

**PROCEEDINGS
OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SHAD & RIVER HERRING MANAGEMENT BOARD**

**August 28th, 2002
Swissotel at the Watergate
Washington, D.C.**

ATTENDANCE

Board Members

George Lapointe, Maine DMR	Eric Schwaab, Maryland, DNR
Dennis Abbott, Maine Gov. Apte.	Bill Goldsborough, Maryland Gov. Apte.
Paul Diodati, Massachusetts DMF	Pete Jensen, proxy for Delegate Guns (MD)
Bill Alder, Massachusetts Gove. Apte.	AC Carpenter, PRFC
Vito Calomo, proxy for Rep. Verga	Ira Palmer, Washington DC FWD
David Borden, Rhode Island DEM	Jack Travelstead, Chair , Virginia MRC
Eric Smith, Connecticut DMR	Catherine Davenport, Virginia Gov. Apte.
Lance Stewart, Connecticut Gov. Apte.	Ernie Bowden, proxy for Senator Chichester (VA)
Byron Young, New York DEC	Preston Pate, North Carolina DMF
Pat Augustine, New York Gov. Apte.	Melvin Shepard, proxy for Rep. Redwine (NC)
Brian Culhane, proxy for Senator Johnson (NY)	John Miglarese, South Carolina DNR
Bruce Freeman, New Jersey DFG&W	David Cupka, South Carolina Gov. Apte.
Tom Fote, New Jersey Gov. Apte.	Ron Michaels, Georgia DNR
John De Persenaire, proxy foAssemblyman Smith (NJ)	Roy Crabtree, proxy for Ken Haddad (FL MRC)
Dick Snyder, proxy for Peter Colangelo (PA FBC)	Kathy Barco, Florida Gov. Apte.
Roy Miller, Delaware DFW	Bill Cole, USFWS
	Tom Meyer, NMFS

Ex-Officio Members

John Olney, VIMS, TC Chair	Jeffrey Bridi, PA Fish & Boat, LEC Rep
Patti Jackson, James River Association, AP Chair	

ASMFC Staff

Megan Gamble	Bob Beal
Lydia Munger	Mike Howard
Tina Berger	

Guest

Susan Shipman, Georgia DNR	Dick Brame, CCA
Harold Mears, NMFS	Jill Stevenson, MD DNR
Sara Swift, EDWJed Brown, USFWS	John Merriner, NMFS

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

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MOTIONS

- 1. Motion to approve the February 19, 2002 Proceedings of the Board.**
Motion by Mr. Augustine, second by Mr. Cupka; Motion carries.
- 2. Motion to approve the PRT Report.**
Motion by Mr. Augustine, second by Mr. Cupka; Motion carries.
- 3. Motion to approve the FMP Review.**
Motion by Mr. Freeman, second by Mr. Adler; Motion carries.
- 4. Motion to approve the RI, NJ, DE, MD, VA, NC, SC proposals for the 40% effort reduction in the American shad ocean intercept fishery.**
Motion by Mr. Augustine, second by Mr. Lapointe; Motion carries.
- 5. Move approval of option 1 for *de minimis* status in Addendum I.**
Motion by Mr. Smith, second by Mr. Cupka; Motion carries.
- 6. Move to strike the Massachusetts requirement to monitor recreational catch and effort every 5 years within the Connecticut and Merrimack Rivers.**
Motion by Mr. Diodati, second by Mr. Lapointe; Motion fails (3 in favor, 14 opposed).
- 7. Motion to approve Addendum 1.**
Motion by Mr. Schwaab, second by Mr. Augustine; Motion carries.
- 8. Move to approve Bill Farmer to the Advisory Panel.**
Motion by Mr. Shepard, second by Mr. Lapointe; Motion carries.
- 9. Move to nominate A.C. Carpenter as Vice-Chair to the Management Board.**
Motion by Mr. Lapointe, second by Mr. Augustine; Motion carries.

**ATLANTIC STATES MARINE FISHERIES
COMMISSION**

**SHAD & RIVER HERRING MANAGEMENT
BOARD**

**The Watergate
Washington, D.C.
August 28, 2002**

The Shad & River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Monticello Room of The Swissotel Washington, The Watergate, Washington, D.C., Wednesday, August 28, 2002, and was called to order at 10:00 o'clock a.m. by Chairman Jack Travelstead.

WELCOME & INTRODUCTIONS

CHAIRMAN JACK TRAVELSTEAD: If everyone could take their seat, we'll get started with the Shad & River Herring Management Board. Before we get started, Bob has an introduction he would like to make.

MR. ROBERT E. BEAL: Yes, just real quickly, I sent out a memo, I don't know, a month or two months ago introducing a new staff member, Lydia Munger, who is going to be taking over shad & river herring, winter flounder, and American eel.

Lydia is over at the staff table. I just wanted to introduce you to her or her to you. So after this meeting, Lydia will be taking over all those species. If you have questions following this meeting, call Lydia.

CHAIRMAN TRAVELSTEAD: Thank you, Bob, and welcome aboard, Lydia. We have a fairly lengthy agenda today and there are a number of action items. I understand from some of you that some of these contentious, but we want to do our very best to get through this.

I've also been told that some of you have early flights and have to leave today, if I could get a show of hands of who has to get out of here fairly quickly. Just a couple and what time do you all have to leave? Right at noon. If we abide by our agenda, we will

hit the noon mark and you all can get out of here on time.

BOARD CONSENT

CHAIRMAN TRAVELSTEAD: Are there any changes to the agenda? Seeing none, we'll move on. You have the minutes of the February 19 meeting of the board. Is there a motion to approve the agenda? I have a motion to approve, seconded by David. Pat Augustine made the motion and David Cupka seconded. Any objections to approving the motion? The motion is approved. The minutes are approved.

PUBLIC COMMENT

CHAIRMAN TRAVELSTEAD: Item 3 is public comment. We welcome public comment at this point. Is there anyone in our audience who wants to discuss any particular shad or river herring issue? Seeing none, we'll move along.

**PRT REPORT: ANNUAL COMPLIANCE
REPORT**

CHAIRMAN TRAVELSTEAD: The next item on the agenda is the PRT report. This is an action item. Megan, you're going to handle that for us?

MS. MEGAN E. GAMBLE: Yes. The Plan Review Team got together back in July to do their annual state compliance review, as well as put together the annual FMP review. The first document I just wanted to go over is the document called "Review of Shad & River Herring Annual State Compliance Reports for 2001."

The PRT has determined that all of the states have implemented and enforced the required provisions of the Technical Addendum Number I and Amendment Number 1 to the Shad & River Herring Fishery Management Plan.

I just wanted to go over five issues that the PRT wanted to call to your attention, the first one being ocean bycatch. When a state has ocean bycatch of American shad, Amendment 1 requires that American shad cannot constitute more than 5 percent of the total landings in pounds per trip.

It goes on to stipulate that the state must annually document that the 5 percent trip limit was not exceeded. The report also must include the extent and nature of the non-directed fishery, report total landings of American shad bycatch, and they also must sub-sample the bycatch unless they are exempted through *de minimis*. They do not have to do this last bullet, which is sub-sampling.

In 2001 there were five states with ocean bycatch and those five state reports did not include any documentation regarding this 5 percent trip limit. The PRT anticipates that the ocean bycatch will be a growing problem as the states phase out the ocean intercept fishery.

The PRT wanted to call this to the board's attention now. Most of the states do not have a program in place to monitor trip level landings of American shad. Those states that do have ocean bycatch -- and the technical committee also discussed this -- they have a problem with relying on the NMFS data for American shad because quite often other alosid species are misidentified as American shad.

I don't know if the board wants to take action on this issue, but it is going to be a growing problem as we do phase out this fishery in the ocean.

CHAIRMAN TRAVELSTEAD: Any immediate comments from the board on this issue? I think this is potentially a pretty significant issue, and I'm not sure that we could decide an answer to this here today, just having been brought to our attention.

Of course, I think most of us have been aware of this potential problem for some time, but what I would -- unless there are immediate comments and -- okay, we see some. Bruce Freeman.

MR. BRUCE FREEMAN: The information that we're obtaining, Jack, is that this will be an issue in every coastal state, at least in our opinion, that we'll be seeing every state, once the phase out occurs, they'll be meet the 5 percent.

So it's something that the board needs to address and the conditions of the plan require reporting, and I think we ought to expect that each of us are going to have to report this 5 percent in some manner.

CHAIRMAN TRAVELSTEAD: Pres.

MR. PRESTON PATE, JR.: Thank you,

Jack, nothing more to add than what Bruce just said. Certainly, for the most part our fishery has been bycatch for a number of years, with one or two exceptions.

It's an important issue because it relates to what all the states are going through now with our budget crisis. I've brought this up before with regards to other plans, and it's really more significant when a state has *de minimis* status, which we do not with American shad, obviously.

But when it is, there needs to be some sensitivity to the impact that these monitoring requirements are having on limited budgets, and at some point we need to make some cost-benefit analysis, because I know the sampling that we're doing now captures most all of the alosids in our ocean commercial fishery.

But we're down staff in a number of the key locations relative to those fisheries and even monitoring at that level will be difficult for us. It's just something to keep in mind as we start developing these monitoring requirements.

CHAIRMAN TRAVELSTEAD: David Borden.

MR. DAVID V.D. BORDEN: Thanks, Mr. Chairman. Pres actually made a number of the points that I was going to make from Rhode Island's perspective, but I would just add that our sampling has already been conducted and documented and the paperwork has been distributed to the board.

We had to lay off three of our port samplers, so that won't take place next year is the bottom line unless we find additional resources to do it. I'm not sure how we resolve this.

The other problem that I've addressed a number of times with the board, we are totally supportive of the objectives of trying to accomplish this, but our intercept fishery is a fish trap fishery where there is no way for the fishing industry to avoid that bycatch.

The question is, in our case, when you have, say, a hundred thousand pounds of fish that come on a boat, how do you sort through the 500 pounds of shad in the catch and still get them over the side alive. It's very problematic.

CHAIRMAN TRAVELSTEAD: Other

comments? Are there any other states that are in David's situation where they've actually had to lay off port samplers and would not -- Paul.

MR. PAUL DIODATI: Ours was more of a strategic lay off. We had an early retirement bill that resulted in we've lost nine members of our staff, and we have forty vacancies. So as we look at compliance issues on some of these plans -- in fact this is one of them -- it's very troubling when we have to make decisions about resources.

Ours is not the intercept fishery, for instance. It's more the in-river creel surveys, things of that nature, which we're expected to do every five years, and I'm not even sure what value that information is going to have in the big picture.

There's no way that we're going to meet that as a compliance issue and so it's going to force us out of compliance at some point with this plan.

MR. FREEMAN: We had a similar situation as Massachusetts where we lost about 23 percent of our staff, and at best only half will be replaced and that will take at least a year. So although we're able to meet our obligations in shad, when we, this afternoon, get into weakfish, it's a very different situation and it's creating tremendous problems of meeting the requirements of the plan.

CHAIRMAN TRAVELSTEAD: I think most of the states are in some very serious situations. I know Virginia is. We're looking at upwards of a 23 percent budget cut each of the next two years, and I suspect some states are worse off than that.

This is, I think, really quickly becoming an issue that's bigger than shad and it's going to spill over into a lot of the other management plans. It may be something that we need to discuss at the Policy Board level.

Again, I'm not sure there's anything we can do about this particular issue today. Just be aware of the situation and see where it leads us, and what we can get out of or do to fix it in the future. Are there any other comments on the PRT's annual compliance report?

MS. GAMBLE: So the next issue of the five that I have are the phase-out proposals. This year, in addition to reviewing the annual state reports, at the same time the PRT also reviewed the

phase-out proposals.

All states with an ocean intercept fishery for American shad were asked by the board to submit a proposal for phasing out the fishery. The proposals were due on July 1. All seven states with an ocean intercept fishery for American shad did submit a proposal for the 40 percent reduction in effort that will take place by December 31, 2002.

Only four of those seven states have submitted a proposal for the complete closure of the fishery by December 31, 2004. When the technical committee reviewed the phase-out proposals, those states that have submitted a proposal for the complete closure were not certain that the proposals they put forth were the actual course of action the state would take in 2004.

So those states with an ocean intercept fishery will likely need to submit an additional proposal that will achieve this complete closure by the end of 2004.

CHAIRMAN TRAVELSTEAD: Can you list the states that did not submit the -- Oh, they're listed.

MS. GAMBLE: Yes, they're listed up here. It's New Jersey, Maryland and Virginia. North Carolina did submit a proposal for the complete closure.

CHAIRMAN TRAVELSTEAD: Comments on this from the board? Pat Augustine.

MR. PAT AUGUSTINE: Thank you, Mr. Chair. If a motion is in order, I would like to move that we accept the phase-out proposals in the reduction effort of the states of Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina.

CHAIRMAN TRAVELSTEAD: Pat, we're not quite there yet. We're almost there, but I will call on you shortly.

MR. AUGUSTINE: There goes Roberts Rules of Order out the door again, but, yes, sir. Thank you.

MS. GAMBLE: The next issue is with Connecticut's regulations for American shad. The PRT noted, when reviewing Connecticut's annual report, that Connecticut's current regulations for

American shad do not restrict an ocean intercept fishery.

In fact, it stated: "Shad may also be taken commercially in all marine waters of the state." So just as a precautionary measure, the PRT is making a recommendation that Connecticut amend their regulations to say that the ocean bycatch of American shad is permissible provided that the American shad do not constitute more than 5 percent of the total landings in pounds per trip.

CHAIRMAN TRAVELSTEAD: Any comments on this? Yes, Eric.

MR. ERIC SMITH: Thank you, Mr. Chairman. I appreciate the recommendation of the PRT on this, but I think a fuller reading of our regulations will show why we don't specify that in particular. We have a season for shad, which means you can only take them during the anadromous run.

The other times of the year, when they may be in Long Island Sound, you can't take them. So it's our regulations in whole that make us feel comfortable that the only thing that will be the real shad fishery in Connecticut is the directed anadromous run when every other state has their river fishery. Thank you.

CHAIRMAN TRAVELSTEAD: So outside of the season, there is no bycatch allowed whatsoever?

MR. SMITH: Well, you can't take American shad outside of the April to mid-June season.

CHAIRMAN TRAVELSTEAD: Bruce.

MR. FREEMAN: Eric, can shad be taken in Long Island Sound as well as the river during that period or only in the river?

MR. SMITH: In part they can and in part they can't. There are certain parts and certain gears that they can't. But when you get outside that window around the Connecticut River, then it would be silent. The fact is though the shad are largely in the river at that time.

MR. FREEMAN: I think the only argument that could be made is that a fishery could develop in the Sound. However, understanding the habits of the shad, it's very unlikely any shad other than the

Connecticut River shad would be in the Sound at that time.

So if your law is silent on the fact that a fishery could occur at any time on Long Island Sound, I think realistically it would be in the river or it wouldn't exist.

CHAIRMAN TRAVELSTEAD: Other comments? Megan.

MS. GAMBLE: The next issue pertains to the Potomac River within Washington, D.C. According to Technical Addendum I, Washington, D.C., is required to perform an annual spawning stock assessment on the Potomac River, and the spawning stock assessment typically includes information such as length and weight, sex ratio, age frequency, number of repeat spawners.

Although the District did report the lengths of 11 adult American shad, this is not an adequate assessment of a spawning stock for the Potomac River. The sample size must be must larger and the assessment should also include the information such as weight, sex ratio, age frequency, and number of repeat spawners.

This was discussed by the technical committee and it was actually the technical committee that wanted to bring this before the board's attention.

CHAIRMAN TRAVELSTEAD: Ira.

MR. IRA PALMER: Comment. When it refers to eleven, that's basically eleven fish that were actually caught during that season. As you know, we have a moratorium on American shad, prohibiting the taking of the fish.

We don't currently have any funding to do a detailed study. So the information that we are collecting is part of our general fish survey, and we simply aren't seeing the fish in the District. So it's one of those situations where if the fish are not there, you can't generate the numbers successfully to get the information you're asking for.

CHAIRMAN TRAVELSTEAD: Any other comments? Megan.

MS. GAMBLE: The next issue is the Savannah River. Both Georgia and South Carolina's annual state reports include information on the

commercial landings and effort of American shad on the Savannah River.

Neither the technical addendum nor Amendment 1 requires South Carolina or Georgia to report catch and effort, but both documents also do not require the states to sub-sample the commercial catch. But, the PRT does believe that it's the intent of Amendment 1 to monitor the American shad populations on each river system that can support a commercial fishery.

On page 35 of Amendment 1, Section 3.3.3, Requirements for Fishing Mortality Rate Calculation, it states: "States that reopen or establish new in-river or ocean bycatch fisheries will have to implement these requirements and these requirements include sub-sampling in-river commercial catch."

So the idea here is if a river system can support a commercial fishery, then it would likely be important for the stock assessment, this information that we could obtain from sub-sampling this commercial fishery.

MR. RON MICHEALS: Thank you, Mr. Chair. I have a problem with that statement for a couple of reasons. First of all, as was already stated, the fishery-dependent and fishery-independent tables in Amendment 1, Technical Addendum I, and Draft Addendum I do not have these requirements for Georgia to collect data on the Savannah River.

Second of all, in talking to the Georgia's TC representative, when they met as a group on August 6, they concurred that the tables were accurate, that this issue had been resolved at the board level in the past, and that Georgia should not have to provide or report these data on the Savannah River.

And third of all, in Section 3.3.3, on page 35 of Amendment 1, the criteria that were just stated, a reopened fishery and establish new in-river or ocean bycatch fishery, none of those criteria are applicable to the Savannah River.

CHAIRMAN TRAVELSTEAD: Do you want to comment?

MS. GAMBLE: I do understand that and it isn't included in any of the amendments. This was a review of the annual reports and the idea is just having the needed data in order to perform a stock assessment. So if the runs are strong enough in order to support a commercial fishery, we wanted to be

able to include that when we do our stock assessments.

CHAIRMAN TRAVELSTEAD: Susan.

MS. SUSAN SHIPMAN: Well, I don't necessarily disagree with that statement, but I think the issue is compliance with requirements, and we would submit that Georgia is not out of compliance. and you know, when you get -- because these are the annual state compliance reports.

I'm interpreting this as perhaps an interpretation by staff that is suggesting we are not in compliance. If this board wants us to collect data for the Savannah River, then I think that needs to be taken up in the next addendum or whatever, but we would contend we do not have to collect those data at present.

MS. GAMBLE: I apologize for giving that impression. That's not what I meant to say. In the beginning, I prefaced my report by saying that the PRT did find that the states have implemented and enforced the required provisions of Technical Addendum I and Amendment 1. These are all just issues that I wanted to bring before the board so that they can take them into consideration.

CHAIRMAN TRAVELSTEAD: Yes, and just keep in mind -- I mean, the staff is bringing these issues. They're not necessarily compliance issues; and if the board doesn't have a lot of comment on these, we're going to keep moving through them. If you have something you want to say on them, then, you know, we'll be glad to hear from you. Go ahead.

MR. MICHEALS: It may just be a matter of semantics because I know in the past we've talked about encouraged, strongly encouraged, but underneath the unreported information, it's stated as a requirement.

And when these tables were first put together, they were put together knowing that the states did not have the people or the resources to sample every single river so that the water bodies that were included in these fishery dependent and independent tables were representative of important water bodies that represented what the state could do.

CHAIRMAN TRAVELSTEAD: Thank you. Any other comments? Pat.

MR. AUGUSTINE: Thank you, Mr.

Chairman. Based on what both Susan and Ron said, it appears to me that this document could be corrected to encompass what Ron had stated, as although there is a commercial fishery in the Savannah River, Georgia is not required to sub-sample the commercial landings to determine the composition of the stock.

We're talking about something that is a perception, I believe, and if it's a perception, why are we spending time on it? So could we correct that statement or drop it off, sir.

CHAIRMAN TRAVELSTEAD: Did you ask a question? Will we drop it --

MR. AUGUSTINE: I can't make a motion because you'll nail me for making motions, but what can we do as a question to change that statement to be more correct?

CHAIRMAN TRAVELSTEAD: We will direct the staff to correct that statement, make it more accurate, and Megan will take care of that. Any other comments on that issue? Let's move along?

MS. GAMBLE: Yes, those are the five issues I just wanted to bring before the board's attention. Otherwise, the PRT is just looking for the board's approval of the PRT's compliance report with the knowledge that staff will go back and make those changes that Pat just recommended.

CHAIRMAN TRAVELSTEAD: Bruce.

MR. FREEMAN: I just wanted to quickly back up to the issue of the District's requirements for monitoring. It seems that the Potomac River Commission monitors, and the D.C. is a continuation of that. Since, as Ira indicated, there is no allowable harvest, couldn't the D.C. information be incorporated with Potomac River in order to satisfy monitoring?

I mean, we need to be reasonable on this. I know Ira hasn't been attending some of the commission meetings simply because there isn't his time or funds to do it, much less meet some of these requirements. I think we need to be practical about it and I'm just curious if we simply couldn't blend their information in with the Potomac River to satisfy our needs.

CHAIRMAN TRAVELSTEAD: Any comment? Ira, do you want to comment on that?

MR. PALMER: Thank you, Bruce. We would be happy to support the information that's gathered in the lower Potomac. As was pointed out, there's no commercial fishing in the District, so there's harvest, and even on the recreational side the fish is prohibited to be taken.

We do have plans in 2004 to put in a proposal to utilize our grant funds that we do receive from the commission on shad. The amount we currently get is currently finishing up a four-year study on striped bass, and we are looking to increase our effort specifically for American shad.

We are doing a number of different things with the U.S. Fish and Wildlife Service as well as the Potomac River Fisheries Commission on the restoration work. We're hoping that those types of things will increase, of course, populations in our area, and then we will be able to get realistic numbers as the population improves.

We will happy to cooperate with the Potomac River Fisheries Commission and Maryland and everybody else in terms of working with them to share our limited information to combine with what the other states are doing.

CHAIRMAN TRAVELSTEAD: Mr. Carpenter.

MR. A.C. CARPENTER: Bruce is right, the Potomac is one system here, but I would point out that in the annual report that we submitted, taking the information from the Maryland Young of the Year Survey, the 2001 Potomac River shad index was the highest on record. Those eleven fish that he caught were quite good at what they were here for.

CHAIRMAN TRAVELSTEAD: Any other comments on any of the issues contained in the annual compliance report? Pat, you've got one, do you?

MR. AUGUSTINE: May we make a motion to accept or are we too soon?

CHAIRMAN TRAVELSTEAD: No, we're ready for a motion to approve the report.

MR. AUGUSTINE: Then let's do it, **move to accept the report as presented.**

CHAIRMAN TRAVELSTEAD: **It was seconded by David Cupka.** Comments on the motion? Seeing none, all those in favor say aye; opposed no. **The motion carries and the report is approved.** Okay, next is the FMP review.

PRT REPORT: FMP REVIEW

MS. GAMBLE: The next document that was drafted by the PRT is called the Review of the Atlantic States Marine Fisheries Commission Fishery Management Plan for Shad & River Herring. This was also discussed and updated for 2001 during the PRT's conference call, and I just wanted to let you know the type of information that the FMP review does include.

There's some updated commercial and recreational landings information by state for the 2001 American shad fishery. This information is also categorized by river, ocean, and total landings for the commercial fishery.

Commercial and recreational landings for hickory shad and river herring are also included in this report. Under the status of research and monitoring section, there is detailed information regarding shad restoration efforts in several states, specifically the stocking of hatchery-cultured American shad and hickory shad in several different river systems. This section also reports the American shad fish passage counts at several select fish passage facilities in 2001.

CHAIRMAN TRAVELSTEAD: Any comments? Any questions? Is there a motion? Bruce.

MR. FREEMAN: **I would move acceptance of the report.**

CHAIRMAN TRAVELSTEAD: Moved by Bruce Freeman, seconded by Bill Adler. Comments on the motion? All those in favor, say aye, opposed no. The motion carried.

MR. FREEMAN: Just a quick comment on hickory shad. In discussion with you and other state directors, there's an interesting phenomena. There seems to be almost an explosion of the hickory shad population along the coast.

We've seen it now showing up in our MRFSS ocean survey. We have historically taken small quantities of hickory shad in the spring, but now we're finding many of our estuaries have large numbers of hickory shad.

There are fisheries developing. It's all catch and release, but there's directed fisheries for hickory shad. Now we're seeing the catches increase substantially in the ocean, primarily as an incidental.

But I think for some reason the hickory shad population, apparently on a large portion of our coast, is increasing expedientially and, of course, we don't know anything about it. We don't know much about the biology, but it's becoming an interesting development; and whatever helps or provides for the hickory shad population, the conditions seem to be excellent.

EFFORT REDUCTION PROPOSALS: ADVISORY PANEL REPORT

CHAIRMAN TRAVELSTEAD: Any other comments? Let's move on to Agenda Item 5, Review of the Effort Reduction Plans. Megan has taken us through those. Do you have any other specific comments?

MS. GAMBLE: Actually, I think the technical committee and the advisory panel have some general comments they would like to make first.

CHAIRMAN TRAVELSTEAD: All right, let's hear from Patti Jackson with the advisory panel comments first. Patti.

MS. PATTI JACKSON: Thank you, Mr. Chairman. We had I think a nice meeting yesterday of about a third of our advisory panel members, but we had a good discussion. Megan presented the state phase-out plans to the advisory panel.

We had some discussion about monitoring, since some of the states did not mention the provisions for monitoring, to determine the effectiveness of the 40 percent reduction proposals. We talked about the fact that the compliance reports for 2003 would not be due until July of 2004.

So in light of this, the advisory panel recommends that the Plan Review Team and/or the technical

committee review the preliminary 2003 data before the end of 2003 to determine whether 40 percent reduction plans were effective for the 2003 season.

You all have a copy of this recommendation in front of you. In addition, we noted, as Megan just mentioned, that Rhode Island, Delaware, and South Carolina have not submitted plans for 100 percent reduction in effort in the ocean intercept fishery by December 31 of 2004, even though they were required to do so by the board's directive by July of this year.

So in light of that, the advisory panel recommends that these states be required to submit provisions for the 100 percent reduction phase out of an ocean intercept fishery if they've not already been included in the provisions that they've submitted.

In addition, John Olney will tell you about the technical committee recommendations, and we endorsed the recommendations of the technical committee on these state effort reduction proposals as well.

EFFORT REDUCTION PROPOSALS: TECHNICAL COMMITTEE REPORT

CHAIRMAN TRAVELSTEAD: Any questions of Patti? Let's hear from John Olney on the technical committee report.

MR. JOHN OLNEY: The technical committee met on August the 6th and the approved minutes of that meeting I believe have been made available to you. As part of our meeting, we also heard the presentation that you may hear by Megan summarizing the states' plans for a 40 percent reduction.

The technical committee had little substantive comment about those plans and recommends that each state's phase-out plans are acceptable.

But as part of that discussion, it became clear that there might be another issue that needs to be considered, and I draw your attention to the bold text in our minutes, and I'll just read them to you.

The technical committee believes that since the main objective of this section of Amendment 1 is to close coastal fishing, we recommend to the management board that in order to comply fully with the intent of Amendment 1 for phase out of the ocean intercept

fishery for American shad by December 31, 2004, that the Secretary of Commerce be requested to initiate closure of the EEZ for fishing for this species.

In other words, simply closing the coastal waters of each state to fishing for American shad may not impact taking or harvesting in this mixed stock fishery.

CHAIRMAN TRAVELSTEAD: Questions of John? Bruce.

MR. FREEMAN: Jack, if each state has a prohibition on the taking of shad as an intercept, my question would be how could shad taken in the EEZ be landed?

CHAIRMAN TRAVELSTEAD: Well, I'm not sure that every state's regulations apply beyond the harvest in their three-mile limit. It depends on how the individual state's regulations are set up.

MR. FREEMAN: Megan, have those regulations been reviewed? It seems in most other fisheries, again depending on how the regulations are stated, that it would prohibit the landing from an intercept fishery; then even if the EEZ were open, they couldn't be landed. It's tantamount to a closure.

MS. GAMBLE: Well, when I go through the proposals, those states that did submit a proposal on completely closing the ocean intercept fishery, you'll see how they did word their regulations. Unless they say actually that the landing is prohibited, then there is still that opening to harvest shad in the EEZ. And also, these are just proposals for seven states. There are several other states where that opportunity could take place.

CHAIRMAN TRAVELSTEAD: Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. It seems to me that if at a later date, whether it's one year, five years, or ten years, that there is some way that the ocean intercept could be reinstated, it would be almost impossible to get the EEZ reopened again in the event that we decided to advance the notion to the Secretary of Commerce that we close the EEZ for fishing.

It would seem that a more appropriate way might be to make sure that all of the states have within their control landings the fact that you cannot land these

species in our state waters, and that would appear to be adequate.

So the attention, it would seem to me, would be back on the states to ensure that all of those regulations do in fact shut off any landings of those species, as opposed to going to the closure of the EEZ. Thank you, Mr. Chairman.

CHAIRMAN TRAVELSTEAD: Other comments? Pete.

MR. W. PETE JENSEN: I guess I'm not clear on how the 5 percent people are talking about shutting off landings. It is assumed that any landings at this point, it makes no difference where it comes from, it just can't constitute more than 5 percent as an incidental catch? Is that the assumption?

MS. GAMBLE: The 5 percent bycatch allowance will continue after it's phased out, but there is no restrictions on what occurs in the EEZ.

MR. JENSEN: So the 5 percent is intended to be 5 percent from state waters at this point?

MS. GAMBLE: Well, I mean, where they're landing it. It's per trip wherever you're landing it, so it doesn't matter if it's EEZ or state waters.

MR. JENSEN: Regardless of where it's caught, okay.

CHAIRMAN TRAVELSTEAD: So if the states are required to have this 5 percent trip limit in place, why would you need regulations in the EEZ stopping the fishery? That becomes a landing requirement in every state limiting any vessel to 5 percent, correct?

MS. GAMBLE: Yes, but, again, I wanted to state that there is only seven proposals that have to do with the complete closure.

CHAIRMAN TRAVELSTEAD: Okay. So the 5 percent trip limit requirement only applies to states with current intercept --

MS. GAMBLE: The 5 percent bycatch allowance applies to the whole coast, but there aren't any proposals on how to handle the complete closure other than the seven proposals we received.

CHAIRMAN TRAVELSTEAD: So the 5 percent trip limit provision disappears?

MS. GAMBLE: No, that continues. That will continue after the complete closure.

CHAIRMAN TRAVELSTEAD: Okay, I'm confused then. It seems to me if the 5 percent trip limit is a provision that continues on into the future, then you have effectively controlled any catches coming from the EEZ or state waters. Bob.

MR. BEAL: Yes, I think part of the concern is whether the other states, the remaining states other than these seven that have submitted proposals will put in place that 5 percent provision on their catch.

In other words, according to these proposals, seven of the states, seven of the fifteen states will go ahead and implement this 5 percent provision. The concern is over the other eight states and jurisdictions, whether they're going to put a requirement on their books that says, okay, all shad and river herring landings that are caught out in the ocean as bycatch can only constitute 5 percent of the total catch on board the vessel.

CHAIRMAN TRAVELSTEAD: Is it clear in the current management plan that the 5 percent provision applies to all states and that is a compliance element?

MR. BEAL: I think it is. I don't have it in front of me, but I'm pretty sure it is.

CHAIRMAN TRAVELSTEAD: Okay, then each state should be aware that is a requirement that they have in -- and what is the deadline for that, December 31, 2004? The answer is yes, that's when the total phase out occurs, December 31, 2004, and at that point, under the current management plan, each state would be required to have this 5 percent bycatch provision in place, which in my opinion effectively controls harvest in state waters and in federal waters.

Is there anyone who sees that differently than I do? Therefore, if that's true, then maybe we do not need to ask the Secretary of Commerce to take action in federal waters. Is there any objection to that logic? Apparently not. So everyone is in agreement with that, and we just want to make sure that the staff and the technical committee understand it as well. A.C.

MR. CARPENTER: It may be helpful if Megan can let the other states know who they are, and it may take them a year or two to get that regulation in place.

CHAIRMAN TRAVELSTEAD: I think that's fine.

MS. GAMBLE: I can do that. The states were supposed to have this in place when Amendment 1 was approved because it says in there all states with a non-directed fishery, but I can make sure that it is in place.

CHAIRMAN TRAVELSTEAD: Okay, we're clear on that issue. There was also -- the advisory panel made a recommendation that the PRT or the technical committee review preliminary 2003 data before the end of 2003 to determine whether the 40 percent reduction plans were effective.

Unless there is objection, I would direct the PRT and the technical committee to perform that task as recommended by the advisory panel. Is there any objection? Okay, then we will proceed in that manner.

The second issue is that several of the states did not submit 100 percent reduction plans, and those states were Rhode Island, Delaware, and South Carolina, and I was wondering if we could hear from them today as to whether that was just an oversight and that they actually do have plans. David.

MR. BORDEN: In our case, it was deliberate. Our initial proposal is being taken out to public hearing and we wanted to get reaction from the fishing constituents before we move forward with the next phase.

I fully anticipate strong opposition from the industry on what we've proposed, and in fact they may come up with an entirely different strategy. That was the reason we did what we did.

CHAIRMAN TRAVELSTEAD: Give us a time frame, David, when you might have a 100 percent reduction plan available.

MR. BORDEN: Within two months, I would think.

CHAIRMAN TRAVELSTEAD: Okay. Was it South Carolina and Delaware? David.

MR. DAVID CUPKA: I think it was just a misunderstanding. I think we were just looking at the initial phase out and not the entire thing and maybe a misunderstanding of what the request was. We certainly have the same provisions in effect to put in place a complete closeout that we're going to use to do the 40 percent phaseout.

We are scheduled to meet with representatives of the industry this fall to explain to them and to respond to any questions they might have. We fully have the authority already in legislation to effect 100 percent closeout, and that's certainly our intent in order to be in compliance with the plan.

CHAIRMAN TRAVELSTEAD: Very good. Anyone from Delaware? Yes.

MR. ROY MILLER : We're in the same situation that David was in, so our fishermen have been notified that our fishery will be closed as of 2004. We're proceeding under that assumption. We just haven't put it on paper, so to speak, yet.

CHAIRMAN TRAVELSTEAD: Patti.

MS. JACKSON: If I could just draw your attention to -- I know Megan is going to be presenting the individual state plans, but the advisory panel thought it could be something as simple as a sentence that's in Virginia's plan which says: "The regulation will also contain language that makes it unlawful for any person to take, catch, or possess American shad from the coastal area after December 31, 2004." A statement like that, that would be addressed, which I think I'm hearing everybody say, is basically what we were looking for.

MR. MILLER: Mr. Chairman, could I request some clarification of the bycatch provision for the states that had previously had directed ocean intercept fisheries? In other words, am I to understand that after December 31, 2004, Delaware, Maryland, New Jersey, et cetera, their ocean fishermen would be allowed to land American shad, provided they constitute 5 percent or less of the harvesting. Am I right in that assumption or not?

CHAIRMAN TRAVELSTEAD: That is my understanding of the provision, and it would apply to all Atlantic coastal states, not just those that have the intercept fisheries currently. Megan.

MS. GAMBLE: I just want to clarify it's 5 percent per trip, not for the total year's landings.

MR. MILLER: Well, I'm just thinking upon Patti's wording. There's a difference between a total possession ban and an allowance of a 5 percent per trip provision, so it will be something less than a total possession ban if the bycatch is allowed.

CHAIRMAN TRAVELSTEAD: Correct.

MR. MILLER: Thank you for that clarification.

REVIEW OF THE STATE EFFORT REDUCTION PROPOSALS

CHAIRMAN TRAVELSTEAD: Okay. Any other comments? Do you think it's necessary that we go through each individual state's proposal and approve them on an individual basis? I mean, you've had a copy of their reports.

Okay, Megan says she can go through this pretty quickly if you don't interrupt her, so let that be a warning. Go ahead and we'll see how closely we can adhere to that.

MS. GAMBLE: There were a couple of guidelines given to the states when developing these state effort reduction plans. The first was that they needed to submit a plan for achieving the 40 percent reduction in effort, and that was to take place -- the 40 percent reduction in effort is to take place December 31, 2002.

They were also to include in their proposals a plan for the 100 percent reduction in effort by December 31, 2004. In addition to this, they were given a couple of other guidelines, the first being that the time line used to determine their baseline level of effort was 1992 to 2001, so they could use data anywhere in between that time period.

The last item that was discussed during the board meeting in February was that landings were an acceptable proxy for effort.

So the first plan is for Rhode Island and their baseline effort data was data from 1997 to 2001, and they did use their commercial landings as a proxy for effort. 1997 to 2001 were chosen as the base years for effort because they are representative of their current fishery and include several years of data in

order to account for annual variations in their landings.

In Rhode Island's proposals, they went back and looked at their historical landings during that time period and determined when the greatest amount of landings occurred, and they proposed to prohibit the landing of shad during those peak times.

So they do have four different options on the table that they plan to take to public hearing. I believe we were told by the end of September we would know which option they were going forward with.

The next plan is from New Jersey and their baseline data is 1996. Their proxy for effort is the number of fishermen. The baseline from which they need to make their 40 percent reduction is 36 fishermen.

They are implementing a limited entry program. They also have a mandatory reporting requirement that is instituted with this limited entry program.

In order to qualify for this limited entry program, the fishermen had to prove that they landed 3,000 pounds for three of the five years between 1994 and 1998. If they could not qualify, then they were given incidental permits.

Because all of the fishermen used the year 1996 as one of their years to qualify for the permit, 1996 became the baseline year for the 40 percent reduction in effort. So for their directed permit, they have landed at least 3,000 pounds in order to qualify.

They issued 25 permits. Four of those permit holders are retired and three permit holders fished larger mesh sizes in the Delaware Bay and are not anticipated to move back out into the ocean.

So that gives them 18 active directed permits for a 50 percent reduction in effort. They have issued 11 permits for their incidental permit, and they define their incidental permit as up to 300 pounds per day. I just wanted to add a little note that is different from our definition of bycatch.

So this isn't a problem right now, but if they do intend to keep their incidental permits after -- if they do intend to keep the bycatch provision, they want to make sure that it is the same as what is in Amendment 1.

The next one is Delaware. This is one of the most

creative plans that was brought to the Plan Review Team and their baseline data is from 1992 to 2000. Their effort is the number of man days. Their normal season is about 67 days long, and they assume that each fisherman fishes every other day, so 33 days of that season.

And the average between 1992 to 2000 is 193 man days of effort occurred. What they plan to do is if they have one fisherman who applies to participate in this fishery, then there is only 33 days of effort being exerted in this fishery, and there is no need to shorten the season.

But, as you can see by this table, as the number of fishermen increases, there is greater than the 116 man days of effort being exerted in the fishery. In order to compensate for this, they are shortening the season appropriately.

The next proposal is from Maryland and their baseline data is from 1992 to 1999. Maryland's proposal stated that they would institute no changes to their current regulations for the 40 percent reduction in effort, and this is because there has been a drastic decline in catch and effort that occurred in 2000 and 2001 due to the harbor porpoise take reduction plan and the twine size restrictions for the gillnets.

So you can really take your pick for your proxy for effort, and you can see that they have more than achieved their 40 percent reduction in effort.

The next proposal is from Virginia. Their baseline effort is from 1992 to 2001, and their proxy for effort, again, is commercial landings. Their baseline from which they need to make their 40 percent reduction is 280,065 pounds.

They have implemented a limited entry program also and they intend to put a quota in place for the 2003 and 2004 fishing seasons. That quota will be set at 168,039 pounds. Virginia does have some monitoring requirements attached to these limited entry permits that will enable them to evaluate the effectiveness of their 40 percent reduction plan.

The next one is North Carolina. Their baseline effort is from 1994 to 1998, and, again, their proxy for effort is commercial landings. The baseline from which they need to make their 40 percent reduction is 82,242 pounds.

They have actually begun to deal with the phase out back in 2000 with also creating a limited entry program or a quota for their ocean fishery, and they set their TAC in 2000 at 82,242 pounds and they split in between two years.

North of Ocracoke Inlet and south of Ocracoke Inlet are the two areas and that quota is split evenly between the two areas. In 2001 they took their first step to phase out this fishery and that was with a 20 percent reduction, so their quota was set at 65,794 pounds, and, again, it was split evenly between the two areas.

The 2002 fishing season saw another reduction in effort by 20 percent, so they are down to their 40 percent reduction with the 49,346 pounds. I just also wanted to note that North Carolina has a trip ticket program that also allows them to do some monitoring and evaluation of the effectiveness of their effort reduction plan.

The last one is South Carolina. South Carolina's baseline effort is from 1998 to 2002, and they have several ways through which they can reduce their effort. They can use number of permits, the yardage of nets used in the fishery, as well as they can restrict the weekly period for fishing.

They saw that throughout 1998 to 2000 there were a maximum of eight participants in any single season, so they are capping their permits at ten, at a maximum of ten, but in order to achieve their 40 percent reduction, the cap on the yardage allowed is 1,200 yards of drift gillnet per trip.

And then as an extra measure, they may restrict their weekly period and they're cutting off a day, so I think now it goes from Tuesday to Saturday and they're cutting out Saturday, so it goes from Tuesday to Friday and that gives them an extra 22.2 percent reduction.

And that's all of the effort reduction proposals.

CHAIRMAN TRAVELSTEAD: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. The only one that stood out was the 300 pound allowance that New Jersey had, and I'm just wondering if they're going to be able to change the language so that they will be in the 5 percent compliance, or is that going to be an issue for New Jersey?

CHAIRMAN TRAVELSTEAD: Bruce, do you want to respond?

MR. FREEMAN: Yes.

CHAIRMAN TRAVELSTEAD: Bill.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. On the New Jersey and Virginia ones that went to limited entry, is it my understanding that was to get to the 40 percent, but then that was going to go away completely when it's completely down to the zero except for the 5 percent bycatch. Is that how that works?

MR. FREEMAN: In our case, Bill, that's correct. Once 2004, there will be no directed fishing. There will just be the 5 percent allowance and that will be it. The limited entry system is really to allow those that have been in the fishery to phase out and not have new entrants not come in opportunistically. That's really what that was about.

CHAIRMAN TRAVELSTEAD: It's an identical situation in Virginia as well. David.

MR. BORDEN: Question, Mr. Chairman, for Megan. Megan, I couldn't help but notice that a number of states used different base years in the calculation. They had like a base year of 1998 through 2002 and then somebody else used '91 through '98 and so forth, and was that the rule that -- in other words, the states have the flexibility to pick any base year that they wanted?

MS. GAMBLE: Yes. The board had this discussion last time and it was just a time frame from which they could pick their best available data. Because different states had different standards or different, actually, issues going on within their state, they were allowed the flexibility to choose the years to determine their baseline effort.

The technical committee actually did look at this. They did have to provide a reason as to why those years were chosen, so the reasons are in the plans.

CHAIRMAN TRAVELSTEAD: David Cupka.

MR. CUPKA: Yes, the reason we took '98, for example, to 2002, David, was because we instituted mandatory reporting, trip reporting in '98,

where we get catch and effort from the fishermen, so that was the period we had to look at.

Megan didn't mention it, but we do have this mandatory reporting system in place now so that as we get the reports in we can actually monitor whether or not we're achieving the reduction that we think we're going to achieve. So that's where ours came from.

CHAIRMAN TRAVELSTEAD: Any other questions or comments? Pat Augustine.

MR. AUGUSTINE: Would a motion be in order, Mr. Chairman, to accept the report?

CHAIRMAN TRAVELSTEAD: How about making it to approve the proposals of the --

MR. AUGUSTINE: May we do that?
Motion to approve -- do you want to go those six that are up there -- Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, and South Carolina proposals for the 40 percent effort reduction in the American shad ocean intercept fishery.

CHAIRMAN TRAVELSTEAD: Made by Mr. Augustine and **seconded by George LaPointe**. Comments on the motion? Seeing none, all those in favor, say aye; opposed no. **The motion carries.** The plans are approved.

I would, again, recommend that those three states that have not submitted their 100 percent reduction plans do so as soon as possible. And, of course, we have your comments on record and have a good understanding of that at this point.

DRAFT ADDENDUM I

CHAIRMAN TRAVELSTEAD: The next agenda item is 6, the Draft Addendum I. Megan is going to take us through that and then we'll hear from the advisory panel and technical committee as well.

MS. GAMBLE: This is pretty much the same presentation you guys have seen before, but I just wanted to refresh your memory on all the issues included within the addendum.

I'm actually just going to skip over this first slide because it's just some wordsmithing that has to do

with the second slide, and this was a proposal that came from the OTC Marking Task Force, which is part of the Chesapeake Bay Program.

They made a request to strike the word "unique" from Amendment 1 and from the requirements for hatchery-produced shad. These are marks to indicate the origin of these hatchery-released shad.

So this is being modified to say that states should work in cooperation with the appropriate federal or regional programs to coordinate marking and ensure that marking schemes of one jurisdiction do not interfere with the program goals of another jurisdiction.

The reason that they're asking this is because there's more and more hatcheries coming on line, and they're running out of unique marks and it's actually becoming a financial burden to hold onto the shad in order to create more unique marks.

The next issue is a little bit of wordsmithing again, and this has to do with the hatchery evaluation. Right now on the table that outlines the annual state reports, it says the hatchery evaluation, and then in parentheses, percent wild versus hatchery juveniles, and we're striking the word "juveniles" so that the states have the flexibility to include juveniles and adults in their evaluation.

Now this is the one that is a little bit confusing and also needs the board's action to choose an option. The definition of *de minimis* status in the American shad fishery is defined on page 61 of Amendment 1 under Section 4.8.

Currently *de minimis* is defined as states that report recreational or commercial landings of American shad that are less than 1 percent of the coastwide recreational or commercial total are exempted from sub-sampling this catch for biological data as outlined in 3.3.3, Paragraph 1.

So right now, states have the ability to apply for commercial *de minimis* status or recreational *de minimis* status; and regardless of which type of *de minimis* status you have, either one gets you an exemption from sub-sampling your commercial fishery.

So if you have recreational *de minimis* status, your exemption is to get out of the sub-sampling of the commercial fishery. Now if that's the board's intent,

that's fine, we have an option that just makes that clear.

But let me run through the options and you'll see some other problems that are associated with the current definition of *de minimis* status.

The first option states that states that report commercial landings of American shad that are less than 1 percent of the coastwide commercial total are exempted from sub-sampling this catch for biological data as outlined in Section 3.3.3, Paragraph 1.

This option gets rid of commercial landings. It's no longer a factor. No longer can a state qualify based on their recreational fishery.

Now the reason the recreational landings are removed is because there's some problem with determining what is the coastwide recreational landings for American shad. Right now there are two ways that a state can report their recreational landings.

One is through the MRFSS data or, two, is through the recreational creel survey that occurs on a five-year rotational basis. The first problem with the MRFSS data is that many of the significant shad rivers are inland, and the MRFSS data does not accurately cover the coastwide recreational fishery for American shad because much of that effort is concentrated on the coastal rivers.

The problem with the creel survey is that it can occur anytime during this five-year window. The clock started when Amendment 1 was approved in '98, so the clock ends in 2003. They need to report it in 2004.

So one state to do their creel survey in 2001, another state to do their creel survey in 2003, so that makes it very difficult to compare the recreational landings for the coast.

So, now that I've brought those issues to your attention, let me give you some other options that do throw recreational landings back into the pot.

Option 2 states that states that report commercial landings of American shad that are less than 1 percent of the coastwide commercial quota are exempted from sub-sampling the commercial catch for biological data.

That's exactly what Option 1 said. But this one adds: "In addition, states that report recreational landings of American shad that are less than 1 percent of the coastwide recreational total are exempt from monitoring the recreational catch and effort."

So this option says you can qualify for recreational *de minimis* status and you can also qualify for commercial *de minimis* status. But if you qualify for commercial *de minimis* status, you're exempted from sub-sampling your commercial landings. If you qualify for recreational *de minimis*, you're exempted from doing your creel survey.

CHAIRMAN TRAVELSTEAD: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. What happens if we approve this now, and then will the ACCSP program be more definitive and of more value than MRFSS, and would there be a conflict there or would we actually end up with a better reporting system through ACCSP? Now, I understand that it's maybe a few years away, but would there be a conflict here? I just need some clarification.

CHAIRMAN TRAVELSTEAD: I don't see a conflict there. I'm not sure I can be more definitive than that. Pete.

MR. JENSEN: I have another question. I'm trying to put this 1 percent in context when we move to a bycatch fishery. Is there an estimate of how much is going to be caught in a bycatch fishery?

CHAIRMAN TRAVELSTEAD: No, I don't think anyone has those estimates. Bob.

MR. BEAL: Well, this is back to Pat's question about the potential conflict with the creel surveys and ACCSP. The standard for ACCSP is the MRFSS program and these in-river or up-river creel surveys are in addition to the MRFSS program. There's no conflict there.

CHAIRMAN TRAVELSTEAD: Bruce and then David.

MR. FREEMAN: The question I have concerns how we monitor the fishery as recovery occurs. And recall back to sturgeon -- I mean, we have closed fisheries and the issue raised then, well, in 20 years that stock should be recovered and still those fisheries will be closed. There's no allowable

catch.

Now how do we know when the 20 years is up and we've reached recovery because there will be no fishing to monitor what's going on, and I think the same issue occurs here.

The thrust of the plan is to recover stocks in all the coastal rivers. At the present time, the catch is very low or almost non-existent, but as those stocks recover and there's no monitoring, we'll never recognize when they reach their full recovery.

That's kind of a circular argument, no monitoring. If they recover, how do we know they recover because we're not monitoring the recovery? Has there been any thought given, Megan, by the technical committee on how we resolve that issue?

CHAIRMAN TRAVELSTEAD: John Olney will respond.

MR. OLNEY: Well, unless I misunderstand your point, we do have, in all states that are part of this agreement, fishery-independent mandated monitoring programs. So most states are not depending on fisheries to monitor the status of the annual runs.

So once this coastal closure is affected, we should have -- as Andy Kahnle will explain later, we should have the ongoing monitoring programs to support stock assessments and discover recoveries.

CHAIRMAN TRAVELSTEAD: Let's let Megan go through the rest of the options on this *de minimis* issue and then we'll get back to your question. David, did you have something on one of these?

MR. CUPKA: Well, I'm just sitting here wondering. I've tried talking to Megan about this before, and maybe I'm overlooking something, but I know of no plan in which we grant *de minimis* to a state and then exempt them from monitoring the catch.

I mean, that's the basis of granting *de minimis*. It seems to me like under this option, if you ever achieve *de minimis* one time, that you're forever exempt from it because you don't have to monitor the catch from then on.

I don't see how that would work unless I'm just

overlooking something. It doesn't make a lot of sense to me. Is that correct or am I overlooking something?

MS. GAMBLE: No, you're not overlooking something and that's why we thought it was sort of -- well, we were trying to give the board as many options as possible, obviously. But, also, it just didn't make sense the way it was currently written.

And I do know that -- in going back and looking at the original board minutes from when Amendment 1 was being developed, I believe it was Delaware asked for a recreational *de minimis* and actually at that time, when the board had this discussion, they asked that if you qualify for recreational *de minimis* status, it gets you out of the creel survey. That's why I put it back in here. I was trying to capture the original intent that the board wanted.

CHAIRMAN TRAVELSTEAD: Eric.

MR. SMITH: I think the distinction that David is bringing up is that if you're *de minimis*, you still have to monitor your landings, but if you're *de minimis*, you don't have to get age and growth and length samples, and that's because you've established such a small fishery.

That's how I read what's here. You're exempt from sub-sampling the commercial catch for biological data. It's silent on landings. Everybody has to monitor their landings.

CHAIRMAN TRAVELSTEAD: That is correct under Option 1. All right, let's go to the other options.

MS. GAMBLE: Well, Option 3 kind of just adds clarification to the current definition of *de minimis* status. Option 3 says the states that report recreational or commercial landings of American shad that are less than 1 percent of the coastwide recreational or commercial total are exempted from sub-sampling the commercial catch for biological data as outlined in Section 3.3.3, Paragraph 1.

It just reiterates that you can have the two different *de minimis* statuses and that both of those get you out of sub-sampling your commercial landings.

Now Option 4 says that the states that report a combined total of recreational and commercial landings of American shad that are less than 1

percent of the combined coastwide recreational and commercial total are exempted from sub-sampling the commercial catch for biological data as outlined in Section 3.3.3, Paragraph 1. Those are all the options for *de minimis*.

CHAIRMAN TRAVELSTEAD: Any final questions? Bill.

MR. ADLER: The 1 percent, was that something that was put into a previous addendum, the number 1 percent, or is that something that's open to maybe 2 percent?

MS. GAMBLE: All these are variations on what is currently stated in Amendment 1.

MR. ADLER: Okay, so the 1 percent was put in at that point?

MS. GAMBLE: Correct.

MR. ADLER: In an amendment?

MS. GAMBLE: Yes.

CHAIRMAN TRAVELSTEAD: Let's hear from the technical committee on this. John.

MR. OLNEY: I would just reiterate the points that Megan has already made that both the Plan Review Team and the technical committee are uncomfortable with the landings estimates that we obtained from MRFSS.

They're unreliable for a number of reasons and those reasons we've listed in our minutes. I won't go through them again. And in addition, as Megan pointed out, the rotation for mandated creel surveys in the states is not synchronized. We'll never have a single estimate for coastwide recreational landings based on the mandates in the present amendment.

As a result, the technical committee does not recommend any of these options except Number 1, since it doesn't depend on an estimate of recreational landing.

CHAIRMAN TRAVELSTEAD: Questions of John? Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. To the point of these surveys not being synchronized, you're actually saying in a different

way that maybe we should put an option in here that would say that all states will conduct their survey on a given year? That's what you're suggesting, but you haven't said it.

CHAIRMAN TRAVELSTEAD: I think that's a separate issue, Pat, and what we need to decide at this point is which one of these options we approve of. I mean, we're going to be approving this addendum today and there are four options. The technical committee has recommended the first one. Let's hear from Patti as to what the advisory panel recommended.

MS. JACKSON: Thank you, Mr. Chairman. We endorsed or recommended the Option 1, which was the upon the recommendation of the technical committee.

CHAIRMAN TRAVELSTEAD: Okay, thank you. Eric.

MR. SMITH: Well, I was just going to observe that it's hard to fathom -- if you take it to an extreme in the logical sense that you had a huge recreational fishery and no commercial fishery, some of these options would still require you to sub-sample your non-existent commercial fishery, which doesn't make any sense to me. **I would move that we adopt Option 1, which teases out that problem.**

CHAIRMAN TRAVELSTEAD: We have a motion that was **seconded by David Cupka**. Comments on the motion? Again, the motion is to approve Option 1. A.C.

MR. CARPENTER: Am I then to assume that Option 1, no state would be *de minimis* for a recreational fishery?

MS. GAMBLE: That's correct. Let me just say that one state does currently have recreational *de minimis* status, and that is New Hampshire. But right now, they have both recreational and commercial *de minimis*, so it's really not going to affect them.

CHAIRMAN TRAVELSTEAD: Other comments? Ready to vote. All those in favor of the motion, say aye; opposed no. There were two no's. **The motion carries.**

The next issue was the implementation date or are you still going through these?

MS. GAMBLE: I have a couple more.

CHAIRMAN TRAVELSTEAD: Okay, keep going.

MS. GAMBLE: The rest of these issues in Addendum I have to deal with changes to Technical Addendum I. The first here on the slide is to strike the recovery of visibly marked animals from Table 2. This is not to say that the states won't be required to report any recovery of visibly marked animals. We're just removing it from Table 2 so that it won't be an issue of compliance if a state does not include it in their report.

Item 2 on this slide is to strike New Hampshire's Lamprey River. Last year New Hampshire submitted a request to remove the Lamprey River from Table 2 and it's mandatory requirements to perform several independent monitoring programs on the Lamprey River.

Right now, New Hampshire is focusing their restoration efforts on the Exeter River and does not have the funds to be doing both rivers at the same time. Therefore, they are asking to remove the Lamprey River.

There are several states that have begun to stock the rivers with hatchery-reared American shad and, therefore, because these are some new efforts, they need to also do a hatchery evaluation on those rivers.

Those two states are Maine and North Carolina, so with this added to Table 2, these states will include in their annual state reports the hatchery evaluation, which compares the percentage wild versus hatchery reared.

CHAIRMAN TRAVELSTEAD: George, a question?

MR. GEORGE LAPOINTE: George LaPointe, proxy for Lew Flagg on shad and river herring. Lew indicates to me that on Table 2 for Maine specifically, the department concentrates on the Androscoggin River.

We've done this since the early 90's because of funding restrictions, and so the hatchery evaluation for us will be on the Androscoggin only at this point. The Saco is covered by an energy company.

It's part of their requirements for fish passage, and so that's not part of our -- we work with those folks, but that's beyond our control at this point.

So Lew's note to me was that we do a hatchery evaluation on the Androscoggin only at this point; and because of the same kind of fiscal restrictions other people are facing, an expansion isn't in the cards at this point.

CHAIRMAN TRAVELSTEAD: Do you conduct the annual spawning stock survey on the Saco River? Are you asking to remove the --

MR. LAPOINTE: It's the Saco. No, I think the hatchery evaluation, he said Androscoggin only. The biological work is being done on the Saco. It's being done by an energy company. If for some reason they drop that, and I don't envision they are, we won't be able to pick that up. So that's just, I guess, a clarification on our part for the evaluation.

CHAIRMAN TRAVELSTEAD: Okay, thank you. Megan.

MS. GAMBLE: The next item is more just to provide some consistency between the recreational monitoring requirements for the coast. Maine and New Hampshire have different requirements from the rest of the states listed on Table 3.

So we want to strike what currently reads as "recreational catch and effort using MRFSS data" and change that to state "monitor recreational landings, catch, and effort every five years". Under the new wording, they are still allowed to use MRFSS data, or they have the ability to do a creel survey.

Maine and New Hampshire feel as though MRFSS data does accurately cover their coastal rivers and would like to continue to use this data.

Connecticut also has different language for monitoring their recreational landings. Currently it says biannually monitor recreational landings in Connecticut. Age, sex ratio, and fishing effort hours fished until annual catch is greater than 1,000 fish. And that is true, it is greater than 1,000 fish.

So we want to change that to read "monitor recreational landings catch and effort every five years", so they will not have to do their recreational

monitoring every two years. They will have to do it every five.

The next one is to add Massachusetts onto Table 3, and this would add both the Merrimack and Connecticut River under Massachusetts, and they would be required to monitor recreational landings catch and effort every five years.

CHAIRMAN TRAVELSTEAD: Paul.

MR. DIODATI: This is an issue that I discussed earlier, and it's not clear to me. Given that we have fish passage facilities on both of these rivers that are tightly monitored and sampled, it's not clear to me what a catch survey of the recreational fishery every five years is going to add to the technical information to manage the stocks.

I'm not sure that it's going to be worthy of an administrative investment by the agency to do that work. I'm not sure we're going to be able to do it; and I know now that if I had to do it this year, I couldn't. I guess I would like to see this struck, if possible.

CHAIRMAN TRAVELSTEAD: Does the technical committee want to respond? They're having a little caucus up there.

MR. OLNEY: We're having a little pow wow here about this. Andy, do you have a comment?

MR. ANDY KAHNLE: I guess I can make a comment from a distance. At this point -- and I think I have to then defer back to the technical committee, but at this point I don't think the data are available to say that there is no impact from a recreational fishery, even if it's mostly catch and release.

The technical committee discussed that at their last meeting. The second is that the data that you're getting from fish passage covers those fish that make it to the passage facilities and go over.

It does not deal with the rest of the stock, if there is any, such as in the Connecticut, that remains below the fish passage. The third issue, I guess, is that any assessment that we plan to do needs some information on losses that are occurring to different stocks.

CHAIRMAN TRAVELSTEAD: It's back to you, Paul. I mean, this is a requirement in Table 3 at this point. The only way it could be -- or if the addendum is adopted, it becomes a requirement. But at this point in the draft, it is part of the addendum, so the only way it could be removed would be by a motion.

MR. DIODATI: Well, again, I think that trends and abundance for the stock are well monitored by passage of fish at facilities. We have a general indication of abundance of fish that we can get a number of ways.

But to be held to a specific regime that needs to be conducted, you know, within this kind of a time frame, I think is difficult. **So with that, I would like to make a motion to strike this item from the document.**

CHAIRMAN TRAVELSTEAD: Is there a second to the motion? **Seconded by George LaPointe.** Comments on the motion? Eric.

MR. SMITH: Do I understand that the reason there's a difference between Massachusetts' concern and New Hampshire's is because New Hampshire feels MRFSS covers the geographic area where the shad are taken recreationally, so MRFSS is an adequate substitute?

I think Paul makes a good point for a lot of states that -- I mean, I'm queasy about compliance criteria that mandate research and monitoring, or we could be in the same position next year and that's always been troubling in all of these plans, and the shad plan seems to have more of that than most other plans.

So I'm kind of -- I hate to do it by a motion to take something out, but I'm sensitive to Paul's problems that they're having right now and, you know, two years from now maybe he doesn't have those problems, but you just don't know.

So I guess my question is the Merrimack and the Connecticut fishing areas are too far upstream to be adequately sampled by MRFSS, which is why they don't have the same option New Hampshire has.

So the only recourse to solve his immediate problem is pass the motion; and if in time it looks like their sport fishery has any kind of an impact that we're concerned about, then we would have to do an

addendum to get them back into the fold. That doesn't seem like a very efficient way of doing it, but in the immediate term I'm sensitive to their problem. Thank you.

CHAIRMAN TRAVELSTEAD: George.

MR. LAPOINTE: David noted for the record that he didn't second it, I did. I didn't know we were at the state of motions, but I support this for that very reason. What we're doing is potentially driving the Commonwealth to a non-compliance situation, and that's not going to be good and I'm going to be in the same situation.

I'll do the next motion about allowing the options for Maine just because, again, in Lew's notes to me he suggests that we've added additional sampling under MRFSS to cover our inland sampling, and that's most economically efficient for us and most efficient of our staff use. So to go to an extra tier of both costs and staffing at this point doesn't make sense to me.

CHAIRMAN TRAVELSTEAD: Paul.

MR. DIODATI: And please don't misunderstand that it's not the Commonwealth's position that we're not interested in what's going on in these rivers. In fact, right now we're discussing plans to implement a shad tagging program in the lower portion of the Merrimack River so that we could monitor those recaptures as they go up over that lift.

I think that's going to give us very good information about abundance of fish that are not being passed that are available to be fished on. So I think that those kind of efforts are things that we're very interested in.

We will be conducting those type of investigations over the years. It's just that this particular one that holds you into this very tight regime and the time schedule is difficult.

CHAIRMAN TRAVELSTEAD: Thank you. Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. Based on that description and reason and rationale, I think further discussion would be just non-productive. I would like to call the question.

CHAIRMAN TRAVELSTEAD: Well, I've got a couple other hands up, Pat. I don't want to cut

off debate too early, but we will move in that direction. Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: I notice around the table that just about every other state has a similar kind of requirement for one fishery or another, every five years doing that sampling. Obviously, we've already heard from George.

It makes me wonder how many more requests there will be to drop that requirement. I think we need to be clear if we do pass this motion on what basis we are dropping that requirement and have it be acceptable to the technical committee from the standpoint of what kind of data we really do need to manage the stock.

And perhaps this is, as perhaps Paul has outlined, a very reasonable criteria; that being when you do have fish passage facilities covering those tributaries that give you X and Y data, that it is acceptable from the standpoint of our data needs. I'm not sure about that, but I think we need to be clear about that kind of a criteria if we do pass this motion.

CHAIRMAN TRAVELSTEAD: Yes.

MR. MILLER: Mr. Chairman, I'm concerned about the possible implications of passage of this motion. The states of Pennsylvania, New Jersey, New York, and Delaware are spending a great deal of money in 2002 to monitor the recreational fisheries of the Delaware River, close to \$300,000, in fact.

The obvious question is, you know, these states have financial difficulties as well; so if we pass this motion, which states does this not apply to?

CHAIRMAN TRAVELSTEAD: Eric, you had your hand up.

MR. ERIC SCHWAAB: Thank you. Bill covered a part of what I was going to point out with regard to the requirement of, as near as I can tell, every state to monitor recreational landings and catch and effort every five years, including many states that have currently closed recreational fisheries.

I would, rather than move down the road of making these kinds of exceptions on a state-by-state basis, prefer to see some feedback from the technical committee regarding potential viability of some of these alternative assessment techniques and some

more comprehensive approach to relief, given the fiscal constraints that we all share, before we move into a situation where we're beginning to exempt individual states from requirements that we all share at this point.

CHAIRMAN TRAVELSTEAD: John Olney.

MR. OLNEY: One of the goals of the upcoming stock assessment activity, which we'll hear about in a moment, will be to evaluate the usefulness of the recreational landings data, especially these creel surveys. I mean, I readily admit -- I think the technical committee readily admits at this point in time that we are not certain about the usefulness of these data for a number of reasons.

But it will be likely towards the end of our stock assessment activity in the next two years that we might be able to answer those questions with more certainty. There are other issues as well, including the value of these creel surveys in jurisdictions where there is catch and release only, and they're questions, for example, about release mortality. So the technical committee and the stock assessment subcommittee need to spend some time and evaluate those questions.

CHAIRMAN TRAVELSTEAD: Roy, the answer of your question was that currently only the District of Columbia is exempt from monitoring recreational catch, and this addendum proposes to add that requirement in Table 3 for that jurisdiction, so everyone essentially. Paul and then Eric.

MR. DIODATI: If I understood that, it seems to me that this really isn't a critical component of the assessment needs, although it certainly would be a nice piece of information to have. I think that gets to Eric's point.

If we're not jeopardizing the conservation of the resource, the restoration schedule for the fishery, then I think that we have to look very closely at what we want to deal with requirements. And I'll just add that for the Connecticut River, the work that we're expected to do in the Connecticut isn't coastal work at all.

That's a pretty long stretch of river. Most of the coastal component of it is in Connecticut, and it's not the last one-third or so of a hundred miles that is in Massachusetts. Certainly, it's the state's

responsibility to represent and perform on these plans, but it's not within the jurisdiction of the Division of Marine Fisheries to work in those areas, in these fresh water districts.

CHAIRMAN TRAVELSTEAD: Eric and then Bruce.

MR. SMITH: The thought occurs to me, although I don't want to bog us down from a parliamentary point of view -- and I'm sensitive to what Roy had said a minute ago about the states who are really involved in this, but it seems to me rather than go state by state, and depending on your current budget status, you either want to be in or out, two systematic ways of dealing with this is either we could say that globally recreational monitoring is not a compliance criterion until the technical committee reports on its effectiveness.

That would give sort of a breathing room type of a situation for, what, a year, or whenever we get that report. Or, you could change or apply some kind of a different *de minimis* status so that a state that has a -- and this is to Eric Schwaab's point -- instead of a percentage of the catch, maybe it's a different percentage; and if you have fish passage facilities that have monitoring ongoing -- and we can't do that on the fly here.

It's something that would need to be referred to the technical committee. Unless you want a motion to substitute for the generic point that I made the first of the two points, I think it needs more technical advice; and how we get there from a parliamentary procedure, I'm not quite certain.

CHAIRMAN TRAVELSTEAD: Well, I would prefer that we wait and see whether this motion passes or fails; and then depending upon what happens, we might come back to your suggestion, Eric, and then proceed in that fashion. I've got Bruce and then John and then Pat.

MR. FREEMAN: This issue is, I think, affecting all of us, and I understand Paul's situation, and this afternoon we're going to have the same situation when it comes to weakfish. Several thoughts here, Jack.

One is the fact that monitoring -- as Table 3 indicates, monitoring is required once every five years. So if in fact this table is not modified, it would give a state until five years from now to be

deemed out of compliance. You would be given that much time.

The other thought is relative to the situation in Massachusetts is to give them relief on the first five years, so we would give you a ten-year time frame. Hopefully by then all of us will have sufficient funds to do more sampling.

And then the third thought is this issue is becoming extreme, I think, in all the plans, and it's an issue, perhaps, for the Policy Board to discuss in ways of finding additional funds.

I think all of us would be happy and see the need to do this sampling if we have the funds and the manpower and if there could be some mechanism, be it some way of getting funds through the ACCSP or getting a special appropriation from congress, but with our state budgetary problems, we're digging ourselves into a hole that I can see sooner or later a state is going to be deemed out of compliance to a plan because it can't monitor and it's almost -- It's a terrible situation if that's for non-compliance.

CHAIRMAN TRAVELSTEAD: John.

MR. OLNEY: Well, actually the point was just made that I was going to make. If this motion fails, then the state in question wouldn't have to do the monitoring until 2007, both D.C. and Massachusetts. So there is ample time for the technical committee and stock assessment subcommittee to perhaps make recommendations regarding the usefulness of these data.

CHAIRMAN TRAVELSTEAD: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. Having listened to Mr. Smith and our comments from the technical committee, it would seem only appropriate at this point in time, because this is a document for public hearing, and that's all it is, a document for public hearing --

CHAIRMAN TRAVELSTEAD: No, Pat, it's already been to public hearing. We're going to vote on it today.

MR. AUGUSTINE: I stand corrected then. **I would then like to table this motion and refer the issue back to the technical committee.**

CHAIRMAN TRAVELSTEAD: Is there a

second to the motion to table? Is there a second?
Seeing none, are there any further comments on the original motion? Pete.

MR. JENSEN: Just a point of clarification. Is it intended to excuse Massachusetts from all monitoring or only recreational catch monitoring?

CHAIRMAN TRAVELSTEAD: It's the recreational landings catch and effort monitoring every five years as described in Table 3 to be precise.

MR. JENSEN: I just wanted to clarify the motion.

CHAIRMAN TRAVELSTEAD: Are we ready to vote? Eric, one last comment.

MR. SMITH: Only to make the point that John Olney made the best point in this whole debate, that there is a five-year period of breathing room. I'm going to vote against the motion that I have been speaking in support of because of that very point.

It clarifies it and hopefully it means that Maine also sees that we don't -- this is not something that's going to be required of you upon passage of the motion.

CHAIRMAN TRAVELSTEAD: Ira.

MR. PALMER: I had just a suggestion in terms of -- I'll hold off until after the vote.

CHAIRMAN TRAVELSTEAD: Okay. We're getting a whole lot more hands here now. Tom, and we're running out of time.

MR. THOMAS FOTE: Since 2007, could Paul withdraw this motion and we can come back and visit this before 2007. I mean, I'm just scared that we're setting a precedent here and we're not sure what's going, and I would hate to have to vote against this motion.

I would sooner revisit it another day. I didn't know it was acceptable to tabling motions because it is an addendum to the plan and we're trying to pass the whole addendum today. I didn't know if that was an acceptable --

CHAIRMAN TRAVELSTEAD: David and then George.

MR. CUPKA: Thank you, Mr. Chairman. I was just going to say it would be my intention to vote against the motion with the understanding that we do exactly what we've heard from the technical committee, and that they come back to us because I think that the larger issue is a more generic issue, and I would like to know where we stand on this whole thing.

I think we can do that, given the direction and the recommendation from the technical committee.

CHAIRMAN TRAVELSTEAD: Yes, I think regardless of where we go on this motion, **it would be my intention to ask the technical committee to evaluate these creel surveys and recreational data issues.** George.

MR. LAPOINTE: The only thing I guess less certain than stock assessments is economic forecasting, but the economic forecasting that I'm made aware of for the state of Maine suggests that we're not going to be in rosy water for quite some time.

And the idea that we postpone to a couple of years the same discussion doesn't give me a lot of comfort. I will be glad when the technical committee comes up with more information, regardless of how this vote goes.

But what I think it's doing -- and, again, I intend to make a motion for the state of Maine to allow us flexibility, MRFSS versus the other survey requirements. I'm not voting to put myself in a potential non-compliance determination in the future.

CHAIRMAN TRAVELSTEAD: Paul will have the final comment and then we're going to vote on this issue.

MR. DIODATI: I agree with the commissioner from Maine that this is something that isn't going to change in terms of the fiscal climate over the next few years for our agencies. It's clear to me that this information is the type of information that's nice to have, and I don't think that this board, or any other board in the commission, should be chalking up in these tables these kind of jobs knowing that this is a nice-to-have job and we're going to mandate and set the agenda of how you're going to spend money at the state level.

I think it's inappropriate, it's irresponsible, and I think this is a good time to start to address it directly. I'm not going to withdraw my motion and I would like to move the question.

CHAIRMAN TRAVELSTEAD: Okay, the question has been called. Do we need time to caucus on this? Let's take about a two-minute caucus. Okay, while you're caucusing, I'll read the motion:

Move to strike the Massachusetts requirement to monitor recreational catch and efforts every five years within the Connecticut and Merrimack Rivers. Motion was made by Mr. Diodati and seconded by Mr. LaPointe.

Are we ready to vote? I think we're going to need a show of hands on this. All those in favor of the motion, please raise your right hand, one hand per state.

All those in favor, three; opposed, like sign. The motion was three to fourteen. Any abstentions; null votes? Three to fourteen. **The motion fails and the provision is added to Table 3.** Other issues with Table 3? George.

MR. LAPOINTE: No, staff cleared up my question about Table 3. If I made any motion, it would be to rename Pat Augustine "Jackrabbit" in a parliamentary sense. (Laughter)

CHAIRMAN TRAVELSTEAD: John.

MR. JOHN MIGLARESE: Mr. Chairman, I just want to make sure that -- Earlier you had made the comment that you were going to task the technical committee to come back in the short term and let's not forget that.

CHAIRMAN TRAVELSTEAD: Absolutely. Consider that done and the technical committee is sitting right here next to me and I think they'll understand and proceed along those lines. Megan has one other issue on the addendum.

MS. GAMBLE: And the last one is under the same idea. Washington, D.C. is not included currently on Table 3, and the addendum changes Table 3 to add the Potomac River, and Washington, D.C. will monitor recreational landings, catch, and effort every five years.

CHAIRMAN TRAVELSTEAD: Okay, Ira.

MR. PALMER: The District currently does an annual creel survey, and we can modify it within the parameters to incorporate American shad, So we are comfortable with being able to do that.

CHAIRMAN TRAVELSTEAD: Very well. Any other issues on the addendum? Okay, We need the board to choose an implementation date for the addendum, and then finally we need a motion to approve the addendum. A.C.

MR. CARPENTER: Can I go back to the requirement for Table 2 where you were adding hatchery evaluation? Is there a possibility that this can be added in a more generic term in the sense that any state which initiates a hatchery stocking program be required to monitor the river system in which they are using it so that next year we don't have to come back and add New Hampshire or some of these other states, or is that already a requirement?

MS. GAMBLE: It does say in Amendment 1 that as new hatchery programs come on line, hatchery evaluations are required. The problem is that when we come to the annual state reports and the hatchery evaluation is not included, the states tend to refer to Tables 2 and 3 as what they have to do for their monitoring programs.

That's why we wanted to add these to make it clear. But you're right, in the future there probably will be even newer programs coming on line and we'll need to add them again.

MR. CARPENTER: Do we need to go through the entire addendum process to add those in the future or is that something that can be set up administratively under the plan?

CHAIRMAN TRAVELSTEAD: Bob.

MR. BEAL: If you want to change the appearance of Table 2, you need to go through an addendum. Given the other language that's in the plan that says as new hatcheries come on line, states are required to monitor those, as an addendum for some other issues going on with shad and river herring, it's probably the appropriate time just to include those -- you know, update Table 2 as we do an addendum for any other issue. I don't think we need to initiate an addendum just because a new hatchery came on line, to include them in Table 2.

CHAIRMAN TRAVELSTEAD: Okay. Is there a proposed effective date for Addendum 1? Does staff have a recommendation? **Staff is recommending January 1, 2003. Is there any objection to that date? Seeing none, that's the effective date.**

Now we need a motion to approve Addendum 1. Made by Eric Schwaab and seconded by Pat Augustine. The motion is to approve the addendum. Do we need to caucus? I don't think so. Ready to vote?

All those in favor, say aye; opposed no. **The motion carries; Addendum I is approved.** Thank you. We've got about five minutes left, folks, before the noon deadline.

2003 STOCK ASSESSMENT RECOMMENDATIONS

CHAIRMAN TRAVELSTEAD: Let's move to Item 7, the American Shad Stock Assessment. Andy, you have some information on this?

MR. KAHNLE: Thank you, Mr. Chairman. The Stock Assessment Sub-committee did talk about approach and schedule with the technical committee at their recent meeting, and it will take me just a few minutes to talk about the agreements on approach and a suggestion for a new schedule.

The last assessment occurred in '98 and, of course, that means the updated assessment and peer review is due in '03. You all know that; that's one of the reasons I'm here. In the last assessment, we looked at data from 19 stocks from Maine to Georgia.

We eventually looked at seven stocks with a more in-depth assessment. So when we talk about a coastwide stock assessment for American shad, we're really talking about a collection of separate assessments for many stocks.

The forum and the methods that we use for each stock are going to be dependent on the kind of data we have for that stock. There's a couple of challenges in shad stock assessment. One is that it's complex, lots of stocks.

Stocks have different life history characteristics.

Different stuff goes in the models. A second issue is that given the wide geographic range, many times the assessment folks that are working with the data are not familiar with the data or the stocks they're analyzing.

So we thought, real quickly, that a good solution here would be to set up some regional teams, some regional work groups, that would include both assessment types and the management biologists who were familiar with the data and with the stocks that we're working on.

Timing of the assessment is going to have to vary among the stocks, and it's going to depend on how soon we can get the data collated and computerized for each stock. Right now holdups are principally in just the simple logistics of finishing up aging of some scale- age backlogs, and just getting the data together in one place and computerized in a form that we can use.

States collect a lot of data. They have collected a lot of data on shad. It doesn't always get to an assessment. It doesn't always get to state reports, and so we're not sure what sort of data we have in hand for this coming assessment.

So the first step that we've taken was to send out a data survey to all of the states to find out what kind of data we have, how many years of data, the format, computerized, not computerized, software, and so on.

That survey is due back this coming Friday to the commission. At that time we'll send it out to the assessment group and the technical committee, and it will form the basis for deciding the appropriate methods, the stocks we can assess, and setting some sort of priorities for the stocks.

Right now, before not having seen a survey yet, but just based on the knowledge we have of data in hand, it looks like we can probably get started on the Hudson, the Delaware, and probably the Susquehanna Upper Bay stock in '03, and then we'll move on to the other stocks as the data becomes collated.

But once this survey is back in hand, other stocks are going to appear that we can do quickly. So the final slide, which you're all waiting for, covers the issue of the schedule, the '03 peer review.

We've wrestled with this a bit ourselves and I guess

you folks here have to make a decision on our recommendation. All of us that have been involved in thinking about the next assessment, the update, or whatever it turns out to be, agree that the peer review should wait until assessments have been completed on as many stocks as we can get data for.

We want to do one peer review. When the assessment group looked at the issue last December, we thought we would have no trouble with an '03 deadline. Data had been collected. We just needed to add them to the existing models from the '98 assessment and we would be done.

Time has passed. We've talked this over with the technical committee group and it appears that there are a couple problems. Maybe we were being a little presumptuous. The first problem is it's going to take some time to get the data collated.

It's just the logistics of getting the data in one place, computerized, in a format we can use. It's going to take some time to get all the scale-aging backlogs cleaned up. The second issue that has emerged that's a little bit more subtle, and that is when we did the assessment last time, there were some disagreements, some controversy about methodologies and data inputs.

We haven't resolved those methodologies; and so if we just crank ahead and use the same methods with the current new data, we'll still have those unresolved issues.

The recommendation of both the stock assessment and technical committee is that we delay the peer review until '04. We hope that will give us a chance to resolve the technical issues ahead of time, up front, and get all the data that we should be looking at in one place.

CHAIRMAN TRAVELSTEAD: Questions of Andy about the recommendation of the technical committee and stock assessment subcommittee? Are there questions, comments? George.

MR. LAPOINTE: If there are questions about the right methodologies to use, by delaying the peer review and not the assessment, you do the assessment wrong and end up chumping the whole thing as opposed to delaying the assessment and the peer review while those methodologies are worked out?

MR. KAHNLE: I'm not sure I'm quite clear about the question. The methods we use are driven by the data, and we won't select the methods until we see the extent of the data that's available. Does that answer your question?

MR. LAPOINTE: Yes, thank you.

CHAIRMAN TRAVELSTEAD: David.

MR. CUPKA: Yes, Mr. Chairman, we have several peer review processes, and I just wondered if their recommendation also included anything in regard to what process they would use, whether it would be a staff review in house or whether we would go outside. Have you all had any discussion on that?

CHAIRMAN TRAVELSTEAD: That's the second issue the board has to decide here today as well. Andy, is there a recommendation on that?

MR. KAHNLE: We did not consider the issue and have not discussed it.

CHAIRMAN TRAVELSTEAD: Okay, Susan.

MS. SHIPMAN: Well, how does the peer review process fit into our adoption at the last Policy Board meeting of the peer review process? I mean, I think that new process that we have adopted needs to be looked at in the context of this assessment and the peer review, regardless of timing. But in essence we refined that peer review process, and Lisa or someone --

CHAIRMAN TRAVELSTEAD: Jeff is going to comment on that issue. Thank you.

MR. JEFFREY C. BRUST: Yes, thank you. Jeff Brust, Atlantic States Marine Fisheries Commission staff. The revised peer review process that was approved, I guess, in May does not do anything with the timing of this peer review.

The peer review schedule that we have set up requires a five-year trigger on these assessments. The last assessment for shad was in 1998, so the 2003 would be the trigger year. We have spoken with the technical committee. The process that they have devised looks appropriate, and so pushing it back one year is appropriate.

CHAIRMAN TRAVELSTEAD: Susan.

MS. SHIPMAN: I appreciate that. My question was more to the issue of whether it's internal, external, and who will do the peer review, and I think that's where we made most of our refinements to the peer review process that we adopted in May.

MR. BRUST: The revised process will not change how this -- the five-year trigger requires an external peer review, so it will have to be done either through the SAW/SARC process, an external commission review, or through an existing organization.

CHAIRMAN TRAVELSTEAD: And we're going to get to that issue shortly here.

MR. DICK SNYDER: Dick Snyder, Pennsylvania. Andy, I support the delay of the peer review for at least until the '04 year somewhat selfishly so that will give the assessment folks some time to get things in order, because quite frankly the multi-jurisdictional survey Roy Miller mentioned burned out some of our folks that put a lot of other things aside. I welcome some breathing time in there, but I support the delay of at least a year.

CHAIRMAN TRAVELSTEAD: Pete.

MR. JENSEN: Just a clarification. The peer review will be after all assessments; is that all 19 stocks will be assessed by '04?

MR. KAHNLE: Actually, in looking over the more recent state reports, it looks like we have data on perhaps 25 stocks now. When we say when all assessments are done, what we mean is when we've been able to look at the data for all of the stocks and made a decision on whether we can assess the stock and how we will do it.

Assessments can include just simple things like trends, trends in abundance indices to all the way up to full-bore BPA analysis, and so we tailor the assessment to the data for the stock. We'll look at data for all the stocks, but we may not do much more than just comment on some of the smaller stocks with very limited information.

And so I guess the answer is we would like to look at data from all the stocks. Whether we call it an assessment or not is harder to define, but we would

like to have a chance to look at all of the information and make statements.

CHAIRMAN TRAVELSTEAD: **Let me ask is there any objection to the delaying of the stock assessment peer review until 2004? Is there any objection? Then we will proceed in that fashion.** I am told by staff that since you agreed to the delay, that we do not need to decide today what type of peer review be done, whether it be external or SAW/SARC.

There will be some staff work that will be done over the next year to look at that, and we'll come back to the board at the appropriate time to decide that issue. Any other comments on the peer review issues?

With the board's indulgence, I'm going to ask that you table the state habitat restoration reports until our next meeting and we'll take those up then.

ADVISORY PANEL NOMINATION

CHAIRMAN TRAVELSTEAD: Item 9, we have a nomination to the advisory panel for North Carolina. Tina.

MS. TINA L. BERGER: We received an application for Billy Farmer to be nominated to the advisory panel. He is from North Carolina. That's it.

CHAIRMAN TRAVELSTEAD: **Moved by Melvin and seconded by George LaPointe.** Is there any comment on the motion? All those in favor, say aye, opposed no. **The motion carries and Mr. Farmer is added to the advisory panel.**

ELECTION OF VICE CHAIR

CHAIRMAN TRAVELSTEAD: Election of vice chairman, George, you had your hand up.

MR. LAPOINTE: I didn't, but I do now, Mr. Chairman. **I would like to nominate A.C. Carpenter as the vice chair of the Shad & River Herring Board.**

CHAIRMAN TRAVELSTEAD: **Is there a motion to close the nominations? So moved. Mr. Carpenter is elected.** Welcome aboard, A.C.

MR. CARPENTER: It's a pleasure to follow you, Jack.

CHAIRMAN TRAVELSTEAD: Yes, I'm sure. Any other business to come before the board? Thank you, we are adjourned.

(Whereupon, the meeting was at adjourned at 12:10 o'clock p.m., August 28, 2002.)

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