

**PROCEEDINGS**  
**of the**  
**ATLANTIC STATES MARINE FISHERIES COMMISSION**  
**SPINY DOGFISH AND COASTAL SHARK**  
**MANAGEMENT BOARD**

**July 18, 2001**  
**Quality Hotel and Conference Center**  
**Arlington, Virginia**

## ATTENDANCE

### Board Members

Melvin Shepard, proxy for Rep. David Redwine (NC)	Pete Jenson proxy for Delegate Ronald Guns (MD)
Damon Tatem, North Carolina, Gov. Apte.	Charles Lesser, Delaware DFW
Fentress Munden, North Carolina DMF	Brian Culhane proxy for Sen. Owen Johnson (NY)
Lewis Flagg, Maine DMR	Gordon Colvin, New York DEC
Assemblyman Jack Gibson, New Jersey	Senator John Laurent, Florida
John Connell, New Jersey Gov. Apte.	Robert Palmer, Florida FWCC
Bruce Freeman, New Jersey DFG&W	John Miglarese, South Carolina DNR
G. Ritchie White, New Hampshire Gov. Apte.	Lance Stewart, Connecticut Gov. Apte.
John Nelson, New Hampshire DMF	Ernie Beckwith, Connecticut BMR
Bill Adler, Massachusetts, Gov. Apte.	Bill Cole, USFWS
Vito Calomo proxy for Rep. Anthony Verga (MA)	Harold Mears, NMFS
David Pierce proxy for Paul Diodoti (MA)	Susan Shipman, Georgia DNR
Gil Pope, Rhode Island Gov. Apte.	Jack Travelstead, Virginia MRC
Jerry Carvalho proxy for Rep. Eileen Naughton (RI)	Howard King, Maryland DNR
David Borden, Rhode Island DEM	

### Ex-Officio Members

William McKeon, LEC Representative

### ASMEC Staff

Joe Desfosse	Megan Gamble
Tina Berger	Carrie Selberg

### Guests

Eugene Bergson, Atlantic Coast Fisheries Corporation	Karyl Brewster-Geisz, NMFS-HMS
Louis Juillarp, AML	Kelly Shotts, NMFS
Steve Barndollar, Seatrade International	Tyson Kade, NMFS-HMS
Will Etheridge, Etheridge SFD	Wilson Laney, USFWS-SAFCO
Luie Fass, Fisheries NOW	Anna Stamper, USCG-Fisheries Enforcement
Eric Axelsson, Axelsson & Johnson	Tim Boran, USCG-Fisheries Enforcement
<b>Jerry Schill, North Carolina Fisheries Association</b>	Peter Burns, NMFS
Janice Plante, Commercial Fisheries News	Bob Ross, NMFS
Louis David, NC DMF	John Merginer, NMFS-SEFSC
Herb Drake, ASMFC Consultant	Rich Seagraves, MAFMC
Bill Outten, Maryland DNR	

## TABLE OF CONTENTS

Summary of Motions.....	iii
Welcome & Introductions.....	1
Approval of	
Agenda.....	1
Approval of Minutes from April 21, 2001.....	2
Public	
Comment.....	2
Update on Council	
Actions.....	2
Review Emergency Action Compliance.....	3
Discuss Development of Spiny Dogfish	
FMP.....	4
Discussion of Massachusetts Plan.....	10
Update on Coastal Shark Issues:	
Display	
Permits.....	26
Proposed Rule for Shark	
Finning.....	27
Other Business/Adjourn.....	29

## MOTIONS

***Move to approve the agenda with corrections and additions.***

Motion made by Mr. Adler, Seconded by Dr. Cole.  
Motion carries.

***Move to approve the minutes from April 23, 2001 as printed.***

Motion made by Mr. Adler, Seconded by Ms. Shipman.  
Motion carries.

***Move that the Spiny Dogfish Board or a subcommittee of the Board meet jointly in September with the Joint New England Fishery Management Council/Mid-Atlantic Fishery Management Council Spiny Dogfish Committee to discuss the future course of dogfish management.***

Motion made by Dr. Pierce, Seconded by Mr. Travelstead.  
Motion carries.

***Move that the Board adopt the 8.8 million pound constant harvest quota to be allocated coastwide with two periods (May 1, 2001 through October 31, 2001 at 42% and November 1, 2001 through April 30, 2002 at 58%), providing for a balance of 1.196 million pounds for the first period and 5.104 million pounds for the second period. The 8.8 million pounds is to be landed with a 7,000-pound daily limit. This motion is valid through April 30, 2002.***

Motion made by Dr. Pierce, Seconded by Mr. Munden.  
Motion fails with 7 votes in favor, 8 votes opposed, and 1 null votes.

***Move that the Spiny Dogfish Management Board invite the NEFMC and MAFMC to have voting representation on the Board.***

Motion made by Ms. Shipman, Seconded by Mr. Cole.  
Motion carries with 11 votes in favor, 3 votes opposed, and 3 null votes.



---

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Room of the Quality Hotel and Conference Center, Arlington, Virginia, July 18, 2001, and was called to order at 8:00 o'clock a.m. by Chairman Pat Augustine.

### **Welcome & Introductions**

CHAIRMAN PAT AUGUSTINE: Good morning and welcome to the Spiny Dogfish Management Board meeting. Okay, let's start out by having introductions around the table. Dr. Palmer, would you start.

DR. BOB PALMER: Bob Palmer, Florida.

DR. LANCE STEWART: Lance Stewart, Connecticut.

MR. ERNEST E. BECKWITH, JR.: Ernie Beckwith, Connecticut.

MR. BILL COLE: Bill Cole, U.S. Fish and Wildlife.

MR. HARRY MEARS: Harry Mears, National Marine Fisheries Service.

MS. SUSAN SHIPMAN: Susan Shipman, Georgia.

MR. DAVID V.D. BORDEN: David Borden, Rhode Island.

MR. RED MUNDEN: Red Munden, North Carolina Marine Fisheries.

MR. JACK TRAVELSTEAD: Jack Travelstead, Virginia.

CHAIRMAN AUGUSTINE: We all know Tina Berger. Pat Augustine, New York.

DR. JOE DESFOSSE: Joe Desfosse, Atlantic States Commission.

MR. MELVIN SHEPARD: Melvin Shepard, North Carolina legislative representative.

MR. DAMON TATEM: Damon Tatem, North Carolina.

MR. LEWIS FLAGG: Lewis Flagg, Maine.

MR. BRUCE FREEMAN: Bruce Freeman, New Jersey.

ASSEMBLYMAN JACK GIBSON: Jack Gibson, New Jersey.

MR. JOHN CONNELL: John Connell, New Jersey.

MR. JOHN NELSON: John Nelson, New Hampshire.

MR. G. RITCHIE WHITE: Ritchie White, New Hampshire.

MR. WILLIAM A. ADLER: Bill Adler, Massachusetts.

DR. DAVID PIERCE: David Pierce, Massachusetts.

MR. VITO CALOMO: Vito Calomo, proxy for State Representative Anthony Verga, Massachusetts.

MR. HOWARD J. KING, III: Howard King, Maryland.

MR. W. PETE JENSEN: Pete Jensen, proxy for Delegate Guns, Maryland.

MR. GIL POPE: Gil Pope from Rhode Island.

MR. JERRY CARVALHO: Jerry Carvalho, proxy for Eileen Naughton, Rhode Island.

MR. WILLIAM McKEON: Bill McKeon, Law Enforcement Committee.

MR. CHARLES A. LESSER: Charlie Lesser, Delaware.

MR. BRIAN CULHANE: Brian Culhane, proxy for Senator Owen Johnson, New York.

MR. GORDON COLVIN: Gordon Colvin, New York state.

### **Approval of Agenda**

CHAIRMAN AUGUSTINE: Thank you and welcome and welcome to all the guests we have in the public seating there. We have some additions and corrections to the agenda, so, Dr. Desfosse, would you tell us which ones you've added?

DR. DESFOSSE: Under Other Business, there will be an update on coastal shark issues, the first one dealing with display permits and the second one dealing with

the proposed rule for shark finning.

CHAIRMAN AUGUSTINE: And we have an additional item under Number 7. Massachusetts would like to have their plan revisited, so if you would add the Massachusetts plan under Item 7. Are there any other additions or corrections to the agenda? Seeing none, Mr. Adler.

MR. ADLER: I move it be accepted.

CHAIRMAN AUGUSTINE: Moved. Seconded by Bill Cole. All in favor, aye; opposed, same. Carried. At this moment, we'll go ahead and entertain any public comments.

### **Approval of Minutes from April 23, 2001**

CHAIRMAN AUGUSTINE: Oh, I'm sorry, approval of the minutes, approval of the minutes of the April 23 meeting. You all had a chance to see those and review them. They're in your packet. Mr. Adler.

MR. ADLER: Move to accept it as printed.

CHAIRMAN AUGUSTINE: Move to accept the minutes as presented; seconded by Ms. Shipman. All in favor, aye; opposed, same; abstentions; null. Carried.

### **Public Comments**

CHAIRMAN AUGUSTINE: At this time we'll entertain any public comments from the audience, and you will be able to offer up comments throughout the session. I make note that we did receive a letter from Ocean Conservancy, National Audubon Society, and Environmental Defense. There's a copy of it that's either been passed around or back on the table, and it just restates their position.

Now we're going to move forward with an update on the Council action. Yes, Jerry, come on forward, please.

MR. JERRY SCHILL: Thank you, Mr. Chairman. Jerry Schill with the North Carolina Fisheries Association. I may have some additional comments later on, but I just want to make a general comment regarding the situation.

They're comments that won't come as any surprise to you, but in North Carolina the situation with dogfish is really drastically affecting a lot of gillnet fishermen. I just can't emphasize enough, with all the restrictions on

other fisheries, the economic burden this is putting on our fishermen.

I've been doing this for 14 years now and that's the reason for the halo around my head, I reckon, but -- plus, I'm Catholic. That has something to do with it.

But I'm going to tell you, I have never seen a time when these fishermen have been so burdened economically than I have right now. It is really stressful for these folks, and anything that the ASMFC and the Mid-Atlantic Council can do to help relieve the burden on these folks, it would be greatly appreciated. And again, I may have more comments later on. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Schill.

### **Update on Council Actions**

CHAIRMAN AUGUSTINE: Dr. Desfosse, would you update us on the Council actions or do you want to call on the Council?

DR. DESFOSSE: Actually, I spoke with Rich Seagraves earlier last week and he is here in the audience, and I believe he's prepared to give a comment and an update. I believe he's referring to Red Munden.

CHAIRMAN AUGUSTINE: Red, please.

MR. MUNDEN: Thank you, Mr. Chairman. I discussed very briefly with Rich Seagraves who was going to give this report on the Mid-Atlantic Council activities, and since I had jotted down some notes, he said it would be good if you went ahead and gave that.

Mr. Chairman, the Mid-Atlantic Council members of the Spiny Dogfish Committee met at our May 8 through 10 meeting in Ocean City, and we discussed several things.

One was the development of a list of options for the public hearing document for Amendment 1 to the FMP, and we incorporated into that list of options several things that were in the ASMFC public information document, such as a change in fishing years.

We also looked at possibly a close in the fishery by setting the quota at zero for the 2001 fishery, and that would give the stocks a chance to recover because several of the committee members felt like that the low trip limits that we have right now, the low quotas basically have eliminated the fishery at least for the southern portion of the management zone.

We also looked at state-by-state quotas, payback for quota overharvest, and we discussed a set aside of the fishery for biological and medical industry. We also felt like that we ought to look at the F-based management strategy versus the constant harvest strategy that has been proposed by Massachusetts.

The Mid-Atlantic Council voted to invite the Chairman of the Spiny Dogfish Board and the FMP coordinator to attend the meetings of the joint committee as non-voting members, as also our industry advisors are non-voting members.

We have requested that the stock assessment be updated, taking into consideration the overharvest of quota during the 2000 fishing season. We are trying to schedule a joint meeting with New England for late September.

It now looks that the most promising date is Friday, September 28th, and that meeting will probably be held in Providence, Rhode Island.

During that time, we will discuss the 2002 harvest specs and try to come to consensus relative to management measures for 2002, and at that meeting we will finalize the management options for the public hearing document, which we will be working on this fall. And that concludes the Mid-Atlantic report, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden, excellent report. It sounds like you made a tremendous amount of progress and we're moving in the right direction. Are there any questions or comments that you'd like to ask Mr. Munden? Mr. Adler.

MR. ADLER: Thank you, Mr. Chairman. Excuse me, did you say that the September 28th meeting in Providence, which would be like a joint meeting of the New England Council and the Mid-Atlantic Council, it was going to be at that meeting that you were going to draw up the proposals for the public hearing at that same meeting?

MR. MUNDEN: That's correct. We are trying to schedule that meeting, which will follow the New England Council meeting, and that's on a Friday, and at that point in time we hope to finalize the items that will go into the public hearing document.

CHAIRMAN AUGUSTINE: Thank you, Mr. Adler. Thank you, Mr. Munden. Dr. Pierce.

DR. PIERCE: Yes, Red, I had an August date penciled in for a Dogfish Committee meeting. Obviously, that's not going to happen now. It's going to be September?

MR. MUNDEN: That's correct, Dr. Pierce.

CHAIRMAN AUGUSTINE: Any other questions, comments, discussion? Okay, thank you.

### **Review Emergency Action Compliance**

CHAIRMAN AUGUSTINE: At this time we'll review the Emergency Action Compliance. Dr. Desfosse.

DR. DESFOSSE: There's a one-page handout in front of you that summarizes the state actions that were taken. In response to the closure of the federal waters, you'll notice that all of the states have closed their fisheries, or their state waters to the harvest and possession of spiny dogfish.

Most were effective in late June. The closure in federal waters occurred on Friday, June 22nd. The only state that I did not have any information from was Florida, but I don't believe there's any spiny dogfish south of Cape Hatteras at this time, anyway.

I believe Florida has rules in place that are similar to Georgia's and limited to a bag limit, anyway, but, as you can see, all of the states are in compliance with the emergency action.

CHAIRMAN AUGUSTINE: Thank you, Dr. Desfosse. Any questions? Any comments? Let's move forward then. I'm sorry, Mr. Freeman.

MR. FREEMAN: Thank you, just a technical comment. New Jersey is in the process of putting a rule in place that allows us to close state waters, so technically they're not closed at this time, but our vessels are required to be federally permitted.

Since they are all federally permitted, once the feds close, we are closed, but we still want to backstop that with a specific rule and that will be in place next month.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Any other comments? Mr. Mears.

MR. MEARS: Just a question for Mr. Freeman. Is that a state regulation as such for dogfish that all vessels must be federally permitted?

MR. FREEMAN: Yes. We've done that, Harry, in a



number of plans, requiring federal permits. That's true in scup, it's true in a number of other species, with the expectation in sharks, in coastal sharks as well, so that when the federal quota is closed, we're closed.

But, nevertheless, the plan requires that states have the wherewithal to close state waters, so we're complying with that aspect.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Any other questions? Any other comments? Mr. Colvin.

MR. COLVIN: Just a question on the Maryland report. I noticed that the closure is based on the NMFS weekly quota report, which, frankly, doesn't often have our quota situation correct, so I just wondered if that's been verified independently with the state.

CHAIRMAN AUGUSTINE: Maryland, would you prefer to respond to that please?

MR. KING: It is closed in Maryland waters.

CHAIRMAN AUGUSTINE: Thank you. Any other comments or questions? Dr. Pierce.

DR. PIERCE: Yes, regarding the record of landings, when we first received a report from the National Marine Fisheries Service that the fishery was to close on a certain date, we consulted with our statistics people to determine if, indeed, there was agreement between our records of landings and what the federal government was receiving.

It appeared that there was some double counting by the federal government. Very aggressive port samplers, to their credit, were noting landings of dogfish in New Bedford that they didn't think were being included in the system.

Those were reported to the Statistics Office of NMFS, and that led to relatively high numbers in a short period of time for dogfish landings.

So, I still have yet to clarify whether or not there really was a double counting, but it did appear as if there was. Nevertheless, when all was said and done, with further checking of the numbers, the date that the federal government did select for closure was appropriate.

So, my only message to the Service is that there needs to be more care with regard to how the numbers are tallied and that there should be no tallying of dealers

and processors, just the processors -- the dealers, that is, just the dealers and that way there won't be any confusion next time around as to what exactly has been landed, and there will be a great confidence that there has not been a double counting of some of the landings.

CHAIRMAN AUGUSTINE: Mr. Mears, would you like to respond? Okay, thank you.

### **Discuss Development of Spiny Dogfish FMP**

CHAIRMAN AUGUSTINE: Okay, we'll move onto Item 7, discuss the development of a spiny dogfish FMP. And as we've been informed by Mr. Munden, the Mid-Atlantic is moving forward very expeditiously and has outlined several of the items that we have brought to the table, noted concerns about, in view of the fact that we may have had to move along to develop an FMP.

So, I think, unless someone wants to add anything to the comments that have been made heretofore, we can move onto the next two items. Joe, do you have anything to add to that? I think we're clear, aren't we? Is the Board clear that we are not going to move forward with an FMP?

I'm sorry about that, he wants us to discuss it, so we want to discuss it. Is there any discussion about us moving forward with the development of an FMP? Asked a different way, I have the same question you have, David. Go ahead, ask the question.

DR. PIERCE: It has always been my understanding that we are moving forward with the development of an ASMFC plan and that, of course, we would want that development to proceed concurrently with the progress of the Council's development of Amendment 1 to their dogfish plan.

So, unless there's some new thinking on this, my anticipation is that staff will be working with staff of the Council, specifically with Seagraves, who's in the lead on this, to put together an ASMFC plan that would have dovetailed, I suspect, with that which will be produced as Amendment Number 1 to the dogfish plan.

That will oblige the Board to discuss the objectives for dogfish management, especially in state waters and elsewhere, and other aspects of spiny dogfish management, what our goals are, rebuilding targets and all of that. That's my anticipation.

CHAIRMAN AUGUSTINE: Thank you, that was my

understanding without having asked the question; in view of the fact that we felt the onus was on the Council to take the lead on it and that we were going to work with them and we were going to try to coincide or be identical to, or identical with, and move forward in the development of that.

That was why I was kind of questioning what we had to discuss about the development of it. Are there any other comments? I guess it's clear as to where we are going then. We will keep you informed. Joe and I will be participating in that process. Dr. Desfosse and then Mr. Colvin.

DR. DESFOSSE: I guess I would just like to clarify that my position -- I was confused by the actions that were taken by the Board at its last meeting.

You tried two different approaches and wound up back at square one, and I was wondering what that meant in terms of developing the FMP on the Commission side, what actions you wanted staff to take.

CHAIRMAN AUGUSTINE: Thanks for that clarification. Mr. Colvin.

MR. COLVIN: Well, I'll confess to being a little less than clear about exactly what we're doing, and maybe somebody could try to clarify it for me.

Are we just going to sit here and meet occasionally and when the Mid-Atlantic Council finishes the management plan, vote it up? Is that what we're doing or are we somehow actively engaged in that process? I'm frankly unclear and I'd like to be made clear.

CHAIRMAN AUGUSTINE: Anybody want to clarify that further? Dr. Pierce?

DR. PIERCE: Well, I would hope that we would be actively engaged in that process and, of course, I'm hopeful that the Board will agree that the constant harvest strategy is an appropriate alternative to the constant fishing mortality strategy, and that ASMFC may conclude, after further discussion as to long-term management of spiny dogfish, that one of the options that will be in Amendment Number 1 of the Council's plan has the most merit and will opt for that option.

Maybe that won't be the conclusion of this Board after all is said and done, but that's what I would like to see happen, an aggressive pursuit and serious consideration of that particular option that will receive further debate and further review as time proceeds.

Of course, much of that debate will occur in the Council forum, since it is an option, and time will come, I suspect, when this Board will have to make a decision to follow the Council approach or to perhaps go in a different direction if that approach ends up not being what this Board feels is appropriate; and by that I mean the constant harvest versus the constant fishing mortality rate.

CHAIRMAN AUGUSTINE: Thank you. Mr. Colvin.

MR. COLVIN: My question, Mr. Chairman, had nothing to do with any particular management regime decision whatsoever. I'm not interested in discussing that right now. What I'm trying to get at is what are we doing?

Now, we have joint management programs with the Council, as we all well know, for fluke, scup, and sea bass, and in the course of those things, as a rule we meet jointly with the Council.

Our boards meet jointly with the Council and we work together, and we have fairly well-articulated processes for joint decision making, voting rules that relate to joint meetings, for example.

And while we don't always and haven't always landed in the same place, we have a fairly well-established process for joint development and operation of fishery management under those species.

I don't know what we're doing with dogfish. Are we supposed to be doing the same thing, or are we just sitting here waiting for the Council and then we'll make a decision?

I'm unclear, but if we're to be actively involved in fishery management plan development for spiny dogfish and have management options that we want to see and would insist be part of the public hearing document and so forth, maybe we need more than a couple of ex-officio members on the Mid-Atlantic Council Committee.

Maybe we need a more joint and collaborative process. I don't know, I'm raising the question. I really don't know what we're doing here.

CHAIRMAN AUGUSTINE: Well, at the pleasure of the Board, what would you prefer to do? Mr. Jensen.

MR. JENSEN: I would be even more specific than

Gordon's question. It seems to me, given the interest of certainly the fishermen and all of the states, I would ask the question of why isn't the staff preparing a public information document.

It's not only a public information document, but it helps all of us focus on what the issues are and sort out what the things are that we think are important.

So, even though it might not go out to the public right away, at least it is a document for us to focus on. So, I would ask the question of why can't the staff begin with a public information document.

CHAIRMAN AUGUSTINE: Dr. Desfosse.

DR. DESFOSSE: One was prepared. We already went through one round of public hearings and you reviewed the comments at the last meeting in April.

MR. JENSEN: But it sounds like some things have changed since then. Am I misunderstanding some of the comments around the table in terms of options?

DR. DESFOSSE: I'm at a loss, I don't know. It was unclear at the last meeting what direction you wanted staff to take. So, we've been waiting to see what was going to happen on the Council side because there was a meeting in June of the Council's committee.

CHAIRMAN AUGUSTINE: Mr. Borden, Mr. Freeman and Mr. Travelstead.

MR. BORDEN: Thank you, Mr. Chairman. Following up on Gordon's point, what have we budgeted for this activity this year? Can someone tell me that?

CHAIRMAN AUGUSTINE: Jack, we don't know, do you have the numbers nearby?

MR. BORDEN: If somebody doesn't have them right at their finger tips, if somebody could answer that, I think it would help.

CHAIRMAN AUGUSTINE: Mr. Freeman.

MR. FREEMAN: I think the history of this is really what's driving the system. I think here's where the confusion -- let me just indicate my recollections of events. The Council went ahead and developed a plan. There was a quota.

The quota was really allocated to an incidental catch, and it was a very controversial issue at the time,

industry indicating that it really wouldn't work, other people saying it would.

The Council implemented that and, in fact, it did not work in most instances. It just was a fishery where it's a high-volume fishery, low-priced item, and the idea of an incidental catch essentially was a disaster so far as the fishermen were concerned.

The Commission moved forward with a position of having, so-called, a constant harvest strategy where there could be a directed fishery rather than incidental.

I think that was impetus for the Council to go back and revisit the issue, and I think the Council now is thinking that maybe an alternative, which is a better one, is now considering amending their plan to come full circle.

Therefore, I think, from the perspective of this Spiny Dogfish Board, it's really one of waiting for the Council to develop the documentation to go out to public hearing from the Council perspective, so the Commission has already agreed to such a strategy.

So, I understand Gordon's question, but I really think it's an issue where, in this instance, the Commission is really waiting for movement from the Council.

Nevertheless, Gordon, I think your comments are appropriate relative to our involvement in the process. I don't think there is any formal movement of commission staff to attend all the various committee meetings and internal meetings for developing the document and that, perhaps, would be useful.

The other point is that Red Munden is the Chairman of the Spiny Dogfish Committee from the Council. He's here representing North Carolina on the Board.

So, there is this information exchange and perhaps the few of us which are involved with the Mid-Atlantic and also the Commission feel somewhat comfortable. Others may not. That's my take on this.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Mr. Travelstead.

MR. TRAVELSTEAD: At our last meeting, the Board looked at a number of alternatives about how we might proceed with dogfish, and we discussed all of those and subsequently rejected all but the option we're now under, which is to close when the federal quota is taken.

Joe, could you remind the Board what those options

were that we looked at and rejected? I think that's why everybody is confused, because we rejected any movement forward and we're sitting here just trying to decide what to do next.

DR. DESFOSSE: The two options that you discussed, the first was the constant harvest strategy, and both of these options would have had to be implemented under emergency action, so they would have required a two-thirds majority to pass.

So, the first option was the constant harvest strategy that Massachusetts put forward, and the second option was to adopt the management regulations, or the annual specifications set under the Council's FMP, and that failed ten to six.

CHAIRMAN AUGUSTINE: Mr. Dunnigan.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Thank you, Mr. Chairman. In response to your question a second ago, spiny dogfish is one of those parts of our program that you all put above the line.

So, it's one that we're supposedly working on actively during the year 2001. The action plan for this year says that we're going to begin preparation of the new FMP, we're going to go through our first round of public hearings, we're going to decide on which elements to include into the draft FMP, and decide whether to continue the emergency rule.

We've been through the emergency rule side of it. What you had intended to do for the rest of this year was to get yourselves all the way up to the point of going to public hearing on a draft FMP.

Now, as has been indicated, a lot of that got overtaken when the Council decided to initiate its consideration of an amendment. So, we need to figure out how to bring those things together.

Your other question specifically about budget, yes, we put together a significant budget for spiny dogfish this year, and I can't tell you how much of it's actually been spent so far. I don't have that paper with me, but there are resources there to move forward.

CHAIRMAN AUGUSTINE: Dr. Desfosse.

DR. DESFOSSE: I dug out the latest budget update and there's \$4,000 left for spiny dogfish for this year.

CHAIRMAN AUGUSTINE: Mr. Freeman.

MR. FREEMAN: On that issue, Joe, what was the total we began with? We have \$4,000 left, but what did we start with?

DR. DESFOSSE: \$6,200.

CHAIRMAN AUGUSTINE: Thank you. Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: Joe, that's the amount of money that we had in the Atlantic Coastal Fisheries line item, but there's supplemental money for dogfish under IJF. So, the total was \$17,000, and I don't know how much is left out of the IJF money.

CHAIRMAN AUGUSTINE: Thank you, Mr. Dunnigan. We had Mr. Mears and Ms. Shipman.

MR. MEARS: Thank you, Mr. Chairman. Given the comments during the course of this meeting and also the varying perceptions of where we are now and where we're going, a couple of comments have been made.

One very important comment, I believe, is that we're here today because of the emergency action, which had been taken last year as a result of acknowledging the importance of state action in state waters to manage the Spiny Dogfish Fishery.

Second of all, as has been noted, the emergency action extends through this calendar year. With remarks to the effect that there will be a joint meeting, I believe in September, of the Councils that will entertain previous deliberations discussed by this body,

I would like to recommend that at that point we have a joint meeting, or at least a meeting of the Dogfish Board to immediately follow the joint Council meeting to discuss the future course of where we should be going with regard to the public information document.

We've already prepared the public comments we've already received and also the importance, the constituent importance of dogfish management to each arena, the Council arena and to the Commission arena.

So, once again, my recommendation, what I believe should at least be discussed as an option would be for this Board to meet jointly with the Council at that joint Council meeting in Providence in September.

CHAIRMAN AUGUSTINE: Thank you. Ms. Shipman.

MS. SHIPMAN: This may be an over simplification, but when I left the meeting, the last meeting, I thought we were waiting for the risk analysis to be run on the two approaches, and when that came back, the Council -- in my understanding, the Council was going to do that through their technical expertise, or the joint technical committees, I guess, and that's what I was waiting -- in my own mind, what we were waiting for and then we would move forward.

CHAIRMAN AUGUSTINE: Thank you. Mr. Munden.

MR. MUNDEN: Mr. Chairman, I would request that you recognize Rich Seagraves to give us an update as to how that process will really go.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Seagraves.

MR. RICH SEAGRAVES: Thank you, Mr. Chairman. Indeed, we requested or actually the Mid-Atlantic portion of the Dogfish Committee requested that the assessment be updated, as you've already heard.

So, as part and parcel of that process, I've been communicating with Paul Rago, and we're going to attempt to do that risk analysis during that process. One other point of clarification is the meeting on the 28th is not a joint Council meeting. It's a joint committee meeting.

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

MR. BORDEN: Thank you. Rich, in terms of the update, when will that be completed?

MR. SEAGRAVES: When will it occur?

MR. BORDEN: Yes.

MR. SEAGRAVES: Again, we have a meeting scheduled for September 28th of the Joint Dogfish Committee of the two councils. As Red has already pointed out, we're going to be looking at Amendment 1, as well as recommendations for 2002, 2003.

So, we'll need to update the assessment for that, so we'll be doing the work. I've already been in contact with Paul and requested it.

So, that meeting would be preceded by a Monitoring

Committee Meeting, as per the FMP, which would occur like early September, mid September. So, it'll be done over the next two months. It will be done before that meeting.

CHAIRMAN AUGUSTINE: Dr. Pierce.

DR. PIERCE: Harry Mears had a very good suggestion. I agree with him that management of dogfish is important for the states as well as for the federal government, for the Council specifically, and I do believe that it does make a great deal of sense for the Board to meet with both Councils' committee on dogfish at the end of September.

I'll make a motion, Mr. Chairman, to initiate that, if you don't mind. I would move that this Spiny Dogfish Board meet jointly with the Councils' Dogfish Committee in September to discuss the future course of state and federal management of dogfish.

CHAIRMAN AUGUSTINE: Do I have a second? Seconded by Mr. Travelstead. Discussion? Mr. Nelson.

MR. NELSON: I think it's very important that we have as much coordination as possible. My first inclination was that that meeting was going to be the Councils, and I thought it was appropriate for the Board to meet with the Councils.

If it's a committee meeting, I'm not sure the whole Board needs to meet with the committees, and perhaps there should be a committee set up from this group to work with them to provide whatever insight we would want and probably some technical expertise associated with that, staff, et cetera. But I would suggest not the whole Board, but a group that the Chair may select.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Would you suggest modifying the motion to say maybe a subcommittee?

MR. NELSON: Perhaps the mover would agree to that without me going through that type of maneuver.

CHAIRMAN AUGUSTINE: Dr. Pierce.

DR. PIERCE: I would agree. I suspect that there are some Board members who have minimal interest in dogfish. Their principal concern is coastal sharks. So, it might not be a good expenditure of their time to go to that particular meeting.

Perhaps it would be -- if they agree to it, they could rely on a subcommittee of the Board to tend to the needs to the overall Board. I would have no problem with that, as a full Board or those Board members who feel it's worthwhile for them to attend.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Further discussion? Mr. Munden and Mr. Colvin.

MR. MUNDEN: Thank you, Mr. Chairman. I am a little bit confused as to what we are trying to accomplish here, but as the Chairman of the Joint Spiny Dogfish Committee, which is made up of members from both the New England Council and the Mid-Atlantic Council, I would say that we would welcome representation from the ASMFC Board.

But the way that the Joint Committee usually conducts business, they will discuss the issues and then take a vote on it, and then the members will go back to their respective councils and make those motions on behalf of the Board. So, what I'm confused about is what role would the ASMFC reps play at a joint meeting?

CHAIRMAN AUGUSTINE: Good question, Mr. Munden. Mr. Dunnigan, if you don't mind, Mr. Colvin.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. To that point, as Red points out, this isn't our meeting. So, you're going to have to give me the opportunity to talk to Dan Furlong and Paul Howard and find out how best we can interface.

It may be that we'll just be there and attend. They obviously have business that they plan on conducting, but we can't guess around the table today how that's going to work out. You're just going to have to let me work that out with Dan and Paul.

CHAIRMAN AUGUSTINE: Thank you, Mr. Dunnigan. Is that appropriate? Dr. Pierce, is it okay with you? It's your motion.

DR. PIERCE: Well, certainly, I stand to be guided by Jack. Yes, the committee of both councils does have business to take care of, but it's business that's of great concern to this Board because it is spiny dogfish management, state and federal waters. So, what are you suggesting, Jack, that we don't need this motion?

EXECUTIVE DIRECTOR DUNNIGAN: I think the motion is fine. It's just that in terms of the details, which is what Red was raising, about what's the nature of the meeting, what are we going to do there, are we

going to vote, are we going to make motions, I don't know that.

And until we sit down and talk about it, the subcommittee or whoever goes isn't necessarily going to be empowered to speak for the Board. So, we just have to work out the details, that's all.

DR. PIERCE: That's fine, I concur.

EXECUTIVE DIRECTOR DUNNIGAN: But the motion's fine.

DR. PIERCE: I concur with Jack.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Mr. Colvin and then Ms. Shipman.

MR. COLVIN: Thank you, Mr. Chairman. At the outset of this discussion, I raised a question that I didn't quite understand what we were doing and how we were doing it and I still don't, but I'm glad we had the discussion because maybe others have now joined me in that view.

My expectation, as a member of this Board and as a member of the Mid-Atlantic Council, I think would be that at the end of this meeting in September, that the staff would be prepared to come back to this Board with a proposal for how we are going to work jointly with the councils to develop a spiny dogfish management plan, and that that proposal will include not just budget stuff, but details in terms of how we are actually going to work together, over what time frame and what we expect to accomplish and when.

And I think Jack is right, in order for that to happen, his staff is going to need to work with staff of the two councils to come up with an operating process that will get us from here to there.

But I think that a meeting of this nature, such as is proposed in the motion, will help facilitate that process. I strongly support it, but I do think we need to take that next step and craft a process. Otherwise, we're just going to keep spinning our wheels here.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Ms. Shipman, to the motion?

MS. SHIPMAN: I think in light of all that has been said, the intent is that we or a group, whomever, attend that meeting and participate as appropriate and I think it's got to be left up -- and I would just add in from a

southern perspective, in our region we've never had joint fishery management plans.

We've had companion plans and we've had plans that have mirrored federal plans, but I don't think we need to be locked into the thought we've got to have a joint fishery management plan, and I would just hope everybody would go into these deliberations with perhaps that thought and option in mind.

CHAIRMAN AUGUSTINE: Excellent clarification. Thank you, Ms. Shipman. Mr. Adler.

MR. ADLER: Given the disaster that we have with the present Spiny Dogfish Plan and in the interest of the fishermen to try to get going on something here, and also the idea that since most of the fisheries are in shut-down situation, everybody's trying to find out how to make a living, I also don't like the federal plan.

I think this Board ought to move ahead with at least the beginning process of developing our own Spiny Dogfish Plan. We've already gone through the PID, and if we wait until the end of September before we decide what we're going to do, in the amendment or management plan process, unlike an addendum process, it's a long process.

I don't see this ever getting off the ground until the year, I don't know, 2003 or something, and so I'd like to see this Board go through this meeting.

Hopefully, we can come out with a plan which looks -- or maybe the federal management system can come out with a plan that looks something like ours, which I hope will look better than what we've got on the table now.

So, I would like to see our staff prepare the next step in a fisheries management plan so that we can look at it at the next opportunity.

At least we're stepping ahead and making some progress here, rather than waiting to see what somebody else is going to do because I don't like the federal plan as written and it needs to be fixed; and if they can't fix it, then we've got to fix it. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Adler. Back to the motion. We've had enough discussion around it, about it, over it and under it. Does someone want to move it? Yes, Dr. Palmer.

DR. PALMER: Thank you, Pat. Just before the vote, I wanted to introduce Senator John Laurent. He's our

legislative appointee and will be participating in the process, and I hope that you all make him welcome.

CHAIRMAN AUGUSTINE: Excellent and welcome. Did Mr. Nelson call the question? Thank you, Mr. Nelson, wonderful. David, would you read it please, please read your motion.

DR. PIERCE: Move that the Spiny Dogfish Board or a subcommittee of the Board meet jointly in September with the Joint New England Fishery Management Council/Mid-Atlantic Fishery Management Council Spiny Dogfish Committee to discuss the future course of dogfish management.

CHAIRMAN AUGUSTINE: Thank you. All in favor aye; opposed; abstentions; null. The motion carries.

What have we got next, Joe? All right, at this point in time, we'd like to have Dr. Pierce go forward with his short presentation, short presentation, Dr. Pierce, short presentation. Before that, may we have Mr. Seagraves.

MR. SEAGRAVES: Yes, I just made one brief comment. Since this is going to be in the nature of more of a joint committee meeting, that date of the 28th may not hold up. We may need more than one day, so just be aware of that.

CHAIRMAN AUGUSTINE: Thanks for that clarification.

### **Discussion of Massachusetts Plan**

CHAIRMAN AUGUSTINE: Now, Dr. Pierce is going to make a very short presentation on the plan. Thank you, Dr. Pierce, quite short.

DR. PIERCE: Quite short, extremely brief. Yes, Mr. Chairman, thank you. I realize that we just have two hours for this meeting, so I do intend to be brief, but bear with me. It's not going to be, you know, a thirty-second presentation.

So, I'll get to the point. Yesterday I distributed a one-page memo from Paul Diodati and myself to the Board. It included a June 22nd article from the Cape Cod Times entitled, "Dogfish Catch Closes to Local Fishermen" describing what's going on with dogfish management at this time.

I also included the familiar rebuilding curves, showing rebuilding at the two different strategies of constant fishing mortality and constant harvest. You're familiar

with those curves, but I wanted to make sure you had them again for reference.

I hope you've all had a chance to read that memo and also that newspaper article. Now, Paul and I have asked the Board to reconsider its decision to adopt the constant harvest strategy for this fishing year, thereby enabling a small-scale directed fishery for dogfish to resume wherever there is interest.

And as we all know, currently that fishery is closed until November 1. At our last meeting, we discussed the option. There was a great deal of discussion, the motion was made, and then a vote was taken, and the vote was 8 to 8 that ended up defeating the attempt to have this 8.8 million pound constant quota for this particular fishing year.

Now, because the Board was so evenly divided on this issue as to how to proceed with dogfish management for this fishing year, we feel it's appropriate to raise the issue again, but this time with a much narrower scope and with far less complications.

When we voted, it appeared that half the Board wanted to wait until Amendment number 1 of the Council's plan was completed some time in the future and that ASMFC would follow the lead.

The other half favored the Massachusetts-initiated constant harvest strategy and immediate action that would have provided for a preservation of dogfish processors' access to overseas markets, at least some of those markets.

It would have provided some fishing opportunities for inshore fishermen currently burdened with very long and large groundfish closures, and it would have supported the New England Council's long-held position that a small-scale directed fishery is desirable and is very justifiable.

So, we ask the Board to reconsider the 8.8 million pound harvest quota for this fishing year; however, unlike at our last meeting, when we assumed the approach would lead to very long and very difficult decisions and discussions about allocation of dogfish and other issues, this time we simply recommend that the Board adopt the 8.8 million pound quota to be allocated coastwide with two periods, the existing periods, May 1 through October 31 and November 1 through April 30, with a daily landing limit of 7,000 pounds.

Allocation discussions and decisions, those very complex and difficult decisions, would not be necessary at this time. They can be postponed for future Board meetings and, of course, would flow out of the process that we are attempting to establish with the councils.

I would hope that we could somehow get something in place for the beginning of the next fishing year that begins on May 1st of next year. The two periods would be split, as is now, by 58 percent and 42 percent.

That's what the current percent split is by season. Now, if the Board voted to do this, what would happen, what would be the consequences?

Landings would resume on the balance of the period one quota, allowing an additional landings of about 2.784 million pounds. Right now we've landed approximately coastwide about 2.5 million pounds.

As it stands right now, on November 1 the balance of the 4 million pound quota can be taken. So, with 8.8 million pounds, on November 1 we'd have a change. The period two quota would begin with 3.696 million pounds.

The breakdown by period and by poundage, 8.8 versus 4 million, was provided in the memo you received yesterday. Now, the Cape Cod Times article makes a number of very important points, and that's why I distributed that article to you. It's very worthwhile reading.

It brings a lot of important points to our attention. The importance of a small scale -- and I emphasize that small-scale directed fishery for dogfish is described and, for example, at 7,000 pounds per trip, 25 cents per pound, a \$1,750 per trip before expenses results and that, frankly, is a very good alternative for many fishermen, certainly in the New England area, as an alternative to cod fishing.

Now, one of our advisors, our ASMFC advisors to spiny dogfish, John Pappalardo, he made an important point in that article. He was quoted as saying, "This means fewer fishermen catching codfish, which are still a long way from being a fully recovered stock. That alone is a good enough reason to keep dogfishing open."

Now, as we noted in our memo to the Board, we understand that some Board members desire to be very risk averse, to be very precautionary, and that's an understandable position. We don't criticize that



position.

However, in this particular instance with dogfish, we don't feel it's necessary for the Board to be timid. Of course, we agree that risk-averse approaches can be sensible, but with dogfish the degree of risk with a constant quota strategy is clearly depicted in the comparison curves for rebuilding derived with the same methods and with the same assumptions as the constant F strategy.

So, I understand the desire for a risk analysis in the strictest sense of the word, and I hope that that can actually be completed by the technical people, but, frankly, for these purposes, the comparison of those curves, I think, gives us an idea to give us a way to compare the risk.

Furthermore, adopting an approach, this particular constant harvest strategy, with less economic impact and essentially the same track for rebuilding dogfish to the Council/NMFS target for female biomass makes a great deal of sense.

By the way, I should emphasize that there is another piece of correspondence that we need to make note of, Mr. Chairman, and I believe that was distributed before the meeting began.

That's a letter from Congressman Barney Frank, who in a letter to Jack Dunningan makes his views known with regard to how he would like to see ASMFC proceed with dogfish management. So, I just call your attention to that letter.

Barney Frank obviously has taken an interest in this issue, since it's an issue that, of course, is first and foremost in the minds of many Massachusetts fishermen and I suspect in the minds of fishermen from other states, too.

All right, so, to bring this to an end, we emphasize that the small-scale fishery is of importance to Massachusetts. It will enable the Division of Marine Fisheries to continue to gather information from the fishery, information that will be useful in proving assessments.

We've already acquired some information that we'll pass along to Rich Seagraves and to Paul Rago, who will be providing some updated assessment information at the September meeting.

Our approach is, in fact, a precautionary one with

fishing mortality being less than natural mortality, and we ask the Board, and especially members of the Board who have little interest in dogfish because you don't have a fishery in your state and probably never will, to acknowledge Massachusetts' lead role in developing a sensible approach to dogfish that should be adopted now for this existing fishing year.

We hope that you'll recognize that Massachusetts does, indeed, take dogfish management, dogfish conservation, very seriously and you'll support our request for immediate action enabling a late summer/fall small-scale fishery, not reserved solely for Massachusetts.

It's not our intent to have it all for Massachusetts, not at all. The 8.8 million also assures Mid-Atlantic states that there will be some opportunity for a reasonable small-scale fishery, perhaps at 3.7 million pounds or so. So, with that said, Mr. Chairman, I would make a motion. I have it written out. I can give it to Jack or whoever will type it in.

CHAIRMAN AUGUSTINE: Thank you for that, Dr. Pierce, and that's an excellent presentation, very abbreviated, but very concise. While we're getting that motion ready, are there any questions from the Board?

DR. PIERCE: I'd like to read the motion first.

CHAIRMAN AUGUSTINE: Go right ahead, Dr. Pierce.

DR. PIERCE: All right, I would move the Board adopt the 8.8 million pounds constant harvest quota to be allocated coastwide with two periods, May 1 through October 31, 2001, at 58 percent, and November 1 through April 30, 2002, at 42 percent, providing for a balance of 2.784 million pounds for the first period and 3.696 million pounds for the second period. The total 8.8 million pounds is to be landed with a 7,000 pound daily limit. So, that is my motion, Mr. Chairman.

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

MR. MUNDEN: Mr. Chairman, I did not intend to second the motion, but I will second for sake of discussion. I will second the motion for sake of discussion, but I have a couple of questions for Dr. Pierce.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden, and we had a hand up by Mr. White and then Mr.

Colvin.

MR. MUNDEN: For Dr. Pierce -- well, actually for the staff, we voted a similar motion down at our last meeting because it required two-thirds majority. Would this motion require two-thirds majority?

CHAIRMAN AUGUSTINE: My understanding is, yes, it will.

MR. MUNDEN: Then the second question I have probably should be directed to NMFS, but the quota for the 2001 fishing season, which we're in right now, was 4 million pounds.

According to the information in Dr. Pierce's memo, we have approximately 1.45 million pounds left on that quota. Once that 1.4 million pound quota is taken -- remaining quota is taken, the EEZ will be closed.

So, even if we do take action today to increase the quota to 8 million pounds, this will benefit only those fishermen who are not fishing under a federal permit.

So, it would benefit state waters fisheries once the EEZ is closed, and those fishermen who hold the federal permits will either have to give the permit up or they will not be able to fish on this additional quota. Is that correct, Mr. Pierce or Harry?

DR. PIERCE: That is an inevitable consequence of the fact that we have the 4 million pound bycatch quota of the federal government, the Council bycatch quota.

I do not know how many fishermen in other states have state permits and no federal permits. I mean, the states would have to let us know what their particular situation may be. I would assume there must be some state permit holders with no federal permits. That would be the inevitable consequence, that's true.

CHAIRMAN AUGUSTINE: Mr. Colvin.

MR. COLVIN: The issue Red just raised is the one I wanted to raise. I know we've had this same situation with the summer scup quota, where the state quota is set higher than the federal quota.

The federal quota gets used up and the federal permit holders get closed out, and it looks like that's what this might bring about and it's not a good situation for a lot of reasons, one of which is that it forces fishermen to make really tough decisions about their federal permits, and the other which is that it has a tendency to pit

inshore and offshore fishermen against each other, which I don't think has been very healthy in the scup model. I don't know how it's going to be particularly good here.

CHAIRMAN AUGUSTINE: Dr. Pierce.

DR. PIERCE: Yes, Gordon raises a very good point, and it's a point that has been mentioned before. I'll only make note of the fact that without there being some small-scale directed fishery, processors will not buy dogfish because they can't be in business.

We have processors in the audience here who can testify to that point. They certainly did at the public hearings we had on the PID.

Without a small-scale directed fishery, there are no processors buying dogfish; and as a consequence, any bycatch that is taken by federal permit holders will not be landed. It will all be discarded because there's no market for that bycatch.

So, that is a critical consideration with regard to how we proceed.

The federal permit holders will not be cheated, so to speak, out of any particular share of that 4 million quota, because they're not going to land it anyway.

No one will buy it, but they will be able to now land some of their bycatch, through federal rules, 600 pounds, I guess, at this time of the year. They will be able to land that now and sell it because there will be a market.

Yes, there's this disconnect between federal and state permit holders. There's no way around that, but at least they can land their bycatch and sell it. That was one aspect of Massachusetts' Fisheries Management approach last year and, of course, this year.

Now, the fishery is not going to be open for a long period of time. I mean, we have to understand that as well, but it does provide for some opportunity. 8.8 million pounds is not going to last for six months or so, but it will provide for, most likely, another month of fishing.

Time will tell on that. Certainly, with the restrictions, the landing limit in place, that will slow landings down. We won't have landings of, you know, 20,000, 40,000, 60,000 pounds per trip, which would rapidly take up the quota and also affect the price. So, that is my response

to Gordon's very legitimate concern.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Mr. Freeman.

MR. FREEMAN: The question I had was under the existing federal plan, what is the allowable catch? Maybe Rich Seagraves could answer that.

CHAIRMAN AUGUSTINE: I believe it's 600 pounds a day, isn't it?

MR. FREEMAN: No. The total-- wasn't it three and a half --

CHAIRMAN AUGUSTINE: The total catch, Mr. Seagraves?

MR. SEAGRAVES: The total is 4 million; 58 percent the first part and 42 in the second part. I don't have the number at my fingertips, but that's the allocation.

So, the idea is that we've taken roughly 58 percent or projected to have taken 58 percent of the annual 4 million; hence, the closure to quota period one.

We'd reopen November 1 with whatever balance of the quota is left.

It may or may not be 58 percent. If it exceeds 58 percent of the 4 million, it would be closed when the total is taken, which would leave a balance of less than what the second half should have got, but that remains to be seen.

CHAIRMAN AUGUSTINE: Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. Going back to the permits, just to make sure that we're not going to have an issue associated with a fairness between permit holders -- and I will address it to Harry -- I've always received comments from our fishermen who have dogfish permits, federal permits, that it seemed to them that they could give up their permit and then very easily obtain it again. Is it a complex system for them to do that or is it relatively simple?

CHAIRMAN AUGUSTINE: Mr. Mears.

MR. MEARS: I can't comment on the complexity or length of time. I know we've had this discussion at prior board meetings. I believe the present regulations do allow that, for them to give up their permit and --

MR. NELSON: And then just renew it?

MR. MEARS: -- reapply for it and if anyone has the experience of having done this, perhaps in the audience, that might be helpful information.

MR. NELSON: Yes, okay. I understood that it was not much of a problem. It involves them taking some time, but it's not insurmountable.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Mr. Carvalho apparently has experienced this.

MR. CARVALHO: Not quite, but I'd like to bring to the Board's attention that offshore people with federal permits, we have a natural discrimination that takes place because they can always fish in the federal waters.

State people cannot. They can also fish in state waters, so they get the best of both worlds. Occasionally, when we run into a plan that happens to favor the state people, those not holding federal permits, it simply provides some equity.

It doesn't necessarily discriminate against the federal permit holders. In fact, what we have now is discrimination because those in state waters without federal permits cannot go and enjoy that fishery.

So, I've heard this hue and cry, and we hear it at home also, but no one cries about the fact that the state boats cannot go out into federal waters and enjoy the resource there. So, when we have a plan that tends to favor a particular group at a particular time, it doesn't necessarily discriminate against the other. In fact, it may just bring equity.

CHAIRMAN AUGUSTINE: Thank you. Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. Going back to the permits -- and this is pertinent to the motion, I think -- the spiny dogfish permits are open access permits, which means anyone can get them.

The unknown factor is how long will it take to get the permits. But, the other thing I wanted to mention is that Dave Pierce said that there was no utilization of small quantities of spiny dogfish, but at the public hearings that we held in North Carolina, the public meetings, the fishermen in the southern part of the state indicated that they could live with the thousand pound trip limit.

They could live with 300 pounds, but they preferred a

thousand because they are harvesting spiny dogfish for the biological supply.

And the other thing that I'm concerned about in this motion is that once again we have to keep in mind that the quota for this year is 4 million pounds established by the National Marine Fisheries Service.

When that quota is taken, the EEZ waters will be closed. So, if we pass this motion, and it allows additional effort to be put on the stocks, it allows 4 million pounds to be taken, then the EEZ will be closed for the balance of the year.

Now, this could have the effect of, once again, Massachusetts taking all the quota that's available and nothing available to the other states.

CHAIRMAN AUGUSTINE: Mr. Colvin.

MR. COLVIN: Thank you. I wanted to explore the same issue again that Red had just brought up. The comments that Mr. Nelson made and elicited the information of Mr. Mears that these are open access permits is one thing, permits is one thing.

The other issue is where are the fish. Red, I think it's implicit in what you just said that there's an expectation that the fishery will be prosecuted in the EEZ if there is quota available in the second half of the year; is that correct?

So they have to have permits. It's not a question of whether they can or can't get them. They have to have them if they're going to fish in the EEZ.

If the EEZ is closed, then there's no fishery and it will be exactly the same situation as happened last year, and I think most of us can recall the comments that Pres Pate and others made about the eventuality of that happening in a second consecutive year.

I was sympathetic with those comments when they were made last year and I'm sympathetic with them again. The problem here, I believe very strongly, needs to be addressed in terms of the underlying federal management program working jointly with us and not in terms of trying to impose something on top of it that will result in this same north/south inequity we had last year.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Mr. Mears and then Dr. Pierce.

MR. MEARS: Thank you, Mr. Chairman. I cannot support this motion for four reasons. One is what has already been said about polarizing, the state from the federal management regime for this overfished resource.

I also disagree with the statement that based upon the information at hand, this is a precautionary approach. This is not a precautionary management option based upon the information, especially in the absence of the review by the joint monitoring committee and the associated risk analysis between the two options.

It also prejudices the outcome of the motion, which we just voted upon to collaborate, to partner with the councils and together identifying appropriate management options for the resource with the associated risk analysis and rebuilding the stock in the time frame it needs to be rebuilt. So, in summary, this is the wrong time, the wrong place for this motion. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. Dr. Pierce.

DR. PIERCE: Regarding whether or not this is a precautionary approach, it is a precautionary approach. That has been stated before and documented, but let me give you an analogy here to help you understand the difference between the federal approach and the state approach, and Paul Diodati is the one who made this analogy not too long ago.

We're precautionary. The federal plan is extremely precautionary. For example, with our approach, the constant harvest approach, we're driving a car at 55 miles an hour. We have our seat belts on. We have our shoulder straps on. The radio is off. There's no cell phone in our ear. We're very attentive to what's happening out on the road.

That's our plan. The council's plan does the same thing, but now we have to put a crash helmet on, and it's a little bit too much. It's unnecessary. With regard to north/south inequities, there should be no north/south inequities.

We're sensitive to that. I mean, we truly are. We know what the previous discussions have been about Massachusetts and dogfishing, other states not getting their fair share so to speak.

It's my understanding that dogfish are abundant in state waters to the south, North Carolina, for example. We turn to North Carolina fishermen to make that point.

They certainly have told me that there are fisheries for dogfish inside state waters. They can take dogfish. It's not just a federal waters fishery off of North Carolina.

So, if those fishermen choose to give up their permit temporarily in order to fish just in state waters on dogfish, in an extremely limited way, restrictive landing limits with an overall quota that's extremely low as opposed to the way it has been in the past, inappropriately high in the past, there should be no north/south inequity.

This is a quota that's broken down by season. There should be no problem. And by the way, it's not just the Massachusetts landings of dogfish. There are landings in New Hampshire, landings in Rhode Island, principally in the New England area and elsewhere in the South.

So, I, again, turn to the North Carolina fishermen themselves to speak to this issue. It's not our intent, by any means, to establish any north/south inequity.

We're attempting to, as best we can, make sure that there is some equal access to those fishermen fishing out of the southern states, Mid-Atlantic states, that have equal access to dogfish because after all, it is a species that's extremely abundant off of your own state shores.

CHAIRMAN AUGUSTINE: Gordon.

MR. COLVIN: Well, kind of being in the middle geographically here, maybe it makes it a little easier to say this, but it just occurs to me that if there is no issue, then an alternative proposal that would propose a new emergency rule that changes the fishing year to flip flop the two periods and commence with what is now the second period and do exactly this could be offered, and I haven't heard that.

Such a proposal offered in good faith might change some attitudes around the table about what's being proposed. Give the southern fishery the first whack at something. That would be an interesting thought. Just food for thought.

MR. MUNDEN: To address Gordon's proposal, that is one of the things that the Mid-Atlantic Council Committee discussed at our meeting in May, and that is to change the fishing year to possibly begin the first of January rather than May.

May 1 was selected by the Mid-Atlantic and New

England Councils as the beginning of the fishing year because it seemed to be a natural break between the winter harvest of spiny dogfish and then the summer harvest, but that is something that we'll be discussing at our September meeting, as to whether or not the current fishing year is appropriate.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you. Mr. Palmer.

DR. PALMER: Yes, I don't really have a dog in this fight, but since we're going to vote, I feel like I need to be a little more educated than I am.

What I'm typically used to, when comparing a constant F and a constant TAC strategy, is that under your constant TAC strategy you're driving at 55 miles an hour.

Under that constant F strategy, you're driving 35 miles an hour for the first two-thirds of the time and then you can go up to 90. Now, when I see the information that has been presented to us, I don't see a dime's worth of difference between the recovery period. Is that correct information that we're seeing here; and if so, exactly what is this debate about?

CHAIRMAN AUGUSTINE: Good question, Dr. Palmer. I don't know if I should ask Mr. Seagraves to answer that question or Dr. Pierce.

MR. SEAGRAVES: First, let me preface my comment. I want you all to know how hard I fought to get here today. I really had to argue with Dan.

The answer to your question is there has been no strict risk analysis done. If you look at the plots between the constant harvest and the constant F, the rebuilding period is roughly 18 to 19 years.

So the Joint Dogfish Technical Committee reviewed these two analysis, concluded that -- as I stated at the last meeting -- that the two strategies do essentially get you at the same place roughly the same time.

I think the constant harvest takes 19 years, one year longer. It's either 17 or 18. The point that was also made was that they are not, strictly speaking, equally risk averse because if you understand the dogfish fishery, you have to realize that the largest members of the stock, whatever the stock is, are the most valuable and there's sexual dimorphism relative to growth.

The females reach a much larger size. The fishery that

we've seen over the last 10 years has been focused primarily on adult females. So, the concern of the Technical Committee was that if you promote a directed fishery, it's likely that the fishing effort that results in that fishery will be targeted towards adult females.

At a 4 million pound fishery, with the low trip limits, we essentially have closed the directed fishery, and that's been stated explicitly in the FMP that this is a bycatch fishery only.

So, we're presuming that the mortality that results from a 4 million pound quota, hopefully, would be distributed across all size classes. The larger the directed fishery, the more likely that you'll have a focused fishery on the larger fish, which would be mostly females.

So, this hasn't been incorporated in the analysis, but when the Mid-Atlantic -- in terms of risk analysis, but by analogy the Technical Committee did, not 100 percent consensus, but the majority of people there said that, no, they're not equally risk averse.

You're essentially doubling the harvest in the first several years. So, that's got us -- and that slows rebuilding initially, and the problem is that 17 years from now we have very -- you know, we don't have a lot of confidence of what's going to happen 17, 18 years from now.

We do have some confidence in the statement that by removing twice as many females or larger fish, you are going to impede rebuilding. You are going to compromise, to some degree, the rebuilding strategy relative to a 4 million pound quota.

So, that was the basic conclusion of the Technical Committee. There are no strict numbers about probabilities, per se. We're working on that, or Paul will be working on that.

But the issue is, well, if you get there at the same rate on paper, why not take more now? Well, if you take more now, it's likely to be focused on adult females or the largest members of the stock. The largest females will be in that mix, and they are the currency which you're going to rebuild the stock with over the future years.

CHAIRMAN AUGUSTINE: Thanks for that clarification, Mr. Seagraves. Does that help you, Dr. Palmer? Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. When Massachusetts first proposed the constant harvest strategy, I believe it was based on stock status information through 1999.

One thing has changed since this proposal was initially made by Massachusetts, and that is that we saw during the 2000 fishery, or during the survey that was in 2000, rather, the large mass of juvenile fish that had been present in the past, when NMFS did its survey, no longer existed.

It might have been a glitch in the survey technique. We really won't know until we look at the 2000 or possibly 2001 spring survey. But when we were developing the FMP, we depended upon that large mass of juvenile fish to reach maturity and rebuild the stock in 10 years, initially.

Well, it took so long to bring the plan on line that those fish had disappeared. So, I know this will surprise Dr. Pierce, but I have not made my mind up at this point as to whether or not constant harvest strategy is a good or bad thing, but I would certainly like to see an update of the stock assessment and see if, indeed, we do get to the same place in the same number of years.

CHAIRMAN AUGUSTINE: Thanks for that, Mr. Munden. Any further comments? Further discussion? Any comments from the public at this time? Please come to the table and identify yourself.

MR. STEVE BARNOLLER: My name is Steve Barndoller and I'm representing Sea Trade International. We're a dogfish processor in New Bedford and Portsmouth, New Hampshire.

We're now 2.3 million or 2.4 million at 3 or 4 percent of our historical, processing landings of about 60 million historically over the last four or five years.

I would just like to make the point that you reconsider equity from the standpoint of the fishermen and processors, which I'm sure you will, in terms of loss of export markets to Canada, to New Zealand and other countries now producing spiny dogfish.

We're at such a low level that there are three processors in the room that -- people have cut back on their plants, tried to shift to different fisheries, some successfully, some unsuccessfully. So, there's a problem here of loss of export markets and the difficulty of regrouping and reopening processing plants.

I won't even mention the anguish and the problem of fishermen, gill netters, both north and south. Some southern fishermen move north in the winter and vice versa, and these fishermen don't know what to do because dogfish occupied a real economic slot in their cash flow.

Looking ahead to the September meeting and looking back to the impasse between the Mid-Atlantic and the New England Councils a year and a half ago on the vote, which was only really broken officially by Secretary Daly voting in favor of a non-constant harvest, I think that impasse is still there, and I hope that this body would send a message, a positive message, with some kind of limited harvest capability continuing to those councils.

I think you have a -- you've kind of echoed my sentiments here -- a lack of direction. There is fish in state waters. There is fish to be caught as has been proven this summer in Massachusetts, New Hampshire and Maine.

And it's very possible that out of that technical meeting in September, nothing will happen but another impasse vote. You get to the end of the year and you still don't have a fishery. So, we could be six months longer with no export markets, no fishery, and boats now don't know what to do with their decisions of hanging nets or not hanging nets and where to go.

I would just say that that 5.3 or 5.4 million difference here is equity on the table to keep this market open, to keep these boats fishing until such time as you get new spring otter trawl surveys and until more technical data can be added.

But, to simply leave the fishery closed, this isn't a -- I don't feel it's a large mass of fish that we're talking about here, and Dr. Pierce's data and the Massachusetts' data supports the rebuilding of the fishery over the same period of time. Why wear the crash helmet and why not give a little equity to fishermen in the processors? Thank you.

CHAIRMAN AUGUSTINE: Thank you for those comments. Any further comments from the public? Please, Mr. Diodati, let this gentlemen speak first and then you. Please come to the microphone and introduce yourself to us and who you represent.

MR. LOUIS JUILLARD: I am Louis Juillard, AML International, and I am a processor in New Bedford. I am going to -- the problem that we have today is that of

opening and closing in order to process the fish.

It's very certain that if you allow 300 pounds per boat, we will not buy this fish, because it's not enough to open the plant, clean the plant, do the sanitation and everything.

So, I think that the offer of Dr. Pierce to give 7,000 pounds per day per boat is a good solution, because it will permit the boat to make a living during the year and us to process the fish and especially maintain the market that we have brought.

If you close the fisheries or if you follow the federal plan, there will be no market in the future. We will lose that market; and when you guys are going to ask us to fish again and to process again, there will be nobody there.

Already, one plant closed in the south, which was a major plant of dogfish processing. That is an economic impact. One major box factory in New Bedford closed because of the dogfish.

I think that we don't ask for much, but if we can maintain a regular 8 to 10 million pounds a year, a few of us will survive and the market will still be there and bring some money in the United States. That's all I have to say.

CHAIRMAN AUGUSTINE: Thank you very much for those comments. Mr. Diodati and then this gentleman.

MR. PAUL DIODATI: Joe, for your benefit, I'm Paul Diodati, Director of the Massachusetts Division of Marine Fisheries, and I just want to thank the Board for its patience on this issue, giving Massachusetts and the northeast an opportunity to address an issue that has been of great concern to us over the past few years.

I just want to stress that the constant harvest approach, which David has done an admirable job in presenting this morning, is not one that is an industry-advocated approach for fishing for dogfish.

Our industry supports a fishery of well over 20 million pounds. This approach is one that has been developed by our Massachusetts managers and our assessment scientists, and I would argue that this is a precautionary approach, that it does meet all of the goals of the management strategy.

In fact, I think it does so much better because it gives this Board of Atlantic States an opportunity to allow

fishing to continue, albeit at a very low level. It does allow the infrastructure of our industry to continue, and it also provides opportunity to meet the goals of restoration of this resource.

It also meets the national standards that the federal government strives to achieve. It does so in a much better way than the current plan, which closes our fisheries.

As fisheries managers, it's very rare that we get an opportunity to choose an option that allows our industry to continue to work while rebuilding the resource at the same time. So, thank you and thank you for your time this morning.

CHAIRMAN AUGUSTINE: Thank you, Mr. Diodati. We have one other gentleman from the public or two. Please tell us who you are and who you represent.

MR. EUGENE BERGSON: My name is Gene Bergson from Atlantic Coast Fisheries. We're located in New Bedford and we're the last of the three processors that produce dogfish.

This past spring, when we had the dogfish opening, we probably unloaded or had 12 boats fishing in federal waters for us. These boats were sporadically spread all over New England, but with Dr. Pierce and the State of Massachusetts allowing the 7,000 pound limit for inshore fisheries, we were able to process that fish.

If it wasn't for Dr. Pierce and that limit, we wouldn't have bothered with that fish because there was no way we would have spent money trying to run around and collect that fish all over Rhode Island, Massachusetts and up into New Hampshire and Maine.

Dr. Pierce's constant harvest approach makes it worthwhile for us to stay in the dogfish business. It makes it worthwhile for the fishermen to fish for the dogfish.

Granted, the little boats, the gill netters, that do fish on the directed fisheries, if it wasn't for dogfish and being able to fish for the 7,000 pounds, would probably be going out of business and being tied up to the dock with the groundfish plans.

The markets that we've opened around the world for dogfish and dogfish products, we'll be losing those without this constant harvest approach. The sporadic -- being able to catch 600 pound bycatch is not enough to keep these markets going.

I mean, at the height of the dogfish, we employed over a hundred people year round on dogfish. Now, we employ 20 people, 30 people when we're capable of catching dogfish. If it goes just basically to the bycatch, that industry will be gone completely. Thank you.

CHAIRMAN AUGUSTINE: I thank you for that information. I think it's very helpful to the Board members to hear from you gentlemen. We have one other gentleman. Please come to the table, announce who you are, and tell us who you represent.

MR. WILL ETHERIDGE III: My name is Willie Etheridge. I own a seafood company in North Carolina, and I guess I can say I'm representing the fifteen or twenty different fishermen and their crews that have sold me dogfish in the past.

I'd like to start by just asking a question and getting something clarified. You have this motion on the board and you're going to vote on it, and it has to have a two-thirds majority --

CHAIRMAN AUGUSTINE: Yes, sir.

MR. ETHERIDGE: -- before it would become law or it would be something that would be taken to the Mid-Atlantic and New England Councils as a recommendation from the Atlantic States?

CHAIRMAN AUGUSTINE: No, it would actually be put in place by the ASMFC. This is within our purview to do that.

MR. ETHERIDGE: Okay, so the states would be enforcing this?

CHAIRMAN AUGUSTINE: This is the states, yes, exactly.

MR. ETHERIDGE: Well, as a person who has made a large part of my living or livelihood from dogfish, I think the most important thing up there is the 8.8 million pounds, trying to get the quota increased.

I would believe that that was part of the initiative of Mr. Pierce, and I certainly would encourage people here to do that. I heard one of our representatives from North Carolina try to get in and offer a reason to not support this because North Carolina wouldn't get its share of it, and I would encourage him that let's get the quota up to the 8.8 million pounds and then we can work on North Carolina getting its part.



The other thing that has always bothered me about the Atlantic States Marine Fisheries is that you have the state of Florida who's going to vote on this, the state of Georgia is going to vote on this, and the state of South Carolina is going to vote on this, and traditionally, in watching your votes, it's never been for the commercial fishermen.

I think it would be wise for these southern states to refrain from voting because when the Atlantic States Marine Fisheries starts doing spanish mackerel or pompano, I would hope that some of the people that were for the commercial fishermen from the north -- from the Mid-Atlantic and from the northeast -- would remember the way that you voted.

If it's possible -- I heard somebody mention about having a committee to go before the Mid-Atlantic and the New England Councils. I would hope that in the future that somehow you could devise some way that the people that are not in this fishery not vote towards this.

And the other thing that worries me is the people that are voting members here, if there are any, and I'd like to know, from the National Marine Fisheries -- are there members on the Atlantic States Marine Fisheries Commission from the National Marine Fisheries that vote?

CHAIRMAN AUGUSTINE: They are on this Board, yes.

MR. ETHERIDGE: And how many are they?

CHAIRMAN AUGUSTINE: Just one.

MR. ETHERIDGE: Okay. I would ask him to refrain from voting, because it would be a conflict of interest. I really worry about this fight between the states.

The only people that I know that suffer from it are the commercial fishermen, and it's very, very evident that there's not adequate representation for the commercial industry from some states.

So, I just ask the people that are going to vote on this issue and issues in the future, that if it's not real important to your state, to abstain or give your vote, if it's possible, to somebody that it is real important, because as you get into other fisheries, we're going to have these fights between these states, and it's not going to be good for the commercial fisherman.

CHAIRMAN AUGUSTINE: Your points are well taken, Mr. Etheridge, and each state can vote yes, no, abstain, or they actually have a null vote.

If the three people within that state decide they can't agree, you might end up with a null vote for that state. We do have, on occasion, rarely, states that don't have a comfort level who will abstain, and I do think it becomes an issue-by-issue decision by that state. I think Mr. Borden has a question for you.

MR. BORDEN: Thank you, Mr. Chairman. Welcome, Willie. Just a quick question for you. Could you comment on the issue that was raised earlier about the lack of availability of dogfish within state waters in the southern area?

I'm particularly concerned about this issue of setting up a system that essentially discriminates against some of the commercial fishermen in the southern areas.

MR. ETHERIDGE: I really do not know what the statistics would be, but there are a lot of dogfish in North Carolina state waters from December through March.

What percentage of it would be -- what percentage of the fish were caught were state or federal, I do not know, but I would be very confident in stating that it's a large percentage that's caught in state waters.

MR. BORDEN: Okay, thank you very much.

MR. ETHERIDGE: Could I just follow up on that one thing?

CHAIRMAN AUGUSTINE: Go ahead, Mr. Etheridge.

MR. ETHERIDGE: There was a study done by a commercial fisherman in North Carolina with two people from the -- I don't know if they were from the federal government or the state government -- and he started dogfishing off the southern part of the state of North Carolina, off of Wilmington, and he had two scientists with him.

He ended his fishing up by Hatteras, which is certainly mid-state or a little bit north of mid-state, and his sex analysis was eight to one female. And another thing is that one of Wanchese Fish Company's boats was doing some studies through a grant in deep water in May, and they caught dogfish in 150, 200 fathoms in the month of May, tremendous size dogfish.

I'm not even going to tell you how big they were because nobody will believe me, but if anybody is interested in it, that research is available and it might change the science here a little bit.

One other thing I'd like to say to the guy -- I guess he's a legislative -- you're going to report back to the legislative people? Okay, I thought some committee in Congress had sent you here to judge these people, and I was going to try to bend your ear a little bit.

CHAIRMAN AUGUSTINE: Thank you, Mr. Etheridge. We had Mr. Munden that had his hand up. Mr. Munden, Dr. Pierce and then another gentleman from the public.

MR. MUNDEN: I'll pass, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Dr. Pierce, we do have a gentleman from the public. Can we recognize him first?

DR. PIERCE: Sure.

CHAIRMAN AUGUSTINE: Thank you. The gentleman in the audience who had his hand raised.

MR. LUIE FASS: My name is Luie Fass. I am in Washington now representing some of the seafood industry, particularly in the South, under the name Fisheries NOW. But I wanted to show you gentlemen a plant and operator who no longer exists because of dogfish.

Dogfish was our main existence for 15 or 20 years, I guess, and we helped develop a market that was very difficult to develop for the first eight or tens.

It was not an easy task, and I'm telling you we hardly made ends meet for the first five or ten years, but we were asked by our government -- the National Marine Fisheries Service begged us to use these underutilized species called dogfish, and we developed it and it became very profitable in the last eight or ten years.

I am one sitting here telling you that my plant is closed, being auctioned off tomorrow. There will be many plants on the east coast auctioned off not because of dogfish, but for other reasons, primarily because of lack of product.

The United States is importing 80 percent of what it consumes today. It will consume more. We have a tremendous market in this country and we have the best

seafood products in the world off our coast, and I defy anybody to tell me that we are not -- the plants, the fishermen, the processors, the truck drivers are to be not considered in your deliberations.

It is just unfathomable to me that you all are not taking into effect the economics that David Pierce so elaborately pointed out.

I think the Mid-Atlantic Council is so wrong.

They knew when they put the plan out that there would be no dogfish whatsoever caught in this country. What plan have they put out -- what plan has been put out on any council that totally eliminated a production of such a specie? Not one that I know of.

In every case -- and they blame it on the lack of females, and Willie just pointed out to you that there are plenty of studies that point out there are eight to one females versus males. We never targeted -- the fishermen never targeted females.

Yes, they caught big fish and if the government has been in our processing plants, they could tell how many females and how many males we're cutting. I dare say that we cut 50/50 pretty well all the time; maybe a little bit more females than males, but I don't remember exactly.

At times they change. You'd get all males and then you'd get all females. There are many species where the females separate from the males for many reasons in the ocean.

I know of three species where that happens, so it could be -- and I don't think that they've ever done enough study and enough work to totally eliminate an industry, because if you eliminate me and you eliminate the other gentlemen that spoke before you, and that's going to happen, then to tell you the truth, there'll never be a dogfish industry.

Tomorrow, six months from now, six years from now, or ten years now, there will be no dogfish industry, period. By the way, I want to tell you that the same stock of dogfish that you all are restricting us from catching, Canada is wide open as we sit here today.

Everybody in Canada is trying to produce dogfish, and they've built plants and they're building the infrastructure to handle dogfish in a big way. So, I hope my words add some help to your deliberations today.

CHAIRMAN AUGUSTINE: I thank you for those insights. We're getting really well into the hour. We've only got about 20 minutes to finish up what we're doing. Assemblyman Gibson has had his hand up three times and I've passed him three times. Could you just quick response, Dr. Pierce, or would you let Jack go first?

DR. PIERCE: Well, I wanted to demonstrate that Massachusetts is sensitive to these concerns about equity and fairness. I hear what has been said around the table regarding this north and south equity issue.

Gordon made a point of it a little while ago. To demonstrate that we truly are sincere in our desire to make sure that there is this equity and that we're not trying to command the market on dogfish, if the maker of the motion -- if the seconder of the motion has no objection, I would like to flip the percentages so that it would be 42 percent for this coming fishing year, May 1-October 31st, 42 percent; and 58 percent November 1 through April 30.

CHAIRMAN AUGUSTINE: Is that agreeable with the seconder?

MR. MUNDEN: Yes, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you. Would you so make the change? Assemblyman Gibson, please.

DR. PIERCE: Excuse me, Mr. Chairman. The numbers would have to change. I don't know what those numbers are offhand, but at least, you know, the intent is obvious.

CHAIRMAN AUGUSTINE: Thank you. Mr. Gibson.

ASSEMBLYMAN GIBSON: Thank you, Mr. Chairman. Just a procedural question. How many votes do we have between the states and the feds and the previous testifier indicated something about abstaining.

Does that change the number? Abstaining normally is a no vote. So, my question is for the two-thirds, what's the number and whether abstaining has any effect at all?

DR. DESFOSSE: There are 16 Board members, 14 states, and two federal agencies, and it would take 11 votes in favor to enact an emergency action.

ASSEMBLYMAN GIBSON: And if a couple abstained, that wouldn't change it. You'd still need the

11, right?

DR. DESFOSSE: That's correct.

CHAIRMAN AUGUSTINE: Okay, unless we have something else germane -- Jerry, final comment.

MR. SCHILL: Thank you, Mr. Chairman, Jerry Schill, North Carolina Fisheries Association. First, I just want to thank you for taking the time to talk about this very important issue. But regarding the issue of what's good for the southern states, and I'm only speaking about North Carolina, I can't say exactly how it would affect North Carolina.

I can only tell you, without any thought of a doubt whatsoever, that the motion that's up there presently would be much more helpful to North Carolina than what we're going through right now. Thank you.

CHAIRMAN AUGUSTINE: Thanks for that clarification. Before we take a vote, I think we're going to have to have a caucus time. Are there any other final comments or final discussion items? Mr. Flagg.

MR. FLAGG: Thank you, Mr. Chairman. I think this discussion really points out to the fact that ASMFC -- we need a state waters fishery management plan to resolve all of these issues, and I think the quicker we get to that, the better off we're going to be.

We can't resolve these issues unless we have an ASMFC plan, and I think we should move forward with that as expeditiously as possible because there are a lot of issues, as you've heard through this discussion, and I think those can only be resolved through development of a plan by ASMFC.

CHAIRMAN AUGUSTINE: Excellent comment. Mr. Borden, final, and Mr. Colvin.

MR. BORDEN: Thanks, Mr. Chairman. I just want to follow up on Lew Flagg's point. If, in fact, this motion were to pass, I would view it as an interim strategy, a one-year strategy, while we finalize the specifics of the new plan.

The second point I would make is I think that given the -- I think the discussion from my own perspective has been very helpful around the table, and I would ask for a little bit longer caucus period than we normally have, say, five minutes.

CHAIRMAN AUGUSTINE: Fine, we can do that. Mr.

Colvin, one final comment.

MR. COLVIN: Well, it's not so much a comment as it is a question, Mr. Chairman, because the math isn't done. We've just had the motion amended partially, and the math isn't finished.

I think there's a critical issue with respect to the question of at what point would the 4 million pound federal quota be used up in the current federal fishing year under the revised proposal. Is it not still likely, notwithstanding the change, that the quota would be gone before the second period began?

CHAIRMAN AUGUSTINE: I don't know who could answer that question.

MR. COLVIN: Well, I sort of think we ought to have an answer.

CHAIRMAN AUGUSTINE: I think we do. Mr. Mears, please.

MR. MEARS: Mr. Chairman, that's a very difficult question. In many ways it's a rhetorical question. Right now we have an annual quota of 4 million pounds.

Approximately 2.5 million pounds have been taken, leaving the remainder between that and 4 million pounds for the second period. That would be, obviously, one chaotic point if this vote were to pass.

Just in closing, the motion itself, I believe, is very appropriate, but not here and not today. This needs to be a full partnership decision with all constituencies concerned, with the council at the table, so that we can go forward both in the short term and the long term in a meaningful, effective way to manage this resource. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears, and one final comment from Mr. Freeman. I'm sorry, Mr. Colvin.

MR. COLVIN: Mr. Chairman, I did not get an answer to my question. I would like to raise as a point of order the need to have the motion corrected with the final figures before we vote on it.

DR. PIERCE: I have the numbers, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin.

DR. PIERCE: All right, with the switching of the 42

percent and the 58 percent between seasons and accounting for the fact that about 2.5 million has already been landed in the first period, it should read, "Providing for a balance of 1.196 million pounds for the first period and 5.104 million pounds for the second period".

CHAIRMAN AUGUSTINE: Mr. Dunnigan questions those answers. He's shaking his head no.

DR. PIERCE: With 8.8, all right, take 2.5 plus 1.196 plus 5.104. I think that's 8.8, isn't it? All right, because we've already taken 2.5 in the first period. So, that has to be subtracted from the 42 percent share of 8.8, leaving us with 1.196. Someone is challenging my figures. I'll have to recalculate it, I guess.

CHAIRMAN AUGUSTINE: Is that a Massachusetts calculator?

DR. PIERCE: Well, again, 42 percent of 8.8 is 3.696. Take 2.5 from that and it leaves us with 1.196. All right? So, 2.5 and that 1.196 and then the balance of 8.8 is 5.104. So, my calculations are correct.

CHAIRMAN AUGUSTINE: Mr. Colvin or Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: So, would it be the intent then, David, that this motion, if adopted by the Board, the 1.196 would become available during the current period that's currently closed?

DR. PIERCE: Period 1.

EXECUTIVE DIRECTOR DUNNIGAN: During period one, okay, and then the 5.104 would become available for the period beginning November 1, 2001, and then for the first period in 2002, the state allocation would be 3.6 and then for the second period 5.104.

DR. PIERCE: Not necessarily. We're only talking about the current fishing year. So, May 1, 2002, is the next fishing year, and that would be subject for debate by the Board and by the Council.

This is not necessarily a carryover. The Board may decide to carry it over again next time around, but for this particular moment, we're attempting to deal with the existing fishing year that is still in progress, May 1, 2001 --

EXECUTIVE DIRECTOR DUNNIGAN: So the intent of this motion is only to deal with 2001?

DR. PIERCE: Right, 2001 to April 30, 2002.

MR. COLVIN: Then, I think, Mr. Chairman, the question that was on my mind is resolved this way. That the effect of the motion would be to leave approximately 300,000 pounds of federal quota available to the second period of the year.

CHAIRMAN AUGUSTINE: Thank you. Mr. Freeman, finally.

MR. FREEMAN: There has been discussion as to the application of this motion. I would like to see this motion amended to indicate that it is through April of 2002 only. I want it very specific in the motion, not just the statement that we all agree.

CHAIRMAN AUGUSTINE: Dr. Pierce.

DR. PIERCE: I believe it is in the motion, isn't it; two periods, May 1, 2001, through October 31, 2001; then 42 percent, November 1, 2001, through April 30, 2002.

MR. FREEMAN: Well, it may be, David, but it can be construed as that has those numbers or those dates of how the calculations are made, but it's not specific -- and they are in brackets. It's not specific to the motion.

CHAIRMAN AUGUSTINE: Do you want to amend it, Mr. Freeman?

MR. FREEMAN: I would just add the sentence, Tina, after "limit" "This motion is valid --

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman?

CHAIRMAN AUGUSTINE: Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: Bruce, I really think that David is correct. There's enough on the record to indicate that this motion, as an emergency action, dies on April 30, 2002. I don't think we need to add anymore language.

MR. FREEMAN: Well, I disagree, Jack. This is going to be a very contentious issue with the public, and I think it's very important its stated straight out and not left to interpretation.

EXECUTIVE DIRECTOR DUNNIGAN: I don't think there's any question of interpretation around the Board.

MR. FREEMAN: Well, I disagree.

CHAIRMAN AUGUSTINE: Mr. Borden.

MR. BORDEN: Just a point of order. I think Bruce can add a sentence that satisfies himself and states exactly what Jack said, and we can stop discussing it and move on.

CHAIRMAN AUGUSTINE: That sounds like a great idea, Mr. Borden. Let's take three minutes, at least, for caucus amongst your members.

MR. FREEMAN: Yes, Tina, that motion is valid through April 30, 2002.

CHAIRMAN AUGUSTINE: Let's get back together. The motion reads: Move that the Board adopt the 8.8 million pound constant harvest quota to be allocated coastwide with two periods, May 1, 2001, through October 31, 2001, at 42 percent; and November 1, 2001, through April 30, 2002 at 58 percent, providing for a balance of 1.196 million pounds for the first period and 5.104 million pounds for the second period. The 8.8 million pounds is to be landed with a 7,000 pound daily limit. This motion is valid through April 30, 2002. Motion made by Dr. Pierce; seconded by Dr. Munden. All right, we're going to ask for a roll call vote. Dr. Desfosse.

DR. DESFOSSE: Maine.

MAINE: No.

DR. DESFOSSE: New Hampshire.

NEW HAMPSHIRE: Yes.

DR. DESFOSSE: Massachusetts.

MASSACHUSETTS: Yes.

DR. DESFOSSE: Rhode Island.

RHODE ISLAND: Yes.

DR. DESFOSSE: Connecticut.

CONNECTICUT: Yes.

DR. DESFOSSE: New York.

NEW YORK: No.

DR. DESFOSSE: New Jersey.

NEW JERSEY: Yes.

DR. DESFOSSE: Delaware.

DELAWARE: No.

DR. DESFOSSE: Maryland.

MARYLAND: Null.

DR. DESFOSSE: Virginia.

VIRGINIA: Yes.

DR. DESFOSSE: North Carolina.

NORTH CAROLINA: No.

DR. DESFOSSE: South Carolina.

SOUTH CAROLINA: No.

DR. DESFOSSE: Georgia.

GEORGIA: No.

DR. DESFOSSE: Florida.

FLORIDA: Yes.

DR. DESFOSSE: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: No.

DR. DESFOSSE: U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

DR. DESFOSSE: You have seven yes votes, eight no, and one null vote.

CHAIRMAN AUGUSTINE: The motion fails. We have no further business as far as this Board is concerned. Mr. Adler.

MR. ADLER: Yes, I'd like to make a motion that the staff begin development of a draft FMP for spiny dogfish. I'll stop right there. My feelings are that we need to proceed along some line to get something done this century.

I think that we have PID comments to start out with.

We have some ideas like the constant harvest strategy technique, and this could be reviewed and adjusted, obviously, at the next meeting as we prepare for a public hearing draft.

So, it's just getting the process for an FMP going and started. So, my motion is I think to have the staff start developing a draft FMP for dogfish.

CHAIRMAN AUGUSTINE: Thank you, Mr. Adler. Before we ask for a second, we'd like to have a comment from Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. Staff already has that direction from the Board. We've been unclear as to what it was you wanted us to do.

I think we've gotten some of that indication today and we'll get more after we attend the joint meeting of the councils. So, we'll go ahead with that.

MR. ADLER: All right. That'll be fine, and I'd withdraw that, provided that at the next dogfish meeting can we have a draft?

EXECUTIVE DIRECTOR DUNNIGAN: No.

MR. ADLER: Why? I want one.

EXECUTIVE DIRECTOR DUNNIGAN: What you can have is a list of choices and options of things that you want included in the final draft.

MR. ADLER: All right, is that progress?

EXECUTIVE DIRECTOR DUNNIGAN: Yes.

CHAIRMAN AUGUSTINE: It's progress, Mr. Adler. Mr. Jensen.

MR. JENSEN: A question for the maker. Is it your intent that this be for an FMP to be in effect May 1, 2002? The reason I ask that is it is extremely unlikely and probably impossible that the council is going to have a new plan in place.

It's probably not even optimistic to think it'll be in place by January of 2003. So, it goes back to part of Gordon's question and that is do we have a direction we want to go in. So, it is your intent to do it by May 1 of 2002?

MR. ADLER: I would love to. Yes, to have something

on line by then and you'd have to start now.

MR. JENSEN: Well, I agree, because if you don't, then you're still locked into the council process that's going to take you all the way into 2003, I believe.

MR. ADLER: Exactly. So, in other words, is that something, Jack, that can be done, given that you've already started the process and the intention here is to get something done.

CHAIRMAN AUGUSTINE: Mr. Adler, let Mr. Dunnigan respond.

EXECUTIVE DIRECTOR DUNNIGAN: Technically, that may be possible. Some of it will depend upon what priority the Commission assigns to this for our activities in 2002, and you won't be making those decisions until October, but technically that might be possible.

CHAIRMAN AUGUSTINE: Do you want to make your motion stand or do we need the motion? I don't think we do. I think we don't need a motion at this point in time. We've covered the issue. Thank you. Ms. Shipman and Mr. Flagg.

MS. SHIPMAN: I believe it was last October or whenever we did charter changes, we changed the charter to allow for the participation by council representatives on our Boards, and obviously we've had the Mid-Atlantic Council sitting in through Mr. Munden as both North Carolina representative to the Commission or a proxy for Commissioner Pate, I believe.

But, I don't know that we've got the optimum participation by the New England Council that might facilitate our communications on this issue, and I just ask if the Board would like to entertain inviting the New England Council to be a member of this Board.

CHAIRMAN AUGUSTINE: I don't know what answer you're looking for, Susan.

MS. SHIPMAN: I mean, I think the way the charter reads, we have to invite them to participate on this Board. I throw this out for discussion among this Board. Do we feel like we have the optimum participation from the councils on this Board?

EXECUTIVE DIRECTOR DUNNIGAN: Yes, but to be fair, I can't imagine us not inviting the council that has jurisdiction over the plan, also, to be a member of the Board.

MS. SHIPMAN: I agree, I totally agree. I would suggest we may want to invite both councils. It may be that the Mid-Atlantic wants to defer to Mr. Munden to continue to represent them as well, similar to how I represent the Commission at the South Atlantic Council meetings, but I think it warrants a bit of discussion to see if that's what this Board would like to do.

CHAIRMAN AUGUSTINE: Thanks for that, Ms. Shipman. I really screwed up. This is the first time we've ran over time. We're moving into somebody else's time slot and we've got two areas to cover yet.

We've got to have Geoff White make a presentation and we have Karyl Brewster-Geisz to give us an update on LCS. So, unless any questions you have are germane to our moving forward in those areas, I wish you would hold them to a later time. So, with no further ado, Mr. Flagg.

MR. FLAGG: Thank you, Mr. Chairman, I'll be very brief. I hope that we'll proceed very expeditiously on the development of a plan. I think the industry is in a real serious situation here, and I think we owe it to them to respond as rapidly as we can to these concerns that have been expressed today. So, I would urge us to get along with developing this plan at the earliest opportunity. Thank you.

CHAIRMAN AUGUSTINE: I think you're absolutely correct, and I think it was very, very appropriate for the processors and other groups from the public to make their comments known to us. I think we all got a great education this morning, and I thank you, Dr. Pierce, for having raised the issue one more time for further discussion. It was well fleshed out and talked about. One final comment from Bill Cole.

MR. COLE: Mr. Chairman, I'm a little unclear of the disposition of Ms. Shipman's suggestion. Does it require a motion or was it a consensus agreement that we would invite the participation of both council members to this Board as voting members?

CHAIRMAN AUGUSTINE: Thanks for that. I don't know the answer and whether Ms. Shipman knows that or not.

MS. SHIPMAN: No, it's very unclear to me how we left that.

CHAIRMAN AUGUSTINE: It's unclear to me, too.

MS. SHIPMAN: If we need a motion, I'll be happy to make one.

MR. COLE: And I'll second it.

CHAIRMAN AUGUSTINE: Make it as a motion, Mr. Cole. Ms. Shipman, you're going to make the motion?

MS. SHIPMAN: I will move that the Spiny Dogfish Board invite the New England Fishery Management Council and Mid-Atlantic Fishery Management Council to have voting representation on this Board.

MR. COLE: Second.

CHAIRMAN AUGUSTINE: Seconded by Mr. Cole. Any discussion? Anyone want to call the question? Gordon called the question. All in favor aye; opposed; null votes. All right, let's go to a show of hands. All in favor, please raise your right hand, eleven; opposed, three; null votes, three; abstentions? The motion carries. Thank you.

#### **Update on Coastal Shark Issues: Display Permits**

Without any further ado, we'll have an update on the coastal shark issues, display permits. Geoff White, are you ready to come on up and make a presentation and some comments to us?

MR. GEOFF WHITE: Yes, I recognize the need to be brief. Before this meeting began, I did hand out a one-page update relative to NMFS initiative on scientific display and exempted fishing permits.

The Management and Science Committee has been looking at this, basically the issue of several permits being issued to a single person and where they needed, say, 10 animals but had permits in four different agencies' jurisdictions, so, they actually could take 40.

The MSC has determined that this is currently not a biological issue, but more of a coordination issue. On July 10, NMFS HMS Group initiated a meeting and asked the Commission and Florida and New Jersey to attend and try and get some ideas as to what level of involvement the Commission would like to have in the development of some new regulations.

They're outlined kind of in three sections. The first section is just recommend improvements to their system. The next section is just a general distribution that would occur to let the states comment on the NMFS system as it normally occurs during the public

comment period.

The current action items for the Shark Board today are really to answer the question of would the Shark Board support a single coastal display quota system?

Currently, NMFS has that as 60 metric tons for display and last year they permitted about 1,200 sharks that could have been taken, but only about 50 were actually removed and reported upon. So, would the Board support NMFS developing a single umbrella quota for sharks?

CHAIRMAN AUGUSTINE: Comments from the Board? Dr. Palmer.

DR. PALMER: Thank you, Pat. Would that quota include prohibited species?

MR. WHITE: At the meeting on July 10th, the idea was discussed of basically breaking that 60 metric tons into either a species-by-species basis or at least a prohibited species group versus the allowed species group, just to make sure that 60 metric tons of a single prohibited species was not taken.

They're going to be doing an assessment of the sharks this winter, and the NMFS assessment team, hopefully, will address the issue at that time.

CHAIRMAN AUGUSTINE: Any further comments or questions from the Board? We could entertain a motion. Yes.

MR. JOHN MIGLARESE: John Miglarese from South Carolina. Geoff, since the workshop was not fully representative of all the participants that have scientific permits and display permits, when will we get the report? I mean, it seems like we're asking for an action when we haven't all seen the report.

MR. WHITE: At the very minimum -- I called Sari Coralli, who was directing the meeting on Friday, and she was not available to have the report for me.

She did say on the tenth that she wanted to do it quickly. At the minimum degree, I will forward it to the Shark Board, and there was also a request to send it to the Law Enforcement, Management and Science, and general commissioners. That report, at the very least, would be circulated for comment by individual states.

CHAIRMAN AUGUSTINE: Thank you. Mr. Colvin.



MR. COLVIN: I sort of agree with where John was coming from, and I wonder if we can dispose of this quickly by simply agreeing by consensus that the Board would defer response to these questions pending receipt of the report and its review by Management and Science and Law Enforcement?

CHAIRMAN AUGUSTINE: It sounds like an excellent idea. All in favor of doing that, say aye. That's it; that passed. At this time we're at the end of our agenda.

### **Proposed Rule for Shark Finning**

There is proposed rulemaking for shark finning right now, and we'd like to have Karyl Brewster-Geisz please come on from the National Marine Fisheries Service. She was going to give us a nice presentation, but unfortunately we cut her short. So, would you go ahead, Karyl?

MS. KARYL BREWSTER-GEISZ: Thank you, Mr. Chairman. As some of you may know, Congress and the President passed into law the Shark Finning Prohibition Act last December, and that's the opening slide of the presentation that we gave for the public hearing we held last week.

I'm just going to talk a little bit about what this does. It doesn't change the federal plan in the Atlantic or the federal spiny dogfish plan in the Atlantic as far as shark finning.

Congress is intending to prohibit the finning of a shark, which is basically taking the fin and dumping the carcass back overboard and keeping the fin throughout all waters, including the Pacific High Seas.

There's nothing explicit in the Prohibition Act whether or not it applies to state waters, which is why I'm here. In our proposed rule, we ask whether or not the Act should apply to state waters; and if it should apply, should NMFS be the one to implement these regulations or should the individual states?

It's my understanding right now that along the Atlantic about half of the states already have a finning prohibition. Whatever NMFS put in place would not supersede any state regulations that were more restrictive.

That would be our intent, that it would keep those states in line, but we are asking specifically whether or not we should implement regulations that apply to state waters.

The proposed actions that we're thinking of would affect mainly the Pacific islands, Hawaii, Guam, and if we take over the state waters, possibly some Atlantic states.

We are also asking how to define wet weight. As you know, the prohibition right now is you are not allowed to land fins in excess of 5 percent of the dressed weight of the carcass and those are wet fins, so how do you define what a wet fin is.

And that's basically all I'm here to say, to give you warning the comment period for the proposed rule closes on July 30th.

CHAIRMAN AUGUSTINE: Thank you very much for that. Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. Are there provisions in place that allow NMFS to extend its jurisdiction into state waters?

MS. BREWSTER-GEISZ: I think the Magnuson-Stevens Act does allow us to preempt the state waters under certain circumstances. As I said, the Act itself does not explicitly give us that right. So, it would have to be under the Magnuson-Stevens Act.

CHAIRMAN AUGUSTINE: Dr. Palmer, you had your hand up.

DR. PALMER: Yes, the gist of the rule, it allows you to dress out the fish as long as the fins match the number of cores that you got?

MS. BREWSTER-GEISZ: Yes, the proposed rule would require the possession and landing of shark fins only if you have the dressed carcasses as well, and that would apply to foreign fishing vessels. Foreign vessels such as cargo vessels would be allowed to land shark fins as part of bonded cargo, but not as though they were fishing.

CHAIRMAN AUGUSTINE: Thank you, very much. One more comment and we've got to end it. Mr. Jensen, you had your hand up.

MR. JENSEN: Well, I just had a question. Is there any evidence or reports that finning is a problem in any state waters along the Atlantic coast?

MS. BREWSTER-GEISZ: We're not sure of the extent to that. Most of the states that land most of our large

coastal sharks already have the finning prohibition in place. So, we don't think that it is a large problem, but we are unsure of the extent.

CHAIRMAN AUGUSTINE: Thank you. Mr. Nelson, the last one.

MR. NELSON: Thank you, Mr. Chairman, I appreciate it and I'll be quick. Should the Board take some position as far as dealing with, Number 1, looking into whether or not the National Marine Fisheries Service should deal with activities in state waters; and if that is not the case, then we should probably write a letter from this Board pointing out that that is not appropriate. I think some comment in that regard -- to me it's a sensitive issue.

EXECUTIVE DIRECTOR DUNNIGAN: We need to end this Board meeting, and you're right, it's a sensitive issue. I would need to look at the language that's in this shark finning law to advise you appropriately. So, I think that you ought to let the staff come back to you probably informally in between meetings with some suggestions.

CHAIRMAN AUGUSTINE: One final one. Staff will poll the states as to who wants to participate in the September meeting and then -- Karyl.

MS. BREWSTER-GEISZ: I just wanted to point out that I had left copies of the Prohibition Act, the proposed rule and our presentation on the table. I also have copies of the Draft Environmental Assessment and Economic Analysis. Those are two big documents and I will leave them with you.

CHAIRMAN AUGUSTINE: We thank you very much for that concise report. Mr. Freeman.

MR. FREEMAN: When are the comments due for the proposed rule?

MS. BREWSTER-GEISZ: July 30th.

**Other Business/Adjourn**

CHAIRMAN AUGUSTINE: We will entertain a motion to adjourn. So moved. All in favor. We're done.

(Whereupon, the meeting was adjourned at 10:20 o'clock a.m., July 18, 2001.)

---