

Draft Minutes Spiny Dogfish and Coastal Shark Management Board, Aug. 4, 1999

ATLANTIC STATES MARINE FISHERIES COMMISSION

Ramada Plaza Hotel      Alexandria, Virginia

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

August 4, 1999

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ATLANTIC STATES MARINE FISHERIES COMMISSION

Ramada Plaza Hotel      Alexandria, Virginia

SPINY DOGFISH AND COASTAL SHARK MANAGEMENT BOARD

August 4, 1999

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**Attendance**

Board Members:

Sen. Jill Goldthwait, ME Leg. Appte.

Lew Flagg, ME DMR

Dr. Gary Matlock, NMFS

Dr. David Pierce, MA DMF

Red Munden, NC DMF

Bill Goldsborough, MD Gov. Appte.

Tom Fote, NJ, proxy for Sen. Bassano

Charles Lesser, DE DFW

Catherine Davenport, VA Gov. Appte.

David Cupka, SC Gov. Appte.

Robert Palmer, FL F&WCC

David Borden, RI DEM

Bill Adler, MA Gov. Appte.

Ernest Beckwith, Jr., CT DEP

Dr. Lance Stewart, CT Gov. Appte.

Byron Young, NY DEC

Pat Augustine, NY Gov. Appte.

John Connell, NJ Gov. Appte.

Jack Travelstead, VA MRC

Damon Tatem, NC Gov. Appte.

Susan Shipman, GA Coastal Resources

Bill Cole, USFWS

Ex-Officio Members:

Other Commissioners:

Eric C. Schwaab, MD DNR

ASMFC Staff:

Dr. Joseph Desfosse

Dieter N. Busch

Tina Berger

Heather Stirratt

Guests:

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

Spiny Dogfish and Coastal Shark Management Board

August 4, 1999

**SUMMARY OF MOTIONS**

**1. *Move to approve the agenda.***

Motion by Mr. Augustine, second by Mr. Travelstead. Motion carries unanimously.

**2. *Move to nominate Pat Augustine as Chair of the Management Board***

Motion by Ms. Shipman, second by Mr. Borden. Motion carries unanimously.

**3. *Move to nominate Dr. David Pierce as Vice-Chair of the Management Board***

Motion by Mr. Adler, second by Mr. Travelstead. Motion carries unanimously.

**4. *Motion to establish spiny dogfish as a priority for FMP development***

Motion by Mr. Fote, second by Mr. Goldsborough. Motion carries with 14 in favor and one abstention.

ATLANTIC STATES MARINE FISHERIES COMMISSION  
SPINY DOGFISH AND SHARK MANAGEMENT BOARD

August 4, 1999

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The Spiny Dogfish and Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Ramada Plaza Hotel Old-Town, Alexandria, Virginia, on Wednesday, August 4, 1999, and was called to order at 3:35 o'clock p.m. by Mr. Dieter Busch.

**WELCOME; INTRODUCTIONS**

MR. DIETER BUSCH: Good afternoon, Commissioners and ladies and gentlemen. I'd like to welcome you to the first meeting of the Spiny Dogfish and Shark Board. The first order of business will be the calling of the roll and the introductions. Joe, would you please call the roll. (Whereupon, the roll call was taken by Dr. Joe. Desfosse.)

**APPROVAL OF AGENDA**

MR. BUSCH: Thank you, we have a quorum. For those of you who do not have an agenda, there are some agendas on the back table. Could you look at the agenda, and if you are satisfied, approve it or make modifications to it please. **Do we have a motion to approve the agenda? Who seconded it? Approved by Pat, seconded by Jack.**

The next order of business is the election of a Chair for this Board. I'd like to open the nominations. Yes, Ms. Shipman.

**ELECTIONS**

MS. SUSAN SHIPMAN: **I'd like to nominate Pat Augustine as Chairman of the Shark Board.**

MR. DAVID V.D. BORDEN: **Second.**

MR. BUSCH: **Is there a motion to close the nomination?**

MR. BILL COLE: **So moved.**

MR. BUSCH: Thank you. How does the caucus voting system work in this case? I guess we can just vote by unanimous acclaim. Any opposition? No opposition. Mr. Augustine, would you please come here. Congratulations and I guess your tour of duty starts now until the winter of 2001, two years' tour of duty, right?

CHAIRMAN PAT AUGUSTINE: Now in the next 20 minutes I may resign, so let's hope it lasts longer than that. Thank you very much, Dieter, and thank you all for the vote of confidence. **Okay, we are now have the position open of Vice-chair, so we'll entertain nominations from the floor for Vice-chair. Bill.**

MR. WILLIAM A. ADLER: **I nominate Dr. Pierce.**

CHAIRMAN AUGUSTINE: Dr. Pierce has been nominated. May I have a second.

MR. JACK TRAVELSTEAD: **Second.**

CHAIRMAN AUGUSTINE: Seconded by Jack Travelstead. Any further nominations? Someone move to close the nominations. Seconded by Jill. By unanimous decision, we cast one vote. Welcome aboard. Congratulations.

How many positions are we going to have on the Technical Committee? We are now looking for appointments to the Technical Committee. We are allowed one per state, so do we want to do it by roll call by state?

**TECHNICAL COMMITTEE COMPOSITION**

DR. DESFOSSE: Actually, there was a letter, a memo that was sent out to the states and jurisdictions asking for appointments to this Board and for their Technical Committee representatives. I have heard from all the states and jurisdictions except for the States of Rhode Island, New York, and Maryland. I was assuming that those states would want to be members of this Board, and we would need Technical Committee nominees from those states.

CHAIRMAN AUGUSTINE: Could we ask for a nominee from each of those states now? Should we start with Rhode Island? Has Rhode Island reached a conclusion or a recommendation?

MR. BORDEN: Thank you, Mr. Chairman. We haven't concluded which staffer will be assigned, but we will have a staffer assigned to the function.

CHAIRMAN AUGUSTINE: Okay, and do you have a timeline on that, approximately?

MR. BORDEN: Within the next week.

CHAIRMAN AUGUSTINE: Thank you. And the

next state?

DR. DESFOSSE: New York.

CHAIRMAN AUGUSTINE: Byron, do we have someone selected from New York?

MR. BYRON YOUNG: At this moment in time, no. I think we are going to have to go back and talk to Gordon about it and caucus to see. It's probably going to be John or I, but we don't know at this point.

CHAIRMAN AUGUSTINE: Okay, and can we be assured we will have that within the next 30 days or so? What is the next one?

DR. DESFOSSE: Maryland.

CHAIRMAN AUGUSTINE: Maryland, how about the State of Maryland? Bill.

MR. WILLIAM GOLDSBOROUGH: My understanding is Maryland will submit a name next week.

CHAIRMAN AUGUSTINE: Okay, thank you very much. Tina, we are looking for the names from the advisors for the Advisory Panel or are you going to do that? Tina, did you get a submittal from each of the states on potential members to the Advisory Panel?

#### ADVISORY PANEL COMPOSITION

MS. TINA BERGER: No, Mr. Chairman. In your packet should have been a handout that described sort of what the Board needs to look at for the selection of an Advisory Panel. The Board is going to have to identify, as in the development of any new AP, geographic range, user groups and sort of direct staff in how they want to develop their Advisory Panel. It's really up to the Board to determine how that wants to be done.

CHAIRMAN AUGUSTINE: All right. Should we ask from the Board for determination as to why we would like to have those submittals?

MS. BERGER: Well, there's also a confusing thing. Maybe you want to defer this discussion until the Board determines whether it is going to be doing one or two plans, committees, however they want to handle that. And then once that's determined, we can enter into a more detailed discussion of the Advisory Panel.

CHAIRMAN AUGUSTINE: Okay, that's the recommendation we have. Any other recommendations or suggestions from the Board members? Why don't we defer, then. Oh, I'm sorry. Lew, please.

MR. LEWIS FLAGG: Thank you, Mr. Chairman. Maine also has not appointed a Technical Committee member. And it was our thought that after we had discussions today as to what the priorities might be, we'd be in a better position to appoint a Technical Committee, an appropriate one to serve. So we will be getting a name to the Commission within the period of a couple weeks.

CHAIRMAN AUGUSTINE: Thank you, Lew. Sorry for that oversight. All right we'll move on down to Item 6, the discussion options for management plan, spiny dogfish. I'll open it up to Board members.

#### OPTIONS FOR FMP DEVELOPMENT

DR. DESFOSSE: I'll give a brief introduction.

CHAIRMAN AUGUSTINE: Give a brief introduction, please.

DR. DESFOSSE: The staff put together a brief discussion document for the Board to look at today. There are two major questions as to what the Board should take action on. One is the direction as to the type of plan that they want to address and also what issues should be addressed in that plan.

There is some general information that it was suggested staff bring forward to the Board. First of all, there are no funds in the ISFMP budget for shark management efforts this year. Secondly, it might be best to keep the effort small and manageable at least for the start of the program, at least for this fiscal year. Concentrate on data and information gathering and to begin development of a public information document. There were three options that we put together for the Board to discuss in terms of what type of plan. First, was a combined FMP for all sharks including spiny dogfish.

Second was separate FMP's for coastal sharks versus spiny dogfish. This was the direction that was taken at the Policy Board meeting this past spring. There was a third option that Jack thought the staff should bring forward to the Shark Management Board and that is a single Shark FMP with subsequent amendments to address separate species or species groups.

For instance, the original FMP could address spiny dogfish. Amendment 1 could then address either coastal sharks as a whole or as a separate subset of coastal sharks. I'll leave it to the Board now to discuss.

CHAIRMAN AUGUSTINE: Okay, Dieter.

MR. BUSCH: Mr. Chairman, we have the benefit of having the shark chairman for the Mid-Atlantic Council here with us. Would the Board be interested in learning how they are addressing or have addressed this problem, or is this already common knowledge?

CHAIRMAN AUGUSTINE: We're seeing some nodding of heads, so I think it would be appropriate to introduce Alan Weiss, Chairman of the Shark Management Plan for the Mid-Atlantic. Alan.

MR. ALAN WEISS: Thank you. Actually, the Federal Dogfish Management Plan, as many of you know, is a joint plan between the New England and Mid-Atlantic Councils. The Councils finalized the plan in

March of this year, and it's currently under review by the Secretary of Commerce.

If it is approved, the plan will call for a rapid scaling down of dogfish landings during the first year, which is actually now in process even though the plan hasn't been approved or implemented yet; and then, restriction of spiny dogfish landings to a minimal bycatch level for the ensuing five years of the rebuilding program.

I won't get into the exact details of the plan, but it's basically a quota-based management regime. As I suppose you are also aware, issues have come up in the last six months or so regarding the potential for landings of dogfish from state waters that could circumvent the federal regulations and greatly diminish the effectiveness of the federal plan.

So, it's our hope that this Board will produce an effort that will complement or perhaps even mirror the plan developed by the New England and Mid-Atlantic Councils. And, at the very least, we are looking to very closely coordinate the efforts of the Councils and the Commission on this.

CHAIRMAN AUGUSTINE: Thank you, Alan. Are there any questions? Tom and Bill.

MR. TOM FOTE: Yes, Alan, it is nice to see you. I guess this is your last official duty on the Council.

MR. WEISS: No, not quite. Unfortunately, because of the way the meeting is structured next week, I'll be working quite a full day on Monday and Tuesday.

MR. FOTE: The question you asked before was whether you wanted to speak to a specific plan or you wanted to lump them in. Is what how I heard you say, Joe?

DR. DESFOSSE: Right. The options were doing all sharks together in one FMP, doing spiny dogfish versus coastal sharks, or some combination of that.

MR. FOTE: Okay. Just from my opinion, if you were going to do it, you do it species' specific, one shark at a time, gather the information. NMFS kind of lumps them all together and we get them all mixed up. And I'd sooner not do it the same way they do it with the highly migratory species. I would rather do species' specific so you basically are looking how you can restore that species instead of quotas for that species.

CHAIRMAN AUGUSTINE: Thank you. Red

MR. RED MUNDEN: Thank you, Mr. Chairman. I'm Red Munden and I'm North Carolina's representative on the Mid-Atlantic Fisheries Council. I'm also North Carolina's representative of the Shark Board for the ASMFC. For the past 18 months or so I've had the pleasure of working with Alan Weiss on the Mid-Atlantic Council's Spiny Dogfish Committee.

And I went through the whole process with Alan and

the other Committee members in development of the Spiny Dogfish Plan. As Alan pointed out, this is a joint Plan with the New England Council. But, based on that experience, I would favor the Option 2 that's listed here. That would be to have a separate plan for sharks and a separate one for spiny dogfish.

And I would also encourage this Board to consider developing the Spiny Dogfish Plan jointly with the Mid-Atlantic Council and New England Council. I've heard comments that this would be cumbersome because you have two Councils and ASMFC involved in a Plan, but I submit to you that this was no different than what we already have with bluefish and summer flounder.

So I think that the Plan that we have, the Mid-Atlantic Plan, which we developed with New England, is a good plan. A lot of the boilerplate is already there, and I think we can adapt that plan to state needs very quickly.

And I would also point out that through the Spiny Dogfish Committee and Alan's efforts, we realized early on that there had been an effort shift of spiny dogfish from the EEZ to state waters. And a lot of that information was based on North Carolina data.

And it appears that approximately 60 percent or more of spiny dogfish in North Carolina are now being taken in the state waters so we really need to move to protect these fish in our state waters. And I think the way to do it is to use the existing Plan and try to go for a joint Plan between ASMFC and the Councils.

CHAIRMAN AUGUSTINE: Thank you for those insights. Bill.

MR. ADLER: I just wanted to ask the status of the Council's, the federal, on their sharks. They obviously have a Spiny Dogfish Plan separate from coastal sharks. Is that correct, or it is not all one, right? Alan, please.

MR. WEISS: That's correct. The Spiny Dogfish Plan is a joint Plan of the New England and Mid-Atlantic Councils. The large coastal shark management is done by the Highly Migratory Species Division of the National Marine Fisheries Service directly, not through the Councils.

MR. ADLER: Okay, so there is no plan even in development by the Councils for the large coastal sharks, but there is something?

MR. WEISS: There is a Secretarial Plan that is currently in effect that was implemented by National Marine Fisheries Service.

MR. ADLER: Okay. Now, do we run into the same problem? It was just mentioned that if the Councils do a Federal Spiny Dogfish Plan and you have a loophole, basically, in that the state waters is still there without a plan, are we going to run into the exact same thing with the coastal shark operation; that they are going to say,

"Gee, we've got a loophole in state waters over the coastal shark because we've got a federal coastal shark but not a state water." Are we going to run into the same thing?

MR. WEISS: Well, I believe that is the whole reason for the effort that is being made here now. That has been the case. The Secretarial Shark FMP has been in effect. Gary can speak to the exact timing of things and such better than I can, but it's been in effect for several years now. And it has come to light that there are problems of its effectiveness being undermined by activities taking place in state waters.

MR. ADLER: So this group will probably have to develop for both species, whether they do it under two separate ones or one? We are going to have to do the coastal one, too, right, most likely?

MR. WEISS: Well, that's obviously for you folks to decide, but my personal advice and the Mid-Atlantic's Council's advice was, that you ought to. And, while I have the floor, just following on what Mr. Munden said, I think that the fisheries for spiny dogfish and large coastal sharks are quite different fisheries.

That's one aspect of the problem. Another aspect is that as this discussion has pointed out, the federal/state coordination for spiny dogfish is between this group and the Mid-Atlantic and New England Councils.

For large coastal sharks it's between this group and Highly Migratory Species Division of the National Marine Fisheries Service. So, not only are they quite different fisheries largely taking place in different geographic areas, but they also require coordination between different agencies.

CHAIRMAN AUGUSTINE: Thank you, Alan. All right, David, go ahead.

MR. CUPKA: I was just going to remind Bill Adler that there are other problems, too, that aren't addressed in the Federal Coastal Shark Plan. This whole issue of pupping grounds and nursery grounds are predominantly in state waters and would have to be addressed by this Body anyway.

CHAIRMAN AUGUSTINE: Thank you, Dave. Susan, you were next.

MS. SHIPMAN: Just a quick question. What's the status of Secretarial approval of the Spiny Dogfish Plan? Perhaps Dr. Matlock could share that with us.

DR. GARY MATLOCK: We published a Notice of Availability of the Plan, I think, in about June, June 29th of this year, so we are in the receiving public comment phase on the joint plan itself.

CHAIRMAN AUGUSTINE: Okay. Anything further? David.

DR. DAVID PIERCE: I believe that the public

comment period closes at the end of August, August 31st, I believe. I've got a quick question for Alan. Alan, you gave a very brief summary as to the intent of the Dogfish Plan. It is my understanding that about four months ago the Joint Committee on Dogfish, Mid-Atlantic and New England, decided to explore some additional options regarding how to deal with dogfish in the future.

Some analyses had to be done; analyses that might result in more opportunity for dogfish fishermen to direct towards dogfish, maybe with a slot limit. Can you tell us how far along that analysis is?

MR. WEISS: It is my understanding that it is still in its early stages. Unfortunately, at the Councils we are dependent for a lot of this work to be done by the Northeast Fisheries Science Center. And the availability of personnel there has been very difficult in recent months, primarily because of the stock assessment cycle that we are just concluding. So, I have been pushing hard to try to get these issues resolved because I really -- personally, I wanted to see them through to a conclusion before my term expired on the Council. Obviously, that is not going to happen.

But there is every reason to believe that those issues will be taken up and dealt with in short order at this point in time. It is my understanding that the work is being done at the Northeast Center now and there is due to be a meeting of the Technical Committee, the Council's Technical Committee, sometime in the next several weeks, I believe.

#### PUBLIC COMMENT

CHAIRMAN AUGUSTINE: Thank you very much, Alan. At this time I would like to ask if there are any comments so far from the public. We kind of skipped over you. We wanted to at least get started to get some groundwork laid as to what we were dealing with and the direction we were going to go based on what the New England Council has already done and where they are.

So if there is anyone from the public who would like to come up to the microphone and make a statement, we would like to have that now, or you can enter into the conversation as the Board makes their comments and then we will call on you as appropriate. No comment? Okay, Tom.

#### OPTIONS FOR FMP DEVELOPMENT (cont.)

MR. FOTE: Yes, the question was asked whether we do a joint plan or do we do a plan we cooperate with. And some of the problems I've seen with some of the other plans over the years, where we have to go to



Secretarial approval, it gets kicked back and it fouls up a plan because we can't get Secretarial approval, or the Councils' can't, and it holds up the Commission plan from being put in place so the rules change.

And since we are dealing with not only two, one council but two councils, and the same way we'll have to be dealing with National Marine Fisheries Service as a Secretarial plan, I think we should look hard and consider the option of basically doing the plan in cooperation but not maybe as a joint plan; working together, sharing information and everything else, because a lot of times we can act a lot faster, put things in place with the Councils and we don't have to go through the same guidelines to do that, to put plans in place. So I just think we should consider that before we move forward.

CHAIRMAN AUGUSTINE: Thank you, Tom. Any other comments. John.

MR. JOHN CONNELL: Yes, I'd like to also weigh in on what Tom just recommended; I believe that as long as the Commission at this point has the financial ability to support the development of a plan which would be cooperative but, basically, our plan.

I know nothing that has been done by either the Council or New England is copyrighted and I'm sure they wouldn't mind us plagiarizing when needed. And I also like the idea of having separate amendments for specific species as we go along and we need to expand this.

CHAIRMAN AUGUSTINE: Thank you, John. Any other? Ernie and then Dave.

MR. ERNEST E. BECKWITH, JR.: Yes, thank you, Mr. Chairman. Joe, I'm going to address this to you. I guess staff or you prepared three options for us to consider today. I don't have a lot of experience or knowledge about sharks and shark planning, but could you give us some pros and cons of each of the three options?

CHAIRMAN AUGUSTINE: Joe, do you want to do that?

DR. DESFOSSE: Well, one of the pros in terms of keeping spiny dogfish and coastal sharks separate would be the coordination aspect. If we dealt with spiny dogfish in one plan, you'd only have to coordinate the Councils; and then a separate FMP dealing with coastal sharks, you'll deal with the Secretarial FMP.

I don't know if you combined all the species together in one FMP how you would coordinate between all four groups. Jack thought it would be a good idea to start off with one FMP in terms of staff time.

That's why I put together the third option for a single Shark FMP and have the Board decide what it's priority would be, whether it be spiny dogfish or something else. This is basically a staff resources time question.

CHAIRMAN AUGUSTINE: Does that answer your question, Ernie?

MR. BECKWITH: Sort of. Well, it's a start.

CHAIRMAN AUGUSTINE: Okay, Dave Pierce and then Dave Borden.

DR. PIERCE: I would support Option 2, separate plans for the sharks and spiny dogfish. I think it makes a lot more sense. It's consistent with some of the recommendations that came out of the Technical Committee, the Technical Workshop. I recall reading a number of reasons why it made sense to have separate plans. In addition, I don't know how the other states feel, but I personally feel that it's very important for us not to slow down a plan for coastal sharks.

And if we lump dogfish in with coastal sharks, there may be a slowdown as a consequence of some of the controversy that surrounds management of dogfish. There might not be as much controversy regarding management of coastal sharks. But that's my perspective and I don't have the perspective of states that are farther to the south.

CHAIRMAN AUGUSTINE: Thank you, David, good point. Dave Borden and then John Mason and then the gentlemen in the audience.

MR. BORDEN: Thank you, Mr. Chairman. I find it kind of amusing listening to David's last comment, sitting next to Gary. Maybe we ought to get him to describe how many times he's being sued on various components of the HMS plan.

I really view Option 2 and Option 3 as quite similar. The fact of the matter is, from my own perspective, we are probably not going to have the resources to dedicate to both tasks and we are going to have to assign a priority to one. If you do that, you can follow either one of those, essentially, templates, and you end up with the same type of result. But that brings me to, really, a larger point.

At the spring meeting where this whole concept was endorsed pretty much unanimously. There were a few people that voiced some reservations about it. The issue was raised as to funding. The Commission does not have funding and staff at this time to dedicate to it.

And there is no funding budgeted and it is not a priority, given all the species that have been selected to be managed. And one of the suggestions that we made at that time was that there were a number of other organizations that obviously have tremendous expertise, National Marine Fisheries Service, Mid-Atlantic Council, New England Council, and staff that have the expertise on this.

The suggestion was made at that time that we get our staff together with some of these other staffs to try to aggregate a listing or an inventory, if you will, of the

types of expertise that could be brought to bear by those governmental organizations, and even some of the private organizations, to work in a partnership on some of these plans. Did that meeting take place?

DR. DESFOSSE: There was no meeting that took place. What we did was put together a list of those people/organizations/jurisdictions. (at which point the electricity went out)

CHAIRMAN AUGUSTINE: If you will speak loud, Joe will be able to pick it up until the power comes back on. I think we have two or three major, major issues we've got to address this afternoon, and we want to get through them. Hopefully, the power will come back on. David, did you finish your comments?

MR. BORDEN: No. I guess my concern here is the issue of the lack of funding and staffing, and so forth. I am personally convinced that we can solve some of those problems if we partner with some of those other agencies that can help us.

What I think we should do is decide through the Commission what we think the priority is. I firmly believe we can't work on both of these two major initiatives simultaneously, set our priorities and then basically go off and ask the staff to do what we originally asked them to do, which was to meet with some of these other organizations and try to identify resources which can be brought to bear in order to accomplish the objective in a timely fashion.

Dick Schaefer was at the meeting and he, essentially, pledged his support, and Jim Gilford was there from the Mid-Atlantic Council. He also pledged his support of his staff. So I think we've got to follow on that goodwill and try to identify those resources and then come back fairly soon to the Board and say these are the resources that people have pledged.

If, for instance, either one of those federal agencies or state agencies or a private organization wants to have a dedicated plan writer or someone to assist our staff plan writer, that's a major step.

To the extent that the Mid-Atlantic Council might dedicate some of their analytical capabilities on some aspects of the problem, that would expedite that. The same thing goes for the National Marine Fisheries Service.

I mean, until we get a directed appropriation for the Commission itself to set this as a higher priority than all of the other species, that's the only strategy we can follow. That's just my own personal view. It's not a Commission view. And I think it's important for other people to speak.

CHAIRMAN AUGUSTINE: Thank you, Dave. Deiter, would you respond to that, please.

MR. BUSCH: Yes, Mr. Chairman. The comments that Mr. Borden made are right on target. It's not just a matter of funding but it's staff time. The meetings that we've had so far this week, they will continue to need a lot of support. Lobster will continue to take a lot of time. Really, the staff is pretty much loaded or overloaded at this time and we want to do good work. We don't just want to do the job, we want to do the job well, so it's really meaningful.

And in this case, it's not just a matter of money but it's also staff time. Staff time is even more limiting right now than money. So the only way we can really do this, the way I see it, is to have Joe play like a coordination role, some leadership role, find out exactly what can be done, look at the partnership opportunities and really just to get stuff organized in a sense for the remainder of this fiscal year and see where we are after that.

CHAIRMAN AUGUSTINE: Thank you. Could we look for some kind of a timeline as to -- I know Joe is overloaded with several other FMP's he's working on and other activities. Could we look for a timeline as to when we as a Board might get feedback concerning your activities to try to interact with both National Marine Fisheries Service and Mid-Atlantic? Joe.

DR. DESFOSSE: We could definitely report back to the Board at the annual meeting, contact both organizations and see where we want to go. I was under the impression that the Board needed to decide which avenue that it wanted, whether it was spiny dogfish or sharks. There was some confusion on my part.

CHAIRMAN AUGUSTINE: Thank you. John Mason, and then the gentleman in the audience and then Dave Cupka, Tom Fote and then Susan, and you'll have to speak up when it's your turn. John.

MR. JOHN MASON: I share David's Borden's of concern. If we are going to take Option 2, then it seems to me that what we have to do is pick one of those so I hope, Mr. Chairman, that the next thing that we try to do is decide on a priority, because I think that's going to drive all the rest of your discussion.

CHAIRMAN AUGUSTINE: Thank you. That's the direction we are going to go. I recognize the gentleman in the audience. Please state your name for the record and what organization, if any.

MR. HARVEY NICKERSON: Harvey Nickerson. I represent the American Dogfish Association, which represents the major dogfish processors who are located in New Bedford. I know you folks have a very heavy load and I appreciate this. I'd like to make just a couple of comments.

The plan that's going to be developed here, we certainly support distinguishing between the two plans

and doing the spiny dogfish on its own. We also support the attitude that seems to be surfacing here of doing a good job and not necessarily taking the easy way out by joining with other entities such as NMFS and looking for the best information possible.

I do take a little bit of umbrage with the comment made by my friend, Mr. Weiss -- and I only mention his name because it did come from him -- in that your plan, as you develop it, shouldn't be mirrored after the federal plan. I think this is an opportunity for this organization to reassess the information that came forth to Councils in the development of the federal plan; to answer and inquire into many of the questions that were raised, some of them very close to the end of the process, and much of this came as a result of this probably being the credible and the best plan it could put into existence -- I could be wrong, but I don't think so -- and particularly when you have an opportunity to take a little more time or to reassess and perhaps to shed light on many of the things that surfaced in the development of the federal plan toward the end of the line, but was never really, really investigated to its fullest extent.

So what I would ask that you do your independent work, not mirror, and take into consideration every facility possible to add information to the thought process.

CHAIRMAN AUGUSTINE: Thank you for your comments, Mr. Nickerson. Sonja, please stand up and tell everyone who you are.

MS. SONJA FORDHAM: Sonja Fordham, Center for Marine Conservation. We would support a separate plan. I came away from the spring meeting with the feeling that there was, maybe not explicit but implied priority for spiny dogfish.

I would support that and just point out that, although we are very concerned for coastal sharks, there are some federal protections for large coastal sharks. There are more and more state regulations for large coastal and coastal sharks.

Spiny dogfish, on the other hand, have virtually no protection in state waters and their federal plan has been delayed. The plan that's under comment now was supposed to be in effect, originally, in May. And we are in real danger of reaching that quota before it's implemented.

I would point out that there has been selective fishing on the mature females which has depleted that important segment of the population. And so the stock, I think, is in a precarious state if we want to rebuild within the legal time limit.

And I would also remind you that spiny dogfish have severely restricted reproductive potential. They don't

reproduce until they are teenagers. They produce about six pups at a time and they have the longest gestation period of any vertebrate on the planet.

I think whether it is a joint plan with the Council or a quick and dirty Commission plan, I would support whatever is fastest because of the urgency of the situation. I think the scientific and technical work has been done for dogfish, and the most important, simple measure that I hope you would address is to close state waters once the federal quotas are reached. I think that would be the simplest measure that would go the farthest. That's all I have.

CHAIRMAN AUGUSTINE: Thank you for your comments, Sonja. Tom, may I ask that we are getting more new information than we are going to reiterate, because I know this is very important to all of us, that we move on, that you might make a recommendation as to which one of these plans we go forward with.

MR. FOTE: That's what I was going to do. To follow up on Sonja's comments, I think a lot of the states have implemented, because of the effort that was made, went by state by state, to put in the coastal measures in the states.

Maybe we should canvas our states to find out how many have implemented those regulations that correspond to the National Marine Fisheries Service Secretarial Plan on large coastals. So my concern is not really for large coastals, it's for the spiny at this time.

And according to our information, the plan is going and there really is an opportunity here to basically do something fast, to basically check those species so you don't move one fishery into state waters in and out, I think that should be our direction. **And if it's not premature, Mr. Chairman, I would make a motion that we go ahead and start with the spiny dogfish and start looking and direct the staff to look into the opportunities of what we could do on that species.**

CHAIRMAN AUGUSTINE: Do we have a second to that motion? **Bill Goldsborough seconds.** Okay, the floor is open for discussion on the motion.

CHAIRMAN AUGUSTINE: Okay. David.

DR. PIERCE: Mr. Chairman, frankly I'm not sure which species or sets of species should be given priority at this time. We know what the Council set down on the spiny dogfish. I believe we know what the National Marine Fisheries Service has done with the coastal sharks.

I would like more discussion regarding the urgency of state management restrictions of coastal sharks versus dogfish. Frankly, regarding dogfish, I don't see the sense of urgency, and I know that the Mid-Atlantic Council has asked the ASMFC to develop a plan because of the shift

of effort to state waters.

I know the National Marine Fisheries Service has made the same sort of an argument. However, I still maintain, based upon my being at the meeting when it was discussed and my review of the information as it was presented, that is to the Dogfish Committee, that the only shift of effort that has been witnessed so far regarding dogfish has been into North Carolina waters, because North Carolina is the state that has landings' data and that's it.

Massachusetts, of course, is another state with a great interest in dogfish. And so far, we have not seen that shift into state waters because it is primarily an EEZ fishery off of Massachusetts.

The VTR information, the vessel trip report data, that's been offered up as a way to make the case that the dogfish, that the shift has been from EEZ to state waters. But, as I said before, at another meeting, that this was a point actually made by Council staff that spiny dogfish fishermen were not required to submit logbook information in 1996 and 1998. So we really don't have any idea whether the VTR data that has been looked at is actually representative of the directed dogfish fishery.

So, that's why I say I'm not convinced of the sense of urgency to get the dogfish plan developed right away. Coastal sharks, perhaps there is a greater urgency. And I would welcome further discussion from NMFS, for example, regarding whether or not they feel that the states really do need to get going very quickly and to address specific concerns about coastal sharks and, in particular, the state waters being used as pupping grounds, and other reasons why this is important, the state management of coastal sharks.

CHAIRMAN AUGUSTINE: Can we ask for a response to that? We have John Mason on the list. Gary, would you prefer to respond to that or would John?

DR. MATLOCK: Sure, I'll give it a shot. Relative to the last part of the question, we have, I think, repeatedly over the past five years advised the states and requested help in terms of large coastal sharks, closing of small coastals as well. Closing areas that can be identified as pupping grounds because of the status of sharks generally is precarious at best. The rebuilding plans that we've now put in place for the species that we've identified as being overfished are on the order of 30 to 50, 20 to 50 years, which means that we are going to have the kinds of limits that we have in place for that long a period starting now.

Those species that are involved are potentially subject to even more overfishing because of the actions that have been taken in the last two years to thwart the efforts to reduce the harvest.

We have in place now for recreational fishermen, for example, a one fish per person, one shark per person bag limit and each fish has to be over four and a half feet long except for Atlantic sharpnose, I believe, which has a bag limit of two per person with no size limit.

So, from our perspective relative to sharks in general, there is an urgent need to reduce the take in state waters beyond what has occurred in the past. I'm not in a position to address the urgency relative to dogfish and shifting of effort but Harry Mears is here from the Service, and has been involved in that process of development of the shark entity that's on the table, and can speak to that much better than I.

CHAIRMAN AUGUSTINE: John.

MR. MASON: Gary just said one shark per person, it's per boat.

DR. MATLOCK: It's per boat. Yes, I'm sorry.

CHAIRMAN AUGUSTINE: Harry.

MR. MEARS: Well, in follow up to a stock assessment back in 1998 and the fact that the spiny dogfish was declared overexploited, the National Marine Fisheries Service, in partnership with both the New England and Mid-Atlantic Council, both looked upon management of the species throughout its range as a priority.

And as was referenced earlier, there was a Notice of Availability published in June. The public comment period is open to the end of August on the draft plan which was submitted by the Mid-Atlantic Council as the lead Council. A proposed rule is anticipated in the near future.

And, as was earlier indicated, in the initial years the primary intent is to work forward with the quota management regime and the whole issue of state catch in the state water portion of their range right now is a very vulnerable weakness in terms of overall management of the fishery throughout its range.

So, certainly, from the perspective of the Northeast Region working with the Mid-Atlantic and New England Council, it is a very high priority. And the issue of state catch of spiny dogfish in state waters is, indeed, a priority issue.

CHAIRMAN AUGUSTINE: Thank you, Harry. John, did you want to make some comment?

MR. MASON: I guess I have a sort of a fundamental question about what the initial plan is going to look like. If it's going to basically be to say something like when a quota in the EEZ is caught, the state waters also ought to be closed, then I'm not sure why we couldn't do that for both spiny dogfish and the coastal sharks that have closed, i it was also going to be to adopt size limits or whatever.

I'm not so sure that Option 3 isn't a feasible option if we want to keep the first generation of this plan fairly simple and get it on the books, which I think all of us want to do. It seems to me we may be able to address sort of quotas and size limits for the whole shooting match, that we don't necessarily have to divvy it up.

CHAIRMAN AUGUSTINE: Thank you, John. To that issue, if you will all recall, when you made your statement, you said the issues that were identified at the Shark Technical Workshop, one of those, Item 2, was state closure/consistency with federal closure, so that was one of the issues that has to be talked about I think when we get to the point where we decide whether we are going to do one plan or two plans or joint plan or whatever it happens to be. I think we have Susan and then David Cupka followed by Dave Borden and David Pierce. So Susan, please.

MS. SHIPMAN: I support the motion and I don't see a reason down the road where we may not be able to evolve the plan, if you will, or expand it from a spiny dogfish plan into encompassing another species, possibly. In the Sturgeon Board, you will remember we started out as an Atlantic Sturgeon Board. We evolved into a Sturgeon Board.

So I think we have the flexibility within this Board and within the Policy Board to roll into a more comprehensive plan if we want to. I think we will get into more sticky issues when we start dealing with the coastal and the large coastals as well as smaller coastals.

I see this as an opportunity to be proactive rather than reactive. I'm a little concerned about waiting until we see these landings shift into state waters before we do something. We dealt with this in horseshoe crabs this morning, and I think we really need to be proactive. And I support the motion.

CHAIRMAN AUGUSTINE: Thank you, Susan. David.

MR. CUPKA: Thank you, Mr. Chairman. I also support the motion. First, I am going to speak in favor of Option 2; and within that option of moving ahead and doing something on spiny dogfish, particularly since the Councils have done a lot of work already with the resources available to the Commission.

This is one that we could probably get on a little faster track, maybe not necessarily to mirror, but certainly a lot of background work has been done. Also, in terms of the coastal sharks, with everything that's going on now with all the legal challenges and all, it might be better to wait and see how the dust is going to settle on that one.

I would favor moving ahead and trying to do something about the spiny dogfish. And as Susan pointed

out, you could probably do that either under Option 2 or Option 3, but I would like to see us move ahead on the spiny dogfish.

CHAIRMAN AUGUSTINE: Thank you very much, David. The next person was David Borden.

MR. BORDEN: Thank you, Mr. Chairman. I won't reiterate what David and Susan have just said but I support the motion the way it's crafted. And I would just point out that a lot of the states have been, particularly the southern states, have been very responsive, I think, to some of the HMS requirements by adopting a whole series of regulations for state waters as far as the coastal regulations; and to some extent, to the HMS plan. So, from my own perspective, frankly, I think we should do this as well.

CHAIRMAN AUGUSTINE: Thank you. David Pierce and then Bob Palmer, Charlie.

MR. PIERCE: Well, I favor putting a priority on coastal sharks; however I understand everyone's reasons, at least those who have spoken. I understand their reasons why they wish to begin with spiny dogfish because I think there has been some understanding or impression that it would be relatively simple to adopt an ASMFC Spiny Dogfish Plan.

I submit that that may not necessarily be the case because there are a lot of issues that have to be addressed. And we'll get to that on the next section of this meeting, which is to be addressed by the FMP. There are assessment issues.

There are issues that relate to what the Mid-Atlantic Council is intending to do or may do and modifications on spiny dogfish management strategies down the road. It's going to be controversial. But, then again, I suppose, maybe it is best to try and start with spiny dogfish so we can get right into that discussion as opposed to waiting for sometime down the road. If we wait too long, we'll forget all the arguments and we don't want to do that.

CHAIRMAN AUGUSTINE: No, we don't want to do that. Thank you, David. Bob Palmer.

MR. BOB PALMER: Yes, with all deference to the Vice-Chairman, I don't think anybody thinks it's easy to pass an ASMFC plan. I support the motion and mainly for the reasons that David spoke of. There are quotas in place for the large and coastal sharks.

They are inadequate but they are what we are going to be living with and there is not similar framework in place for spiny dogfish.

CHAIRMAN AUGUSTINE: Thank you, Bob. Charlie, I think was next.

MR. CHARLIE LESSER: We support the motion. And there is an alternative to the large coastal. We went ahead and implemented the coastal regulations as

proposed by the Federal Plan as of 1998 and 1999. So, those states that are concerned about the large coastal could implement on their own. And we're more concerned with the pupping area in the Delaware Bay and the sandbar sharks.

CHAIRMAN AUGUSTINE: Thank you, Charlie. Rusty you had your --

MR. RUSTY HUDSON: Yes sir. Rusty Hudson, Directed Shark, and I'm also a Migratory Species AP member, Large Whale Take Reduction Team member, seeking to be an AP member for the Coastal Sharks. In this particular case, coastal sharks, like Gary mentioned, there are large and small coastals. We are talking approximately 30 species, of which five now are protected, whale sharks, white sharks, et cetera.

But when we get down to the crux of it, like Florida where we're from, we're a year ahead of the federal. We've had commercial fishing greatly restricted, if not shut down in state waters. And the biggest concern that we have is that we do have a trip limit for 1,000 pounds for large coastals, and we have quotas for large coastals and small coastals, and we have to work within those parameters.

We're trying to get the limited access going to bring the fleet down to be able to try to fish fleets with the available quota. Now, personally, we think the quota is too small; 2.8 million pounds can be caught by 14 boats from Maine to Texas at one trip limit per week for 50 weeks.

Nobody else can play, no dead discards, no state landings, et cetera. Now Louisiana's biggest problem is state landings, but that's not under the perusal of this particular Marine Fisheries Commission at this time. But one thing that is occurring and it was brought up, pupping grounds, nursery grounds.

We've been seeing a lot of benefits of the management plan that has been in place for the state and federal for these several, six or seven years. And we are seeing a bloom of animals. Now the four and a half foot minimum size for the recreational is very good.

CHAIRMAN AUGUSTINE: Rusty, may I interject just one second. All the information you give us is very important as to which way we go, but can you try to scope it in as to the feasibility to this particular motion.

MR. HUDSON: Okay, on the large coastal, we need to have something for the recreational because two-thirds of your fishing for sharks that are caught are in state waters. And I would recommend -- Tom, I believe the gentleman's name is, had mentioned species specific.

If we go and we look at the large coastal, as a for instance, then you are dealing with sandbar, blacktip, and

predominantly in the Mid-Atlantic Region you've got a large sandbar nursery. Where the sandbars aren't, the bull sharks are.

So, basically speaking, there is a great need to get some species specific stuff in states waters because you've got a lot of bycatch interaction with some commercial enterprises also. So, I would recommend that this group get an AP together with all user groups and be able to try to get some of this data to Dr. Desfosse so that he can be able to work this out.

CHAIRMAN AUGUSTINE: Thank you, Rusty, very good input. Lew Flagg, I believe you had your hand up.

MR. FLAGG: Thank you, Mr. Chairman. I tend to agree with Dave Pierce that I don't think the spiny dogfish plan is going to be very easy. I think it's going to be a long process because there are a lot of issues related to state water fisheries.

And, I do think it might be appropriate to perhaps look into the other coastal shark species that might be a little bit easier to get on board with and get a plan passed. If, in fact, we do go with the spiny dogfish, I think it will be a long and tedious process.

CHAIRMAN AUGUSTINE: Thank you, Lew. I think we are ready to call the question unless there is further debate or comment. John, and then Gary.

MR. CONNELL: Just for the record and for clarity so that everyone knows what they are voting on, can we have the motion read.

CHAIRMAN AUGUSTINE: Gary, do you want to make comments before we move forward with the motion?

DR. MATLOCK: Yes, I think so. In development of the recently adopted Highly Migratory Species Plan, we struggled with the issue of separate species, separate groups of species versus combining things into one. And we came to the conclusion that we are much better off in the long run, both administratively and ecologically, to combine things into one FMP as opposed to a series of 1, 10, 15, 30, or whatever the number might be.

There are a couple of reasons primarily for that. The first is that if you start dealing with something like multiple jurisdictions and/or issues like permits, if you separate species into different FMP's, then you have to go through and amend all of those FMP's when you start dealing with permits, because we are now required much more strictly to deal with both the directed and the indirect sets of those species.

So if you, for example, take a species for which there is a directed fishery and you have a permit for those people that are catching that in a directed fishery and it might be managed under, say, HMS, and you have

another fishery that catches the same animal in the indirect way as bycatch, you then have to go amend through the Council process another plan or plans to deal with that part of the fishing mortality.

So our perception was at the end of the discussion relative to that aspect that we were much better off combining species into one HMS FMP to the extent that we could because we are trying to manage the total fishing mortality on a particular species. And doing that in one package in an integrated way is much more efficient in the long run than doing it in a separated way.

In addition to that, then, the ecological considerations I think have been more improved in a form of the report to congress that has already been submitted by an outside task force -- it was not a NMFS effort -- that responded to a requirement that there be a study and a report done that looks at the application of ecosystem principles to fisheries management.

And the conclusion in that report, one of the conclusions in that report -- and I'll address it very simplistically and probably get it wrong in terms of the complexity of it, but basically it was that there be more integration, more consideration of fisheries' impacts on ecosystems in a general way as opposed to the way we are doing it now which is basically a single-species approach.

So having those comments in front of me, I think the approach of identifying priorities is a realistic one. It is a laudable one. It's one that you can't avoid, and I think we should do. But Option 3 seems to me to allow us to do that as opposed to Option 2 in particular. And I'm not sure, then, exactly what the motion is, so I'll stop my comments and see if we can respond to the --

CHAIRMAN AUGUSTINE: And I'd like to respond to your comment on behalf of, I'm sure, some of these members who wouldn't say this, but I'll say it. In view of the fact that we have no funds budgeted for this particular activity, would the National Marine Fisheries Service feel comfortable in funding it?

DR. MATLOCK: I can answer that. If the Commission would assist the congress in finding money and making it available to us, we would certainly pursue that option.

CHAIRMAN AUGUSTINE: Well, we'll do that to the best of our abilities through Dieter. Any further discussion on the motion.

MR. BORDEN: **What I think we are really saying here is to establish spiny dogfish as the priority species.**

CHAIRMAN AUGUSTINE: **Would you like to perfect that motion?**

MR. FOTE: **Yes, I accept your perfection.**

CHAIRMAN AUGUSTINE: Susan.

MS. SHIPMAN: Just a question for Tom. Also, is it your that this be a partnership effort with National Marine Fisheries Service, the Councils, NGO's and others?

MR. FOTE: Not a joint plan but a cooperative plan.

MS. SHIPMAN: But in partnership --

MR. FOTE: In partnership and cooperation.

CHAIRMAN AUGUSTINE: Any further questions? Yes, David.

DR. PIERCE: Not a question. I'll just make one final point on this, and that is I still feel that we should be more concerned with coastal sharks, that they should have priority. I say that because even though I appreciate the fact that it is obviously beneficial to be proactive and to anticipate possible shifts from the EEZ to state waters, at this time there really is only one, if you want to call it trouble area, one area of concern and that is the state of North Carolina.

There is evidence that the fishery has shifted inside. North Carolina is a state that is part of the Mid-Atlantic Council. It would seem to me that if, indeed, there was a need to respond to a shift of effort into state waters, that North Carolina could respond in kind by adopting measures that would be consistent with the objectives of the Mid-Atlantic Council's Dogfish Plan that North Carolina is a part of.

CHAIRMAN AUGUSTINE: Thank you. We have, Red, please and then Tom.

MR. MUNDEN: Mr. Chairman, I have two comments to make, but with your permission I would like to address Dr. Pierce's comments. I know the time is late. North Carolina was the only state that could provide data to the Mid-Atlantic Council that indicated that landings had shifted to state waters since 1994.

And since it is based on our trip ticket information, whereby the fishermen identified the areas in which they fish, the Mid-Atlantic Council staff worked with the NMFS staff -- I think it was up in the Northeast Region -- and the vessel trip reports indicate that along the East Coast, approximately 70 percent of the effort has shifted to state waters within the past couple of years.

So it's not only what we have seen in North Carolina, it is just a matter of North Carolina having the data that shows that there has been a shift. I would like to put that issue to rest and discuss the motion.

Going back to what Mr. Fote just said, he intended for the motion to be for the development of a fisheries management plan in cooperational concert with other agencies. As I said in my opening remarks, I support a joint plan. But my question for Mr. Fote or for you, Mr. Chairman, is that if the staff goes back and talks to other people who have knowledge and expertise and whatever,

and they come back and say that the best way to do this is a joint plan with the Councils, is that option available under this motion?

MR. BUSCH: Yes, I was going to address this and another related topic; that this motion does not -- it is not either/or. It is really setting the priority that the initial focus will be on spiny dogfish. We will do all we can. We're supermen. We will do all we can as super-people, sorry. We will do all we can and it is just a matter of giving us some guidance right now.

CHAIRMAN AUGUSTINE: Joe.

DR. DESFOSSE: Either for Alan or maybe for Harry. If the Commission went forward with a joint plan with the Councils, would the Councils have to resubmit their spiny dogfish plan? Would they have to rewrite it and then go through the process again; as opposed to what we have done with Atlantic herring where both the Commission and the Councils go complementary through their separate plans.

CHAIRMAN AUGUSTINE: Who could answer that question? Gary, could you answer that question? Could you address this?

DR. MATLOCK: I can take a stab at it and say that the answer is probably yes, but please don't hold me to that in concrete because I am not absolutely certain and I am not an attorney.

CHAIRMAN AUGUSTINE: Thank you very much. And then we have Bill Goldsborough.

MR. GOLDSBOROUGH: Yes, thank you, Mr. Chairman. As a procedural matter, first of all, as a seconder to that motion, I have yet to concur with the perfection. Not that that's a big hurdle, but I'm not sure that the language up there yet reflects the perfection that was offered.

If I'm not mistaken, that's pretty broad and open-ended. Is that what we mean to say, establish spiny dogfish as a priority, period?

CHAIRMAN AUGUSTINE: Maker of the motion, Tom, is this really what you're --

MR. GOLDSBOROUGH: Don't we mean **as a priority for FMP development?**

MR. FOTE: For FMP development.

CHAIRMAN AUGUSTINE: Yes, a priority for FMP development. To select the option that we are going to follow or take, of the three options that were listed for us.

MR. GOLDSBOROUGH: Well then, as written that way, I concur with it.

CHAIRMAN AUGUSTINE: You'll concur with that, then, thank you very much. And Bill here.

MR. ADLER: I just want to talk about if this motion passes and whether or not you have a joint plan, I was not

at all satisfied with the procedures that were undertaken in the herrings when we had a joint plan between the Atlantic Herring Section of the ASMFC and the Council's Subcommittee.

And trying to deal with a joint plan in that respect, I was not completely satisfied at all with the way that had to work, because then the subcommittee, which we met with and which we discussed herring with, had to go back and there was no guarantee that what we had decided jointly, together, was going to be the way they ended up making a decision. When the Section made a decision in herring, that was the decision, more or less. So I would be more in tune with, if this passes, in developing something where it is in cooperation with but stay away from joint.

CHAIRMAN AUGUSTINE: Thank you. To address that question, Joe would like to clarify something that Bill brought up. Then Susan and David.

DR. DESFOSSE: The Herring Plans were not joint with the New England Council. They were separate but complementary plans. In the case of the Section, yes, the Section made a decision. And, since they had regulatory authority, they approved that -- the Section decision was final.

The Council's Herring Committee did have to back to the Council. In the case of the Shark Management Board, the Shark Management Board has to go through the ASMFC Policy Board and then the full Commission. So, the Board would have to go through the same similar steps.

MR. ADLER: Okay, and just in response to that, then it would be even worse if it was a joint plan, in my estimation, even worse than it was for the herring.

CHAIRMAN AUGUSTINE: Thank you. Susan.

MS. SHIPMAN: Just quickly to some of the points that have been made about joint plans, in the South Atlantic the Commission has a Spanish Mackerel Plan that tracks very closely the Council Plan. We have a Red Drum Plan that tracks very closely.

They are not joint plans but we have always cooperated very closely. And it can be done and it has worked very well. But we are not encumbered by some of the administrative burdens of going through a joint plan.

CHAIRMAN AUGUSTINE: Thank you. David Cupka, do you want to say any more than that? I think we have discussed this quite well. I think we've pretty much reached a conclusion. Your last shot, David. That's it.

DR. PIERCE: I'm not going to debate any further what has greater priority, dogfish or coastal sharks. I'll only provide this Board with an explanation as to why I



have this feeling regarding coastal sharks. And it comes about from this document. How many people have seen this document? Okay.

This is an excellent document put together by the National Audubon Society, The Living Oceans Program, Sharks on the Line, a State by State Analysis of Sharks and Their Fisheries. Now obviously, this report also focuses on dogfish. But a lot is said in here that makes me take notice that there is a great need to deal with coastal sharks inside state waters. And I'm, in a sense, following their lead on coastal sharks.

CHAIRMAN AUGUSTINE: Thank you, David. We can entertain someone calling the question or calling the vote.

MR. BORDEN: Call the question, Mr. Chairman.

CHAIRMAN AUGUSTINE: Question has been called. May we have a state-by-state request for -- Do you want a caucus? Yes, we need to caucus, thirty seconds. Okay, we're ready for a vote. Joe, would you call state by state for a vote please?

DR. DESFOSSE: Maine.

MAINE: Yes.

DR. DESFOSSE: New Hampshire.

NEW HAMPSHIRE: (No response)

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 Fishery Service.

NATIONAL MARINE FISHERIES SERVICE:  
Abstain.

DR. DESFOSSE: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: Yes.

DR. DESFOSSE: Fourteen votes in favor, one abstention.

CHAIRMAN AUGUSTINE: Fourteen in favor, one abstention. The motion carried. Thank you, we'll move onto the next item.

MR. BORDEN: Mr. Chairman, on the issue of format, whether it's one, two or three, my suggestion there is that we defer a decision on that until the next meeting, at which point we would have a staff report after they had met with all the appropriate organizations, and we have a better understanding of what types of resources can be brought to bear to resolve it. And to me, that to a large extent will determine the form that it will ultimately take.

CHAIRMAN AUGUSTINE: Thank you. Is that all right with the staff? Thank you and Tom.

MR. FOTE: Yes, that was one of the reasons I left the motion so broad ended so the staff could come back with recommendations how we follow through on that.

CHAIRMAN AUGUSTINE: Thank you. John.

MR. MASON: Mr. Chairman, Am I right that if we wait until the next ASMFC meeting, that it won't be until November that all this is able to be discussed?

CHAIRMAN AUGUSTINE: Unless we have another meeting planned before that. Dieter, do we have another meeting planned before November, did you say, John?

MR. BUSCH: Not at this time. We may have a meeting of a Plan Development Team or whatever structure will be put in place between now and then. But I think the next meeting would really be the November meeting, where you will get the progress report, Mr. Borden, that you asked for.

#### **PDT MEMBERSHIP**

CHAIRMAN AUGUSTINE: Okay, all right. I guess the next item on the agenda would be Number 8, and that would be the Plan Development Team membership.

MR. BUSCH: According to the charter, the Plan Development Team is usually a team of about six people. It doesn't have to be all from the agencies. It can include outside people, but it takes dedication and focus to accomplish this task. And Joe, he would like to receive the nominations in 30 days or so or sooner.

CHAIRMAN AUGUSTINE: All right, before we go to the last item under other business, are there any more comments from the public as a final opportunity to get on record/ Sonja, I think that's you back there.

MS. FORDHAM: Sonja Fordham, Center for

Marine Conservation. Does this mean if you've established the priority, isn't there a way to do something for Spiny Dogfish between now and November, you know, maybe Susan Shipman's idea that we could roll in the sharks later? Does this mean you can't move at all on Spiny Dogfish until November?

CHAIRMAN AUGUSTINE: I defer to staff.

MR. BUSCH: By what I think you mean, by not moving on it until November, I think you're correct. If you talk about getting the process started, getting the teamwork started, we will do that. But if you're talking about having regulations in place, that's not --

MS. FORDHAM: Well, I wouldn't expect regulations to be in place, but some sort of movement given that we've established this priority and the council plan is there.

MR. BORDEN: Thank you, Mr. Chairman. I think there are things you can do in the meantime. I mean, I think there are things that we can do in the interim period, and I would look at it as a list something like this, that I think the staff has a fairly significant task in terms of identifying resources.

And that will take a period of time, it's going to take some meetings with some of those agencies. So that can take place, we can formalize the advisory committee, we can formalize the PDT subject to the availability of funding.

I think it's reasonable, once we finalize the PDT, to task them to meet once between now and the next meeting to specifically try to list out those alternatives which we could utilize, and I might emphasize simple alternatives that we could utilize to backstop the federal plan.

It's not that they're going to answer all the scientific plans, not that they're going to answer a whole host of other issues, but there may be some fairly simple things that we can do that will simply form some type of support under the federal plan that wouldn't impose huge hurdles on all of the states and also wouldn't impose a horrific burden on the commission staff in terms of developing the documentation.

CHAIRMAN AUGUSTINE: Thank you, excellent, David. Susan.

MS. SHIPMAN: Another thought that comes to my mind is an approach we've taken with some other species in the interim while we're developing a plan. We, in the past on Shad and I remember on Atlantic Sturgeon, sent a letter from the Commission to the states recommending and urging them to do things in that interim period until we got a plan developed.

And, you know, it would seem to me it would be reasonable for the Commission to send a letter to each of

the member states to recommend that they implement state closures consistent with federal closures when those quotas are met. I mean, I would think we could at this point still move forward with something like that.

CHAIRMAN AUGUSTINE: Thank you, Susan. Thank you, Sonja, for your comments. John Mason and then David Borden again.

MR. MASON: Yes, Mr. Chairman, that's sort of where I was leading when I asked the question a minute ago about why do we really want to wait until November? I think Dave Borden suggestion about a PDT meeting to get things started -- but, I guess then I would say if we are going to have a PDT meeting before November, it seems to me we may need to address a little bit Item Number 7 on the agenda, which we kind of jumped right over, which are topics, if there are some, that the Board -- and David said keep it simple. I agree with him wholeheartedly, similar to what Susan suggested about sending a letter.

Remember, we did the same thing about Monkfish. When the Monkfish plan was being developed, a letter went around to all the states asking them to implement the size limit. But this leads me back to a question that I had a long time ago. The Notice of Availability has been published. But as the new process torturously moves us through two processes, where we have to comment on the Notice of Availability and then we get to comment on the Proposed Rule, which is actually the more important thing, but you can't comment on the Proposed Rule unless you've commented on the Notice of Availability.

But not to confuse the issue, the Proposed Rule isn't out yet, so we don't really know what's going to happen. What's the schedule for the Proposed Rule, guys?

CHAIRMAN AUGUSTINE: Okay, Dave Borden and then Harry.

MR. MASON: Can I get an answer to my question, Mr. Chairman?

CHAIRMAN AUGUSTINE: No. Anyone have an answer to that question? Harry, are you going to do that? Go ahead, Harry. Thank you.

MR. MEARS: The proposed rule is due out imminently, very soon. The follow-up comment is that it could be, in fact, very opportune to consider the benefits of establishing a PDT this month during the public comment period to, in fact, review in more detail the plan that has been prepared by the council process and also to be in place and be prepared to comment on the Proposed Rule.

It could, in fact, result in some benefits in terms of working forward of with the Commission Planning Process for Spiny Dogfish.

MR. CHAIRMAN: Thank you for that clarification

Harry. David.

MR. BORDEN: Thank you, Mr. Chairman. I just want to add one thing to what I said before, and just emphasize the fact that the Commission doesn't have the funding to fund travel for this activity. It's not budgeted.

And, there are a number of federal organizations that are urging us to take action on this. There are a number of conservation organizations that are urging us to take action on this. And what I would urge them to consider is funding such a meeting. The travel costs are not astronomical, and that would be of significant assistance to moving this whole process forward.

CHAIRMAN AUGUSTINE: Thank you, David. Could we ask staff to look into that, Dieter? Thank you. Any further questions or comments? Any other business? Tom.

MR. FOTE: Yes, I would be remiss -- I kidded around and asked Alan if this will be his last meeting and official act. But I would just like to say a few words of Alan -- I mean, I've watched him as a council member for the last nine years, putting in a lot of effort and a lot of time.

He's one of those outstanding council members that really takes the job seriously and did a great job. And you know, he deserves a hand, and I hope we will see him back at the council meetings and the commission meetings. You're always welcome.

CHAIRMAN AUGUSTINE: Thanks for those comments. Alan, do you want to respond or do we just clap? (Applause) Joe.

DR. DESFOSSE: I sense some urgency on the Board to get the PDT together this month. Does the Board want to appoint the PDT today or early next week?

MR. FOTE: Early next week.

CHAIRMAN AUGUSTINE: Early next week, is that appropriate for all? I see a lot of nodding of heads, so with no objections, we'll do that.

MR. MASON: Do we know what states are going to provide membership to the PDT?

CHAIRMAN AUGUSTINE: Can we ask right now? Which states will submit members to the PDT? Joe, want to take them down? We have got New Jersey.

MR. FOTE: I'll have to ask Bruce if New Jersey wants to get --

MR. CONNELL: We can't speak for New Jersey, but we would like the opportunity.

CHAIRMAN AUGUSTINE: Why don't you take a state at a time, Joe, so that we don't miss anyone.

DR. DESFOSSE: I've got Rhode Island, North Carolina, possibly New Jersey, Massachusetts.

CHAIRMAN AUGUSTINE: Okay, is that it? Okay, yes, Bill.

MR. GOLDSBOROUGH: Yes, Mr. Chairman, I've just been told that Maryland would be willing to fund the participation of a technical person from Maryland to participate in the PDT.

CHAIRMAN AUGUSTINE: Excellent, thank you. So how many do we have now, five or six?

DR. DESFOSSE: Just five.

CHAIRMAN AUGUSTINE: We have five. David.

MR. CUPKA: Don't forget the offer that Jim Gilford made from the Mid-Atlantic Council to also help develop that, so we need to include them.

CHAIRMAN AUGUSTINE: Thank you very much.

MR. LESSER: This is just for the Spiny Dogfish?

CHAIRMAN AUGUSTINE: Just for the Spiny Dogfish, Charlie. Anything else? David.

DR. PIERCE: I assume we're also going to have the full support of the National Marine Fisheries Service, especially the Northeast Fishery Science Center and their assessment people. I recognize they've got a lot on their plate, but everybody does.

And this is a priority item for ASMFC; therefore, we should expect, or hope for, some real serious involvement on their part. Let's face it, a lot is going on with Dogfish assessments right now, and we need to be kept up to date, and we need to have those people present who have the greatest expertise with the assessment. And I know who those people are down at the science center.

CHAIRMAN AUGUSTINE: Thank you. Without putting you on the spot, Harry, is it possible to get a commitment from you on that support; I mean, to the extent, Harry, to the extent possible to help support our effort in moving this process forward.

MR. MEARS: Well that's what one of the benefits, in fact, would be, in cooperation with the council process and the Northeast region and the National Marine Fishery Service. That framework is already in place.

CHAIRMAN AUGUSTINE: Thank you. Alan.

MR. WEISS: In that regard, the Northeast Fishery Science Center was very involved in the two-council technical committee that really provided the scientific basis and support for the development of the council plan.

So I'm sure that to whatever degree that expertise is not available in person to the Commission, I'm sure that the council staff -- and Rich Seagraves is the lead person for Dogfish on the council staff --, will be able to provide all the materials that came out of the deliberations of our technical committee.

And I will make sure that Rich and also Dan Furlong, the Executive Director, and Jim Gilford fully understand what's been discussed here and what's likely to be asked of the council staff.

One other thing I wanted to point out is that if the approval process goes as expected in terms of the time line, which is always a big if, we're anticipating and hoping that this plan would be in place the 1st of November; if not then, then shortly thereafter.

So following up on the suggestions that Susan had made earlier, I think time is of the essence. Again, assuming that the council plan is, for the most part, approved, it's based on a quota system and the quota would go into effect the 1st of November, and that's the point at which this state waters issue really becomes an issue.

And I think as long as there are Dogfish available in state waters, that presents an opportunity to drastically undermine the federal management effort.

CHAIRMAN AUGUSTINE: Thank you very much, Alan. Dave Cupka and then Susan.

#### OTHER BUSINESS

MR. CUPKA: Yes, Mr. Chairman, now that we have a little better feel for the direction, is it your intent to go back and discuss the AP, or are you going to put that off until the next meeting?

DR. DESFOSSE: That's what I just called Tina over for, to get her sense, and she indicated that she got the feeling that the Board was waiting until the next meeting after we get some of these other things put together.

CHAIRMAN AUGUSTINE: Is that acceptable to the Board? Okay, thank you. Susan had a comment here.

MS. SHIPMAN: It's a question for Alan relative to the fishing year upon which that quota would be applied. If the plan does go in November 1 and a quota goes in, what fishing year does that apply to?

MR. WEISS: The plan proposes a fishing year starting May 1st with two semiannual quota periods, so November 1st would be the start of the second semiannual quota period in the first year of the plan.

CHAIRMAN AUGUSTINE: Thank you. Red Munden.

MR. MUNDEN: Thank you, Mr. Chairman. I would like to ask Mr. Bill Cole if it would be possible for Dr. Wilson Laney to assist us as a member of the Plan Development Team?

CHAIRMAN AUGUSTINE: With no objection from the Board? Bill.

MR. COLE: Mr. Chairman, we've got some priority program changes that we're looking at in the next fiscal year. I will certainly consider that request and get back to you. I appreciate the confidence from the gentleman from North Carolina.

CHAIRMAN AUGUSTINE: Thank you very much.

Mr. Fote.

MR. FOTE: I was wondering if we could ask supply a plan writer. Usually the Fish and Wildlife Service have been doing that on numerous other species, and maybe NMFS could basically help us with a plan writer on this plan.

CHAIRMAN AUGUSTINE: Harry, do you want to respond or do you just want to laugh?

MR. MEARS: No, I don't want to laugh. We certainly can take that under advisement. Thank you.

CHAIRMAN AUGUSTINE: Okay, thank you very much. With no objection from the Board, Mr. Mason asked about Item number 7, identification topics to be addressed in the initial FMP. I would suggest that if you have page 3 under discussion document for the Shark Management Board, the major state-specific issues identified as state technical workshop; as Board members if you would scan that list and the two or three items that you could pick out, we can make a short discussion unless you'd rather wait until the PDT group to come forward with their recommendations, whatever your pleasure is. Bill and then David.

MR. ADLER: I was just going to suggest that that's a good list for the PDT to take a look at and see what they could come back with. There's your list all ready. Give them something to do there and there it is.

CHAIRMAN AUGUSTINE: Thank you very much. David.

DR. PIERCE: Well, I would prefer the PDT to have a chance to look at this first. I've got a very long list and we haven't got time.

CHAIRMAN AUGUSTINE: Fine. With no objections from the Board, could we hold that list for the PDT and let them make their recommendations and additions and/or subtractions, and I believe Dave Pierce will be involved with that. Fine, thank you. Bob.

MR. PALMER: Yes, there was a quick reference earlier to the workshop summary, and in that there was a table that went through the current status of state plans, and I can tell you that it didn't -- it fell short of the mark for Florida. I'm sure the workshop was a useful exercise, but I would come away with a very mistaken impression of some of the regulations governing the take of sharks if I just looked at that table.

So it could be that something that could be done in the interim is all of the various states can be asked to look that over, and also include any, say, generic gear regulations that might restrict the use of long lines, any generic gear regulations that might restrict the use of gillnets, et cetera, that would also lend to how sharks are regulated.

CHAIRMAN AUGUSTINE: Thank you very much.

Joe, could we take a look at that as a part of your document that you'll send out to all Board members? Tom and then David.

DR. DESFOSSE: That table is part of a larger so-called source document for all the shark information; and as I discussed earlier, it's sort of a living document. So if there are changes, we can make that to the source document.

MR. FOTE: I think it's important, as was mentioned before, that we do canvas all the states, see if they've started implementing both the coastal, the coastal shark plans in their states, and the National Fisheries Service, so we know where we are. And the same thing with the Spiny Dogfish regulations.

CHAIRMAN AUGUSTINE: Thank you. Any further comments? Dave Pierce?

DR. PIERCE: Tom Fote hit on part of what I was going to say, and that is we need to know what is going on with coastal sharks. It's important, it's not being addressed, unless there are states that are actually taking it upon themselves to do something.

So we need to find out from the states what they're doing and also we need to understand, I guess, as an organization, that collectively we will not be doing anything for coastal sharks for some while to come.

CHAIRMAN AUGUSTINE: Thank you, David. Susan.

MS. SHIPMAN: John is holding the document I was just getting to reference. They're updating that document now. Dr. Camhi has contacted us and probably every other state in here. And I think if we can get the most current copy of that, my understanding was those edits were going to be done relatively quickly. We'll have all the states there.

CHAIRMAN AUGUSTINE: Yes, fine. May I ask a question of Sonja? Are you aware of the status of that document and how far she is along with it? Excellent, thank you very much. John and then Charlie.

MR. MASON: Yes, Mr. Chairman, Susan just said one of the things I was just going to say. The other thing is that I think Merry Camhi would be somebody that we really want to get on our Advisory Panel. So, she ought to be contacted about the process that's going to happen, because she does have all this information and maybe she even might be more helpful to the Plan Development Team.

CHAIRMAN AUGUSTINE: Good, excellent. Joe, would you make a note of that? Charlie, you had your hand up.

MR. LESSER: I realize we're mainly concerned with the commercial aspect of this fishery, but the recreational fishermen that we've contacted, or they

contact us, continuously have no idea a dogfish from a coastal shark from any kind of shark.

Whatever we do, I hope that part of each plan will include an identification guide that's readily reproducible so we can get it out to the public. This seems to be the biggest stigma that the fishermen have. They don't know one shark from the other.

CHAIRMAN AUGUSTINE: Thank you. With no objection from the Board, we'll ask Joe to make a note of that. Any further business to come to the table at this time, otherwise we'll accept a motion to adjourn.

MR. ADLER: So move.

MR. FLAGG: Second.

CHAIRMAN AUGUSTINE: Okay, Lou. Thank you very much.

(Whereupon, the meeting was adjourned at 5:20 o'clock p.m., August 4, 1999)