

ATLANTIC STATES MARINE FISHERIES COMMISSION
Ramada Plaza Hotel, Old-Town
Alexandria, Virginia
AMERICAN EEL MANAGEMENT BOARD MEETING
January 12, 1998
- - -

The Meeting of the American Eel Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington-Lee Ballroom of the Ramada Plaza Hotel, Old-Town, Alexandria, Virginia, Tuesday afternoon, January 12, 1999, and was called to order at 1:00 o'clock p.m. by Chairman Lance Stewart.

CHAIRMAN LANCE STEWART: At this time, it's time to convene the American Eel Board. We will call the meeting to order and start with the roll call.

(Whereupon, the roll call was taken by Mr. John D. Field.)

MR. JOHN D. FIELD: Mr. Chairman, you have a quorum.

CHAIRMAN STEWART: Thank you very much, John.

Jack, at this point, I guess you want to brief the Board.

EXECUTIVE DIRECTOR JOHN H. DUNNIGAN: Thank you very much, Mr. Chairman. We're doing this at all of the board meetings this week. This week is the initiation of the pilot program within the Commission to expand commissioner participation on management boards. The way we've done is that the management board members are not individual commissioners any more but rather the states that they represent. And the vote of a state on any particular matter will be determined by its commissioners who are present in caucus.

I was authorized by the Policy Board at the Annual Meeting to draft a special rule which would govern the procedure, and that has been passed out to you, either right at the beginning of this meeting or at an earlier one this week. And if somebody around the table doesn't have one, just raise your hand and we'll try to get it to you.

The important things I would note are that motions around the -- everybody participates fully as a member of the Board. The motions around the Board can be made by any commissioner from any state, but we do need to have a mover and a second coming from different states. There's

strong encouragement to the chairs and to the member representatives on the Board to be alert to the need to move the Board's business expeditiously so that we can be efficient in our process.

In votes, states may vote Yes, No or a null vote, which indicates that, because of a split within the delegation you were unable to come to a decision, or you can actually abstain.

This is, as I said, a pilot. This rule can be revised. If there's a better way of doing business, let's try to find out what it is so that we can give the system a fair chance. It will be evaluated by the Policy Board at the Spring Meeting, and then again by the Policy Board at the Annual Meeting with the intention perhaps being of making a decision at the Annual Meeting whether to make this process permanent or to continue to experiment with some other form of operation.

I'd be glad to answer any questions throughout the week as these matters come up and express graciousness to everybody for their patience in trying to make the process work. Thank you, Mr. Chairman.

CHAIRMAN STEWART: Thank you for that review, Jack, and I'd like to stress to the Board in its deliberations this session to try to keep the dialogue somewhat concise and brief, and huddle before state positions are made.

At this point, we'd like to set the agenda in order as to objectives. We have a draft management plan before us. We will attempt to confirm the content and any changes to the draft. We would like to endorse for public hearing this plan. And John has distributed to you a fairly tight schedule for meeting all these objectives.

We'd also like to look at the comprehensiveness of this plan as it would be put to public review.

Are there any changes to the agenda that the group would like to offer at this point? Okay.

Seeing no changes, I'd like to look at the minutes from last meeting at Jekyll Island. There are copies on the side table there. If any of you have had a chance to review them, those that have, any editorial comments? And do we have a motion to approve the minutes?

MR. GEORGE D. LAPOINTE: So move.

CHAIRMAN STEWART: Moved by George Lapointe. Second? Phil Coates seconded. The minutes are approved. There are copies on the side table.

It comes to the next item on the agenda to call for public comment. We'd welcome anyone from the audience to address the group with any points of concern, either on the draft of in any of the eel management process. Does anyone want to make comment? No, there's no comment coming forth.

I guess at this point, John, we'll, as we discussed before the meeting, look at trying to abbreviate review of the plan by bringing out some of the more substantial issues.

In order to give due course to the very rapid and commendable development of this plan, I'd like to thank Dieter and Vic for a very timely submission of the plan, one of the more colorful documents I've seen.

And hopefully we can cut to the quick, and John is prepared to bring some of the possibly controversial issues that need to be discussed first right out. And then we'll go back and review the plan systematically chapter by chapter after we discuss these issues first. Okay, John.

MR. FIELD: I hope that folks received their copy by overnight mail. I apologize. The second draft went out to the original Eel Management Board, not taking into consideration the rule change that went into effect January 9th. However, Dieter and I have brought about 50 extra copies of the plan. They're on the side table for those commissioners that did not get a copy in the mail. You can work along with us today.

Bruce.

MR. BRUCE L. FREEMAN: John, how do we distinguish the first from the second edition?

MR. FIELD: Well, the first edition was what you received in Jekyll Island. The second edition came out December 31st. It has a picture on the front cover.

MR. FREEMAN: That's it. I've got it. Okay.

MR. FIELD: Vic Vecchio and other folks have brought some issues of concern to the attention of me and Lance at the beginning of the meeting. I think that Vic

and other folks will need to flesh out their concerns as we go through the document today.

As Lance pointed out at the beginning of the meeting, the primary objective would be to get a public hearing draft approved today. However, if there's too much discomfort with what's contained in the second draft of the plan or you feel that the edits are too substantive to endorse the plan, that bounces us ostensibly into March Meeting Week to approve a public hearing draft.

Public hearings would then be held 30 days later into April, early May, ostensibly having an approval, still an approval deadline of the week of May 17th, the Spring Meeting. Certainly tightens up the schedule, puts more pressure on folks to conduct public hearings over a shorter period of time, but I still believe we can accomplish that if need be.

In going through the minutes from Jekyll Island, I noticed that there was quite a bit of discussion and word-smithing on the goals and objectives that are now on Page 27. I think that Dieter has captured everyone's ideas and concerns. Keep in mind that we were dealing with sort of a triad of input here from the Advisory Panel, the Technical Committee and Board members all simultaneously. And what Dieter has tried to do is strike a balance based on what he heard the Board confirm in Jekyll Island through me and Dan.

So I guess I'd throw out very simply how does the Board feel about the way the goals and objectives are stated now? I think this is an underpinning of the rest of the discussion we'd have today.

Okay. John Mason.

MR. JOHN MASON: Gordon has a question and I guess a concern about the objective referring to maintaining the "abundance of eels at the various life stages to provide prey for natural predators and support ecosystem health and food chain structure." I guess I ask you, Mr. Chairman, or the Technical Committee, do we have the basic data to know what it is we're trying to maintain for the various life stages?

CHAIRMAN STEWART: I'd defer that to the Technical Committee.

MR. VIC VECCHIO: To answer that

question, I would say that currently we don't have enough information to determine what are the basic needs of predators, various natural predators to support ecosystem health and food chain structure.

CHAIRMAN STEWART: Well, John, I think some of the main objectives in this plan are to just start record keeping and to institute a monitoring program that would substantiate some of these data points throughout the whole life history. Is that going to be a deterrent of accepting the management plan?

MR. MASON: Well, I guess the question is, does the objective then become to collect the data so that we can determine what appropriate abundance levels are that we want to shoot for?

MR. VECCHIO: Yes, I think that's a good objective.

CHAIRMAN STEWART: According to Vic, certainly that would be the primary point at this stage of eel management, where we're really entering into an area that we know very little about. A lot of the data from all life stages are incomplete or hardly even instituted for collection procedures.

So again, do we want to reword, do we want to edit this primary section? John, do you have any comment?

MR. FIELD: I don't. There was some discussion of this at Jekyll Island. I believe it was Pete Jensen that pointed out that the only criterion for evaluating alternative state management programs was that they could not, by any measure, allow eel to drop below the minimum necessary for food chain maintenance. It was decided to strike that language.

But it's up to the Board based on what you've heard from Vic and the concerns raised by John whether you think this is too strong of an objective and whether it's realistic to expect we can say that we've achieved it or not achieved 5, 10, 20 years down the road.

CHAIRMAN STEWART: John, in answer to your sort of a philosophical question, I think as an objective this could be a very long-range point, and how would the Board suggest? Any other comment, rather than -- Peter.

MR. W.P. JENSEN: Well, am I correct in reading this that there are no

management measures in the plan dealing with that objective specifically?

MR. FIELD: That's correct, Pete. There are no specific regulations, you know, commercially, recreationally, that reference getting biomass up to a certain ecosystem level or threshold.

CHAIRMAN STEWART: Any other comment relative to Numeral 3 in the primary objectives? Yes, Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. On that same issue, if we look at the Goal B, it's "Provide for sustainable commercial and recreational fisheries by preventing overharvest of any eel life stage." My interpretation of that would be the overharvest would also include some natural mortality, and therefore you could tie it back in with Number 3.

Now, I don't know what level that would be, but there is a connection between the goals and the objectives. I think the question is to quantify that, and that may be, at this point, somewhat difficult to do. But it does -- the goals and objectives do match up.

CHAIRMAN STEWART: As I see this, this is basically sort of a philosophical statement without any numerical parameters of adjustment, and I think it just establishes the Board's intent to conserve, restore and make sure the species sits within the framework of several different ecosystems, not just marine, but aquatic and estuarine. So that, given such a broad-based species distribution and effect through all the trophic levels, that it's a general statement.

John, do you want to take it --

MR. FIELD: Well, I guess the option I'd put out for you is to soften that objective a bit in a couple of words introduced there, like "Attempt to maintain abundance of eel at the various life stages to provide prey for natural predators" -- that language could be softened a bit if you wanted to make it, you know, more philosophical and less quantitative.

CHAIRMAN STEWART: Is there any comment? Dr. Geiger.

DR. JAIME GEIGER: Well, I sort of look at it, given the long life nature of this organism and looking at sexual maturity anywhere from 7 to 30 years, you know, I think this is a reasonable

objective to shoot for again. And again, given the context that we're looking at a wide geographical distribution of this organism, probably one of the widest distributions that this Board has ever dealt with, I think it makes sense to take a wholistic, big picture view of this.

Again, in a way, this is somewhat like sturgeon, okay, with a long-life organism. Our management options may be somewhat limited due to the life history characteristics of the organism. We have to take the long view of this. And I would highly recommend we keep this language in.

CHAIRMAN STEWART: I somewhat agree. Just to add a little comment in line with what Jaime was saying, I think the intent of this statement is really we, as fisheries managers, have a functional responsibility to all life stages in this species or as many other species as are targeted at certain size maturity or certain slot length or whatever. But this species has intensive fisheries throughout its entire life cycle. So recognizing that point, I think it's again a general statement of intent.

Is there any other comment relative to this? Yes, Mr. Palmer.

MR. IRA PALMER: At the Jekyll Island meeting, I think that Roy suggested that at least in the general goal of sustainable fisheries that possibly the Technical Committee could make some recommendations about some specific measures. Do you know if that was ever looked at? In other words, for these objectives, use something like SPR or some other easy-to-understand-and-interpret definition of that goal.

CHAIRMAN STEWART: Vic.

MR. VECCHIO: Well, we haven't met since the Jekyll -- the Technical Committee hasn't met since the Jekyll Island meeting, so we haven't had an opportunity to discuss any of those recommendations that were made. But, I mean, if there are specific things that you'd like to see us consider, I don't recall them. Are they in the minutes I could reference?

CHAIRMAN STEWART: We'll look back into that. Just in response, I think it's a little premature without a lot of data to put any balance into any particular weighting of different life stages, but --

and again, you know, theoretically this may be a good approach in terms of overall health of the resource to put that sort of formula together. But again, the Technical Committee will take your recommendation and look into that.

Any further comment about Item 3 here? Ernie.

MR. ERNEST E. BECKWITH, JR.: I had a comment about 2 when you're ready to do that.

CHAIRMAN STEWART: Okay. Any further comment on our present discussion? Okay, Ernie, go ahead. We'll move on.

MR. BECKWITH: Okay. Number 2 says restore American eel to all waters where they had historical presence by providing upstream and downstream fish passage. I think we should modify that somewhat, because it really isn't practical to expect we can restore them to all waters. Perhaps we can say, "restore, if practical, to all waters."

CHAIRMAN STEWART: All right. Any further comment? I would tend to agree to moderate in our goals somewhat there. Is that reasonable, John? Okay.

Mr. Cupka.

MR. DAVID CUPKA: Thank you, Mr. Chairman. In reviewing this, I'm struck in a number of places with the lack of information on this species in the various life stages of this species, and it seems to me that there's a real need to collect some better data on this species, and yet the only place in any of the objectives where I even see that touched upon is the very last part of Primary Objective 4.

And I'm just wondering if we want to consider some kind of objective in there to really highlight the need for getting better data, in some cases any data, on various aspects of this particular species?

CHAIRMAN STEWART: I agree with you fully. If anything, I would put Item 4 into the Numero 1 slot and underline it or bold-type it. But do we have any comment in that regard from the rest of the Board members? It seems to be sort of a prerequisite for management that we understand this species a little bit more.

And we'll get into state by state what is being done in the plan. But a philosophical statement, is there any further comment about that, monitoring data

collection? Yes, Mr. Mason.

MR. MASON: I think I agree with you that it ought to be made first, because I think that addresses some of the concern about Number 3 that I raised earlier, that really our goal is to get the data that we need to be able to do any of this stuff.

CHAIRMAN STEWART: Would that be acceptable as editorial shift, and really to emphasize especially to the Technical Committee the attention to more detailed data collection? Okay, John.

MR. FIELD: Does that still leave us leaving Objective Number 3 unchanged about maintaining abundance of eels at -- to sustain ecosystem food chain structure?

CHAIRMAN STEWART: Yes, A.C.

MR. A.C. CARPENTER: Following up on a comment that was made earlier, I think until you have some measurable criteria, maybe the objective should be to develop criteria to measure that kind of thing, which ties back in with the life stage and other lack of information on this thing as a possible way to look at it.

CHAIRMAN STEWART: I agree. I think in sort of looking at Statement 3, looking at ratios of abundance or some comparable indices through different geographic ranges, that might be considered a balance.

Any more comment on how to refine that a little more? Gil.

MR. GIL POPE: Mine isn't so much on how to refine it, but when you read Number 3, it mentions "provide prey for natural predators." I'm trying to think of all of the various uses for the eels, things that we're going to run into, competing interests for the eel, and it's going to be for food or commercial uses, sale, forage base and bait for, say, for example, tackle dealers like myself. And those should also be mentioned in here, all the various uses. I don't know if they are. I haven't had much of a chance to read this.

But there's a multitude of reasons, other than just to provide prey for natural predators and so on. And that's a very important one. Maybe it's at the top of the list. But there are other reasons that I think should be mentioned somewhere in either primary, secondary, or even a third category somewhere.

CHAIRMAN STEWART: I think if we tie the description of the fishery that's later in this document to that, then I mean, we're talking about the natural system flow here. Yes. And it's in B, as John pointed out, the very top of the page under the first section of the goals, so that the different isolate uses of eel would be well spelled out, I think, in the document.

But again, this is a generalized statement. If everyone's comfortable with it as a preconceived intent and we don't have the data, that may be adjusted later on when we understand some of these population fluxes or population dynamics.

Anyway, is there any editorial change really requested at this point? Yes, Peter.

MR. JENSEN: This is a question more than anything else. On Page 28, there's a list of secondary objectives, so two questions: 1. Should they not be up in the summary? And secondly, what's the impact of secondary objectives? Because most of them go to habitat, and there are several habitat management measures in here.

So it seems to me that they ought to be right up front as an editorial.

CHAIRMAN STEWART: John.

MR. FIELD: Pete, you're arguing to strike any difference between primary and secondary objectives?

MR. JENSEN: Yes, unless they have some special meaning, and I'm not sure they do. I mean, the term "secondary," I'm not sure it has any meaning.

CHAIRMAN STEWART: Any more discussion on that particular -- Dieter.

MR. DIETER BUSCH: Dieter Busch, Fish and Wildlife Service. I wanted to make a comment about the secondary objectives. I think in our discussion with John and some of the Plan Development Team, the secondary objectives were really those that are not really under the direct authority of this Board. They rely on other agencies and coordination as such. They are part of the ecosystem issues.

And this whole thing was somewhat hierarchical in that you have your goals and you have your objectives, which are still pie in the sky, and secondary, reaching out to these other partners that

you have interest in, and then the strategies and the specific action items have to be developed yet. This is really somewhat general at this point, philosophical, as mentioned.

CHAIRMAN STEWART: Thank you.

Any further comment? John.

MR. FIELD: Well, if no one else has comments about the goals and objectives, that would get us into the Chapter 3, Monitoring Program Specifications and Elements.

Dieter, did you want to highlight any comments you got from the Plan Development Team or other -- I know you've gotten some last-minute faxes from folks. Was there anything relevant to Chapter 3?

MR. BUSCH: No, I don't believe so.

They're more some general comments as far as to literature citation and some specific issues as to various -- I received a fax this morning from North Carolina with some specific problems as far as their current regulations are concerned. But I don't think anything on Chapter 3.

MR. FIELD: I've got one question, Dieter. This is skipping toward the end of Section 3, Section 3.5.2, which gets into, as you pointed out, areas largely outside the sphere of ASMFC agencies, and it's the Requirements for Eel -- and this is on Page 34 --

Requirements for Eel Habitat Conservation and Restoration. Some of this language is quite severe. Particularly Section 3.5.2.2, the Continental Shelf, action is to, within the EEZ, institute a coastwide ban on glass eel and silver eel fisheries.

I have to admit I'm confused about how that fits into Section 3.5 and how it relates to habitat conservation, and secondarily, how it relates to our later recommendation to the Secretary where we simply request the Secretary of Commerce to initiate controls over harvest and use of American eel in federal waters. Could you clarify that a little bit?

MR. BUSCH: Well, I'll try. Under 3.5.2.2, the silver eel fishery was identified by people commenting on the earlier draft as really not being a very strong fishery, if any fishery at all. And, of course, these are the brood stocks, so they were somewhat sacred and needed to be protected on their way out to the

spawning grounds.

The glass eel -- I'm not even sure if there is really a glass eel fishery in the EEZ area. But again, it identifies two life stages where a lot more quantification needs to be accomplished.

I'm not the expert. I was addressing comments on materials that people provided to me, so I'm not sure I can answer all the questions.

CHAIRMAN STEWART: Yes, Mr. Borden.

MR. DAVID V.D. BORDEN: Thank you, Mr. Chairman. A question for Dieter or John on Section 3.1.1 on Page 29. Contained in that you have a mandatory glass eel abundance survey implemented by every state, and I guess two questions. One would be, has the Technical Committee examined the scope of the survey that's intended there in terms of states actually reacting to this? How much effort is each state going to have to essentially be mandated to initiate in order to comply with this?

MR. FIELD: I'll take a stab at it, and then I'll defer to Vic. At the Technical Committee's meeting just before the Annual Meeting in October, they thought that a coastwide systematic glass eel survey would be the best-suited tool to get at recruitment cohort or cohort strength on a year-to-year basis. The short answer to your question is that the details of that survey have not been fleshed out, but the Technical Committee is slated to meet in mid-February to discuss this and other fishery-independent programs.

Vic, do you want to follow up on that at all?

MR. VECCHIO: Yes, sure. Thank you. This is where my comments on this draft begin actually. Section 3 was the glass eel abundance survey. Because I know Gordon has some concerns about it. But yes, the language in this section doesn't really, I think, do justice to what the Technical Committee discussed. There are some technical flaws. For example, they wouldn't be considered yearlings at that life stage. They're young-of-the-year.

I think it needs a little more beefing up, a little more example of what we're talking about, including maybe some costs, the benefit of why we're focusing in on this particular life stage as opposed to

others, what the value of that is, before the states are asked to sign onto this if it is, and it is in part, a mandatory part of the program. So, before the states sign on, I think that this section needs a little more beefing up.

MR. BORDEN: Just as a follow-up, Mr. Chairman. I mean, I don't want to confuse anyone with my comments. I think it's a highly desirable component of the plan for a variety of reasons. But the fact of the matter is that I think we have to have more specification on it before the states actually commit to it.

I mean, the issue is we're going to build up some false expectations that the states are willing to put state dollars into this type of activity unless we have either appropriate qualifiers on it or some specifications so at least the public can read it and understand what it means.

CHAIRMAN STEWART: Right. This is understandably one of the first and most contentious issues on the eel life history, harvest of glass eel, and those states that do have a management regime or do have a fishery, have some handle on collecting statistics and data within existing systems. Other states would have to institute a brand-new either labor force or new data collection mechanism. Okay. We'll take your advice and try to expand on that.

Mr. Perra, do you have a comment?

MR. PAUL PERRA: A question for Vic. The Technical Committee hasn't had a chance to look at this, but have you discussed the abundance of eels in the EEZ?

This has to do with the question about the coastwide ban of glass eels and silver eels. I don't think there's a fishery out there for anything other. I mean, I don't even think there's a fishery for silver eels except an occasional one caught. And the leptocephali are probably out there.

MR. VECCHIO: Paul, which section are you talking about?

MR. PERRA: On Page 34, Action 3.5.2.2. It says, "Within EEZ, coastwide, ban glass eel and silver eel fisheries." All you're probably going to encounter out there is a silver eel or the leptocephali.

Had the Technical Committee looked at the landings of eels coming out of the EEZ and investigated whether there are any other

fisheries out there?

MR. VECCHIO: No, we had not looked at landings of eels from the EEZ. I think this was more concern over people actively pursuing silver eels out in the EEZ on their migratory path down to the Sargasso Sea and possibly the development of any new fisheries on leptos or certainly glass eels that make the metamorphosis on the Continental Shelf before they come onto the coast.

I've heard, as maybe you have, stories about some new types of trawls that can be developed that are very and highly efficient at catching glass eels that could be used in the open ocean if those people who wanted to use them found a way and the location and the time to go and catch the glass eels in that manner. But I think this is maybe more of a preventative strike than anything else.

CHAIRMAN STEWART: Go ahead, Paul.

MR. PERRA: With that in mind, are we going to get a -- the Technical Committee's going to get to look at this and make some more recommendations? We need, NMFS and NOAA need to get some more input before we can agree to this in the plan.

CHAIRMAN STEWART: Okay. I think I more than share that. I think you need some specification as to -- I've heard rumors, too, of small-mesh trawls being used in certain thermocline areas for, you know, concentration of plankton where glass eels may have collected before landfall. And so that's a potential fishery that may be at least forecast.

The other point about the silver eel, I think, is that whether the landing categories in eel are very clearly distinct so the conger eels are separated from the silver eel and they aren't all grouped into one eel category is important for EEZ statistics. And if it comes to a point of really outright protection of the silver eel as the most potential for recruitment of the eel stage and actual silver eel protection, then that sort of closure of a fishery, if it's bycatch or whatever, it would be reasonable to think you could get a good discard and survival from a silver eel capture as opposed to retaining conger.

So there may be some separation of

species take if it's mandatory, the Eel Board sometimes thinks that silver eel is absolutely the point to start in management.

MR. PERRA: My question then to the Technical Committee would be to look at this and look at wouldn't it be simpler to say American eel rather than trying to determine a life stage out there in the ocean if there's not much of a fishery there anyway? And that takes care of the leptocephali or the glass eel problem or anything else.

MR. VECCHIO: Actually, I think the original language in the first draft was to prohibit fisheries of American eel, not referring to any life stage, if that's what gets to your -- at all life stages. I don't think any life stage was specified at all. It was just ban or prohibit the harvest of American eel, period. Does that do it?

CHAIRMAN STEWART: Understanding it's on its spawning migration route.

MR. PERRA: Well, I think that there may be some fishery that might be legitimate out there, or there may be some bycatch that might be legitimate. I'd just like the Technical Committee to have a little discussion on this.

CHAIRMAN STEWART: Mr. Jensen.

MR. JENSEN: This is much too speculative for me. It begs the question, if that's an anticipated problem outside EEZ, why isn't it an anticipated problem inside the EEZ? And I think to suggest that the Federal Government ought to seriously look at banning these fisheries is going to get us into a rather tangled question.

CHAIRMAN STEWART: Yes. Okay. Understand.

Mr. Mason.

MR. MASON: Yes, Mr. Chairman. This is back to Dave Borden's point, so I don't know if you want to finish the discussion that you're on on 3.5.2.2.

CHAIRMAN STEWART: Yes. Go ahead.

MR. MASON: Gordon is very concerned about what Section 3.1.1 means, and he's reluctant to approve this to go to public hearing until we get the Technical Committee to present to us what it is we're agreeing to. Because once it goes to public hearing, it will be out there. And

for us to say, "Oh, yeah, we're going to do this survey," and we don't even have the first screw or even the hole drilled for the screw to go in, we feel, is very dangerous.

And he's wondering if other members of the Board share that concern.

CHAIRMAN STEWART: Thank you. I see a strong response to that. Ms. Shipman.

MS. SUSAN SHIPMAN: I share those concerns, and another reason for it is that a sister division would have to do this type of monitoring, and we've got to coordinate with them and try to get their commitment and obligation to do that. And I can't begin to do that without any level of detail. We really have some concerns over this particular aspect.

CHAIRMAN STEWART: All right. This is definitely going to be an added load.

I see a hand over here. Mr. Beckwith.

MR. BECKWITH: Yes. I also have a concern about this section, two concerns. One, I'm not sure the sampling glass eels is the appropriate life stage we should be looking at. Perhaps a later life stage would yield us the same kind of data that we're looking for.

And the other concern I have is a very, very practical concern. My limited experience trying to catch glass eels with Lance Stewart one night, it's not easy to do, and I think that probably the most practical way to do it is to set up fixed gear and come back and tend it periodically. And knowing the value of these things, I think we'd have a real problem with that. I think we'd see a lot of vandalism of our sampling efforts.

CHAIRMAN STEWART: There's a tremendous problem with confidence even when you can sample some glass eel. I would even suggest that the variability would be on orders of magnitude thousand-fold from time to time and from place to place. So in order to realistically think you're going to be able to handle it, monitoring glass eel recruitment factors, from experience over the last three or four years in just looking at the phenomenon, it'd be very difficult.

I can see some attention given to where you might pinpoint glass eel

mortality that's extreme, such as the intakes of power plants, the intakes of hydroelectric plants, to identify hazard zones along your coastal environment that may be decreasing or adding essentially increased mortality to the stage as sort of a monitoring preventative measure. But then again, I'm throwing that out for Board discussion at the first life history stage.

Mr. Henry.

MR. JOHN HENRY: Yes. Catching them is extremely difficult. It will vary significantly in any part of any stream, and it will vary with the water flow. It's extremely difficult what you're attempting to do. And it may be unnecessary. If New Jersey reinstates a season, you'll have Georgia southern coast, New Jersey central coast and Maine, and you can get an idea of whether or not you had a good return of elvers in any one year by whether or not they sold a lot of elvers that year.

CHAIRMAN STEWART: There is some advantage in having a fishery, a very controlled fishery at this stage for biological information.

Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. Given the concerns that have been voiced here, it might be appropriate to modify the language in that section to simply state that this is a very desirable component of the management program and that specific mandatory management measures will be defined through the adaptive management process.

CHAIRMAN STEWART: That suggestion received. Did you understand that, Vic or John?

MR. VECCHIO: With regards to the glass eel abundance survey?

CHAIRMAN STEWART: Yes.

MR. FIELD: I understand what David has suggested. I'd also put forth that perhaps at the Technical Committee's February meeting they'd be able to provide enough detail on the glass eel survey to make it more understandable to the states.

But that does not allow the Board to come back and discuss it again before it went out for public hearing, which I assume would be a problem.

So, with that said, my understanding is to indicate this would be a desirable survey, the specifics of it

will be investigated by the Technical Committees, and if the states feel it's warranted, they'll implement it through the addendum process.

CHAIRMAN STEWART: Jaime and then John.

DR. GEIGER: I was going to propose, Mr. Chairman, something else. I was going to propose a language change, "Therefore, a fisheries-independent mandatory glass eel abundance survey will be proposed for implementation by every state." I think the value of having the information is extremely desirable, especially for this species.

By modifying that language, "proposing" for "implementation", it allows the Technical Committee to come up and flesh it out. It allows the Management Board to review that proposed survey and modify it as appropriate to the adaptive management process.

CHAIRMAN STEWART: Okay. Mr. Nelson.

MR. JOHN I. NELSON: Well, however the wording is done here -- Jaime's kind of got me worried now. 3.1.1 then relates to 3.4.1, which says that each state shall submit reports on catch survey effort and biological data for each life stage fishery executed in its jurisdiction. So as I read that, if you didn't have an elver fishery in your jurisdiction, you did not have to then embark on any surveys associated with that.

And I think that in our deliberations or the Technical Committee's deliberations, that we ought to keep that particular point in mind so that we're not then going to some universal mandatory reporting on the states that might then very well be a burden. So if we do have that leeway, I would look to maintain that.

CHAIRMAN STEWART: I think that's been sort of the sentiment here. I've heard comment that we do have existing overfisheries, a good geographical spread along the Atlantic coast. States actively participating could monitor their fishery, could institute some even biological second-order-level surveys and other states if they felt -- and again, not totally required to -- could monitor glass eel stage, and we might be able to get a good geographic distribution as to population

flux.

MR. ROY MILLER: Concerning yours and John's last suggestion, as I read 3.1.1, that's a fishery-independent survey that's being suggested; 3.4.1 is a fishery-dependent survey that's being suggested. So therefore, I'm not comfortable that they would accomplish the same thing.

Specifically, I'd like some guidance from the Technical Committee. Did you intend that every single state would do a fishery-independent survey of glass eels?

MR. VECCHIO: Yes, Roy, that's what this means. That was our intention at the Technical Committee was that every state would be required to conduct this glass eel abundance survey. The purpose of it was because we feel that if it's done in each state, we'll be able to get a good handle on the geographic distribution of glass eels as they move onto the coast, because it's not going to occur the same way in the same density every year.

That was the intention originally, right, Jack? And the reason why it's important at this life stage is, if you read through the rest of the biological data, you'll see that there's a tremendous overlap in age with size. So you may have five or more year classes that encompass the same size range, but because there's problems with aging these critters, the glass eel stage, since they're all the same age, seems to be the ideal place to put our efforts. At least it did at the time.

MR. MILLER: Well, I think I agree with the earlier comments that were made, Susan among others, that they would take more comfort in this particular 3.1.1 if they knew more of the details of what it entailed and agree with the concept. But I think I would like to see resolution at some time in the future as to what that exactly is going to mean to the states.

MR. VECCHIO: And I agree, Roy, and that's what I proposed earlier was that more language be added to this that ferrets this out a little bit more, so that the states know precisely what it is they're going to be expected to do and even how much it's going to cost before they sign on.

MR. MILLER: And there's other parts to this plan that carry institutional costs for the respective jurisdictions,

such as installing eel ladders, etcetera, etcetera. So this is going to come up again and again today.

CHAIRMAN STEWART: Thank you. John.

MR. FIELD: Vic, do you think it's reasonable to assume that the Technical Committee could come up with the details and the protocol for this glass eel survey at their February meeting, or is this a more protracted thing, you know, that would have to be developed over a longer period of time and couldn't be proposed or pitched to the states by the spring approval date in mid-May?

MR. VECCHIO: I think we all have a pretty good grasp of what it is we're talking about here, and if we get together and could ferret this out, I think we could do it at our next meeting. I don't think it's that tremendous an agenda item.

MR. FIELD: Then I propose that we follow Dave Borden's suggestion and some other people's suggestion that the public is made aware that this is something we're thinking about doing, flesh it out a little bit more for the public hearing document, explaining why it's so valuable and why the states are intending to do this, but say that the details are contingent upon, you know, scientific advice.

At least that puts the public on notice that it's coming down the pipeline, that the states are interested in doing this. But it doesn't commit the states to any one protocol over another.

CHAIRMAN STEWART: Any further comment? Mr. Jensen.

MR. JENSEN: Well, I don't want to argue the desirability or the need to do this. What's bothering me, though, is that we're thinking about approving this plan, going to a public hearing, it's in effect, and now we have -- it's a compliance measure, which has implications far beyond the data.

I would feel much more comfortable about making some very strong statements about what we all agree to do as long as it wasn't an immediate compliance requirement.

And I think that's what's bothering me about this whole thing.

CHAIRMAN STEWART: How do we word this, John, to alleviate that concern?

MR. FIELD: That's very simple. I

could just remove any reference to the glass eel survey from the compliance chapter or the monitoring report.

MR. JENSEN: Well, that's okay, but I agree with Roy. I think you're going to hear this question come up. When we get to 3.4.1, you're going to hear the same arguments again about some of the mandatory reporting requirements. For example, mandatory reporting requirements on all stages of eels. That's two stages of larval, that's glass eels, it's elvers, it's silver eels, it's yellow eels.

And so you're going to hear the same argument again about our inability to immediately begin putting all this stuff forward and be in compliance with the plan.

CHAIRMAN STEWART: I somewhat agree in there, whether we're working with a predictable index in a tremendously variable flux of recruits from offshore, and whether we're able to even sense, you know, even brackets of abundance on a glass eel stage, and whether that's the most important focus, given that the silver eel or reproductive stage eel is much less number in abundance and may be focused or isolated in certain reproductive spawning sites that are very critical for passage and reproduction.

So given some of this scientifically driven need for total life history, we should all reflect on what the most valuable data is going to be for eel reproduction measure.

Is there any further comment on this glass eel monitoring requirement section? If not, John, could we go on?

MR. FIELD: Sure. Well then, I guess that leaves us at the point where we will leave a reference in to the glass eel abundance survey. Notwithstanding Pete's comment, it will remain as part of the annual mandatory reporting in Section 3.4.1, but put the public on notice that the details have not been fleshed out and that the final protocol that the states will be using, if any given financial constraints, will be determined later.

Paul.

MR. PERRA: Couldn't we put in the plan that this program will be developed and implemented if deemed necessary through addendum? That way, if we have that in the plan, we work out a program where maybe we

don't have to monitor coastwide, maybe just some of the major areas. We can then make it a compliance requirement without having to do an amendment.

MR. FIELD: Yes. That came up earlier, and that's a possibility. I can reference that possibility in the new language.

CHAIRMAN STEWART: Mr. Freeman.

MR. FREEMAN: Thank you. One of the concerns I have on the glass eel is just we talk about the concept which creates problems, the difficulty that we would have if in fact we agreed this needed to be done. The question is, would it have to be done in every tributary that has glass eels? And then how would this be coordinated on a coastwide basis?

I can see from the technical standpoint that it would be very useful, but the issue is how would you go about such a thing? And it's not laid out here, and there needs to be that discussion, because at each stage we may find this could be very useful and critical, but we have no idea at the present time. And if each jurisdiction state would be required to monitor every one of its tributaries, it just wouldn't be done.

CHAIRMAN STEWART: Right. It's a little overwhelming. Vic, you want to bring that back to the Technical Committee?

MR. VECCHIO: Yes, I agree. Again, what I'm proposing to do, what we're talking about is to give some more detail as to how this study would be done in each state. Clearly, the first couple of years it's going to be work in progress until we get a better handle on what tributaries are the best for sampling glass eel abundance in each year, and what state, at what time of the year is the optimum for putting whatever gear we ultimately decide. I think originally we were talking about a couple of small glass eel fykes that one or two people could fish.

So we weren't talking about anything tremendous. Originally our thoughts were a very simple study where we would just get glass eel abundance in each state and try to pull it together as the recruitment index for that year if it was possible.

CHAIRMAN STEWART: Okay. There's no doubt that this is needed in certain

states that really do have a fishery, and other states that don't there may be some sort of census that may be undertaken.

At this point we're an hour into the meeting. We're going to try to hit several other crucial points of discussion to try to get some preliminary approval of this plan. If it's not without total agreement, we'd like to move on to the next section.

Any further comment on the glass eel? Is everyone satisfied with that intent, to provide monitoring that may not be as mandatory as was originally stated? A.C.

MR. CARPENTER: I'd just like to speak in favor of the idea that since the devil's in the detail on this one, that I think I'd be more comfortable if Section 3.1.1 referred to this and said that the details will be worked out through the addendum process, where everybody will have the opportunity to, after we learn the specifics of -- the addendum process to me is more reliable than waiting for the Technical Committee to draft something and then go to public hearing and not see it.

CHAIRMAN STEWART: Okay. John, is that registered?

MR. FIELD: Registered.

CHAIRMAN STEWART: Okay. We'll move to the next section, then.

MR. FIELD: That gets us on then into some of the more standard monitoring programs. All of these in Section 3.2, 3.3 are tied into the fishery-dependent monitoring programs assessing spawning stock biomass; of course, the downstream passage counts that we can talk about in a few moments are not fishery dependent, but still get at SSB estimation; assessing mortality, whether it's natural or fishing mortality, and then incidental mortality coming from anthropogenic things that are not related to fishing.

Recall in Jekyll Island that we discussed a means over how the Technical Committee could evaluate the current status of state eel monitoring programs. I'm talking now about fishery-independent monitoring programs. They will be doing that in February, next month. They'll be evaluating hopefully an exhaustive inventory of coastwide eel monitoring programs.

They'll be coming back to you before the May, well before the May approval date for this plan, suggesting mandatory programs that could be continued or perpetuated under this FMP. Beyond that -- and I know that, given today, we have no details to provide you, we have no suggestions about mandatory fishery-independent programs. But those are forthcoming after next month's meeting.

That gets us into a discussion over fishery-dependent monitoring programs that are laid out primarily in Section 3.4.1 starting on Page 31 going on to Page 32. Recall in Jekyll Island that I told you that the Technical Committee and the Advisory Panel were very concerned about getting accurate estimates of directed harvest by month, by life stage and gear type. And you see that fleshed out in Roman Numerals I, II and III on Page 32.

At this point, I think it's good to open the floor for discussion. Is this what the Board wanted to see? This is, I think, a good reflection of what the Technical Committee was looking for and the advisors as well. Are you uncomfortable with this, or is this something that you'd like to see going out to public hearing?

CHAIRMAN STEWART: Any hands? Yes, A.C.

MR. CARPENTER: How does the plan envision meshing the requirements, the monitoring requirements for the fisheries with the ASPCA or whatever, the Atlantic Coastal Cooperative Statistics -- where's Lisa when you need her? ACCSP.

MR. FIELD: That's a good question, A.C. And honestly, I'm not sure if this draft has a reference to ACCSP in it or not. It does? On the bottom of Page 30 there is one small reference to it in terms of monitoring bycatch for eel. But there can be another reference made to the ACCSP systematic survey.

I'm not going to profess to be real familiar with the requirements of ACCSP and what's coming down the pipeline. I'm assuming that the types of information that we're asking for in these reports will be obtained through the ACCSP protocol.

MR. CARPENTER: Which leads me to the point, if we're collecting this information through that protocol and supplying it to the magic computer in the

sky on a monthly basis, weekly basis in the case of bluefish, what do we need to report it again for at the end of the year? Why do we have all of this creating more reports to put in another file cabinet some place?

If we're going to have a coastwide cooperative statistics management program, then why are we duplicating that effort in each one of these management plans?

CHAIRMAN STEWART: Anyone want to respond?

Mr. Perra.

MR. PERRA: Because we don't have one yet.

CHAIRMAN STEWART: There's not a real good data bank out there that I think we can really dip into yet.

Any other further comment? John.

MR. FIELD: I guess I'd echo what Paul said, A.C. In developing all these plans I've been involved with so far, ACCSP has not been on line. I'm unaware of the final time line for ACCSP coming on line. I don't even know what the minimum regulatory requirements of ACCSP are.

So not knowing that kind of information, I and the Plan Development Team have included this sort of, you know, rigorous reporting, annual reporting format for the states. Because I don't even know when ACCSP is supposed to come on line and affect our fisheries.

CHAIRMAN STEWART: Mr. Mason.

MR. MASON: As a member of the Operations Committee of ACCSP, I would remind everybody here that you all have adopted it at the last Commission meeting in Jekyll Island. So ACCSP is up and running, and the statements in the documents that you all have approved say implement this stuff as soon as you are able.

So it seems to me that there is a value in the question of shouldn't the reporting requirements of this document try to reflect the ACCSP goals and targets, as has Amendment 1 to the Bluefish Fishery Management Plan? New amendments are trying to make reference to ACCSP, and I would agree with A.C. that this should do the same.

CHAIRMAN STEWART: John.

MR. FIELD: I don't know where that leaves me and the Plan Development Team.

We can coordinate with people in Headquarters, try to make the reporting schedule -- I would imagine that'd be fairly straightforward, to make the data reporting schedule dovetail perfectly with the ACCSP schedule. I couldn't get you back anything prior to public hearings if you wanted to follow the time line that's on the table now.

It'd be a fairly minor editorial change to get the ACCSP protocol incorporated in here.

CHAIRMAN STEWART: If that's a recommendation, that wouldn't be a major document change; it would be simply footnoted and cited? Okay.

Does that answer your concern or statement?

MR. MASON: I guess the farther we go along, the more I'm wondering if what we ought not to be doing today is addressing issues for the Technical Committee to work on at this meeting and then bring all that stuff back to us in March.

CHAIRMAN STEWART: Is that reasonable, John? All right. Okay. So requested.

Preston.

MR. PRESTON PATE, JR.: Lance, it's my understanding that the sampling or the reporting protocol under ACCSP has no compliance authority within it, and the success of that program's going to be largely due to the compliance necessary through the implementation of individual plans. And if we don't implement it through individual plans, then the program may fall by the wayside due to its largely voluntary nature.

CHAIRMAN STEWART: All right. Well, this certainly is an excellent opportunity to originate that detail within the plan, and I think that's the sentiment.

John, shall we move on further?

MR. JENSEN: Lance, are we still on 3.4.1?

CHAIRMAN STEWART: Yes, we are.

MR. JENSEN: What is the new standardized glass eel index survey?

MR. FIELD: Pete, that's what we just talked about a few moments ago, and it was -- I think, given the discussion we had about an hour ago, the word "new" would be changed to "potential standardized glass eel survey."

CHAIRMAN STEWART: Is that acceptable?

Mr. Beckwith.

MR. BECKWITH: On that same section, I've got a couple of comments. Let me take the difficult one first, I think. Number II, Recreational Fishery. "Estimate the recreational harvest by season, if available." I'm not quite sure what that means. I know that this species is caught way up in the rivers. Our MRFSS survey is not going to provide an adequate assessment of the recreational harvest.

And I'm not quite sure what this says here, but if you take it to the worst case scenario, this could be a massive creel survey effort to estimate that recreational harvest, and I find that somewhat problematic for us here. Any thoughts on that?

MR. VECCHIO: Sure. If you recall at the last Board meeting, the Technical Committee endorsed using MRFSS to estimate the recreational harvest in the marine district, and then recommended that the National Marine Fisheries Service expand the survey into the inland areas where eel may be caught, and, of course, add eel to the list of species, and, of course, require those states on this plan to subscribe to the Marine rec. survey with those amendments, with that intention for detailing what the recreational catch is.

It's referred to at the bottom of Page 31. It's not correct, and I think it should also be taken from there and put in Section 4.0 where the recreational fisheries management measures are, 4.1. I think the first few things that we should be stating in that section are: (1) that states subscribe to MRFSS; (2) that we encourage NMFS to include American eel; and (3) that that survey be expanded into the inland areas.

And then I think there are other options under that as well. And I think that may address that concern.

MR. BECKWITH: If I could just follow up on that. I don't know if anyone from National Marine Fisheries Service is here and able to comment on that. To me, I see just the effort, orders of magnitude greater than what's currently been expended on the MRFSS survey, just go out and get the recreational harvest on eel. So I just

don't know if it's practical or not.

CHAIRMAN STEWART: Paul, would you like to respond?

MR. PERRA: You need to explain "subscribe to the MRFSS." What do you want the state to do?

MR. VECCHIO: Well, I mean, I'm not sure that all states are using the MRFSS survey to collect recreational data for all of their species. Is that true or not true? I mean, that's just some basic misunderstanding I may have.

MR. PERRA: Well, NMFS runs the survey or some states do it on contract, but the data is available by state from all states along the East Coast.

MR. VECCHIO: Okay. So all states are already on board. The issue then becomes, are American eel surveyed in all those interviews and intercepts? They are? And then what about other than those coastal communities that are sampled, what about --

MR. PERRA: Well, the problem is going up the estuaries. And, you know, breaking down the data by state is not as good as using it on a regional basis because of the number of intercept surveys.

For a certain species, some states augment the MRFSS and make it much better on a state-by-state basis.

So I think Ernie's quite correct. I will go back and check with our MRFSS people. But to really get information on eels is going to require quite a bit of money, expanding up into the estuaries and probably doing more intercepts, since eel isn't one of the species that is caught a lot. It's caught in a lot of places at a lot of times, but it's a lot cheaper to do the more abundant species than it is to do the occasionally caught species.

CHAIRMAN STEWART: Mr. Miller.

MR. MILLER: As Vic knows, this particular topic has come up repeatedly for other species like striped bass. I'll speak for my colleague to my left, since I had the microphone first. The MRFSS does not extend into Pennsylvania, for instance, so there's no estimate of striped bass harvest in the Delaware River upstream of the Delaware/Pennsylvania line. The same thing would occur for American eel.

Now, to extend the MRFSS up past Philadelphia takes in about another four

million people and appreciably balloons the cost of the MRFSS, which is why it's been resisted in the past. The same problem's going to happen with eels. It may prove impractical to extend the survey up into the freshwater zone without a major influx of cash into the MRFSS program.

CHAIRMAN STEWART: John.

MR. FIELD: Given what we've heard today, perhaps it makes sense in Roman Numeral II under the recreational fishery monitoring report to simply ask states to provide any estimates of recreational harvest by season, if available, and indicate that, outside this table, states should explore the possibility of instituting creel surveys or identifying recreational harvest of American eel in existing creel surveys.

I mean, it sounds -- based on what we've heard today about eels and shad and striped bass and other anadromous/catadromous species, it just doesn't seem feasible that we're going to be mandating states or MRFSS for that matter to be targeting estuarine areas, you know, certainly not by May 17th.

CHAIRMAN STEWART: Mr. Mason.

MR. MASON: I think this is another opportunity for the Commission to look to coordinating with one of the requests that ACCSP has talked about in terms of expanding the current collection of recreational data so that under the ACCSP umbrella, better recreational data will be available for all species. This is an opportunity.

ACCSP has already done it in its documentation, indicating that for a recreational survey, whatever we call it, to be well done, it's probably going to need a big infusion of money and people. And this is just, in my opinion, another example of why that is true, and this plan ought to make that case, just as ACCSP is trying to make that case when we go to Congress next year.

CHAIRMAN STEWART: Any other comment? Yes.

MR. RICHARD SNYDER: Dick Snyder from Pennsylvania. I ask my colleagues, given the calendar for the Technical Committee and then to have items possibly back for the Board to not be able to look at before public meetings, we're getting so

much here with if, ands or buts, I'm really -- I endorse the spirit of all this, but I have a hard time voting because I may be painting myself into a corner.

On the other hand, we all agree, at least today, on these loose ends, but then three years from now it's going to come back to haunt us. I'm really concerned about all these loose ends. And no reflection on Dieter or the PDT. We've got a tiger here.

CHAIRMAN STEWART: Well, prune it, clip it now. That's all I would say, or offer the editorial revision. The intent for this rather obscure fishery, until recently, is to handle it, so that it's up to the Board members to make the corrections.

Mr. Borden.

MR. BORDEN: I think this is a problem with a number of the plans, and you can look at this in a really narrow context and say this mandates us to take certain actions. If we place the appropriate qualifiers under the appropriate sections, I think you can leave it the way it is, as imperfect as everyone would recognize it to be, send it out to public hearing.

As long as those qualifiers are in it, I think, then the states can take the time during the public hearing process, formalize their position, and when we come back to the Board we will utilize those qualifiers to essentially back out some of the compliance requirements and so forth at that time. That way it doesn't delay it.

CHAIRMAN STEWART: That's been variously suggested. The addendum process is really the functional way to address any changes or modifications. We're really after fleshing out the content, the major theme of delivery for a public information document to make sure we haven't omitted any section or to recognize any flash points that might occur in a public hearing.

So John, with that, would you try to bring some more of the issues that we discussed earlier?

MR. FIELD: That gets us into Section 3.5, the habitat monitoring and conservation section. Specifically, I focused on Section 3.5.2, the requirements for eel habitat conservation and restoration. Although this section is not

referred to in the compliance section as being mandatory, there is some very strong language about obtaining -- for instance, in the ocean habitat on Page 34, Section 3.5.2.1:

Obtain information from supporting agencies and report annually on the state of the Sargasso Sea eel habitat. Proactively identify opportunities to protect the health of this area through partnership with

--

that should read "NOAA and NMFS."

Dieter, can you talk a little bit more about this action item and where the authors were coming from?

MR. BUSCH: Actually, no. Again, it tries to be pro-active. We tried to take an ecosystem philosophical approach. We tried to compartmentalize the different habitat units, starting with the ocean coming inland. And really, I guess, tried to be pro-active and looking towards the future.

CHAIRMAN STEWART: Yes, Ms. Shipman.

MS. SHIPMAN: In December, the South Atlantic Council adopted our Sargassum Fishery Management Plan, and it provides for a two-year phase-out of the harvest that's going on in the South Atlantic EEZ. And that plan is available, and it can be referenced, and it's a pretty good source document for at least what is known about sargassum in the EEZ.

CHAIRMAN STEWART: That's for U.S. domestic harvest?

MS. SHIPMAN: Yes.

CHAIRMAN STEWART: And what about international harvest? Is there any sort of agreement?

MS. SHIPMAN: We were told we could not extend even a classification of essential fish habitat beyond U.S. jurisdiction. We proposed to do that, but the attorneys told us we could not.

CHAIRMAN STEWART: So essentially in theory here, we're trying to impart support, but as far as the management body, we definitely are exceeding our authority, our territorial limits, and we can do it in good conscience.

I would suggest even that we even back up to the beginning paragraph on this page which cites a relative percentage

mortality or habitat focus by McCleave from Maine on downstream passage through turbines. Although this is stretching the habitat definition from natural to manmade, it's one of the major factors in management.

Yes, Mr. Freeman.

MR. FREEMAN: This habitat issue brings to mind ways we've approached this in the past, and it was brought up early on. But we've dealt with the habitat issue in winter flounder, we've dealt with it in the horseshoe crab by dealing with agencies within the state that have the jurisdiction of making regulatory changes, and stressed upon them the need to protect the habitats.

It seems we could do the same here and extend that even internationally. I'm not sure of the agency we should address, but whatever it is, indicate that the United States has, at least through its EEZ, certain specifications and asks that those be recognized by other bodies. Again, it's something that's not a regulatory requirement but essentially a request, and to go on record to those other groups of your concern.

I think it can be handled, and it doesn't get us into these necessary regulatory requirements.

CHAIRMAN STEWART: It's a good point. It would be a recommendation to enter into the philosophy of international ocean management, since eel does range that way.

John, would you like to take a step further?

MR. FIELD: Well, having heard what Susan said and Dieter and other folks, I would propose that the ocean habitat conservation restoration reference the South Atlantic Management Plan for Sargassum. But I don't -- I'm still unclear on whether the Board wants to proceed with an annual report on the state of the Sargasso Sea, and I'm not even sure who would prepare that report, whether it would be coming from the Habitat Committee or someone else within ASMFC.

My suggestion would be to strike the language to an annual report on the Sargasso Sea habitat. I don't see an efficient way to get that report done within our process.

CHAIRMAN STEWART: Is there any

further comment? Mr. Cupka.

MR. CUPKA: I think this was partially alluded to earlier, but it seems to me like about 80 percent of that information under that Section 3.5.2 there really doesn't have anything to do with habitat conservation or restoration. It's completely out of place here. But something needs to be done with it.

CHAIRMAN STEWART: Do you concur, John? We'll reorganize that, if possible.

Having had discussion on that EEZ suggestion, could we move on?

MR. FIELD: My understanding then would be to delete the reference to the EEZ coastwide ban on glass eel and silver eel fisheries, and put that in under Section 4.2.2, Management Measures in Federal Waters. I need confirmation from the Board that they want to see this recommendation going forward to the Secretary of Commerce to ban glass eel harvest in the EEZ.

Is this the way you'd like to see this taken out to public hearing? John.

MR. MASON: I guess I have a question that this brings to mind, but there's lots of other places. When we go out to public hearing, we usually take a couple of options. There's lots of places in this plan, and this is one of them, where there aren't any options. It's just take it or leave it.

Was that intended, or do we need to add some options so that the public has things to comment on? Like should we or shouldn't we have a closure in the EEZ, etcetera?

MR. FIELD: I suspect that question is posed to the Board.

CHAIRMAN STEWART: Mr. Borden.

MR. BORDEN: I would totally agree with Mr. Mason, and I think it's desirable to not only have options but have preferred options in the document.

CHAIRMAN STEWART: Is it possible at this time, John, to draft a list of options relative to the sections in this plan?

MR. FIELD: Yes. I can't do it in the next 30 minutes off the top of my head, but perhaps we could draft some options on possession tolerances or harvest tolerances in the EEZ, come back to you at the March Meeting Week, or if you want to expedite this for public hearings before that time,

then you'd entrust me and the Plan Development Team to come up with options on tolerances.

CHAIRMAN STEWART: Mr. Perra.

MR. PERRA: Just to clarify things, John. You said ban glass eel in the EEZ. We had some discussion on whether it would be better just to say American eel, and that would entail all life stages. That might be two different options that you could just put in there for the public to look at.

CHAIRMAN STEWART: All right. Thanks for the comment.

MR. PALMER: Although I did notice that there were comments from, I think, several members about transit of eels for fishing in the northeastern states. That's, I believe, why that language was changed.

CHAIRMAN STEWART: Correct.

MR. FIELD: I'll remind the Board that the Technical Committee had suggested a ban on eel harvest in the EEZ because ostensibly that would be targeting proven spawners that were headed out to the spawning grounds for their one-time shot. So I don't -- you know, there is only one technical recommendation here for harvest and possession, but I can try to come up with others.

Hearing no objection, I and the Plan Development Team will develop a few other options for tolerances in the EEZ.

CHAIRMAN STEWART: Mr. Lapointe.

MR. LAPOINTE: At the very least, there should be some rationale why we propose the action in here as well, what you just said, so a member of the public could at least understand why we're proposing the action.

CHAIRMAN STEWART: Any more comment from the Board on this issue? Okay, John.

MR. FIELD: Well, finally, in Section 3.5.2.3 on Page 34, we're talking about increasing feeding and growth habitat area by improving access to upstream reaches. This relates directly back to the objective on Page 28 that says that one of the primary objectives is to restore American eel, where practical, to waters where they had historical presence but may now be absent by providing passage.

This strongly suggests that states are moving toward and will continue to move

toward putting in eel ladders upstream and downstream, for upstream and downstream passage. Do you want the Plan Development team to soften this language to make it a recommendation? Roy.

MR. MILLER: John, I believe you also need to reference Section 4.3.1 on Page 37, which states very specifically that each state will increase the availability of currently restricted habitat by 25 percent over the reference period.

CHAIRMAN STEWART: Would you respond to that, John?

MR. FIELD: Yes. That was going to be my next statement, Roy.

Dieter, can you give us a little bit of background on Section 4.3.1 and where the 25 percent increase came from?

MR. BUSCH: I'm sorry. I feel like a fool because actually, you know, I took the instructions from either the Advisory Panel or the Tech. Committee or from the Board, and I can't tell you where the 25 percent actually came from. It seemed like a logical number that was put down on paper, and I just -- because I wasn't allowed to make my own decisions. I was working for the different teams as part of the Plan Development Team. This was put down.

MR. FIELD: Okay. So it was suggested by either the Technical Committee or the Advisory Panel.

MR. BUSCH: Yes. And the reference period was given as '96 through '98, and that's it.

MR. FIELD: My memory doesn't serve me on this either. John, do you want to --

MR. HENRY: Yes. I think Dieter's right. It came from the Advisory Panel. I think they were looking at the numbers that John had put in on 25 percent reduction in catch and a couple of the options, and we felt that if there was going to be a 25 percent reduction in catch by the fishermen, that since we viewed the problem as bigger in the habitat area, that we ought to require the habitat be increased by 25 percent as well. It was just a number that started out with John.

CHAIRMAN STEWART: How would the states document this? I think there's going to be some response. Mr. Beckwith and then Mr. Jensen.

MR. BECKWITH: I have a comment about the issue before the 25 percent issue, if I can make it? All right. The comment I had is this plan includes providing for increased passage of eels and opening up habitat for eels, laudable goals obviously. We can do that in the State of Connecticut because the marine and the inland programs are under one division.

But I don't know if this is going to be problematic for other states where they're in separate divisions. We have a Marine Division, and in many other states you have an Inland Fisheries Division. And we're sitting here talking about things that'll have an impact on a sister agency's responsibilities and budgets, and can we do that? And how much of a problem is that?

CHAIRMAN STEWART: Well, that's a question to the rest of the Board and the state administrators.

Mr. Jensen, you had your hand up. Was it not relative to that, or --

MR. JENSEN: Under the action under 3.5.2.3, was that a compliance requirement?

MR. FIELD: No.

CHAIRMAN STEWART: No.

MR. JENSEN: So it's recommended?

CHAIRMAN STEWART: As a hypothetical figure, a balancing, I guess, or a compromise.

Mr. Miller.

MR. MILLER: Are you similarly saying that 4.3.1 is not mandatory as well?

CHAIRMAN STEWART: Yes, that's correct. That's the Plan Development Team.

Mr. Lapointe.

MR. LAPOINTE: I was just going to echo Ernie's comments. I get great cooperation from the Department of Inland Fish and Wildlife in the State of Maine, and I'm certain they'd be willing to cooperate in the discussion, but how we pull off the actions, both budgetarily and logistically, will be a problem.

CHAIRMAN STEWART: It seems that this has got to be "umbrellaed" with shad, river herring and anadromous species discussion. Although it's just opposite in biological purpose, it echoes the same management transfer of authority and probably some of the same mechanisms of passage.

A.C.

MR. CARPENTER: If Section 4.3.1 is

not mandatory, why does it use the word "will"? Will and shall, to me, are things that must be done in order for this thing to work. I think we need a convention amongst ourselves here whether will and shall mean will and shall, or whether they mean, "Oh, that's not -- we will do it if we want to do it."

I'd like to see the compliance issues either bold-printed or highlighted or in some fashion that somebody can take this document and go through and say which are compliance issues and which are nice but not necessary issues. Because if you put this document out to the public, and he reads that it will, I think the general population's going to say will and shall are mandatory.

And I've got some more comments about that a little bit later with some of this other language, too.

CHAIRMAN STEWART: Okay. That's received. Well understood, John?

MR. FIELD: A.C., that's why I led off my discussion with softening some of the wills and shalls in Section 3.5. We know that mandating eel ladder construction is not going to be feasible under this plan for the agencies involved here. We know that increasing eel habitat, usable habitat by 25 percent, even if we could measure it, would probably not be feasible, given the agencies involved.

My suggestion to the states is to change those wills and the mandates in Section 3.5.2 and Section 3.4.1 to "should", you know, language of that nature, should, and where feasible, states shall.

CHAIRMAN STEWART: Mr. Borden.

MR. BORDEN: Thank you, Mr. Chairman. A couple of points. One is going back to the 25 percent reduction in effort.

Really, what's intended here is a 25 percent reduction in the available fishing days. I think that is the way I've read it. It might be clearer -- if that's correct, it might be clearer to state that in that last sentence: 25 percent reduction in the number of days fishing for each life stage. This is on Page 35, second paragraph up. Because that is the intent, if you read the rest of the document.

The second point I would make goes

up to the top of that page, Section 4.1.3, Personal Consumption License. And I'm not sure where this came from. Maybe I missed a meeting or a portion of a meeting. But my recollection -- do we want to track landings from the recreational sector, as we've already stated? But I'm not sure we had a discussion by the Board of the requirements for each state to institute a license. In our case, that would require legislative action, which is problematic, to say the least.

The last point on that page is at the very top, "All states shall impose the same minimum size." I think we'd serve the process better if in fact we put a minimum size in there as a preferred option, and then list out the other sizes that are available. Eight of the states have a six-inch minimum size or greater, and I would suggest that be the preferred alternative with a listing of all of the other commercial sizes from zero to whatever's listed as nonpreferred alternatives.

CHAIRMAN STEWART: All right. You have that, John?

Mr. Mason.

MR. MASON: My distinguished colleague from Rhode Island has started down the road that I was about to go down.

For example, I think we need alternatives in 4.1.3 about the number of pots. Again, just one alternative.

And to get to George's point of a minute ago, justifications are really critical for a lot of this stuff. And when we go out to the public, those justifications make it much easier to get the public to understand why it is we're trying to do what we're trying to do. So that where numbers are presented like the two pots or like in 4.3.1, the 25 percent rebuilding of habitat, it seems to me we need alternatives in all those kinds of cases.

And if then at some point we're able to select a preferred alternative, I agree with David, we should, but I don't know that we have the time to be able to do that.

CHAIRMAN STEWART: I think some of the public recognition is going to be that you could actually increase habitat through eel ladders, but anyway, I agree with you.

And John and the Technical Committee

probably could have alternatives at this point? All right. That's understood.

Yes, Senator Goldthwait.

SENATOR JILL GOLDTHWAIT: Thank you. The percentage reductions on Page 35 and 36 in Options 2 and 3 don't cite a reference period as does 4.3.1, so -- we're about to take up nine other bills in the Maine Legislature. If we were to end up with a 50 percent reduction based on those bills, which we actually hope to complete before the end of this year's season and have in place for this year's season, we would then be subject to an additional 25 percent reduction after this plan passed?

CHAIRMAN STEWART: Comment, John?

MR. FIELD: Senator, if you read this strictly then, yes, that would be the case, but there's also the possibility for adaptive management, for a state to come in when we begin to implement this FMP and say, "We have already adopted a 50 percent reduction;" -- or whatever the percentage reduction in the states -- "therefore, we've achieved more than the 25 percent you're asking for."

SENATOR GOLDTHWAIT: Thank you.

CHAIRMAN STEWART: Dieter.

MR. BUSCH: Under 4.2.1, Option 1, it does give a reference period of 1994 to '96, and I think what the intent was to use that as the reference period.

CHAIRMAN STEWART: Okay. Understood.

Mr. Beckwith.

MR. BECKWITH: Yes. I want to make a comment on two points that Dave Borden brought up. One is about 4.1.3, the personal license. In the State of Connecticut, we allow people to fish two eel pots without a license, and I would say that -- you can fish up to two pots and not have to be licensed. Why should we burden ourselves with another license if we limit it just to two pots? If they want to fish more than two, then they can purchase a commercial license.

I would propose that we do away with that requirement, limit it to two pots without any kind of licensing.

And the other point I wanted to make goes back to Section 4.1.1, size limit. I'm not sure we should use the term "minimum size" here, but I think once we start looking at some of the issues and

problems with the eel fishery, we may find out that we may have to have other size limits other than just a six- or four-inch minimum size to protect glass eels or elvers.

I think we're going to find out that some of the major problems we have in this fishery are with the harvest of yellow eels and maybe even silver eels. We might want to consider other kinds of length limits.

So perhaps we should take out the word "minimum" and just say "size limits."

CHAIRMAN STEWART: I share your concern, Ernie, that we should look at not only getting the most important data set, not just looking at comprehensively all data sets so we can get even a two-pot collection of data, which is probably insignificant, but focus on what most meaningful parts of the fishery are going to be reportable, recognizable and more uniform between the states from the Technical Committee's standpoint. And also even slot limits in eels are probably a consideration.

Mr. Miller.

MR. MILLER: I wonder, considering the comments of Ernie and Dave, I wonder if 4.1.1, if perhaps a word wasn't left out in the original drafting of this? If it had stated, "All states shall impose the same minimum size limits as for their commercial fishery," would that have conveyed the intent as opposed to the way it presently reads? If you inserted the word "as" before "for"? Okay.

And I support what Ernie said concerning the noncommercial use of two eel pots, something to that effect as what was intended there, rather than a separate license.

CHAIRMAN STEWART: Right. I think we're -- well heard, John?

MR. FIELD: Yes. However, a few moments ago -- I agree, Roy, that the intent in Section 4.1.1, it was to get states to impose the same size limit as for their commercial fishery. However, just a few moments ago, Dave Borden said that he'd like to see a standard minimum size put forward as a preferred option and then list out several other options for minimum sizes in the recreational fishery.

That needs some discussion by the

Board. If that's the way you want to proceed, we can do it that way. It entails more work and more license to the PDT. Or would you prefer just to have the same size limit imposed state by state?

CHAIRMAN STEWART: Mr. Jensen.

MR. JENSEN: Well, I'm having a general problem addressed by John Mason, and that is I don't see the justification for why we're doing some of these things. Let me give you an example. I'm going to find it very hard, if this plan is adopted, to go home and tell the commercial fishermen, "You've got to cut back by 25 percent." I have no idea what that relates to, why it's 25 versus 10 or 50 or whatever.

And if we're going to specify that kind of thing in here, there's got to be a rationale for it, there's got to be a justification that convinces people that it needs to be done.

And there are a number of other instances in here where I think there is no basis for what we're proposing. On the minimum size, for example, we have a minimum size, but it's a very simple one; that is, to prohibit the harvest of glass eels. That's why we have a minimum size. If that isn't your objective, I don't know what a minimum size does for you. So just to say, you know, "a minimum size of," without saying why you want to do it to me is a little hollow.

CHAIRMAN STEWART: Yes, A.C.

MR. CARPENTER: The comment was made that the personal consumption license, you should exempt the people with two pots and then let them, if they want to fish more than that, buy a commercial license. As I read Section 4.2.1, every one of those are to cut back on commercial licenses, so who's going to start giving up their commercial license? That's not an option, I don't think.

And that whole section of limiting the effort and limiting the entry gets into a whole host of problems with limited entry fisheries that I don't think are anywhere near explained in here or addressed, because the whole concept of limited entry commercial fisheries -- licenses then begin to have a value for the piece of paper and not for the fishery. So that's not at all addressed in here, and it's implied in all

three of these options.

CHAIRMAN STEWART: Every state might have a very different take on a public information document relative to what their particular access to commercial licenses might be or categories and availability or moratoria, if they exist. But John, do you want to --

MR. FIELD: Well, this is exactly the kind of discussion I think we needed to have today, because at the Jekyll Island meeting, we laid out -- I, Dan, Vic and John laid out different options for you to consider, everything from the status quo maintenance of existing effort down to a 25 percent reduction in seasons or effort. I was not told to strike any of those options after Jekyll Island, and that's why you see them in the document today.

I guess I'm getting some mixed signals from the Board. On the one hand I hear that you'd like to see a variety of options for federal waters and possession and tolerance, and not much rationale given for those options. And then I see in Section 4.2 some indication that we should just -- there's no justification for a 25 percent cut or any other reduction in effort, so just put one option out there for the commercial fishery.

If you want to have the public comment on many options, that's what we're trying to do here. As you heard in Jekyll Island, the Technical Committee nor the Advisory Panel would stand behind any reductions in effort or seasons because they couldn't come up with a rationale for it. But these options remain in there because you didn't tell me to take them out, and I thought that you wanted to have a few things for the public to talk about.

MR. JENSEN: Okay. I recommend you take it out. How about that?

CHAIRMAN STEWART: Okay. Any further comment? Preston.

MR. PATE: John, I was curious to know why, in 4.2.1 and the Option 1 you chose to make a recommendation to limit effort instead of harvest?

MR. FIELD: It was felt that the harvest data were so poor that we would not be able to come up with a reliable reference period of good landings data. However, it was felt that there might be a way to get at effort documentation in the

states more so than, you know, harvest levels, poundages.

MR. PATE: But you run into a problem, in my circumstance at least, with the differential ability of regulating one over the other. I can control harvest fairly easily, but not effort. And I think having limits on effort from a management standpoint is more substantive anyway. Harvest I meant.

CHAIRMAN STEWART: We're approaching ten minutes till the conclusion of this Board session on American eel. There's several things still to discuss. John, how do you think we can approach our objectives at the start of the meeting here? Are there a couple of concise statements on time line?

MR. FIELD: Well, the states have asked for quite a few changes today to be made to the document. Not a lot of them are huge philosophical shifts from what you did in Jekyll Island. But I need to gauge whether you want to see this document one more time before you approve it for public hearing use, or whether you are prepared to adopt it right now? And if not, then that gets us wrapped up quite early. If you want to see it again, we'll come back with another draft in March.

CHAIRMAN STEWART: Okay. That's put to the Board. George.

MR. LAPOINTE: I would absolutely like to see another draft. There have been a number of issues raised today that I hadn't considered that I'd like to bring back to staff, the data issues, the impacts on habitat. And so I think that would -- it'll juggle the schedule, I'm sure, but the time will be well spent now as compared to repairing damage later.

CHAIRMAN STEWART: One more important point I think we discussed before the meeting that we should bring up for you to consider after this Board meeting, and we're almost to it, is the CITES section, which is on the middle of Page 36.

John, do you want to give any introduction?

MR. FIELD: Sure. It's talked about in Section 4.2.2, Management Measures in Federal Waters. The second paragraph talks about a recommendation to the Secretary of Interior to proceed with listing American eel under Appendix III of CITES.

If you look through the minutes from the Jekyll Island meeting, there was discussion about the fact that the Technical Committee and the Advisory Panel did not endorse this option. They wanted to see language in there to the effect that it's not warranted at this time, but if it does become warranted in the future, the states would pursue it.

The Board never formally adopted that approach from the Technical Committee and advisors, and if you read those minutes, it was just left as is, with asking the Secretary to proceed with listing.

I have contacted some folks at the Fish and Wildlife Service CITES offices, and they have agreed to meet with our Technical Committee and advisors next month and flesh out some of the pros and cons and some of the nuts and bolts of working through the CITES process.

CHAIRMAN STEWART: Yes. All those present in Georgia that did discuss this, is that the recollection of the CITES philosophy? Mr. Cupka, did you have a comment?

MR. CUPKA: I was just curious if either of those groups had some specific concerns they mentioned, or was it just because they weren't familiar with what would be entailed, or was it more that they just wanted to be more familiar with the CITES process, or were there any specific concerns mentioned with regard to why they didn't endorse it and wanted to wait till later?

CHAIRMAN STEWART: Vic, do you want to review the Technical Committee or Advisory Committee -- yes, Mr. Henry.

MR. HENRY: We can do it the short way. It has the potential to put the glass eel fishery out, period.

MR. LAPOINTE: How?

MR. HENRY: Because when you put eels in a box with some oxygen, there is a certain amount of time that they are going to live in that box. The water becomes poisonous, the temperature of the box goes up, which creates all kinds of problems, and you can't stop it. It's going to happen. At some point, the eels are dead.

Presently, it's being done successfully. Not only do the eels have to

be alive but they have to be in good condition. They can't have been severely stressed. You can't burn the gills with ammonia. Because the eels go on to live their whole life, they can't be physically hurt by the transport process.

If the CITES documentation delays the shipment in any way, shape or form whatsoever, on this end or at the receiving country -- and we have no control over what happens at the receiving country. Will the guy who's going to inspect that stuff when it comes in be there in a timely manner? I don't know.

There are several other concerns. You know, I could go for half an hour. I don't think we want to do that at this point. I think we should strike it, period. If you were to put some wording in there where we can bring it back, or I can bring up several other -- there's several things wrong with it. I don't know if you want to listen to them all today. I mean, I'd be happy to go on.

MR. LAPOINTE: I don't want to go on today, but I think the issue of CITES listing and its impacts on the regulatory program and on the eels bears some discussion. My law enforcement guy tells me that he likes CITES listing, and then I talked to Lew Flagg a little while ago, and he says he would like some justification on why we can't do something within the current customs structure to better handle eel reporting.

And I think I'd like to pose some of those questions to the PDT and to see if -- at the very least, we should highlight the questions for a public hearing document, and we may, if there are answers to some of those, you know, flesh out some discussion on those as well so people can understand the implications. I think that would be the best way to handle --

MR. HENRY: Well, I can hit the -- I have an outline here, and I can just hit the highlights. There's the nature of the shipment, how long it takes to do. There's delays at the airport, arrival and departure. There's the risk involved that CITES transfers from the person that's catching the fish to the person that's buying the fish. If the person that's buying the fish is buying fish that were caught illegally, even though he has no

knowledge of that, and it can be inside the state above the line that somebody set close to the dam, they can pull his CITES license, period. That guy is out of business. He can't ship any more fish, because the Federal Government has pulled his license.

There's the risk involved. Who's going to pay for a shipment of fish which according to this document averages \$43,000 and there is some kind of a delay at either this airport or the other one, where those fish are dead? They're of no use to anybody; they're a liability.

There's access to the airport. The Fish and Wildlife only will do inspections at certain airports. And at least in one case, they will put a dealer out of business who's making export shipments. And there's adverse control. If somebody at Fish and Wildlife doesn't like glass eel fishing, will that give that one person enough control because of what he's able to do with giving or not giving a CITES license to somebody? What does that do there? I don't know.

CHAIRMAN STEWART: Well, these are kind of take-home thoughts, I think. We're going to try to wrap up, but I think we're on a very intense issue right now.

We want to take several comments. First, Dr. Geiger and then Mr. Jensen. Five minutes.

DR. GEIGER: From the Service perspective, I think we strongly support a CITES III listing. Again, we keep going back to we have very little, if any, information on status of these critters. And certainly the CITES information, if it's properly instituted, implemented and performed, we will get some data that's going to be critical to evaluating what's going on with this particular life history stage, especially glass eels.

For example, Dick St. Pierre recently went to China. China produces 167,000 metric tons of eels. By a conservative estimate, it'll take over a billion glass eels to produce that number.

Where is China getting over one billion glass eels to produce that kind of tonnage?

All right. They're coming from somewhere. Since the European stocks are pretty well decimated, they're either coming from North or South America. All right. We don't

have any information to indicate where they're getting that information.

I fully appreciate the concerns of the Advisory Committee but, quite frankly, I think some of those are unfounded. And I take somewhat of an exception to the fact that there's an allusion that the Fish and Wildlife Service, through personalities, will shut down or be involved in deliberately shutting down a particular legal fishery.

The key issue here in my mind is to get better information on the status of the organism and, more importantly, a CITES III export permit indicates that a legal harvest has taken place in accordance with the permit-issuing authority. The dealers and fishermen will certify that these organisms were captured legally.

And we have found through some of the interactions that Adam O'Hare and the law enforcement folks have indicated, that illegal capturing of glass eels is a significant problem to this fishery. Another management tool that I think this group should seriously consider. Thank you.

CHAIRMAN STEWART: Okay. Mr. Jensen, and then we're going to have to conclude here. We're five minutes overtime.

MR. JENSEN: Well, recognizing that CITES can improve enforcement and get information -- I'm always nervous about CITES; they should make anybody nervous -- I would recommend that this not be a recommendation in this formal plan, that this Board handle it as a separate issue. It does not have to be in the plan. Let's talk about it separately.

CHAIRMAN STEWART: All right. That would be some take-home recommendation.

John, do you want to give a few concluding remarks here?

Is there any other real pressing comment to CITES? Gil.

MR. POPE: On 4.4.2, De Minimis Status, bottom of Page 38, top of Page 39, what I don't understand is, "States may apply for de minimis status for each life stage if, for the last two years, their combined average commercial landings, by weight" -- and as we just found out, "by weight," I mean, you could be shipping billions of these or millions or whatever.

That's not considered -- are we worried about the shipment of these small ones or the big ones? And so de minimis by weight, I think, should be more by numbers, just in my opinion.

CHAIRMAN STEWART: All right. That's so received.

Mr. Coates, one last.

MR. PHILIP G. COATES: Yes. I just want to get a handle on what's going to happen next. I've heard George say he wants to go back with some of these concerns to his people. Now, how does that get back to you folks in terms of incorporation in this plan?

We have some concerns that were relatively minor. There are errors in the document that we'd like to correct, but we can do that with a letter to you. I think there's some valid points that our staff person raised.

But how does this now work? What's the next thing? We wait? In March we have another Board meeting, is that the intent, and that's the final look at it? There's going to be a whole new array of comments that you're going to have to take back. I mean, this thing could go on forever. On the other hand, I think some of the issues that have been raised are good points.

CHAIRMAN STEWART: John, can you get a satisfactory correction in the time line?

MR. FIELD: This is how I would see events going down in the next few months, Phil. The Technical Committee and Advisory Panel meeting next month in February to go over the second draft, provide comments face to face with the Plan Development Team, who I will intend to invite to those meetings.

The Technical Committee will also talk to CITES officials, if I can get them to come to the meeting. It appears as though that's going to happen. The Advisory Panel will do the same thing at the same time in February, probably the same week.

In March, you will have received -- by the March Meeting Week, you will have received a third draft of the FMP, which you can digest and discuss at the March Meeting Week. Hopefully, that will be the end of substantive discussions, and you can

approve a document for public hearings.

Thirty days' notice of public hearings puts us into mid-April before public hearings can begin. I assume most states from Maine to Florida are going to ask for public hearings. That's probably two to four weeks of public hearings, which bumps us right up against the May Spring Meeting, the week of May 17th.

You know, if this is really accelerated, public comment could be given to you by the May Meeting Week if not at the May Meeting Week where it could be approved by the full Commission.

CHAIRMAN STEWART: Okay. George.

MR. LAPOINTE: John, when do you want comments?

MR. FIELD: Written comments should go to both Dieter and myself. I'm sure he will give you his address and phone number.

It's in the management plan as well. I think comments from the Board should be received by the end of January, certainly no later than the first week in February.

CHAIRMAN STEWART: One last comment on that. Mr. Mason.

MR. MASON: Well, I always have a concern when all of a sudden we're rushing to justice. We're here this afternoon and tonight. I don't know if it's still the impossible -- and the chairman of the Lobster Board is certainly here and can say what he thinks -- if we can take another 15 or 20 minutes to talk about process in case there are major issues in here that we haven't gotten to the Technical Committee and to the Plan Development Team yet.

Because if it comes back up in March and we have to delay it again, isn't another 15 or 20 minutes here worth not having to delay it for another full time period?

The other question is, I hope Pete Jensen's point wasn't the point that we considered that we should take the CITES out, because I know Gordon disagrees with that. We at least ought to take it out to use as an alternative.

CHAIRMAN STEWART: All right. I, as chairman, would probably accept your plea to exceed the limit. I was advised by Jack Dunnigan that he had some especially pressing things to do that this Board had to recess at this time.

John, what do you think?

MR. FIELD: John, not knowing exactly what more substantive issues are coming from you or Gordon or other people on the Board, I'd argue that the mail, telephone and the February meetings of the Technical Committee and the Advisory Panel could provide enough avenues to get the large issues to the PDT.

CHAIRMAN STEWART: I'd strongly suggest an outline draft of comment, corrections to the management plan might be submitted to John or to Dieter. Put it in writing and it will be considered at or before the February date.

We're looking at "Other Business/Adjourn." Other business? Do we have a motion to adjourn?

(Motion made and seconded from the floor.)

CHAIRMAN STEWART: So done.

(Whereupon, the meeting adjourned at 3:05 o'clock p.m., January 12, 1999.)

- - -