

ATLANTIC STATES MARINE FISHERIES COMMISSION

Quality Hotel     Arlington, Virginia

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

January 31, 2001

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ATLANTIC STATES MARINE FISHERIES COMMISSION

Quality Hotel      Arlington, Virginia

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

January 31, 2001

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**Attendance**

Board Members:

Pat Augustine, NY Gov. Appte., Chair

Rep. David Etnier, ME Leg. Appte.

John Nelson, NH F&G

Dennis Abbott, proxy for Rep. Blanchard, NH Leg. Appte.

Vito Calomo, proxy for Rep. Verga, MA Leg. Appte.

Gerald Carvahlo, proxy for Rep. Naughton, RI Leg. Appte.

Ernest Beckwith, CT DEP

Fred Frillici, proxy for Sen. Gunther, CT Leg. Appte.

Brian Culhane, proxy for Sen. Johnson, NY Leg. Appte.

Tom Fote, proxy for Sen. Bassano, NJ Leg. Appte.

Charlie Lesser, DE DFW

Jack Travelstead, proxy for William Pruitt, VA MRC

Melvin Shepard, proxy for Rep. Redwine, NC Leg Appte.

David Cupka, SC Gov. Appte.

Bob Palmer, FL F&WCC

Harry Mears, NMFS

Lew Flag, ME DMR

Pat White, ME Gov. Appte.

Ritchie White, NH Gov. Appte.

Bill Adler, MA Gov. Appte.

Dr. David Pierce, MA DMF

David Borden, RI DEM

Dr. Lance Stewart, CT Gov. Appte.

Gordon Colvin, NYS DEC

Bruce Freeman, NJ DF&W

John Connell, NJ Gov. Appte.

Eric Schwaab, MD DNR

Red Munden, NC DMF

Damon Tatem, NC Gov. Appte.

Susan Shipman, GA Coastal Res.

Dr. Wilson Laney, USFWS

Ex-Officio Members:      none

Other Commissioners:      Andrew Manus, DE DFW

Paul Diodati, MA DMF

Staff:

Dr. Joseph Desfosse

John H. Dunnigan

Dieter Busch

Tina Berger

Bob Beal

Dr. Lisa Kline

Jeff Brust

Darren Benjamin

Carrie Selberg

Heather Stirratt

Guests:

John Pappalardo, CCCHFA

Dan Furlong, MAFMC

Tim Hobbs, NCMC

Peter Burns, NMFS-NERO

Harry Jenkins, Jr., Hayes VA

Scott MacDonald, Spots Fish Co.

Steve Doctor, MD DNR

Chris Luddford, Lower CB Watermen's Assn.

Pat Kurkul, NMFS - NERO

Herb Drake

Rick Robins, Ches. Bay Packing

Dr. John Merriner, NMFS

Paul Perra, NMFS

Paul Herrick, VA Beach, VA

Bill Outten, MD DNR

Sonja Fordham, CMC

Margo Schulz-Haugen, NMFS

Sari Kiraly, NMFS

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

Spiny Dogfish and Coastal Shark Management Board

January 31, 2001

**SUMMARY OF MOTIONS**

**1. *Motion to accept the agenda as written.***

Motion by Mr. Adler, second by Mr. Munden The motion carries by voice vote.

**2. *Motion to approve the minutes of the October 15, 2000 Board meeting.***

Motion by Mr. Adler, second by Mr. Nelson The motion carries by voice vote.

**3. *Move that we extend the emergency action for one year or until such time as it is supplanted by Commission FMP or emergency rule (action). And, Part 2; I move that the Board direct staff to complete a public information document outlining possible management actions for the fishing year beginning May 1, 2001, that includes Options 2, 4 and 5, (in) the draft before us, with additions of sub-options under Number 5 for season or regional distribution of quota.***

Motion by Mr. Colvin, second by Mr. Abbott. The motion carries 15 to 1.

**4. *Move that closure of the spiny dogfish fishery by Commission action shall not prohibit states from permitting the collection of spiny dogfish for biological supply or biomedical research purposes. States shall annually report any landings under this exemption provision to the Spiny Dogfish Board.***

Motion by Mr. Flagg, second by Mr. Abbott. The motion carries by voice vote.

ATLANTIC STATES MARINE FISHERIES COMMISSION  
SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

Quality Hotel Arlington, Virginia

January 31, 2001

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The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Quality Hotel and Conference Center, Arlington, Virginia, January 31, 2001, and was called to order at 1:00 o'clock p.m. by Chairman Pat Augustine.

**WELCOME/INTRODUCTIONS**

CHAIRMAN PAT AUGUSTINE: Thank you all for attending the meeting. Welcome to our guests. Joe, would you call the roll call, please? (Whereupon, the roll call was taken by Dr. Joseph Desfosse.)

DR. JOSEPH DESFOSSE: You have a quorum.

CHAIRMAN AUGUSTINE: Thank you, Dr. Desfosse. I hope you've all had an opportunity to review the agenda. Are there any additions or corrections?

**APPROVAL OF AGENDA**

MR. WILLIAM ADLER: **I move it be accepted as written.**

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

MR. RED MUNDEN: **Second.**

CHAIRMAN AUGUSTINE: Seconded by Mr. Munden. All in favor; opposed? Thank you. **The motion carries.**

**APPROVAL OF MINUTES**

Have you had a chance to review the minutes of the October 15th meeting? If you have, I assume you have, are there any additions, corrections or changes? If none, may I have a motion?

MR. ADLER: **I move it be accepted.**

CHAIRMAN AUGUSTINE: Move by Mr. Adler, **seconded by Mr. Nelson.** All in favor; opposed? **The motion carries.**

**PUBLIC COMMENT**

At this time, we'd like to offer the public an

opportunity to make comments on our proceedings today, either on the minutes or any comment you would like to make relative to today's activities. Are there any comments from the public? Seeing none, we'll move forward. At this moment we'd like to have Item 5 covered, Update on Council Actions. Mr. Munden, would you do that for us, please?

**UPDATE ON COUNCIL ACTIONS**

MR. RED MUNDEN: Thank you, Mr. Chairman. I can give you an update on the Mid-Atlantic Council activities relative to spiny dogfish. And I would also ask that Dave Pierce give an update on the recent actions by the New England Council, if that's okay with you, sir?

CHAIRMAN AUGUSTINE: Thank you, we can do that.

MR. MUNDEN: The Mid-Atlantic Council met December 12th through the 14th, 2000, and they approved several motions relative to spiny dogfish. The first motion stated that we are obliged to set a quota consistent with an F of 0.03 for the 2001/2002 fishing season. The Council recommended a 4.5 million pound quota. The quota will be allocated as follows: 4 million pounds will be divided into two semi-annual periods, the first one being May through October, when 2,316,000 pounds or 57.9 percent of the quota is allocated. And the second harvest period would be November through April, and that period would have 1,684,000 pounds, or 42.1 percent of the quota. Should the 2001/2002 fishing season quota be increased through Amendment 1, then it was recommended that the quota be set at 8.8 million pounds, or 4,000 metric tons. And this would be in conjunction with a constant harvest strategy that has been proposed by the Commonwealth of Massachusetts. The 500,000 pound portion of the quota would be for an experimental fishery to investigate the feasibility of a male only fishery.

The trip limit that was recommended by the Mid-Atlantic Council was 600 pounds for harvest period one and 300 pounds for harvest period two for the

2001/2002 fishing year.

There was also a motion to allow, through a framework or other appropriate action, an increase in the commercial quota for dogfish if the results of experimental fisheries can demonstrate that a directed fishery for males can be developed.

The Council approved action that in Amendment 1 preliminary discussions would be a range of items. One would be quota based on landings or mortality of adult females with separate quotas for males, separate quotas for different sizes and overfishing definition and derivative quotas based on total biomass.

And the final action taken by the Mid-Atlantic Council was that in the development of future management actions, that technical analysis, by either the dogfish Technical Committee or Monitoring Committee, should provide an assessment based on the National Northeast Fisheries Science Center caught on bottom trawl survey information, and any Canadian stock assessment information in addition to the current analyses that are performed.

Those were the actions that were taken by the Mid-Atlantic Council and submitted to the National Marine Fisheries Service, Mr. Chairman. I had a conversation with the Mid-Atlantic staff this morning and the staff member indicated that they hoped to submit the annual specs packages to the National Marine Fisheries Service by Friday of this week.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Any questions from the Board? Dr. Pierce, would you make your report, please, for the New England Council?

DR. DAVID PIERCE: Well, the New England Council met last week and considered the actions taken by the Mid-Atlantic Council, and in the interest of moving forward in a constructive manner and to minimize discord during the development of Amendment Number 1, the Council decided to adopt the same motion, or essentially the same motion that was made and adopted by the Mid-Atlantic Council with only one difference; and that being instead of the 600 and 300 pound trip limits that varied by season, it would be a 5,000 pound limit.

Now, obviously, this would have to be resolved by the National Marine Fisheries Service, and I suspect that it's likely that because there's a difference of opinion between the two Councils, for this year, for this next fishing year, the limits would be set at 600 to 300 instead of the 5,000. That's my interpretation, but the 5,000 was a New England Council decision that's consistent with some of the past positions the New England Council has taken on dogfish. So, we move

forward, hopefully both Councils, in a constructive manner that will lead to some good joint decisions that will satisfy both Councils.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Any questions? Mr. Munden, Mr. Freeman.

MR. MUNDEN: Mr. Chairman, before we leave the Council updates, I would ask that you allow Dan Furlong, the Executive Director of the Mid-Atlantic Council, to give us an update on Amendment 1 and how we're progressing with that.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Freeman, would you mind if Mr. Furlong did that or would you prefer to make your comment? Make your comment, please.

MR. BRUCE FREEMAN: I just have a question to David. The 5,000 pounds, David, was that 5,000 pounds per trip?

DR. PIERCE: Yes, I believe it's 5,000 pounds per trip, but that would be a daily limit. There's no intent to have multiple trips on a given day.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Mr. Furlong, would you please address our body, please?

MR. DAN FURLONG: The quick and dirty of it is, is that at our March meeting, we will initiate action at the Council level to begin Amendment 1. And our projection for our timeline is by October we should have an amendment finished, assuming that everything goes well. I would point out that if we were even to amend the plan this calendar year, it's very unlikely that it would have the effect to honor the motions that have been put forward to increase the quota this fishing year. More than likely, it would be available for May of 2002.

CHAIRMAN AUGUSTINE: Thank you. Are there any questions for Mr. Furlong? Ms. Shipman.

MS. SUSAN SHIPMAN: Actually, it's one for either Red or David or Dan. What are the mechanics of the experimental fishery request? Has that gone forward and is that going to be handled just at the regional level, I would assume? What are the specifics of that?

CHAIRMAN AUGUSTINE: Mr. Furlong, would you please?

MR. FURLONG: The experimental fishing permit is a National Marine Fisheries Service process. And in that regard, the half million pounds that was made available for the current fishing year expires in April. To my knowledge, no one has applied under the experimental fishing provision to go forward with that allocation of a half million pounds. Even if they were to do it now, we're talking February, March, April, it

would be impossible, based on history.

And, Harry Mears, you might be able to correct me on this, but it's normally a four-month process to get an experimental fishing permit issued. So, you've missed year one.

The half million that was earmarked for this upcoming year, even that has a little bit of likelihood of not really being there. We're getting some feedback that the Secretary had the authority to establish a half million, but they are unsure whether or not the agency can perpetuate that with our motion for year two.

But you need that experimental fishing permit, and it would take about four months to get it.

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

MR. MUNDEN: Thank you, Mr. Chairman. We have been informed by the NMFS staff in the northeast region that the 500,000 pounds set aside for an experimental fishery is a one-shot deal.

If that set aside is not taken by the end of April, it's lost. And the FMP does not have a provision for set aside for an experimental fishery in future years. But Rick Seagrave has advised me this morning that subsequent conversations with the Northeast staff has indicated that it may be possible to have some type of set aside.

He's planning on submitting the specification package requesting the 500,000 pound set aside in addition to the 4 million pound commercial quota. Having said all that, I made the statement, I think, before this Board -- I know I made the statement before the Mid-Atlantic Council -- that North Carolina planned to apply for an experimental fishery permit for spiny dogfish to use this 500,000 pound quota if it had not been taken up by some other state prior to the fish arriving in North Carolina.

I didn't realize how complicated an experimental fishery application can get until I started receiving guidance from the northeast region. So, ironically, I had a call about three weeks ago from a fisherman, and he asked me how I was progressing on that and I said, "Well, very slowly, but we're still planning on applying for this permit". And he raised a very interesting question. He said, "Well, why can't we have an experimental fishery in state waters and North Carolina using our 500,000 pound set aside?" And I said, "That's a very interesting concept". And I've talked to a dozen individuals inside and outside the system, within the state, within the Council and within NMFS, and no one has given me a good reason why we can't do it.

My director has indicated to me this week to go ahead with a scientific collecting permit system where the division would control it. We would put in specific

requirements for the fishermen who want to participate and see if, indeed, it is possible to have a male-only fishery. The spiny dogfish currently are located in state waters in North Carolina, and that's what we plan to do. So, I agree with Dan Furlong completely, there's no way we could get an experimental fishery in place if we go through the system.

But no one has indicated that we can't have a state waters' fishery if we cap it at the 500,000 pounds which has been set aside for the experimental fishery.

CHAIRMAN AUGUSTINE: Thank you very much, Mr. Munden. Dr. Pierce.

DR. PIERCE: Yes, I'm very glad to see that North Carolina is moving forward on this and that you will, in all likelihood, have an experimental fishery in your waters for male-only dogfish. It's an opportunity that should be taken advantage of. It was made available to the states through the National Marine Fisheries Service for the existing fishing year, the fishing year we're in.

Therefore, if it can take place within this fishing year, that makes it all the more better. So, I applaud you for your efforts, and I also share your views as to the difficulty in getting an experimental fishery permit approved through the federal system. It is difficult. It can be done, but it does take a considerable amount of time; especially if the experimental fishery will involve fishermen who have federal permits.

Once they have federal permits, then, of course, that involves the National Marine Fisheries Service, and rightfully so. They have to be careful as to how that experiment is designed. So, again, I'm glad you're moving forward.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Any other comments from the Board? Mr. Mears and then Mr. Freeman.

MR. HARRY MEARS: Just a couple comments on some of the past remarks. It is true that the 500,000 pound experimental fishery quota does remain available through April. It is also true it does involve -- the application for an EFP does involve substantial paperwork and clearance procedures. I'm not sure about the four-month process, but I don't have any reason to doubt that that might be the average.

But in line with our past conversations on the potential use of this quota, certainly, the agency continues to consider this allowance to be a priority issue in dogfish management. Many of you might recall that the initial rationale was to focus on gear-selective studies that would direct harvesting pressure away from large females on to smaller males.

And certainly, this continues to be the focus of a lot of discussions having to do with options for dogfish

management that will be discussed later here today. In summary, I don't want to discourage anyone from applying for it at this time and not prejudge that there's not enough time to approve it.

Namely, I make these statements because of the importance, and the continuing importance of what this 500,000 pound quota is intended for.

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

MR. FREEMAN: Thank you, Mr. Chairman. A question I had, Red, relative to the North Carolina, I'm assuming this experimental fishery in state waters would be directed toward males?

MR. MUNDEN: That's correct.

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

MR. VITO CALOMO: Thank you Mr. Chairman. Listening to Harry Mears speak for a moment, I lost track of the 500,000 pounds as the goal here of using that as an experiment, even to, you know, have a fishery that would probably just harvest males.

I think this experiment means much more to all of us. It's having fishermen and the states and the feds working together to accomplish a goal that everybody needs to know. So, I think there's much more at stake here, Harry. And I'd like you to bring it back to the Center saying that if there's at all the possibility -- you know, I heard you use the word streamline, I think super-streamline it so it can be done, if possible, Harry. I've known you for years and I'm sure you'll carry my message because I'll also carry that message back to our port of Gloucester. This is an opportunity that I've been working for since I became involved in the fisheries; a joint collaboration.

You've heard me talk at many meetings -- and I'll keep this short, Mr. Chairman -- that this is a major step in the right direction for fisheries management. Thank you, Mr. Chairman.

CHAIRMAN AUGUSTINE: Thank you, Mr. Calomo. Any further questions or comments from the Board? Mr. Adler.

MR. ADLER: I'd just like to ask a question. We have 500,000 pounds and North Carolina is going to, hopefully, use that 500,000 in the plan, in their state waters' thing. What happens if another state puts in for that, do they then have to split the 500,000, I mean, how do we -- they're after the five and somebody else gets a special permit, does it take it away from the five, is that how it works? Do you split it up?

CHAIRMAN AUGUSTINE: Mr. Mears?

MR. MEARS: Under ordinary circumstances -- and that's how it was envisioned during the intro

rulemaking, it was intended for however many applications would be submitted to use the 500,000. It could have been one party, it could have been several. And Red indicated he has had several discussions with several people on what impacts or relevance a state water experimental fishery might have on the initial 500,000 pound allowance.

And Dr. Pierce further commented that it probably has implications on federal permit holders versus non-federal permit holders. I don't have the answer to your question in terms of if North Carolina went ahead on its own with a state water experimental fishery, in terms of what the implications would be on the overall 500,000 pound allowance under the federal plan. I, myself, don't have the answer to that.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. Any further comments from the Board? If not, we'll move onto Item 6, Review and Discussion of the Interim Management Options. You should have in your possession a piece entitled, Draft Interim Management Options for Spiny Dogfish, dated January 23, 2001. And Dr. Desfosse will speak to this.

#### REVIEW OF INTERIM MANAGEMENT STRATEGIES

DR. DESFOSSE: Based on discussions that were held at the October meeting of this Management Board, you instructed staff to put together some options for interim management strategies. You also gave instructions to staff for developing a public information document and to work with the plan development team. One of the other things you also did was identify a subgroup of Board members to work with staff on developing these interim management options.

What you see before you here, dated January 23, 2001, is the result of staff work and the conference called the subgroup. What I envisioned, when we held the conference call, was that this could serve both purposes in terms of guiding the discussions of the Management Board in terms of the interim management strategy while a Commission FMP was developed; and to also serve as a precursor to the public information document that the Plan Development Team could work off of and perhaps beef up a little bit and bring this back to you during the April meeting week for approval for public hearings.

With that overview, I would just like to say that there's some introductory text which lays out basically discussions of the Management Board in the October meeting, discussion of the emergency action which was passed on August 21<sup>st</sup>. And that emergency action is



scheduled to expire in mid-February. It also gives a brief overview of how the federal FMP is set up. It has some language in here concerning the situation that occurred last year and the actions that the Board took in regards to the situation last August.

Basically after that, there's a list of five different options which are fleshed out to a certain degree. I'm just giving you a brief overview of the document now. These were options that I heard the Board discuss during the October meeting; basically, going from taking no additional action to implementing management measures based on the constant harvest strategy; a gamut of options.

There are a bunch of different issues that might need to be fleshed out in terms of the public hearing process; the details that would go into any of the management strategies that you would adopt. Following that, on Page 4 there was some language that was suggested to staff to draft dealing with the state quota transfers in the event that that was the direction that you took.

Following, there are four tables of which Table 1 lists the landings data that I could get my hands on for the period 1981 through 1999. There are two sets of numbers for the period 1988 through 1997 which correspond to the data that's available on the NMFS web page, the commercial database, which is the non-bold type. And the bold type is data that is the unpublished NMFS weigh-out data, which was part of the Council's FMP, I believe. I'm not sure if the tables are right, I thought it was Table 10 off the top of my head.

I attempted to get the 1998 and 1999 weigh-out data, but I haven't had the chance to get that information yet to update this table. There are some differences between the web data and the weigh-out data. In some places it's considerably different. In all the subsequent calculations, I used the higher of the two numbers. Table 2, then, is the mean annual landings. All of this is presented in metric tons.

For different reference periods, it gives the mean annual landings for each of the states and also the percentage of the total landings for each of those five different reference periods. Table 3 would then be projected quota shares, corresponding to the various reference periods in the previous table, based on a 4,000 metric ton coastwide TAC.

Table 4 was put together, knowing that the Councils were constrained by their current FMP to the constant mortality strategy, which would equal a coastwide TAC of 1,814 metric tons or 4 million pounds. I put together those same reference period quota shares using the

1,814 metric tons. So, I think, then, Mr. Chairman, you could go back and look at the text first and see if there are any comments on the text and then move on to the options.

CHAIRMAN AUGUSTINE: Let's do that. Dr. Pierce, on the text only.

DR. PIERCE: Sure. I don't have any problems with the text. I think that Joe did a fine job incorporating the comments that I submitted to him on the first draft. I assume the other members of the subcommittee have a similar perspective regarding how he incorporated those comments. So, good work, Joe.

I only wanted to highlight that in order to assist the Board better deal with one of the options in this draft options paper, you have available for your look-see this one-page document that describes the constant quota strategy of 4,000 metric tons versus the F 0.027 strategy that's in the federal plan right now. This is just for your information and I'm sure that we'll refer to it as we go along.

CHAIRMAN AUGUSTINE: Does everyone have this copy that Dr. Pierce is referring to? It was handed out at the beginning of the meeting. Thank you, Dr. Pierce, please continue.

DR. PIERCE: I think that's it.

CHAIRMAN AUGUSTINE: Thank you very much, Dr. Pierce. Other comments from the Board? Yes, Mr. Travelstead.

MR. JACK TRAVELSTEAD: I see there are some questions under Option 2 on the second page of the document that talk about some comments the subcommittee had about the validity of an emergency action in the absence of an FMP and whether this is a compliance. Has that been resolved? Do we have any final answers to those questions?

DR. DESFOSSE: I would look to see if my boss is in the room. He is, okay.

CHAIRMAN AUGUSTINE: Mr. Dunnigan or Dieter. I don't know whose boss is who anymore. Mr. Busch, please.

MR. DIETER BUSCH: Mr. Chairman, thank you. Under the charter, emergency action can be taken in the absence of an FMP and actually for the protection of the resource. So, that's the definition of emergencies in the Charter.

And if a species is -- let me get to that page here in one second -- The definition of emergency includes public health or the conservation of coastal fishery resources, or attainment of fishery management objectives have been placed substantially at risk without anticipating any changes in the ecosystem, the stock or the fishery.

So, that would, I think, apply. And then in the absence of an FMP, the Board action really takes the place of an amendment, which an amendment is the replacement of the FMP. So, I think the basis is here for you to take the action.

CHAIRMAN AUGUSTINE: Thank you, Mr. Busch. Any further comments for the Board. Dr. Desfosse, do you want to continue?

DR. DESFOSSE: I guess there are no comments on the introductory text then? I'll just go into the draft options. Option 1 was to take no additional action. The emergency action that's in place now would expire, and you're basically back into the situation that you were in late last summer.

Option 2 would be to extend the emergency action for another year. That action, I believe the charter covers it for an additional period of one year, up to two years additional annual period. So, you could extend it for another year or another two years. There was a comment from the subcommittee dealing with the objectives and goals of the Commission's management plan, how to communicate taking another emergency action when you have not identified what your goals are for managing this fishery.

Option 3 was transfer management authority under Section 306. The Board can recommend that the management and authority be transferred to the regional councils under the Magnuson-Stevens Act. All management of spiny dogfish would then fall under the federal FMP.

The fourth option was to adopt the federal regulations as specified in the Council FMP. This would assume that the Board and Commission endorses the federal FMP in its basic management philosophy of having no directed fishery at this time.

The final option would be to implement management measures based on the constant harvest strategy as presented by the Commonwealth of Massachusetts.

CHAIRMAN AUGUSTINE: Any comments from the Board on any one of the options? Dr. Pierce.

DR. PIERCE: I think these are, with one exception, reasonable options to air at public hearing on interim action by ASMFC dogfish management. The only option that Bob has made is Option 3, because it's a rather contrary action to what ASMFC is all about; that is, to not give any further thought as to how dogfish management should take place at the state level, but to immediately give in, so to speak, and throw the authority to the federal government.

Now, I turn to other ASMFC members who have

more longevity than me, which is most of you, I suspect, and to the leadership of ASMFC to give us some guidance as to whether this option is appropriate to bring to public hearing.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Ms. Shipman.

MS. SHIPMAN: To that point, I actually interpret this particular option as deferring to another component of 306 which allows the councils to defer management to the states when the councils have expressly given the states, or deferred to them to do that. I mean, there are several paragraphs under 306 -- and I don't have the Magnuson Act with me -- but that's the provision of 306 I actually had in mind was the councils would defer to the states to manage.

CHAIRMAN AUGUSTINE: Thank you, Ms. Shipman. I see Mr. Furlong pulling out the red book. So, do you want to look at 306 or do we just want -- Okay, thank you. I thought you were going to quick response there. Any other comments from the Board members? Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. I just wanted to point out that Option 5, the Constant Harvest Strategy, is one of the items that we'll be taking to public hearing with Amendment 1.

So, that will be one of the management options. The other one would be to manage the fisheries through a constant F, which is in the plan. So five is under consideration and it will go to public hearing later this year with Amendment 1.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Nelson, I think you had your hand up and then Mr. Colvin.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. In regard to what our esteemed Chair just mentioned, and that's the second esteemed Chair, in addition to yourself Mr. Chairman -- let me try that again.

CHAIRMAN AUGUSTINE: Once was fine.

MR. NELSON: In regard to what Susan said, Option 3, if we are going to leave that in, we need to make sure that we do identify which way we meant this. As it was written, it was intended that the FMP -- that it would fall under the overall federal management. But Susan points out, I think correctly, that it could go the other way, too. So, we just need to have that decided on if we're going to have both of those scenarios in there or just one of them.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Let's go to Mr. Colvin.

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. As I recall at the time of our discussions at

our previous Board meeting, there was considerable uncertainty as to what course of action the councils might take with respect to the continuation of the current quota management system under the current iteration of plan of whether or not there would be some affirmative consideration of a constant harvest strategy or other alternatives to management.

It seems like perhaps the current has been turned since then, and that there is a pathway open to the consideration of Amendment 1 and incorporation of consideration of alternative strategies including the constant harvest approach.

I want to commend Dr. Pierce and others who have kept that issue squarely in focus for attention and their success in convincing people to pursue this approach. It seems to me that there were -- some of the concerns, and I certainly spoke to concerns I held at the time about the prospect for a long, contentious, expensive, time-consuming process of reconciliation between management regimes that might well diverge between a Commission plan and Council plan seems less likely now.

And I'm very pleased to hear that. Ideally, from my perspective, the best and simplest course of action would be for the Commission to join with the two councils in the process of development of Amendment 1 and presumably a supportive Commission plan; and in the interim, extend the Commission's emergency rule, hopefully, with the expectation that we'll all be together in a combined, cooperative management program about a year from now. And if there's anything that we can do to facilitate that -- and I'll say this again because I really do feel this way -- to minimize the expense and time Commission needs to consume in this regard, I hope that we can.

With respect to Option 3, Option 3 sounds like something that I suggested with my tongue only half in my cheek at our last Board meeting. And I don't think we need to go that route. I don't think it needs to get further consideration. But I will say this, and I'll say it openly and honestly, what are we so afraid of? We do talk from time to time -- let's be honest with ourselves -- about the prospect for the transfer of certain management authority to the regime enacted under ACFCMA as opposed to Magnuson.

So, what's wrong with talking about going the other when we're predominantly dealing with a fishery that is in the federal waters and the territorial sea and doesn't really require territorial or internal waters management to a great degree? It's a rhetorical question. I don't think we need to debate it now and probably the Policy Board rather than this Board is the

proper forum. I just want folks to think about that a little bit.

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

MR. MUNDEN: Thank you, Mr. Chairman. I agree with what Mr. Colvin has said relative to the best course of action may very well be to extend the emergency action for another year.

But I also think that we need to look at the language on the bottom of the page that starts in bold draft options, where Dr. Desfosse has given us a range of options relative to giving each state a specific quota based on various time periods. And that would have to be, in my opinion, a part of any emergency action. Because as the plan is written today, we have the allocations for the two harvest periods. There are no provisions in the plan for payback.

And so what could happen is a harvest area could take the entire quota and then the National Marine Fisheries Service would again have to close the season down and other states would be not allowed to have a fishery.

So, we just cannot support a situation similar to what we had last year. But if we can go with an emergency closure, that's fine. One year, two years would be fine with me, but we would have to put in some checks and balances to make sure that the available quota is made available to the participating states. Thank you, Mr. Chairman.

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

DR. PIERCE: Yes, the comments of the last two speakers were good ones and certainly food for thought. However, I believe the intent of this Board is to determine what to do for this year through interim action, because we have a fishing year to deal with, and that's the fishing year that will begin, certainly, the spring lasting through the end of the year; spring, summer, fall fishery off of Massachusetts and New England states. And then, of course, there is the fall and the winter fishery down in the Mid-Atlantic states, off of North Carolina and off of Virginia, specifically.

So, obviously, Massachusetts' intent here is to seek support for bringing this to public hearing with the desired action being some strategy that would enable us to have a small-scale directed fishery that would be divided up amongst the states according to percentages as shown in this document.

That would enable us to preserve the fishery in 2001 as opposed to seeing it go by the boards in anticipation that something may happen in 2001, 2002, that is. Of course, I'm very optimistic that both

councils will end up on the same page through Amendment Number 1. Time will tell on that.

So, I would certainly not want to support an emergency action that would extend it for another year or another two years. Yes, extend the existing emergency action so we don't open up the fishery before May 1 of 2001, but, you know, first and foremost, our intent is to deal with this year's fishery.

CHAIRMAN AUGUSTINE: Thank you. Mr. Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. Rhode Island's perspective on this is that we're advocating an extension of the emergency action just on an interim basis until we can implement a variation of Option 5.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. Any other comments from the Board members? Mr. Colvin.

MR. COLVIN: Mr. Chairman, I'm a little reluctant to kind of cold turkey buy into another individual based state quota system. And I really wonder if that's the only option that exists to address the issue that Mr. Munden raised; whether a larger regional breakdown, for example, or seasonal breakdown of the quota might serve the same purpose? And I don't see that among the options. I'm wondering whether the subcommittee looked at those possibilities in lieu of this burdensome individual state quota process that we are, unfortunately, all too familiar with from other species?

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Dr. Desfosse will respond to that.

DR. DESFOSSE: I think I recall some talk about regional management measures, whether it was during the subcommittee conference call or a follow-up call with one of the members. But it was not discussed in terms of putting in another option and looking at it from that direction.

CHAIRMAN AUGUSTINE: Mr. Nelson.

MR. COLVIN: Could I follow-up, Mr. Chairman?

CHAIRMAN AUGUSTINE: Yes, I'm sorry, Mr. Colvin.

MR. COLVIN: Given that the subcommittee hasn't looked at it, I would hope that wherever we go from here in terms of direction for further development of this options paper for public review, we'll include alternatives of that nature; regional or seasonal distribution of the quota to try to address the problem that, you know, the very real problem that North Carolina has raised, that falls short of asking each of us to manage yet one more state-specific quota.

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

MR. NELSON: Thank you, Mr. Chairman. I think Joe summed it up pretty well. The subcommittee really didn't have an opportunity to delve into regional quotas, because I don't think we really had the breakdown. I mean some of it you could break down fairly easily, but when you get to, say, the Gulf of Maine, for example, trying to break out what were landings in the southern part of Massachusetts versus northern created some difficulty.

So, we really didn't have the time to do that. I think the concept is a valid one and I think that it's certainly something that probably if we had had the time, we would have provided that as an alternative for consideration. And I agree with Gordon, I certainly feel that that would be something that we would want to have as an alternative in there.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Dr. Pierce and then Mr. Borden.

DR. PIERCE: Yes, I certainly wouldn't object to having that as an alternative that can be further explored. However, I suspect that the reason why the subcommittee, of which I am a part, didn't deal with it as an option this time around was that we're dealing with a very small quota.

It's a very small quota of 8.8 million pounds, 4,000 metric tons. And in Massachusetts' case we were especially sensitive to the concerns that New Hampshire expressed last year, those concerns being that with that relatively small amount of dogfish to be harvested, what would be the chance of all of that quota being taken before New Hampshire fishermen would have a chance to take advantage of that quota because of the migratory movements of dogfish.

So it seemed to make more sense to make sure, in this particular case, this go around, that we make sure that other states are not disadvantaged by one or more states getting it all before the others have a shot. And it made sense, therefore, to look at state shares.

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

MR. BORDEN: Thank you, Mr. Chairman. I concur with both Gordon and John Nelson. I think that there should be an option or a variation of Option 5, which spells out a regional or seasonal split.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. Any other comments from the Board members? Mr. Mears.

MR. MEARS: Just a clarification on Option 5. There's a notation that this draft does not address any issues associated with the set aside of 500,000 pounds intended for experimental fishing. My question is, is this notation specific to Option 5 or amongst all five

options in general?

CHAIRMAN AUGUSTINE: Dr. Desfosse.

DR. DESFOSSE: I think it's specific. When it was written, it was specific to Option 5, but it does apply to the whole document. I was not aware that that was just a one-year shot at first, so I just steered the whole subcommittee away from the 500,000.

CHAIRMAN AUGUSTINE: Thank you, Dr. Desfosse.

DR. DESFOSSE: I guess I'm looking for a little direction here from the management board as to where do you go from here? Do you recommend something to the states to implement on an interim basis? Are you planning on extending the emergency action? Are we moving forward with public hearing or public information document development?

CHAIRMAN AUGUSTINE: Board members, comments? Dr. Pierce.

DR. PIERCE: Well, I would hope that this Board chooses the option that would provide the instruction to all individual states to move forward on an interim basis to deal with this year's fishery.

I assume that would mean that we would adopt this document with draft interim management options and then the states would bring it to public hearing in their each individual state, and then it would come back to ASMFC at its next meeting for final determination as to what option is the one to choose.

CHAIRMAN AUGUSTINE: Thank you. I see some nodding heads around the table. Mr. Travelstead and Ms. Shipman.

MR. TRAVELSTEAD: David, you keep saying this year's fishery. Are you assuming that one of these would be adopted in April and that, you know, if it's the constant harvest strategy, that we would start to fish at that point this year?

CHAIRMAN AUGUSTINE: Dr. Pierce.

DR. PIERCE: No, there is a time problem. Of course, there is a crunch. However, it doesn't really impact us in a major way -- collectively impact us in a major way, maybe even a minor way for this fishing year that we would be in starting May 1st.

For example, in Massachusetts our dogfish fishery in state waters doesn't begin until July, so it's not as if we have to have something in place on May 1st. You know, the emergency action that we already implemented could be extended until when the interim action is implemented by each state. It wouldn't affect us in May, it wouldn't affect us in June. And then, again, the fishing would begin in July, and then the states themselves would be in a position to take advantage of their share of the constant 4,000 metric

ton allotment.

If we go in a different direction, seasonal area allocations, similarly they could take advantage of dogfish in that way.

MR. TRAVELSTEAD: Assuming we go that route, how does that interact with what the councils are doing with Amendment 1?

CHAIRMAN AUGUSTINE: Dr. Pierce.

DR. PIERCE: I've always said that -- always is the wrong word to use -- I have said in recent discussions with the Dogfish Committee, the Joint Dogfish Committee of both Councils, of which I'm a part -- and I said it to the New England Council. I haven't said it to the Mid because I haven't been at the Mid meeting to discuss this issue, but it seems to me that it's entirely appropriate for ASMFC to take the lead on dogfish management in this year.

That is necessary, because as indicated by Dan Furlong, it's impossible for the councils to act in a way that would provide us with any different way of managing dogfish the fishing year 2001/2002. Any change the council makes to Amendment Number 1 would kick in May 1st of 2002. And to our way of thinking, certainly in Massachusetts', that's just too long to wait. And since this is a state water fishery, why not act, why not take the lead on this issue?

But it's taking the lead with the idea that both councils are considering this as one way to go, as one of the options for Amendment Number 1. Of course, they haven't made a final determination as to what they'll do, but at least it's a viable option.

CHAIRMAN AUGUSTINE: Mr. Travelstead.

MR. TRAVELSTEAD: One more question. It's probably to you, David, since you're most knowledgeable, it seems. If we go forward with this the way you envision it, the quotas -- and assume we go with a state-by-state quota system -- those quotas could only be harvested within state waters?

DR. PIERCE: They would only be -- because the federal government would still have its small -- the 4 million pounds in place to be landed as bycatch only because it's 300/600 pounds, it would have to be a strategy specific for state waters, for state waters fishermen, for state-permitted fishermen. Federally permitted fishermen would be obliged to live with the federal rules. There's no way around that.

CHAIRMAN AUGUSTINE: Ms. Shipman, you had your hand up some time ago, and then Mr. Colvin.

MS. SHIPMAN: With regard to the options paper, it seems to me we need to delete some of these that we don't want to move forward with. I don't know whether we need a motion, but I believe Option 1 should be

deleted. That's, I don't think, an option I hear any support for.

CHAIRMAN AUGUSTINE: Now, I see nodding of heads on deleting Option 1. Seeing no strong opposition, we'll delete Option 1.

MS. SHIPMAN: It sounds like Option 3, there's not a lot of sentiment for that. Although I would note, I hear conflicting information. One minute I hear this is a federal waters fishery and then I hear Dr. Pierce say the fishery is in state waters; and if they take over 50 percent of it, it sounds to me like this is a largely state waters fishery. But that's an aside. So Option 3, it sounds like that one goes by the wayside.

CHAIRMAN AUGUSTINE: Is there any thought on that one? I saw some shaking heads on Number 3. So does anyone want to address that from the other side? Gordon, you had made comment to that earlier as to whether we should go one way or --

MR. COLVIN: My point was that I don't think we need it.

CHAIRMAN AUGUSTINE: Okay, fine. Then I guess we have a lot of nodding heads. Then, with exceptions or no exceptions, we'll delete option three.

MS. SHIPMAN: And it sounds like to me that Option 4 and 5 really are one and the same now if the direction of five is the way Council is headed. I would say four is redundant.

CHAIRMAN AUGUSTINE: Do we have concurrence around this table? Dr. Pierce has a comment and Mr. Munden.

DR. PIERCE: Yes, I can understand your having that interpretation. However, they are really separate. They really are distinct, because if we were to adopt federal regulations as specified in the Council's FMP, then that would mean no fishery in 2001 until next year.

Option 5 would provide us with the option of actually having a small-scale directed fishery in state waters. That makes it different and distinct from Number 4.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Mr. Munden and then Mr. Borden.

MR. MUNDEN: I also believe that Options 4 and 5 are different and we should go forward with them as separate items.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Borden and then Mr. Colvin.

MR. BORDEN: Thank you, Mr. Chairman. On Option 2 my assumption is that there's a necessity for us to take action to extend the emergency action today, given the fact that it's going to expire February 15th. So, I think it would be helpful if Option 2 is going to stay in here, we should put some dates on it after we

finally make that decision, so it will be extended beyond such and such a date or whatever.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. Mr. Colvin.

MR. COLVIN: Mr. Chairman, are you ready for a motion?

CHAIRMAN AUGUSTINE: Yes, I'm ready for a motion. I can hardly wait.

MR. COLVIN: Knowing you as I do, I suspect you were ready for one some time ago.

CHAIRMAN AUGUSTINE: I've been sitting here on pins and needles waiting for it. Mr. Abbott seconds the motion no matter what it is.

MR. COLVIN: I have a two-part motion, Mr. Chairman.

CHAIRMAN AUGUSTINE: Please, Mr. Colvin.

MR. COLVIN: **I move that we extend the emergency action for one year or until such time as it is supplanted by Commission FMP or emergency rule.**

**And, Part 2; I move that the Board direct staff to complete a public information document outlining possible management actions for the fishing year beginning May 1, 2001, that includes Options 2, 4 and 5, the draft before us, with additions of sub-options under Number 5 for season or regional distribution of quota.**

CHAIRMAN AUGUSTINE: Do you have all of that, Tina? Did you write that down, Mr. Colvin? Joe, would you read that back to us, please? (Whereupon, the court reporter read the motion to the Board.)

CHAIRMAN AUGUSTINE: Any comments on that extended three-part motion? And **the second is Mr. Abbott.** Ms. Shipman.

MS. SHIPMAN: Just a question for Mr. Colvin, the maker of the motion. Gordon, I wasn't clear on what you meant by emergency rule. Did you mean by federal emergency rule or a subsequent emergency action by this body? You said until such time as supplemented by FMP or emergency rule.

MR. COLVIN: I mean an emergency action by ASMFC. And I know we sometimes use action and rule interchangeably.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. Just a question of process, I guess, to Dieter or Jack or Joe, for that matter. We've already had one emergency action. As I understand the charter, we can do two more, is that correct? So, that everyone clearly understands, we will have to have a plan in place by the end of the third one, correct?

CHAIRMAN AUGUSTINE: Yes.

DR. DESFOSSE: You can extend it for another one year and another year on top of that. So, you have two more years total from this time to develop an FMP. The management board can rescind that emergency action at any time by a vote of two-thirds, I think.

MR. BORDEN: Okay, and then before we get into a vote on this, I just want to make sure I understand the extent of the options and what you intend to do. If someone wants to add another option or discussion item, are we going to do that now or would we do that after we've passed this; in other words, add to the document?

CHAIRMAN AUGUSTINE: I would think we could pass this first and then add to the document.

MR. BORDEN: All right, thank you.

CHAIRMAN AUGUSTINE: Comments on the motion? Mr. Freeman and then Dr. Pierce.

MR. FREEMAN: I'll wait until the vote is taken. I do have a comment.

CHAIRMAN AUGUSTINE: Dr. Pierce, would you like to go ahead in the meantime?

DR. PIERCE: Yes. I assume that if this passes, that the process we would follow would involve getting ourselves, the Board, in shape ready for a specific emergency action at our April meeting?

CHAIRMAN AUGUSTINE: I believe that's correct, Joe?

DR. DESFOSSE: I think what you're voting on is to extend the emergency action that you passed in August which reads, "Prohibit the commercial harvest, landing and possession of spiny dogfish in state waters upon notification of the closure of federal waters due to the spiny dogfish fishery attaining the total allowable catch". I think that's what -- if you pass this motion, that's what that does and also instruct staff to develop the public information document.

DR. PIERCE: I disagree, because the motion reads, "extend the emergency action for one year or until such time as supplanted by an emergency rule by the Commission".

So, obviously, I don't like the front part of the motion, but I understand why it was made. And I would hope that there would be every effort made to preserve the 2001 season by supplanting the emergency action that would be in place for one year -- by supplanting that through an emergency action taken in April that would result after hearings in the states on this draft options paper.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. I see Mr. Colvin shaking his head up and down, would you go with that change? Do you want to state it

so Joe can put it on record.

MR. COLVIN: I'm assuming that's what we'll try to do. Obviously, you know, if we can get it done by April, we will. If we can't, then the current emergency would continue.

CHAIRMAN AUGUSTINE: Thank you. Mr. Freeman, are you ready for a question now or a comment?

MR. FREEMAN: After this vote.

CHAIRMAN AUGUSTINE: Okay, Mr. Flagg and then Dr. Pierce. Mr. Flagg, Dr. Pierce, Mr. Mears.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. Last year when we had this emergency action taking place, when Maine promulgated its regulations, we did provide for an exemption. We have a small biomedical research collection effort that's ongoing. Dogfish are used for biomedical research in Maine by a biomedical lab. They take from 900 to 2,000 dogfish a year, and so we would like to make sure that in terms of compliance we will -- we do require unto this rule that anybody collecting for this purpose has to have a permit from our agency, and they're required to report those landings to us.

But I want to make sure that we're not going to be found in a non-compliance determination as a consequence of this exemption which we did offer last year. I just want to try to get a clarification that, in fact, we won't have a problem relative to that issue.

CHAIRMAN AUGUSTINE: Thank you, Mr. Flagg. Mr. Busch, could you respond to that to give Mr. Flagg some assurances that the harvest of these creatures will be included in our process here?

MR. BUSCH: Thank you, Mr. Chairman. This was part of the initial emergency rule, was it, by the Board? It was not. Well, then, the Board would have to include that.

CHAIRMAN AUGUSTINE: Mr. Colvin, would you consider inclusion of that in your motion, or do you want to deal with that later?

MR. COLVIN: Repeat it, please?

CHAIRMAN AUGUSTINE: Would you want to include, as a part of your motion, a sentence that would incorporate what Mr. Flagg is requesting, to have consideration for medical purposes? Last year they were looking for 900 to 1,000, did you say, 2,000 for medical purposes. We can either treat that as a separate motion after this or should we incorporate it?

MR. COLVIN: Well, I have no problem with this, whatsoever. I just don't know what works best. Can we amend the emergency rule that's in place now? I really don't know.

CHAIRMAN AUGUSTINE: Okay, Dr. Desfosse.

DR. DESFOSSE: All I was going to offer was that in reviewing state compliance with the emergency rule this past October, the Board had no problem with that for the state of Maine.

CHAIRMAN AUGUSTINE: Thank you very much. Mr. Mears, you had your hand up and then Mr. Freeman and then Dr. Pierce.

MR. MEARS: Yes, I can support this motion. To me, what it does, the first part of the motion continues the protection to the resource that was much the basis for the initial emergency action until such time that we move forward with a public information document, working in partnership with the two councils to evaluate and explore alternative management strategies.

What bothers me considerably are the comments which have been made and, to me, are largely unsettled relative to what the impact may be on this 2001 fishing year, namely, with regard to the potential for a directed fishery. And I understand that under the constant management strategy there are various scenarios that would allow higher levels of harvest. But I think what can't be lost is, in fact, the biological status of the resource where, certainly, one of the key priorities in our collectively managing this resource should be, and must be, would be to eliminate harvesting pressure on large mature females.

And with that, certainly, I can support it. But I would hope that the biological background of the stock assessment, and also with the absence of pups in the resource, as well as the limited abundance of mature females in the fishery, would be part of the discussion part of the public information document.

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

MR. FREEMAN: Two points; one is the issue raised by Maine. I think if each state would look, there's probably a situation where small quantities of spiny dogfish are taken for biological supply, so-called biological supply houses where these specimens are injected with latex and used for biological laboratories for training and teaching purposes. There should be some provision to allow for that. Up to now, there has been no restrictions on spiny dogfish, so suppliers have had no difficulty obtaining samples. But this is a substantial industry and it probably applies to all the states.

So, there should be consideration given to take small quantities for this purpose. The second issue is I think more important to us. The discussion to date indicates that states could harvest spiny dogfish in state waters.

We have a situation in our state where in order to come

into compliance with the federal plan, we had required anyone wanting to fish for spiny dogfish, be it state waters or not, to obtain a federal permit. And we did that as a recommendation of the Board in order to close our fishery when the federal waters closed. Now if a state has allocated some portion of this quota to be taken and all our fishermen are federally permitted, it's impossible to harvest that amount in our state because of the way we structured the rules, again, as a recommendation by this Board.

And my question to those who have been discussing this, I suspect others have the same problem, how do we deal with the issue of an allocation that can't be taken?

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Would anyone care to respond? Dr. Pierce.

DR. PIERCE: In reply to the comments made by Harry, something else must not be forgotten. Your points are very valid, Harry, and because I knew you'd make those points and others might make those points, please, let's not forget the information that's within this document that makes it very clear that the constant quota strategy, harvest strategy, is equivalent in terms of rebuilding female biomass of dogfish to the targets.

And I'm not going to read it because it's there for you to read. There is no concern for the resource. The constant harvest strategy is precautionary in nature. It has been vetted with the Technical Committee of both councils and they've agreed with that conclusion.

It was put together, the whole strategy was -- the analysis behind the strategy was done by Steve Correa, Chairman of the Monitoring Committee of Groundfish, Chairman of the Winter Flounder Technical Committee. He has got a lot of credibility plus the analysis was reviewed by the Northeast Fishery Science Center to make sure that we used the same methodology. There was no problem there.

Now to the motion. I guess my question to Joe is with the PID, the Plan Information Document. To me, a PID has to be something somewhat grand in scope, somewhat all inclusive, it takes time to develop a PID. I thought that the track we would be on would be to take this document, these management options, and to flesh this out a little bit more, and this would be the basis for our determining the management actions for May 1, 2001.

So, I want to make sure I'm not misunderstanding something here. Is the intent of the motion by PID to use this document that we have been reviewing this afternoon?

DR. DESFOSSE: I think my understanding of the motion, and correct me if I'm wrong, is that if it passes,



you'd be instructing staff to take this document, flesh it out a little bit more, bring it back to the Board for approval for public hearings at the April meeting.

DR. PIERCE: April meeting. Okay.

CHAIRMAN AUGUSTINE: Thank you. Mr. Nelson and then Mr. Munden.

MR. NELSON: Mr. Chairman, I would say that we have had a good amount of discussion on this and I would suggest we move the question.

CHAIRMAN AUGUSTINE: Thank you very much. Motion to move the question. Not a motion, you moved the question, so caucus. Ready to call the vote? Okay, by a show of hands, those in favor, please raise your hand. This is a two-thirds vote. I have fifteen, Joe. No's; any no's; one no; abstentions; null votes. **Fifteen to one, the motion carries.** Dr. Pierce and then Mr. Freeman.

DR. PIERCE: I wanted to make it clear for the record that while we support the logic behind this motion, there's no guarantee that an emergency action would be taken in April by this Board, which would then mean we would have to live with a one-year continuation of a closure of the dogfish fishery up and down the coast. That possibility, perhaps remote as it is, was enough to make us hesitate to approve the motion, but we'll obviously look forward to progress on this. We anticipate that we'll be in a position to take some emergency action in April that will then go to public hearing with implementation shortly thereafter.

CHAIRMAN AUGUSTINE: Good, thank you. Mr. Freeman.

MR. FREEMAN: Thank you, Mr. Chairman. I want to make certain staff is cognizant of the issue I raised of states requiring their spiny dogfish fishermen of having federal permits only, and the repercussions of such action relative to any of the options that we have already identified.

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

MR. ADLER: One more time, Dr. Joe, one more time on the schedule. In other words, there's something that's going to come back at the April meeting for possible action to set aside the emergency action; in other words, one of these options. It is or it isn't going to come back to us in April?

DR. DESFOSSE: What is going to come back to you in April, I'm 95 percent sure, is a document that you would review and approve to take out to public hearings. That would not do anything to the emergency action that you just voted on. That emergency action will remain in effect until you either rescinded it by a two-thirds majority or you approve an FMP.

MR. ADLER: What about that motion that said for the fishing year beginning May 2001?

DR. DESFOSSE: That deals with options that would -- you're directing staff to complete a public information document, outlining possible management measures beginning May 1, 2001.

MR. ADLER: How is that going to work? Do you see what I'm getting at?

CHAIRMAN AUGUSTINE: Ms. Shipman.

MS. SHIPMAN: That's the fishing year. The fishing year begins May 1 and it will run until April 31, 2002. That would be the fishing year, unless we changed it in whatever plan we come up with. It doesn't say for fishing beginning May 1, 2001. It says the fishing year. So, whenever we adopted the plan, be it July, that would be the next meeting after the April meeting, and we don't have it budgeted to have any additional meetings -- I want to put the Board on notice now to that end -- that whenever it went in, it would kick in in whatever fishing year we're in. And I interpret that to be the 2001 fishing year.

CHAIRMAN AUGUSTINE: Thank you, Ms. Shipman.

MR. ADLER: Could I just --

CHAIRMAN AUGUSTINE: Yes, please.

MR. ADLER: So, therefore, what we're saying here is that in April, at the April meeting there will be a document that we could, let's say, approve to go to public hearing, which will mean that the next time it can be approved to actually be implemented would be at the next ASMFC meeting, which is somewhere in the summer?

DR. DESFOSSE: Yes, that's my understanding.

MR. ADLER: So the earliest it could then kick the emergency action out would be somewhere, let's say, August?

CHAIRMAN AUGUSTINE: That's fine. Mr. Borden, Mr. Munden, Mr. Travelstead, Mr. Lesser.

MR. BORDEN: Thank you, Mr. Chairman. This same subject that Bill Adler has been talking about has been troubling me. I mean, the timing sequence of all this just seems incredibly awkward. Put yourself in the position of a member of the public, and we now have a document with a series of options. And what we're saying is we're going to go out to them in a PID and essentially solicit their input. Then after that, we come back and in April we will flesh out probably something quite similar to that. And then you're going to take it out to public hearing again after that in April.

And I just think that the situation here is slightly different than -- I mean, that process follows our normal PID process is what has been described here. And what

I envisioned, when we first got engaged in this when Gordon made his motion, that the intent here was to adopt a set of regulations via emergency action for this coming season, which to me spells out a slightly different process.

The process that I would envision would be that we would take this document, we would take it out to hearing. We would come back after a series of hearings, and at the April meeting essentially formalize a position which would be adopted by emergency action for implementation this year.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. Mr. Colvin, would you respond to that please?

MR. COLVIN: What Mr. Borden just outlined is what I had in mind when I made the motion. Obviously, that contemplates that we can complete the public information document, review it without a meeting and approve it for purposes of commencing public review. I think that that's possible, given that we've had an options paper before us and we reviewed it and commented on it at today's meeting and given direction to staff for some additions and deletions. And then it's incumbent on the members of the Board to accommodate the public comment and hearing process and to conclude it in a timely fashion and report before the April Board meeting.

Now, it occurs to me that if that doesn't happen, for whatever reason, consistent with Dr. Pierce's prior comments, all may not be lost in that we are scheduled to meet again in July and I guess the fishery starts around that time of year?

So, there would still be an opportunity perhaps to take some action, albeit later than we would have liked to, at that next meeting week opportunity. But I think the preferred course is try to get this done in April.

CHAIRMAN AUGUSTINE: Thank you. Does that take care of your concern, Mr. Adler and Mr. Borden?

MR. ADLER: I think that's closer to what I had in mind, was that April we make a decision.

CHAIRMAN AUGUSTINE: Excellent, thank you. Mr. Munden, you've been waiting and then Mr. Travelstead.

MR. MUNDEN: Thank you Mr. Chairman. To address or to spread some light on Mr. Freeman's comments about the permit, I assume that New Jersey has implemented regulations that would require the fishermen to have the federal permits?

I certainly do not want to speak for the National Marine Fisheries Service, but the communication that we've had with members of the National Marine Fisheries Service have indicated that the spiny dogfish

permits, the federal permits, are open access permits, and should a fisherman give up his permit to fish in state waters, such as the fishery that I described earlier, the experimental fishery in North Carolina state waters, there's nothing that prevents that fisherman from getting that permit back.

Now, of course, Ms. Kurkul might want to respond to the amount of time it may take to get the permit, but they are open access permits.

CHAIRMAN AUGUSTINE: Thank you for that information. Mr. Travelstead, you had your hand up earlier.

MR. TRAVELSTEAD: Yes, a different issue. Hardly a week goes by that I don't hear from some fishermen in Virginia indicating that dogfishing is still occurring in some state up and down the Atlantic Coast. In fact, in some cases it's Virginia fishermen who have said they've been in other states fishing. Can staff tell us now, are all the states in compliance with the existing emergency rule to close their waters?

DR. DESFOSSE: I don't have anything in front of me. From my recollection, there were a number of states that were not going to be able to comply with the deadline. There were some states that were in the process of implementing regulations. I recall off the top of my head that I received information from Rhode Island that they had implemented the regulations. I don't recall seeing anything from New York, New Jersey or New Hampshire, I believe.

CHAIRMAN AUGUSTINE: Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. I would just say that since I did have some of those constituents, that I extended my influence further south than most people have to the great state of Virginia fishing up in our area, they have been sent packing and we are closed.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson, we were going to try to find you out of compliance. Mr. Lesser, you've been very patient.

MR. CHARLIE LESSER: I don't know if it's the time, but if something like Option 5 is in the PID, will there be provisions discussed for de minimis for those states that have little or no landings?

CHAIRMAN AUGUSTINE: Dr. Desfosse, can you address that?

DR. DESFOSSE: If that's what you want in there, we can try.

MR. LESSER: We would like it. I'm sure Georgia, Florida and South Carolina would like it, too.

CHAIRMAN AUGUSTINE: Do I see some other heads around the table nodding yes, we should put that in there? Yes, we will include that and direct the staff

to do so. Any other hands? Mr. Flagg.

MR. FLAGG: Getting back to my issue about permitting for the small collections of spiny dogfish, I'd like to offer a motion to address this issue. Tina has it and can put it up on the board, but I'll read it.

My motion is **move that closure of the spiny dogfish fishery by Commission action shall not prohibit states from permitting the collection of spiny dogfish for biological or biomedical research purposes. States shall annually report any landings under this exemption provision to the Spiny Dogfish Board.**

CHAIRMAN AUGUSTINE: Thank you. **We have a second, Mr. Abbott.** Discussion? Mr. Freeman.

MR. FREEMAN: I would **ask to make a friendly amendment to include biological supply to that list** that Lew had read. I think he said biomedical

MR. FLAGG: That's what I meant. That was my intent.

MR. FREEMAN: All right, I just think that needs to be inserted.

CHAIRMAN CARPENTER: Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. Mr. Freeman made the motion I intended to make.

CHAIRMAN AUGUSTINE: Thank you. Further discussion from the Board? Dr. Desfosse.

DR. DESFOSSE: Can I just ask a question? Is there an upper limit to this level or is it openended?

CHAIRMAN AUGUSTINE: Good question. Mr. Flagg, any comment on that?

MR. FLAGG: I didn't include any in there. My intent, by making sure that people had to report those, would be that if, in fact, we do run into a problem, then states that did this would be required to report; that we could review those annually and if we did see a problem, we could certainly put a ceiling on that. But I didn't have any particular number in mind at this time.

CHAIRMAN AUGUSTINE: Thank you, Mr. Flagg. Any further comments? Mr. Manus.

MR. ANDREW MANUS: A question for Mr. Flagg. Do you have the ability under your scientific collecting permit to limit the number of --

MR. FLAGG: Yes, we can put restrictions to limit the numbers or the locations and so forth. I might add that the folks that are doing the research now, because they are aware of the problem with the dogfish stocks in terms of the female component, they're focusing on using males only in this research because the sex doesn't make any difference in terms of the research activity.

CHAIRMAN AUGUSTINE: Thank you, Mr.

Flagg. Any further comments or questions? Caucus. Nothing? Seeing no negative interest in doing anything, shall we move to -- we will have a voice vote then? All in favor, say aye; opposed; abstentions; null votes? One abstention. Null votes? **Passes.** Thank you. Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. I'd like to raise another issue. A number of states, and Rhode Island is not one of them, but a number of states have raised the subject of somehow redirecting the fishery on the male dogfish. And I guess a question and then a statement, has the Technical Committee looked at that specific issue in terms of the desirability of moving the fishery away from the adult females? And then after I get a response to that, I want to make a statement.

CHAIRMAN AUGUSTINE: Dr. Desfosse.

DR. DESFOSSE: Your Technical Committee has not met specifically to deal with any issues charged from the management board. They did have one meeting in conjunction with the Council Technical Committee.

MR. BORDEN: Well, on that issue then, have either of the Councils' Technical Committees or the Center staff looked at that specific issue? I mean, we've got a group of industry representatives who seem to want to pursue that in particular. And if it is a viable strategy for us, I think there should be some deliberation on it today.

DR. DESFOSSE: I'd have to defer to someone who has attended more of those meetings. I've only been to one of the Council Technical Committee meetings.

CHAIRMAN AUGUSTINE: Mr. Munden, would you please?

MR. MUNDEN: Thank you, Mr. Chairman. Mr. Borden, this came up before the Joint Spiny Dogfish Committee several times, and we have industry representatives on the committee. And they were divided. Some of them said it was impossible to target the males only with gillnets. And other fishermen said they thought they could fish around them depending on the mesh size and twine diameter.

And the information that we have received from the fishermen concerning the North Carolina fishery indicates that the ratio is about nine females to one male. And so we realize that if you go out and try to target the male, you're going to probably end up with a lot of bycatch of females.

But work that also has been recently done off North Carolina indicates that the survival rate of spiny dogfish in gillnets is quite high. And the information

that we received when we were developing the plan was that discard mortality in gillnets was 75 percent, I believe. And the information that has been made available to me, which I have passed on to the Northeast Fishery Science Center, indicates it's somewhere below 20 percent. I don't remember the exact number. So, there is a possibility that you will be able to target the males and release the females in pretty good shape.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Borden, your follow up?

MR. BORDEN: Yes, I would just like to follow-up on that, Mr. Chairman, that I appreciate those comments, but it seems to me that one of the things that we want to strive for here is to move the fishery away from the females. Now, I don't have a crystal ball, and I can't sit here and formulate a strategy to accomplish that, but I think that it's incumbent upon all of us to try to think out of the box here. And I also would suggest that we have the potential here to set up some kind of mechanism in this amendment that would reward states and areas that could figure out a way to do that.

And I just use the example, if for some reason the fishermen of Eastern Maine have an area where they can target male dogfish and not have a large discard mortality, and they're the only area any place in the country that can do that, it seems to me that we should somehow figure out a way to facilitate that to allow that to take place.

So, I'd like to see some discussion on the part of the other Board representatives on this. But I, personally, would be receptive to try to build that type of provision into the document we're going to set out to allow the industry, at least, the opportunity to comment on it.

CHAIRMAN AUGUSTINE: Thank you very much, Mr. Borden. We have Dr. Pierce, Mr. Schwaab and Mr. Nelson.

DR. PIERCE: Yes, I agree with David. It should be in the document and we should be in a position to promote a fishery on the males. And I say that because the last assessment for dogfish indicated that there is a very large abundance of males. Female abundance, of course, has dropped off and that's the reason for all of our concern. But when you look at total dogfish biomass, male and female, it still is extremely high; to the extent that, well, in the New England area we are seeing some rather severe discard problems in that boats are out fishing for groundfish with gillnets in those few areas where there are allowed to fish, and they're dogging up.

I get reports of tremendous amounts of discards,

40,000 pounds one trip here. It's a significant problem that is a problem that I identified for the benefit of Joe earlier on when we began to think about what ASMFC should do for management of dogfish, and one of those issues that we'll need to address, eventually need to address is how in the world do we deal with the increasing discard problem that we will witness with dogfish as we rebuild the biomass to very large levels.

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

MR. ERIC SCHWAAB: Thank you, Mr. Chairman. My comment is along a similar line. I just wanted to first confirm -- and it sounds like that's true -- that some of these other issues that are raised at the back end of this public information document will, in fact, be captured. And I would hope and raise somewhat of a question to staff that they can be captured in such a way with a little more detail to discuss some of the biological implications and some of the opportunities to address just these kinds of issues would be addressed.

Now that takes me back to, I think, what is a question. And I think that I heard that we might now be shifting to a track whereby this public information document would be somehow prepared and reviewed outside of a meeting and sent out. And I wanted to confirm that was the case in question; what the process would be for providing input and assurances from the Board.

DR. DESFOSSE: I have that same question, too. I was going to ask the Board what kind of process they wanted to follow, whether you wanted to delegate it to a subcommittee again or did you want to see a copy of it and approve it by fax?

CHAIRMAN AUGUSTINE: Mr. Schwaab.

MR. SCHWAAB: I personally would like to see a copy. I'd certainly be comfortable with the subcommittee drafting it.

CHAIRMAN AUGUSTINE: Okay, thank you. Could we ask the subcommittee to continue their effort and follow on to flesh it out and finishing off with that document, and then have that passed out to all the Board for review? No nods of negative, so, yes, we'll do that. Thank you, staff. Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. Just to go back to the comment that Dave Borden and others have made, and I get the sense that rather than spending much time on it, that there's a consensus to have that flexibility in the document, and the subcommittee would certainly work on that to flesh that out.

I would just point out that that would be in sync with what at least the New England Council was

looking at as one of the options available in their plan, if possible, without injuring the overall stock, to have some redirection into males, as much as I hate to see males necessarily directed on.

CHAIRMAN AUGUSTINE: Thank you. Ms. Shipman and then Mr. Borden.

MS. SHIPMAN: A different topic that follows on the heels of, I guess, the discussion of the end of the last meeting, where are we on the Advisory Panel? I mean, are we ready to get them active? It's just I'm not sure where we are.

CHAIRMAN AUGUSTINE: Ms. Berger. She nods her head, yes, emphatically, yes. We've got to move forward with this. Can we pass over a microphone to Ms. Berger, please?

MS. TINA BERGER: I think two Board meetings ago, the Board approved provisionally the spiny dogfish advisors that I had listed out for you that I got from the Mid-Atlantic and New England Fishery Management Council. I then sent a memo to all those states. I have not heard back from anyone, but I'm assuming that if they had any problems, they would have let me know. And the Panel is ready to meet whenever the Board wants to call upon it.

CHAIRMAN AUGUSTINE: Thank you, Ms. Berger. Mr. Munden, may I ask you whether or not the option that has just been discussed by Mr. Borden and Mr. Nelson is a part of the Mid-Atlantic plan, also? Do you know off the top of your head without --

MR. MUNDEN: I think it is, Mr. Chairman.

CHAIRMAN AUGUSTINE: Okay, fine, thank you very much. Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. I would just ask that in order to expedite the deliberations in April, that staff work with the National Marine Fisheries Service to consolidate any type of technical information and scientific information on this issue of redirecting effort on dogfish, if we so desire to take that step, there's a firm scientific basis for taking that step.

CHAIRMAN AUGUSTINE: The staff will do that. Thank you very much. Any further comments? Mr. Busch.

MR. BUSCH: Thank you, Mr. Chairman. We talked about timelines, we talked about money, we talked about staff time. I'm mostly concerned about staff time. Joe is also going to be working on the Menhaden Plan to finish that. And as such, I would request and plead that our Board members who have Tech Committee members on this activity, that they make sure that they can have the time to work with Joe so that Joe is not left trying to do this in his spare time. Thank you.

CHAIRMAN AUGUSTINE: Thank you very much, Mr. Busch, and hopefully the states will heed that advice. Dr. Pierce.

DR. PIERCE: It's a very fair request from Dieter in light of what happened yesterday with menhaden and Joe's other obligations, that certainly Massachusetts will make our staff available; Steve Correa, for example, to assist in any way possible to make sure that all the nuts and bolts are taken care of. I'll assist in any way possible as well. And if there are any Board members who desire to have a one-on-one briefing regarding the analysis and all of the implications thereof, feel free to contact me. I look forward to it. Dogfish discussions are a major part of my daily responsibilities.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. We think you would be failing if you didn't go forward with that. Back to Joe, I think we're pretty close to through with Item 7. You had one more item or two more items, Joe.

DR. DESFOSSE: I've got a question for Board members. The subcommittee discussed this, not in detail but for a little while, regarding Table 1 and the landings that are reported from the NMFS commercial web page, commercial database web page.

For 1998 and 1999 there seems to be -- and this plays into what reference period you choose, but the 1999 data seemed to be suspect when I first put this together. And the question that I had for Board members was do you feel that there was a significant change in the fishery or this may just be an artifact of the dataset, given the differences between the weigh-out data and the web page data in the previous years?

CHAIRMAN AUGUSTINE: Thank you, Dr. Desfosse. Seeing no further business along this line -- Mr. Nelson and Dr. Pierce.

MR. NELSON: I don't know, Joe, on 1999. I didn't get the sense that there was a real change in our industry's efforts, so it may have just been some seasonality associated with the fisheries. I would suggest, though, that what we should be doing is continue to try to get the weigh-out data and then bring that back to the Board so they can make a determination on which one they'd like to use. At least there would be a basis for that. And if we can't do it for '99 and we can do it for '98, then you'd just be making a determination of which year do we want a cutoff for those other tables that we have.

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

DR. PIERCE: I would think between the next few weeks, anyway, between Dr. Paul Rago, the Northeast

Fisheries Science Center, and Steve Correia, and others who are involved in the assessment activities that relies on landings, we can see if, indeed, there is a problem here. It does look a little bit odd, 1999, and it does bear some examination.

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

MR. COLVIN: Mr. Chairman, I think our '98 landings are what's wacky here and I'm not sure why, but that's certainly something we need to look into and report back to the staff.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Any other comments by the Board? Okay, at this point in time, before we go on to the report from the National Marine Fisheries Service and their presentation, because we are running a little ahead, thank you very much, are there any public comments? Mr. Mears first and then we'll take public comments.

MR. MEARS: Thank you, Mr. Chairman. Very briefly, comments were made at this meeting as well as preceding meetings that it takes money and staff to obviously write fishery management plans, and that's an understatement.

I think the record should show that this is the second year in a row where we have a state-federal grant program where a state has released its appropriation under the interjurisdictional fisheries act, in fact, to allow the Commission and its member states some degree of fiscal resources which would otherwise not have been there. And the state of Delaware for two years now has done this, and for the second year this recently happened as recently as last week. So, I think the Board should express its appreciation in that regard. Thank you very much. (Applause)

CHAIRMAN AUGUSTINE: Hear, hear for Delaware. Are there any other comments around the Board? All right, we had a gentleman who had his hand up in the back. Please identify yourself.

MR. RICK ROBINS: Mr. Chairman, thank you. Rick Robins representing Chesapeake Bay Packing. One of our primary concerns -- first of all, I'm very pleased and encouraged to see that the Board is considering moving towards a small directed fishery. I think there's no question that the economic impact and the socio-economic impact of this federal FMP has just been a death blow to many day boats up and down the coast and certainly to the five or six processing companies that have historically processed dogfish in recent years.

The consequences of it have been tremendous. I mean, at its peak in 1996 this fishery had a value to the processing industry of about \$46 million. So the

consequences of that are just really being felt very hard right now, certainly by the Virginia day boat fleet.

And I guess one of my biggest concerns is that it's been brought up that if you do go forward under an Option 5 scenario and have a coastwide allocation of the state water fishery, which I think is a good idea, unfortunately, as Mr. Freeman pointed out, many of the boats that participate in the fishery already have federal permits. And I think that includes the majority of the Virginia boats. So most of those boats under this scenario would be left out of the loop, and they would not be able to participate in that fishery.

And I don't know if the mechanism for allowing them to get into that fishery is simply that they're required to surrender their federal permits, and if they can do that, or if there's another solution or adjustment that can be made in the federal FMP that would allow federally permitted vessels to participate in these state water fisheries. I don't know if NMFS representatives could speak to that as being a possible solution, but we're certainly concerned. I mean, the boats that have the history of participation in the fishery are the boats that capitalized the fishery. They have the investments and they're the ones that are suffering the losses. And if they can't participate in this fishery going forward -- and I think this fishery, I think you're headed in the right direction by having a small directed fishery.

I think the bycatch management scenario makes it a worthless quota at the federal level, because 300 pounds a day obviously doesn't cover fuel. A processor can't process. The infrastructure over time would certainly be lost. And I think this is the way to go, but, obviously, it's a significant consideration for the boats that already have a history of participating in the fishery.

CHAIRMAN AUGUSTINE: Thank you for that. I'll ask Ms. Kurkul if she could respond to that relative - - I'm sorry, Mr. Mears, would you respond to the question about turning back the federal permit and what would be the possibility of getting it back and what would be the timeframe within which that could handle and how would it effect those folks that do that? Mr. Mears.

MR. MEARS: Under the current regulations, in fact it is possible to turn in your permit and then request reacquisition of that permit. I personally don't think that's the way to properly manage a fishery.

What we need is exactly on the road we're going down, where we're talking about a collaborative approach through Amendment 1 in collaboration with the Mid-Atlantic Council and New England Council where, in fact, a rebuilding strategy can be identified.

And potentially, it's too early to prejudge exactly how this would happen, but I think the potential is there, if, in fact, a directed fishery could be at least evaluated which would target on the smaller males, would certainly all be to the benefit of what we're all trying to achieve under this joint partnership.

But at the current time, unfortunately, we're stuck in the dilemma where, as you indicate, there are socio-economic impacts which are happening concurrently with something that's going on very seriously in the resource concerning juvenile recruitment; the abundance of pups in the population and the paucity of larger females. And collectively, I think this is a challenge which, not only the National Marine Fisheries Service, but the Councils and the Commission, needs to face with development of Amendment 1 to the plan.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. Does that answer your question?

MR. ROBINS: I think it does. So your saying that possibly under Amendment 1, if it's a collaborative plan, then these fishermen could allowed to participate in either federal or state waters?

CHAIRMAN AUGUSTINE: I think that's what Mr. Mears said.

MR. MEARS: That needs to be part of the dialogue in ways that could happen.

MR. ROBINS: Thank you very much.

CHAIRMAN AUGUSTINE: Thank you very much. Any further comments from the audience? I'd seen a hand earlier. Sonja, please, and then the gentleman in the back. Ms. Fordham.

MS. SONJA V. FORDHAM: Sonja Fordham, Center for Marine Conservation. I have some excerpts from some earlier prepared comments, if you'll indulge me. All of you should have received a letter on these topics from a diverse coalition of environmental, educational, scientific and fishing groups. If not, there are copies in the back of the room.

Our organizations continue to be gravely concerned about the status of the spiny dogfish resource and its management. We continue to urge state action that's consistent with the federal plan and rejection of any actions that would undermine that plan. Contrary to what I've heard today, the alternative constant harvest approach is not equivalent to the current rebuilding plan as scientist, technical experts and NMFS managers have warned. This strategy brings greater risk to the exceptionally vulnerable and overfished stock as its purpose is to raise the quota and allow for directed fishing.

We ask that you consider the following factors while evaluating the alternative strategy. First, it is

important to, again, stress that any directed fishing for dogfish that would be allowed would be focused on the largest female dogfish left. This segment of the population is essential to rebuilding the fishery, has been seriously depleted, remains in decline. As a result, the stock has been exhibiting recruitment failure for the last four years.

Based on this scenario both Councils voted more than a year ago to establish an FMP that would end the directed dog fishery and recover this stock. Since they made that decision, stock status has only worsened, and the timeframe that's needed to recover the stock has nearly doubled.

Secondly, this alternative did not take into account the massive overages of the 2000 dogfish quota. This overage cuts further into the spiny dogfish female, the supply of fish that's intended to rebuild the stock, and the overage will not be deducted from the 2001 quota.

Thirdly, the constant harvest strategy and its risks will be, as you've heard, fully examined and debated by both Councils and their Joint Dogfish Committee as part of Amendment 1. We hope that that examination will take place against a back drop of an updated assessment for the stock. And as you've heard, this lengthy process is only just beginning. For all of these reasons, we feel strongly that enacting this risk-prone strategy before it is adopted or even considered by the Councils is exceptionally premature and inappropriate.

It will also undermine the long overdue federal plan for one of the most biologically vulnerable animals that's fished in the Atlantic. I'll just add that you're about to hear a report on the nation's national plan of action pursuant to the 1999 United Nations Food and Agriculture Organization's international plan of action, or IPOA, for the conservation of management of sharks. This extraordinary global agreement came about as a result of widespread and growing awareness that long-lived, slow-growing sharks have exceptionally limited reproductive potential and therefore are susceptible to overexploitation.

The agreement recognizes that this special group of fish warrant cautious and pro-active management rather than a low priority and inadequate controls that have built a history of shark depletion worldwide. I would add that this history includes the collapse of the spiny dogfish fishery and population in Europe, the region that now generates demand for U.S. dogfish.

Lastly, I would just urge caution. The male dogfish are not in as much trouble as the mature females, but they are still slow growing and long lived, and they are not inexhaustible. I would also urge caution with the research permits for dogfish to ensure

that that does not further damage the stock. Thank you.

CHAIRMAN AUGUSTINE: Thank you very much, Ms. Fordham. Any other comments from the audience? The gentleman in the back. Please identify yourself.

MR. CHRIS LUDFORD: I just want to reiterate the comments from -- Chris Ludford, commercial fisherman from Virginia Beach, Virginia. And I wanted to reiterate the appreciation for a continued fishery as part of the management plan.

I don't think that a total, full stop on this is warranted in the rebuilding of the stock for something that takes, potentially, twenty years to grow, that is also beneficiary that has been, I guess, capitalized -- suspect capitalized in just five years; that quite possibly we might look into that continued fishery and incorporate it into the management plan. I just wanted to comment that for the record.

CHAIRMAN AUGUSTINE: Thank you for that. Any further comments from the public? Mr. Cupka, please.

MR. DAVID CUPKA: Thank you, Mr. Chairman. I just wanted to mention now in regard to Ms. Fordham's comments and the letter she referred to, it's my understanding, I believe, that the letter was sent out to the Administrative Commissioners and not all the Commissioners.

And indeed if that is the case, I would urge them in the future, when they send out letters like that, that they try and send it to all the commissioners and not just the Administrative Commissioner.

CHAIRMAN AUGUSTINE: Thank you very much. Ms. Fordham just a point for you. Any other comments or questions? Dr. Desfosse.

DR. DESFOSSE: Since the Board is basically going back to the public comment agenda item, I just wanted to mention at this time that since sometime on Friday the Commission has received 1,258 e-mails regarding the protection of spiny dogfish. They're one page e-mails. They're all going to Tina.

CHAIRMAN AUGUSTINE: Doesn't she have to respond to them?

DR. DESFOSSE: No, I think they get forwarded to me. I just wanted to bring it up to the Board's attention.

CHAIRMAN AUGUSTINE: Thank you very much. Without any further ado, we'd like to introduce Margo Schulze-Haugen, who is going to give us a presentation from NMFS on the national plan for action for sharks.

#### NMFS NATIONAL PLAN OF ACTION

MS. MARGO SCHULZE-HAUGEN: Thanks very much. As said, my name is Margo Schulze-Haugen. I work with the Highly Migratory Species Management Division in the Office of Sustainable Fisheries for NMFS here in Silver Spring. And I'll be touching on three things; the National Plan of Action, which at this time is sitting on a desk waiting for the Bush Administration to give it its nod.

So, I don't have copies for you, and I do hope that it will be released very soon in the next few weeks before, obviously, the next meeting of the FAO Committee on Fisheries. And at that time I will mail around and make sure everyone gets copies of it. I'll also be talking briefly about the settlement agreement in the shark litigation, which has been under way for almost three and a half -- well, it was under way for three and a half years; and wrap up on exempted fishing permits status and some of our upcoming rulemaking.

The International Plan of Action, as Sonja mentioned, was an international agreement. It was endorsed by the FAO Committee on Fisheries in February 1999, and it builds on the code of conduct for responsible fisheries.

It is for sharks, skates and rays inclusive. It is a voluntary measure, meaning that no nation is required to do it; although the plan calls on nations to develop a national plan if they have directed shark fisheries or regularly catch sharks incidentally or as bycatch.

The U.S., obviously, has several directed shark fisheries on the Atlantic as well as Pacific Coast and significant fisheries that catch sharks as bycatch. So the National Marine Fisheries Service took the lead in developing the national plan and in trying to meet the overall goal of ensuring conservation in the management of sharks and their long-term sustainable use.

The international plan objectives, there are ten of them. I'm not going to go into all of them, but hit the highlights: improving species-specific information on catch landings, trade, biological information. Landings on sharks globally remain sparse, incomplete and sometimes questionable to species identification. And so, improving that basic database is a high priority. Ensuring that the catches in directed and incidental fisheries are sustainable; protecting habitat and biodiversity and identifying and protecting vulnerable stocks and minimizing waste and unutilized catches. The plan is that the U.S. must report at the next COFI meeting in February.

And so that's why we were obviously finishing it up as soon as we can. The National Plan of Action, the draft



was issued this summer. The comment period ended September and we have incorporated public comments. It outlines the U.S. management authority, which remains the Magnuson-Stevens Act for most parts, and so we outlined the International Plan of Action goals with our authority to implement things under the Magnuson-Stevens Act.

And we identified the needs and implementation of a number of things, going through what the content ideally would be for data collection, assessments, the need for management measures and how to determine that, research and mitigation measures, if there's high bycatch or other issues, limitations on fishing capacity.

NMFS is currently preparing an overall assessment of federal fisheries capacity and so we urge other groups and states to participate and look at that. We're trying to emphasize outreach and education as well as reporting and monitoring.

We do, at this point, request updates from states and commissions as well as councils on a two-year cycle so that we can incorporate that information in our reports, the U.S. report to COFI.

We also identify management principles with guidance on implementation and prioritization. These include adopting the precautionary approach, trying to protect sensitive life history stages or sizes, particularly juveniles and subadults and their habitats, which would include a lot of the nursery grounds that are in state waters.

We also look at trying to identify particularly vulnerable species. As you may know, the federal regulations now prohibit possession of 19 species that we have identified as being particularly vulnerable, as well as encouraging -- well, it's not encouraging anymore.

The Shark Finning Act was passed the beginning of this month. It requires the federal government to ban finning in all U.S. waters. This has been done in the Atlantic and Gulf of Mexico since '93. It will be a new measure in the Pacific.

And so we look to non-federal agencies and management entities to implement similar consistent regulations. And also give some guidance, as much as we can, on prioritization of limited resources.

We are aware that the plan is very ambitious and there's not always money or people enough to go around. So we've tried to lay out some guidance, at least, on ways to approach those limited resources.

There's a brief summary of fisheries, management and research needs for the Atlantic and Pacific fisheries. This is as brief as we tried to make it. It's still quite long. As well, summarize initiatives on

regional and international measures through the different international management bodies.

And it requires reporting for federal fisheries through the stock assessment and fishery evaluation or SAFE reports annually. And we're looking to work with states and commissions on reporting every two years so that we can report back to FAO.

And so, at this point I'll jump to the settlement agreement that was reached. As you may know, we reduced the large coastal shark quota by 50 percent in 1997. We were sued on that; and when the Magnuson Act changes came about in '96, we implemented the HMS or Highly Migratory Species Fishery Management Plan.

We were also sued on several of the commercial shark measures in that. In June of '99 we were enjoined from implementing many of those commercial shark measures. So, they have not been in place, although many of the recreational shark measures have been in place since that time.

And so in late November the parties did reach agreement. And I'm including this here because it does have implications for long-range planning and what the Commission may choose to do. The terms of the settlement agreement are that the 1997 commercial quota level will be maintained pending an independent peer review of the 1998 stock assessment. The '98 stock assessment was the basis for the measures in the HMS plan.

That is under way. We expect to get the peer review completed this spring. If the peer review upholds the science, basically finds that the stock assessment was appropriate, used the best available information, then the measures in the FMP that have been enjoined, we would be allowed to go ahead and implement them this summer.

If the science is not upheld, that higher quota would be maintained pending a new stock assessment and subsequent peer review. The large coastal assessment will next occur probably this summer or fall.

For small coastal sharks the 1997 commercial quota level will also be maintained pending a new stock assessment. And again that will occur this year, probably summer/fall depending on the timing with the large coastal assessment.

Other conditions are pursuit of historical fin data, technical assistance as much as those can provide for interested parties to pursue a permit or vessel buy-out program in consideration of a sentinel or research fishery using commercial vessels as a platform.

So, it includes actions by both parties as well as timelines for actions and NMFS actions based on that.

So, it's available. If you would like a copy, let me know.

And lastly, I'd like to just close up by saying that we issued an attempt to issue exempted fishing permits. This is different from experimental fishing permits that you were talking about before.

The exempted fishing permits are for basically exemptions from regulations for the purposes of public display in aquariums, educational institutions and often involves exemptions for a prohibited species such as sand tiger sharks; or if the commercial fishery is closed, it allows collections outside of the season.

That notice was published, I believe, early this month. Those permits are normally issued for a year, but because we intend to revisit the regulations in the process this spring, they would only be good until May 31<sup>st</sup>. And so at that time we would reissue the permits under the new regulations that we're working on now. The proposed rule would address tracking and accounting concerns.

We're hoping to talk to states through the Commission as well in addressing some of the concerns that have come up over the last several years with double dipping, where people are permitted in federal waters and also permitted in state waters for basically the same fish, so they get to catch them twice.

And the contact for this is Sari Corrally in the HMS division. She's sitting over there. If you want to talk to her about this, she's available. So, that's what I have to say. It's short and I will be getting you the National Plans of Action as soon as I can.

CHAIRMAN AUGUSTINE: Thank you very much. Are there any questions from the Board members? Yes, Ms. Shipman and Mr. Borden.

MS. SHIPMAN: Margo, on the large coastal quota, if it were to be implemented, reimplemented, reinstated, the one based on the '98 stock assessment, is the intent to have that resolved by the July 1 onset of the second portion of the quota?

MS. SCHULZE-HAUGEN: Our hope is to have the peer review done in time so that we would be able to put -- it would probably have to be an emergency measure, but we would be able to go ahead for the second half.

MS. SHIPMAN: Our state would like to urge y'all to do that.

MS. SCHULZE-HAUGEN: Well, we would like to as well. Like I said, the Peer Review is under way. We are bound to have -- well, we to wait for that to be completed.

MS. SHIPMAN: As you know, that affects bycatch issues off of our state; and the longer that

fishery stays open, the more severe those problems are.

CHAIRMAN AUGUSTINE: Thank you. Mr. Borden.

MR. BORDEN: Thank you. Margo, under this last item, are these both collection and possession permits; is that what they are?

MS. SCHULZE-HAUGEN: Well, yes. Basically, they allow possession.

CHAIRMAN AUGUSTINE: Are there any other comments from the Board? We thank you very much, Margo. It was a very informative presentation. Okay, at this point in time we would like to move back to Dr. Desfosse on the staff overview of the long-range planning schedule.

### LONG RANGE PLANNING OVERVIEW

DR. DESFOSSE: Well, based on the actions that the Board took earlier today, the long-range planning that staff had put together -- you've have seen these tables earlier before, it was included in your packet -- laying out the proposed management program for spiny dogfish on a quarterly basis for each year. These are working documents. They're constantly updated. So what I'll have to do now is, based on the earlier actions, go back in and readdress the milestones that are included in here.

Basically, what I earlier thought was going to happen was that the PID hearings would have taken place this spring and you would have had final approval of a new FMP sometime in the summer of 2002. Obviously, that's going to change based on the actions that you took. So, its for informational purposes only.

CHAIRMAN AUGUSTINE: Ms. Shipman.

MS. SHIPMAN: I just note I have concerns about what we've done today relative to the action plan that we've laid out and relative to the other issues that are on the platter for Dr. Desfosse; red drum being one of primary interest to those of us in the South Atlantic. And I want us to really think about this. We can't continue to accelerate schedules and basically override all the planning that we have done.

CHAIRMAN AUGUSTINE: Thank you, Ms. Shipman. Any other comments from Board members? Would you bring that up again in your ISFMP?

MS. SHIPMAN: I'm sure I will.

CHAIRMAN AUGUSTINE: I'm sure you will, too. Thank you very much for that. Joe.

DR. DESFOSSE: One other thing. It just struck me that if it's the intent of the management board, after you have this first round of public hearings, to replace the emergency action with a new emergency action

implementing measures for the 2001/2002 fishing season and then continue on the schedule of developing the FMP, that might not be as much of a burden. I'd have to check with Jack and see if that's doable, too.

CHAIRMAN AUGUSTINE: It sounds like it might be a doable thing. Mr. Borden, would you want to comment on that? Do you think it's fine? I think that's what we discussed. Thank you. Do we have any other business to come before the Board? If not, we'll entertain a motion to adjourn. All in favor, say aye; opposed, nay; any null votes on that one? Meeting adjourned and thank you very much for your sticking to the agenda.

(Whereupon, the meeting was adjourned at 3:15 o'clock p.m., January 31, 2001.)

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