

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
SPINY DOGFISH MANAGEMENT BOARD**

**Radisson Hotel Old Town  
Alexandria, Virginia  
January 30, 2007**

These minutes are draft and subject to approval by the Spiny Dogfish Management Board.  
The Board will review the minutes during its next meeting.

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**ATTENDANCE****Board Members**

Terry Stockwell, ME, proxy for Lapointe (AA)  
 Pat White, ME (GA)  
 Doug Grout, NH, proxy for Nelson (AA)  
 Rep. Dennis Abbott, NH (LA)  
 Ritchie White, NH (GA)  
 David Pierce, MA, proxy for Diodati, (AA)  
 William Adler, MA (GA)  
 Vito Calomo, MA, proxy for Rep. Verga (LA)  
 Everett Petronio, Jr., RI (GA)  
 Mark Gibson, RI (AC)  
 Mark Alexander, CT DEP, proxy for E. Smith, (AA)  
 Dr. Lance Stewart, CT (GA)  
 Gordon Colvin, NY DEC (AA)  
 Pat Augustine, NY (GA), Chair  
 Brian Culhane, NY, proxy for Sen. Johnson (LC)  
 Peter Himchak, NJ DFW, proxy for Chanda (AC)  
 Erling Berg, NJ (GA)  
 Roy Miller, proxy for Emory, DE (AC)  
 Bernie Pankowski, DE, proxy for Sen. Venables (LC)

Howard King, MD DNR (AA)  
 Bruno Vasta, MD (GA)  
 Russell Dize, MD, proxy for Sen. Colburn (LA)  
 Jack Travelstead, proxy for Bowman VA MRC (AA)  
 Catherine Davenport, VA (GA)  
 Kelly Place, VA, proxy for Sen. Chichester (LC)  
 Fentress Munden, proxy for Pate, NC DMF (AA)  
 Damon Tatem, NC (GA)  
 Jimmy Johnson, NC, proxy for Rep. Wainwright (LA)  
 John Frampton, SC, (AC)  
 Malcolm Rhodes, SC (GA)  
 Robert H. Boyles, Jr. SC (LC)  
 John Duren, GA (GA)  
 Gil McRae, FL (AA)  
 April Price, FL (GA)  
 Frank Montelione, FL, proxy for Rep. Needleman (LC)  
 Bob Ross, NMFS  
 Harry Mears, NMFS

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

**Ex-Officio Members****Staff**

Vince O'Shea  
 Robert Beal

Toni Kearns  
 Chris Vonderweidt

**Guests**

Mark Alexander, CT DEP  
 John Clark, DE DN F&W  
 Craig Shirey, DE F&W  
 Angel Bolinger, MD DMR  
 Michael Luisi, MD DMR

Janice Plante, Commercial Fisheries News  
 James Armstrong, MAFMC  
 Michael Happeir  
 Wilson Laney, USFWS/SAFCO

The meeting of the Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Washington Ballroom of the Radisson Hotel Old Town, Alexandria, Virginia, on Tuesday, January 30, 2007, and was called to order at 10:55 o'clock, a.m., by Chairman Eric Smith.

### CALL TO ORDER

CHAIRMAN ERIC SMITH: This is a meeting of the Spiny Dogfish and Coastal Shark Management Board. Folks, could you take your extra conversations outside, please, so the board meeting can get started? Thank you. The pushy person in front of you, of course, is Eric Smith, the new chairman of this board.

And I'd like first to thank Pat Augustine for the work he did on the board's regard as he finished up as his term last meeting. Before we get right started into the agenda I have a few notes that I'd like to shoot from for a moment and this is in the matter of meeting management, how I intend to conduct the business of the agenda.

We all know there is a public comment period that we have at the beginning of our meetings. That's intended for and I hope to adhere to the fact that that's for comment on this board's business that are not otherwise on the agenda. Other dogfish or shark issues that you feel this management boards needs to hear about and maybe set for an agenda in the future, that would be the time in the public comment period to let us know of those other things.

My way of doing all of this is to provide opportunities, then, as other boards do, throughout the meeting. In the event we have a motion on the floor and it seems like there are views that need to be expressed I'll go to the audience after the board. My approach has been to take one comment in favor, one comment opposed, maybe do that again, see how the board feels.

If they feel that they've got an adequate sense of public comment then move back to the board and try and take an action to conclude the action. If not, if the board would like more comment, we can always continue on. But I'd like to get the pro and con approach which has been successful in other boards.

So, having said it that way, I hope you will

appreciate that in the event we get pressed for time there is no obligation for everyone in the audience that has their hand up to be given the opportunity to speak. It's more an opportunity for the board to get the sense of where the public is coming from on the subject.

And, finally, there are going to be things that come up that need to be addressed today, board members want to be addressed today. And before we go further we will deal with the agenda and see if there are other things that are going to end up on the other business part of the agenda. So, having said that, we have the agenda in front of us. Are there subjects that any board member would like to add to the agenda? Red Munden.

MR. RED MUNDEN: Thank you, Mr. Chairman. I hope I can have an opportunity to present my thoughts concerning a different approach to quota management for the board's consideration for a possible plan addendum or amendment.

### APPROVAL OF AGENDA

CHAIRMAN SMITH: Thank you. That will be on other business. Are there other subjects board members would like to add to the agenda? Okay, seeing none, I'll presume that **the agenda, then, is approved.** Normally, then, we would take the proceedings and simply take a motion to approve but before we do that I want to point something out.

I don't know how, normally speaking, we get things so right in the summary of the meetings because after one of these weeks I think we all go away bleary-eyed. Dogfish last October, though, one thing happened that we didn't really detect until just a few days ago and I wanted to bring it to the board's attention.

And Chris has also, probably over the weekend, in his spare time has put together a one-pager which is the index of motions. Inadvertently, in the proceedings from the October meeting the motions from the August meeting were placed in the proceedings instead of the motions from the October meeting.

So, what you have in front of you which is a list of eight items, those are the motions and how they carried or prevailed or not from the October

meeting in North Carolina. So, as we begin to get into a discussion of what we did three or four months ago just keep that list handy, if you would.

### APPROVAL OF PROCEEDINGS

Now, having said that, otherwise is there a **motion to approve the proceedings**? Pat Augustine and Bill Adler second. Any discussion? Okay, without objection we'll call those approved. The public comment period, now is there anyone in the audience that would like to comment on other dogfish and shark items that are not otherwise on the agenda? Tom Fote.

### PUBLIC COMMENT

MR. THOMAS FOTE: Tom Fote, Jersey Coast Anglers Association. There has been a lot of talk and a lot of things written on the interaction of dogfish with other species and why other species are not growing. When we start looking at the summer flounder and when we look at when recruitment started getting flat-lined, it was the same time as we started shutting down the commercial fishery on dogfish.

It was also the same time we started having problems with weakfish and then we just went to a tautog meeting and also the times when they started flat-lining and not increasing. Hopefully at some point the technical committee when we start looking at ecosystem management will look at the increase of this biomass which is now bigger than summer flounder, bluefish, weakfish, striped bass, sea bass, and a few others combined and they have to eat, to what effects they're having on the other relationships of why we are flat-lining these other species and why we are not building them up.

We do not do the interaction of one species to another. And I'd like to sometime, for this board to address that. Thank you very much for your patience.

CHAIRMAN SMITH: Thank you, Tom. Are there members of the public? Okay, seeing none we will move to Agenda Item 4 which is Chris giving us a presentation on the Spiny Dogfish Fishery Management Plan review.

### FISHERIES MANAGEMENT PLAN REVIEW

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. So the following – well, I realize that we have a pretty busy agenda, including Red's proposal, so I'm going to kind of fly through this for the sake of time. The following presentation represents the Spiny Dogfish Plan Review Team's FMP review of the 2005-2006 spiny dogfish fishing season.

So the most current or most recent stock assessment is the 43<sup>rd</sup> stock assessment workshop, which took place in June of 2006. Included in the stock assessment is a new stochastic model which adjusts for variability inherent in trawl surveys, which takes a three-year average using data from the previous and subsequent year.

And this new model was used to calculate spawning stock biomass and total biomass. It was deemed more accurate by the committee over the old index-based three-year moving average which was used prior to 2005. At the 43<sup>rd</sup> SAW they also updated the F threshold which was previously .11 to 0.39.

The current status of the stock of spiny dogfish is not overfished. The spawning stock biomass was 106,180 metric tons in 2005 which is above the threshold and slightly below target. Overfishing is not occurring and remember they updated the F threshold. It's .128 in 2005 which is well below the threshold.

Spawning stock biomass is also up from 2004 to 2005. And I said that they used a new model but they ran the new model for all the years so it's not like we're comparing apples to oranges here. But what is significant is if you look at the 2004 to 2005 number the technical committee has said that based on the biology and life history of spiny dogfish it's biologically impossible to have that big of a difference.

Now, that being said, is the 2004 number too low or is the 2005 number too high? We don't know this. The 2006 number will shed light on it. And large increases have been observed in the past so this is nothing new. But it will be very interesting to see what the 2006 number tells us.

If we look at the landings they continue to be dominated by females. In 2004 they were 99

percent. In 2005 they were 84 percent which is an increase in males but 84 percent females is extremely problematic, I guess. If you look at the average weight of females that are being caught, the average weight of females in 2005 was 5.4 and as you are all well aware smaller females produce fewer, less robust offspring.

If we look at landings 2005-2006, 2.4 million pounds were caught in the commercial fishery; 88,000 were caught in the recreational fishery. So obviously it's dominated by, it's a commercial fishery. This is nothing new. Of the commercial, or of the landings, Massachusetts landed 1.9 million pounds in the commercial sector which is 79.9 percent of the actual landings for that year's quota. It's 47.5 percent of the annual quota. That year because of the trip limits we didn't land close to the actual quota of 4 million pounds.

So, on to the 2005-2006 requirements: specified a 600-pound trip limit for Period 1 which is May 1<sup>st</sup> through October 30<sup>th</sup>; a 300-pound trip limit for Period 2, November 1<sup>st</sup> to April 30<sup>th</sup>; a 4 million pound quota which would stipulate 2,316,000 pounds in Period 1 and 1.6 million pounds in Period 2.

I would also include the finning prohibition and a biomedical harvest allowance of 1,000 fish per state if the state requests. All states met or exceeded all the requirements. The only state to harvest any fish for biomedical research was Maine who harvested the allowable 929. Looking at de minimis, Delaware, South Carolina, Georgia, and Florida all requested and meet the de minimis requirements.

Now, Maine requested de minimis. Their landings were 1.02 percent. So the PRT looked at that and said, "Well, is .02 percent really significant?" And if you look at the definition for de minimis it says an individual state that would be expected to contribute insignificantly to a statewide conservation program.

So is this .02 percent going to contribute significantly? Well, the plan review team doesn't think so, so we recommend granting all of these states, Delaware, South Carolina, Georgia, Florida and Maine, de minimis status. And that concludes the FMP review.

CHAIRMAN SMITH: Thank you, Chris. Are there questions or comments on the plan review?

David Pierce.

DR. DAVID PIERCE: Yes, just a quick point because Chris highlighted briefly, as he should have, some assessment information, recent assessment information, I wanted to bring to everyone's attention a document you should have in your binders. Perhaps it was sent to you earlier on.

It's a document I assembled that went to Mr. Robert Gable who is with the Division of Management Authority for the Branch of CITES operations, the U.S. Fish and Wildlife Service. And within this document I go point-by-point down some of the concerns that have been expressed in the past, recent past, about the status of the stock, uncertainties and all of that.

So it's a prospective that we've offered up to try to, well, shed some more light on these very important assessment questions that relate to spiny dogfish. And the reason why this letter was sent off is that I believe and most of you know that there is an attempt to have spiny dogfish listed in Appendix 2 to CITES which would have a major impact, if done, a major impact on international trade.

It would have a significant impact on our ability to sell dogfish in the overseas market. So, you all have that letter to assist you not necessarily today but certainly in the upcoming months as we continue to deal with spiny dogfish management, specifically for the next fishing year. Let's see. We did – Chris, did you go over or are you intending to go over you know what has happened so far in 2007? In other words –

MR. VONDERWEIDT: No, that wouldn't be included in the 2005-2006 fisheries management plan review.

DR. PIERCE: Okay, thank you.

CHAIRMAN SMITH: Okay, other questions or comments on the plan review. Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chairman. Chris, the, well, I think I just saw the answer to my question, the recreational catch, recreational landings is from MRFSS data. Is that correct?

MR. VONDERWEIDT: That's correct. And the commercial are from the Northeast Regional

Office Quota Monitoring Website.

MR. G. WHITE: I find those numbers just totally unbelievable that there's that kind of volume being actually landed by recreational fishermen.

CHAIRMAN SMITH: Doug Grout.

MR. DOUG GROUT: I just have a quick question about the table, did you record catch or landings because you list MRFSS poundage as A plus B1 plus C1? I don't know the C1. I know B2. What's C1?

MR. VONDERWEIDT: I believe that's supposed to be B2. I'll look at it.

MR. GROUT: If it's B2, that's total catch; that's not the harvest.

MR. VONDERWEIDT: Sure. Right. Right. The plan review team felt that that was the most accurate way to go. It's not C1; it's B2. And I guess we looked at the fact that the recreational landings are kind of insignificant when compared to the whole fishery and we don't really manage for them so why not put all the landings there. But you could have gone with just the actual A1 plus B1.

CHAIRMAN SMITH: Bob.

MR. ROBERT E. BEAL: I think one of the reasons the B2 catch used to be included in or is included in this is that the previous assessments assumed 100 percent mortality of all discarded hook-and-line caught fish. So, you know, that's the total mortality. The new assessment assumes a smaller number and I don't remember what it is. I think it's 25 percent or somewhere in that area so we can modify that column in future years to reflect either total mortality or just total landings of spiny dogfish.

CHAIRMAN SMITH: Thank you. Other questions, comments on the plan review? Okay, seeing none, Item 5 is a review of the 2006-2007 spiny dogfish – oh, pardon me. Thank you. We need a motion to approve the plan review. Pat Augustine.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. I think you need two motions so I **move to accept the plan review as presented** – I don't think there were any corrections added to

it were there? – in its present form. That's the first motion.

CHAIRMAN SMITH: Okay, there is a motion on the floor. Is there a second? Bill Adler. Okay, so that's to approve the plan review. Any discussion on that motion? Any objection? Seeing none we'll call it approved.

MR. AUGUSTINE: And Mr. Chairman, the second motion would be if – I think Toni is running the computer up there, if she would put up the slide that talked about de minimis status for those six states. I believe that we're required to have a motion on that. So, Mr. Chairman, I would **move that the states of Delaware, South Carolina, Georgia and Florida** – oops, if you go back to the other one – **that they meet the de minimis requirements and be so granted.**

CHAIRMAN SMITH: For brevity would you also **add Maine to that?**

MR. AUGUSTINE: Yes, I would, I didn't get to it because she flashed me out.

CHAIRMAN SMITH: Okay.

MR. AUGUSTINE: Well, excuse me. She did not do that. I mean she changed the screen.

CHAIRMAN SMITH: My goodness, this is a lively board meeting.

MR. AUGUSTINE: You folks have some weird ideas.

CHAIRMAN SMITH: Okay, so the motion is Delaware, South Carolina, Georgia, Florida and Maine to be approved for de minimis status. Is there a second to that motion? Terry Stockwell. Any question, comment on the motion? Okay, seeing none without objection we will call that approved.

Thank you for that, Pat. The former chairman mentoring the new chairman, I like that. Item 5 is review of the '06-07 spiny dogfish specifications. This is where you will need that motion sheet from last fall to figure out where we go from where we came from. So, having said that, Chris, do you want to lead us into that?

MR. VONDERWEIDT: Yes, sure. So I know that there were some e-mails that were going around and Toni is going to bring this up as soon



as she is done writing the motions. But if you look at the handout that was just handed out that will, that is the same thing that is going to go up on the board.

But, basically, there was some question whether or not we went to a total of 6 million pounds for '06-'07 or – well, I guess that's what certain people intended to do with their motion. However, that's not what happened at the meeting. So if people have their minutes in front of them, you can turn to the top of Page 18 in the minutes and it's clarified what happened.

But, basically, the Period 1 harvest had already gone through. We were done with the Period 1 dates. The October meeting was towards the end of October where we increased the quota. That being said, the increase in quota would only apply to Period 2 of the season, so 42.1 percent of 6 million pounds is 2,526,000.

So, yes, if you look at this, that equates to a total quota of 4,842,000 pounds for this fishing season. So if our intent was to increase it to 6 million pounds, this is going to take a motion to do so. And if there are any questions about how this works out, I would be glad to field those. Yes, David.

CHAIRMAN SMITH: David Pierce.

DR. PIERCE: Yes, clearly there was some misunderstanding as to what the intent of the motion was, the motion I made back at the last board meeting. And I apologize for that. I thought I had made myself clear. I responded to some clarifying questions from Bob Beal but I didn't I guess understand what he was saying.

So, to clarify things, that is to make it clear for the record that the 6 million pounds was for the entire fishing year with the states from New York and south, that is through North Carolina, getting 42 percent of that amount for the fishing year and the other states getting the balance – and that was my intent – I'd like to make a motion to clarify the intent.

This is the motion: **to clarify the intent of the October 2006 motion regarding the 2006-'07 spiny dogfish quota by allowing a maximum harvest of spiny dogfish for the '06-'07 fishing year of 6 million pounds.** And if I get a second I'll explain what the consequences of this will be if this is adopted.

MR. MUNDEN: Second, Mr. Chairman.

DR. PIERCE: All right. What this means is that instead of –

CHAIRMAN SMITH: It was seconded by Red Munden.

MR. MUNDEN: Second, Mr. Chairman.

DR. PIERCE: So what this means is that instead of our only landing this fishing year about 4.84 million pounds which is shown in the one pager that was made available this morning, instead of our landing just that which is shy of the 6 million, we would land the 6 million.

This would provide an opportunity for the states from New York south to reopen the fishery that they recently closed consistent with an ASMFC instruction. It would enable them to open up to take the balance of the 6 million that is owed them through the 42 percent allocation.

CHAIRMAN SMITH: Okay, first does everyone understand the motion? And, second, I need a ruling on whether this requires a two-third vote because we're – that's what I thought. This requires a two-third vote of all the members of the board, whether or not they are present. I think they're all present here but Bob or someone is going to have to count that up so we know exactly what two-thirds plus a little bit more is. It's 11? Okay. So we need 11 votes in favor of this. David Pierce.

DR. PIERCE: Yes, I don't understand why we need two-thirds vote. I don't think it's a big deal but nevertheless I need to understand exactly why. When you read the index of motions that we were given this morning, the one page of the bold face, I thought it's pretty clear. It's pretty clear what it says. The discussion that ensued around the motion is what created the confusion.

So we're not really voting to do something different or to change our minds; we're just clarifying this misunderstanding that came about. So, that's the point I need to make. The two-thirds is when we have to revisit an issue and go in a different direction. If this motion was worded differently from what I just moved I would say, yes, indeed, two-thirds is required. But I don't think we need to make it that complex or that formal.

CHAIRMAN SMITH: I guess I would agree with you except for the fact that our proceedings have to be taken in total and the question about that motion was in the proceedings and the clarification was there. And, as you pointed out, you missed the impact of that clarification. So, I think we need to deal with this as if we're changing what we had voted for at that time. That's how I see this. I'll stand corrected if the board wants to feel otherwise. Pat.

MR. AUGUSTINE: Thank you for that correction, Mr. Chairman. I agree. And we've discussed this whole issue a lot last year and it seems to me that the clarification that Dr. Pierce put up on the board is nothing more than just a re-clarification so unless there is further discussion around the table as I say we had a lot of debate on this at the last meeting, I would move the question.

CHAIRMAN SMITH: Thank you. Just before we do that, let's make sure that no one else wants to comment. A, I want to make sure everybody understands what we're proposing in this motion and B, make sure that we're not missing the people who might want to comment, whether, you know, Jack Travelstead.

MR. JACK TRAVELSTEAD: Just a question. If the motion passes, how quickly could the states reopen their fisheries? Will there be further discussion about that, about setting a date or is it just a free-for-all from the minute we adopt the motion?

CHAIRMAN SMITH: I honestly don't know. I see several pitfalls out here in front of us with the action we took in October and this one. I think each state would be able – once we got the effect document that was handed out, what it would mean, how much available landings would be there, then I think each state has their own process to get changes in effect. Some could open quickly. Some might take longer.

I think the larger implication that I'd welcome some discussion on is the growing sense that what's going to happen in '07 and '08 in the EEZ, based on the action we took in October and we're taking or at least have on the board today, those things all have to be in the back of people's minds to know where the ramifications are. Chris, have you got a point on that?

MR. VONDERWEIDT: Yes, I guess just Brad

is going to bring up a slide of the landings, our current landings for this fishing season. And currently they're at 5,326,000 pounds. So we have about a 500,000 pound overage right now which would come out of Quota Period 2 on the next year if this is not passed. So that's significant as far as states are concerned. And that would be the southern allocation.

CHAIRMAN SMITH: David.

DR. PIERCE: Yes, first of all, the northern states from Connecticut and north, we're closed. I mean, we took the 58 percent consistent with the decision we made at the last meeting, notwithstanding the confusion of course that occurred. I would think that in terms of the timing for reopening the fishery to take the balance of the 6 million that would be something that could be worked out between the states that would be landing fish for the winter period.

And I think, I stand to be corrected on this but I think it's principally Virginia and North Carolina. So I would think that those two states being, you know, together, working cooperatively on how to harvest dogfish, that they would come to some understanding as to when they would open it up.

That's how I would look at it. I just wanted to make sure that those around the table didn't think that Massachusetts and other states in the northern area would reopen because that's not the case. And it's a very good point now being made that if we don't vote through what I thought we had voted through at the last board meeting, we actually have an overage instead of an underage that should be harvested by reopening of the fishery, certainly in Virginia and North Carolina at a minimum.

CHAIRMAN SMITH: Okay, so the northern area would stay closed through April 30<sup>th</sup>. The southern area could open for, until 2.526 – is that correct? – or actually a larger number, until their 42 percent of 6 million pounds, which is 2.5 million pounds, was taken.

Then we would have a slightly larger overage to take care of in Period 2 next year. And we'd have the EEZ issue to content with which is 2 million pounds, the difference between the EEZ TAC and the one we set in October which means that the EEZ quota could be 2 million pounds next year. We just, we're going to have to wait

and see how that plays out. Does that frame all the points of consideration we have in front of us? David.

DR. PIERCE: Yes. If the board decides to allow the whole 6 million, and I'd certainly hope it would because that was the decision made at the last board, then the balance of the – well, the 5.3 from the 6 million, that's what could be landed at the 6 million. So that's what would be landed by the states reopening their fisheries.

With regard to the EEZ issue, well, that's going to be an issue from now until the cows come home because, you know, we voted the at last board meeting to depart from the EEZ strategy, at least for now, since we all know that the National Marine Fisheries Service continues to insist that it be 4 million pounds with a 600-pound bycatch limit. We went in a different direction. We're at 6 million for the current fishing year and the next fishing year. And we await the spring bottom trawl survey data for 2007 to see what that reveals.

And once we have that new number, it may have a dramatic effect on what the federal government does, notably what the councils want to do because it very likely – I say very likely – will shoot the biomass way up because we'll have a three-year moving average incorporating another large number, very large number, for 2007. So, the EEZ issue is always there. We can't forget about it. It's important, certainly. And then it will unfold. But it's now a balance of 680,000 or so pounds out of the 6.

CHAIRMAN SMITH: And just, I would with a little bit of humor in mind I would caution all of us not to predict things that haven't happened yet.

DR. PIERCE: I stake my professional career on this one, Mr. Chairman.

CHAIRMAN SMITH: As you have done before but I don't know why you're still there. Sorry, couldn't resist. Sorry. Okay, comments on the motion. The motion is to clarify, in David's view, the way he cast the motion is to make the quota for '06-'07 6 million pounds from which the southern area, New York to North Carolina, would be 42 percent of that. All right, okay, other comment on the motion. Jack.

MR. TRAVELSTEAD: Mr. Chairman, I'm not

sure I understand the overage issue that Chris talked about. Can you explain that a little bit more? I'm not sure some of the fishermen understand it, either.

MR. VONDERWEIDT: Yes, sure. No problem. So, right now we're at 5,326,000 pounds. The quota for '06-'07 is 2,526,00 pounds so that's an overage of around 800,000. So what happens is Period 2 of the '07-'08 fishing year it will be 800,000 pounds less because of the quota overage provision of the fisheries management plan for spiny dogfish. So, if we do not increase this year's quota it's going to come out of next year's Period 2 and that's going to be likely the southern states that will have a reduced quota.

MR. TRAVELSTEAD: Can I just follow-up on that?

CHAIRMAN SMITH: Yes, please.

MR. TRAVELSTEAD: I'm not sure I still understand it but what you're saying is if we don't increase the quota to 6 million pounds there will be this overage?

MR. VONDERWEIDT: Yes.

MR. TRAVELSTEAD: By increasing it to the 6 million you avoid the overage?

MR. VONDERWEIDT: Correct. So, next year's quota allocation was, as set at the October meeting was 6 million pounds. So what would happen if we do not change things the quota would be like 520,000, around there, and depending – and these landings aren't finalized either. But it would come out. And that would, you know, that would be Virginia and that would be North Carolina.

MR. TRAVELSTEAD: Thank you.

CHAIRMAN SMITH: Other comments or questions on the motion? Harry Mears.

MR. HARRY MEARS: Thank you, Mr. Chairman. Just to clarify the current status of federal regs, on December 19<sup>th</sup> the secretary closed the EEZ fishery for the 2006-2007 fishing year. The next quota to be available to be harvested would begin May 1, 2007 at which time we would have to look at total landings taken during the current period in all waters and bays, the EEZ specifications on that information.

I certainly don't support this motion just on the prime reason in and of itself that it continues to widen the gap between state and federal permit holders, especially in absence of having the spring 2007 survey information to give us in fact the information on how well the population might be doing or on the decline which potentially just is – it potentially might be showing an increase. It might be showing a decrease. So, once again, I would not support this motion. Thank you.

CHAIRMAN SMITH: Thank you. Other comments or questions on the motion. Okay, seeing none, take a moment to caucus. Well, public comment? Anybody in the audience like to comment on this? Yes, sir.

MR. LOUIE JULLIARD: Thank you, Mr. Chairman. I am Louie at EML International. We are a processor in New Bedford, Massachusetts. I was there at the last meeting and I understood that we, the whole board voted for 6 million pounds. I was very surprised that we had to close the fishery at 5 million point 3.

You've got to understand that for us it's very difficult with our people to tell them, oh, okay, tomorrow no fish. That creates a problem in the market. And we would like to push for the 6 million and try to finish this season as soon as possible in order to go for the next season.

We have been asking also to limit about the 2,000 pounds landing per boats per day because, also, it creates problems in our plants because before we had 40-50 cutters cutting fish. Today we have five. So when we get the fish and then we want also to have a season as long as possible to maintain that market to which is in the future we hope will be recovered and we'll be able to market more fish.

So, the longer the season is for us the better it is. And we'd like to have a slow process coming from each states. I support the 6 million pounds and I support to reopen it to I think that we have a leftover 645,000 pounds to take to end out the season. Well, I thank you very much.

CHAIRMAN SMITH: Thank you. In opposition to the motion or in support? No, the gentleman next to you. Do you want to speak in favor or – do you want to speak in favor of the motion or against?

UNIDENTIFIED: I'm in favor of the motion.

CHAIRMAN SMITH: Okay, then that you. Just set for a moment. Thank you. Is the board ready to vote having heard? Doug.

MR. GROUT: I guess I may need another cup of coffee to make sure that I have this, what the result of this is actually doing. The way I read that motion is we're bringing, allowing an annual quota of a full 6 million pounds. And I look at this table and obviously the Period 1 has already been landed and that amount was based on 4 million pounds, as I see this table.

And so there is 2.3 million that was allotted to the northern group for Area 1. And then for Area 2 if you take 42 percent of the 6 million they are allowed 2.5 million. Is this motion saying that they can now take the full, to bring it up to 6 million pounds, that the Area 2 quota will now go up to almost 3.7 million pounds for just this year? Because that's the only way that you could get up to 6 million pounds.

CHAIRMAN SMITH: I heard someone before say this was not intended to open – you can't open Period 1. Period 1 is closed.

MR. GROUT: Exactly. That's my understanding, too.

CHAIRMAN SMITH: So, my understanding, I didn't think it was 1.3 million pounds. I thought it was on the order of 600,000 to –

MR. GROUT: Well, to get up to – I know we have 500,000 –

CHAIRMAN SMITH: Because some of that has already been landed. So it's another 600,000 pounds that could be landed from the southern area between now and April 30<sup>th</sup>.

MR. GROUT: So their quota on this sheet would then go up to about 3 million pounds, if you add 2.5 to 600,000, somewhere around there.

CHAIRMAN SMITH: David –

MR. GROUT: That's the intent of it?

CHAIRMAN SMITH: Is that the intent, David?

DR. PIERCE: The confusion has come up because of the way the quota in the plan is split seasonally. And it's split seasonally to deal with specific state interests, in other words to make sure that the states – this is my longstanding understanding – to make sure that North Carolina, Virginia and the states to the south get their opportunity to land dogfish and that there will be no opportunity for, well, Massachusetts or other New England states to land the whole 6 million.

That's an undesirable consequence. That's why we went with that seasonal split, to protect the interests of the states to the south. Well, now, with the motion to go with 6 million and to have the 42/58, the seasonal split doesn't make any sense any more because the states, notably New York through North Carolina, have the assurance that Massachusetts and other states won't take the whole 6 million.

They have 42 percent. So that's why the motion was made and that's why the motion still makes sense and that's why it makes sense for the states that have expected to get 42 percent of the 6 million during this current fishing year to be given that opportunity to take their 42 percent, which would occur by our just reaffirming the motion that we made at the last meeting but, you know, with these clarifications so that those who might have misunderstood last time around will now know exactly what we're trying to accomplish.

So don't be, don't be confused by, you know, this one pager that has this figure in it that shows breakdown by Period 1 and Period 2. This really is all moot now in light of what we did at the last board meeting, 42 percent for the states New York to the south. It doesn't matter when they get it. They just need to be given it.

CHAIRMAN SMITH: Okay, is the board – we've got a number of other business items to deal with on dogfish so I'm going to see if the board is ready to vote on this motion. Are you prepared for that? Okay, take a minute to caucus kind of with your delegations as opposed to – we're just going to take a minute. Thank you.

Okay, thank you. Let's try and conclude this one so we can move on. The motion is to clarify the intent of the October 2006 motion regarding the 2006-2007 spiny dogfish quota by allowing the maximum harvest of spiny dogfish for the 2006-

2007 fishing year of 6 million pounds. Motion made by Dr. Pierce; seconded by Mr. Munden. All those in favor raise your hand; 14; those opposed; 2; abstentions; null. Okay, the vote carries 14 to 2 to 0 to 0.

Is there anything else on '06-'07 specifications or do we move to the next item? Okay, now we have a motion that was postponed at the October meeting so before we discuss '07-'08 trip limits we need a motion to bring that postponed motion back to the floor. Pat Augustine.

MR. AUGUSTINE: **So moved to take the motion from the table.**

CHAIRMAN SMITH: And a second. Okay, second to bring it back to the floor? Thank you, John. Okay, the motion that was postponed is Number 8 on this list, which is the motion to allow the states to adopt their own trip limits to promote bycatch landings and a small-scale directed fishery for 2007-2008 fishing season. Is there discussion on that motion? Harry Mears.

MR. MEARS: Thank you, Mr. Chairman. I will oppose this motion as well. This is the antithesis of the entire fishery management plan. It was clearly the intent from the very beginning not to endorse or embrace a situation that would allow a directed fishery. We certainly don't have the information in to even suggest that we're on a long-term trend, that the resource is rebounding. This motion to me is clearly out of order. Thank you.

CHAIRMAN SMITH: Okay, it may not be out of order but I appreciate your stated opposition to it. Other comments on the motion. Vito Calomo.

MR. VITO CALOMO: Thank you, Mr. Chairman. I strongly support this motion, Mr. Chairman. I don't know where everybody is looking at but from the Carolinas all the way to Maine people are walking on these fish on the beach so I think it's a, having some kind of a trip limit where the fishermen can take advantage of a bycatch fishery, especially in some of the net fisheries that they're thrown overboard dead would alleviate some of the problems they have with paying expenses during these times of strict regulations in rebuilding fishery stocks. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Thank you. Other

comments. Red.

MR. MUNDEN: Yes, thank you, Mr. Chairman. I wanted to make one correction on the table that has just been passed out by the staff. The title of the table is "Week Ending Date." The North Carolina trip limit was raised to 4,000 pounds as of the eighth day of January but for the most of this year it was 600 pounds until the first of November and then we established a 2,000 pound trip limit. And, Mr. Chairman, while I have the mic I'd like to ask Massachusetts if their trip limit has been 2,000 pounds throughout the fishing year? Is that correct, Dr. Pierce? Thank you.

CHAIRMAN SMITH: Okay, John.

MR. JOHN FRAMPTON: A question, please, if anyone can answer, if this motion carries and the states are allowed to establish trip limits to promote bycatch and a directed fishery, would that harvest be part of the 6 million pounds or in addition to the 6 million pounds?

CHAIRMAN SMITH: It's intended that the 6 million pound be the quota. Whatever trip limits get set when you get to the end of that period quota, you're closed. Let me, if I may, because I don't intend to take sides on this, being the chairman, the comment I got when our fishery, northern fishery, closed soon after the Annual Meeting, we had a public hearing on fluke or something and a small day boat walked by and – operator – walked by and just commented wistfully, it's too bad that closed after the trip limit went up because that 600 pounds was my fuel bill.

Got a 40-foot boat or so and it really, it brings home the fact that no matter what size we set the trip limits the implication is driven by what the quota is. Larger trip limit, earlier closure. So I think the answer to your question is as states individually decide what kind of trip limit they think is appropriate it's capped by that quota and the higher the trip limits the earlier the closure.

Further comments on this motion which is now on the floor? Well, actually, no we have to move to bring this back on the floor, I believe, I mean we have to vote on bringing. Yes, let's simply be expeditious here. All those in favor of bringing the postponed back on the floor so that we can then debate it, all those in favor raise your hand; okay, 11 in favor; those opposed; 2;

abstained; 2; and null.

Okay, thank you. The motion carries so we now are on this motion that we can now debate. Who was the seconder on this motion? I think it was John Frampton, was it not? Yes, it was. Okay, thank you. Now we're debating the motion. Sorry. Other comments on the motion. Audience comment for or against. Okay, yes, sir.

MR. STEVEN BARNDOLLAR: Can you hear me now? President of Sea Trade International. We're a – Steven Barndollar from Sea Trade International. We historically have processed one of the larger dogfish processors. I think in the past year from domestic and Canada we've probably done a million or a million two pounds.

The interest from the industry side – and we're totally confused by what happened this morning with the 5.3 million and very, thank you and very positive that the 6 million pounds will be allowed for this fishing year. But we'd like to see the harvesting by vessels in New England and down south, because we take as far south as North Carolina, spaced out to somewhat to coincide with the European fishing demand with higher prices but also to limit the quota on an individual basis to 2,000 pounds per boat per day which is a useful number for us to harvest.

We've lost a lot of cutters. We compete with Canada north and the West Coast and Atlantic Canada. And given the number of boats, the 80 to 100-odd boats that fish historically up and down the coast this works well with both ourselves and speaking on behalf of Louie, also, I think would be a useful number.

So we would support the motion to allow individual states. But maybe there should be some discussion regarding a cap on that. I see Virginia is at 4,000, the rest of the states and also North Carolina. Unfortunately, North Carolina didn't get anything on this, the 5.3 million pounds but we'll be able to go back now into Virginia and also catch up on the five or six hundred thousand pounds they are missing. So we support the motion and actually just supporting the fishery.

CHAIRMAN SMITH: Thank you. Public comments in opposition to the motion. Okay, seeing none, back to the board. Board comment. Ritchie.

MR. G. WHITE: A question, does this mean that each state will have the ability to have their own separate trip limits or will the Period 1 states get together and have equivalent trip limits and Period 2 states get together and have equivalent trip limits?

CHAIRMAN SMITH: As I read this each state could set its own limits pretty much whatever it wants for a bycatch fishery or a small-scale directed fishery. And if they all set it at 20,000 pounds then you'd have about a two-day long – you know, that's to take it to the extreme for purposes of emphasis. That's how I read this.

MR. G. WHITE: Follow up. I guess on that basis I am not going to support this. I'm in favor of larger trip limits than the 600 but I would like to see a trip limit that all the states in Period 1 have that are equal so that one state doesn't go out and harvest a large percentage of the quota.

CHAIRMAN SMITH: Gordon Colvin.

MR. GORDON C. COLVIN: Mr. Chairman, I'd like to move an **amendment to the motion to insert the words “not to exceed 2,000 pounds” after the words “trip limits”**.

CHAIRMAN SMITH: Okay, a motion to amend to include the words “not to exceed 2,000 pounds” after the words “trip limits” in Line 2.

MR. G. WHITE: Second.

CHAIRMAN SMITH: Second, okay. Ritchie White. Okay, comment on the motion to amend.

MR. AUGUSTINE: Thank you, Mr. Chairman. I was interested in knowing why Virginia and North Carolina went to 4,000 pounds and why that was selected as opposed to 2,000 pounds in that New Hampshire, Massachusetts and Rhode Island had gone to 2,000 pounds.

And I believe your point was well taken, Mr. Chairman, for any larger number than – if you went to 20,000 pounds, you're right; it would be about maybe a three-day season. So if we can get a sense for why Virginia and/or North Carolina selected 4,000 pounds, was it based on the distance they had to travel or was it just based on the economics?

CHAIRMAN SMITH: Either state care to respond to that? Jack.

MR. TRAVELSTEAD: Well part of the reason we went to 4,000 is the fish are in our state waters for only a very short period of time. And for this to be economically feasible for our fishermen, they need the higher trip limit. We went to them and asked them what, you know, what level was reasonable and they suggested the 4,000.

And it seemed reasonable to us. But, you know, the fish are gone from Virginia waters pretty quickly. And if you don't allow them to take a reasonable trip limit that corresponds to some small-scale directed fishery then you end up with no fishery at all. For those reasons I would object to the amendment.

CHAIRMAN SMITH: I believe North Carolina said that they had a 2,000 pound limit during this period. Isn't that correct, Red?

MR. MUNDEN: We opened our fishery the first of November with a 2,000 pound trip limit and there was no harvest of spiny dogfish in our state because the fishermen said that that was not a large enough trip limit for them to justify bringing them in, whether it be as bycatch or either a small-scale directed fishery.

When we increased the trip limit effective January the 8<sup>th</sup> to 4,000 pounds we did expect that we would have landings of dogfish; however, at that time the processors were getting all the fish that they could process from the Virginia fishery and our total landings for this fishing year are somewhere around 2,400 pounds, for the whole year.

CHAIRMAN SMITH: Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. A follow-on. I noticed in the chart we have “Week Ending Data” we looked at from Delaware south, it would be Maryland, Virginia, North Carolina. It looks like that's the break north to south. And maybe it would be appropriate for the board to consider for the southern states a 42 or 43 percent that they're allocated being considered at 4,000 pounds and then go with the 2,000 pounds to the north.

And I'd like to put that on – before I make a motion to amend I'd like to have some brief feedback from some of the other board members if that seems to be more feasible and more accurate in view of the fact that North Carolina

didn't have any season at all this year, primarily because of that 325,000 pounds in that period there. I guess a million two filled the whole quota and marketplace. So, could we have comments on that? Thank you, Mr. Chairman.

CHAIRMAN SMITH: I'll leave it to anyone else to want to pick up and discuss the point you raised. I would be leery about a motion to amend a motion to amend. That's probably unnecessarily complicated. The motion is on the floor and it's free for people to discuss anything that they want, Pat's point or others. Mark Gibson.

DR. MARK GIBSON: Does this motion or any motion with a different pound in there preclude states from developing an aggregate landings program?

CHAIRMAN SMITH: I have no idea. I mean the more we customize this on the fly, though, I think my answer is when do we start an addendum because that's really the process we use to do these things, normally. Other comments on the motion. David, you had your hand up before we had the motion to amend. Okay. Louie Julliard.

MR. JULLIARD: I just wanted to add something on the 2,000 pounds. If the states for some economic reason because they have to truck that fish up and North Carolina and Virginia is in a different position than Massachusetts, you could probably go to 4,000 if you want to.

Or we will limit the amount of fish we take every day and say, okay, well, we're going to take so much, is that feasible for you guys. So, there is some flexibility there but I think it's between us and the state and the unloaders to work it out, really. Okay, thank you.

CHAIRMAN SMITH: Thank you. The motion to amend is not to exceed 2,000 pounds, add that after the words "trip limits" in Line 2 of the main motion. Jack Travelstead.

MR. TRAVELSTEAD: We just can't make it at 2,000 pounds with the freight issues that, you know, having to ship everything north. But I would be willing to compromise at 3,000 pounds. I don't know if that helps anybody else but I think Virginia could come down to 3,000. Would you be willing to accept an **amendment**

**to the amendment to change the 2,000 pounds to 3,000?**

CHAIRMAN SMITH: Okay, that's a request of the maker of the motion to amend. Gordon.

MR. COLVIN: That's acceptable to the maker.

CHAIRMAN SMITH: Okay, let's on the board adjust the motion to amend. Oh, I'm sorry, seconder agree with that? Yes, okay, the seconder also agrees, Ritchie White. Okay, so the motion will say not to exceed 3,000 pounds. And you had 23,000 pounds up there for a minute and there were people all over the room saying, "I'll vote for that one." But, no, it's 3,000 pounds. Other discussion on this motion to amend.

Okay, seeing none, caucus for a moment. Okay, let's conclude this point, this motion I should say. Board members back. Okay, I'll read the motion. It's to amend to include the words "not to exceed 3,000 pounds" after the words "trip limits" in the main motion. Made by Mr. Colvin; seconded by Mr. White.

All those in favor of the motion to amend raise your hand; 12; those opposed; 1; abstentions; 3; null votes; none. The motion carries 12 to 1, 3 and no null. That was the only motion that was left over from October. Ritchie.

MR. G. WHITE: The list that was passed out this morning shows Number 4 as a motion postponed.

CHAIRMAN SMITH: Yes, that's a mistake.

MR. G. WHITE: Okay.

CHAIRMAN SMITH: That was the next main motion after Number 3 passed. And then it was subsequently split and divided. Dennis Abbott.

MR. DENNIS ABBOTT: Thank you, Mr. Chairman. We just voted on amending the main motion. Now the main motion is on the floor.

CHAIRMAN SMITH: Thank you very much. I know you hate being called "parliamentarian" but at least you know more about it than I do and that's what I'll call you. Thank you.

MR. ABBOTT: Gordon was just making faces at me so I knew we were in agreement.



CHAIRMAN SMITH: I hate this process. All right, now the motion to amend did pass. Now we need a vote on the amended motion which is now the main motion and that is to move to allow the states to adopt their own trip limits not to exceed 3,000 pounds to promote bycatch landings and a small-scale directed fishery for 2007-2008 fishing season. That is the main motion. Comments on that. Harry Mears.

MR. MEARS: Thank you, Mr. Chairman. Before I indicated that I thought the motion was out of order and I really didn't say that facetiously. We're trying to restore a resource that's totally predicated on public comment and also a resource plan, not to allow exactly what we're about to do through this motion.

We also have a rebuilding schedule where we've been trying to work, forge a way forward with complementary state and federal quota regulations where the quota, trip limits, the annual quotas, have all been predicated on a bycatch fishery.

By now allowing this coastal directed fishery from Maine to North Carolina we're essentially upsetting in one fell swoop the entire genesis of the fishery management plan and also what the quotas we currently have in place were predicated upon, all at the expense of the uncertainties that remain in the rebuilding of this resource. So once again I'm strongly voicing my opposition to this and hoping that some of those votes that previously were inclined to consider this will reconsider and not vote for it. Thank you.

CHAIRMAN SMITH: Thank you, Harry. Terry Stockwell and then Vito.

MR. TERRY STOCKWELL: Yes, thank you, Mr. Chair. Although we've just voted to grant Maine de minimis status I'm somewhat concerned about the motion to amend to go to 3,000 pounds. As you all know we're on the tail end of the dogfish cycle. And opportunities for our fishermen with the exception of the lobster fishery right now are somewhat scarce. And in terms of some sort of equity in distribution of a limited quota I don't feel comfortable supporting something that I'm not sure we're going to have access to.

CHAIRMAN SMITH: Thank you. Vito Calomo.

MR. CALOMO: Thank you, Mr. Chairman. I guess I have two comments now after hearing two speakers. My first comment was, is that as I sit here for many years and on other management teams I don't think I've ever done something just for the good of myself. I think I try to do it good for everybody. And a lot of you people have heard me support many of your fisheries that had nothing to do with the commonwealth of Massachusetts. And I stand by that today.

The second comment I have to say to you, Mr. Chairman, is that I believe, my memory is still pretty good, that at the last meeting and it was a, one heck of a meeting to go through again on dogfish, that we asked the PDT, the science people, the presentation that was made, that would 6 million pounds be detrimental to the rebuilding of this huge stock of dogfish, this predator, dogfish.

And the comment back was they didn't think it would have any problem with the rebuilding to such a scale that we're aiming to. So I don't believe that the comments are justified. Thank you very much, Mr. Chairman.

CHAIRMAN SMITH: Just a point of clarification, I think that part of the debate was that the 6 million pound quota might not jeopardize the rebuilding plan but the redevelopment of a directed fishery on large females might. And I think that's what people were responding to, not the magnitude of the quota.

MR. CALOMO: Thank you, Mr. Chairman.

CHAIRMAN SMITH: All right. David Pierce.

DR. PIERCE: Yes, two points. Many of the issues and concerns raised by Harry I've addressed in that letter sent off to CITES. I'm not going to focus on those particular issues. I hope Harry has had a chance to read it. If not, please do, Harry. That covers those issues and answers many of those important questions regarding the status of the stocks.

Regarding Terry's concern, understandable concern, and, frankly, I think it's more than likely that the states in the northern region will be sitting down and talking about how to make sure that there is some sort of an allocation between states. In other words, in Massachusetts, New Hampshire, you know, we

don't – well, let me speak to Massachusetts.

We don't want to be in a position where the state of Maine and New Hampshire are shortchanged. So, we'll be discussing, you know, with George and also with John Nelson and Mark Gibson and Eric some strategy whereby we can establish at least on an informal basis some state shares.

State shares is a concept that's come up before. We debated that at the federal level, at the ASMFC level years ago. And I think it would be warranted, I know it's warranted for us to delve into that so that we can deal with those specific concerns that you've raised. I don't think we need to do it through an addendum, at least not right now.

CHAIRMAN SMITH: I'm sorry, just to the motion, please, before we get to the other business item. And we do have to wrap up the motion because we'll run out of time very quickly. Okay?

DR. PIERCE: Indeed, Mr. Chairman. Your concerns are being addressed, Terry, in the way I've just indicated.

CHAIRMAN SMITH: Thank you. Are we ready to caucus on this motion? Okay, take a minute, please. Okay, could you come back and take your seats, please? We're due to adjourn in ten minutes or so and we do have the other business to contend with which is why I wanted to race us to make a decision.

### 2007/2008 TRIP LIMITS

**So the motion is to allow the states to adopt their own trip limits, not to exceed 3,000 pounds, to promote bycatch landings and a small-scale directed fishery for 2007-2008 fishing season.** Motion by Dr. Pierce and seconded by Mr. Petronio. All those in favor raise your hand; all those opposed; abstentions; null votes.

Okay, the motion carries 10 to 3 with 2 abstentions and 1 null. That concludes the business on the '07-'08 trip limits. We're now moving to other business. And I would give the floor to Red Munden to offer the point he had distributed to people in an e-mail.

MR. MUNDEN: Thank you, Mr. Chairman. Over the past several weeks I've had phone

conversations with the ASMFC staff about my concern for management of the spiny dogfish quota. I've been involved in the management of spiny dogfish quota for North Carolina for the past nine and a half years and we've never come to an equitable way of assuring that all states have an opportunity to participate in the harvest of spiny dogfish.

I sent an e-mail to the staff as well as the chairman on Thursday the 25<sup>th</sup> of January. And it's my understanding that Bob Beal distributed that e-mail to the members of the Spiny Dogfish Board. But I would like to just briefly run through my comments in the e-mail and share with you my thoughts on one approach to possible management of the spiny dogfish quota.

As we all know, last October the board voted for a 6 million pound spiny dogfish quota for this fishing year and for the 2007 and '08 fishing year. And North Carolina fully expected to have an opportunity to harvest spiny dogfish as a result of the board action.

As of the most recent National Marine Fisheries Service weekly quota report North Carolina spiny dogfish landings from the first of May when the season opened through January 13<sup>th</sup> totaled 2,340 pounds. Historically we were the Number 2 harvester behind Massachusetts back in the mid '90s.

The dogfish were available in North Carolina waters, have been available since November. The fishermen certainly have the capacity to harvest dogfish. There was interest in participating in the dogfish fishery. And, as I mentioned a few minutes ago, we opened a directed fishery as of the 8<sup>th</sup> of January with the 4,000 pound trip limit but there was no market for spiny dogfish from North Carolina because the New England processors were getting all the fish that they needed from Virginia.

And all due respect to my fellow board members and fishermen from the state of Virginia, I will say that from the first of May through the 13<sup>th</sup> of January they landed according to the NMFS quota reports 1.74 million pounds of spiny dogfish.

Now, it appears to me that the only equitable way of managing the dogfish quota is to go to state-by-state allocations. But I will call to your attention that when we were developing the

ASMFC Spiny Dogfish FMP state-by-state quota allocations were an option in the public hearing document.

This board elected not to carry that forward into the draft FMP, Number 1, because of opposition to state-by-state quotas by some board members and probably more importantly it's very, very difficult to select the base years on which you will base those quota shares. And the FMP, public information document, rather, did have an option in there that looked at different base years and different quota shares for the various states.

After giving this a tremendous amount of thought I decided that I would communicate my thoughts to the staff and the chairman concerning going back to the board with a proposal to go to state-by-state quota shares. And in that memo I outlined several steps. The first thing that I would propose is that each state be given, each state that has harvested dogfish since, prior to 2000 – and that's when the federal FMP went in place, May 1, 2000 – states that harvested dogfish prior to that time would get an equal share of dogfish.

A second option would be to say, all right, some states may not have an interest in dogfish, de minimis states, so, therefore, another option would be that only states who declare an interest in getting a share of dogfish would get an equal share. That would level the playing field. But the most important thing is that we would also allow states to transfer quota, just like we currently do with summer flounder, bluefish and black sea bass.

So if a state received a quota allocation more than they needed or if it's toward the end of their fishing year and they said, well, you know, we don't need this quota so we can transfer it to another state. This has worked very, very well with bluefish, summer flounder.

If we did this we would no longer need to worry about the 42/58 percent of shares. It would be up to the state directors to manage their quota share. Another option that we could look at would be changing the fishing year to January 1. Being an individual that was involved in the development of both the federal FMP and the ASMFC FMP I can assure you that the May 1 fishing date was very arbitrarily selected. The staff looked at when there was a break in the fishery and it seemed that not a lot of fish were

landed during April. And we said, okay, we will start the fishing year May 1. And also for the Mid-Atlantic Council perspective, it gave us an opportunity to distribute the workload more equally because we were submitting our annual specifications for management for a number of species during the fall.

And we said, well, if we make dogfish during the spring, then that will distribute the workload among the staff members. We also do squid, mackerel, butter fish and surf clams during the spring. And the final thing, if we go to state-by-state quota shares then the state directors could decide what is an appropriate trip limit for their share of the quota.

If they want to harvest it up in two weeks, they could set it at 20,000 pounds. If they want to be conservative and stretch it out for the whole year they could go to 600 pounds or 1,000 pounds. So thank you for allowing me to share my thoughts with the board, Mr. Chairman.

I've been told by the staff that this will require at least a plan addendum, maybe a plan amendment. And I would like to at least for the board to discuss this with going forward with the intent of looking at a better way of managing our spiny dogfish quota. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Thank you, Red. I appreciate the sentiment you just offered in offering this, more of a good-of-the-order, can we find a better way to do this, and I appreciate that. Our time is going to be very limited so I guess I'd ask the board to think about it in two ways. For something as weighty as this are you comfortable with an addendum or an amendment?

And, as a board, do you want to pursue either? We don't have to debate the details at all today. The question really for the board is, should we attempt to try to develop that type of a change to the plan or not? And if so, should it be an abbreviated process, addendum, or should it be a plan amendment because it's fundamentally different from what we've come to so far? Pat Augustine.

MR. AUGUSTINE: Thank you, Mr. Chairman. It would seem that we would have to consider if there are other issues that want to be put on the table and Mark Gibson said he had something, whether it was doable or not, that he would at

least like to have discussed. It would seem to me that we would want to look at, at least putting it on the table; we consider an addendum without the staff being directed to do a whole lot of effort.

I mean, this is one issue that maybe just deal with state-by-state allocation in spiny dogfish and all the other things that Red put down there, all the effect upon all the other species of fish, maybe it would be helpful if Red were able to talk to staff and give them a better idea or look at the list, your cafeteria list of items that could be affected and then bring it back to the board and determine whether or not it would require an addendum or an amendment.

But it seems that's a first start and your list is very expansive. And it all relates to the state-by-state allocation. So, I think we have to address that first. So, Mr. Chairman, if you would like to go forward with just directing the staff to work with Mr. Munden in developing this and yourself or put an action back on the board to come back at our next meeting to, having thought about his suggestion and go from there.

CHAIRMAN SMITH: Well, actually I'd rather have more board members weigh in on their first reaction to this. The Imperial Eric usually makes bad decisions so I'd rather have the rest of the board.

MR. AUGUSTINE: Not all the time.

CHAIRMAN SMITH: Pete Himchak.

MR. PETER HIMCHAK: Yes, the suggestions made regarding the state-by-state quota management, this could have serious implications for New Jersey. At the present time our regulations are so linked to the National Marine Fisheries Service permit dealers that, you know, you have 4 million, 6 million, 8 million pounds and under the ASMFC plan and we can't, we really can't take advantage of it.

But what we are trying to do is develop a spiny dogfish fishery for the state. The Garden State Seafood Association has been making plans to meet with our commissioners with a minimum trip limit of 2,000 pounds. We're trying to create a fishery that's a resource-friendly in so far as we're not going to target, you know, the prime, the larger females on the stock.

So, I mean, our track record in landings is minimal. But that has been our choice because we have not been able to take advantage of it. But we certainly see an opportunity for growth in our share of the 42 percent and I don't know how that would be distributed. But, we're looking at possibly fishing year 2009 where we would have a small-scale directed fishery.

CHAIRMAN SMITH: Other board members' comments on the idea of – and add to that list, the short list, Pat Augustine's suggestion that maybe this is referred to staff to discuss with North Carolina. That's an option, also. Mark.

DR. GIBSON: Yes, since Pat mentioned my name I'll just follow up a little on that. I guess I'm a little uneasy moving into state-by-state shares at this point since we still lack an overarching set of guidance on how allocations are set. They've all come to be however they've come to be.

And I'm concerned that we would just get into a – without, lacking that particular set of guidance at all having agreed on ahead of time, probably at the Policy Board and commission level, we're just going to get into a big food fight over the years of record and who had an unfair advantage because of where the fish were and that sort of thing. And it will be very difficult for us.

If we were to move ahead with some of the suggestions that have been made before about establishing that set of guidance on how allocations are set prospectively, before we go to state-by-state management, it might be a lot easier for us to do it.

CHAIRMAN SMITH: Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Yes, thanks, Mr. Chairman. It seems to me that this discussion is taking place because there has been one spring trawl survey number that has been a bit of encouragement to some folks around the table. And, in fact, one person even said he would bet his professional career on it, which implies there is other people that would be the other way.

So I'm just wondering in the light of that uncertainty what the harm would be of waiting six months until you get another number confirming that before investing a whole lot of effort in deciding how to divide up fish that

might not be there.

CHAIRMAN SMITH: Thank you. Other board members. Red and then Gordon.

MR. MUNDEN: Thank you, Mr. Chairman. Two quick points. Number 1 to address Mr. Gibson's concerns, what I would envision is that the quota would be divided equally among all states who have an interest in the fishery or have had historical participation in the fishery. That levels the playing field.

And then the states would have the option of transferring any quota they did not need or did not want to other states. That would almost be like having money in the bank. If Delaware was sitting on dogfish quota and they could work out a deal with another state director that maybe had some excess fluke quota, you could do two transfers there.

So far as our Executive Director's comments, you know, we've really got a problem right now with management of our dogfish quota. You know, we just spent the past hour trying to unravel the situation that was created last October by trying to assure that each state had an equal opportunity to harvest some dogfish.

And no matter what the quota is throughout the coming year, whether it be 2 million pounds or 6 million pounds, we going to still be faced with the same situation. So that's why I would encourage the board members to give some serious thought to taking a different approach to quota management for dogfish. Thank you, Mr. Chairman.

CHAIRMAN SMITH: Gordon and then Ritchie White.

MR. COLVIN: Thank you. I pretty much agree with the comments that Mark Gibson and Vince made. I guess, you know, given the current status and state of our management of dogfish you know what we're supposed to be achieving, as I understand it, in the management program at this time under the current prevailing stock conditions, it's difficult for me to see my way clear to justify the staff time and the time and energy and pain that the board members would need to go through to address things like allocation and fishery development and things of those nature. It seems to me that it's a little premature.

And actually Red's last comment scared the heck out of me. Those are very innovative and creative ideas. And if we were looking to, if we were looking down the road some distance towards the prospect of bring them forward in the context of a dialogue on a developing fishery on a recovered or recovering stock and we had plenty of time and energy and there was a good prospect for a return on investment, then I think that's a dialogue I'd welcome.

But I'm not sure we're there yet, just not. And I think Vince's advice on you know asking ourselves should we make that investment until we at least get some confirmation that the hoped-for, you know, steady evidence of stock rebuilding is confirmed I think is good advice. And you know goodness knows that the commission staff has an awful lot of work to do, an awful lot of work to do.

And we have a work, we have an annual work plan that lays out their work and their priorities. I would not personally want to necessarily divert from that at this time until we have a little bit more information that suggests that we can rethink our approach to dogfish management from what it is currently in that we have only one prime objective right now, rebuild, whether we like it or not. We're not talking about promoting then fostering directed fishery.

CHAIRMAN SMITH: Thank you. Ritchie and then I think we're going to have to come to a conclusion on this because we're ten minutes over.

MR. G. WHITE: Thank you. I'll be brief. I just agree with Gordon and Mark. I don't need to say any more than that. And to ask Red, is his thinking that the quota would be divided between non-de minimis states? Is that his thinking?

CHAIRMAN SMITH: Well, I think he said that's one option that could be considered. You could either divide by all the states or you could divide by all the states that have declared an interest. And again it's another example of how the thought needs to be developed further. But unless I hear otherwise I think I'm reading the board as saying this is an idea who is not ready to be a plan adjustment document. But it may be something that's worth more discussions always over a cup of coffee and see if it can be developed into something that can be a future

action. If there is no disagreement with that right now then I'm going to ask is there any other business? David.

### OTHER BUSINESS

DR. PIERCE: Just a quick one, Mr. Chairman. With the opening of our fishery once the ASMFC decision was made to go to the higher quota, we began a new sampling of the fleet. You know, fleet in quotes. We did as much sea sampling as we could possibly do. We're putting that information into a report. We'll be submitting that to the board for its use, certainly to the technical committee.

Also, I needed to make note of the fact that in the audience we have co-chair of our Massachusetts Marine Fisheries Commission, Mark Amarillo. So there are three Massachusetts commission members here. We're going to make it a matter of policy when funds allow it and hopefully they will allow members of our commission to attend this ASMFC meeting and other meetings so they can be more immersed in the interesting machinations that occur at all these meetings.

So, like in North Carolina where the North Carolina council had a specific meeting and they expressed their concerns about dogfish management then, Mark Amarillo was here, of

course, to listen to these and has listened to these dogfish discussions and of course discussions on striped bass and the like since we all, all of our commissions and councils play a major role in how we manage these fisheries region-wide.

CHAIRMAN SMITH: Thank you. Gordon.

MR. COLVIN: Mr. Chairman, Dr. Pierce has twice referred to a letter that he addressed relative to CITES issues that I have not seen and I've talked to other board members who have not seen it. I wonder if it can be distributed to us, please.

### ADJOURN

CHAIRMAN SMITH: Okay, do you have that? Okay, we will get that distributed to the board members this week. Okay, seeing no other business, thank you all for your indulgence and I guess we're adjourned.

(Whereupon, the Spiny Dogfish and Coastal Shark Management Board meeting adjourned on Tuesday, January 30, 2007, at 12:27 o'clock, p.m.)

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