

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
TAUTOG MANAGEMENT BOARD**

**World Golf Village Renaissance**  
St. Augustine, Florida  
November 4, 2015

**Approved February 2016**

**TABLE OF CONTENTS**

Call to Order, Chairman Adam Nowalsky ..... 1

Approval of Agenda ..... 1

Approval of Proceedings, August 2015..... 1

Public Comment..... 1

Public Information Document for Amendment 1 ..... 1

    Review Options and Public Comment Summary..... 1

    Update on Option 4..... 6

    Advisory Panel Report ..... 8

    Law Enforcement Subcommittee Report ..... 9

Discussion of Guidance for Draft Amendment 1 ..... 12

Population of Advisory Panel Membership ..... 23

Election of Vice-chair ..... 23

Adjournment..... 23

## INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of August, 2015 by Consent** (Page 1).
3. (Main Motion) **Move to direct the PDT to develop the draft amendment under Option 4 (regions of Massachusetts/Rhode Island; Long Island Sound, including Connecticut/New York; New York/New Jersey, excluding Long Island Sound; Delaware, Maryland, and Virginia)** (Page 15). Motion by Mark Gibson; second by Dave Simpson. Motion amended.
4. **Motion to amend to include Options 3 and 4** (Page 19). Motion by Jim Gilmore; second by Roy Miller. Motion carried (Page 19).  
  
(Main Motion as Amended) **Move to direct the PDT to develop the draft amendment under Option 3 (Regions of Massachusetts/Rhode Island; Connecticut, New York, New Jersey; Delaware, Maryland, and Virginia) and Option 4 (Regions of Massachusetts/Rhode Island; Long Island Sound, including Connecticut/New York; New York/New Jersey, excluding Long Island Sound; Delaware, Maryland, and Virginia).**
5. **Move to appoint Captain Mel True to the advisory panel** (Page 23). Motion by Bill Adler; second by Pat Augustine. Motion carried (Page 23).
6. **Motion to adjourn by Consent** (Page 24).

## ATTENDANCE

### Board Members

Dan McKiernan, MA, proxy for D. Pierce (AA)  
William Adler, MA (GA)  
Jocelyn Cary, MA, proxy for Rep. Peake (LA)  
Mark Gibson, RI, proxy for J. Coit (AA)  
David Borden, RI (GA)  
Eric Reid, RI, proxy for Sen. Sosnowski (LA)  
Dave Simpson, CT (AA)  
Lance Stewart, CT (GA)  
Rep. Craig Miner, CT (LA)  
Pat Augustine, NY, proxy for Sen. Boyle (LA)  
James Gilmore (AA)  
Steve Heins, NY, Administrative proxy  
Emerson Hasbrouck, NY (GA)

Russ Allen, NJ, proxy for D. Chanda (AA)  
Tom Fote, NJ (GA)  
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)  
David Saveikis, DE (AA)  
Roy Miller, DE (GA)  
Craig Pugh, DE, proxy for Rep. Carson (LA)  
David Blazer, MD (AA)  
Bill Goldsborough, MD (GA)  
Ed O'Brien, MD, proxy for Del. Stein (LA)  
Rob O'Reilly, VA, proxy for J. Bull (AA)  
Kyle Schick, VA, proxy for Sen. Stuart (GA)  
Peter Burns, NMFS  
Mike Millard, USFWS

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

### Ex-Officio Members

Jason Snellbaker, Law Enforcement Committee  
Representative

Jason McNamee, Technical Committee Chair

### Staff

Bob Beal  
Toni Kerns

Ashton Harp  
Kirby Rootes-Murdy

### Guests

Derek Orner, NOAA  
Chris Wright, NOAA  
Kelly Denit, NOAA  
Chip Lynch, NOAA  
Jack Travelstead, CCA

Dave Goshen, MD DNR  
Mike Luisi, MD DNR  
Jason McNamee, RI DEM  
Bob Ballou, RI DEM  
Nicola Meserve, MA DMF

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the St. Augustine Ballroom of the World Golf Village Renaissance, St. Augustine, Florida, November 4, 2015, and was called to order at 10:30 o'clock a.m. by Chairman Adam Nowalsky.

### **CALL TO ORDER**

CHAIRMAN ADAM NOWALSKY: Good morning, everyone. I would like to welcome everyone to the Tautog Management Board. I am Adam Nowalsky; I will be chairing the meeting. We're running a little behind time. We will do what we can to meet the hard stop we have for the luncheon at 12:15.

### **APPROVAL OF AGENDA**

CHAIRMAN NOWALSKY: Our first order of business today will be to approve the agenda as it is before us. Are there any changes anyone would like to present to the agenda? Seeing none; is there any objection to approving the agenda as presented? Seeing no objection; the agenda is approved as presented.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN NOWALSKY: Our second order of business today will be to approve the proceedings from our August 2015 Board Meeting.

Does anyone have any comments on those proceedings as they were presented in the meeting materials? Is there any objection to accepting those as written? Seeing none; those proceedings are approved.

### **PUBLIC COMMENT**

CHAIRMAN NOWALSKY: The next order of business will be public comment. We have no one signed up. The back of the room is fairly empty, but I will ask is there anyone that wishes to make public comment on items that are not on the agenda? Seeing none; we will move right along.

## **PUBLIC INFORMATION DOCUMENT FOR AMENDMENT 1**

CHAIRMAN NOWALSKY: The next order of business here today will be to address the Public Information Document from Amendment 1. Just to kind of set the framework for what we'll be doing, we'll have a presentation and a review of the options that were presented, that went out for comment in the Public Information Document. Ashton will then go ahead and give the summary of that public comment.

As part of that presentation, we will also get a little bit more information. As you may recall, Option 4 had some missing points with regards to assessment work that was ongoing for Long Island Sound and New York/New Jersey. We will get some information presented to the board as part of that as well.

We will then stop and ask for questions about that presentation; go on to the AP Report, again stop and ask for questions. We will then proceed with the Law Enforcement Subcommittee Report that met in October and ask for questions again. At that point we'll then proceed with discussion about how to move forward. With that background, I will turn the presentation over to Ashton.

### **REVIEW OPTIONS AND PUBLIC COMMENT SUMMARY**

MS. ASHTON HARP: I'm going to review the Public Comment Summary. Just as a reminder, the Tautog Fishery Management Plan was approved in 1996. Since that time, there have been six addenda. This is the Public Information Document for Draft Amendment 1. The public hearing summary, I visited eight states within the management area; Massachusetts through Virginia. As you can see, we had approximately 80 attendees at the hearings with most of the attendees in the Connecticut and New York Region.

For written comment summary, we received 46 written comments. Fourteen were letters from groups or organizations. I listed all the organizations on this slide. Thirty-two were personalized comments. The majority of the comments were made from New York, New Jersey and Virginia area. Now we're going to go into the issues.

There are issues at hand that I presented at the public hearing summary. Issue Number One is regional management. I simply asked everyone which options, Options 1 through 4, would you like to consider for this fishery. Option 1 is status quo, coast-wide management. Option 2 is a three-region management. It is Massachusetts, Rhode Island and Connecticut in one region; New York and New Jersey in one region; and then DelMarVa in a region.

Notably this option would separate the Long Island Sound into two management areas. Option 3 is Massachusetts and Rhode Island in a management area; Connecticut, New York and New Jersey in one area; and Delaware, Maryland and Virginia again in the same region. Option 2 and 3 were in the 2015 benchmark stock assessment and they recommended by the technical committee.

You will see a fourth option which came out of the August board meeting, and it is something that I developed with commissioners and presented at the public hearings. The fourth option is a four-region management; so it is Massachusetts and Rhode Island; Long Island Sound, Connecticut/New York; New York/New Jersey, excluding Long Island Sound; and the fourth region is DelMarVa again.

As you can see, I kind of broke it down by states because the states felt strongly as a state which option they liked. There wasn't a lot difference in between states. New York and New Jersey favored Option 1 for the time being, status quo. No states in the majority felt that Option 2 was right for them because it did separate the Long Island Sound into two management areas.

Option 3 was preferred by Delaware. There was concern that since Option 4 did not have stock assessments for Long Island Sound; and New York/New Jersey, excluding Long Island Sound, they felt that they couldn't move forward or prefer that option given the unknowns. Connecticut was strongly in favor of Option 4.

Rhode Island and Massachusetts favored Option 3 or 4 given they're in the same management unit regardless. There was a slight preference for Option 4 if there had to be a choice made. Delaware, Maryland and Virginia just gave a regional management in general. They were strongly opposed to staying status quo.

For the written comment summary, there was a very similar sentiment. As you can see for status quo, there was about six organization and seven individuals; and this was again from the New York/New Jersey area who were in favor of status quo. Option 4 had the majority of the votes. People just felt that if the information was available and if we can get the stock assessments; they feel like that is the best for the fishery moving forward. Option 2 had the lowest amount of votes; and Option 3 came in second if a regional management choice is needed.

Just some comments on the status quo when I was looking into them; like I said the majority were the New York/New Jersey participants. In New York specifically they said status quo for now, meaning that they weren't necessarily against regional management. They just weren't sure that it was the right time for regional management.

They were also very unsure about choosing any one region given the unknowns, like I said, for Option 4 for two of the regions. There was also this concern that New York and New Jersey have a notable difference in management measures; and if they were put into one region, how would they reconcile those differences where it liberalized one state more than the other to the others detriment?

There was general consensus not to split the Long Island Sound into two separate management areas. They could agree on that. Moving into the next issue at hand was the FMP goals and objectives; so I think there are above five goals and about ten objectives. I presented those at the public hearing and just asked for comments moving forward what should the board consider in this management plan?

At the hearings they just kind of said things that they felt were important to them instead of picking out specific goals and objectives. I then related them to the goals and objectives in italics; so maintaining spawning stock biomass, preserving and restoring critical habitat, improving in monitoring of the stock, which also relates to the next one is focusing on including fisheries-independent data that includes other gear types than trawl.

There was a lot of discussion about, as you can imagine, improving the data for this fishery given it is 90 percent recreational, and we do have to rely on MRIP for management. There was also a preference to revise Goal B, which was, like I said, the focus is 90 percent recreational in this fishery and 10 percent commercial, so if there could be more equity involved in the fishery in regards to the commercial sector.

For written comment summary, people had more specific comments on specific objectives and goals. For Goal B, they would like the years to be updated to the base years 2009 to 2013. If possible, they would also like to specifically name charter and partyboat harvesters in the goal as well instead of lumping them under recreational.

For the next one, the top one for Objective D is basically to just say that they would like complementary federal regulations for this fishery. For Objective E, they said that law enforcement or legal harvest is a problem in this fishery; therefore, they would like law enforcement an objective looking at how to combat that illegal harvest as a very specific

objective that the board should consider moving forward; so pulling that out of Objective E.

Moving on to management measures of the hearing summary; when I asked this question, it was just if you prefer regional management how would you like the regional management to occur? You could have the states within the regional grouping work together to have the same or similar regulations or states could manage their own fishery respective to their needs with conservation equivalency. This was the most popular objective or the most popular preference.

States did say if they were put into a group, they just wanted to make these decisions themselves whether they should be the same or similar or have conservation equivalency. There was also a recommendation from the southern states to implement a regional quota for the recreational and commercial fishery. Other management measures at the hearing summary; recreational fishermen and the for-hire fleet should not be able to keep any fish alive on vessels.

This is something that we've previously heard and fishermen felt it is still a viable option for this fishery. Slot limits should also be considered. There should be a ban on processing of tautog at sea. Racks should be brought back to prove minimum size requirements. Also, the minimum size should be reduced to 15 inches for all states. This would reduce the discard mortality.

On the flip side, all states should have the same minimum size limit of 16 inches regardless of region; so there is a difference between states on minimum size limits. The last slide for the management measures from the hearing summary; there should be a prohibition of fishing on spawning aggregations.

At the hearings it was specifically noted that the spawning seasons need to be accounted for. Southern states have an earlier spawning season than northern states; and the spring fishery should be closed. The commercial fishery would

just like to note that any regulations placed on them they feel would have very little effect given they provide such a small amount of the fishery at 10 percent.

There was also a recommendation for a coast-wide regulation that caps the possession limit at ten fish per private vessel. The written comment summary for management measure; once again states should work together to establish regional management measures. There was also a couple of comments that said specifically that there should be a ban on pots and traps in the commercial fishery. The minimum size limit should be increased to 16 inches.

There should be regional quotas for the recreational and commercial sector and slot limits. You can see there was repetition between the hearing and comment summary. Moving on to Issue 4; this is reference points and rebuilding timeframes. I will note that there was not a lot of discussion around this one in general.

The main thing was that we asked when there is a new stock assessment; how should we move forward with changing referencing points? Overwhelmingly, the consensus was that an addendum process as we have already done is the appropriate way to change reference points. It allows full transparency within the fishery; and they like having the public hearings to discuss this.

They also said that managers should not rush to change reference points; but they do support the use of regional reference points and rebuilding timeframes if we were to move forward with the regional approach. This was both in the hearing summary and written comment summary. On to Issue 5; Issue 5 was other issues.

In this we had data and monitoring, illegal harvest and the commercial tagging program was the questions that I asked to them. They felt in general across all states that there should be increased data collection and monitoring for this

fishery. They felt that it wasn't adequate as it was now and there is a lot that we could learn.

They also felt although trawl surveys are valuable; that if there could be fish pot surveys and other kinds of surveys that would specifically target this fish, it would be helpful. Habitat conservation and artificial reef efforts should be focused in areas where fish are known or have been known to aggregate. The fishermen said that they've seen artificial reefs are valuable, so they just want to be even more valuable and put in places where the fish are.

There should also be monitoring to see how much abundance comes back after an artificial reef is put in place. I know some states are doing this. It just seems that fishermen want to see the effect it has on biomass. They know it is positive; they just kind of want some numbers behind it. Also, there should be monitoring after minimum size limits are changed to illustrate the effects the management measure has on the stock.

I think this was going back to the Addendum VI in 2012. There was pretty strict management measures that were put in place and fishermen were just very curious to see how has this affected the fishery. For the next one, for the illegal harvest, I kind of lumped them into what I heard from the fishermen.

It seems what is happening is for certain regions fishermen feel that tautog is the most commonly poached fish. They say that poaching happens in and out of season; and they often see it happening at nighttime. When asked who is doing the illegal harvest, the most common answers were unlicensed recreational fishermen and people who simply just don't understand the regulations; specifically fishing on jetties, bridges, shores, et cetera.

When asked why, they said there was a lack of enforcement specifically for the jetties, bridges and shores. They just don't see a lot of enforcement in those areas and so people can just take as many fish above the possession limit



as they want. There is also a high value for live fish; so it kind of influences them to keep poaching given that they're able to get money based on the demand in the market.

When you know where to look for it, as you know, it is relatively easy to find. There was also comments that there is a live market going on, but there is also tautog being harvested for the food source, for subsistence; and they said that happens in large amounts as well but not as easily quantifiable.

There was comments that this is a law enforcement problem and not a recreational or commercial problem; we're simply not seeing enough law enforcement for them to kind of enforce the regulations. Proper signage should be near docks and jetties. These signs should have pictures and should also be in different languages because they feel like different ethnicities are targeting illegal tautog more than others.

The penalties should be severe enough to deter people; so the fine should be higher and the penalty should be stricter. Illegal poaching by recreational fishermen puts them in direct competition with commercial fishermen. They are able to sell the fish in the backdoor for lower prices than what commercial fishermen are able to sell; and there is already such a disparity between recreational and commercial fishermen that they felt that this was an issue.

There also should be complementary federal regulations for this fishery. They feel that if we have state regulations and then we have federal regulations coming together; that would kind of really suppress the illegal market. Moving forward, they said that all states should have the same – this was a comment from one or two states – all states should have the minimum size limit of 16 inches regardless of the region; so there is no confusion on the legal size.

This would also eliminate confusion for law enforcement. They would know a 16-inch fish is

the legal fish and not have to look, oh, is it 15 or 16 based on the recreational or commercial based on the state. There was also specific comments that there needs to be more enforcement on the demand side.

It is not only on the harvester side. These restaurants are looking for these undersized fish. They prefer these undersized fish and therefore they should receive penalties as well in addition to the harvesters. For illegal harvest for the written summary; three individuals are in favor of banning the live market. Commercially caught fish would have to be killed and bled.

One striped bass organization said that they have not seen undersized tautog used as bait. This was a question that I asked; have you seen undersized tautog used as bait? Overwhelmingly, fishermen said they don't see it in any large quantities happening; that they don't think it is as much an issue as the live market although they do say that it does happen, just not in large quantities.

Fines should be at least a hundred dollars for undersized fish along with confiscation of equipment until the fine is paid. Another comment said that there should be a phone number so that fishermen can call to report illegal activity. They said it happens so often that it would be easy for them to call all the time to report on this.

Then I asked about a commercial tagging program. If we think illegal harvest is a big issue and we think it is in the live market, what about a commercial tagging program, how do you think that this would suppress any kind of illegal activity? The pros that we heard was that it would hold restaurants accountable. They would know that they can only accept tagged fish.

Any fish that is exclusively poached, law enforcement could turn it into a ticketing revenue source. They overwhelmingly said that the tagging should occur at the point of harvest.

I heard this in every single state. The commercial tagging program will increase the accuracy of commercial numbers. However, there is research needed to see where the tag should be placed on the fish since it is a live market and what kind of tag should be used since it does need to be a one-time tag.

The cons for the commercial tagging program; as you can imagine this all came from the commercial industry. They're not in favor of a commercial tagging program. It will not deter illegal fishing in the mind. It will also just place a heavier burden on commercial fishermen; and since the majority of this fishery is attributed to the recreational sector, they felt that burden was misplaced to put it on the commercial sector.

They also believe that tagging too costly and that we should look for other avenues to combat illegal fishing. The written summary for the commercial tagging program; five organizations and six individuals are in favor of tagging. It can be used for quota management and provide a more accurate representation of a legitimate commercial harvest. Three organizations and one individual did not support the tagging program. That concludes the public comment summary.

CHAIRMAN NOWALSKY: Thank you for that presentation. What we will do is we will ask any questions about the comments and then we're going to go on and get an update about the development of potential reference points for the regions in Option 4. First, are there any questions about the public comment as provided here?

#### **UPDATE ON OPTION 4**

CHAIRMAN NOWALSKY: All right, seeing none, we will move on to the Option 4 regions. You had a slide for that, Ashton? Then we will go ahead and turn to Dave Simpson for information about Long Island Sound progress and Russ Allen for New York/New Jersey.

MS. HARP: In discussions that I had, if we were to move forward with Option 4 – there are other options that can be made as this board knows; but if we were to move forward with Option 4, there would be a slight delay. The University of Connecticut will run a stock assessment model and sensitivity analysis by January of 2016 for the Long Island Sound Stock Assessment.

After that, Jeff Brust from New Jersey will then make a preliminary model run for the New Jersey/New York assessment, excluding LIS. He hopes to have that in February of 2016, although he does have other fisheries on the docket so it could be delayed. This is the best-case scenario for January and February dates.

Given there would be time needed to peer review the assessments, we project that we could present results at the August 2016 Board Meeting. Overall this isn't too much of a delay because in general we were hoping to have these regulations – if there was a new regional management in place, we were hoping it would happen for the 2017 fishing year; so delaying it until the August board meeting would not delay the initial 2017 year implementation.

CHAIRMAN NOWALSKY: Thank you for that update. I'll turn first to Dave if he has information he can offer with regards to that Long Island Assessment and then I'll turn to Russ for the same for New York/New Jersey.

MR. DAVID SIMPSON: Ashton's summary good in setting up the whole timeframe. I do want to relate that our office has been in pretty constant communication with the University of Connecticut. My staff met with the professors and the post doc that are doing the work on Monday. We have a plan to look at the commercial and recreational data.

We're also involving John Maniscalco. My technical guy and his technical guy were together at MRIP last week. They're making sure that we stay on the same page there and that the UConn folks are communicating with Jeff Brust in

New Jersey so that they're in agreement in the splits for data and in the approaches to understand any differences and be able to explain them if there are differences. We also plan to meet with them at the end of the month or early in December to have a review; and then from there I think the timeline that Ashton laid out is complete as you really need.

MR. RUSS ALLEN: I will agree with Dave. I think it is not an ambitious timeline; it is pretty well grounded. Jeff right now is just kind of waiting on the Long Island folks to develop how they're going to split that data. As soon as they figure out how that's going to happen and get the data split, he can take that and run with it.

He is chairman of weakfish, which as we all know is a pretty important topic right now, and it will be taking up most of his time. I think he is willing to put in some time to get through this and work with other stock assessment committee members for tautog and getting it forward. My correspondence with Jeff this week kind of reiterates what Dave just said. They're close; they just need a little bit more time. As Ashton said, I don't think this pushes it back too far that we can't just wait if that is the option we want to move forward is Option 4.

CHAIRMAN NOWALSKY: Are there any questions for Dave or Russ or staff about the work that's ongoing; and again questions specific to that work? John Clark.

MR. CLARK: Obviously, with this timeframe, there won't be time for a peer review. I was just curious as to whether the technical committee is comfortable with this process proceeding and us taking management action on this possibly in August based on an unreviewed assessment.

CHAIRMAN NOWALSKY: Let me turn to staff and get their thoughts on when or if they were planning to have technical committee review, because I would definitely agree with the point that it would be an area we would want that looked at.

MS. TONI KERNS: I'm going to let Jason McNamee, who is our technical committee chair, who is sitting in the audience, answer that question.

MR. JASON McNAMEE: Yes, it is a good question and I was sort of wondering the same thing. All of the other kind of configurations were peer reviewed through the normal process. I suppose maybe we could develop something to do some sort of internal vetting, maybe taking some folks from other technical committees that work on different stock assessment to kind of – we do a similar approach like at the New England Council or the science center.

They will do an SSC review sometimes. I guess we'd need to look at it at some point. I don't know when that would be, but it would be good to get some external advice on it as well, seeing as how these are configurations that we did not consider during the stock assessment process.

MS. KERNS: Jason, for the New York and New Jersey ocean only, would that likely be using the same methodology that the first assessment used so that portion might not need either – well, we could call desk review or an ASE review, which is different than the Long Island Sound one, which we know is going to be different so we would be looking for some sort of review for that. Do you think we would need a review for the New York/New Jersey portion?

MR. McNAMEE: You're probably right that there wouldn't be a big difference in the methodology; but it is still the data source for New York wasn't split in that version. I think there is still a nuance to difference there that may or may not be significant, but I think is still worth some type of review before – It may in fact be the case that in the end whoever reviews it says the selectivities all look at the same. We could be comfortable because there aren't dramatic shifts. However, you don't know that until you do it.

CHAIRMAN NOWALSKY: Let me turn to staff and with the timeline that is on the board here; when

would you expect you would need to have in your hands – I mean, January having information from Long Island Sound, February having information from February, would that give us time to get that information into the hands of people we'd want to see reviewed it to have back for this board for August.

MS. HARP: The initial thinking was yes; and when I discussed this timeline with Jeff Brust, we did have a peer-review process in mind. That's why we kind of gave the extra time for the August 2016 presentation.

MS. KERNS: Adam, we can work in some sort of what I'm going to call desk review into the timeframe; and we would not present the results until we had that desk review to the board. You would get both the review and the results of the two assessments at the same time.

CHAIRMAN NOWALSKY: What I'm hearing, then, that while this slide doesn't provide a specific bullet point about technical committee or external review; that was the thinking of staff that that would take place prior to this coming back to the board for deliberation. I'm getting a nod, yes. Okay, does that answer your question, John, or do you have a follow-up question?

MR. CLARK: I have a follow-up for Jay. Jay, I was just curious – it may have come up in one of the previous meetings – was there a reason the stock assessment did not consider these regions when the assessment was being done. Was it a data problem or anything like that?

MR. McNAMEE: Yes; it is a good question. I think the easiest way to say it is, yes, it was a data problem. At the time when we first started the assessment, it wasn't clear to us that you could or should parse out the Long Island Sound/New York dataset in that way. Subsequent work by our colleague in Connecticut showed that in fact you can; and there is some good reasoning why it is probably pretty safe in particular for the Connecticut data to do that. That parsing of data to that level came up after we had in fact

completed the stock assessment process. It was a data issue initially.

#### **ADVISORY PANEL REPORT**

CHAIRMAN NOWALSKY: Additional questions before we move on to our next report? Okay, seeing none, we'll turn back to Ashton for the advisory panel report. If I believe correctly, this is the first advisory panel report in quite some time from tautog.

MS. HARP: Yes. I'll just give the introduction. We did an in-person advisory panel meeting on October 5<sup>th</sup>. We had representation from Rhode Island, New York, Connecticut, New Jersey and Virginia. I'm going to keep it really short and just kind of give a rundown through this one slide of what happened.

There was not a general consensus over which region to choose, as we can imagine, but they did all agree that they did not want an option that resulted in severe cuts. The reason how this came out was those states in favor of regional management were kind of pressing the other states who wanted status quo to really think about the decision that they were making if they stayed at status quo, the Reference point would be an important one, which we're only having right now, which is 0.15.

That turned some people from being status quo to saying, well, then, I can't make a decision at this point in time. Option 4 does seem desirable; but there are no numbers in there, I can't make a decision. That's just a little bit of background on the regional management discussion that happened for management measures.

At this meeting I presented the public hearing summaries from Rhode Island or from Massachusetts down to New Jersey; so prior to the DelMarVa Region. I kind of presented this is what I'm hearing from the public comment summaries; what do you guys think about this and we'll kind of present this to the board. The ones that stood out were they were opposed to

a uniform size limit. As you saw, some states said let's have a minimum size limit of 16 inches.

They were strongly opposed to that; also opposed to a possession limit cap. There was a recommendation to have a cap of ten fish per private vessel. They do not think that is an idea that they would like to move forward with. For illegal harvest, they had similar sentiments as what I already presented that there should just be higher fines and penalties should be stricter and that there should be a concerted effort to go after the demand side of the illegal harvest in this fishery. That's it.

#### **LAW ENFORCEMENT SUBCOMMITTEE REPORT**

CHAIRMAN NOWALSKY: Questions for Ashton? Okay, seeing none, given the length of time that we got comments on the illegal harvest issue, both from the advisory panel and the public comments, it seemed rather the impression of this board to put together a Law Enforcement Subcommittee. We will turn to Lieutenant Snellbaker for this presentation.

LT. JASON SNELLBAKER: I'm new here; so I'm Lieutenant Snellbaker from New Jersey Fish and Wildlife for those who don't know me. Feel free to come up to me and talk about these issues further if we get a chance. First off, the subcommittee charge was made of the LEC members and management board representatives. We were to review and address the unauthorized harvest and sale of tautog and to provide a report of any recommendations to the Tautog Management Board.

What we came up with – no surprise, a lot of this is going to mirror what Ashton already had in her summery. There is a significant illegal harvest of tautog. This is evident in the market for live tautog, which are often undersized fish. Live tautog are usually found in urban or ethnic markets and restaurants.

This occurs at both the commercial and recreational level with variations on the nature

and extent of the illegal harvest and sale occurring among the states. The key sources of illegal activity include recreational fishermen or other key sources of illegal activity include recreational fishermen or subsistence fishermen with illegal and dead tautog.

The adverse factors that affect law enforcement are language barriers. Records and receipts are often in other languages. The dispersed and widespread nature of the activity occurs on bridges, piers, jetties, offshore wrecks and often in the EEZ. There are coordinated landings. Fish are penned up; there are lookouts; there are fish getting moved at night.

There is a constant change in the people moving in and out of the fishery. We also identified the inconsistent regulations between the states as an issue; different size, different bags, different seasons, and there are no regulations in the EEZ. I often have officers out there doing sea bass work in the EEZ. They come across vessels who have undersized tautog, black fish, and there is really nothing we can do about it.

Also, poachers flock to states with less liberal regulations. I believe Delaware commented that when the New Jersey limit was one theirs was ten at one time, they had an unbelievable amount of pressure from people coming into their state. There were also issues with accountability. Different states have different inspection authority and regulations also differ on records' requirements. Illegal fish are often mixed with legal fish.

The recommendations that the subcommittee came up with was to implement a uniform minimum size limit, have consistent regulations in federal waters and implement a commercial tagging program and to continue strengthening penalties and fines where possible. Mr. Chair, that's all I have.

CHAIRMAN NOWALSKY: Thank you, Jason. Let me extend a word of thanks to yourself, Mark Robson, and everybody else that was on that

committee. That was the first call that we had in October; and I don't believe it is going to be the last one. With that; I will turn to the board for questions of the lieutenant on his report. Tom Fote.

MR. THOMAS FOTE: I noticed in the public hearing document and in the law enforcement we call recreational sales and we call it recreational poaching. It is not really the right term to be used. I mean it is like years ago in Great South Bay when I lived in New York and the guy would buy a recreational 44-foot boat, put a clam dredge and illegally clam.

Because he was driving a recreational boat, he was not a recreational fisherman. He was a commercial fisherman using a recreational boat to harvest. I think we need to get away from that term. If you look at what NMFS has basically put as the definition for a recreational fisherman, as we have for bluefin tuna, if you sell a fish you're in a different category. You're not a recreational angler.

I think law enforcement should start looking at that in their reports, also, the same way as other people treat it because it is not – the guys that catch short fish and they keep short fish for personal; yes, they're recreational fishermen that are breaking the law; but the people selling fish are poachers, whether it is commercial – say they belong to either one, they are just poachers and not recreational or commercial because they're poachers.

CHAIRMAN NOWALSKY: So not having heard a question there, I'll try to turn it into one for Tom; and to law enforcement I will ask how do you draw the line between someone who does not have commercial documentation and thus is a recreational person but is clearly engaging in a commercial activity? How do you make that definition between who is a commercial fisherman without the right paperwork and who is a recreational fisherman violating recreational rules?

LT. SNELLBAKER: I'll try and summarize this the best I can. I guess basically you have licensed commercial fishermen that have the permits to legally do what they're doing. You have recreational fishermen who don't have the permits who are actively commercial fishing – acting as commercial fishing but they're not legally doing so.

You have a recreational sector that I believe could be categorized as sometimes it is just a matter of opportunity. They go out there and they catch a large quantity of fish. They go back to their local town and have places to offload and sell the fish. I think you have all different levels and I think I briefly touched on that. It comes in all forms and all extremes.

I've seen people, to give you an example, on the jetties in Atlantic City. A guy will catch a fish and immediately can sell that fish for five dollars. He might do that three times a day. He might do that once just so he can go down to the liquor store and get a beer. He may do that ten times a day; he may do it every day. We have people on that same jetty who will catch 20 and 30 fish and go down to a local market and sell.

It is kind of the way they make their living on the street, so to speak. It comes in all different shapes and sizes, and it is really hard to – we really don't have any terminology specifically to address what Mr. Fote is saying. He is exactly right. There are commercial fishermen who are permitted and there are poachers if you want to make it as black and white as possible, if that answers the question.

MR. FOTE: And I actually asked a question because New Jersey does not have a license to sell; and I can't remember if tautog, do you need a permit to sell? I know summer flounder you do, so there is a hook-and-line commercial fishery. I don't think there is one in tautog; I'm not sure.

LT. SNELLBAKER: In New Jersey there is a directed and non-directed permit, and you need

a permit to sell your fish and abide by the seasons. We have hook and line and pot gear primarily.

MR. PATRICK AUGUSTINE: An excellent report and I'm glad we're finally moving to the point where the LEC is coming forward and saying we need a tagging program. Did you get into the discussion about recreational fish possession? I know two or three years ago we had got into a debate and a conversation with whether or not if the recreational person had a tautog on their vessel they could claim, well, I'm just recreationally fishing. That is one question.

The question would you recommend that on the recreational side, if you're in possession of it, it should be dead so basically it isn't worth the same value as a live fish? That's question one. The second question is very simple. Do you find at any of these restaurants boxed tautog that are dead? I think the answer is no; that mostly they're all live. If you can help me with that, I'd appreciate it.

LT. SNELLBAKER: There is a little bit of a market for dead tautog. There is not as much money involved when you're dealing with dead tautog. The other part of your question; I wasn't quite sure of the first part of your question about the possession and whether or not we could tell if that's commercial. I wasn't quite sure.

MR. AUGUSTINE: Yes; how would an enforcement officer determine whether or not the person was a commercial fisherman or a recreational fisherman if he boarded a boat other than to ask him a variety of questions? I know in New York we had several discussions about should there not be a mechanism or a way to kill that fish that you're keeping.

The answer was, well, with some guys, no, because I want to upgrade. If I catch a four-pound fish and I only have a two-pound fish, I want to be able to throw the two-pound fish back. At the end of the day, some of those same people were selling that live four-pound

blackfish that legally they weren't supposed to do.

It just seems to me that's another area that the LEC may want to consider recommending what might be a good way to determine, other than a tagging program, whether a person is a recreational fisherman or not. As Tom had pointed out, illegal is illegal; and if you're poaching you're poaching if you don't have a permit to sell commercial. Could you address that or consider it at your next meeting?

LT. SNELLBAKER: Yes; we can address that. Your question about how do you tell if somebody is recreational or commercial, the best example I could give you is on the New York/New Jersey Border where we do have a lot of New York fishermen coming into New Jersey that have food fish licenses in New York, from what I understand, and they're selling them. We can really take our best guess based on looking at the guy's gear.

A lot of times we do boardings at sea; we really don't know. We have a hunch and we're pretty confident that is what is occurring when we make cases with a large amount of fish, but we really don't know. We have a good suspicion, but there is really no way of telling. As far as the dead versus live; that didn't come up in our immediate discussions.

Before I came here today, it was touched on. Without discussing it further, I will say that the comment was we didn't think it was fair to not allow live fish versus dead fish. I think that would have an impact on our legitimate commercial fishermen who do have legitimate live markets for tautog.

MR. JAMES J. GILMORE, JR.: I think this question may go into like what Adam said before about maybe future discussions. I know it wasn't the LEC charge; but was there any discussion – the concern we have was with Option 4 is getting very popular right now. The paper looks very

good, but the east end of Long Island is extremely complicated.

You've got four water bodies, Block Island Sound, the Paconic System, the Atlantic Ocean, whatever, so we could come up with this support for doing this Long Island Sound thing; but then enforcement-wise it looks like a nightmare. Do you really talk about it; and if not, well, maybe we'd have to discuss maybe a future charge to you guys.

CHAIRMAN NOWALSKY: We did not a specific discussion about that matter, but I'll turn to Jason for general comments about that type of issue.

LT. SNELLBAKER: One of our comments was to have uniform regulations. Anytime you don't have uniform regulations, it creates problems especially in states where it is strict possession. The Law Enforcement Committee I don't think is in favor of that at any time, really.

MR. PETER BURNS: Mr. Chairman, just a comment. First of all, thank you for the Law Enforcement Committee's Report. That was great that you guys were able to look at this and get back to us with some input. This isn't the first time we've talked a little bit about federal regulations for tautog.

I'm still wondering how federal regulations could effectively help here. I guess just to comment if the board was going to move forward with some kind of recommendation like this or with a component for federal regulations on this in the amendment; that there be a little more detail exactly on how that might come about and what types of effective management measures might be appropriate that will help us in our assessment.

#### **DISCUSSION OF GUIDANCE FOR DRAFT AMENDMENT 1**

CHAIRMAN NOWALSKY: Seeing no other hands with additional questions, let me try to frame

where we are at this point. We've had the initiation of Amendment 1, drafted a public information document and sent it out for public comment. One of the issues there is the creation of regions; and then there were a number of other issues in that document, management measures, goals and objectives, and then the larger issue that is not new to the board is the illegal unreported harvest.

In order to move forward with a draft amendment, staff has indicated – and this isn't new; we've heard this before from staff – that the sooner this board could make a selection on a region the better in terms of how they feel a document could be best organized in creating a draft amendment that would then come back to the board and then go out for public comment.

In consulting with staff, a couple of ways forward were discussed. Selecting an option, two or three, in the amendment with the currently reviewed assessments, the board could then move forward with giving guidance to staff about how to move forward with that. If the board was to select Option 4 today, you could then make the decision – you could make that selection but put off the draft amendment until we had that information.

As another alternative, if the board felt that the regionalization elements of the amendment weren't ready to have a decision made but wanted to take some management action in response to the last assessment; the amendment itself could be delayed but some addendum in its place could be put forth that would basically look at the coast-wide reference points and then react for management based on that.

In unison with or in addition to with regards to the issue of the illegal harvest, one of the main issues that came up on law enforcement and came up at the public hearings is this issue of tags. The major question there, both for the public and law enforcement, was what is the



appropriate tag to use on a fish that is then going to be retained in the live market.

There would likely need to be work done either by the technical committee – the board could charge the technical committee with review or that – or some other mechanism to inform the board how to proceed before implementing that; because there wasn't anything that has been brought forward to staff, to myself, to law enforcement that says this is the way to do it.

That's where we are as a board; and at that point I would open the floor for further discussion or a motion on moving forward with the regions, the draft amendment; and then once we know our way forward with that, I think we should make some decision on how to move forward with the commercial tagging. I'll turn to Mike Luisi.

MR. MIKE LUISI: I've been a little occupied with another species board over the last month; so I apologize if I'm as up to speed on where we are with tautog right now. Is what you just said somewhere? Is the summary of the board's actions as far as what we need to consider and how we could potentially take different roads; is that document put together.

You summarized it very nicely the different directions that the board could go in; but I'm not sure right now that I've given it enough thought; and I wonder if this could be – if we need action today, that's fine; but if a summary like you just suggested could be presented to the board or sent to the board for a discussion at the next meeting; that might be helpful as well.

CHAIRMAN NOWALSKY: Again, I could take my computer, blow the fog up as high as I can and hold it up here, but I don't think that's going to help us here today. Staff has certainly given it consideration, so we certainly have that and could present it to everyone if the decision here today is not to move forward with choosing a region or moving forward with drafting the amendment today pending the outcome of

additional work that is ongoing and wanting to further review these. Jim Gilmore.

MR. GILMORE: I agree with Mike; I think you summarized it very well. When you got to the management part of it, kind of the third part sounded like maybe it was something we could do today. Part 2 with selecting an option right now I think is way premature. Remember when we go back and when we did the original assessment, we didn't have a separate Long Island Sound in there.

Then because of the issues with New England and Connecticut, whatever, we didn't go down this road. Now that we're going to have this assessment, I think we need to have that before we pick any region. Very clearly that's an important piece of information. Again, New York has been very clear on this; that Option 4 concerns us a great amount. I think if we selected an option today, we'd be putting the cart before the horse. That third part about maybe an addendum and coming up with some interim measures, whatever, that is something maybe we could talk about, but I would be opposed to any selection of options today.

MR. RUSS ALLEN: I would reiterate what Mike and Jim have said already. I think we're close and I just think we need this other piece to finish things off. I'm willing to have a discussion on an interim piece, too, but I think we're still talking about 2017 implementation; so I don't think we really need to get there in 2016. We're not going to have anything in place for 2016.

If it is, it is late in the year. Just waiting until the February meeting and maybe putting that summary together and getting it out to the board members, we can always have some conversations in between amongst ourselves. Hopefully, the Long Island Sound assessment gets moving maybe a little bit faster than they think and Jeff can get the data he needs and get a jump start, and we can get way ahead of ourselves in February. I'm willing at this time to just sit back and try to absorb everything that is

going on and coming back in February and really putting the steps needed to move it forward at a pace that's acceptable for 2017.

CHAIRMAN NOWALSKY: Let me turn to staff for a moment and ask the question of what would the February, May and August board meetings look like for the Tautog Board if we did not take action on choosing a region today.

MS. HARP: I don't think there would be anything to present at the February meeting given that the assessments would have just been completed; and we want to present the assessments with the peer review at the same time. If we were to delay and choose Option 2, which was essentially a delay – let's see how Option 4 runs out – then it would be a presentation at the August board meeting where we would present the results and the peer review in one session. Then we would move forward with making a regionalization decision.

CHAIRMAN NOWALSKY: Toni, you wanted to add to that?

MS. KERNS: The only other thing that I would add is depending on how quickly the tagging work can be done, we could present that to the board either in February or May on an update on what is going on with the tagging work if that is something that the board does want the LEC and I would assume the technical committee would need to look at the type of tag would need to be used to make sure that we get that correct. We could provide information on that and forward from there.

CHAIRMAN NOWALSKY: And would the appropriate action here today be no motion or you would be looking for a specific motion that had a date-sensitive on a next action?

MS. KERNS: I don't think we need a motion. As Russ said, we will work with those technical committee members and with the University of Connecticut to try to get those assessments

moving as quickly as possible; and then we will follow up very quickly with the desk review.

MR. MARK GIBSON: We're talking about the PDT needed guidance to further develop this amendment on the stock regions. What specific information would we have in February on regions that we don't have now that would better our guidance today?

CHAIRMAN NOWALSKY: Well, I think what we're looking for, Mark, is the work that comes out of the Long Island Sound assessment and the New York/New Jersey element in order to say, yes, we're comfortable using that data in making a management decision and that it has been reviewed externally or through the technical committee, or both, whatever those mechanisms are, and then the board would be informed enough to make a decision about using that.

MR. GIBSON: And that is not going to happen in February?

CHAIRMAN NOWALSKY: No; the timeline laid out here, the earliest we would be considering that would be August.

MR. GIBSON: I don't support not providing guidance today on the region question. I think by pursuing the strategy that has been suggested we're going to get all backed up and we're not going to have anything in time for 2017. **With that, I would move to let the PDT to begin development of this amendment under Option 4.**

CHAIRMAN NOWALSKY: Okay, I have a motion from Mr. Gibson. Dave, are you going to second the motion? Okay, we have a motion to direct the PDT to begin development under Option – so essentially we're choosing Option 4 for the way forward; is that correct, Mark?

You're basically wanting to choose Option 4 today as a way forward? The motion was seconded by Dave Simpson. Again, we have a

motion to move to direct the PID to development the document under Option 4. Motion by Mr. Gibson; second by Mr. Simpson. We'll go for discussion on the motion. Jim Gilmore.

MR. GILMORE: I'd just like to speak in opposition to the motion. I pretty much made my point a few minutes ago. Again, this was not part of the original assessment. We agree that it might be a possible option that might work, but there is a lot more information we need about it. Essentially choosing this option now is premature; so we need to wait until we get the information from the other assessments from Long Island Sound in particular.

CHAIRMAN NOWALSKY: Before I go to Bill Adler next; let me ask staff what would the development be if we are developing this with options that we don't have reference points for at this time? Would we be talking about the development would be all of the other items in the documents with regards to goals and objectives, management measures? What would the PDT be doing without any reference points to work with?

MS. KERNS: The document would just have the regions that would not have reference points associated with it for the regions. I think we already have reference points for Massachusetts through Rhode Island and Delaware south. We could include those, but we would not have reference points for the other two regions.

We could include management options for the regions that we have reference points if those are necessary for that region, but we would not be able to include management options except for in concept. We could say we could change management via quotas, trip limits, et cetera, but we wouldn't have specific reductions if they were necessary for the regions without reference points.

It would be half built; but if we move forward with development, then we would need

direction from the board on changes to the other sections as you indicated the goals and objectives, moving forward with the tagging, if necessary, and then anything else that the board would want us to include.

CHAIRMAN NOWALSKY: So we would get a half-filled document back in February most likely that we would look at; and would you believe that would be a draft amendment that the board could then take action on at this point or it would still be waiting on information that we wouldn't have until August?

MS. KERNS: That would be up to the board whether or not they would want to take the document as presented out to the public comment or not.

MR. WILLIAM A. ADLER: Mr. Chairman, when you're looking at this motion and saying, well, okay, develop it under Option 4, are you saying that you won't have in a document that has got to go out to public hearing you won't have the status quo option, which you usually have always in a document, so that's Option 1. You're cutting Options 2 and 3 automatically out of contention at a public hearing. Is that what would happen under this?

CHAIRMAN NOWALSKY: There is a lot of elements to this amendment and not just the regional approach. The options that we were talking – and again I'll turn to staff – it would just basically be a framework for what it would look like with those regions, but they wouldn't be filled in. Again, I'll turn back to staff if they provide any direction, but there is going to be holes.

MS. KERNS: Adam, that's correct, until you have the details of the assessment, we can't fill in all the parts. Bill, to answer your question, we would still have status quo as we always do. Staff was looking for the board to move forward either today or when you were ready with choosing one regional management approach to be developed in the draft amendment.

The rationale for that is that it becomes very complex if you have multiple regional approaches with multiple reference points and then multiple types of management measures for each of those different regional approaches in the document.

I believe it would be very confusing not only to the public but even potentially to this board; and so we wanted to make sure that we provided something that was comprehensive and easily understood. That's why we're looking for direction on which region to move forward with; and that's why we took out in the PID very specific information on the different regional approaches so that you would be able to be informed of what the public's thoughts were on the regional approaches here today.

CHAIRMAN NOWALSKY: Okay, let me get a show of hands of people that want to speak on the motion. Right now I have Dave Simpson. Were you going to speak for or against?

MR. SIMPSON: I was going to speak; I'm not sure whether it would be for or against.

CHAIRMAN NOWALSKY: What I'm going to do is I will go with Dave Simpson, who is on the fence. I will go with Russ, who is for. Then I'm going to go to Jim who is against; and then we're going to go Dave Borden, Mike and Rob and hopefully at that point we can take action on the motion.

MR. SIMPSON: I'm going to do the second one first so I remember to say it. We're hoping that after I get back home we'll have the opportunity to do a little bit of tagging study ourselves in Connecticut. One of the things we're interested in is if just a simple striped bass tag could be used to tag tautog and keep them live. I think they're a hardy enough fish that it is worth a look-see.

Just as background information, we are hoping to be able to provide a little bit of insight say by the February meeting on that. I'll have my technical committee person speak with others on the technical committee about methods and

so forth for holding. I'm visioning a method that we used previously to do hook-and-line mortality studies.

I guess my point on this one is I think Mark's concern is that we not delay getting on with the business of tautog conservation by delaying the choice on which option. What I'm hearing from staff is generally this won't delay it. We'd be able to implement this amendment for 2017 whether or not we chose an option today.

If that is a fair assessment, then I'm – although I seconded the motion, my sense is most people would like to see the results first, so my preference would be wait until our February meeting; so if I could get confirmation that the expectation is that waiting on the option will not delay 2017 implementation.

CHAIRMAN NOWALSKY: The expectation would be that if the decision was made in August; that would still provide time for 2017 implementation.

MS. KERNS: I think if we wait to decide which option to move forward until August, you would not be able to implement in 2017. It would take staff and the PDT and the technical committee some time to fill in some of the information into the document, depending on which option you chose. They couldn't just on the fly make those changes at the August meeting.

If you went forward with this, I think you could still implement in time for 2017, depending on how quickly a state could implement management measures. If it was your intent to start working on the document and in August when we come forward with the assessment information and you just filled in those pieces into the draft document, you could go out for public hearings and then make a final decision at the annual meeting. How prescriptive the management option responses could be might need some additional work, depending on the outcome of the assessment.

Say you have to reduce by 47 percent; do you want specifics on how to reduce by 47 percent or do you just say that region would have to come up with some way to reduce by 47 percent? Then at the annual meeting we're saying, okay, you need to do these things for 2017, can a respond in two months to implementation or not.

CHAIRMAN NOWALSKY: Again, staff has been very clear that the earlier we select an option, the better. Going forward with this option and having a draft amendment brought back for review in February I don't think makes it a foregone conclusion that this board releases that draft amendment in February and perhaps we look at it and can see the ongoing work that is going on, have further refinement and development and when we actually release it to public would still be at the discretion of the board. Next I had Russ. Dan, did you want to speak clearly for or against the motion just so I know where –

MR. DANIEL McKIERNAN: No; I just wanted to engage with David about tagging issues.

CHAIRMAN NOWALSKY: Okay, hold the tagging issues. Let's try to get through this motion and then we'll come back to that. Once we move forward with this motion for or against, we've still got to address the tagging issues and then we would have to – depending on the outcome of this motion, we've got to address what additional direction to give the PDT. Russ.

MR. ALLEN: Mr. Chairman, Toni and yourself just made my argument for me. I would probably be in favor of Option 4. I would love to see what the final numbers are and everything, but we don't have that at this point. I would like to see the process begin and start the development of an amendment. At any time we can pull that back.

We've done it for other species; but it would be nice to get staff moving forward in that realm of getting this out there for all of us to see and see how it is going to proceed instead of waiting until

February and then going, okay, we still don't have what we need and now we're waiting until August and we still haven't started the document.

That would definitely preclude us from moving forward in 2017. At least doing something now gives us a shot at getting staff to move forward with that amendment. If somewhere down the line we don't like any of it, we just pull it all back and start from scratch. I'm sensitive to New York's thought process here, but we go through this – there is always a dividing line somewhere where the size limits change and the bag limits change and other regulatory options change. That's why I'm for this and I think we need to just start moving it forward as best we can at this time.

MR. GILMORE: Well, that sounded good, Russ. It is a good theory but I think pulling it back – I mean, this really boils down to this will be the decision. If we vote for Option 4 and if we came back in February or August and had to sit there and say, no, we don't agree with it now, we're going to have to have a whole discussion to start to bring this back.

This is sort of a fait accompli decision that we're making today and a little bit unique. In the years I've been here, this is kind of the first time that we have significant information that is going to help us make a decision, but we're choosing an option before we have that information.

The little piece I will add, and I said it before, another piece of information I would like to have – and maybe we need to charge the Law Enforcement Committee – is to get a more formal analysis of how the enforcement of this would be if we do have Option 4 and we have – again, this is not like a border water between two states like say New Jersey and Delaware. This is three states, four different water bodies. It is gets a lot more complicated.

Again, I'm opposed to the motion because I just think it is premature. We may choose this, but

at this point I think we're just choosing this way too soon and we need more information before we proceed. Mr. Chairman, regardless of what happens, in terms of that issue with law enforcement, at some point before we end today can we essentially ask them to evaluate that enforcement issue of Option 4?

CHAIRMAN NOWALSKY: That's my hope. Dave Borden.

MR. DAVID V.D. BORDEN: Mr. Chairman, I would just point out that a good stiff wind would blow us all off the fence. I can vote in favor of the motion, but I think a lot of good points have been made here. Option 1 is basically status quo; that is going to go in the document. I think the staff can begin work to characterize that so that they don't delay.

I support getting on with this, in other words, allowing the staff to start to develop it; but I go back to the point that Toni Kerns made is to the extent we can narrow these alternatives, it is going to reduce the complexity in the amendment significantly. Obviously, one is going to in there. If there is a consensus to at least allow some development of Option 4, then to me the logical question is could we simplify this simply by eliminating either 2 or 3.

If you look at the public comments that we got at the hearings, there was a lot more support for Option 3. I could see logically us going forward and let the staff start to work through this, include Option 1, 3 and 4; and then at some point later when we have additional information, eliminate one of those options to simplify the document.

CHAIRMAN NOWALSKY: Just to be clear, the motion we have before us would not have Option 3 as part of the draft amendment. Mike Luisi.

MR. LUISI: Mr. Chairman, before the last 30 seconds of Mr. Borden's testimony and comment, I thought I had my mind made up. In

Maryland we don't have a dog in the fight really here. All these options are the same for us. I don't want to force the hand – I think right now I would support the option with the comments that Russ made about the fact that if information is presented to us in the future; that there be some flexibility to pull the ripcord on this option and consider something else. If that could be the case, then I certainly understand from what I've heard that we need to get started.

Given that, I'll support this motion with the understanding that down the road if information presents itself to us that changes the course that we're on; that we would have the flexibility to go back and review the other options that were presented to the public.

MR. ROB O'REILLY: Mr. Chairman, I was actually waving at you before the motion was done; so I will have a question after you go through this, but a trickling wind has hit me over here on this side listening to everyone. I think if regions, wherever they turn out, are inclined to get started and dampen this fishing mortality problem; that speaks to something that ought to be addressed. On that sense I can support the motion.

On the other hand, I wasn't sure from what David Borden said, if we go through the amendment process and then need to fall back to Option 3; does that pose any significant problems as we're going forward, and how do we couch that sort of position in an amendment? Maybe I can get a response on that.

CHAIRMAN NOWALSKY: Well, I'll turn to staff; but again the motion before us I think is very clear that we're selecting Option 4; and it would take some subsequent action by this board to alter a draft document moving forward. I'll turn to staff for any other clarity they want to provide on that.

MS. KERNS: You're directing the PDT to start developing the document in this way. If along the way you find something in the draft that you

do not like, then you can direct the PDT to develop it in a different way. This is not taking final action; so, yes, it can change along the way.

CHAIRMAN NOWALSKY: So, again, at the present time it would include only Option 4; but we come back in February, we look at it, well, now we want to add Option 3 back in or something, that would just require the PDT to do that work and bring it back to us again for additional review. Where we are is we've had a lot of discussion on the motion for and against. I think at this time I'm going to give one more comment and then we're going to take a moment to caucus and we're going to go ahead and dispense with the motion. I'll make it two, Jim Gilmore and Peter Burns.

**MR. GILMORE: I hate to do this to you, Adam, but I want a motion to amend to simply add in Options 3 and 4.**

CHAIRMAN NOWALSKY: Okay, we have a motion to amend to include Options 3 and 4. Do I have a second to that? We will go ahead and add Mr. Miller as the seconder. Again, I'll just add that staff has indicated in the past that the less options we have in a document, the less complex it is going to be; but they'll do a great job, whatever we direct them to do. We now have a motion to amend to include Options 3 and 4. On the amended motion, do I have a show of hands for discussion on the motion? Seeing none; I'll give a moment to caucus on the amended motion.

(Whereupon, a caucus was held.)

CHAIRMAN NOWALSKY: All right, everyone has a moment to caucus. The motion before is motion to amend the original motion to include Options 3 and 4. Motion by Mr. Gilmore; seconded by Mr. Miller. Can I see a show of hands for all those in favor; all those opposed; abstentions, 1 abstention; null votes. **The motion carries nine in favor, no opposition, one abstention, no null votes.**

**That now brings us back to the original motion, which is now amended and becomes the property of the board: move to direct the PDT to develop the draft amendment under Option 3 (Regions of Massachusetts/Rhode Island; Connecticut, New York, New Jersey; Delaware, Maryland, and Virginia) and Option 4 (Regions of Massachusetts/Rhode Island; Long Island Sound, including Connecticut/New York; New York/New Jersey, excluding Long Island Sound; Delaware, Maryland, and Virginia).** I had Peter Burns' hand up before; did you still want to speak, Peter?

MR. BURNS: Mr. Chairman, my comments are a little different now that we have an amended motion on the board. I just wanted to sort of clarify this. I think originally I was a little concerned about the process that we were moving forward with, because we only had one limited option and not all the information was going to be available. On the other side, the fishery occurs almost predominantly in state waters and the states are doing a good job here of trying to figure out the best way to manage it.

Now that we've got a little bit more broad approach here with some different options, I think that this seems like a reasonable way to move forward; just the fact that it is not really going to the public yet and is only going forward to direct the PDT to give us some more information on how to make our decision.

CHAIRMAN NOWALSKY: Okay, give us just a moment to get the amended motion on the board here. For the amended motion, can I see a show of hands of anyone who wants to speak for or against the amended motion? Okay, seeing no hands, give us just a moment to get the correct amended motion up. In that time we'll go ahead and caucus and then I will reread that amended motion one more time.

(Whereupon, a caucus was held.)

CHAIRMAN NOWALSKY: Move to direct the PDT to develop the draft amendment under Option 3

(Regions of Massachusetts/Rhode Island; Connecticut, New York, New Jersey; Delaware, Maryland, and Virginia) and Option 4 (Regions of Massachusetts/Rhode Island; Long Island Sound, including Connecticut/New York; New York/New Jersey, excluding Long Island Sound; Delaware, Maryland, and Virginia). Can I see a show of hands for all those in favor of the motion; all those opposed like sign; abstentions; null votes. **Okay, the motion carries nine in favor, zero opposed, one abstention and zero null votes.**

Where that would bring us back to, then, is we would need to have discussion on further direction for the PDT with regards to the items that were in the document, management measures, goals of objectives, and then we also have the potential for commercial tagging direction. I had Dan McKiernan on my list who wanted to get back to that, so I'll go to him first. Then we'll come back for a show of hands for additional discussion on the tagging issue or other items to put in the document.

MR. MCKIERNAN: Since the last meeting, I've spent some time on the phone with a few tag manufacturers, notably Cambridge Seals, who is the current vendor for the lobster trap tags, and described what I thought would be the objectives of the tagging program. He sent me a collection of different plastic tags that may or may not work.

I think it is really valuable for us as a board to develop the agreed-upon objectives and standards for a tagging program and even decide whether or not it should be similar to the lobster trap tag program where a single vendor is chosen for all states to order their tags. I think there is something to be said for that. That is an option that I would favor.

I know we have the striped bass tagging program as analogous program; but given what we know about the challenges of the tautog commercial fishery, I think we need to be pretty smart about this. It needs to be single use, in my opinion. It needs to be non-reproducible. It needs to come

from a manufacturer with a patent on the tag. It needs to probably be field tested. I would recommend a committee that would include the Law Enforcement Committee – maybe it is the same committee that already spoke about this – to help develop the objectives of the tagging program.

CHAIRMAN NOWALSKY: I think those are all good points. As you stated, we do have the committee, yourself, Dave, myself, members of law enforcements and members of staff on that committee. It would be up to the board to decide if that is sufficient or if they felt they needed some other subcommittee to move forward with this; and I would leave that to the discretion of the board. Rob O'Reilly.

Mr. O'REILLY: This is just the data question I mentioned; and I'm not sure but I know we've received questions about the management measures and their effect. The benchmark assessment was fairly recently completed. I don't know that there is an update in the wings, but by the time this amendment gets out to the public it would be good to know what additional progress or lack thereof has been made on the fishing mortality rates. I guess I'm asking what is the schedule for tautog for the next assessment?

CHAIRMAN NOWALSKY: Do we have at hand to provide when the next turn of the crank would be or are we waiting for a benchmark assessment and a timeline for that. If you don't have that, we'll go on and we'll come back to that if we don't have it immediately available.

MS. KERNS: The schedule has it for an update in 2016.

CHAIRMAN NOWALSKY: So that information would come back to the board at the annual meeting in 2016 or not until early 2017?

MS. KERNS: Let us get back to you. The other part to that, Adam, is that we're considering pulling in this new Long Island Sound assessment; so we would need to figure out how



that would work into our assessment process to see if we're going to receive all the coding, et cetera. Since our assessment committee didn't actually conduct that stock assessment, it may adjust our ability to quickly update information. I'm not sure we'll be able to get back to you at this meeting on the timing of the next update, but we can definitely get back to you in February on that information. I'm unclear on how the Long Island Sound assessment part would work.

CHAIRMAN NOWALSKY: So to answer to Rob's question directly, we've got an update occurring in 2016; but when we're going to get that information back is to be determined?

MS. KERNS: Yes; and that update would be tentative based on whether or not we move forward with this Long Island Sound assessment or if we accept for management use.

MR. SIMPSON: If you want items for the PDT to work on in particular, also I think the federal waters' issue or consistency there is worth looking at; and I'd like to see some development of a standard minimum size, either 15 or 16 inches. We have both on the coast. Most states are at 16, but a couple are at 15.

Then also the issue of which is broader than federal waters; but I think it is mostly an issue in federal waters, and that is the idea of fishery during Wave 1 where there is no accounting for that harvest; and some examination or treatment of that issue that I think is predominantly federal waters but not exclusively.

CHAIRMAN NOWALSKY: Well, I think the current world record would say a fishery does exist; so, yes, it is a definitely a point, though. That is where we are right now is that we're taking information and suggestions to the PDT. Tom Fote.

MR. FOTE: In 1989 I attended a tagging seminar up in Woods Hole and was there for three days. I remember that they were tagging scup and

they were tagging sea bass. Some of those species reject tags really fast; so I would basically look at if NMFS had done any tagging studies on tautog to see what tags hold. Scup is amazing. It basically pushes the internal tag right outside and drops it and actually pushes the other tags right out through the skin as we push glass out of our body. We've got to make sure we get a tag that will actually stay in tautog. I don't think it is the same, but we should check on it. I think NMFS has the research on all those species, on what tags will actually stay in the fish.

CHAIRMAN NOWALSKY: With regards to tagging, is the board comfortable with having the existing committee that has been set up that consists of law enforcement, myself, Dan, Dave Simpson and staff? Is the board comfortable with having that committee move forward with looking at the tagging issue? I'm seeing nods so that is where we'll go in that direction. Rob O'Reilly.

MR. O'REILLY: Mr. Chairman, I know this is a difficult question based on what is going on; but as the public comments indicated, the commercial fishery is a rather small component overall. Is there any way to look into the situations in the commercial fisheries where they, starting with Amendment 1, have had certain blocks of time closed?

The contention now is that probably those blocks that were closed back then are really not as productive blocks of time, months, as previously thought. Things have changed, whether you want to label it climate variability, whatever you might want to mention; but we hear this quite a bit in Virginia.

We're hamstrung by the fact that in addition to the increase in the minimum size, there has also been, through the various addendums, an increase in the closed season. Is there any type of approach or is this left up to the state or states who are in this situation to come forward with some methodology that would indicate that there should be a different way of managing the

commercial fishery, essentially, which is a small component?

CHAIRMAN NOWALSKYL: Would that be something you would want the PDT to be looking at, Rob, or did you have another source where you were looking to get that information?

MR. O'REILLY: Very much the PDT, but at the same time I think I would try and reach out and try and see what could be done at the state or even the bistate/tristate level to figure this out. I think it is realistic that the commercial fishery has been closed down into a very small window by virtue of what had to be done with the various reductions over time; and that might be a mismatch now for the distributional aspects of tautog. I'd be happy to try and explain it further as this process goes on to the PDT or even look for ways that we can have surrogate information beyond just temporal closures. It is really a struggle.

CHAIRMAN NOWALSKY: I think we have that captured, Ashton. I will note that it is my belief the PDT for this needs to be populated at the present time; so that is an action item for staff to populate that PDT. I would ask that this issue be one of them that is considered in the population of it, should that be possible.

We've got about five more minutes to discuss what other direction we want to give the PDT. I've got Dave Borden on my list. Before I go to him, I'll just ask make specific suggestions. I think we've dealt with the issue of stock management at this point. The other items in the document were fishery management plan goals and objectives.

We've got a lot of feedback from the public about that. If the board doesn't make other specific direction, I would believe the PDT will take the comments from the public in the consideration and bring those back as part of the draft amendment. I'm seeing nods of okay for that. The issue of management measures; obviously we're kind of at an impasse with

regards to specifically what those may be; but we do have the issue that has been brought up with regards to perhaps one management measure at least in size up and down the coast as well as the issue of a regulation, a backstop measure in federal waters.

That would be an issue we want to make sure is included. Again, I'm seeing nods for that. Reference points and rebuilding timelines, again that is going to be a function of the information we get moving forward; and the illegal harvest, we're tagging issue on and getting more information about that. Again, we've got a couple of minutes and I'll go Dave Borden. If anybody has got other specific direction, please your hand and we'll get that down.

MR. BORDEN: Mr. Chairman, you just spoke to the point that I was going to raise; but I'd just like to emphasize that there are very significant tautog resources in federal waters, particularly in Southern New England. I think if we want a minimum size to work, we have to factor that in and have a uniform size across all the jurisdictions solely for enforcement purposes. Otherwise, you're going to have fishermen go into federal waters, be able to catch and possess undersized fish, and it will make it fairly impossible for the enforcement staff to enforce it. I think that needs to be an option in the document.

MR. FOTE: We always have that problem. When you land the fish in a particular state, it has to be the minimum size of that state; so that's not really a problem so you really don't need a uniform size limit in the EEZ.

MR. BURNS: Just to David Borden's point, if the PDT is going to look at this, it would really be helpful when we do an assessment. If this becomes a recommendation to the National Marine Fisheries Service to come up with some kind of federal regulations for this fishery, to have some specific details on exactly what those measures might do, how they would be effective and what the extent of the fishing or the activity

is in the federal waters that we'd want to try to curtail.

MR. BORDEN: Mr. Chairman, I'll make this really brief. Tom and I can discuss our differences on that point; but I just point out that from an enforcement perspective – and I'm not an enforcement officer although I have worked with a lot of them over the years in different capacities – if you allow individuals to go off and possess a species in a different geographic area and the enforcement individuals can't target them in that area, then what happens is it dramatically reduces the chance, because they have to catch them back in state waters. I think we've got to be really careful here. We don't want loopholes in the minimum size.

CHAIRMAN NOWALSKY: Let me turn to staff; are you comfortable you have enough direction at the present time to move forward with something that would come back to the board in February at this point; would that be correct?

MS. HARP: Yes, thank you.

CHAIRMAN NOWALSKY: Let me first thank everyone for the discussion that we had on the amendment today. I thank law enforcement for being here and the continued work that will go on with regards to the tagging. We'll then move on to the next item, which was we had one advisory panel nomination. I'll briefly turn to Ashton for just a review of that and then I'll turn to Bill Adler, who I believe wants to make a motion to that effect.

#### **POPULATION OF ADVISORY PANEL MEMBERSHIP**

MS. HARP: You received an advisory panel nomination for Captain Mel True, a Massachusetts fisherman with experience in commercial, recreational and for-hire fisheries.

MR. ADLER: **I'll make a motion that the board approve Captain Mel True to the advisory panel.**

CHAIRMAN NOWALSKY: Seconded by Pat Augustine. Is there any objection to the motion?  
**Seeing none; the motion passes.**

#### **ELECTION OF VICE-CHAIR**

CHAIRMAN NOWALSKY: The final order of business is the vice-chair is currently vacant. I will entertain a motion for a nomination. Mr. Gilmore.

MR. GILMORE: Mr. Chairman, I would like to nominate David Simpson from the great state of Connecticut.

CHAIRMAN NOWALSKY: Okay, we have a motion to nominate Dave Simpson as vice-chair.

MR. AUGUSTINE: Second and move to close nominations and cast one vote, Mr. Chairman.

CHAIRMAN NOWALSKY: Motion seconded and so moved. **Is there any objection? Seeing none; Dave Simpson is the vice-chair.** Is there any other business to come before the board?

MR. SIMPSON: Does Kirby have my picture available?

CHAIRMAN NOWALSKY: Anyone who would like to see a really nice tautog, Dave Simpson has a picture that he really wants to share. The answer is, yes, we did have your picture available and there is the picture.

MR. SIMPSON: I just wanted to point out that was a typical Long Island Sound tautog that we're trying to manage here.

CHAIRMAN NOWALSKY: That fish could constitute the assessment all by itself, probably.

#### **ADJOURNMENT**

CHAIRMAN NOWALSKY: Okay, is there any other business to come before the board? Seeing none; motion to adjourn. This board is adjourned.

(Whereupon, the meeting was adjourned at 12:15 o'clock p.m., November 4, 2015.)