

**PROCEEDINGS OF THE**  
**ATLANTIC STATES MARINE FISHERIES COMMISSION**  
**SHAD AND RIVER HERRING MANAGEMENT BOARD**

**Crowne Plaza Hotel - Old Town**  
Alexandria, Virginia  
February 19, 2013

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2. **Approval of Proceedings of October 24, 2012** by Consent (Page 1)
3. **Move to approve the Georgia American Shad Stocking Proposal with the modifications recommended by the technical committee** (Page 4). Motion by Pat Augustine; second by Tom Fote. Motion carried (Page 4).
4. **Move to adjourn by Consent** (Page 4).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Mitchell Feigenbaum, PA, proxy for Rep. Vereb (LA)
Willis Spear, ME, proxy for S. Train (GA)	John Clark, DE, proxy for D. Saveikis (AA)
Rep. Walter Kumiega, ME (LA)	Roy Miller, DE (GA)
Doug Grout, NH (AA)	Tom O'Connell, MD (AA)
Dennis Abbott, NH, proxy for Rep. Watters (LA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
G. Ritchie White, NH (GA)	Bill Goldsborough, MD (GA)
Mike Armstrong, MA, proxy for P. Diodati (AA)	Rob O'Reilly, VA, proxy for J. Travelstead (AA)
Bill Adler, MA (GA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Rep. Sarah Peake, MA (LA)	Cathy Davenport, VA (GA)
Mark Gibson, RI, proxy for B. Ballou (AA)	Michelle Duval, NC, proxy for L. Daniel (AA)
Rick Bellavance, RI, proxy for Rep. Martin (LA)	Mike Johnson, NC, proxy for Sen. Jenkins (LA)
Bill McElroy, RI (GA)	Ross Self, SC, proxy for R. Boyles (LA)
David Simpson, CT (AA)	Sen. Ronnie Cromer, SC (LA)
Lance Stewart, CT (GA)	Patrick Geer, GA, proxy for S. Woodward (AA)
James Gilmore, NY (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Pat Augustine, NY (GA)	Jaime Geiger, USFWS
Russ Allen, NJ, proxy for D. Chanda (AA)	A.C. Carpenter, PRFC
Tom Fote, NJ (GA)	John Bullard, NMFS
Loren Lustig, PA (GA)	Bryan King, DC
Leroy Young, PA, proxy for J. Arway (AA)	

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

### Ex-Officio Members

Pam Lyons Gromen, Advisory Panel Chair

Mike Dionne, Technical Committee Chair

### Staff

Bob Beal  
Kate Taylor

Toni Kerns

### Guests

The Shad and River Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, February 19, 2013, and was called to order at 2:55 o'clock p.m. by Chairman Michelle Duval.

### **CALL TO ORDER**

CHAIRMAN MICHELLE DUVAL: Welcome to first Shad and River Herring Board Meeting of 2013. For those who are new, my name is Michelle Duval. I am the proxy for Dr. Louis Daniel from North Carolina.

### **APPROVAL OF AGENDA**

CHAIRMAN DUVAL: The first item on our agenda is actually approval of the agenda. Are there any additions to the agenda? Seeing none; the agenda stands approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DUVAL: The next item is the proceedings from our October 22<sup>nd</sup> meeting at the annual meeting. Are there any changes to those minutes? Seeing none; those minutes stand approved.

### **PUBLIC COMMENT**

CHAIRMAN DUVAL: This is the point in our agenda where we take comment from the public on any items that are not on the agenda. Are there any members of the public that wish to address the board at this time? Okay, I don't see any hands in the audience; so with that I am actually going to turn things over to Kate to take us through a brief review of the possible ESA listing of river herring.

### **REVIEW OF THE POSSIBLE ESA LISTING OF RIVER HERRING**

MS. KATE TAYLOR: As you are aware, NOAA Fisheries has been petitioned to list river herring under the ESA, and that occurred in August 2011. The Service published a positive 90-day finding that the petition act may be warranted. The Service conducted three workshops last summer to gather information for the status review.

Those workshops focused on stock structure, extinction risk and climate change. These workshop reports have been peer reviewed and the final report, the climate change one, was just published this last December and is available on the Service's website.

The ASMFC has provided the river herring benchmark stock assessment and its associated datasets to NOAA Fisheries.

The workshop findings, our stock assessment and other submitted information are all being considered by the Service in the development of the status review. The proposed rule, if any, is supposed to publish as soon as possible, and staff will keep the board updated on any actions that may occur and any opportunities for public comment. Thank you, Madam Chair.

CHAIRMAN DUVAL: Are there any questions of Kate regarding the workshops or the potential listing? Mr. Adler.

MR. WILLIAM A. ADLER: Kate, refresh my memory; who filed the petition for the ESA?

MS. TAYLOR: That was the National Resources Defense Council.

CHAIRMAN DUVAL: I know this is something that we have kind of been in limbo on this particular issue for a while, so hopefully we will have a decision or something close to it by the time we meet again in May. Are there any other questions regarding this? Okay, if not, we're going to move on to an update of the Mid-Atlantic Council's Amendment 15 development.

### **UPDATE ON THE DEVELOPMENT OF THE MID-ATLANTIC COUNCIL AMENDMENT 15**

MS. TAYLOR: In June of last summer the Mid-Atlantic Council initiated Amendment 15 to the Squid, Mackerel, Butterfish FMP, which proposes adding shad and river herring as a stock in the fishery to that FMP or alternatively the creation of a separate Council Shad and River Herring FMP. There was a scoping document on this action this last fall and winter, which the board submitted public comments. Those were included in your briefing material.

There were four public hearings that were held on the scoping documents. Comments given included questions on the effect of the potential ESA listing as the council goes forward with the development of the amendment. There were also comments that federal management would add resources to conserve shad and river herring; that there are significant benefits of the MSA; that cooperative approaches should be explored between the council and the commission.

Additionally, there had been recent improvements in shad and river herring runs and that the most appropriate management of shad and river herring is by individual run or on a state level or through the ASMFC. Written comments that the council received in support of going forward with the amendment included that Amendments 5 and 14 will not provide sufficient protection; that the stocks need the full suite of measures provided by MSA.

There needs to be a holistic or comprehensive approach of a federal FMP; that there needs to be cooperation between states and federal management authorities. There were comments that were submitted in opposition of going forward with the amendment. Those included that management by states is adequate; that there is not enough data to manage through the MSA; that an FMP will have no jurisdiction on the many other factors that affect shad and river herring populations; and also that Amendments 14 and 5 deal comprehensively with the incidental catch and so primary management should be retained through ASMFC since the majority of their lives is spent in state water.

The Mid-Atlantic Council's FMAT, which I am a member of, met in December and February to work towards going forward with the amendment. At the council meeting last week the council reviewed staff's approach to the development of Amendment 15 and the progress that the FMAT has made.

The council focused the objectives of the amendment by deciding not to include area-based management; a lower mackerel trip limit; a rebuilding plan or a joint Canadian management as management objectives within the amendment. However, if information arises during the development process or through the public comment period that suggests these objectives are important, then they may be added at a later date.

The FMAT is going forward to explore the full range of management that would be included in the FMP, which includes the status determination criteria, ACL/AMs, essential fish habitat designation, and any rebuilding, if appropriate. FMAT will be evaluating how the required provisions of the MSA could be met and which discretionary measures may also be appropriate.

There will be a join Council/AP meeting as well as coordination with the commission as the amendment develops. The timeline here that was included in the scoping document is that the council will be selecting the preferred alternatives and the Draft EIS submitted to NOAA Fisheries some time this summer with the

public comment period for that in the fall and the potential final rule effective in January 2015. Thank you, Madam Chair.

CHAIRMAN DUVAL: Are there questions from the board for Kate regarding the development of Amendment 15?

MR. TERRY STOCKWELL: Kate, did the FMAT consider any collaboration with the New England Council?

MS. TAYLOR: Yes; the council has discussed collaboration with the South Atlantic and the Mid-Atlantic Councils as well as the commission and is still considering options to move forward with the most reasonable approach.

MR. TERRY STOCKWELL: So if I refer to your slide that said there is going to be coordination with the commission in April; would that be including the other two councils at that timeline as well?

MS. TAYLOR: Yes; the coordination with the council is referring to all of the councils as well as the commission.

MR. ADLER: Does this mean that if the National Marine Fisheries Service or the councils develop a management plan for shad and river herring that we are now going to have another situation where we have their plan and we have our plan, and we have to figure out how to do it together. Just like we do sometimes with dogfish and herring; are we going to run into that situation where there are two separate plans and trying to get it all the same. Is that what we're going to do into if that happens?

CHAIRMAN DUVAL: I will let Kate jump in here as well, but it seems to that would be one of the options that would be explored within the document that the FMAT is going to be put together is whether or not it would be a complementary plan at the council level or a plan that would be joint with ASMFC.

MS. TAYLOR: We have looked into the different options that are available. The council received numerous other comments recommending that there be considerable consideration between the two management authorities. The council has mentioned that they will try to include the commission as they move forward with the development of the amendment, but there has been no determination on what the final measures will be.

MR. ADLER: What comes to mind is, of course, is our cooperation with our partners, which has sometimes been a little bit scary when we're dealing with the herring or the dogfish or any of the other ones where it just seems to be that we have to agree with them or else. I will leave that one, which I hit every meeting. Thank you.

CHAIRMAN DUVAL: Thanks for that cautionary note, Bill. I think everyone around the table appreciates some of the complications that can occur when you have either a joint management plan or complementary management plans and trying to ensure that things work smoothly and that none of our constituents gets disadvantaged. Are there other comments for Kate on the Mid-Atlantic Council Amendment 15?

Okay, seeing none, the next item on our agenda is actually consideration of a shad stocking plan of the state of Georgia, and I think our Technical Committee Chair Mike Dionne is going to go to go to take us through that.

### **PROPOSED GEORGIA STOCKING PLAN FOR AMERICAN SHAD**

MR. MIKE DIONNE: I'm going to discuss a proposed Georgia American Shad Stocking Plan. The Georgia Department of Natural Resources has submitted a proposal for initiation of an American Shad Stocking Program in the Altamaha River Basin in Georgia. As required by Amendment 1 in the FMP, any new stocking program requires technical committee review and board approval.

The technical committee requested additional information on a few items via e-mail; the number of sites that would be stocked; the location of the stocking sites; existing spawning runs; brood fish collection method; young-of-the-year sample and mortality associated with downstream migration over dams; creation of fish passage; and qualifying the effects of the program.

The technical committee appreciates the information that was provided by the Georgia DNR staff. What the technical committee is requesting is the additional information that they provided to us be incorporated into the final plan. The technical committee recommends that the Georgia Department of Natural Resources staff participate also in an OTC Marking Task Force Committee run by Mike Hendricks of Pennsylvania Fish and Boat Commission.

I believe the Georgia DNR has already taken steps to take part in the OTC Marking Task Force. Also, I should note the compliance requirement for states to submit updates on any stocking program, so they would have to submit updates on the progress of the stocking program. Thank you, Madam Chair.

CHAIRMAN DUVAL: Just to be clear; did the technical committee recommend approval of the stocking plan?

MR. DIONNE: Yes; the technical committee recommended approval of the stocking plan with the modifications that were provided via Georgia DNR staff.

CHAIRMAN DUVAL: Thank you. Pat Geer, I didn't know if you wanted to make any other comments to the board regarding the department stocking plan.

MR. PATRICK GEER: No; this is what our Wildlife Resource Division – Don Harrison is heading this up. Mike, the one question I have is do the updates go in the compliance report?

MS. TAYLOR: States with a stocking program have to provide information on the number of fish that are released and the assessment on the rivers where the fry are released as to the percent stocked versus natural fish.

MR. GEER: Okay; and we will be participating in the OTC Workshops annually. Thank you for the consideration of this, too.

CHAIRMAN DUVAL: Are there any questions of either Mike or Pat regarding the stocking program? Leroy.

MR. LEROY YOUNG: Madam Chair, I just have one question. The dams that are involved here; are they hydro dams and are there turbine mortality issues that you have to deal with here?

CHAIRMAN DUVAL: Pat, do you know?

MR. GEER: I don't think they're turbine dams. I don't really think they are. Most of these are small low-profile dams.

CHAIRMAN DUVAL: Does that answer your question, Leroy? Okay; I think at this time, unless anyone has any other comments, I would entertain a motion for approval of Georgia's American Shad Stocking Plan. Mr. Gibson.

MR. MARK GIBSON: I wasn't going to make a motion. I had one question that just came up. I see in number six, the agency states that they had sampled juvenile shad before and couldn't demonstrate any relationship between – you know, successfully sampled them and couldn't demonstrate that it had any relationship to number of adults that came back.

I'm wondering why they think that producing juveniles out of a hatchery would influence the number of adult returns. Did the technical committee talk about that at all why they thought with this item six that there hadn't been any demonstrated relationship between spawners and coming back from the juveniles that were definitely produced naturally in the river?

MR. DIONNE: Yes; that was discussed some. Another goal of the stocking of the hatchery fry is to evaluate the downstream migration of these juveniles. It also could tell us whether or not we really have good quality habitat above these barriers. If the fish are moving downstream, there is a good chance we might have some habitat that could be used in the future.

CHAIRMAN DUVAL: Are there any other questions or comments? Mr. Augustine.

MR. PATRICK AUGUSTINE: Madam Chair; do you want the motion?

CHAIRMAN DUVAL: If no one else has any other questions, I would love a motion.

MR. AUGUSTINE: **With the modifications noted by the technical committee, I recommend that the board consider approval of the Georgia American Shad Stocking Proposal.** Should we not include with the modifications as noted by the technical committee so it covers it all?

CHAIRMAN DUVAL: Yes, I agree. The motion reads move to approve the Georgia American Shad Stocking Proposal with the modifications recommended by the technical committee. Motion by Mr. Augustine; second by Tom Fote. Is there any discussion on the motion?

Now, we do take a roll call vote on all final actions and this is a final action, but I am just going to ask if there are any objections to this motion; and if there are none, we can probably dispense with the roll call vote. Are there any objections to this motion? **I see none; therefore, the motion passes unanimously.**

## ADJOURNMENT

Okay, if there is no other business to come before the Shad and River Herring Board, this is probably the shortest board meeting I think we've had on record. It is a little bit frightening. If there is nothing else; we're going adjourn.

(Whereupon, the meeting was adjourned at 3:14 o'clock p.m. February 19, 2013.)