

ATLANTIC STATES MARINE FISHERIES COMMISSION

Adams Mark Hotel      Clearwater Beach, Florida

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

October 16, 2000

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ATLANTIC STATES MARINE FISHERIES COMMISSION

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SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

October 16, 2000

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**Attendance**

Board Members:

Pat Augustine, NY Gov. Appte., Chair

Ritchie White, NH Gov. Appte.

Bill Adler, MA Gov. Appte.

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

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

Gordon Colvin, NYS DEC

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

Larry Simns, proxy for Del. Guns, MD Leg. Appte.

Jack Travelstead, proxy for William Pruitt, VA MRC

Damon Tatem, NC Gov. Appte.

Susan Shipman, GA Coastal Res.

Bob Palmer, FL F&WCC

Bill Cole, USFWS

George Lapointe, ME DMR

Dennis Abbott, NH Leg. Appte.

Dr. David Pierce, MA DMF

David Borden, RI DEM

Ernest Beckwith, CT DEP

Bruce Freeman, NJ DF&W

John Connell, NJ Gov. Appte.

Eric Schwaab, MD DNR

Pres Pate, NC DMF

David Cupka, SC Gov. Appte.

Ralph Balkcom, GA Gov. Appte.

Kathy Barco, FL Gov. Appte.

Harry Mears, NMFS

Ex-Officio Members:

Col. William McKeon, MA, LEC Rep.

Other Commissioners:

Staff:

Dr. Joseph Desfosse

Dieter Busch

John H. Dunnigan

Tina Berger

Guests:

Bob Ross, NMFS

Larry Simns, MD Waterman's Assoc.

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

Spiny Dogfish and Coastal Shark Management Board

October 16, 2000

**SUMMARY OF MOTIONS**

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

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

**2. *Motion to approve the minutes of the August 21, 2000 Board meeting.***

**Motion by Ms. Shipman, second by Mr. Cupka The motion carries by voice vote.**

# SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

Adam's Mark Hotel

Clearwater Beach, Florida

October 16, 2000

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The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Fisheries Commission convened in the Ballroom of the Adam's Mark Hotel, Clearwater Beach, Florida, October 16, 2000, and was called to order at 1:10 o'clock p.m. by Chairman Pat Augustine.

## WELCOME/INTRODUCTIONS

CHAIRMAN PAT AUGUSTINE: I would like to call the meeting to order. I'd like to welcome you here this afternoon. We've got a very full schedule. It's going to be a very short meeting unless we have some major problems. And I'd like to turn the meeting over to Joe for a roll call, please. (Whereupon, the roll call was taken by Dr. Joseph Desfosse.)

## APPROVAL OF AGENDA/MINUTES

MR. AUGUSTINE: Thank you, Joe, we have a quorum. I look for a **motion to approve the agenda**.

MR. BILL COLE: **So move**.

MR. AUGUSTINE: Any corrections or changes? So moved by Mr. Cole. Second?

MR. WILLIAM A. ADLER: **Second**.

MR. AUGUSTINE: I trust you've had an opportunity to review the approval of the minutes from the August 21st meeting. Are there any corrections/additions? Dr. Pierce and then Mr. Cole.

DR. DAVID PIERCE: Yes, I have a few comments regarding some omissions that are, I think, quite obvious, and maybe they'll be picked up by staff when they further review the minutes. But, just for their benefit, Page 559, there's a reference to comments that I made and there appears to be something missing there. It may just be a transition between what I said and what the next person said on Page 560. The same thing at the bottom of the page, a comment that I made, there appears to be something missing. The sentence just stops in midstream.

Page 561, the same thing again, a comment that I made there seems to be an omission. There is an omission half way through what I said. And again, maybe it relates to a transition between my comment and someone else's. Page 562, again, a comment I made, there's something missing. It's quite obvious. Page 563, second column, Mr. Munden, a portion of his statement is missing. 564, once again, one of my comments, there's an omission.

The nature of these omissions is beyond me, but they need to be addressed. And then Page 565, once again, bottom of the page, second column, there's an omission. I'm not sure what it refers to. It may be Mr. Beckwith. I believe he had a comment to make following your recognizing him, Mr. Chairman. So those are some of the changes that need to be made.

CHAIRMAN AUGUSTINE: Dr. Pierce, we have a response to that, if you'd let Joe speak to that?

DR. JOSEPH DESFOSSE: Laura just came up to me and said that, obviously, there's problem with the translation between electronic formats that we had and the PDF format that's on CD-rom, and we're still working out the kinks. I have a hard copy right here. It's a complete verbatim record, and I can compare it to your copy later and take care of that.

CHAIRMAN AUGUSTINE: Thank you for picking that up, Dr. Pierce. Mr. Cole.

MR. COLE: Mr. Chairman on page 552, at the very beginning under attendance list, we have Atlantic Herring Section members. I think that should be corrected to be the Board members.

CHAIRMAN AUGUSTINE: Yes. Any others, Mr. Cole? Ms. Shipman.

MS. SUSAN SHIPMAN: **I move approval of the minutes**.

MR. DAVID CUPKA: **Second**.

CHAIRMAN AUGUSTINE: All in favor, aye; opposed; abstentions. **Carried**. Okay, at this time we'll entertain any public comments. Are there any of our visitors that would like to make comment at this particular point in time? If not, you will be able to make comments once motions are put on the table and we get to the

discussion part of that process before we go and move final judgment on that section.

At this point we'd like to review the public meeting comments on the emergency action, so if I may turn the meeting over to Joe.

#### REVIEW OF PUBLIC COMMENT ON EMERGENCY ACTION

DR. DESFOSSE: There was just one other correction I noticed. On the agenda it says October 15. We didn't have this meeting yesterday, it's supposed to be October 16th.

There was a handout that was given to everyone today. It's a table. The subject is Spiny Dogfish Emergency Action, Status of State Actions. There was also another handout that was given to you. It is a summary of the public hearing comments. The first page is the cover page to the emergency rule. It includes the emergency rule and then you'll see, as of October 13th these were the written comments that the Commission staff had received.

There were three letters that were sent into the Commission. I believe they're all from fishermen and dealers in Massachusetts. There is also a summary of the public hearing that was held in Massachusetts that Dr. Pierce provided and also copies of public comments that were submitted during that meeting. I wasn't planning on going through those verbatim. What I did on this other handout is I summarized whether or not states had a public hearing, a public meeting, and then the status of the state actions in regards to the emergency action.

I'll just go down from the top of the list. New Hampshire had a hearing on October 3rd. I did not attend any of these hearings so this is what I've gleaned from speaking with other attendees at the meeting or the state directors. The New Hampshire hearing was well attended. The fishermen were unhappy with the closure and the emergency action in light of perceived resource abundance. Apparently, the fishermen are finding plenty of spiny dogfish in the Gulf of Maine.

The same can be said for the Massachusetts hearing. And interrupt me if you want to add anything else. Mr. Nelson conducted the hearing in New Hampshire.

MR. JOHN I. NELSON: Thank you, Joe and Mr. Chairman. I won't spend much time on this, Joe. One sentence there probably pretty well describes what our fishermen felt about the closure. They really do not have the same sense of urgency that the science has or the information the science has provided to us. And they do feel that they see a wide variety of size classes out there.

And it's very hard for them to come to grips with a problem with the spiny dogfish. One of the things that we did discuss, to try to be a little proactive about this, was to involve the co-ops that are there to try to develop further information on the size of the dogfish that are taken in New Hampshire waters.

Many of them felt that they're probably targeting males or at least, if you would, smaller females, because usually it's usually about 32 inches is the size that they're seeing, and that can, of course, vary on some seasonality. But they don't usually see the larger females except for a maybe a short period of time. And they've also reported that there's very, very little pupping activity that takes place in our area.

So they're going to gather more information on that so that we have that. Quite frankly, we have very little information on dogfish activity and what type of dogfish activity is out there.

CHAIRMAN AUGUSTINE: To that point, were the co-op folks going to use part of the experimental quota to do that? Were they going to request some allocation to conduct that or is this going to be on the side?

MR. NELSON: When and if there's a fishery, they would be looking and taking information from what was brought in. So, we're trying to get folks to work with us to try to have that type of information because, so we can provide whatever insight we can. They certainly do not see any limit on the males, for example. And they question, well, you know, should we be closed to all of the dogfish taking, and where the abundance was supposedly high for males, and we had a little discussion on that. But as it was pointed out, our rules would be closing the fishery.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Joe.

DR. DESFOSSE: Okay, working down the line. There was a hearing that was held in Massachusetts on September 21st. Again, what I gathered from the meeting summary was that it was well attended and fishermen were also unhappy in light of the abundant status of the resource. I'll ask Dr. Pierce if he wants to add anything else. He provided, I believe it's a 7-page summary of the meeting.

DR. PIERCE: Yes, thank you, Joe. Yes, I've got a few things I would like to add; elaborate a little bit. I realize that you received a summary of all the public hearings today. It took me a little while to get it put together, and I faxed it to Joe last week. So thank you, Joe, for all your work on this as well as the material you provided for the public hearing. That was very helpful.

I chaired the hearing with Bill Adler, and we both represented, of course, ASMFC. There were approximately

40 fishermen and dealers present, certainly all of the dealers in Massachusetts who have been involved with the dogfish fishery for quite a long time; many inshore fishermen, of course, who were the ones who were primarily focusing on dogfish at this time. The purpose of this hearing, as we all know, was to go over the emergency action, and I felt it would be helpful to provide all those who would take the time to attend, to provide some additional comments on ASMFC Dogfish Management and what direction should ASMFC go.

Obviously, we're putting together a PID. There was a lot to talk about; therefore, why not have them say a few things. And I'm not going to dwell on that because that's for later on in this meeting or some other time. So, you have the summary of our meeting. You also have letters provided to ASMFC by Michael Ryder. He's a commercial fisherman out of South Chatham; Todd Jesse, also a fisherman, out of Plymouth; Steve Bardollar, he is the head of Sea Trade, which is out of Portsmouth. I believe he also has a facility in New Bedford. He's a processor. And Bob MacKinnon, he is the President of the Mass Bay Inshore Ground Fisherman's Association. There's one other letter that I did not receive personally but I understand that it was sent to ASMFC's office and was made available to all of the board members.

Now, before we heard comments on the emergency action, I took some time to explain in detail the rationale for the ASMFC emergency action. Now, I knew there would be many questions since it's very difficult for industry to keep up with all the goings on with states, interstate, and federal management of spiny dogfish. Also, I anticipated that there would be many comments from the fishermen regarding the status of the resource. Fishermen, certainly in Massachusetts and elsewhere, have witnessed great abundance of dogfish in Massachusetts' waters and adjacent federal waters. So it's harder for them to appreciate, and it was harder for them to appreciate the need for an ASMFC emergency action, or for that matter, the federal closure, which, of course, is projected to last approximately 20 years, unless the plan is amended to allow some small-scale directed fishery.

Now just to recap a little bit, because this is quite important for us to all recall, the rationale for this emergency action was the recent update on the stock assessment, the status of the dogfish resource. Apparently, there has been a continued decline in abundance of the large females. That's where we're focusing our attention, on the large females, and those would be females greater than 90 cm, approximately. In addition we all heard at our last meeting, the fact that there's low abundance of the pups, the recruits found in the Northeast Fishery Science Center's spring survey, and that was cause for some great concern.

And then, perhaps, what caught the attention of most of us who've been involved in the dogfish fishery up to this point in time, and management of that fishery, the unexpected drop in the intermediate sized dogfish, female dogfish that are needed to rebuild dogfish where collectively the Councils and ASMFC, for that matter, are pinning our hopes on this intermediate size group of females to rebuild this resource.

I then took the time to provide some clarification, for the benefit of the fishermen and processors in the audiences, as to how to interpret this information, what does it all mean? And I'm not going to go into details, of course, because we are a little bit pressed for time. But I'll just highlight a few things because it'll be relevant to the discussions that we have later on as well. Regarding the continued decline in large females, I stated that certainly the abundance of the large females has declined from that witnessed in the early 1990's, and, of course, earlier than that. It makes sense. After all, we've had very large landings of dogfish over the last ten years or so, 50/60 million pounds. And those are levels of landings that cannot be sustained. So, that was the first bit of rationale.

Regarding the lack of the pups, again, I stated that ASMFC was concerned about what appeared to be recruitment failure, a very significant concern for all of us. And I said that fewer pups were the results of this drop in the biomass of the large females. However, I did indicate the belief that we've had a complete recruitment failure is a bit hard to reconcile with the fact that there still is a high abundance of dogfish that are mature females, that are mature 80 to 90 cm. There was a large abundance of fish of that size out there. And they all produced pups, depending on the size, from 80-85 cm, four pups per female, 86-95 pups per female, 91-95, six, and then 96-100, seven. So you would anticipate that there would be some pup production. And I should also highlight that it takes about six or seven years for a dogfish to grow from 80-90 cm.

So, that's something quite significant and we need to consider that. So, there has to have been some pup production. But for whatever reason, the pups are not showing up in the spring bottom trawl survey. Clearly, there have to be fewer pups than the numbers that were produced in the mid-80's when we had the historical high abundance of female dogfish. Clearly, there are fewer. But whether or not there are absolutely no more and we have a complete recruitment failure, I think that's still subject to debate.

All right, we got in the drop in the intermediate size dogfish. Those are the 36-79 cm dogfish. I showed some very important tables to those in attendance, figures and tables provided by the Northeast Fishery Science Center; very informative tables indicating that biomass of females in that range in 1997 was 205,000 metric tons. And then,

very importantly, the survey indicated that in 1998 biomass drops of these females of that size dropped to 69,000 metric tons. That's a drop of 136,000 metric tons in one year; a rather startling drop; hard to explain; and frankly, unrealistic.

In 1999 biomass increased by 71,000 metric tons without the benefit of recruitment, and then in 2000 it dropped by 66,000 metric tons. So I had to highlight, for the benefit of the industry that asked all sorts of questions about the status of the stock, that these large variations in biomass estimates are due to the assessment method. It's a swept-area biomass method. And it's a method that's quite imprecise for dogfish and subject to large variations due to sampling error. And that's not my interpretation; that's the conclusion of the last dogfish assessment that was described in the status of the stock document and SARC, the last stock that dealt with dogfish.

And then finally, regarding the rationale, I made note of the fact that the sudden vanishing of this peak of female dogfish of intermediate size is due to the way in which the yearly data are combined and averaged for comparisons. The Atlantic States Marine Fisheries Commission, this Board, reacted to a comparison of 1995, '96, and '97 data, average data, versus data average from 1998-2000, those three years. I've already said the 1998 69,000 metric ton biomass figure resulted from a huge drop in biomass from one year to the next, 137,000 metric tons. And that drop significantly affects the comparison, as does the year 2000 point.

So, we need to consider that in our future discussions about dogfish management. Now one certainly would expect some drop in the intermediate size dogs, but not to that extent that we've witnessed. That was the ASMFC rationale, and that was my elaboration prior to getting the specific comments from the industry as to the action the ASMFC took. Now, the highlights.

CHAIRMAN AUGUSTINE: Dave, may I interrupt for a second please?

DR. PIERCE: Certainly.

CHAIRMAN AUGUSTINE: We've covered the whole range of history, and I know it's important. I guess my question is, and I think it's probably on the faces of a lot of the folks around the table, in the final analysis what was the reaction that we received from the public hearing people? You've given a full and thorough assessment from a technical point of view to those folks, and we've heard that and we appreciate it. But we're really trying to get a fine-line description as to what did they really say above and beyond -- they weren't happy, we know that. And the closure was not a good thing for them.

DR. PIERCE: Here it goes, Mr. Chairman, the highlights.

CHAIRMAN AUGUSTINE: I'm not picking on you.

DR. PIERCE: No, I know you're not. We are short on time, but frankly, it's a Massachusetts fishery primarily. A lot of people took the time to attend, and I felt it would be necessary for everyone to know what exactly I said so you could have a feel for what transpired.

Now, in general, everyone understood the need for cutbacks, the need for this ASMFC emergency action. However, they really could not understand why there was a need for a complete closure. They did not completely understand the urgent need for emergency action. They saw the need. They stated that it was necessary for ASMFC to do more careful planning and to pay attention to the economic impact of the complete shut down on the many small boats, inshore fishermen who rely on dogfish.

I call your attention to Mr. Ryder's letter. Mr. Ryder's letter is attached to the package -- 38 years old, three young children, fishing for 15 years, focusing on dogfish and also groundfish. He was very thankful for the opportunity this summer to fish on dogfish, an opportunity provided by the 7 million pounds that was afforded to the industry by the division. He noted that July, June, August fishing for dogfish made a big difference between his making a living and his family struggling for the year. He also emphasized the importance of dogfish to small Massachusetts ports, such as Chatham, Scituate, and Plymouth, especially in light of the many restrictions on groundfish such as the prolonged area closures in Massachusetts Bay that have had a dramatic impact on the fishermen.

Now, the processors all made the same point regarding the emergency action that ASMFC took. They also made an important point, and that is in contrast to a few years ago when all the processors claimed, up and down the coast, that a minimum of 22 million pounds was necessary for survival, at least some processors and many fishermen said they could benefit from a small-scale fishery because the price of fish now is greatly different: five cents a pound versus 25 cents a pound now. So it's not entirely the same situation then versus now. Let's see, I'll skip over a few things here, Mr. Chairman, just to make sure we don't cover material that isn't necessary.

Regarding the emergency action, the processors felt and the fishermen, as well, felt that because of the states waters now being closed, they would definitely lose their fresh fish market overseas. It's a very important fresh fish market that they've had for a number of years. They claim that now they will lose that market to their competitors



from Norway, Denmark and England, where there are dogfish fisheries underway. However, they did emphasize that even though we have this closure in place now, the frozen fish market can still be retained, and they suggested that a modest quota in the future would enable them to retain that fish market, but the fresh market would be lost.

Steve Barndollar, again, I refer you to the letter attached to the package. Steve made note of the benefits of an inshore fishery; the employment that he was able to sustain because of the small-scale directed fishery. And he urged that ASMFC pay particular attention to the economic impact of this closure and future closures on the processors in Massachusetts and elsewhere. He hoped that the ASMFC would favor a small-scale fishery next year. Again, regarding the emergency action, both processors and fishermen felt that because of this closure that ASMFC has enacted, discard would increase. Bob MacKinnon, again, you have the letter attached to the package, he spoke most strongly on this point. He represents an organization of ground fishermen who fish in Mass Bay. He emphasized that dogfish are an unavoidable bycatch in groundfish fisheries and other fisheries. He noted that the federal plan doesn't discuss discards, and will certainly cause large amounts of regulatory discards. And he feared that this ASMFC action would also tend to increase regulatory discards because dogfish is still quite abundant in inshore waters, certainly off of Massachusetts.

He felt that ASMFC's emergency action would just compound the regulatory discard problem. And then finally, Paul Parker, he's a long liner out of Cape Cod. He has paid particular attention to dogfish management at the ASMFC level and certainly the Council level. He's a leader of the Cape Cod Commercial Hook Fishermen's Association. He objected to the emergency action by ASMFC. He felt that the Atlantic States Marine Fisheries Commission, at this time, does not have any objectives for dogfish management. We have no biological objectives, we have no economic objectives, we have no rebuilding targets, we have no consideration of the fact that the small boat fishermen fishing in state waters are there and relying on dogfish, many do. And he emphasized that right now, because of many management efforts by the Council and ASMFC with other species, the small boat fisherman, as he put it, is being strangled out of every fishery one by one. He hoped that ASMFC would be creative, would deal better with discards, the need for equity and avoid a conflict with the New England Council.

His colleague, John Pappalardo, expressed great concern that ASMFC has not convened a meeting of the Dogfish Advisory Panel. He felt that perhaps the emergency action should have been contemplated after that Advisory Panel had been called so that their views could be heard. He certainly emphasized that now, and in the near future, this Advisory Panel be called so that their views can be obtained before ASMFC goes too much farther with the development of a plan. He emphasized that by keeping a small-scale fishery, the states would have an excellent opportunity to collect data from the fishery about the resource. And he praised the division for our actions; that is, for our investigating the fishery this year.

I mentioned at the last board meeting that we did port sampling and we did sea sampling. We are preparing a report that is nearing completion. As soon as it is done, we will forward it on to the Board. So that concludes my summary of what happened at the public hearing. I know it's a bit longer than you'd like, Mr. Chairman, but I'm obligated to be as complete as I can. I could say a lot more; I won't. I've kept to the highlights; and with that said, that concludes what was offered up by the public at our hearing in Massachusetts.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Any questions of Dr. Pierce? Joe.

DR. DESFOSSE: Okay, the rest of the public hearings: New Jersey held a hearing on September 27th. There was no public comment. It was held in conjunction with meetings on emergency actions for Scup and Black Sea Bass. Again, the information I have, no one commented on the dogfish emergency action.

In Maryland there was a hearing held October 4th. It was attended by four fishermen who said that there was some catch in state waters in the wintertime. They were concerned about the recent closures. And they also testified that in order for it to be profitable for them, they would need somewhere around 1,000 pound limit per day to be worth their effort.

I'll come back to each of the states after I finish this up. In Virginia, a hearing was held September 26th. There was no public comment. And in North Carolina there were two public hearings, September 27th & 28<sup>th</sup>. There was one environmental representative at the September 27th meeting who was in favor of the emergency action. And on the 28th, that meeting was held. There were about 20 fishermen in attendance at the second meeting, and my summary here is that they expressed concerned over how the fishery had been prosecuted this year.

I'll ask if the state representatives, who were at any of those other meetings. Would like to add anything?

CHAIRMAN AUGUSTINE: Yes, Mr. Pate.

MR. PRESTON PATE, JR.: Thank you, Mr. Chairman. Joe, I think your summary, be it very brief, is an accurate reflection of the comments that were made, but perhaps not a thorough reflection of the sentiment in which those comments were made. The fishermen that attended the meeting were, for good reason and for obvious

reasons, concerned about not having a spiny dogfish fishery this year. And there's no need to elaborate on that because their comments and the economic impact that it's having on the communities is pretty similar to what Dr. Pierce described as being delivered in the public hearings in Massachusetts.

What the fishermen were also very concerned about was the process that has been followed in managing this fishery this year. We're very disturbed by the opportunity that Massachusetts had to harvest the dogfish when they were available off their coast during the period when the fishery was open.

Now, North Carolina, which is the second largest harvester of dogfish on the Atlantic seaboard, does not have an opportunity to harvest a single fish this year. They put a great deal of faith in my ability to do what was right. And that is always a burden that I and my counterparts bring to this table; in trying not only to do what is right by the resource, but what is right by the fishermen. And what the fishermen considered what was right in their regard was to allow North Carolina's fishery to remain open this year.

They left no doubt about how they were going to view the effectiveness of North Carolina's participation in this process and the process in general if this problem were allowed to manifest itself again next year. If there was not better cooperation and a better management effort made by the board to make sure that what little quota is available for harvest of dogfish is available on an equitable basis, then there will be a great disillusionment, more so than there is now, about this body's opportunity and willingness to manage fisheries on an equitable and effective basis.

I agree with that. Somewhat of a neophyte to this process, having been involved in it now for about 3-1/2 years, it has always been a challenge to me to balance the need to represent North Carolina's fishermen in an effective way, to make sure that their concerns are being adequately met, but also to do what's right by the resource. What's right to do in this case is to close the fishery. And North Carolina's closure of that fishery is a phone call away. And I intend to make that phone call at the end of this meeting, to close our waters to the harvest of dogfish at the end of the next 48-hour period.

But I'm also very committed to try and participate in this process in a way that ensures that fisheries that were once viable in North Carolina continue to be viable in the future. We have a lot of concern about what the closure of the dogfish fishery in North Carolina is going to do. A lot of fishermen are geared up to catch dogfish that are going to have to shift that effort to other species. They'll shift to bluefish because it uses a similar type of gear. They'll shift to croakers and to weakfish. Bluefish are being managed this year for the first time by a hard quota.

We are nearing the fulfillment of North Carolina's quota, and that fishery will probably not be opened for very much longer. Croakers are in great abundance on our coast. But the harvest of the large, mature adults of that species causes a lot of people a lot of concern about how long that fishery can maintain itself without damage and collapse. We all know the story on weakfish, which is rebuilding, but question whether or not it can withstand an intense targeting of the large adults. So the ramifications of the closure of North Carolina's dogfish fishery goes beyond the political and extend into the biological realm of other species.

We've had a lot of discussion since our public meetings about what to do next year. Our fishermen expressed an interest in trying to develop a market for the smaller male dogfish. We intend, in the next few days, to submit an application for the 500,000 pounds of quota, which is available as an experimental fishery, to see if that size dogfish can be successfully targeted, and if so, can a market be developed for them?

The market problems are real. The processors that had once worked in North Carolina are now gone. There's some question as to whether or not they would even come back or handle an amount of dogfish as small as 500,000 pounds. But we're going to make the effort to see if we can successfully develop that fishery to an extent that there can be an alternative for our fishermen to continue and prosecute this fishery on a more limited extent. That's all I have to say.

CHAIRMAN AUGUSTINE: Thank you, Mr. Pate. Any further comments around the table on Mr. Pate's presentation? All right, Joe, would you go ahead?

#### SUMMARY OF STATE ACTIONS

DR. DESFOSSE: Okay. The next thing I'm going to do is run down the summary of the state actions that I have received to date, as of ten minutes ago. Included in this package of status state actions, is a letter, or an e-mail, in some cases, that transmitted what actions the state was taking and they're provided for your information as part of the summary. I'll run down briefly for each of the states, what their status is.

In Maine they are in the process of implementing the regulations to close the state fishery. They should be effective tentatively December 20<sup>th</sup>. There is one exception that is for a biomedical research permit to harvest approximate 1 to 2 thousand spiny dogfish. It's a state permit.

New Hampshire, they're in the process of implementing regulations through the state regulatory process. The new rule will close the state fishery when the federal closure is in effect. I'm not sure exactly what the timetable is for New Hampshire.

CHAIRMAN AUGUSTINE: Mr. Nelson.

MR. NELSON: Thank you. Well, as you saw, we held our public hearing. I expect that the rule -- our process is that it has to be signed off on and then go through an administrative services process. If everything goes well, we anticipate we would be closed October 30th.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson.

DR. DESFOSSE: Okay, Massachusetts, they have a closure. It is in effect until May 1st, 2001. Rhode Island, they're also in the process of implementing the closure through their state regulatory process. It's effective tentatively sometime in late December, December 19th or 20th.

Connecticut implemented a closure on September 29th. It is effective through October 31st, which is the end of the first closure period for the federal plan. The new regulations in Connecticut will close state waters when the federal state closure is in effect.

New York has developed a set of comprehensive revisions to the Marine Fisheries Regulations, including provisions to deal with spiny dogfish. The final rule has not been finalized yet. But, it has been communicated to me that there are virtually no landings in New York, or from New York waters in August and September.

New Jersey, they're also in the process of implementing regulations. The proposed regulations would require fishermen and dealers to obtain the federal permit. Most, if not all of them, already have the federal permit, so there's currently no harvest in state waters from New Jersey.

The Delaware closure was implemented through emergency order effective October 15th. It remains in effect for another 120 days, which I believe puts it in mid-February.

Maryland, the staff has not received a written response. I was in communication with Maryland officials, and they are in the process of implementing measures through their emergency action, and it will take approximately one more month.

CHAIRMAN AUGUSTINE: Would Maryland care to respond further?

MR. ERIC SCHWAAB: That's an accurate assessment of where we are.

DR. DESFOSSE: Virginia, I was just handed Virginia's new regulations. I have not had a chance to look at it. If Jack would like to make a statement.

CHAIRMAN AUGUSTINE: Mr. Travelstead, please.

MR. JACK TRAVELSTEAD: Regulations were adopted on September 26th, will be effective October 15th and will mirror the language in the emergency plan.

CHAIRMAN AUGUSTINE: Thank you, Mr. Travelstead.

DR. DESFOSSE: Staff did not receive anything from the state of North Carolina. As you heard Mr. Pate say earlier, that fishery could be closed with a phone call. I don't know if he wants to add anything more than what he said earlier.

South Carolina, they have the existing authority to implement the closure. Although spiny dogfish is not normally harvested in state waters, their shark fishermen have been notified of the closure.

Georgia also has existing regulations for small coastal sharks, which include spiny dogfish, which require a bag limit of two per person, unless they're federally permitted commercial fishermen. They are subject, then, to the federal quotas and closures.

In Florida, they also have existing regulations. They require the shark fishermen to be federally permitted. The commercial harvest is, therefore, prohibited once the federal quotas are met. If South Carolina, Georgia or Florida would like to add anything else?

CHAIRMAN AUGUSTINE: Mr. Cupka, would you like to add anything? Mr. Cupka says no. Mr. Palmer.

MR. BOB PALMER: I don't want to take a lot of time and I hope the information we submitted speaks for itself. But, we have no commercial landings of spiny dogfish in Florida. And I wanted to come to this meeting and try to determine what the most appropriate course of action should be. Frankly, we would rather do a comprehensive review of our shark fishery when we do step two of shark management, rather than go to our commissioners and ask them to regulate a fishery that does not exist in our state.

CHAIRMAN AUGUSTINE: Thank you, Mr. Palmer. Ms. Shipman, did you want to speak on behalf of Georgia?

MS. SHIPMAN: No, I think our letter pretty much speaks for itself. The only thing we would add is we don't have spiny dogfish either. And I think it's important to recognize in the very southern part of the South Atlantic, it's

just not a common species.

CHAIRMAN AUGUSTINE: Thank you. Any further comments from any of the other commissioners? Yes, Mr. Borden.

MR. DAVID V.D. BORDEN: Thank you Mr. Chairman. I didn't comment when Joe went through his report because I thought he was just going to summarize everything. But just a couple of observations that obviously we have not had our public hearing.

When we went back, after the Commission took action the last time requesting emergency action, we asked our legal counsel to review the action in the context of Rhode Island law, and we couldn't meet the imminent peril standard. So we had to go through the regular regulatory process. And since the closest public hearing agenda we could put it on was November 14th, that's in essence what has caused the delay.

Now, having said that, there is a tremendous -- although there is a tremendous abundance of dogfish in Southern New England waters, it's primarily in federal waters at this time of year. Abundance is relatively low in Rhode Island waters, and most of our boats have federal permits, so they're bound by the federal regulations anyway. But a couple of observations that we have had a number of fishermen that have stopped by our fish and wildlife office and called me personally on it. Although we haven't had a hearing, I'll just try to summarize what the sentiment is.

A number of fishermen are questioning the need for the action. They really don't believe the status of the stock or the need for this particular action. And I guess what is probably most problematic is on the issue of -- as everyone knows around the table, there are tremendous discards that are taking place. And the general perception in the commercial fishery industry is somehow we should be able to convert some portion of those commercial landings, which are, in essence, being wasted; thrown away dead, into landings in order to keep the market chains alive.

So, those are the just the general observations. And I've got some other comments in terms of Rhode Island's perspective on where we go from here as we move on to the next agenda item.

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

DR. DESFOSSE: Normally, what would happen now is the Board would have a recommendation from the Plan Review Team. This Board does not have a Plan Review Team in place to look at this and provide any recommendations. I'm not sure what the next step would be, unless the Board itself would like to take any actions on these or discussion.

CHAIRMAN AUGUSTINE: I need to ask you a question. Do we have an idea when the Plan Review Team will be put in place? Do we have a date on it?

DR. DESFOSSE: Normally, Plan Review Teams are not put into place until you have an FMP.

CHAIRMAN AUGUSTINE: Okay. So no one has been identified?

DR. DESFOSSE: No.

CHAIRMAN AUGUSTINE: What are the Board's wishes at this particular point in time? Ms. Shipman.

MS. SHIPMAN: Well, I mean, we have a summary here before us, and we have a motion, and we have technical staff that advises this Board and, you know, any type of advisement that the staff would like to make to us about findings of compliance or non-compliance, or if this Board would like to extend the timeframe -- I mean, it appears everyone is making a very concerted effort to come into compliance.

CHAIRMAN AUGUSTINE: Okay, we had a hand in the audience. Mr. Furlong, would you please come forward?

MR. DAN FURLONG: Thank you, Mr. Chairman. About two or three weeks ago, I wrote each of the state directors a letter requesting representation if they were interested in Dogfish FMP, that the Mid-Atlantic Council is the lead on. It's the joint plan with New England, and in that context, as Joe said, you don't have one of these advisory groups until after you have, you know, a plan. So now that we have a plan, we are in the process of developing our Monitoring Committee, which is the equivalent of a Technical Committee. I just remind you that you are welcome, you know, to have a representative on that Monitoring Committee. Nominations are due at the end of this week, in fact, October 20th.

The purpose of this monitoring committee would be to give the joint committee, New England's and our own, advice on the status of the stock and what recommendations we would address and next year's specification process which is our December meeting. Thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Furlong.

DR. DESFOSSE: In response to Ms. Shipman, the only question that staff had was the status of the regulations in Virginia and also North Carolina. But I think we've seen Virginia handed their regulations in and Mr. Pate has expressed what his desire is. From the staff perspective, I don't see that there are any problems with anything that states have put in place or proposed.

CHAIRMAN AUGUSTINE: Well, Mr. Nelson, we will entertain a motion, if you'd like to move.

MR. NELSON: Well, let me just get a clarification, Mr. Chairman. It seems as if there are -- because of the regulatory process -- and I was just trying to quickly look to see if there's a unified date here, but it sounds like around December 20th seems to be the end date for a number of the states to be able to have their rules and implementations.

So should that be the date as far as a compliance date for all states be in sync with this emergency action. Now I don't know what you need to do. There was previously a motion that they had to be in compliance on it before October 15th. So, what do we need to do now as far as how to deal with this later date?

CHAIRMAN AUGUSTINE: Well, the question is were the states or would the states be able to move forward with either regulatory authority or through legislation in order to have this in effect by October 15<sup>th</sup>? And listening to what state presentations have been around the table, in addition to the information they sent in to Joe, it's obvious -- and again, what we have from North Carolina today -- it's obvious that everyone is moving in the right direction.

It appears that December 20th is the outside date unless there's a state that feels that it will not be in effect. And I see Mr. Colvin from New York shaking his head no. So, Mr. Colvin, would you please respond for clarification purposes?

MR. GORDON C. COLVIN: I'm just reading the same table that you guys are, and I don't think that's the case for all states.

CHAIRMAN AUGUSTINE: Your assessment would be?

MR. COLVIN: Well, at least New York and New Jersey.

CHAIRMAN AUGUSTINE: That being the case, would a motion be in order to accept all other states as an effective date or would that be too aggressive a move? Comments around the Board? If the motion we worded the acceptance of all other states with those two excluded, would that move the process forward? Mr. Colvin, please.

MR. COLVIN: Why do we need to take any action, Mr. Chairman?

CHAIRMAN AUGUSTINE: I'm asking the Board what action they would like to take. Ms. Shipman.

MS. SHIPMAN: I agree with Gordon. I don't think an action is necessary unless we're going to find a state in non-compliance. Generally, it's understood that you're in compliance until you're found not in compliance or a recommendation is made that you're not in compliance.

And I would suggest that we move forward and begin discussing the development of the plan; and then when we come back and revisit this in January, if the actions have not been taken by the other states, then we could make a motion at that time relative to the non-compliance.

CHAIRMAN AUGUSTINE: Thank you very much for that, Ms. Shipman. With no further comments from the Board, let's move on to the next item. Mr. Colvin.

MR. COLVIN: I'm sorry, Mr. Chairman, but I want to just make a brief point, and I think it needs to be elaborated on elsewhere, perhaps at the Policy Board.

The Board's action created a demand on the state regulatory systems to take action for the most part that only be taken by emergency rulemaking subject to the various state's Administrative Procedures Acts. And it did so at a time when we did not yet have a Fishery Management Plan in place during the development. We're operating pretty much ad hoc on the basis of the federal management plan, federal regulations and stock status advice that was fairly dynamic and continues to be.

Now the problem that we all face is the need, pursuant to our Administrative Procedures Acts, to institute our fishery management actions by rulemaking in a timely way, and then to, on occasion, deal with the extraordinary needs created by bona fide emergencies that are justifiable under our administrative procedures for emergency action. I speak to that a little bit in my letter. But I want to indicate to the Board, and I think, as I said, this is a larger issue, that emergency rulemaking needs to be justified before it can be approved, both as a matter of law and in many cases as a matter of policy.

Many of us are not free to simply do things by emergency rulemaking because some need has been created by virtue of an action of another body, be it ASMFC or someone else. And that alone is not always sufficient to justify either the legal or policy review of a recommendation for emergency rulemaking.

I think we need to, at some point, examine our operations as a commission and how they relate to the states regular and emergency rule-making procedures and see if we can't find ways to do things that limit the amount of emergency rulemaking that we do and that fit better into our overall administrative procedures requirements.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Well, let's put our minds in gear to talk about -- Mr. Borden.

MR. BORDEN: Yes, thank you, Mr. Chairman. I'd just like to follow up on Gordon's comment because I have

similar concerns that during the past year we've really placed some, what I view, as some extraordinary demands on our own internal regulatory process as a result of Commission actions.

And I think his advice is well taken, that we can't keep going back to the well with emergency actions on a continuing basis. The hierarchy -- and I'm talking about people higher than me in the state regulatory process -- are really beginning to question how effective we're managing the resource if we have to do it by emergency action.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. It seems like some of the emergency action is questioned by a lot of folks. It seems like in order for us to help our fellow group, the National Marine Fisheries Service, at times we have to take actions that they apparently have not been able to move clean up on because of the process that are taken to get those changes made.

And I've asked the same question myself. It seems to me that we are spending more time making decisions to run our fisheries by emergency action that it appears that we haven't got a handle on what we're doing and where we're going. And that does have a tendency to disrupt, not only the fishermen, but all folks that are being involved and concerned what the outcome of our emergency actions are. So that's been voiced and I thank you, Mr. Colvin and Mr. Borden.

We need some Board guidance right now to the PDT for a spiny dogfish PID development. And we're going to have to talk about what elements are going to be crucial to be in there and how expansive we want those options to be. So, I see Dr. Pierce has his hand up first. Would you please go ahead?

#### **PDT GUIDANCE**

DR. PIERCE: Yes, there are a number of issues and concerns that we need to identify in this Public Information Document; certainly, alternative approaches to a complete shut down of the directed fishery such as the approach used by Massachusetts this year, the constant quota approach, the 4,000 metric tons, about 9 million pounds.

I have some documents I'm going to distribute, not for today's meeting, just for you to refer to; certainly, for the next Board meeting. They're documents that were prepared by a member of my staff, Steve Correia, that relate to what's happening at the Council level. Of course, we're concerned what happens at the Council level because it impacts this Board. One of the analyses relates to long-term projections for spiny dogfish reflecting updated stock status, including a comparative analysis of constant F and constant quota strategies.

And then the other one is the impact of shifting selectivity to older females on the rebuilding timeframe for spiny dogfish. These documents, at least one of them, one document anyway, was reviewed at a joint meeting of the Mid-Atlantic Council and the New England Council Dogfish Committee meeting.

So, I would suggest, Mr. Chairman, that in order to get us off in the right direction, it would be helpful to have someone, maybe Joe or Dan Furlong, give us an update as to where the Council is right now regarding amending the Dogfish Plan, what their timetables are, what's being considered. I know the Dogfish Committee, of which I'm a member, at our meeting in Philadelphia last week, I guess it was, we offered up a recommendation that I think had unanimous support, although I could be wrong there, but as an alternative to the approach that now is in the federal plan, the constant quota approach of 4,000 metric tons would be considered.

But I don't know what the Full Council decided to do. We need some input from the Mid-Atlantic Council, if Dan is willing to give it, as a way to judge where that council may be going with the amendment.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. I think the point you're making is a very valid one. I do think that we want to keep away from the technical content here of presenting again.

Again, we're looking at alternatives that should be considered in the PID. And I do believe at a time when Dan Furlong is going have that plan to a point where it's going to be available to us, will be made available to us, and then we can avail ourselves of that and use that as an analysis or comparative document. Mr. Borden.

#### **INTERIM MANAGEMENT STRATEGY DISCUSSIONS**

MR. BORDEN: Yes, I just want to offer the comment that I was going to offer before. I mean, David is actually a couple steps ahead of where I am. I was just trying to look at this situation from the perspective of where are we and what are our alternatives in terms of managing the resource.

You've got an emergency action that's going to last for six months. Regardless of whether we agree to a constant harvest strategy, or whatever, you've got a federal plan that's in place. We're going to have an immediate question for everyone around this table of what are we going to do at the end of this emergency action? If the

assumption is that we're just going to extend it, I'm not sure that's a valid assumption.

I'm not sure everyone around this table is going to agree to an extension on it. And it seems to me what we have to figure is what -- if we go through our normal regulatory process, and ours is two or three times faster than the Council process, I would question whether or not we can go out with a PID document, form a regular plan, formalize a plan of action, adopt a TAC, go through some regulatory measures, and have all of that ready to go into place at some point during a realistic timeframe.

I think what we have to do is we have to start looking, within a year, having something that's going to go on line. So if we start right now with a PID, that normally takes us, what, four to six months to run through a process? And then if you start working on the management actions, I mean, you see the problem that we've got. We've got a timing problem. And it's almost like, from my perspective, we should figure out some alternative strategy or approach that we can utilize and agree to put in place at the point where the emergency regulations come off the books.

Otherwise, I just don't see us going through our normal process and adopting a regulation in time to take action. And that doesn't speak to any of the federal changes that Dan and his staff would have to make, which are much more onerous than anything the commission is going to have need.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. Comments around the table? Mr. Freeman.

MR. BRUCE FREEMAN: I think it's important for us to look at what we're facing. I think this is complicating the issue in that we do have a federal plan in place. We're now contemplating a Commission plan. And yet we have an additional plan, a de facto plan, that we've been speaking about.

The difficulty I see and the reluctance, I suspect, is caused by problems in those two plans, is that we now have experienced the closure, as Pres Pate has indicated, in the winter fishery because of the overage in the summer fishery. And despite what we have in some of our plans, where if there's an overage in half of a season or a quarter of a season, that overage comes off the following season. That's not so in the Spiny Dogfish Plan. Any overage, regardless of when it occurs, can prematurely close the entire fishery, which is in fact what has happened. We do not have a federal fishery until April of next year.

And so those states, not only North Carolina, but states all the way up to Southern New England that had a winter fishery will not have an opportunity to catch anything; be it an incidental catch because of a closure, which was brought about by an action taken in state waters.

We need to have a plan we can agree to, and that's not the case at the present time. And I think there's great reluctance to move forward, as I'm hearing, with emergency action when we do not have a plan in place now even that we all can agree to. And by a state committing to something the Commission has asked them to, it may very well be detrimental to a particular state. Actions we're committing to may greatly harm our fishermen while preserving the resource for someone else to catch. And that has to be resolved.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Does that have to be resolved before we move forward to taking any steps in any development of this PID? Would you have a recommendation for a first step?

MR. FREEMAN: Well, I think the discussion should lead as what's going to occur come April? Are we going to see the same situation start in April that we saw this year? And if that, indeed, is the case, then I think states may act very differently. But we cannot continue, in my opinion, in having these two separate movements of managing a resource; one in federal waters and what appears to be an independent one in state waters.

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

MR. HARRY MEARS: Thank you, Mr. Chairman. In many ways, this is a carry forward of the type of discussions which we had in August when the movement toward an emergency action was adopted. If I remember correctly, part of our discussion at that time acknowledged that emergency action certainly is not the desirable way to do business. And there was some urgency expressed to, in fact, move forward expeditiously with the development of a Public Information Document for a Fishery Management Plan on spiny dogfish.

I believe a lot of the discussion we've had so far at this meeting deal with the issues of allocation among states between summer and winter fisheries, between north and south where characteristics of the fishery can very well be accommodated by the investment of resources that would be associated with the Fishery Management Plan.

I believe probably the most productive type of discussion, from my perspective, would, in fact, now focus on the logistics of what the timeframe would be for development of a Public Information Document and the subsequent adoption of the Fishery Management Plan.

CHAIRMAN AUGUSTINE: Thank you for that clarification, Mr. Mears. Joe, based on that comment, if the PID is going to take a period of time, will it be four to six months before we get it to a finished product where we can take the next step after that, or is it less than four to six months?

DR. DESFOSSE: Well, I would think that if the Board gave some guidance as to what they wanted to see in the Public Information Document, a draft of that might be available for the January meeting week. If the Board approved it at that point, then you'd go out for a round of public hearings and report back to the Board on the status of that at the April meeting week. So you're looking at four months, you know, between now and then before you get into developing the draft plan.

CHAIRMAN AUGUSTINE: Mr. Borden.

MR. BORDEN: To that point, and I'd like Joe to correct this if this is wrong, my understanding from a budgetary context, there are no Board meetings scheduled outside of the regular meeting schedule. So, the schedule that he has laid out there is accurate. You finalize a PID in January and then you basically do it and you have those results. But what that means is that by the spring meeting, you're finished with the PID and you start working on the FMP and you've got the problem of the expiring emergency regulations.

Now, that's exactly why I said what I said about ten minutes ago. I mean, I just don't think you get there by following our traditional process.

CHAIRMAN AUGUSTINE: Mr. Borden, would you have a suggestion as to how we might expedite it in any other way? I mean, the fact of the matter is we have budgetary constraints that are preventing us from doing several other things. And I'd like your comments on that please.

MR. BORDEN: Well, I think this is really kind of an extraordinary circumstance where we've shut the fishery down. And the other complication is most of the states, Rhode Island being one of them, really haven't had their fair share of access to the resource. I think the most glaring example of that is the situation that Pres outlined, where his fishermen are essentially being excluded from the resource. I simply don't see us repeating this situation.

If we can't collectively come to some agreement on what the TAC is going to be and how we're going to have some kind of sharing arrangement, which is going to allow fair access up and down the coast for all the different state water fisheries, I essentially see this whole process stopping.

I just don't think you're going to get emergency action requests through this Board again unless we address that fundamental issue; you know, how much are we going to catch and how are the different states around the table going to get some access for their constituents?

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

DR. PIERCE: Yes, David is quite correct. We have to address the issues of equity, of sharing, of fair play. That would be described, of course, as one of the issues in the PID. Regarding that point, certainly a number of people have already said that in this particular fishing year there has been a denial of some fishermen from some states of their fair share.

The PID also has to address an important issue which is can states' fishermen and processors up and down the coast survive with a bycatch quota landed in 300 or 600 pound increments versus some small-scale directed fishery? Because, I still insist that no one was denied their fair share of the dogfish quota this year because the federal plan calls for no directed fishery, only bycatch landings. And the processors have said loud and clear, certainly in Massachusetts, that they cannot survive, they cannot stay in business with a quota that's allocated in dribs and drabs of 300/600 pounds.

So really, when you take a close look at this, if we continue into the future with a bycatch quota scenario, with low landing limits, no one is going to be landing any dogfish because the processors won't be in business. They have to plan for labor, they have to plan for markets. That is one essential decision that we need to make, ASMFC, will this be a bycatch quota or some kind of a small-scale fishery?

And that gets me back to my original point that I made at the beginning of this discussion. If the Mid-Atlantic Council and New England Council are entertaining as a possible alternative a small-scale fishery because of the equivalency in terms of rebuilding mature female biomass, then if they're doing that, that provides us with some guidance as to how our discussion should proceed; as opposed to trying to figure out how to live with a bycatch quota that's not going to do anybody any good.

Is there a way for us to, collectively, equitably and fairly share whatever amount we decide to allocate as a small-scale directed fishery working in close concert with both Councils, of course, that will play, perhaps, the major role in setting what those quotas are?

CHAIRMAN AUGUSTINE: Okay. To that point, anyone want to address that point or comment? Well, to reiterate what Mr. Pate has said that, in his particular case, because those states that took the action, in your case, the Commonwealth of Massachusetts took the opportunity to take 7 million pounds, it did, indeed, compound the harvest quota, the harvested quota and overage, and therefore, shut them out of the fishery.

So, maybe that issue should be one of the points that should be brought up and be put on the PID as an



alternative. How do we do it? Do we go to state quotas? I'm not suggesting that. Do we go to state quotas? How do we handle that? More input on alternatives to go on this? We really haven't focused in on what it is we're trying to accomplish. On the one hand, we're saying we need to do more before we go forward to develop a PID. On the other hand, and listening to Mr. Borden, if we don't do something, we're going to lose credibility on the other end.

And the other item that hasn't been talked about, Mr. Mears made a comment that we do have a Federal Fishery Plan that has put pressure on everything. So where do we go, Board? The ball is in your court. Someone has to make a decision and make a move. Mr. Borden, then Ms. Shipman.

MR. BORDEN: I mean, just so I clearly understand the situation. Lacking any change in the federal plan, we've already exceeded that quota, and that any overage comes off the following year, is that correct? Maybe Dan could speak to that.

CHAIRMAN AUGUSTINE: Mr. Furlong, would you address that issue please? Mr. Borden wants to know about the overages. The answer is no.

MR. FURLONG: There are no overages.

CHAIRMAN AUGUSTINE: There are no overages.

MR. BORDEN: Okay, I'll just stop right there then, no overage.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson and then Mr. Freeman.

MR. NELSON: Well, Mr. Chairman, is it possible for us through some mechanism, until we have an FMP in place, to adopt a constant quota approach, constant harvest approach?

I mean, that would then address what we're hearing about the inequities as far as, you know, geographic areas. But it would put in place some mechanism for harvest to take place throughout the range, which ultimately may be something that the technical people will come to accept. At least, from what I've heard so far, there's some agreement on that. So if there's some mechanism for us to do that, maybe we should try to look at adopting that so we can have that as guidance for all the states through this winter season and coming up to the next spring/summer season.

CHAIRMAN AUGUSTINE: Thank you, Mr. Nelson. Would any board member like to address that or discuss the point that Mr. Nelson puts on the table as possibly adopting something such as a constant quota? This is a suggestion and/or recommendation. Joe, can we do that?

DR. DESFOSSE: I'm not sure. The only things that I can think that the Board can do is, you know, adopt an FMP. Then you adopt amendments to the FMP's and addendums. But you don't have an FMP right now. The only other avenue available, I think, is emergency action. So, I'm not sure if you can adopt a constant quota strategy through an emergency action.

CHAIRMAN AUGUSTINE: Ms. Shipman.

MS. SHIPMAN: Well, I think they were trying to adopt something as a place holder until you further flush out a more comprehensive management strategy. You can do virtually anything by emergency action. The heartburn I've heard around the table, and I think it's very well enunciated, is the difficulty of going forward within our state regulatory processes managing by emergency.

Now, whether or not what the Board considers to be an emergency has to move forward through a state system as an emergency, I think will vary state by state. And if we as a Board could take an emergency action because of unanticipated issues in the fishery which, i.e. are basically other states being cut out of any share of the quota.

I mean, if we could do that and then let the states go forward and try to move that as a place holder without that being an emergency action with the state, perhaps that's an option.

CHAIRMAN AUGUSTINE: Thank you, Ms. Shipman. And before Mr. Freeman asks a question, does our charter have built into it the flexibility to conduct or to do such a thing? Mr. Dunnigan, do you have a sense or whether or not we have that flexibility?

MS. SHIPMAN: I think the definition of emergency accommodates that. I mean, it just says it shall only apply in the circumstances under which public health or the conservation of the coastal fishery resources or attainment of fishery management objectives has been placed substantially at risk by unanticipated changes in the ecosystem, the stock or the fishery. I would say some of the states, certainly, that was an unanticipated change in the fishery to be closed out of the fishery. I mean, it was certainly unanticipated.

CHAIRMAN AUGUSTINE: Thank you, that sounds like that does describe it.

MS. SHIPMAN: But I would defer to the Executive Director.

CHAIRMAN AUGUSTINE: We would defer to the Executive Director. Mr. Dunnigan, will you respond to that or further clarify or nod your head yes or no or give us an I don't know? You'd rather not? You want Ms. Shipman's definition to stand?

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Well, I mean, Ms. Shipman accurately quoted the charter. I haven't been a part of your discussion for the last fifteen minutes so I'm not going to get involved.

CHAIRMAN AUGUSTINE: Okay, Mr. Freeman, I'm sorry I put you off for so long.

MR. FREEMAN: It seems to me we have a basic problem, because we have two different plans. We have a federal plan that the states have been involved in through the Council process. There has been debate in that plan. Nevertheless, the decision was made to move forward, and the Secretary agreed to put in place a plan that allocates the allowable catch to -- an incidental catch of either 600 or 300 pounds.

Now, some have rejected that and essentially put in place their own plan where they've taken that incidental catch and made it a directed fishery. I think the dilemma here is from the federal standpoint. How do you deal with the bycatch issues? How do you deal with the standards, the national standards of reducing bycatch, which the Council is trying to accommodate, and therefore allocated the catch, to one where industry indicates that's impossible and will not work, and they want a directed fishery. If we have a directed fishery, and we continue pursuing other fish and we catch spiny dogfish and discard them, which appears to be the case, how do you deal with the national standard of reducing bycatch?

So, we're on the horns of a dilemma here, and now the Commission is moving forward with developing a plan, and the issue is, well, what plan will we develop? And I think before we start talking about a public information document, we're going to have to make a decision as to how we're going to proceed with a strategy.

We're talking about a document and we're not even together on how we're going to pursue this. And it seems to me that, again, we've agreed, Commission, to work cooperatively with the Council. We need to do so. I mean, if we go on our own course, this could be a total disaster. It's going to be conflict between two institutions. And, quite frankly, I don't see any resolution to it. It's going to get worse.

So, it's imperative that we work closely with the Council. Now, if we believe the Council's plan is totally erroneous, then we need to have discussions with the Council and indicate strongly why that is the case, not just simply a decision of we don't like what you did and we're going to do something differently.

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

DR. DESFOSSE: Dr. Pierce mentioned this earlier about a meeting that was October 4th in Philadelphia. It was a joint Council/Dogfish Committee meeting and there were some recommendations that were moved forward from that meeting up to the Council, and I'm not aware of any action that the Council has taken in terms of amending their Dogfish FMP and what direction they're going to take.

I know one of the recommendations was to include, as one possible strategy, an option, basically, is the constant quota strategy that Massachusetts developed. We have not heard -- or you have not heard from Mr. Furlong if there was any action taken by the Mid-Atlantic Council. That was my question I wrote down here on the note pad is to find out what the Council is going to do.

CHAIRMAN AUGUSTINE: Thank you. Mr. Furlong, are you in a position to give us an update on that so we may move forward with a direction?

MR. FURLONG: Yes, thank you, Mr. Chairman. Where we stand is that, indeed, we are addressing an amendment to the plan. Some of the features of that amendment would include the concept of a constant harvest versus a constant F mortality. That has yet to be decided in a technical sense. I think Dave has done well today representing the interests of his Commonwealth and their philosophy about how this fishery should be prosecuted.

However, this plan was never intended to be a directed fishery. You have to understand that was one of the fundamental bedrock principles that we came from. It was to be a bycatch fishery. And therein is this difference of philosophy. Nonetheless, we are open to addressing the issue of constant harvest versus constant F. We're also addressing -- Dave asked me the question, that he was kind of surprised by the answer, that there is no penalty for an overage. In fact, that is an aspect of the amendment we would be addressing; the idea that things that are carried forward, much like the Scup Plan, where in the corresponding period of the subsequent year that overage would be adjusted off. That's not in place in this plan at the moment.

We still have a problem with the plan in terms of the biomass target. Our Council, the Mid-Atlantic Council has agreed upon one, but the New England has never taken an action on what we recommended based on a recalibrated stock survey that Dave also mentioned during his discussions early on about his public hearing.

So, where we are from the Council's perspective is that in December we will have a joint committee meeting to review the actions out of Philadelphia. Between now and then, we hope to have a monitoring committee formed and provide us technical advice as to both the amendment, what should be addressed in an Amendment 1, as well as what the specifications are for our fishing year which begins in May 1 of the year 2001 and has two six-month periods to it, to run through April 30th of 2002.

One other comment, in the federal system -- and, Harry, please correct me if I'm wrong here -- an emergency action requires an aspect of unpredictability. And in the context of this conversation, I think you all can acknowledge that you can pretty well predict that there's a train crash coming. And I don't know how the Commission's rules address an emergency as differentiated from a federal emergency. So, I thank you for this time.

CHAIRMAN AUGUSTINE: Thank you. Mr. Furlong, before you sit down, Mr. Borden has a question.

MR. BORDEN: Thank you for those comments. Dan, assuming it all goes well in your process, and assuming that we wanted to change the strategy to a constant harvest strategy, when would that change actually be implemented, assuming your optimistic time schedule?

MR. FURLONG: Well, let me put it this way.

MR. BORDEN: Which is a major assumption, I think.

MR. FURLONG: I doubt very seriously if it can be accommodated for the next fishing year. I don't think if we were to take an action in December that we could get it through the federal process and go through the whole public hearing process in a timely enough fashion and to have the New England Council, you know, lock step together with us on this, so that come May 1 of the year 2001, we would have this amendment in effect. I think it will happen in the calendar year 2001 but not prior to the start of the fishing year.

CHAIRMAN AUGUSTINE: Any follow-on questions, Mr. Borden?

MR. BORDEN: Yes. It's not a question for Dan but just a statement. And I'm glad he answered that because that was the way I understood it. So, essentially, we have a situation, so everyone is clear on it, the federal regulations that are set for May 1st are going to go into effect, those trip limits.

The question for us is what is going to be the requirement in state waters, thereafter? And if we have a repeat of the situation that occurred this year, essentially you will have a number of state water fisheries that will be preempted by the actions of one or more states.

So, it seems to me that what we have to do is come to some, for us -- you're not going to change the federal process. We can work to change the federal process, but that is not going to get implemented in the timeframe to really change the situation dramatically. It seems to me there's some kind of interim action that we've got to take.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden, and thank you, Mr. Furlong, for your help and assistance. Mr. Freeman.

MR. FREEMAN: The only possible solution I can see at this point -- and this is framed reference to the comments that Dave Borden just made -- would be to determine what the historical catch would be in state waters for the various states and then implement -- and I guess it would have to be under emergency action, -- a commission plan that would allocate state water catches only for next year starting May, is it May 1?

CHAIRMAN AUGUSTINE: May 1.

MR. FREEMAN: That's the only thing I can see. Otherwise, we're going to be faced with this -- we could well be faced with the same problems that we encountered this year; that some will catch most, if not all, and others won't catch anything. And as we all recognize, that may not last long.

CHAIRMAN AUGUSTINE: Comments to that point around the table please? Dr. Pierce.

DR. PIERCE: Well, I'm hoping that both councils will see the merit of the constant quota approach; 4,000 metric tons. The Committee certainly did. Let's not forget that both Committees have met and have said the proposal that was developed by Massachusetts seems to make sense. It has merit, there's some conservation equivalency there and it needs to be further explored; further analyses, further investigation.

So, it's not as if we don't have an option here that could be viable for ASMFC to consider for next year. I'm hopeful that the councils will react positively to that approach. And then ASMFC, recognizing that we have time constraints and that we have fishery next year to deal with, will in some manner, perhaps through emergency action - - and we've already heard David's comments and other comments about the problems the states have in doing so, taking emergency action, that is -- perhaps through emergency action we will have to implement a constant quota approach that would deal with the issues of equity and fairness. That would not in any way jeopardize dogfish rebuilding efforts, and that's one of the consequences of this constant quota approach. So that's why I feel that the PID has to go forward.

We have to demonstrate to the industry that's watching us that, indeed, we're giving some creative thought to how management of dogfish should occur in state waters, with hope for pursuit of the same approach in federal waters; not next year of course, but the year thereafter. We may have to take a lead in this effort, ASMFC, that is. So, the PID, discussion of the different approaches for managing dogfish, bycatch quota approach that we have right now, which really is ineffective and creates no shares at all or a small-scale fishery approach that could be tailored to deal with the issues of equity and fairness.

That's one thing in the PID. Another thing, I assume that the PID would request some input regarding what objectives should be because ASMFC right now has no objectives for dogfish. We're muddling along, following the New England and Mid-Atlantic Council approach. That's fine but still we're talking about state waters management of the species. So, we need some specific objectives. We need to talk about how we're going to deal with regulatory discards.

That's of great importance to all of us, certainly in Massachusetts where we have active groundfish fisheries in our waters, and dogfish will be caught as bycatch in those fisheries, unavoidable bycatch. How do we deal with that; discards in other fisheries? How does ASMFC relate to that, as well? A lot of very difficult questions, of course. The rebuilding schedule; what should that be?

The Councils are evaluating that right now. We owe it to the industry to go forward with, at least, the beginning steps of this process for developing a plan, an ASMFC plan, so that they don't view us as being inactive and unwilling to take any action until the councils have made changes in the way they manage dogfish. And that, of course, wouldn't involve anything different for the year 2001, maybe 2002. So, let's move forward with the PID. I don't think it's necessary for this board today to sign off on the merits of the constant quota approach or keeping the process as it is right now.

There will be other meetings for that. We'll be able to take our lead, as well, from the Monitoring Committee. I believe Dan said that there's a call out for individuals who would be part of the Monitoring Committee. They'll take a look at assessment information. I assume they'll take another hard look at the analyses that were done by DMF, by Steve Correia, specifically, to see if there were any problems with that; where it can be improved.

So, things are happening and we need to be happening. ASMFC needs to be happening at the same time. So I'll end there. But I would like to ask one other question of Dan because he confused me when he said -- and maybe you misstated it Dan, or again I just misunderstood. I think you said that in December the Joint Dogfish Committee would meet again to discuss what came out of the November meeting of the Joint Dogfish Committee? That can't be right because the Dogfish Committee has already taken some actions and passed those recommendations on to the full council, Mid-Atlantic Council. I assume the Committee will be waiting for the Mid-Atlantic Council to say what it wants to do. So, did I misunderstand?

MR. FURLONG: I may have misspoken; then again, you may have misheard. But in November we have the Monitoring Committee Meeting, and that is our technical group. And it's that group whose information will go forward to the Council in December.

DR. PIERCE: All right, thank you.

CHAIRMAN AUGUSTINE: Thank you, Mr. Furlong. Well, two or three major items have been mentioned, and two or three major concerns have been mentioned; particularly, Mr. Borden and Mr. Freeman and Dr. Pierce.

We haven't moved an inch forward. So what's your choice and what's your direction you want to go? Do you want to put something on the table as a possible motion to take some action to accept either the constant harvest or go one direction or another? Mr. Borden.

MR. BORDEN: Just to try to be a little bit clearer, obviously, I don't think I have been as clear as I might have been. I have no personal objections to moving forward with the PID. That's our normal process, and I think that we should follow that process. But I don't think we should delude ourselves. That process is not going to resolve the issues that I think we need to be devoting some time to. Come June 1st, if that's for the sake of argument, when the state of Massachusetts opened their fishery -- was it June or July, David?

DR. PIERCE: It was in June, but the fishery really doesn't begin until July.

MR. BORDEN: Okay. But the circumstance that we're going to find ourselves in is if we have done nothing by June 1st then, at least, my assumption would be the state of Massachusetts will have to make a decision as to whether or not they're going to do the same thing over again. And each of the states are going to have to make the same type of decisions. So, it seems to me by that deadline, we have to have another scheme, for lack of a better word, that we're going to put into place that's going to govern state water fisheries.

Just extending the closure at that point, I think, is going to be unacceptable to the majority of the states up and down the coast that are precluded from participating in the fishery by conducting the same type of fishery that occurred this year.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden, a very valid point. One moment please, Dr. Pierce. Mr. Freeman, you had suggested the possibility of taking a look at state-by-state allocations for this coming year in lieu of the fact we won't have time to put together an FMP. I think maybe some of the other Board members, I in particular, would like to hear a little more about that if you thought it through enough so that you feel we might want to go down that way and spend some time discussing that as a viable way.

The other is Dr. Pierce made a presentation on this constant harvest. If we have the ability to take emergency action to prevent a catastrophic activity from occurring in next year's fishing season, again, without having to extend emergency action for 180 days without having accomplished any change or development of an FMP, I think we've missed a golden opportunity. So would you like to expand on that a little bit, Mr. Freeman?

MR. FREEMAN: My thinking is that we should be able to determine, based upon historical catches, the amount of fish taken by both in federal and state waters -- I'm quite certain the Fishery Service collects data in that way -- and at very least, the council could put a plan in place that would allocate the state portion relative to historical catches.

Now it would be up to the state whether it wanted to catch them or not and how it would want to catch it. But it would at least not allow for an uncontrolled fishery that would be totally diametrically opposed to the federal plan. And at the present time that's the only solution I can possibly think of. There may be others but I haven't seen them.

CHAIRMAN AUGUSTINE: Thank you, Mr. Freeman. Any comments from other Board members? Dr. Pierce.

DR. PIERCE: In terms of developing a creative approach for how to deal with the fishery next year, I would suggest, Mr. Chairman, that perhaps a small group of the Board, a sub-board, the subcommittee could be charged with the responsibility of drafting some scheme that could be considered as a viable alternative for this group. I don't think we would require too many people from this board to be part of that committee. I don't think there are too many members around this table who are involved with -- who have state waters fisheries or who have many landings of dogfish, for that matter.

North Carolina certainly should be involved in a big way. They're a major player in this game. I'm not sure about New Jersey, but Bruce has certainly expressed many specific concerns. He's had some good ideas, he could be part of it. So, that would be my suggestion, Mr. Chairman. We're running out of time. I think a small group to do some brainstorming to bring forward some ideas would be a great benefit to this group.

CHAIRMAN AUGUSTINE: Thanks, Dr. Pierce. I think it's an excellent idea. Do we have some states that would like to -- Mr. Gordon Colvin.

MR. COLVIN: Puzzling through this morass, and it occurs to me that there's another heretofore unspoken to some unspeakable option, but it needs to get laid on the table. It seems that there's a federal management plan in place that can't work because of landings by non-federal permit holders; either landings that have happened or are expected that they could happen primarily in a couple of states; and that it does not seem possible to get that plan amended and an ASMFC back-stop plan in place that would be consistent with an amended federal plan in time for next year's fishery.

And it's not even certain that we would ultimately come up with a state plan and a federal plan that would be in sync. Goodness knows, we have some other really major problems in that regard, operationally. And if we started tomorrow, I really don't know how we'd get it done, much less go through a PID process and all the rest of it. So, it just seems to me, Mr. Chairman, that there's another option that would spare the Commission and its members, maybe except for the members in those two states, a lot of agony.

And that is to stop what we're doing and to engage in serious discussions with the National Marine Fisheries Service about management in state waters under Section 306 of the Magnuson Act.

CHAIRMAN AUGUSTINE: Thank you, Mr. Colvin. Anyone want to follow them? Dr. Pierce.

DR. PIERCE: Well, certainly, that is an option. However, I would suggest that many states have expressed an interest in management of dogfish. And many states have declared this species to be of high priority for ASMFC.

Therefore, I would hate to see ASMFC back off and take the lazy way out. Certainly, it's controversial but it's kind of a lazy way out to pursue that route. And besides, we have to consider one important point. There's many, but I'll highlight one. When we have alternative management approaches for managing a particular species, in this particular case, dogfish, that have equivalency in terms of conservation, hitting our targets in the same period of time, one should choose the option that provides the least economic impact.

That was a recent conclusion of a federal judge; the appeals court, as a matter of fact, not the appeals court, the federal judge that dealt with a recent lawsuit on dogfish that went in favor of the defendants, NMFS, not the plaintiffs. And it's common sense. If we have alternative approaches, in terms of conservation requirements, hitting our targets, meeting our goals, choose the option with less economic impact, and that's basically what Massachusetts did this year.

Yes, on our own, but there was no other alternative in light of the timing. So again, Gordon has got -- it was an obvious suggestion to make, but I feel it's the wrong way to go.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. We have a hand up from the public. Public comment?

Sonja?

MS. SONJA FORDHAM: Sonja Fordham, Center For Marine Conservation. I just have a couple points and ideas for your plan. I do want to remind you I did attend the dogfish meeting. The alternative constant quota that the Council agreed to consider is by no means a preferred option, and it's a long ways away. I wanted to point out to the group that this quota that's been proposed as the constant harvest strategy is for the entire coast, but it's also roughly equal to the Massachusetts state quota.

We see this as a riskier strategy that allows for a directed fishery on the largest fish left, which are the mature females, which, of course, have been depleted. We continue to be concerned about the recruitment failure and dismal status of the dogfish stock, and we continue to believe that the most cautious action you can take is warranted.

In your plan development, we urge you to consider state compliance not just with federal quotas, but also the trip limits, which are -- Massachusetts has inconsistent, to say the least, trip limits for dogfish. We would also like to see some serious examination of ways to reduce dogfish bycatch. There's a lot of talk about how to utilize dogfish, but we'd like you to look at, seriously, ways to avoid dogfish in other fisheries and reduce that bycatch consistent with the national standards. Also, we would not object to Mr. Colvin's idea as an option to be considered in your plan. Thank you.

CHAIRMAN AUGUSTINE: Thank you. Mr. Mears.

MR. MEARS: Mr. Chairman, based upon everything that's been said during the past hour and a half and also given the premise that I don't believe anyone on this Board wants to be put in the position of early next year having to take yet another emergency action. It's my sense that there's no alternative but, in fact, to move forward with a public information document to begin the process for several reasons. One is we don't know the answers now.

We don't know what the preferred alternative approach should be and that's, in fact, one of the purposes of what the PID process would flush out. We have a full spectrum of alternatives which have been identified ranging from the status quo of what the Council plan is doing now to the one that was brought up just a few minutes ago, if, in fact, that is a serious alternative, to identify Section 306 of the Magnuson Act.

There are shades of variation in between. We have a Council process that's beginning to move forward with potential amendment of the Council plan. I think there are economies to be gained, scientifically and technically, for the Council, for the Commission, for the states, to work collectively together on identifying what the best management route would be.

I don't see the development of a PID to be necessarily a real onerous task that's impossible to achieve; based upon the seriousness of the situation, the need to look at the biological status, the resource and the socio-economic factors we've heard here today, that from what I've heard, from the involvement I've had in this issue.

But that's really our only viable choice is to, in fact, move forward with the development of a public information document in the very near future.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. To that point, Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. Just to reiterate, I have not objection to doing that. To me, that's just status quo is what it is. So, unless we hear objections, I would say we would do that. The staff would be directed to do that and we would move forward. To me, the issue is what are we going to do come June 1st? That's the issue. And I don't think you can necessarily wait to start work on that.

I think Dave Pierce's suggestion to form a subcommittee to flesh out the options for consideration not later than the spring meeting -- and I think those options will probably have to be implemented on some kind of emergency basis. But I think you've got to do both of them at the same time.

CHAIRMAN AUGUSTINE: Excellent point, Mr. Borden. Do any of the Board members have a problem with developing a -- we'll call it a subcommittee to work on fleshing out the alternatives to go into a PID? Seeing none, we'll do that. We'd like to get commitment from some of the states who would like to participate. We know Dr. Pierce will. Mr. Borden, would you participate in that?

MR. BORDEN: Rhode Island will.

CHAIRMAN AUGUSTINE: Rhode Island will.

MR. BORDEN: A Rhode Island representative.

CHAIRMAN AUGUSTINE: North Carolina will. Mr. Nelson. Mr. Freeman. Ms. Shipman?

MS. SHIPMAN: No.

CHAIRMAN AUGUSTINE: Well, you could be monitor.

MS. SHIPMAN: I don't have a dogfish in this fight. However, a neutral party might not be a bad idea.

CHAIRMAN AUGUSTINE: That's what I was suggesting. You could play referee.

MS. SHIPMAN: I don't know as I want to do that.

CHAIRMAN AUGUSTINE: All right. Mr. Desfosse.

DR. DESFOSSE: Let me just clarify something, at least, in my mind. This was to form a subcommittee to look at developing some sort of interim action. In terms of developing the PID, that would fall on the shoulders of the plan development team. And I've got lots of notes here as to what should go into that public information document based on this discussion.

CHAIRMAN AUGUSTINE: Okay, everyone understand that? All right, have we beat that up enough? I think we have. We move on to -- no other comments from the Board members? Other business. Mr. Cole would like to make a point. And Mr. Cole?

#### **OTHER BUSINESS**

MR. COLE: Mr. Chairman, it's a follow-up of a previous conversation. Dan Furlong offered to you a few minutes ago the opportunity to name an individual to the Monitoring Committee for dogfish, and I would think that we would want to do so. My suggestion would be, I can make it in the form of a motion if necessary, but that this Board, to maintain continuity at least with what the councils are doing, that we name the staff member to that monitoring committee.

CHAIRMAN AUGUSTINE: Mr. Cole, Board members would you believe a motion would be in order or can we just assume that? Mr. Nelson.

MR. NELSON: You've got Joe raising his hand frantically, Mr. Chairman.

DR. DESFOSSE: I'm not sure that that's an appropriate measure. I have been invited to attend meetings of the Dogfish Committee.

CHAIRMAN AUGUSTINE: Okay, then it's a done deal, Mr. Cole. And I skipped an item because I have the old agenda. Ms. Berger, would you please talk with us about the Advisory Panel membership. We have you as an agenda item.

#### **ADVISORY PANEL ISSUES**

MS. TINA BERGER: Thank you, Mr. Chair. Just briefly, hopefully, most of you received information on the advisory panel member that was nominated and approved at the last board meeting for your state or jurisdiction. I am just waiting on your feedback from that memo as to whether that person is who you want to represent your state or jurisdiction. And that's basically where it's at.

Once I hear from everybody, I will then go forward and write letters to the advisory panel members telling them that they're on the panel and what they have to look forward to.

CHAIRMAN AUGUSTINE: Thank you, Ms. Berger. Is there any other business? Mr. Mears.

MR. MEARS: Mr. Chairman, I sense that we're about to adjourn, but I'm still a bit confused. Just for purpose of the record, what is the sense of the Board in terms of the timeframe for development of the PID? It might have been said but I missed it in terms of what the intent of this group is in that regard.

DR. DESFOSSE: The intent, from what I understand, is to go ahead and move forward on two fronts. One is to develop the PID. The timeframe, I might have said, you know, the next Board meeting in January. I'll work as best as I can with the Plan Development Team to come up with a draft for that meeting. I'm not sure that it needs to be that fast of a track. I get the sense -- I would ask the Board if that is what they want, and if so, we will work on that schedule.

In terms of working with the subcommittee to develop an interim action, I heard by the spring meeting, but I would try to provide a draft of that prior to the spring meeting. I don't think the Board would like to wait until that time, possibly by the April meeting at least.

CHAIRMAN AUGUSTINE: Bill.

MR. ADLER: One quick question to Tina. On the advisory panel I noticed -- I believe there were two names from Massachusetts, and I just wanted to know, do we have like a number that we can have or is there the possibility that another person could be appointed in addition to those two?

CHAIRMAN AUGUSTINE: Thank you, Mr. Adler. Ms. Berger.

MS. BERGER: That would basically be up to the Board to decide. At it's last meeting it did not discuss specific membership of the panel or number of seats per jurisdiction. Basically, you approved the standing AP from the Councils. And I'm just confirming with each state and jurisdiction that that's who they want on that. If you want

to add another person, how I was going to approach it is provide all that information to the Board at it's next meeting, and let the board decide what they want that panel to look like.

CHAIRMAN AUGUSTINE: Any further comments? We'll entertain a motion to adjourn.

MR. CALOMO: So move.

CHAIRMAN AUGUSTINE: So moved by Vito Calomo and seconded by Mr. Abbott. All in favor; opposed; abstain. Go home. (Whereupon, the meeting was adjourned at 3:00 o'clock p.m., October 16, 2000.)

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