of the IWP total allowable catch would be allocated for 2004.

It may be that there are still opportunities for IWP operations in Area 2 where the TAC was largely unharvested and the shore-side processors are not easily accessible to vessels operating in Area 2, so that's why it appears again in the public information document.

The table that I provided in here shows the fishing year in the first column, the amount allowed under

the annual specifications for each of those years. The third column is the amount that the Section had decided to allocate each year and then the amount that was not allocated at all by the Section each year.

Issue Number 6 is limited access in state waters. The driving issue for the development of the federal amendment is a limited access program for Atlantic herring. The Section will need to consider if a limited access program will be developed for state waters, also to maintain the complementary management program in both state and federal waters.

The public information document poses the question of whether a limited access program should be implemented for all the management areas or only focused on Area 1A for the time being. Then if a limited access program is implemented for all areas, how can those measures be modified for each area to accommodate the different characteristics of the fisheries operating in each of these management areas.

On this slide you will see that the reasons for proposing a limited access in state waters is the intense fishing effort in the nearshore area. There is an increasing capacity of the vessels in this area.

There has also been the early closure of Area 1A TAC annually. This could potentially create a disruption in markets and create some instability in the fishery. ASMFC has chosen to deal with that typically through a days-out provision or landing restrictions.

Currently there is no excess capacity in Areas 2 and 3, but the annual harvest has increased in recent years, and yet another consideration for those areas are the vessels with an incidental catch history.

To go along with that issue are effort controls. The reason that these are needed is because limited access restricts the number of vessels whereas effort controls limit capacity. Then there's a suite of management tools that could be used, and I listed just a couple of them like trip limits, vessel upgrade restrictions, the days-out landings provisions that we currently use, as well as days at sea.

Okay, we're getting there, I promise. Issue Number 8 is fixed gear fisheries. This issue was identified during the federal scoping process and was emphasized by the downeast fixed-gear fishermen.

It's identified here in the public information

document to determine if it is unique to the downeast fishermen or if there are similar problems in other areas that have yet to be identified.

In addition, this sector of the industry is asking if the interstate management program could do something to ensure their continued access to the resource. The concern is that these fixed-gear fishermen are state permit holders. They do not hold a federal permit.

They are concerned about being closed out of a limited access program if it is required that all participants hold a federal permit. In addition to that is their concern for access to the resource.

With herring moving inshore typically in the second half of the fishing year, the Area 1A TAC is usually taken before the end of the year, so these Downeast Maine fishermen could be closed out of the fishery while the New Brunswick fishermen continue to access the resource because of no quota restrictions.

Issue Number 9 is forage. As these Northeast stocks are increasing, the importance of herring is also increasing. Herring is an important forage fish for predatory fish, for marine mammals and for sea birds. So we're asking the public what should be done in the amendment, how should we incorporate measures to account for herring as a prey species.

Issue Number 10 is research set-asides. Right now there's insufficient funding opportunities. Herring is an underutilized species overall and has a low market value. We have some really important research needs such as an inshore hydro-acoustics survey and a herring tagging survey.

Then moving on to Issue Number 11, bycatch and monitoring, this has been a big issue for the federal amendment, and so we wanted to gather some information on bycatch in state waters, try to characterize that, and have the public suggest what kind of measures could be used in state waters to bring that level down.

And then finally other issues, I have four bullets at the end of the public information document. These are issues that were covered in the federal scoping document, and so I have included them here just for consistency purposes. Those issues are the trans-boundary nature of this resource and its interactions with the Canadian herring fisheries.

There has also been discussion about a seine-only or a trawl-only areas. There has been requests for a clarification on the definition of a mid-water trawl; and then, finally, some improved coordination

between the Atlantic herring management and mackerel management.

Finally, I'd just like to ask you guys if there are any modifications for the public information document and is anything omitted?

**CHAIRMAN BORDEN:** Bill Adler.

**MR. WILLIAM A. ADLER:** Thank you, Mr. Chairman. Megan, back on Issue 1 where you have the goals, I didn't see a reference here to bait. Food production, recreational opportunities I saw in the first bullet. I didn't see any reference here to bait and the idea of how much bait plays into the taking of herring and how many metric tons and stuff.

I think somewhere in here that should be mentioned or worked in wherever appropriate, because otherwise it will be brought up like you never even took bait into consideration, and so that's one thing I wanted to just make a note of.

**MS. GAMBLE:** Okay, well, I have some questions, then. If you want to include an objective on bait, I just want to remind you that this is how the Section asked me to lay it out in July. I'm willing to change it but you guys need to give me specific direction.

**MR. ADLER:** Well, it was just that up here it says "benefits to the nation, particularly with respect to food production and recreational opportunities", and then it says, "taking into account the protection", so all I was saying is to identify that there is a bait factor.

**MR. CALOMO:** A huge bait factor.

**MR. ADLER:** Yes, right, Vito, a huge bait factor in there somewhere that needs to be at least acknowledged.

**CHAIRMAN BORDEN:** Bill, all you want to do is add the word "bait" into that list?

**MR. ADLER:** Yes.

**CHAIRMAN BORDEN:** Is that what you want to do?

**MR. ADLER:** That would make me happy.

**CHAIRMAN BORDEN:** All right, any objections to that?

**MR. CALOMO:** No, no objections.

**CHAIRMAN BORDEN:** Megan.

**MS. GAMBLE:** I don't have an objection, but that's no longer what appears in Amendment I. The whole purpose was to lay out what was in Amendment I. If we go modifying this, it's no longer what was in Amendment I, which is fine. That's the Section's prerogative, but I'm not going to lay it out as being the objectives for Amendment I. I just want to make sure that everyone is aware of that.

**MR. ADLER:** Then just somewhere where appropriate, something to indicate that. The other question I had — can I go, Mr. Chairman?

**CHAIRMAN BORDEN:** Yes, go ahead, Bill.

**MR. ADLER:** I know this is only a PID and I did have a concern about the TAL which we argued about, why it's going down. Now, does the 2,000 pound bycatch which you said is in the commission but is not in the council version, if you're going to go out with public hearing documents, then you've got to pick out that there is a little difference, no matter what, there's going to be a difference in the two documents?

**MS. GAMBLE:** Lori just told me that it is in the federal plan.

**MR. ADLER:** It is in the federal, okay. I thought I heard it wasn't. And so the feds had a scoping hearing. We're going to have a PID hearing, and then we're both going out with the public hearing? Okay, I'll stop for now. Thank you.

**CHAIRMAN BORDEN:** Lori, to that point.

**MS. STEELE:** No.

**CHAIRMAN BORDEN:** No, okay. A different point on that? Go ahead.

**MS. STEELE:** I wanted to clarify something regarding Issue Number 2, maximum sustainable yield. There is in the table on Page 11, one of the rows provides an SSC recommendation on MSY, and I just wanted to give you a little clarification on what the SSC did recommend.

We had convened the SSC in hopes of resolving some of the discrepancies with the TRAC assessment and maybe getting some technical advice on what MSY should be in this amendment so that we wouldn't be going out with, you know, several alternatives for MSY.

We weren't terribly successful. The SSC did not provide a specific recommendation on what we should set MSY at. What the SSC did was they basically said that maybe a good starting point for estimating MSY would be to take the average catch over the last 15 years. And then they said, however, expansion of the fishery beyond that level may be appropriate in certain areas.

So the SSC essentially recommended that we start with the average catch over the last 15 years and then do a risk assessment to see where we could expand the fishery beyond that level in such a way that it wouldn't jeopardize the health of any component of the resource, either the inshore or offshore component.

The average catch over the last 15 years was indeed about 104,000 metric tons. But just to clarify, I mean that was sort of the starting point that the SSC recommended and then to go beyond that, to look at areas where you could expand without compromising the resource.

And also the SSC recommendation is not an alternative in our amendment, in the council's amendment. 104,000 metric tons isn't one of the alternatives for MSY, so I would just maybe suggest just to not mislead people in the public or to give the wrong impression about what the SSC recommended, that maybe the row in the table with the SSC recommendation not be included as, you know, potentially an alternative unless the commission wants it in there as an alternative.

**CHAIRMAN BORDEN:** Dave Pierce.

**DR. DAVID PIERCE:** To Lori's point. Well, Megan, first of all, I've got some suggestions for change in the public information document and I'll give those to you now. And to Lori's point I definitely would encourage the dropping of that SSC recommendation from that table.

If it's retained in the table, then there needs to be a better explanation in the text as to what it's all about. If you do note it, then give some explanation, but this is so significantly different from the other estimates of MSY that it begs for further discussion.

That's one way to go but my preference is that we strike it from the table since I would suggest it's extremely unlikely that this Section or the council will go with that low number of MSY.

On Page 4 in the background statement, summary of interstate management, there is a relatively short statement about the withdrawal of the federal plan by NMFS back in 1982. There is no real explanation as to why that happened.

I would like to see some specific explanation put in there because it was a very significant step taken by the federal government, and it was done for very good reasons by the federal government, by the National Marine Fisheries Service.

Chairman Borden has already alluded to that particular point, but it's a very important part of the history of sea herring management so please elaborate on that particular point.

**CHAIRMAN BORDEN:** David, let me stop you. Any objection to doing that? No objections, then Megan will make it so.

**DR. PIERCE:** Okay, with regard to my suggestion that we strike out -- following up on Lori's point that we strike out the SSC recommendation, are you also suggesting to the Section, Mr. Chairman, that we all agree that should be taken out, too? I would support that, taking it out.

**CHAIRMAN BORDEN:** On that point, any objection to that? No objection, then it will be taken out.

**DR. PIERCE:** Okay, thank you.

**CHAIRMAN BORDEN:** Megan.

**MS. GAMBLE:** I just want a clarification. Do you want me to mention it in the text and just remove it from the table?

**DR. PIERCE:** I would strike it from the text as well because it is so confusing. It muddies the waters tremendously. I don't think it adds anything to the document by having a description of that particular conclusion by the SSC since they really don't know where they're going with this as far as I can see. That's my recollection that -- although I see some hands rising. There seems to be some objection to that. I mean, if it's that important, then keep it in but to indicate what the SSC has concluded, but put more text in there to elaborate on that conclusion, but don't put it in the table as an estimate of MSY. That's kind of a compromise, I guess.

**CHAIRMAN BORDEN:** Any other? Lew, to that point.

**MR. FLAGG:** Yes, I would concur with Dr. Pierce. I think we do need to have some explanation of what the SSC recommendation was and put that in context and what it in effect does represent in terms of the 15-year long-term average relative to the overall harvest. I think it's important to have an explanatory section in there about what the SSC recommendation is.

**CHAIRMAN BORDEN:** Just so everyone is clear, we will take it out of the table and leave it in the text. Any objections? No objections. Okay, Dr. Pierce, do you have another one?

**DR. PIERCE:** All right, thank you, Mr. Chairman. Under the Issue 4, spawning area restrictions, there is a reference to -- let's see, second paragraph, I don't think the page is numbered, anyways -- second paragraph it says at the end, "While NOAA Fisheries did not approve complementary spawning restrictions on federally licensed vessels, spawning closures for federal and state waters have been implemented" and then it goes on from there.

Once again this is another important part of the history of sea herring management. ASMFC has taken some rather strong positions on the need to protect spawning fish. At one point in time there was some discussion by the council about maybe even a specific proposal to have spawning closures that would be implemented on Georges Bank to deal with the spawning beds out there.

The history of exploitation of Georges Bank by the foreigners resulted in intensive fishing on spawning beds and led to the collapse of Georges Bank herring. The federal government did not support the spawning closures in the Georges Bank area so there should be some -- I would suggest there should be some additional text in there to describe exactly why NOAA Fisheries did not approve complementary spawning restrictions because this may come up during the public hearings.

Someone may want to know why we're not considering similar action or why the council is not considering a similar action for federal waters, and why we're not, ASMFC, encouraging the federal government to do the same thing -- so just some additional text in there to elaborate.

**CHAIRMAN BORDEN:** Any objection to that suggestion? All right, Megan.

**DR. PIERCE:** On Page 13, third paragraph under

Issue 5, IWPs, the paragraph, third paragraph is relatively brief. It leads off by saying, "An opportunity may still exist for IWP operations to process fish harvested from Area 2 without creating a competition with the shore-side plants."

If we have any information that we could add to this document that would explain exactly why that is so, I think that would be helpful to the audience when they receive this document and comment on it. To me, when I read this, I wasn't exactly sure why that competition would not be created, so an elaboration might be helpful.

**CHAIRMAN BORDEN:** Megan, to that point.

**MS. GAMBLE:** I'd just ask for some help then on clarification because that comes right from you guys at the last meeting when we discussed IWPs and not allocating anything for 2004. If someone could point me in the direction to get some more information on that, I'd be more than happy to include it.

**DR. PIERCE:** I hope someone can come forward with that assistance. I can't because my understanding is that any IWP in Area 2 would indeed create competition with shore-side plants, so I'm looking for the evidence, if it exists, that would convince me that indeed that competition would not be created.

I would encourage anyone to bring it forward but right now it seems to me that the competition would be there. And then, finally, I'd like to add a question to Page 10. On Page 10, at the bottom of the page, there are three questions that are posed by ASMFC.

the question I would like to add would be should restrictions on landings of juvenile fish be imposed to provide for greater long-term sustainable yield? Now, obviously, I make this suggestion relying on my history of being involved in sea herring management and my long-standing concern about the harvest of juvenile fish.

The only reason why I ask this question or suggest that we ask this question is what I hear from the industry, from fishermen, especially this year, that there was a rather large, very significant landing of juvenile fish because of an absence of adult fish.

I don't know what the total numbers may be relative to that particular harvest but, indeed, if this is something that is going to continue, it raises concerns that we may be undercutting our ability to provide for larger TACs if we continue to have an expanded reliance on juvenile fish.

It seems like a reasonable question. It doesn't state a specific position by ASMFC. It's just highlighting what doesn't seem to be in this amendment at this point in time, and that's a concern about increased harvest of juvenile fish.

The question again would be should restrictions on landings of juvenile fish be imposed to provide for greater long-term sustainable yield?

**CHAIRMAN BORDEN:** All right, to that point, comments. Dennis.

**SENATOR DENNIS S. DAMON:** Thank you, Mr. Chairman. On Page 15 under Issue 8 in the fixed-gear fisheries, in the first question, parenthetically it says at the end of the question "east of Cutler."

I would prefer to see that parenthesis removed and "east of Cutler" removed as well and just use the Downeast region. Certainly, historically that whole region had a fixed-gear fishery, and I think it would again were those fisheries to return.

**CHAIRMAN BORDEN:** Any objections to that? No objections. Okay, Megan, so make that note to broaden that, but let's go back to David Pierce's request. I want to make sure that everyone's comfortable with that.

Is everyone comfortable with asking that question in the document? I see no objections, then Megan will add that question to the document. All right, any other points on this? Vito.

**MR. CALOMO:** Thank you, Mr. Chairman. Mr. Chairman, I think this public hearing document is done pretty well. I have a problem, though, on Page 16 at the top, Issue 9 on forage. And of everybody here, I think it's probably you and I know a lot more about what's going on with this question here.

I have problems of bringing this question to the public because I believe there is a lack of information on Issue 9 because the history should be incorporated in a statement here, Mr. Chairman, stating that the New England Fisheries Management Council has always taken a strong position on forage fish in the FMP.

With the TAC that we had made many years ago in the state of Rhode Island from 517,000 metric tons as was going to be allowable, that we chose the 350 ton and now we're at 317 ton, taking in consideration from our science people leaving large amounts for

predator-prey relations.

I believe that Issue 9 should be stricken to what is asked of the public where the public has a lack of knowledge of this fisheries management plan over the history of time.

I think a statement should be put in here of how the fisheries management plans from then to now have taken always in consideration to the TACs that would be allowable to our fisheries of predator-prey relations. That's Number 1, Mr. Chairman.

**CHAIRMAN BORDEN:** All right to that.

**MR. CALOMO:** I have a couple of others.

**CHAIRMAN BORDEN:** It seems to me you've got two alternative ways of doing this. Either you take it out entirely, which is what Vito is suggesting, or the other way to do it is to actually put some of the specifics in here relative to the amount that the scientists are calculating is going into forage.

In other words, point out to the public the sizable amount of fish that is already being assumed to be set aside for forage. And, Matt, isn't that almost equivalent to the landing? I don't want to put you on the spot.

**MR. MATT CIERI:** Yes, it's actually more than three times the landings.

**CHAIRMAN BORDEN:** Okay, so it's three times the amount that is being landed by the fisheries, so I actually, Vito, would suggest that alternative; in other words, add a sentence in here that the landings are whatever they are 104,000 metric tons, and that according to the best science, whatever the number that Matt and his committee comes up with, three-hundred-and-something-thousand metric tons being consumed as forage, that, to me, I think points out better the point that you want to make.

**MR. CALOMO:** I think, Mr. Chairman, if it's done with the correct verbiage to give information to the public hearing document, I could accept that.

I think that's valuable information because as fisheries managers we're always criticized by the public that we're not doing enough for predator-prey relationships from time to time, and here this fisheries management plan was driven by the people that made the plan to make sure there was enough predator-prey relationship.

**CHAIRMAN BORDEN:** I'd just quickly add I think that number has increased over the last few years. In other words, it's not a static number, but I think it has gone up. No, it's the same number? Okay, I stand corrected, then. So did you get those two alternatives? What is the preference of the group? Vito, what is your preference now?

**MR. CALOMO:** I think by adding the information that we both agreed upon just now, I think would be sufficient in the public hearing document.

**CHAIRMAN BORDEN:** All right, any objections to that? There's no objections. Megan is asking the appropriate question; is the question under that bullet acceptable? In other words, we'll make the change the way you just said, Vito, work with the technical committee to add in that language. Is this question still the appropriate question? John Nelson.

**MR. NELSON:** Thank you, Mr. Chairman. I think it's important to go the way you've suggested as far as adding the information because we, quite frankly, have been spending an awful lot of time making sure that there was adequate forage base out there.

I think the question needs to be looked at, and maybe simply is to say should the commission further alter biological targets to account for herring's role as a forage species?

At least then you will get people saying why they feel it should be modified, but it would be at least based on the information that they already have in front of them. They need to provide the information on why they feel it needs to be modified.

The other problem that's out there is timing. As you know, the Area 1 harvest is probably at its maximum as far as availability of resource, but the timing of when it's taken and probably spatially where it is taken is also something that has been an issue out at every meeting that I think we've ever had as far as herring.

I think it would be important also to get public input on the temporal and spatial harvest of herring as it relates to its forage-based role, at least in Area 1 -- and I don't mean to diminish that in Areas 2 and 3, but at least in Area 1 we should be looking at that, Mr. Chairman.

**CHAIRMAN BORDEN:** All right, so, John, you've made two suggestions. One is to add the word "further" to the question. On that point, any objection? Yes, Vito.

**MR. CALOMO:** I have a strong passion for this, Mr. Chairman. I think the predator-prey relationship, of the amount of species of herring, should be left in the biological realm instead of the political realm. I feel that this question raises the political realm instead of the biological realm.

I strongly feel that the question here should be taken out, Mr. Chairman. I believe that a statement should be made similar to the statement I just made a few moments ago about what we have done biologically for the herring species and for the predator-prey relationship.

I think that's all the public information document should have because today we have a political football going on with predator-prey relationship.

The public has only gathered information from those that are aggressively against some of the commercial fishing industry. I feel that this statement would be a statement that would fuel further departure from our biological goals that we have for predator-prey relationship.

**CHAIRMAN BORDEN:** All right, we have our first difference of opinion at the meeting, so I'm going to ask John Nelson to make a motion on this. If the motion passes, it will go in there. If you don't want it, vote against it. John.

**MR. NELSON:** Thank you, Mr. Chairman. **I would move that we keep the question under Issue 9 in the document and add the word "further", so it should read, "Should the commission further alter biological targets" et cetera, et cetera.**

**CHAIRMAN BORDEN:** All right, I have a motion. Is there a second? **Seconded by Lew Flagg.** Discussion on it. Eric.

**MR. SMITH:** Thank you. I agree with the motion, but I think frankly we ought to go a step further. I understand what Vito is saying; and in terms of sentiment, there is a lot of what he says that I do agree with.

The problem is we aren't going to get away from this issue. It's going to be a big issue whether it's in the document. It's going to be an issue whether we ask a question. It's hard to frame an issue without asking a question, so I think the motion is appropriate.

I would add another question in front of it that basically looks at it from the other point of view,

“Does the amount of herring provided as forage seem reasonable?” That’s a question for the public to comment on, and you’re going to get both sides.

And then you can ask “Should the commission further alter biological targets” et cetera. We’re going to get comments from both directions, anyway, and we may as well just be up front and try and frame it so that we induce both camps, if you will, to comment on it. Thank you.

**CHAIRMAN BORDEN:** All right, John.

**MR. SMITH:** I would offer that as a perfection if --

**CHAIRMAN BORDEN:** John, do you want --

**MR. NELSON:** That was really my intent, Mr. Chairman, based on the conversation, that we were going to put in prior that people would comment on the adequacy of what we have out there and then the question was should it be further altered. I have no problem with Eric’s suggestion as a friendly amendment. Can I speak on the motion, Mr. Chairman?

**CHAIRMAN BORDEN:** What I’ve been trying to do is just take comments on the motion that is on the floor. I had Bill Adler, George in the audience, Dennis, and Eric who has already spoken. If any of those individuals want to speak at this point on this motion, I will let them. In other words, I thought they wanted to make a different point. That’s the reason I haven’t called on you. Dennis, do you want to speak on this motion?

**MR. DENNIS ABBOTT:** Yes, I do, Mr. Chairman. When I raised my hand a few minutes ago, I was interested in Issue Number 9, especially after Vito spoke sort of against it.

I thought it was kind of ironic that our ultimate politician in the group wants to keep the politics out of this with Gino our newly-elected city counselor of Gloucester.

I thought that this issue of forage should be expanded upon, and I was interested at the time before the discussion started of asking that as we -- I think we proposed that we probably should have in the PID some descriptions of the interactions and whatever availability of information regarding those interactions is available referenced and whatever studies are available regarding the interactions.

I’d like to see that because I think as we go towards

total eco-management, that this issue of forage is becoming very important, as expressed in the first sentence where it says that other fisheries are becoming increasingly important. I feel this is a very, very, very strong issue in the herring amendment. Thank you.

**CHAIRMAN BORDEN:** All right, anyone else on the list that I didn’t recognize before that wants to speak on this motion? I’ll come back to you if you want to make a different point. Jerry Carvalho, on the motion.

**MR. GERALD CARVALHO:** On the motion, Mr. Chairman, thank you. In Rhode Island we had a similar problem with, as Vito has described, with menhaden. The issue was whether there was sufficient menhaden for forage.

It wound up being a simple political football. It got down to the point where if a recreational fisherman couldn’t catch a striped bass, it’s because the menhaden were all taken by some commercial catcher.

And, eventually we got to the point where we segregated the commercial taking of menhaden and discriminated against where they could fish, where they couldn’t fish. It was nothing but a political football. There was more than enough menhaden or forage fish there to work on.

Vito’s fear that this is going to turn into a political football is real. It will go back and forth and anybody that’s out there recreationally fishing that can’t catch a fish is going to blame somebody because the forage fish has been all decimated by some commercial boat that he sees on the horizon. It’s a real problem. I agree with Vito’s position on this matter. Thank you.

**CHAIRMAN BORDEN:** All right, so the record is clear, John Nelson and Lew are you accepting Eric Smith’s perfection? They both nod yes so you have a modified motion on the table. Any further discussion on the motion? John and then Vito. Vito, you’re going to get the last word on this.

**MR. NELSON:** Thank you, Mr. Chairman. I made the motion, Mr. Chairman, certainly with understanding and sympathy, quite frankly, with what Vito has outlined and the concern that he has outlined. I understand that.

Eric I think captured it well, though. The issue is out there. We’ve had the discussion many, many times.



It is something the public is expecting, I would think, to comment on so we should frame it appropriately to get comments.

The political aspect of it, we all deal with that. Once we have all the information from public comment and from the scientific community, then it's our decision. And whether the political heat creates a problem for us or not is something that we've always wrestled with. We've had to deal with. We're going to deal with it again on this issue, so that's why I suggest we get the comments and we'll have to deal with it once all the information is in.

**CHAIRMAN BORDEN:** Vito, you've got the last word except Gil Pope raised his hand afterwards and he hasn't spoken all day, so I'm going to recognize him so you get the next-to-last word. Gil.

**MR. GIL POPE:** Thank you, Mr. Chairman. The only thing that bothers me about this is the way that it's being framed is we're questioning as to whether the scientists are calculating correctly, whether they should have more natural mortality, do they know what they're doing or -- we're asking the public to make the decision as to whether the scientists are doing their calculations correctly or whether they should maybe add some more natural mortality in there to just kind of use a precautionary approach.

Does the public really know enough to make those scientific decisions, that's fine, but, I mean, we have to provide them with some more information as to how the scientists are doing their particular calculations and so on and how much natural mortality. I think that's important that we put that somewhere in this, either in this spot or in this document. Thank you.

**CHAIRMAN BORDEN:** Vince.

**EXECUTIVE DIRECTOR JOHN V. O'SHEA:** Thank you, Mr. Chairman. I just noted that you're also asking the public to comment on MSY, which is also a very technical and scientific-based issue as well.

**CHAIRMAN BORDEN:** Vito, you've got the last word.

**MR. CALOMO:** Thank you, Mr. Chairman. I'll be as brief as possible and I'll be as clear as I can. Maybe I was too talkative last time. Mr. Chairman, as you know and others know, council members and board members, we had made a fisheries management plan based on the best available science

information.

All our plans are "best available science information. We went further than the scientists at the time to give an amount of fish to predatory-prey relationship, yet we are asking the public to make a comment to further.

I think Gil made a good point there, Mr. Chairman. I'm glad he went before me. We're questioning ourselves and what we've done. We've already given more. Even the scientists shake their head, you don't need to do what we've done, yet we did it in the original fisheries management plan and continue to do it.

It wasn't forced down our throat. We went above and beyond the science information. Mr. Chairman, I feel that we're going too far here. I feel that we're opening up a black hole that we can never get out of once we enter it. I feel that this is wrong information to the public, Mr. Chairman, and I do not support this. Thank you, Mr. Chairman.

**CHAIRMAN BORDEN:** All right, thank you, Vito. We're going to take a one-minute caucus and then vote.

(Whereupon, a caucus was held.)

**CHAIRMAN BORDEN:** All those in favor, raise your right hand. I have 3 states in favor. Opposed; 2 states opposed. Four in favor? Who are the four? Excuse me, Bruce. Let's revote. I missed Bruce Freeman.

All those in favor, raise your right hand. **I have 4 with New Jersey voting yes, New Jersey, New Hampshire, Connecticut, Maine voting yes. No votes, raise your right hand; Rhode Island and Mass, no votes. I believe that is the entire voting block so the motion carries.** Next issue. John Nelson.

**MR. NELSON:** Thank you, Mr. Chairman. The other issue that comes up obviously is whether or not we are dealing with the harvest in a temporal and a spatial way that is responsible, I guess, at least in Area 1 and 1A probably is the focal point.

I don't know if we should limit it to just 1A, but certainly I wouldn't be opposed to doing that. I think we ought to ask the public, if the answer is that we are either providing or would like to provide a little bit more forage base, the question should be how would you do that in Area 1A? Would you do it by

spatial controls or temporal controls as an example.

There might be some other controls that are out there that would also be appropriate, but those could be used as suggestions. If you need a motion, Mr. Chairman, I'll come back in a minute with a motion related to that. There might be consensus on it since we've already dealt with this particular issue.

**CHAIRMAN BORDEN:** Yes, John, if you're going to do that — and I have no objection to you doing that — I'd suggest you craft that around that Table 1. In other words, that has what the actual TAC is by area.

It also has the monthly distribution of the landings by area. You may be able to craft it that way. I'll come back to John. Any other issues here? George, you had your hand up earlier.

**MR. GEORGE LAPOINTE:** Thank you, Mr. Chairman. My comment is a general one. I raised my hand when David Pierce was raising the question about juvenile herrings, but the question about spatial-temporal distribution and forage comes up as well.

If we ask too generic of questions and too many, we're not going to get — we need more explanation on I think some of the questions that are being posed to the public. You know, they kind of become, "Do you believe in Jesus" questions. And you can take what you want out of them.

I think it's incumbent upon us to put some context behind those questions so that in fact the public can answer probably in a more useful manner, in a manner more useful to the commission and we can focus their comments as well.

I mean with the juvenile fish question, "Do you believe in protecting juvenile fish?" -- well, everybody believes that. But for Maine in particular, we've got a sardine fishery that has relied on those juvenile fish in the past. It's a traditional fishery. We have accommodated that.

The question John asked about spatial and temporal distribution, do you believe that we should potentially restrict spatial and temporal distribution to protect forage, sure, but what does it mean? I think in the context of the amendment, it deserves a little more explanation on those questions that are being posed to the public.

**CHAIRMAN BORDEN:** All right, I have Lew Flagg.

**MR. FLAGG:** Thank you, Mr. Chairman. I had another issue that I wanted to bring up and that had to do with the effort controls. On Page 15 the question is posed, "Should the commission continue to coordinate the days-out provision between the states for Area 1A?"

I just want to bring out the point that the effort control provisions in Amendment I of the ASMFC plan don't only apply to Area 1A, so it applies to all areas. The only reason we've only used them in Area 1A is that's the only area where we've achieved the TAC.

So, we might want to broaden that question a little bit to make people understand that under the existing amendment, it does apply to all areas, but it hasn't been exercised in Areas 2 and 3 to date.

**CHAIRMAN BORDEN:** Any objections to that? No objections, then Megan will make that note. I have Dr. Pierce.

**DR. PIERCE:** On Page 13 regarding IWPs, I neglected to mention earlier on that the third paragraph in that section I believe needs further explanation in light of the fact that now we have a major sea herring processing plant in New Bedford, so, therefore, the statement, "In addition, the domestic shore-side processors are not easily accessible from Area 2" may not necessarily be correct now.

So that "not easily accessible" would have to be better described if indeed it stays in the document in light of the fact that we now do have a major outlet for herring taken from Area 2.

**CHAIRMAN BORDEN:** Well, the question that I would ask there, David, is the New Bedford plant easily accessible to New York and New Jersey vessels?

**DR. PIERCE:** Well, then it needs to be clarified with that in mind, because I don't know what "not easily accessible" means. Your point is a good one. If it's not easily accessible for vessels out of other states, Mid-Atlantic, New York, then that should be noted specifically in the document, so that those individuals who are out of New Bedford and who have their processing plant won't be misled into thinking that they're not being acknowledged as a presence in the herring processing industry.

**CHAIRMAN BORDEN:** Okay, Eric Smith, you're

next and then back to Lew.

**MR. SMITH:** Thank you, two points, Mr. Chairman. On that same Page 13, I'm refraining from simple word changes and things, but there is one in Paragraph 2 that I think needs a change. In the fourth line where it says "complement the federal regulations and prevent further", it seems to me the issue is "exploitation" in Area 1 and not "competition".

That one word change is a kind of a more substantive one in my view, but I would ask Megan if she agrees with that change. Is that okay?

**CHAIRMAN BORDEN:** Lori.

**MS. STEELE:** Well, the issue in Area 1 is actually maybe "competition" isn't the right word, but it's really in terms of the effort controls. Oh, I'm sorry, we're on IWPs, never mind.

**MR. SMITH:** Yes, this is Paragraph 2 of the Issue 5. It just didn't seem that the federal regulations and the Section's plan was intended to prevent further competition in Area 1. It was to prevent further exploitation, to control that. If that's agreeable, I would move on.

**MS. GAMBLE:** "Competition" was used to talk about the competition between IWPs and the shore-side processors, that competition.

**MR. SMITH:** Okay, so it is characterized the way you intended it?

**MS. GAMBLE:** Yes.

**CHAIRMAN BORDEN:** Have you got a second point, Eric?

**MR. SMITH:** Yes, I do. Next page, Page 14, Paragraph 3, the first line, I have a little difficulty with "The Atlantic herring fisheries in Areas 2 and 3 do not have the same fishing capacity problems." I would be happier if it said "may not have." I believe we have a capacity issue or a concern in all three areas.

Clearly, it's not manifested in Area 2 and 3 like it is in Area 1 but, you know, if you get a dollar a pound for herring, you'll have plenty of capacity to take the entire TAC. So, the capacity is there, it just hasn't come to fruition, so I would say "may". That would satisfy me.

**CHAIRMAN BORDEN:** Any objections to that change? No objections. Lew Flagg.

**MR. FLAGG:** Yes, thank you, Mr. Chairman. On Issue 6, again, Page 14, the question that is posed relative to limited access programs "for state waters in all management areas or only in Area 1A", I would suggest we also include "only in Area 1A or Area 1A-1B" because that is one of the options in the federal plan, and I think we should try to be consistent. That is to say should we be considering limited access only in Area 1A or all of Area 1 and look at those two as options. Thank you.

**CHAIRMAN BORDEN:** Any objections to that change? There are no objections, then Megan will make that note. Other changes here. John, are you ready with your motion?

**MR. NELSON:** Thank you, Mr. Chairman. I think that my motion could be used as an example. On Page 15 under Issue 7 there are three questions. The last question is "Are effort controls needed in all management areas? If so, which ones are most effective?"

I would suggest that we add as an example which basically says, "For example, should area time-specific controls in Area 1A be utilized to deal with user conflicts?"

**CHAIRMAN BORDEN:** You know, John, you're going to have to go a little bit slower.

**MR. NELSON:** I know I've got to go slow. Actually, they're doing pretty well. Should area time-specific controls in Area 1A be utilized to deal with user conflicts? And, again, Mr. Chairman, I limited this one to Area 1 to use it as an example.

**CHAIRMAN BORDEN:** Megan, to that point before I ask for a second. All right, is there a second to the motion? Is there a second to the motion? I'll ask one more time. Is there a second to the motion? No second for the motion; the motion dies due to the lack of a second. Further business to come before us. Jerry Carvalho.

**MR. CARVALHO:** This question is for Megan, Mr. Chairman. On Issue 6 we're suggesting that we impose a limited access program on state waters. Has the question been raised on whether the commission has the authority to impose limited access in state waters?

It would seem to me that would be a state prerogative

if they want to impose a limited entry program within the state, but it would be the state's assembly that would have that authority and not the commission.

**MS. GAMBLE:** I don't know.

**CHAIRMAN BORDEN:** Let me ask this. Bob, can you think of -- or anyone around the table -- can you think of another example to Jerry's point where the commission has mandated limited entry in state waters? The states have done that based on a need to control effort in their fisheries, but is there a specific example where we have mandated?

**MR. ROBERT E. BEAL:** I don't think any of the ASMFC plans have the requirement of limited entry right now, the current plans. But as to Jerry's original question, whether the commission has the authority, the commission technically doesn't have the authority to implement any of the regulations that are included in our FMPs.

That responsibility goes back to the states and falls on the states to go home and implement those measures. So if the states have the ability to implement limited control, then the commission has the ability to include those sorts of things in our fishery management plans.

**CHAIRMAN BORDEN:** Jerry.

**MR. CARVALHO:** In follow up to that, Mr. Chairman. Certain provisions that are mandated through the plan, if a state fails to adopt these provisions, they can be found out of compliance and their fishery can be shut down.

And my question is can the commission adopt a plan that mandates limited entry in a state; and if the state doesn't agree with the limited entry, they can shut the state down? Now can the commission's plan go that far and mandate a limited entry program in state waters?

**CHAIRMAN BORDEN:** Eric.

**MR. SMITH:** Bob, remind me, the Summer Flounder Plan is if not purely or really joint between the Mid-Atlantic and the commission, at least it's like this where it's adopted on a parallel track.

I know that the council half of that plan requires limited entry, and I always thought on that one that the commission plan was designed to exactly track all the measures. Without comment on whether I agree or not with the comment, if I'm correct on that, I

think that plan shows that the commission could do that.

**CHAIRMAN BORDEN:** Dave Pierce.

**DR. PIERCE:** Yes, regarding Eric's point, even though the federal government does have a limited entry program for federal permit holders for fluke, it's different from sea herring in that with fluke we have state-by-state quotas.

Therefore, it's up to the individual states to make their own decisions about how they want to take that quota, so in some cases states I'm sure have implemented limited entry programs in order to deal with their piece of the pie, so it works in that regard.

But with sea herring, it's a bit of a different story since there are no state allocations. It's a regional quota, a 1A quota, a 1B quota, a quota for 2, a quota for 3, so it becomes a lot trickier.

I don't mind the question being in there because I think that now we as individual states will offer up some comments to ASMFC as it relates to limited access because, clearly, if the New England states, for example, are told we need a limited entry program for Area 1A, then I would like ASMFC to give me some specific instructions or guidance, I should say, as to how that's going to happen.

How am I going to deal in Massachusetts with my particular fishermen and limit access. There are no details in this amendment that would describe the specifics of that limited access program.

So, it's an interesting question, but I think the answer will likely be no once the question is posed to the individual states because, indeed, we may have to -- as individual states we have our own specific needs, our own industries that differ between states, so it's a much more complicated matter for us to develop limited access programs for sea herring inside state waters.

There is no provision right now for a limited access program that would have specific elements that would cut across all states. And therein lies a significant problem for ASMFC if it intends to instruct all states to have a limited access program. I don't think it's going to work.

**CHAIRMAN BORDEN:** All right, anyone have a motion on that subject? The question is in there now on Page 14, and it will remain in there unless somebody makes a motion. Bob, you don't want to make a motion?

**MR. BEAL:** Definitely don't want to make a motion, but just want everyone to keep in mind this is just a PID. It's a conceptual document. We're not looking for extensive details on any of these options right now.

We're just looking for general concepts and general comments on different philosophies that the commission could employ to manage herring in the future. The details aren't supposed to be in this document, to see what the public things about the ideas that are included.

**CHAIRMAN BORDEN:** All right, no motion, then we'll move on. Anything else in the document? Gil.

**MR. POPE:** This was to that point. When I read that last sentence —

**CHAIRMAN BORDEN:** Gil, have you got a motion on this? I mean, if there is a motion on — are you going to go back and discuss this item?

**MR. POPE:** Yes.

**CHAIRMAN BORDEN:** I don't want to do that unless there's a motion on the table, in other words.

**MR. POPE:** I just have a question.

**CHAIRMAN BORDEN:** Bob's point is absolutely dead-on. This is a PID. It's not a regulatory action. So if you want to change this, make a motion to change it; otherwise, let's just move on.

**MR. POPE:** I just have a question. I don't want to change it; I want to have a question about it.

**CHAIRMAN BORDEN:** Well, what's the question?

**MR. POPE:** It's on the idea of separate permits.

**CHAIRMAN BORDEN:** Go ahead, ask the question.

**MR. POPE:** Would that separate permit be for the state or would the separate permits be for individuals in that state or fishermen and how would that be done? In other words, does the ASMFC now issue permits to either fishermen or states, and what form would that be?

**CHAIRMAN BORDEN:** Megan, to that point, please.

**MS. GAMBLE:** This is exactly why it's a big, broad issue in the public information document. We want to go out and ask people is this something we need and how do you propose we address it. No, the commission does not issue permits.

I don't see the commission moving in that direction. That's something the states do; it's their purview. So right now we're looking at the big picture, just take a step back and let's not get involved in the details.

**CHAIRMAN BORDEN:** All right, remember, it's a PID. We're supposed to be asking big questions. We're not telling the public what we're going to do. We're asking them questions. The whole role of a PID is to really solicit input from the public and frame questions that solicit that input. It's not to necessarily advocate something. Vito.

**MR. CALOMO:** Thank you, Mr. Chairman. I agree it's a PID. I agree that it's got to go out the public hearing, but also the public hearing document should have information that would lead the public to a conclusion, maybe, or help them make a conclusion of what we're doing or help them make a suggestion to help us in this process.

Mr. Chairman, on Page 16, at the bottom of Page 16 you have "other issues." I think for public information on a bullet where it says "seine-only or trawl only area", I think the public should be aware that the state of New Jersey has no seiners that fish for herring or mackerel, that the state of Rhode Island does not have any seiners that fish for herring or mackerel that all go mid-water trawling; that the commonwealth of Massachusetts is predominantly, by maybe 99 percent, mid-water trawlers; and that the fishery has 90 percent, at least, throughout the range of this herring fishery, mid-water trawlers. I just think that's added information to have a trawl-only area.

**CHAIRMAN BORDEN:** Megan.

**MS. GAMBLE:** Just to address that point, it's included in here because it is an issue that was addressed in the scoping document. I did not provide further detail on these bullets in this document because I was under the impression that these were not big issues for state waters.

**MR. CALOMO:** I beg to differ with you, Megan, and I'm making this point because we do have a big issue in some of the areas for state waters. We have other fisheries that would like to eliminate trawl fisheries in state waters.

I feel that this would grow into a problematic situation for people that spend multi-millions of dollars to have vessels made of mid-water trawlers and that two large plants that invested millions of dollars only have mid-water trawlers fishing for them.

I'm just trying to figure if New Jersey or Rhode Island or Massachusetts tends to get invested into purse seines where they all have mid-water trawlers. I'm a little scared that there is not enough information.

I think the question may be good, the point that should there be a seine. But when 99 percent of the fishery is mid-water trawlers, I'd just like the public to know that.

**CHAIRMAN BORDEN:** Vito, could we address your concern by adding a sentence to there that simply specifies the distribution of catch by trawler and seiner in each of the states? Would that do it?

**MR. CALOMO:** Yes, that would help.

**CHAIRMAN BORDEN:** Okay, so it will be a number. That's available. We can use the most recent number and just expand this slightly with a couple of sentences.

**MR. CALOMO:** Because, Mr. Chairman, as you know, the predominant fishing is mid-water trawling. Even though some may do a little bit of purse seining at one time or another, predominantly it's mid-water trawling, Mr. Chairman. I think the public should be aware of this.

**CHAIRMAN BORDEN:** All right, any objections to doing that? If not, that's agreed to. Any other points here? **Can I have a motion to approve the PID as modified by the discussion today?**

**MR. NELSON:** So moved.

**MR. WHITE:** Second.

**CHAIRMAN BORDEN:** John Nelson and seconded by Pat. I've got a couple of hands up. Anyone on the motion? Peter Moore and then Jeff Kaelin.

**MR. PETER MOORE:** Thank you, Mr. Chairman. Peter Moore, representing NORPEL in New Bedford and the vessels Dora Martita, Nordic Explorer. On Page 16, Issue 11, bycatch and bycatch monitoring, I

just wanted to get some clarification on the second sentence.

It reads, "The federal amendment for Atlantic herring is likely to address the issue by increasing observer coverage in the directed fishery", and I'm not sure that's accurate. I'd like to find out from perhaps Lori Steele if that is accurate.

We are under observer coverage now by law. We accept observers whenever they are placed on our vessels. I'm just curious if that is a fair characterization because I think it's a little bit misleading. If it could be clarified, thank you.

**CHAIRMAN BORDEN:** Lori.

**MS. STEELE:** There are certainly options under consideration in our amendment document that would increase observer coverage in this fishery or establish some sort of more detailed observer program that's tailored for the directed herring fishery.

Maybe rather than saying "is likely to", just change it to "may" because there are those options under consideration but it's not really determined what direction we're going to go yet.

**CHAIRMAN BORDEN:** All right, any objection to that change, "may"? Jeff Kaelin.

**MR. JEFF KAELIN:** Thank you, Mr. Chairman. Jeff Kaelin, Stinson Seafood. On Vito's point on state-by-state breakdown as far as trawl/seine, it might be helpful to also identify the fact that Maine doesn't allow trawling in state waters, too. That could be helpful to the public to understand that.

But, the reason why I came up here -- and I know you guys want to end this, but on Issue 10 in research set asides, I think that's an area that could really stand to have another look at it and some more work.

The first sentence kind of intimates that because herring is inexpensive, we don't have enough money to fund research. Well, I don't think that's true. And as we all know, what we've had is we've had some states kick in significant amounts of resources, like Maine, to do research in herring.

We've had industry kick in a whole lot of money for different projects. I would like to see the public get more information about exactly how research has been funded, and I don't think it has anything to do with the price of herring.

I just think that's an area that needs significant work in providing the public with a clear understanding of how herring research has been funded, which states are doing what, where the money has come from.

The industry has gone to Washington for years to get money to do this, and we've got another request down there right now and so forth. So, Mr. Chairman, I'm just suggesting that the staff put a little more time into making that description a little more robust. Thank you.

**CHAIRMAN BORDEN:** All right, so really what you're looking for, Jeff, there is a couple of sentences that basically outline who is putting money into different funding.

**MR. KAELIN:** Yes. I don't think the first sentence makes any sense at all to me. It doesn't follow because herring is an underutilized species, and it's only a six or seven cent fish, that has nothing to do with how much money is available for research.

I think it's a good issue to draw out should there be research set asides to enable research. But, a little more background on where the money has been coming from and so forth, I think would be very helpful for the public.

**CHAIRMAN BORDEN:** All right, are there any states around the table other than the state of Maine that are putting funding into herring-specific research? Okay, so, Lew, could you provide us with some language that we could -- after the meeting, just talk to Megan and give her a couple of sentences that we could add in here. Are you agreeable to that?

**MR. KAELIN:** Yes.

**CHAIRMAN BORDEN:** All right, Lew.

**MR. FLAGG:** Thank you, Mr. Chairman. Yes, I would like to say that Jeff made some very interesting points relative to research. We have been doing a fair amount of herring tagging this year because that's one of the major issues associated with herring management to get a better understanding of the mixing ratios of the various spawning components.

We have had a fair amount of herring tagging that has been done this year. I would note that besides Maine industries and the East Coast Pelagic Association, Cape Seafoods also did provide some funding just recently, and we certainly appreciate the

funding that has been provided.

**CHAIRMAN BORDEN:** All right, anything else? Vito.

**MR. CALOMO:** Yes, quickly, Mr. Chairman, along that lead, NORPEL and Cape Seafoods have provided their vessels for any research. They've allowed science people and observers are on there continuously, because I monitor both the Cape Seafoods and the NORPEL plants.

So, I mean, there are platforms in itself that do provide research for the development of FMPs in the Atlantic herring, Mr. Chairman. And, Mr. Chairman, I would like to make -- if this is not to rest, I still want to make one more point before you pass judgment on this. Would you like to finish this first?

**CHAIRMAN BORDEN:** Well, I don't think there's anything further on that.

**MR. CALOMO:** Mr. Chairman, I would like to just make one more comment and, again, I'll try to be brief. I am a little winded this morning. Mr. Chairman, it has been a long history of IWPs in the Commonwealth of Massachusetts.

For years it did provide an avenue for our vessels, but we took it upon ourselves, through the New England Fisheries Management Council and through the Atlantic States Marine Commission, to eliminate IWPs.

I think the public should know that through the elimination of IWPs in the Commonwealth of Massachusetts, specifically, we developed two shore-side facilities. I heard the comment saying that, you know, we need other avenues.

I think the IWPs have a direct conflict with shore-side facilities, not only in the harvesting of fish but the markets. They compete very strongly for the markets, and where the American workers gets paid more money, there is a problem.

We have worked to eliminate that and provide shore-side facilities and economic benefit to our commonwealth, plus to the American worker.

Therefore, Mr. Chairman, I think there should be a note in this document showing a good example of the elimination of IWPs that bring people to invest in shore-side facilities. We are also, even at this time, negotiating a third partner in a facility in the Commonwealth of Massachusetts.

We've had a third partner prior to the last recommendation to lower the TAC in this fishery that hasn't reached the TAC yet but kind of scared one off. But we are talking to another group that has the financial backing, and so I would say there is opportunity up and down the coast to bring economic benefit by eliminating IWPs.

It has certainly worked in the Commonwealth of Massachusetts with the Cape Seafoods and NORPEL, as examples, Mr. Chairman. So, I feel very strongly about a statement in there why we would like to not further introduce IWPs to state territorial waters. Thank you, Mr. Chairman.

**CHAIRMAN BORDEN:** Megan, to that point.

**MS. GAMBLE:** Well, I guess I want to point out again that these are supposed to be issues. We're not supposed to be stating it's going to go one way; it's going to go another way.

And, under IWPs I definitely make the point that there is a benefit of providing an alternative avenue for these catcher boats, but there is also a problem because it creates competition in the markets and it creates -- there is this competition between the shore-side processors and the IWP operations.

So, I've made both those points trying to play the middle road. I am concerned about trying to point us in one direction or another. So, Vito, if you could be a little bit more specific and tell me exactly how you want Issue Number 5 changed, I would greatly appreciate that.

**MR. CALOMO:** I think a bullet such as you -- I agree on the document. I think the document is done very well with the few adjustments that we've made here this morning. I think you've done a great job.

I'm proud of the document. But I think a bullet should say that the elimination of IWPs have benefited the shore-side facilities and have produced economic benefit to the working Americans.

**CHAIRMAN BORDEN:** All right, comments on that point? Any comments? Everyone is kind of shrugging their shoulders. How do you want to handle this? Do you want to be more explicit?

I mean, we've got this acknowledgement on Page 13, in the second paragraph, the last two sentences get into this whole issue of the expansion of processing capacity in the state of Massachusetts. It's clearly

identified there. Does the board want to go further than that? Ritchie.

**MR. WHITE:** Thank you, Mr. Chairman. I would tend to leave it as it is. I understand where Vito is coming from, and I agree with him, but I think he's kind of answering the questions that have been posed in the document.

I think that's what we're giving the chance of the public to respond to so that's the kind of response at the public that we're going to hear is what Vito is saying, so I would tend to leave it as written and allow the public to say exactly what Vito is saying.

**CHAIRMAN BORDEN:** All right, Ritchie is suggesting leaving the language as is. We know that Vito disagrees with that. Anyone else disagree with that? Then we'll leave it as is and, as Ritchie points out, that's one of the comments you should make, Vito, when we take it out to Massachusetts. Vito.

**MR. CALOMO:** Mr. Chairman, why are we leaving it as is when I made a proposal? Well, he's made a proposal to leave it as is and I made a proposal to change it. Either you have a vote or ask if there is consensus to change it. And, Mr. Chairman, I also want to say one more thing.

**CHAIRMAN BORDEN:** Can I answer your question, though?

**MR. CALOMO:** Yes, you can.

**CHAIRMAN BORDEN:** When I asked the question does anyone disagree with what Ritchie is saying, there wasn't anybody that disagreed. We knew that you disagreed. You were the only person that disagreed so my assumption was that the conclusion around the table was leave it as is and you object to that.

**MR. CALOMO:** Yes, I do, Mr. Chairman, I object. I want to further state why I object. Can I? I respect you, Mr. Chairman. I think you do a great job. I think this is a very important issue for me to put my two cents in, and I'd like to.

**CHAIRMAN BORDEN:** Can I suggest we have a motion on this. I'm just trying to move this conversation along.

**MR. CALOMO:** I know you are and I know that as a chairman you do move the conversation along, but, Mr. Chairman, let me make one more point and if they don't agree with me, I don't care to make a



motion.

**CHAIRMAN BORDEN:** Okay, go ahead.

**MR. CALOMO:** I think during this time in this country we ought to show that we are benefiting the economics because it has been challenged many times through not having shore-side facilities. And the way we've done it, by eliminating IWPs, has benefited shore-side facilities and has produced an economic factor for us.

And that's all I'm trying to say, and I think the public should know this, that it's helping the American worker. You know, NORPEL employs about 100 people. I know Cape Seafood employs about 100 people.

I'm not talking about fishermen directly. You know, they brought back services such as longshoremen. I just want the public to know this. I think that's a clarification. Thank you, Mr. Chairman. I'm sorry to be so winded.

**CHAIRMAN BORDEN:** Let me ask this so the record is clear. Is there a motion to amend the main motion to modify this section at all? If there isn't, I'll take any other points that -- any motion to amend? There is no motion to amend, then. John Nelson.

**MR. NELSON:** Mr. Chairman, I was just trying to find some middle ground between our comrades here. I would just throw out a suggestion. I don't want to do an amendment.

But on Page 13, the second paragraph, the last sentence, you know, it says, "since the implementation of Amendment 1" et cetera, et cetera, "two Atlantic herring processing plants have come online, one in Gloucester and the second in New Bedford, employing 'x' number of people."

And maybe that helps go partway to dealing with what Vito has raised as the point, and also yet not advocating one position or another. It just states a fact of how many folks have been employed by those particular plants. And maybe that helps Vito.

**CHAIRMAN BORDEN:** Any objections to that change? No objections to that change, if we could get the numbers from that plant. Bruce, do you want the same thing to take place?

**MR. FREEMAN:** Well, it seemed to me during the earlier discussion on this particular issue there was a

question on the third paragraph as to what the benefits would be for an IWP. It was not explained. It was inferred that there would be benefit, but the question I thought was settled.

There needs to be additional text to explain why IWP would be beneficial. I think that's the issue that Vito indicates, and his conclusion is that there seems not to be any benefit. If in fact that can be identified, it should be.

But it seems to me that's the essence this particular issue. In the discussion we've had, IWPs was an effort to get to a complete Americanization of the fishery, and this was a step to get there.

And it appears in many people's determination we've already reached that, and now we're trying to have a complete Americanized fishery. But if there is an argument for a benefit for IWP, it needs to be brought out in the document. Megan was, I thought, left with the charge to see if in fact there is such a thing and if so put that in the document.

**CHAIRMAN BORDEN:** Bruce, do you have some specific language you want to submit?

**MR. FREEMAN:** No. I mean, my personal position is we should essentially do away with IWPs and JVs. If we're really going to Americanize this, as we have with squid, that break needs to come. And, as the Mid-Atlantic Council has done with mackerel, we've essentially phased that out.

We had specifically in the plan and indicate that's going to phase down and out, and, therefore, there won't be any more. This plan has not done that. Perhaps we should solicit comments to the public to see what their opinion is whether that strategy would be useful for herring or not.

**CHAIRMAN BORDEN:** We're to the point where I need language. You know, if somebody wants to add something or delete something, please propose specific language. Bill.

**MR. ADLER:** Thank you, Mr. Chairman. On the first bullet, then, on Page 13, it says, "Should the commission continue to allocate the IWP TAL or should IWPs be phased out"; if you just added there - you've got the questions -- would that cover it?

**MR. FREEMAN:** Yes.

**MR. ADLER:** That would cover Bruce's concern.

**CHAIRMAN BORDEN:** All right, any objection to that? No objection. Okay, anything further on the main motion? Eric.

**MR. SMITH:** Yes, thank you, Mr. Chairman. I know you want to conclude because we're about out of time. Unfortunately, when Vito opened the door on his point and John suggested words to try and accommodate the two sides, I'm a little concerned with the words because by simply putting this in raw terms of employment, I don't want to leave ourselves open later on to criticism that's all we're managing for is just to do those kind of things.

I think the bigger issue is when those two plants came on it created processing capacity that substantially approaches the allowable harvest, and that really is the essence of why IWPs become something less important in herring management. So if John agrees with that, maybe that language might cover more bases and not sound so purely -- well, it creates a problem in my mind.

**CHAIRMAN BORDEN:** John.

**MR. NELSON:** As always, Mr. Chairman, I certainly concur with my learned colleague from Connecticut to deal with that language.

**CHAIRMAN BORDEN:** Okay, and, Eric, could you repeat the language one more time.

**MR. SMITH:** Yes, at the end of that sentence, after "New Bedford, Massachusetts", add "creating processing capacity that substantially approaches the allowable harvest."

**CHAIRMAN BORDEN:** All right, any objections to that? No objections. Pat.

**MR. WHITE:** I just had one point I'd like staff to look into if they could, which might make a lot of this argument moot, is that I thought we voted on as a Section two years ago to do away with JVs and IWPs and we would work towards that effort.

There was a motion in there somewhere of two years ago. I talked with Bob. I don't know if we can find it or not, but we did make some consideration for that. Exactly what the motion was, I'm not sure.

**CHAIRMAN BORDEN:** We can look. Anything further on this motion? Anyone in the audience? Are you ready for the question? Do you need a caucus? No caucus. **All those in favor of the motion, signify by raising your right hand, 6 in**

**favor; any no votes; any abstentions. The motion carries.**

#### ADVISORY PANEL NOMINATIONS

**CHAIRMAN BORDEN:** Advisory panel nominations. We have two from the state of Maine. I'll recognize Lew Flagg.

**MR. FLAGG:** Thank you, Mr. Chairman. We do have two recommendations for the advisory panel. One of them is **Al West, who is the buyer for Stinson Seafood. Al has been very much involved with the herring industry for over 20 years. He is an advisory committee member for the council's Herring Committee. I would recommend that he be approved as an advisory from the processing sector.**

**CHAIRMAN BORDEN:** Lew, have you got another one, too?

**MR. FLAGG:** I have another one and I'll give you that one also.

**CHAIRMAN BORDEN:** Do them both together.

**MR. FLAGG:** **Russell Smith. He is a recreational angler, retired. He has been very active in the fishing community from the recreational perspective. He is a member of the council's Whiting Committee for the New England Council and has been attending the herring meetings and has been very interested in herring as a forage base for other species.**

**CHAIRMAN BORDEN:** All right, comments on either one of the nominations?

**MR. ABBOTT:** **Second the motion.**

**CHAIRMAN BORDEN:** Lew has made the motion. Dennis Abbott seconded it. Discussion on the motion to approve these two. Any discussion? No discussion. Ready for the question? All in favor, signify by saying aye; opposed, nay; abstentions. **The motion carries unanimously.**

#### OTHER BUSINESS: RHODE ISLAND IWP UPDATE

**CHAIRMAN BORDEN:** The last item on the agenda is other business, and this is simply a briefing that I had requested. The state of Rhode Island received a request a number of months back from Bill Quimby for both a herring and mackerel IWP.

As you will recall, I brought the IWP request to the board. The board formally took action on it and rejected the request for an allocation, so there was a formal rejection of it. Since that time there has been no action by the state of Rhode Island and all this is, is simply a briefing on where we stand with it.

The vessel that Bill was thinking about utilizing in the IWP has been sold, so he doesn't even have a vessel at this point that he could bring into the state of Rhode Island to try to process mackerel.

And in fact one of the issues that has come up is that as of I think the end of December the GIFA which the Russians have with the United States expires so the GIFA has to be renegotiated.

So, in essence, there isn't a vessel at this point and there isn't a GIFA, but he still is interested in, Number 1, finding a vessel to bring into the state of Rhode Island to process mackerel; and I guess the Russians are working on the GIFA.

The main issue I want to bring to your attention is that -- and I asked Megan to make copies of this and circulate it -- one of the issues that comes up since the commission has taken the position of no IWP on herring, the issue is if in the final analysis Bill can find a vessel and work out the GIFA arrangements and the governor approves an IWP for mackerel, there is a bycatch of herring in the mackerel fishery.

And what I did was I simply took our catch records from last year's IWP -- that's what you have -- each time a vessel landed mackerels and noted how much herring was the bycatch. I don't have a way of resolving this or a proposal for the board to consider. I just simply want you to reflect on this.

And if in fact the rest of those uncertainties get worked out, I may have to come back to the board at a subsequent meeting where it's formally on the agenda and propose something to remedy this; in other words, some kind of bycatch in the fishery. So that's just for your own information. Any questions on this? I'd be happy to answer them. Bill Adler.

**MR. ALDER:** Thank you, Mr. Chairman. First of all, a GIFA, that's the one where because of the stock is sufficient, that they can allow foreigners to take it?

**CHAIRMAN BORDEN:** It's a Governing International Fishing Agreement. It's a government-to-government document that allows, under certain rules and conditions allows a foreign vessel to enter a

U.S. fishery.

**MR. ADLER:** Okay, and is this for mackerel?

**CHAIRMAN BORDEN:** The GIFA I think is done in a broader context.

**MR. ADLER:** Okay, because obviously we can't have one for herring because in the document here we're talking about dropping the herring TAC for some reason so, you know, if we're going to drop it, we really shouldn't be giving it away, either. All right, thank you.

**CHAIRMAN BORDEN:** Yes, GIFAs are not species specific. They're general documents worked out among the state department. So, just to conclude this, I have no proposal to put forth. I'm just essentially putting you on notice that this situation is still under review. Any other business to come before the council? Dave Pierce.

**DR. PIERCE:** At our last meeting we quickly reviewed a paper that was put together by the council staff, actually by an intern, "The Role of Atlantic Herring in the Northwest Atlantic Ecosystem." This was a draft and I just needed an update from Lori as to where this stands.

Obviously it has implications for our PID, a lot of information in here that relates to some of the issues that will go out to our own public hearings, so is it still a draft? Is it being reviewed by anyone, Lori? What is it's status?

**MS. STEELE:** It is still considered a draft. It is going to be included as an appendix to our amendment and draft environmental impact statement. I think we talked about having it reviewed by the Habitat Technical Team. I'm not sure if that's the most appropriate group.

There is an intention of having a technical group of some sort review it prior to inclusion in the draft EIS. And we also intend -- some of us on the Herring PDT who have some additional information on that topic intend to supplement the document with whatever updated information or whatever information about sort of things that might be coming up in the future that relate to that issue.

So, there will be some additional information provided, and at some point it will get incorporated into the document and no longer be considered draft, but we are going to try to get it reviewed by somebody.

**CHAIRMAN BORDEN:** Bruce Freeman.

**MR. FREEMAN:** David, I just need clarification on that last document you referred to. It appears the mackerel catches often have herring as a bycatch, and yet there are several areas on here or several locations on your form where there is a herring catch only. Was that a directed fishery for herring in absence of mackerel?

**CHAIRMAN BORDEN:** Yes, as you will recall last year the state of Rhode Island had a 5,000 metric ton IWP, so what they were fishing on last year -- they could have caught pure herring in this operation, but because of marketing considerations, they were targeting mackerel and they still had a herring bycatch.

Any other business to come before the board? If not, the meeting is adjourned. Thank you very much for your tolerance.

(Whereupon, the meeting adjourned  
at 10:05 o'clock a.m., December 15, 2003.)