

ATLANTIC STATES MARINE FISHERIES COMMISSION

Radisson Hotel Alexandria, Virginia

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

August 21, 2000

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SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

August 21, 2000

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Attendance

Board Members:

Pat Augustine, NY Gov. Appte., Chair
Doug Grout, proxy for John Nelson, NH Fish&Game
Bill Adler, MA Gov. Appte.
David Borden, RI DEM
Byron Young, proxy for Gordon Colvin, NYS DEC
Brian Culhane, proxy for Sen. Johnson, NY Leg. Appte.
Charles Lesser, DE F&W
Jack Travelstead, proxy for William Pruitt, VA MRC
Melvin Shepard, proxy for Rep. Redwine, NC Leg. Appte.
David Cupka, SC Gov. Appte.
Kathy Barco, FL Gov. Appte.
Harry Mears, NMFS

Lew Flagg, ME DMR
Dennis Abbott, NH Leg. Appte.
Dr. David Pierce, MA DMF
Ernest Beckwith, Connecticut DEP
Bruce Freeman, NJ DF&W
John Connell, NJ Gov. Appte.
Pete Jensen, MD DNR
Red Munden, NC DMF
Damon Tatem, NC Gov. Appte.
Susan Shipman, GA Coastal Res.
Bill Cole, USFWS

Ex-Officio Members:

Col. William McKeon, MA, LEC Rep.

Other Commissioners:

Paul Diodati, MA DMF

Staff:

Dr. Joseph Desfosse
Dieter Busch

John H. Dunnigan
Tina Berger

Guests:

Sonja Fordham, CMC
Bob Ross, NMFS
Rich Seagraves, MAFMC
I. Luie Fass, Int. Seafood Dist.
Clay Heaton, MAFMC
Dr. Jaime Geiger, USFWS
Margo Schulze-Haugen, NMFS
Karyl Brewster-Geisz, NMFS
Kelly V. Place, VA
Tina Moore, NC DMF
Sam Swift, VA

Peter Burns, NMFS
John Boreman, NMFS
Mary Keliher, Am. Dogfish Assn.
Dr. James Gilford, MAFMC
Dr. Wilson Laney, USFWS
Michelle Duval, Envir. Def.
Dr. John Merriner, NMFS
Steven Correia, MA DMF
Harry Doernte, VA
Dan Furlong, MAFMC

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

Spiny Dogfish and Coastal Shark Management Board

August 21, 2000

SUMMARY OF MOTIONS

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

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

2. *Motion to approve the minutes of the February 8, 2000 Board meeting.*

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

3. *Move that the Spiny Dogfish and Coastal Shark Management Board adopt, by emergency action, the requirement that states prohibit harvest, landings and possession of spiny dogfish during any time that the federal spiny dogfish fishery is closed due to quotas being taken. States must be in compliance by October 1, 2000..*

Motion by Mr Mears., second by Ms. Shipman.

The motion was perfected to read:

Move that the Spiny Dogfish and Coastal Shark Management Board adopt by emergency action the requirement that states prohibit commercial harvest, landings and possession of spiny dogfish during any time that the federal spiny dogfish fishery is closed due to quotas being taken. States must be in compliance by the 2000 ASMFC Annual Meeting.

The motion carries unanimously by roll call vote (16 in favor, none opposed, no abstentions, no null votes).

ATLANTIC STATES MARINE FISHERIES COMMISSION

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

Radisson Hotel

Alexandria, Virginia

August 21, 2000

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The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom, Radisson Hotel, Alexandria, Virginia, August 21, 2000, and was called to order at 3:45 o'clock p.m. by Chairman Pat Augustine.

WELCOME/INTRODUCTIONS

CHAIRMAN PAT AUGUSTINE: All right, ladies and gentlemen, let me have your attention. Okay, I'd like to call the meeting of the Spiny Dogfish and Coastal Shark Management Board to order. Welcome to all. I'd like to call for the roll. (Whereupon, the roll call was taken by Dr. Joseph Desfosse.)

APPROVAL OF AGENDA

CHAIRMAN AUGUSTINE: We have a quorum. I hope you've all had an opportunity to review the agenda. I'd look for a **motion to accept the agenda as is** unless you have suggestions or changes.

MR. WILLIAM A. ADLER: **So moved.**

CHAIRMAN AUGUSTINE: So moved, Bill Adler; **second by Bill Cole.** All in favor, aye; opposed; abstain; null. Approved. Okay, may we have any public comment now that someone would like to come up to the microphone and make a presentation on a letter or present a point of view? Sonja, would you like to today or are you going to pass?

MS. SONJA V. FORDHAM: You mean I can't do it later?

MR. ADLER: Mr. Chairman.

CHAIRMAN AUGUSTINE: Yes, again, she would like to do it later. Bill Adler.

APPROVAL OF MINUTES

MR. ADLER: Should we do the minutes approval?

CHAIRMAN AUGUSTINE: Did I pass the minutes?

DR. JOSEPH DESFOSSE: Yes.

CHAIRMAN AUGUSTINE: Oh, I'm so quick today I passed the minutes. Thank you, I stand corrected. Have you reviewed the minutes of the last meeting?

MR. ADLER: **I'll move they be accepted.**

CHAIRMAN AUGUSTINE: Move to accept, Bill Adler; **seconded by Bill Cole.** All in favor, aye; opposed; abstain; null. Carried. Okay, is there anyone else who would like to make a public comment? Yes, please come to the microphone and announce who you are.

PUBLIC COMMENT

MS. MARY KELIHER: My name is Mary Keliher. I represent the American Dogfish Association, which is a group comprised of fishermen, processors, unloaders and packers from Maine down to North Carolina.

We've got a situation where the abundance of this stock is at near its historical high. We've got very little scientific information on the plan, the federal plan, to support of what the federal plan did. For example, in terms of landings information for the year ending April 2000, the federal government estimated there were approximately 28 million pounds landed. In fact, there were about 45 million pounds landed. They're off by almost 100 percent on that.

There's very little information historically on the male-female composition of this stock. And there's very, very little information on discards, and that was one of the reasons that the Secretary delayed implementation of the plan more than three times.

We've got a situation where the science was so imprecise that the New England Council and Mid-Atlantic Council had extremely divergent views as to how to manage this stock. Yet, we ended up with a federal plan which, based on this imprecise data, in essence would close the fishery. In particular, the quota, 4 million pounds, which is down from average landings of about 45 million pounds a year for the past three years and in particular, the federal trip limits of 300 pounds and 600 pounds are absolutely insufficient to allow any directed effort at this stock.

The price of fish is in the area of twenty cents a pound. The federal trip limits of 300 to 600 is \$60 to \$120. No one can operate at that level. To its credit, Massachusetts opened a fishery of 7 million pounds. Of utmost importance was the trip limit associated with that fishery. There was scientific analysis and data to support that limited fishery. But with the 7,000 pound

trip limit, fishermen could survive on that, go out, make a minimum, certainly they're not thriving, but they could go out and fish and bring in that level and then make a minimal amount of money.

If this group is inclined to support the federal plan, in essence it's going to shut down the industry immediate and permanently. The processors can't survive on drib-drabs of 300 pound trip limits or 600 pounds, so that's going to be meaningless and pure economic waste. I'm sure many of you have heard many different reports about the strong status and abundance of this stock. And what we're trying to do is enable this industry to survive until the science catches up with the management plans. Thank you.

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

MR. RED MUNDEN: Excuse me, Ma'am.

MS. KELIHER: Yes.

MR. MUNDEN: You indicated that the industry had indicated to you that they had harvested 45 million pounds. During what time period was that?

MS. KELIHER: That was from May 1, 1999, to approximately April 30, 2000.

MR. MUNDEN: That would have been the 1999 fishing year?

MS. KELIHER: That's right.

MR. MUNDEN: Okay, thank you.

CHAIRMAN AUGUSTINE: Any other questions for our commentor? Thank you again. Any further public comment? At the moment I'd like to turn the meeting over to Joe. He's going to give us a lead-in into the Technical Review.

TECHNICAL COMMITTEE REPORT

DR. DESFOSSE: Thank you. Your Spiny Dogfish Technical Committee met concurrently with the Council's Dogfish Technical Committee on July 11th in Warwick, Rhode Island. There was a low turnout of your Technical Committee. This may make it confusing between the two different Technical Committees. There were only four members present of a possible sixteen.

This is a little aside here from the staff perspective, but it may be -- for the future, the Board may wish to appoint a separate Dogfish Technical Committee from those states that have more of an interest in dogfish, and then have a separate Coastal Shark Technical Committee as well instead of having a joint one where we get low turnout. This led to a little bit of confusion as to whether or not we actually had a Dogfish Technical Committee meeting and whether formal recommendations could move forward. As such, what we have is the summary of that meeting that was prepared by the Mid-Atlantic Council Staff, Rich Seagraves.

I know he's here in the audience somewhere in the back, in case there's any questions concerning that. I'll point out that the members of your Technical Committee that were present did not dispute any of the recommendations or conclusions that were made by the Council's Dogfish Technical Committee. I've summarized that in the one-page memo that's part of your package here, as well as provide all of the information that was forwarded by Rich for the Council's dogfish discussions last week.

There were five points that the Technical Committees came to agreement on. The first was that Massachusetts' strategy of a constant quota of 8 million pounds applied on a coastwide basis to the entire stock would allow for rebuilding the target stock biomass in approximately the same time as the strategy in the federal FMP. That employs a constant F strategy as opposed to the Massachusetts strategy, which is a constant harvest.

The second point was that they agreed that the approach in the federal FMP was more risk-averse because the adult female portion of the stock rebuilds at a slightly faster rate earlier in the program versus the constant quota strategy.

Thirdly, they acknowledged that a directed fishery on adult females will prolong rebuilding. The fourth point was a strict evaluation of the Massachusetts management strategy, the 7 million pound quota, 31-inch size limit was not possible due to the inclusion of the size limit which would change the selectivity pattern of the fishery from that observed in recent years.

Finally, they concluded that under either management strategy, the rebuilding period is expected to be extended due to the continued decline in the adult female portion of the stock and the recent reduction in intermediate sized females as evidenced by the 1998 through 2000 Center's surveys.

I would also point out that beginning on page 2, going through pages 2 through 4, there is a brief summary. Rich did an excellent job at the Technical Committee meeting of laying out the history of how both the Councils and now the Commission's Spiny Dogfish Management Board got to the point that they are in right now.

I want to ask Red if there was anything from the Council's meeting last week, the Dogfish Committee, that he would like to report on.

CHAIRMAN AUGUSTINE: Those of you who were in Philadelphia last week at the Mid-Atlantic meeting know that there was a Spiny Dogfish Committee meeting. Red Munden is with us, also, the Chairman of that Committee. I'm not sure whether he might want to add something to our meeting here. Red, would you, please.

MR. MUNDEN: Thank you, Mr. Chairman. One thing that also was brought up at the Technical

Committee, which I'd like to bring out before I get into the Mid-Atlantic Council summary, is that the Spring Survey conducted by the National Marine Fisheries Service showed very, very low production of spiny dogfish for the 2000 Spring Survey. And this is the fourth year in a row that pup production has been very, very low, the lowest pup production in the time series for the past four years.

CHAIRMAN AUGUSTINE: Thank you, Red. Susan.

MS. SUSAN SHIPMAN: Red, did you characterize that as continued recruitment failure?

MR. MUNDEN: I don't know if it would be characterized as continued recruitment failure or not, but we feel like it's certainly indicative of the harvest of the mature females, and also the average size of the females at maturity has decreased. So, all of this together seems to indicate that the stocks are suffering from the harvest of the mature females.

MS. SHIPMAN: But as far as the pup, the survey on the pups, would you characterize that as recruitment failure?

MR. MUNDEN: I'm not at liberty to make that determination at this point in time. Maybe Rich Seagraves would care to comment on that.

CHAIRMAN AUGUSTINE: I'd like to ask Rich if he would, please. Rich Seagraves.

MR. RICH SEAGRAVES: Okay, my name is Rich Seagraves. I'm with the Mid-Atlantic Council staff. The question is does four consecutive years of zero pup production constitute recruitment failure, and I believe that's how we characterized it. There has been virtually no production of pups for four straight years. As Red pointed out, it coincides essentially with the decline in the adult female biomass as opposed to the pre-exploitation makeup of the stock. Prior to 1990, if you look at -- hopefully you have all the records of what transpired, the Technical Committee minutes, of March 6th as well as the last one we had which was the 11th of July.

Paul Rago who has been doing the assessment work with the Center provided us with a real nice compare-and-contrast analysis of the stock before and after exploitation. The stock in the mid-1980s was comprised of a large accumulation of adult females as well as pups. And, the stock after exploitation, essentially we see a great reduction in the adult females as well as very few pups being produced. The short answer is, yes, the Technical Committee pretty much would call it recruitment failure.

CHAIRMAN AUGUSTINE: Thank you. Any other questions that the Board might want to ask Rich? Thank you, sir. Joe read the Technical Committee report. Any Board members like to comment on that analysis of the five points that were presented to you? Dr. Pierce.

DR. DAVID PIERCE: Yes, I was at that Technical Committee meeting as was Paul Diodati. I think it's fair to say that Rich has done a real good job summarizing the discussions that took place at that time. It took a number of go-rounds, a number of drafts to get it to the point where there seems to be a consensus by all members of the Committee that what's there is pretty much on target.

I wanted to point out that the presentation given by Steve Corriea of my staff is in your handout, your package of handouts that was sent to you, so I hope you've had a chance to read it. There's a lot there, a very significant analysis done by Steve. Steve, by the way, happens to chair the New England Council's Multi-Species Monitoring Committee. He's a member of the Scallop PDT. He's also a member of many technical committees of ASMFC so he has great credibility with all of us. In addition, Steve is in the audience, and he'll gladly respond to questions anybody might have regarding the nature of that analysis.

While I have the microphone, Mr. Chairman, I should point out something that's germane to our discussions here this afternoon. That is, the fishery in Massachusetts, landings in Massachusetts will be prohibited as of the end of this week. Consistent with what we said we would do, we have closed the fishery when 7 million pounds was taken. We have closely monitored that fishery via our statistical reporting system.

In addition, we have followed through with our commitment to monitor the fishery at sea and in the plants. We did approximately eight sea sampling trips and we had something like 15 samples within the processors in Massachusetts. We're putting together a report that will describe the nature of our fishery, nature of landings in Massachusetts this summer, a fishery that started in approximately the beginning of July and went through just about the end of August.

One final point, you mentioned had the Mid-Atlantic Council taken any position on dogfish, and I didn't quite understand what exactly was said. Did you say that there was a Dogfish Committee meeting held during the Mid-Atlantic Council, Red?

CHAIRMAN AUGUSTINE: Red, would you address that, please?

MR. MUNDEN: No, there was no meeting of the Spiny Dogfish Joint Committee. Mr. Chairman, while I have the mike, if I may, the Mid-Atlantic Council has requested that the National Marine Fisheries Service re-estimate the rebuilding time under the horizons of a constant F and other strategies. We have requested this by letter from the National Marine Fisheries Service. Once these analyses become available, then we will call a meeting of the Joint Dogfish Committee to evaluate the alternative rebuilding strategies, including the constant F and other harvest approaches.

Then it is our intent that the Joint Dogfish Committee will then make recommendations to both Councils as well as ASMFC as to what the appropriate action should be. So we are currently awaiting the analysis that we requested by the NMFS scientists of the information.

CHAIRMAN AUGUSTINE: Thank you, Red.

DR. PIERCE: If I can grab the mike back for a second, Pat.

CHAIRMAN AUGUSTINE: Go ahead.

DR. PIERCE: I just wanted to highlight that the New England Council at its last meeting did vote to support the constant harvest strategy approach, 4,000 metric tons, and there has been some criticism of that action by the New England Council since the action was taken based upon minutes that were made available to the Council describing what happened at the Technical Committee meeting. I wanted to point out for the benefit of all present here that that motion, that decision by the New England Council was specific to the first bullet that was noted by Joe a little while ago; that is, number one.

And that particular bullet, that consensus statement, truly was a consensus statement at the time. So the New England Council, certainly myself and others who were quite interested about the dogfish fishery and the resource itself, felt it was quite appropriate to have the New England Council take a position regarding this particular strategy, since we knew that the New England Council wouldn't be meeting again until after this meeting, and that we felt ASMFC would benefit from some guidance by one of the authors of the Dogfish Plan.

I will also, Mr. Chairman, when it's appropriate, comment on the other bullets as presented by Joe, as described by Joe, since this is a thumbnail sketch of some rather extensive discussion by the Technical Committee relative to all those particular issues, and the window dressing that accompanies those particular five items is extremely important for ASMFC Board members to appreciate.

It completes the picture and I'll have to attempt to complete that picture once we get into the specifics. With that, Mr. Chairman, I'll turn it back to you.

CHAIRMAN AUGUSTINE: Thank you, Dr. Pierce. Dr. Gilford, please.

DR. JAMES GILFORD: Yes, for the record I'm James Gilford. I'm Chairman of the Mid-Atlantic Fisheries Management Council. I'm here right now, specifically, to try to bring you up to date as to how we got to where we are as far as the Mid-Atlantic Council is concerned.

At a meeting of the Mid-Atlantic Council, we sent a request to the Atlantic States Marine Fisheries Commission to take emergency action with respect to protecting dogfish stocks. And we also sent a letter to

the Secretary of Interior and a letter to Massachusetts expressing our concerns over the action Massachusetts had taken.

In response to that, Paul Diodati contacted me and contacted the office and requested that the Technical Committee evaluate the Massachusetts plan. And I responded to that by simply saying, "Yes, we'll be glad to do that on a provision that we'll all abide by the results of that analysis, and do it in a way that puts all of the information available to everybody, including the New England Council." The federal plan is a joint plan between New England and the Mid-Atlantic Council. There's no question that the two Councils have been very far apart on their approach to management for spiny dogfish.

At any rate, the understanding was that the Technical Committee would look at the Massachusetts information, evaluate it, and once there was consensus on the evaluation report, that report would then go to our Joint Dogfish Committee, New England and Mid-Atlantic Council Joint Dogfish Committee, for review and evaluation along with any additional new information on the status of the stock.

The Joint Committee would then come back to their respective Councils and make their recommendations. I have chosen to continue along with that agreement, irrespective of what New England has decided to do or anyone else so that we will, by the time we make some evaluation on where we stand with the management plans and the supporting information for it, all be talking about the same information.

I think it's unfortunate that somebody decided to jump the gun and move ahead on this particular aspect. There is another different issue, though, as far as we're concerned right now in addition to this. We will proceed. Our Spiny Dogfish Committee will meet as quickly as possible as soon as we receive the additional stock assessment information. But in the interim, even though Massachusetts may be closing their fishery, there's 177 percent of the period one quota that has already been caught.

So there's a separate issue that's of considerable concern to the Council at this point in time. You should be aware of that.

CHAIRMAN AUGUSTINE: Thank you, Dr. Gilford. One of the handouts that you were given just recently, today, has that breakdown that Dr. Gilford referred to. And it was Weekly Spiny Dogfish Quota Report Number 32. It does indicate, indeed, that the period quota was 2,316,000 pounds and the percent of quota landed was 177. It went on further to state that at the week ending 12 August, 137 dealers held a federal spiny dog permit and were required to submit a report to the Northeast Regional Office.

Of those 137, 91 or 66 percent had submitted weekly quota reports for the current reporting week.

For the week ending 12 August, an additional 57 dealers located in the Commonwealth of Massachusetts held a federal spiny dog permit and were required to submit weekly quota reports directly to the Massachusetts Division of Marine Fisheries. Because these dealers submit weekly reports directly to the state, the number of dealers that reported to the MADMF were not included in the above percentage of dealers that reported to the Northeast Regional Office.

I would hope that the Commonwealth of Massachusetts would have that information available in the relatively near future for submittal to the Management Board.

One more comment. Steve Corriea is in the audience, I believe. Steve, I don't know if you'd like to add any comments at this time to what has already been stated by Rich and Dr. Pierce and Dr. Gilford. It's our understanding that all of your work was fully accepted as being very valid, a valid approach. My understanding was that the Mid-Atlantic decided to take the other approach at this point in time.

But if there's any item or items you'd like to add for clarification or any questions the Board would like to ask him, we'd be happy to have you respond. Please come up to the microphone.

MR. STEVE CORRIEA: I have no comments at this time but I'd be more than willing to answer any questions that people have about the analysis or how it was derived and the assumptions of either model. Thank you.

CHAIRMAN AUGUSTINE: Thank you very much. All right, Joe, I think we're back to you. Are we back to you or are we back to me? No, we're on the evaluation of the Massachusetts management strategy. Any discussion from the Management Board? Rich, would you come on up to the microphone, please. Rich Seagraves.

MR. SEAGRAVES: Thanks, Mr. Chairman, just a point of clarification. The Technical Committee met. They did find the constant harvest approach to be equivalent in terms of rebuilding the female SSB over the same timeframe as the constant F approach. This information was reported to the Mid-Atlantic Council, as Dr. Gilford has indicated, last Thursday. Just a point of clarification for the record, the Council, in order to change our rebuilding strategy, our management strategy will require an amendment to the FMP.

As Dr. Gilford indicated, the next step is for the Joint Dogfish Committee, which has representation from New England and Mid-Atlantic Councils, to hear the report of the Technical Committee as well as updated projections. As was indicated, the part and parcel having that Technical Committee meeting, Paul Rago of the Northeast Fishery Science Center updated the survey indices through spring of 2000. The problem is that the analysis of Massachusetts' proposal was

based on 1997 through 1999 stock conditions. Paul was able to update the 2000 numbers, and so we have an estimate of spawning stock biomass.

The female stock biomass was reduced from 27 percent of our target SSB max to 24 percent. There's roughly a 10,000 metric ton reduction based on the new data as well as a rather severe first indication of the decline of the intermediate-sized class females that we were really counting on to rebuild this stock in a relatively short period of time given their life history.

However, Paul was not able to provide updated projections. So the Massachusetts' proposal was judged based on stock conditions as they existed '97 through '99. The Mid-Atlantic Council has decided to have a Joint Committee meeting and has also requested updated projections where we will be looking at both the constant F and, I assume, the constant harvest. At that point the Committee will make a decision in which direction they want to go. So the Council has not made any decision yet to change anything. We're staying the course in as much as the only way we could change it is an amendment to the FMP, anyway.

So everybody understands it. In fact, the Council heard the information, intends to proceed with the process of a Joint Committee. The plan can be amended and both Councils, both the majority of voting members present of both New England and Mid-Atlantic Councils must approve or disapprove any action necessary. So we have to go through that process, technically. But really, there's no change in terms of constant F versus constant harvest without an amendment.

CHAIRMAN AUGUSTINE: Thank you for that update and clarification. Dr. Pierce.

DR. PIERCE: Now regarding the amendment process, I'm glad Rich highlighted the fact that an amendment would be required to change the approach for dealing with controlling dogfish harvest, whether to stay with the existing FMP approach or to go with a constant harvest strategy of 4,000 metric tons.

Indeed, an amendment would be required. There's no doubt about that. Certainly, the charge from the Secretary of Commerce to both the New England and Mid-Atlantic Councils is to develop that amendment as soon as possible, not necessarily to deal with how dogfish are harvested regarding quotas, allowable take, but to deal with the discard problem, which continues to be a significant problem, a major issue with how dogfish are being managed.

That is a major issue that the Atlantic States Marine Fisheries Commission is going to address for sure. I should highlight as well, relative to what I just mentioned, discards, that for the benefit of Joe who chairs the Technical Committee -- I guess you don't -- well, anyway, the staffer who provides all of the background material for use by the Technical

Committee, I provided for his consideration a list of important issues, important questions that the ASMFC Technical Committee needs to address.

After all, we have, in some cases a new cast of characters that must take a fresh look, I suspect, at the dogfish science as well as dogfish management strategies. I don't believe that that document has been made available to the Board. If it has been made available to the Board, I hope it will be sent to the Board sometime soon because they are critical issues that get right to the heart of what ASMFC will want to accomplish with dogfish management.

CHAIRMAN AUGUSTINE: Thank you for that information. You made some notes, Joe. Let's go back to the agenda. After Dr. Gilford's presentation and the letter that he did send to the ASMFC for us to take some action of some sort, we're to Item 6. I'd ask for some comments from Board members relative to the consideration of the Mid-Atlantic Fishery Management Council's request for emergency action. Harry Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. I believe the position of the National Marine Fisheries Service on this issue is clear, but I'd like to reiterate a couple points which I think we have to address very seriously.

Back in June, as well as the request from the Mid-Atlantic Council, the National Marine Fisheries Service headquarters and regional offices also requested that this group give consideration to the implementation of emergency action. The plain and simple truth is that we have a resource in need of management. We have a management regime in federal waters, and it cannot succeed without complementary action by the states.

The key points have already been made. Fishing mortality continues to increase. Abundance of larger, mature females continues to decrease. We're seeing the absence of pups to the extent where it has been characterized as a recruitment failure.

Time and again, we see federal regulations oftentimes without complementary action in state waters. That's not really the key issue here, although it's certainly part of the symptom.

The fact is is that we have a resource where the best available scientific information tells us in no uncertain terms that it is in dire straits, and that action is needed now throughout the range of the species to hopefully allow the resource some relief to rebuild in the near-term future. The Charter of the Atlantic States Marine Fisheries Commission does have provisions for emergency regulations which are necessary for the conservation of a resource when needed in the absence of a plan.

Certainly, as this group moves forward with the development of a plan, we will listen to all of the alternatives that can be used into the future of ending overfishing and rebuilding the resource, including but

not limited to alternate management regimes, for example, that we've heard from the state of Massachusetts. If we wait too long to hear these alternatives, all of the available information -- and based upon what we've seen as case studies in other fisheries -- we're going to be left with a situation where it will be clearly too much, too little, too late.

At the appropriate time, Mr. Chairman, I would like to make a motion speaking to the topic of emergency regulations by the states.

CHAIRMAN AUGUSTINE: Thank you, Mr. Mears. I'll take other comments from the Board. Dave Borden.

MR. DAVID V.D. BORDEN: Yes, thank you, Mr. Chairman. I'd just like to get it clear in my own mind exactly where we stand. As I understand it, we've exceeded the period quota substantially. What actions did the plan call for in terms of quota overage? I simply can't recall.

CHAIRMAN AUGUSTINE: Joe, you don't know either? I don't know. Who would know? Rich, please.

MR. SEAGRAVES: In fact, there's an overage of 77 percent from the first period. However, if you look at the total, it exceeds 4 million so, in fact, the entire annual quota has been taken. The Secretary of Commerce chose to implement a 4 million pound commercial quota. It's split, I believe, 58/42 between the first and second half of the year. So, by virtue of the fact that it's a larger percentage in the first half, it actually has exceeded the entire year's quota.

Now there's an additional 500,000 pounds that was specified by the Secretary for an experimental fishery. As far as I know -- I don't know if there's anybody here from NMFS to determine whether or not there have been any applications -- it's unclear exactly how that 500,000 would play into this.

Essentially, the year's quota has been taken. Now, the plan has no provision for overages, per se. There's no penalty for any specific period. We would just re-evaluate and set next year's quota based on the amount that could be taken to keep us within our rebuilding. So the entire fishery would be closed for the rest of the year.

CHAIRMAN AUGUSTINE: Okay, thank you. Any questions on that? David Borden.

MR. BORDEN: Yes, not a question, I guess a statement. That was the reason I asked the question. Essentially, the situation we find ourselves in is the fishery is closed or will be closed for the balance of the year. As I understand it, the state of Massachusetts has closed their fishery. Essentially, the state with the preponderance of landings in state waters is closed until when?

DR. PIERCE: Until further notice.

MR. BORDEN: Until further notice, but is that on the same timeframe as federal closures?

CHAIRMAN AUGUSTINE: Could you answer that, Rich? Is it on the same timeframe as the federal schedule? All right, when does your federal schedule actually begin, January 1? Is the calendar year January 1?

MR. SEAGRAVES: No, the fishing year began May 1.

CHAIRMAN AUGUSTINE: May 1. So, David Pierce.

DR. PIERCE: Yes, the fishing year begins May 1. We closed our fishery down; all landings are prohibited as of the end of this week. Therefore, we would await to see what happens on May 1 of next year relative to what the new strategies would be for management of dogfish. I would hope that by that time an amendment would have been developed that would deal with some of these thorny problems that we have. Let's not mislead ourselves. It's inappropriate to say that there is a 4 million pound quota out there, a federal 4 million pound quota. That suggests that there's actually some quota for a fishery. It's a bycatch quota. It's not stated that way any place that I can see, but that's what it is, landings of 300 pounds or 600 pounds seasonally.

As I've indicated in a number of letters to this Board and certainly as very well described in our notice to fishermen and dealers and to others involved with dogfish management regulation, there is no way for any fishery to be prosecuted. There is no way for bycatch to be landed if, indeed, it's being landed in allotments of 300 or 600 pounds. That's an impossibility. Dealers have to be in business in order to buy dogfish, to buy that bycatch. We said it once and we'll say it again that once the directed fishery is gone, then there'll be no processors, there'll be no markets, and all dogfish that is caught as bycatch will be thrown over the side, with a large proportion of that dead -- at least that's the assumption, so far.

So let's not assume or be misled by the fact that there's a 4 million pound quota. There really isn't. With that I'll --

CHAIRMAN AUGUSTINE: Thank you, David. Jack Travelstead and then Susan Shipman.

MR. JACK TRAVELSTEAD: Harry, you had indicated you were going to be offering a motion. But can you let us know what, specifically, you'll be asking the states to do? Do you have specific measures in mind?

CHAIRMAN AUGUSTINE: Mr. Mears, would you, please.

MR. MEARS: I do have specific measures in mind. But I'm also trying to address the very real situation that this group is moving forward with the development of its own fishery management plan. I believe that the emergency fix at this time would be taking closure action on the harvesting and possession and landing of dogfish in the states at the time such closures are

announced for federal permit holders in the EEZ.

CHAIRMAN AUGUSTINE: Jack, would you like to respond to that? Susan Shipman, please.

MS. SHIPMAN: Just a question on this table that's in front of me. And I apologize, I'm just having a hard time following this. Is this all waters, state and federal, or is this federal only? Dr. Pierce, did you say you had landed your 7 million pounds and then closed it? I'm sorry, I might have misunderstood you.

CHAIRMAN AUGUSTINE: Go ahead, David.

DR. PIERCE: Yes, using the analysis that the Technical Committee has reviewed, we established this constant harvest approach of 4,000 metric tons. At least that's what we could have taken, 8.8 million pounds. We actually didn't set that as a landing limit in Massachusetts. We went with 7 million pounds. I should also highlight that it's not just an amount of the 7 million landed in Massachusetts.

We decided to make that a coastwide approach. That was on our own initiative. A number of individuals have pointed out that they believed that our 7 million was an add-on to the 4 million pounds that was established by the federal government with the Council plan and that wasn't the case. We shut it down when 7 million was taken. So it's not federal and state, just 7.

MS. SHIPMAN: What was the timeframe of that? How does that jive with this May through 12 August reported landings of 4 million? I mean, where are the other missing 3 million pounds?

DR. PIERCE: Well, let's see, I assume that the federal database is incorrect.

CHAIRMAN AUGUSTINE: I think it was incomplete, David, not "incorrect." It was incomplete because according to this there's 57 dealers located in the Commonwealth had not reported as of this particular date. There are 137 dealers that held a federal permit and of that amount only 66 of 91 percent had submitted a weekly quota. And then of that base --

DR. PIERCE: That's all right, Mr. Chairman. The data I hear, this is what was reported to the federal government. But I can assure you that all of the dealers in Massachusetts who have special permits to process dogfish had been reporting to us weekly. We knew we couldn't rely on the federal tally of dogfish landings, just using past history with scup and with other species. We felt it made more sense for us to keep on top of this fishery ourselves.

After all, we did establish this management approach for dogfish that we knew would be controversial, certainly consistent with conservation needs for spiny dogfish. And we can discuss about that if anyone would like to. So it's 7 million, our reports, our data, provided to us by dealers permitted by the Division of Marine Fisheries.

MS. SHIPMAN: I guess my only concern is I don't

know what percent of your 7 million pounds landed in Massachusetts is comprised of this 4 million. I mean, I don't know where all these landings came from. I don't know what percent of the 4 million were landed in Massachusetts.

DR. PIERCE: Well, you're quite correct. It's not broken down by state. And usually, NMFS does break it down by states. It is a bit hard to understand.

CHAIRMAN AUGUSTINE: Dave Borden.

MR. BORDEN: Thank you, Mr. Chairman. Susan and I are speaking on the same point that it's somewhat confusing sitting here listening to the numbers and trying to figure out what you should do and exactly where we stand. Anyone around the table can correct us if they've got a different interpretation. Where I think we stand is we know the landings because of the report from the state of Massachusetts. We know that the landings are a minimum of 7 million. At least in my own mind, given the fact that this is a coastwide fishery, the landings are probably considerably higher than 7 million.

That number is almost twice the federal quota and it exceeds the Massachusetts quota. That was the reason I said what I said before. So, I mean, to me I think there's a limited amount of action that we can take. I think that's where the discussion ought to be, on what action we need to take.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. Any further comments from the Board? Mr. Freeman.

MR. BRUCE FREEMAN: To say the least, this is extremely confusing. David Pierce, if indeed Massachusetts added 3 million pounds to the existing 4 million pound quota, it then determined somehow it should take that additional 3 million pounds? Where do the rest of the states fit in, if you agree with the analysis?

DR. PIERCE: Well, Bruce, as I understand it, the majority of dogfish that are caught are processed in Massachusetts, so I would assume that our 7 million has captured just about all of the dogfish that have been caught and processed, especially since we're talking about the summer months. It would be a different story, of course, if we were talking about the late fall and the wintertime when dogfish are moving farther to the south. So I would say, don't assume the landings are much more than 7 million.

I'm sure there's some that hasn't been accounted for, but we're confident that because we process most, if not all, the dogfish on the eastern seaboard this time of the year certainly, the 7 million has captured it.

MR. FREEMAN: Well, there are several concerns I have. It's extremely troubling in that the two Councils and the Commission agreed to a plan which was now implemented by the Service. Then the state of Massachusetts came up with an alternative way of

looking at the information, made a decision to harvest the different strategy than what the Councils agreed to, and in so doing, essentially the Commission and the rest of the states have been simply left out of the system.

I mean, there seems to be enough confusion in management when we all agree. But then when we tend to disagree and each state comes up with its own system, it just instigates total chaos.

Now I understand the issue raised by the Commonwealth of Massachusetts as an important fishery. You have processors there. But I think any state could make that claim, depending on the fishery, that they may have a major processing center. It doesn't relieve those states of working together to manage a fishery or certainly in the past the fact that processing capacity in one region or location doesn't dictate the management of the species.

It just seems that this action, for whatever reason, is confusing this entire issue.

CHAIRMAN AUGUSTINE: Thank you, Bruce. Dan Furlong, Executive Director for Mid-Atlantic Fishery Management Council.

MR. DAN FURLONG: Thank you, Mr. Chairman. One issue that hasn't been addressed but Bruce was just skirting it is the concept of equity. The federal action to close this fishery has closed it from now, actually retroactively from like August 1 through April 30.

Where the equity issue comes in is that every federal fishery permit holder, no matter where they are, can no longer catch, retain or sell dogfish. So every state citizen in states other than Massachusetts, if they have a federal fishery permit, have just been shut out of this fishery from now until April 30. That's not an equitable situation.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Short one, Dr. Pierce; not a rebuttal, just a short one, please.

DR. PIERCE: The federal plan shuts everybody out of the dogfish fishery. Please don't forget that. It's, for all practical purposes, a complete shutdown of the dogfish fishery for at least 17 years, maybe more than 17 years. We're not talking about five years.

When the plan was submitted, it called for rebuilding within five years. The course of time has passed and it's not five. It's much longer than that. What the Division of Marine Fisheries did was to save the dogfish industry, in particular, to save the dogfish processing infrastructure in part because we knew there needed to be an outlet for the selling of the bycatch that would occur in other fisheries.

And that is not a -- I can't understate the significance of that -- overstate the significance of that. The discards in recent years have been 25,000 metric tons or so. Think about that. That's another reason why we decided to do what we did, backed up by good analyses. Twenty-five thousand metric tons is the

assumed discard rate and that makes the amount of landings -- in particular 7 million pounds that was landed in our state -- makes it pale by comparison.

Clearly, there's a long story to this and I'm not going to tell that story here today. That wouldn't be well received. Bruce has made an important point. We, in Massachusetts have made some very important points, and I certainly hope that Board members have had a chance to review the short documents that we have provided that clearly explains why we chose the path that we did.

It was a necessary path for us to choose. Now I can certainly see the National Marine Fisheries Service position regarding the need to not allow any more dogfish landings for this year. I certainly can support that through the rest of this year, going to the beginning of the next fishing year, May 1. There can be condemnations of what Massachusetts did, and I'm sure there will be. And I'm sure there will be some praise for what we did as well. I think you'd find some of that praise with the New England Fishery Management Council that recently supported our position.

Atlantic States Marine Fisheries Commission now has an opportunity to develop a dogfish plan. I would submit to you that because you're now bringing together the advisors, because you have put together a technical committee, with this fishery now closed you can give thoughtful care to what needs to be done to manage dogfish inside state waters. Between now and then -- whenever then may be -- in this interim period clearly there can be a prohibition of landings in all states. I mean, after all, 4 million, 7 million, it has been taken.

Dogfish will still be caught, of course, and dogfish will still be discarded in large numbers. There's no way to prevent that. The groundfish fishery, the fluke fishery, the discard rates on those particular fisheries are rather huge. That's something that ASMFC must deal with as well since, after all, we have fluke fisheries in our waters. We have other fisheries in our waters where dogfish are taken so there's a lot to do. That charge to this Board will have to be met in the next three months or so, at least.

CHAIRMAN AUGUSTINE: Okay, thank you, David. Mr. Mears, are you ready to make that motion now? Are there further comments from the Management Board? He's not ready yet. Further comments from the Management Board? Mr. Borden.

MR. BORDEN: I'm going to go back and repeat what I said before. It seems to me that regardless of whether you support the constant harvest strategy that the state of Massachusetts has put forward or you support the quota that was adopted by the Secretary, we either have grossly overharvested -- it in the case of one, 77 percent higher than it -- or you're just about to go over the other one. And we simply don't know.

From an equity perspective, I think Bruce raises an

important perspective. I mean, given the way the fishery was harvested this year, I'm confident that there'll be fishermen in Rhode Island or South Carolina and North Carolina that will simply sit here and say to their representatives around the table, "Hey, we didn't get our fair shot." And that's absolute reality.

But you have to balance that with the harvest rates. I mean, to me this comes down to a fairly simple issue. The federal permit holders are going to be closed for the rest of the year. We're definitely over one quota, and we're probably on the verge of going over the other quota. I guess my own preference is, as much as it has undesirable consequences for the fishermen in Rhode Island, I think we ought to consider some type of request to the states to take emergency action and close the fishery for the balance of the year, and use that time, as Dave Pierce has indicated, to try to sort through all the different issues here, examine the constant harvest strategy, look at the issue of reports, whether or not those were accurately reflected -- the landings were reflected in some of the estimates that were made and a whole host of other biological issues.

I honestly don't think that we -- it's not a desirable position to be in, but I don't think we've got too many other options.

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

MR. W. PETE JENSEN: I've asked this question before, but I've forgotten the answer. We're talking about the directed fishery being closed. Is there a bycatch now that continues to be landed or is it --

CHAIRMAN AUGUSTINE: I see Mr. Furlong shaking his head no.

MR. JENSEN: No bycatch at all?

CHAIRMAN AUGUSTINE: No bycatch. Mr. Munden.

MR. MUNDEN: Thank you, Mr. Chairman. I have two points I'd like to make concerning equity. The FMP specifies that the spiny dogfish quota will be divided into a period 1 harvest allocation and a period 2 harvest allocation. The fishery begins the first of May. That is the fishery that's traditionally prosecuted in New England states. They get 58 percent of the quota. The fishery that's traditionally prosecuted in the southern part of the state gets the remaining 42 percent and that quota is allocated beginning November 1 through the end of April. Well, this year the entire quota has been caught up, as this point has already been made numerous times, so there is no 42 percent to allocate to the balance of the states, even beginning the first of November.

The other thing that I'd like to point out is that North Carolina has been the number two harvester of spiny dogfish behind the state of Massachusetts for the past seven or eight years. We have harvested as much as 13 million pounds of spiny dogfish. Recently, our landings

have been somewhere in the neighborhood of 4 to 7 million pounds. Two years ago about 67 percent of the North Carolina spiny dogfish harvest came from state waters. It depends on temperature, distribution of the fish, a lot of other factors. I think it's critical that we do something to address this issue because North Carolina does have the capability of harvesting a very large quantity of spiny dogfish from state waters.

So, I think we need to really consider this when we decide how we're going to manage this fishery.

CHAIRMAN AUGUSTINE: Thank you, Mr. Munden. Mr. Mears, I understand your motion is ready.

MR. MEARS: Yes, it is, Mr. Chairman. **I move that the Spiny Dogfish and Coastal Shark Management Board adopt, by emergency action, the requirement that states prohibit harvest, landings and possession of spiny dogfish during any time that the federal spiny dogfish fishery is closed due to quotas being taken. States must be in compliance by October 1, 2000.**

CHAIRMAN AUGUSTINE: Do I have a second?

MS. SHIPMAN: **Second.**

CHAIRMAN AUGUSTINE: Susan Shipman. Dieter.

MR. DIETER BUSCH: Just a point of order. This takes two-thirds vote of the total Board.

CHAIRMAN AUGUSTINE: We'll call for a roll call on this one. All right, the motion is open for discussion. Ms. Shipman.

MS. SHIPMAN: Just a clarification, Harry. Is this motion pertaining exclusively to the commercial harvest? Are bag limits included? Would this preclude a recreational fishery from landing a bag limit? Is that your intent?

MR. MEARS: My intent here is to try to retain as much flexibility and discretion to what this group may want to include in their upcoming interjurisdictional plan. The immediate intent here is not to compromise the viability of the stock for which these closures have been implemented.

So, to answer your question, Susan, it would be any harvest of dogfish whatsoever during these quota closures.

CHAIRMAN AUGUSTINE: Mr. Borden.

MR. BORDEN: Yes, point on the motion. Harry, it's my assumption here that this action is limited to a closure for the duration of the fishing year, but the motion does not say that. If that's what your intent is, you could say the requirement that the states prohibit harvest and landings and possession of spiny dogfish for the remainder of the fishing year.

CHAIRMAN AUGUSTINE: Thank you, Mr. Borden. We have a point of information. Jack.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Mr. Chairman, under the Commission's rules, the emergency would only be effective for 180 days so by

February the Board would have to come back and readdress it and decide whether to extend it, which is before the end of the fishing year, so I don't think it is necessary to keep it in this motion.

CHAIRMAN AUGUSTINE: Okay, David.

MR. BORDEN: Yes, the other point relates to the October 1st compliance deadline. I mean, so that no one misinterprets what I'm going to say, the state of Rhode Island I think can meet that deadline provided we can get our Marine Fishery Council to go along with this action. I would like to see some discussion on the part of the other states as to whether or not they can meet the October 1 deadline. If they can't, the issue is what other deadline is appropriate.

CHAIRMAN AUGUSTINE: Okay, thank you. Pete Jensen.

MR. JENSEN: Process question. I had always understood emergency actions were linked with a plan. But I take it from the discussion that an emergency action can, in fact, be a compliance issue?

A second question relates to David's question and that is what will be compliance? Will it be submission and review of a plan reviewed by the Plan Review Team, adopted by the Board?

CHAIRMAN AUGUSTINE: Dieter and then, Harry, maybe you want to respond to that. Dieter.

MR. BUSCH: Mr. Chairman, Pete asked two important questions. The first one is easy to answer. Under the definition for emergencies, the conservation of coastal fishery resources can be addressed by emergency action, so we can do that. Since we do not really have an FMP to work from and to measure our actions against, the Board has to give more direction as to what this emergency is supposed to accomplish.

This, obviously, is very crystal clear, a closure. But what else is supposed to be addressed, again, the Board would have to take the extra steps to make it very clear as to what is to be accomplished.

CHAIRMAN AUGUSTINE: Okay. Mr. Mears, do you want to respond anymore to that?

MR. MEARS: I'll just indicate what my own response is and hope that others will chime in. In terms of complying with the emergency action, the intent of the motion would be provision of evidence of a state regulation that, in fact, the fishery has been closed would serve in itself as evidence of compliance.

CHAIRMAN AUGUSTINE: Thank you. Any further comments from Board members? Dr. Pierce.

DR. PIERCE: Yes, notwithstanding what Jack Dunnigan said regarding the duration of an emergency measure, I would prefer to have this motion changed to reflect the wording that David suggested.

Harry, it's consistent with your intent. Would that be all right with you, a friendly amendment to this motion so instead of saying "during any time that the federal spiny dogfish fishery is" -- well, anyway, just

put in "for the rest of the fishing year", which brings us to April 30, 2001. It does the same thing.

CHAIRMAN AUGUSTINE: Mr. Borden, while Harry's thinking about it, go ahead.

MR. BORDEN: This goes back to Jack's comment about we can only take emergency action for 180 days. If you make that wording change, obviously, we have to renew this action in February. I think the significance of the wording change is we've already exceeded not only the federal quota but the higher constant harvest strategy quota, so what you're saying up front, right here, is that it's our intent to keep the fishery closed for the balance of the fishing year. I think that's an important point to make.

CHAIRMAN AUGUSTINE: Thank you, Harry Mears.

MR. MEARS: My own impression of the motion or the intent of the motion is that that is, in fact, what is implied, that the closure would remain for the full duration of the federal closure during the quota period, in this case the fishing year.

CHAIRMAN AUGUSTINE: Are you done, Mr. Mears? Mr. Adler.

MR. ADLER: I can't support this. First of all, the compliance part is compliance to no plan that the ASMFC has. So, I can see talking to the Secretary of Commerce in the non-compliant thing and he says, "Well, you're not in compliance with what plan?" Well, it's just a statement that they made about a particular fishery that we don't have a plan for -- for good reasons, perhaps good reasons.

I cannot see doing anything that might help the federal plan, which I think is not a good plan, which I think works in the opposite direction of what it's trying to do because it kills more dogfish uselessly. Anything that might, in fact, allow that plan to succeed, instead of changing it to something that would work better, I can't support something that might help that thing succeed. It just is a waste of the dogfish whereas another way of doing it -- naturally, the Massachusetts way -- but I mean the other way of doing it I think does a better job.

CHAIRMAN AUGUSTINE: Thank you, Mr. Adler. Management Board, other questions? Ms. Shipman.

MS. SHIPMAN: I'd like to amend the motion in the third line to say the requirement that states prohibit commercial harvest. And the reason I'm suggesting this is I don't believe the federal plan prohibits recreational possession when a commercial quota is met.

CHAIRMAN AUGUSTINE: Would the maker of the motion agree with that?

MR. MEARS: Yes.

CHAIRMAN AUGUSTINE: And would the seconder agree with that? Okay, they both agree.

DR. DESFOSSE: Just to Mr. Adler's question about compliance and not having an FMP, in the ISFMP

charter one of the things required when the Board takes emergency action is "compliance dates for implementation of the emergency by the states" so, in fact, you don't need to go by an FMP. The charter requires that you add those compliance dates.

CHAIRMAN AUGUSTINE: Okay. Mr. Adler, do you understand that?

MR. ADLER: I won't rebut that, but I have a rebuttal.

CHAIRMAN AUGUSTINE: Okay, thank you. Further questions or comments?

MR. LEWIS FLAGG: Yes, I'd like to suggest a little change in the wording. My concern is about tying the states' actions directly to the Federal Spiny Dogfish Plan, the way it's worded there. My suggestion is that it be modified to say "prohibit commercial harvest, landings and possession of spiny dogfish to complement the Federal Spiny Dogfish Plan."

CHAIRMAN AUGUSTINE: Does the maker of the motion agree with that change? Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: I'm not sure I know what that means, Lew. This is clean in that when the federal fishery closes, the states would be required to close, too, and I'm not sure that you really want to introduce any vagueness into this.

MR. FLAGG: My point was I'm a little concerned about the phrase. It says "during any time that the federal spiny dogfish fishery is closed due to quotas being taken."

EXECUTIVE DIRECTOR DUNNIGAN: Yes.

MR. FLAGG: I'm concerned about that language, and I'd rather have it reflect an action by the states to complement the federal plan rather than that we're doing this any time that the federal plan closes the fishery.

CHAIRMAN AUGUSTINE: Mr. Dunnigan.

EXECUTIVE DIRECTOR DUNNIGAN: You don't want to do what you just said?

MR. FLAGG: No. I'm saying I'd rather have the wording say "to complement the federal Spiny Dogfish Plan" because ASMFC doesn't have a plan yet. It will down the road. It will have a plan.

EXECUTIVE DIRECTOR DUNNIGAN: I understand, but the purpose of the emergency in this case would be to keep the situation under some control so that you wouldn't lose your options as you develop your fishery management plan.

I'm only a little concerned from a compliance standpoint. If we're not very clear, and we need to do this to ourselves, be very precise about what it is states are required to do. If you say "to close to complement the federal plan", the question I have for you -- and I'm acting like a lawyer again -- the question I have is, when? See? And the language as it's written gets you around that.

CHAIRMAN AUGUSTINE: Mr. Beckwith.

MR. BECKWITH: Yes, I think we all agree we have a very serious problem and everyone agrees we should close the fishery for the rest of the year, and I don't understand why we just don't say "close it for the rest of the year."

Why do we have to say we have to close it anytime that the federal quotas are taken? I mean, why is that necessary to say that? I would just say strike that out of there and just say that we move to close it for the rest of the fishing year.

EXECUTIVE DIRECTOR DUNNIGAN: Or just say "until April 30th."

CHAIRMAN AUGUSTINE: Okay. Any other comments from the Management Board? Mr. Jensen and Mr. Freeman.

MR. JENSEN: I need to talk a little bit more about compliance. I don't know about other states, but our statutes don't authorize us to do a Spiny Dogfish FMP from which we derive regulatory authority. So, in order to comply with this, what we're going to have to do is we're going to have to go through a process that declares spiny dogfish in need of conservation, which is a separate process all by itself.

I doubt if we can do it by October 1st and get that done because it's a public process. The General Assembly has to take a look at it to make sure that we're not making an end-run around them, doing something they haven't authorized us to do. So, I still need to know what compliance is.

CHAIRMAN AUGUSTINE: Thank you, Mr. Jensen. We'll try to get an answer for you. Mr. Freeman.

MR. FREEMAN: This group has made a recommendation that states complement the federal plan. And using that recommendation, the state of New Jersey has proposed regulations to do just that, to require all our fishermen, if they fish for spiny dogfish, to have the federal permit. By so doing as a recommendation of the Board, that when a federal closure occurs, then everybody close at the same time, we do not have that regulation in place yet. And I'm not certain, although we're proposing to put that in place, when it will go into place.

I'm not certain it will be in place by October 1. But if it is not, then we don't have authority to close anything. However, if the emergency action is taken by the Commission and a state doesn't comply, then it could be deemed out of compliance, and it will close by closure of the Federal Secretary.

My only concern is -- I support the motion -- I just have problems with that date in that I'm not certain we can meet that. If we can't it's going to cause problems for us and I suspect for other states as well. I just don't know how to get around that.

CHAIRMAN AUGUSTINE: Okay, Mr. Borden.

MR. BORDEN: Yes, I appreciate the comments

that both Pete and Bruce just made, and that was one of the reasons that I asked that question about the October 1 deadline. We might be able to circumvent some of this. Unless Jack or Dieter can correct this, I can't envision us having a Board meeting to take action on this issue between October 1st and the annual meeting. So, we may be able to simplify this simply by saying -- no, we're not going to have a meeting, Dieter?

MR. BUSCH: Not unless you put some money on the table.

MR. BORDEN: Yes, that's what I thought. So, we may be able to simplify it simply by asking for the action to be implemented prior to the annual meeting and then having a report submitted by each one of the states; so that if there's action required at that time, you'll have a mechanism to take the action, and it will give the states a couple more weeks to look through some of these issues that have been raised.

CHAIRMAN AUGUSTINE: Bill Adler.

MR. ADLER: Let me ask the Commonwealth of Virginia, is this another one that has to go through your January legislature? Why? You can do that?

MR. TRAVELSTEAD: Oh, I'm so glad you asked.

CHAIRMAN AUGUSTINE: Go, Jack.

MR. TRAVELSTEAD: There is overwhelming evidence that dogfish are in serious trouble. There's a definition of overfishing and it's exceeded. There are estimates of recruitment and, in fact, we have recruitment failure. I could keep going on and on and on.

CHAIRMAN AUGUSTINE: You're doing fine, Jack.

MR. TRAVELSTEAD: I think you've got the message. We will do this very rapidly. In fact, our Commission meets on August 29th and we could adopt it by emergency.

CHAIRMAN AUGUSTINE: Okay, Mr. Beckwith, you had your hand up.

MR. BECKWITH: Actually, Dave Borden addressed my concern.

CHAIRMAN AUGUSTINE: Okay, thank you. Any further comments from Board members? If not, I'll ask the public if anyone would like to make a comment to the issue? Sonja.

MS. FORDHAM: Sonja Fordham, Center for Marine Conservation. We remain seriously concerned about the depletion of spiny dogfish and the lack of federally compatible limits in Atlantic state waters. And given the latest dismal stock assessment detailed by Rich Seagraves, we fear that ASMFC emergency action today may well be the last chance to avoid a very serious and long-standing collapse of this public resource.

You should have a letter. CMC and a number of other conservation organizations, as well as several scientific and recreational groups, continue to strongly

urge you to take the action that's necessary to ensure the success of the long-awaited federal FMP. We believe that this motion embodies and addresses our most immediate concern at least for the near future. We would prefer that the date remain October 1st. We urge you to support the motion and begin working swiftly toward more permanent measures to rebuild the spiny dogfish resource. Thank you.

CHAIRMAN AUGUSTINE: Thank you. Any further comments? If not, I think it's time to think about a caucus. Oh, I'm sorry, we have hands. Mr. Young.

MR. BYRON YOUNG: I think that the motion should be amended, even though Sonja said she wanted October 1st there. We're not going to have a Board meeting. We're not going to have any meetings. So, the October 1st date doesn't hold anybody to anything. It's really the annual meeting. I think I would offer as a friendly amendment to the motion that it be the annual meeting as the compliance date.

CHAIRMAN AUGUSTINE: Would the maker of the motion consider that? He would. And would the second consider that change?

MS. SHIPMAN: Yes.

CHAIRMAN AUGUSTINE: Okay, so change it, please. Seeing no further discussion, would someone like to call the question. Further discussion? Mr. Jensen.

MR. JENSEN: Well, I want to ask the question again: what is compliance? Is compliance that the fishery is closed by the time of the annual meeting or is compliance that states have submitted evidence to this Board that they have in fact implemented those regulations? Which one is it?

EXECUTIVE DIRECTOR DUNNIGAN: Yes.

CHAIRMAN AUGUSTINE: According to Mr. Dunnigan, the answer is yes.

MR. JENSEN: Thank you, you're very helpful, Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Yes. I mean, you need to have the rules in place and this motion doesn't require you affirmatively to submit any evidence, but I presume if the staff were to ask you the question, you would give a straight answer. So, the motion requires you to have it closed by the annual meeting.

CHAIRMAN AUGUSTINE: Okay, any further clarifications or comments? Would someone like to move the question?

MR. MUNDEN: Call the question.

MR. FREEMAN: Whoa, we need a little conference here.

CHAIRMAN AUGUSTINE: Yes, I know we do. Mr. Munden called the question. We need a conference - caucus. (Caucus period) Have you made your decisions? All right, we're going to have a reading of the motion: **Move that the Spiny Dogfish and**

Coastal Shark Management Board adopt by emergency action the requirement that states prohibit commercial harvest, landings and possession of spiny dogfish during any time that the federal spiny dogfish fishery is closed due to quotas being taken. States must be in compliance by the 2000 ASMFC Annual Meeting.

Do we want to put a date in there? Okay. All right, we're going to have a roll call vote, please. Oh, I'm sorry, Mr. Borden.

MR. BORDEN: Yes, just a brief statement. I want to reiterate what Harry said on the record, I believe -- and Harry, correct this if this is wrong -- that it's the intent of this action to be limited to the current fishing year. So, although that is not reflected in the specific language, that is the intent.

CHAIRMAN AUGUSTINE: Understood. Mr. Mears.

MR. MEARS: That certainly would be my understanding, while also acknowledging we're working forward with the development of an interstate plan whereby emergency action would not be required.

CHAIRMAN AUGUSTINE: Thank you. Does that satisfy your -- Mr. Lesser.

MR. CHARLIE LESSER: Assuming this passes, could the Board Chair or the Commission get something to us officially for the records? In order for us to establish emergency rule, we have to have some documentation.

CHAIRMAN AUGUSTINE: Yes, the Board will do that for you. Staff will do that for you. Okay, we'll have a roll call. Mr. Freeman, one final comment.

MR. FREEMAN: Yes, one question of the Service. Harry -- and I may have it in front of me; I haven't read it, but has the Service taken any action to close the fishery?

CHAIRMAN AUGUSTINE: Mr. Mears.

MR. MEARS: A permit holder letter was mailed out, I believe, on July 27th that closed the fishery effective August 1.

CHAIRMAN AUGUSTINE: Thank you. All right, roll call vote, please.

DR. DESFOSSE: Okay, Maine.

MAINE: Yes.

DR. DESFOSSE: New Hampshire.

NEW HAMPSHIRE: Yes.

DR. DESFOSSE: Massachusetts.

MASSACHUSETTS: Yes.

DR. DESFOSSE: Rhode Island.

RHODE ISLAND: Yes.

DR. DESFOSSE: Connecticut.

CONNECTICUT: Yes.

DR. DESFOSSE: New York.

NEW YORK: Yes.

DR. DESFOSSE: New Jersey.

NEW JERSEY: Yes.

DR. DESFOSSE: Delaware.
DELAWARE: Yes.
DR. DESFOSSE: Maryland.
MARYLAND: Yes.
DR. DESFOSSE: Virginia.
VIRGINIA: Yes.
DR. DESFOSSE: North Carolina.
NORTH CAROLINA: Yes.
DR. DESFOSSE: South Carolina.
SOUTH CAROLINA: Yes.
DR. DESFOSSE: Georgia.
GEORGIA: Yes.
DR. DESFOSSE: Florida.
FLORIDA: Yes.
DR. DESFOSSE: National Marine Fisheries Service.
MR. MEARS: Yes.
DR. DESFOSSE: Fish and Wildlife Service.
MR. COLE: Yes.
CHAIRMAN AUGUSTINE: **Fifteen yeses (staff note: 16 votes in favor); any abstentions; none; no nulls. The motion passes.** Thank you. Okay, next.
MR. BORDEN: Mr. Chairman.
CHAIRMAN AUGUSTINE: I'm sorry, Mr. Borden and Dr. Pierce.

MR. BORDEN: I would just ask that in the letter of transmittal that comes from the Commission, that the staff lay out some of the rationale and some of the facts that were discussed here in terms of stock status and the quota being harvested and so forth and these recruitment issues, because we're going to go to an audience that is not going to have been exposed to all of those issues. I think as we all go through our regulatory process it will help us if you do that.

The other point I would just make is a personal observation that this is a totally -- in spite of the fact that I voted for it -- it's a totally unacceptable way to run a fishery management program. I mean, I'm sure there are going to be constituents up and down the coast, including in Rhode Island, that are going to say, "We didn't get our fair share." And it's going to cause major problems with the resource management agency.

CHAIRMAN AUGUSTINE: Thank you for those comments. Dr. Pierce.

DR. PIERCE: Certainly, David is correct. There will be fishermen up and down the coast who will claim they didn't get their fair share, but they wouldn't have gotten their fair share with the federal plan, anyway, notwithstanding what Massachusetts did.

Mr. Chairman, I assume you're going to go on to the next item on the agenda but before you do so, I wanted to get clear what the process is going to be regarding further evaluation of this constant harvest strategy because it really didn't get much debate here. I could have gone on. I could have said a lot. But that would be putting my head on a platter. There's a lot more to

this, and I need to know whether it's going to get discussed again by the ASMFC Technical Committee, brought forward to the Board for further in-depth discussion because it does need in-depth discussion and not the cursory treatment that it got today.

CHAIRMAN AUGUSTINE: Dave, before we get into a long conversation about it, I think Joe is going to have to address it, but I'd like to get back to the agenda. It's a very important point and it will be addressed. But I think it's something that we'll either have to talk with Joe about and bring it to staff through the year and then bring it back at our next Board meeting if we have to. But it is a critical thing that has to get on the agenda. Mr. Cupka, you had your hand up.

MR. CUPKA: Thank you, Mr. Chairman. I'd just like to request staff also, when they send out a notice of this emergency action, that they also include a copy of the letter from NMFS that went out on August 1st declaring the fishery closed in federal waters.

CHAIRMAN AUGUSTINE: Thank you, good point. Okay, we'd like to move on to the next agenda item, and that's discuss Advisory Panel membership. Tina, would you like to say something? I'm sorry, Joe wasn't done yet, and I cut him off at the pass. Please, Joe.

DR. DESFOSSE: Just a couple of minor issues. I'm getting a little confused here. When the Board takes emergency action, there still is a public hearing comment period. We have to go out for at least four public hearings within 30 days. A document for those hearings would have to be produced. Is that the same as what was originally requested by Delaware, or were you just requesting a letter stating what needed to be done or what was being asked of the states?

CHAIRMAN AUGUSTINE: Mr. Lesser.

MR. LESSER: I need a letter to substantiate that we're following some mode taken by the Atlantic States Marine Fisheries Commission. Otherwise, we cannot act independently without going through the legislature, and that's not going to happen until next spring.

CHAIRMAN AUGUSTINE: Okay, good point. Joe, one more point?

DR. DESFOSSE: I'm all set.

ADVISORY PANEL ISSUES

CHAIRMAN AUGUSTINE: Okay, we'd like to get on back to Item 7, discuss Advisory Panel membership. Now, Tina, we would like to have you make a little talk about what our problems and dilemmas are. Go ahead.

MS. TINA L. BERGER: Thank you, Mr. Chairman. At the last Board meeting, the Board requested Commission staff to look at the existing composition of Spiny Dogfish and Coastal Shark Advisory Panels through the Mid-Atlantic and New England Fishery Management Councils as well as the

Highly Migratory Species out of the National Marine Fisheries Service.

You should have been handed out a memo dated July 11th that lists these details in greater specificity. The first is a laying out of the Joint Mid-Atlantic and New England Fishery Management Council Spiny Dogfish Advisory Panel, the names as well as their affiliation in terms of whether they're commercial, environmental, recreational, academic. Following that on the remaining page -- I'm not going to say them by name unless someone wants me to -- is the Highly Migratory Species Advisory Panel. And I pulled out only the shark interests.

That full panel is 32 members, and many of them are billfish or swordfish, other highly migratory species related. I will say that Joe, Dieter and I also received correspondence from Susan saying that the existing APs do not have appropriate South Atlantic representation. That's all I have.

CHAIRMAN AUGUSTINE: Thank you, Tina. Comments from the Board? As Joe had indicated, at this last meeting we didn't have very good attendance. We only had four folks that were representing or being on the spiny dogfish side of it. Most everybody was there for LCS. The problem we're faced with is that group is not large enough to form a quorum and, therefore, any action they take is literally not legal.

So what we've talked about -- I've talked to Jack about it and Dieter and to Joe, and we were going to suggest if the Management Board does not have a problem with it, to actually break it up into two; although we keep it as a common plan, we have it as separate groups, a Spiny Dogfish Committee and an LCS Committee. And the same person could be on either one or both. That way whatever the membership is in attendance, they will be able to vote with a quorum of the group that is identified as being on that Committee.

So, I'd like to entertain any comments the Board might have or we'll just ask Joe to move forward with that or Tina?

DR. DESFOSSE: That was for the Technical Committees.

CHAIRMAN AUGUSTINE: That's for the Technical Committee. Susan, you had a comment.

MS. SHIPMAN: My main comment about underrepresentation of the South Atlantic was primarily for the coastal sharks. I think spiny dogfish is clearly more Mid-Atlantic or at least down as far as North Carolina. But the coastal shark, I am not content with using NMFS' Highly Migratory Species Advisory Panel.

CHAIRMAN AUGUSTINE: Okay, thank you. Any other comments? Okay, we brought it to your attention. Joe, would you like to say something on that? Joe.

MR. DESFOSSE: You brought up the issue of the Technical Committees again. If it's okay with the Board or if the Board agrees with this, what I'll do is sent out another memo to state directors indicating who your Technical Committee member is right now and give you the opportunity to appoint someone else or reaffirm that position for the Spiny Dogfish Technical Committee.

This way you would have two separate Technical Committees. Only one would be active right now. There has been some confusion with a couple of the members in terms of who was representing what interest, whether it was spiny dogfish or coastal shark, at the time. So, with the Board's concurrence, I'll do that.

CHAIRMAN AUGUSTINE: They're all nodding yes, so go ahead and do that, Joe. Thank you very much.

MS. BERGER: Mr. Chair.

CHAIRMAN AUGUSTINE: Tina.

MS. BERGER: Is it my understanding that the Board is not taking any action at this time on the Advisory Panels for sharks and spiny dogfish?

CHAIRMAN AUGUSTINE: That's what it looks like. Anyone want to take any action? Mr. Adler.

MR. ADLER: I just wonder is action required or needed on this?

MS. BERGER: What I was asked to do was provide an outline of who was on the various existing Spiny Dogfish and Coastal Shark Advisory Panels to allow the Board to either develop their own Advisory Panels or use existing Advisory Panels.

What I did was provide a membership. These are not our Advisory Panels. So, it's more information only. I await further direction from the Board on how you want to proceed.

MR. ADLER: All right, is it advisable, then, with our Dogfish Plan to have our own Advisory Panel -- it could be the same names -- our own Advisory Panel rather than be calling in some other Advisory Panel? Would that be appropriate since it's this fishery and we're doing a plan, right?

MS. BERGER: I would think that it would be appropriate for us to develop our own Advisory Panel, either including the people that are already on here or starting fresh, however you want to proceed. It's the Board's decision.

MR. ADLER: All right, I would like to start off with this group here; and if somebody doesn't want to do it, then we fill it in with somebody else, just to get going on this. I would move that we use the same Advisory Panel for now.

CHAIRMAN AUGUSTINE: Good. All right, then we'll proceed with that, Bill. Okay, Tina, I guess that's our direction. Ms. Shipman.

MS. SHIPMAN: Is that for spiny dogfish?

MR. ADLER: Yes.

UPDATE ON COASTAL SHARK ISSUES

CHAIRMAN AUGUSTINE: Okay, any further comments? Okay, let's move down to Item 8, NMFS update on coastal shark issues.

MS. MARGO B. SCHULZE-HAUGEN: Margo Schulze-Haugen here. I want to update you, too, that Rebecca Lent has moved to the Southwest Regional office as the Administrator there. So for this meeting it's kind of unclear at this point how long I'm sitting in for coastal sharks.

I wanted to give you an update briefly on the legal actions. Settlement discussions are continuing. I had hoped to have some final news for you but as yet we don't. We will let you know as soon as we know what the outcome of that will be.

I also wanted to mention some of the display permit issues. We're hoping to work with all of the states to develop consistent criteria across federal and state waters for the issuance of permits for public display, aquariums, educational institutions. We're aware that some states have concerns and that there have been issues with people requesting permits for collections from state waters and some states requesting that they have federal permits, but we can't give federal permits for state waters.

So, it has gotten into kind of a slight miscommunication at some points. We are definitely willing to entertain modifications to our plan so that we can have some consistent regulations with the various states. The person that we would ask that you talk with for that is a woman named Sari Kiraly, who is with the HMS division and headquarters. So, if you have interests, a particular direction you want to go, please contact her and we can work with you on developing some consistent criteria.

It's not on the agenda, but I was hoping to mention, also, that we have the draft National Plan of Action which is out for public comment until the end of September. It's a policy document in response to the U.S. requirement to develop a national plan of action. It basically lays out some of what the international plan calls for. We would request that states and commissions and, obviously, councils and secretarial plans contain issues that they address, and that includes a lengthy discussion of different types of fisheries. So, you know, we request your comments, looking for input. If there's anything that is unrealistic or if you feel like the description of the fisheries could be improved, we're looking for comment on that.

We do have to turn this around pretty quickly, after September 30th, so we'll probably start working on that right away so I ask that comments not be delayed. We can talk about that. I have copies on the table. Copies

should be arriving shortly, but if you don't get one, we have them here. I guess that's it. Basically, I wanted to just give you an update and say the words "coastal sharks" a few times to make sure that they're not lost.

CHAIRMAN AUGUSTINE: Thank you very much for that update, Margo. Any other questions from the audience?

DR. DESFOSSE: I may have spaced this. When you were talking I was over talking with Tina, but when I talked to Steve Myers about the display permits, he mentioned something about wanting to put on a workshop. Did he mention anything to you about that?

MS. SCHULZE-HAUGEN: He did not mention a workshop to me. It's something that we could do. A lot of Commission members are also on our Advisory Panel for Councils, so as we look to an AP meeting or another Commission meeting, we can try and work together.

CHAIRMAN AUGUSTINE: Okay, thank you, Margo. Any comments from the audience? Final comments? Any comments from the Management Board? Mr. Lesser, please.

MR. LESSER: Did I miss it? How would these criteria be developed?

MS. SCHULZE-HAUGEN: Well, we would work with you on that.

MR. LESSER: Work with whom?

MS. SCHULZE-HAUGEN: Either the Commission or the individual states, depending on the status of the coastal shark plan. We have some criteria now in terms of what we issue these permits for. There's an overall cap in terms of the limit that we issue for the weight of sharks. There are some issues with some of the various states with the regulations that states have and how they're compatible with the federal regulations.

We know that there are some sources of friction there and some states have asked us for help where they are interested in issuing a permit to someone but they want to make sure that they're above board and looking for the federal permit as a complement. And so there are some legal issues there where, I believe, it may be New Jersey requires the issuance of a federal permit. But if the collection is in state waters, we can't issue a federal permit for that.

So, this is the kind of thing where if it's either in a Commission plan, we can point to that, or work with the individual states on specific regulations and intent and criteria.

CHAIRMAN AUGUSTINE: Okay, Charlie?

MR. LESSER: I'm still not clear who's going to work with who, but I'm all for it.

CHAIRMAN AUGUSTINE: Okay, he's in favor and that's all that counts, Margo.

MR. LESSER: We're withholding all permits until we do establish these criteria.

MS. SCHULZE-HAUGEN: Right.

MR. LESSER: So we can blame you, then.

MS. SCHULZE-HAUGEN: Well, we're looking for the Commission to have criteria on the coastal shark plan as well.

CHAIRMAN AUGUSTINE: All right, thank you for that. Any other business, if not -- Mr. Jensen.

MR. JENSEN: We have alternatively referred to ourselves as a Spiny Dogfish Management Board and a Spiny Dogfish and Coastal Shark Board. We're intending to develop a Spiny Dogfish FMP, right?

Are we also planning on developing an Atlantic coastal shark plan? There is a Secretarial plan in place for pelagic and coastal sharks, right? It isn't clear to me how this national plan of action arches across both the Secretarial plan and whatever we may be developing.

MS. SCHULZE-HAUGEN: Well, it's actually broader than that because it's the Pacific as well. It is a national plan where we basically laid out what the international plan calls for, laid out what the Magnuson-Stevens Act calls for, look at how they intersect, and give some guidance on research to be expanded, measures to potentially be reviewed and pursued, and then go into a lot of detail.

Most of this is a review of fisheries and a review of management authority, which honestly takes about a full page of acronyms to go through all of the commissions and the states and the councils and the secretary.

So, there are a lot of people involved and the national plan lays out some requirements for the Secretary and for councils and urges states and commissions to take, you know, consistent action or further action or just stay on the track that they're on.

So it's above not only the Commission, the Secretarial Plan, but it's also above the Atlantic and the Pacific.

MR. JENSEN: Well, there's some language on page 23 that gave me a little pause and that is it says, "The state agencies can participate through the regional fisheries management councils, but then the states may want to increase management for catches of sharks that are conducted exclusively within state waters."

MS. SCHULZE-HAUGEN: Right.

MR. JENSEN: I don't know of any shark fisheries that exist exclusively within state waters.

MS. SCHULZE-HAUGEN: I believe there are some.

MR. JENSEN: There are?

MS. SCHULZE-HAUGEN: There's at least a small fishery in the state of Alabama.

CHAIRMAN AUGUSTINE: Is that it, Pete? Thank you, Margo. Okay, how about entertaining a motion to adjourn? Oh, Mr. Freeman has a comment before we do that.

MR. FREEMAN: Let me just back up a moment to this scientific permit. Let me tell you all the

nightmares that have occurred. We have people who have come to the state indicating they've had permits from the federal agency for collecting sharks for scientific purposes and then asked us for a specific number of sharks, which we've allotted them, and then turned around and applied to the Service for an equal number, doubling the total number taken from the same general area.

We have major problems with that concept. We also have people applying for permits for scientific purposes which are essentially commercial operations which catch sharks and then transport them throughout the world; fairly large sharks for essentially to be displayed in aquariums as live animals. This is purely a commercial business. There are some real concerns about whether, in fact, permits should be issued for some of these operations and how they be issued.

It may be advisable at this time to form a committee within the Spiny Dogfish/Coastal to address this issue. If we essentially just leave this as an issue to be "done sometime", as Charlie indicated, we're not going to have much scientific activity because the state of New Jersey is not going to issue a permit unless they have the federal permit. If that's not going to be issued, then they're not going to operate.

CHAIRMAN AUGUSTINE: Bruce, could we ask-

MR. FREEMAN: That issue needs to be resolved.

CHAIRMAN AUGUSTINE: Charlie.

MR. LESSER: That's the same situation we found ourselves in, playing one against the other. Collectors are asking us for permits. They're asking New Jersey for permits, and they're saying they have federal permits. They're all collecting the same number of sharks and some of them are going to the highest bidder, so we just put a moratorium on no collection of sharks for exhibits until this is resolved.

That's why I asked you when we're going to do this because it has been going on two years now.

CHAIRMAN AUGUSTINE: Do you want to take a comment on that?

MS. SCHULZE-HAUGEN: If I can respond, if you want to know who has been issued permits, we can provide that with a phone call, if you want to double check. And that would be Sari Kiraly. She'd be able to tell you that.

CHAIRMAN AUGUSTINE: Okay, thank you. Any further comments? Motion to adjourn? All in favor; opposed; null. The motion carries. (Whereupon, the meeting was adjourned at 5:35 o'clock p.m., August 21, 2000.)
