

PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ATLANTIC STURGEON MANAGEMENT BOARD

The Westin Alexandria
Alexandria, Virginia
August 2, 2016

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ATTENDANCE

Board Members

Patrick Keliher, ME (AA)	Tom Moore, PA, proxy for Rep. Vereb (LA)
Rep. Jeffrey Pierce, ME, proxy for Sen. Langley (LA)	Roy Miller, DE (GA)
Douglas Grout, NH (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Ritchie White, NH (GA)	Lynn Fegley, MD, proxy for D. Blazer (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Ed O'Brien, MD, proxy for Del. Stein (LA)
Mike Armstrong, MA, proxy for D. Pierce (AA)	Rachel Dean, MD (GA)
Bill Adler, MA (GA)	Rob O'Reilly, VA, proxy for J. Bull (AA)
Bob Ballou, RI, proxy for J. Coit (AA)	Cathy Davenport, VA (GA)
Rep. Melissa Ziobron, CT, proxy for Rep. Miner (LA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Dave Simpson, CT (AA)	Jerry Schill, NC, proxy for Rep. Steinburg (LA)
John McMurray, NY, proxy for Sen. Boyle (LA)	Michelle Duval, NC, proxy for B. Davis (AA)
Steve Heins, NY, proxy for J. Gilmore (AA)	Ross Self, SC, proxy for R. Boyles (AA)
Russ Allen, NJ, proxy for D. Chanda (AA)	Patrick Geer, GA, proxy for Rep. Nimmer (LA)
Emerson Hasbrouck, NY (GA)	Spud Woodward, GA (AA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Malcolm Rhodes, SC (GA)
Tom Fote, NJ (GA)	Jim Estes, FL, proxy for J. McCawley (AA)
Andrew Shiels, PA, proxy for J. Arway (AA)	Martin Gary, PRFC
Loren Lustig, PA (GA)	Wilson Laney, USFWS
	Kim Damon-Randall, NMFS

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

Ex-Officio Members

Staff

Robert Beal	Max Appelman
Toni Kerns	Amy Hirrlinger
Katie Drew	Kirby Rootes-Murdy

Guests

Colleen Giannini, CT DEEP	Jeff Deem, VMRC
Peter Aarrestad, CT DEEP	Jack Travelstead, CCA
Justin Davis, CT DEEP	Joseph Gordon, PEW Trusts
Stew Michels, DE DFW	Jacob Kasper, U CONN
Brandon Muffley, NJ DFW	Kelly Place, ASMFC AP
Jason McNamee, RI DEM	Arnold Leo, E Hampton, NY
Joe Cimino, VMRC	

The Atlantic Sturgeon Management Board of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, August 2, 2016, and was called to order at 5:20 o'clock p.m. by Chairman Robert E. Beal.

CALL TO ORDER

CHAIRMAN ROBERT E. BEAL: I would like to call the Atlantic Sturgeon Board to order. The Atlantic Sturgeon Board currently does not have a Chair or a Vice-chair, and the commission procedures indicate that the Executive Director can step in and chair the meeting in the absence of a Chair and Vice-chair; so I will do that and Dr. Duval has her hand up.

DR. MICHELLE DUVAL: Thank you, Mr. Substitute Chairman. I am prepared to offer a motion for a Chair and Vice-chair if you would like to consider that at this time.

APPROVAL OF AGENDA

CHAIRMAN BEAL: Let's just go through the agenda, we'll do that at the end if that is okay; and keep it in order, in the interest of time and Kim really needs to take off, I think. With that, let's go ahead. We have an agenda that was distributed on the briefing materials. It is relatively brief. What I would suggest that we do in the interest of travel schedules is flip-flop Number 4 and 5; so we'll handle the Critical Habitat Designation discussion first, and then we will go through the Benchmark Stock Assessment Update; if that is okay with everyone.

Are there any other changes or additions to the agenda? Seeing none; it is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN BEAL: The last time this board met was February of 2016, and the minutes were included in your briefing materials. Are there any changes to those minutes? Seeing none; those minutes stand approved, as well.

PUBLIC COMMENT

CHAIRMAN BEAL: With that, we'll accept any public comment for issues not on the agenda today.

If there is public comment on the critical habitat or the timeline, we can accept those at that point of the meeting. Not seeing anyone's hand up for public comment, we will keep moving forward. With that, I will ask Kim Damon-Randall from GARFO to give a presentation on the two proposed rules for the Critical Habitat Designation for Atlantic sturgeon.

REVIEW AND DISCUSS COMMENT ON NOAA PROPOSED RULES DESIGNATING CRITICAL HABITAT FOR ATLANTIC STURGEON

MS. KIMBERLY DAMON-RANDALL: Back in February, I was here talking about the fact that we would be having these proposed rules come out in May, and that we would come back and talk to you about it; so I'm following through on that commitment. Our two proposed rules published on June 3rd, and the citations are there.

There is one for the Greater Atlantic Regional Fisheries Office; that covers the Gulf of Maine, the New York Bight, and Chesapeake Bay DPSs, and one for the Southeast Regional Office that covers the Carolina and South Atlantic DPSs. We have a 90-day public comment period that is still open on this. It closes on September 1st. Just to familiarize some of you with some of the critical habitat basics, I'm just going to run through them pretty briefly. The Secretaries of Commerce and Interior share responsibilities for implementing most of the provisions of the ESA, and authority has been delegated down to the Assistant Administrator for Fisheries and to the Director of Fish and Wildlife Service. Under Section 4 of the Endangered Species Act,

critical habitat is supposed to be designated when we list a species; if we're able to determine what the critical habitat is.

If not, then we have an additional year to designate critical habitat. Critical habitat is those specific areas within the geographical area occupied by the species at the time its listed; upon which are found the physical and biological features that are essential to the conservation of the species and which may require special management considerations or protections.

It also includes specific areas outside the geographical area occupied by the species at the time it's listed; upon a determination by the Secretary that those areas are essential to the conservation of the species. A critical habitat designation is not anticipated to create new regulations or restrictions on fisheries. It is not going to create new preserves or refuges, and it is not going to directly affect private landowner's use of their lands.

It will guide federal agencies in avoiding and minimizing impacts to habitat that's critical to the recovery of the Atlantic sturgeon, and it will continue to require ESA consultations for actions that are funded, carried out or authorized by federal agencies; so things like dredging projects. This is through the Section 7 provision of the Endangered Species Act, where the federal agencies have to consult with us, and this is under Section 7(a)(2) of the Act.

If federal agencies are authorizing, funding or carrying out an action, they have to make sure that it's not likely to destroy or adversely modify that habitat. They also have to make sure that it doesn't jeopardize the continued existence of ESA listed species; and we've had that jeopardy standard since the Atlantic sturgeons were listed, so now this brings the critical habitat provision in.

If the activity is going to destroy or adversely modify critical habitat, then they have to modify

it to avoid that destruction or modification. At the time of listing in 2012, we couldn't identify critical habitat for Atlantic sturgeon. We were sued by two non-governmental organizations for failure to designate critical habitat within the established timeframes, so we entered into a court ordered settlement that required that we propose rules to designate critical habitat by May 30th, with final rules no more than one year later. Our rule did file with the Federal Register by May 30th, and then it actually published in the Register on June 3rd.

Just to give you a little bit of background on how we went about identifying the features and designating critical habitat. The first thing we did was to identify the geographical area occupied at the time the species was listed. We then identified the physical or biological features that are essential to the conservation of the DPS. We determined whether those features may require special management considerations or protection. We identified specific areas that contain these features and delineated those areas. We considered whether any unoccupied habitat is essential to the conservation of the species.

We also considered the economic, national security, or any other impacts of designating critical habitat; this is called the 4(b)(2) analysis; and whether to exclude any specific areas, but not if this results in the extinction of the DPS. This is a provision of critical habitat that is very different than listing. When you're listing a species, you don't take into account the economic impact. Then we determined whether any area cannot be designated because of an Integrated Natural Resource Management Plan that military facility has; that would provide a benefit to the DPS.

The geographical area at the time a species was listed was determined to be the

entirety of the range of each DPS, with the exception of areas that are inaccessible to Atlantic sturgeon because of a dam, other manmade structure or a natural feature such as falls that are impassable by Atlantic sturgeon.

Habitat upriver of an impassable dam is considered unoccupied habitat. The physical and biological features that are essential for the conservation that may require special management consideration or protection, we first evaluated the marine and estuarine environment. We know there are some very specific areas that Atlantic sturgeon aggregate in in the marine and estuarine environment.

But we were unable to determine what the specific features of those areas are in the ocean and estuaries. We then evaluated the riverine habitats, and we were able to identify features that are important for spawning. These are hard-bottom and freshwater, it is almost fresh water, so there is a salinity component.

Growth and development, which is soft-bottom, such as mud, within a specific salinity range; in water of suitable temperature and with enough oxygen to promote growth and development and then migration and movement, so waters that are appropriately deep and that have unimpeded passage.

For the Gulf of Maine DPS, we proposed habitat in five different areas in the Penobscot, Kennebec, Androscoggin, Piscataqua and Merrimack Rivers; and this is the full bank width of the named river with specific upriver and downriver boundaries, and I'll get into those when I get to the maps. Here is the map of the Gulf of Maine DPS. This is the Penobscot River, main stem from the Milford Dam to where the main stem river drainage discharges at its mouth into Penobscot Bay.

Then for the Kennebec River, it is the main stem from Taconic Falls or Lockwood Dam to where the main stem river discharges at its mouth into the Atlantic Ocean; and for the Androscoggin

River, it is the main stem from the Brunswick Dam to where the main stem river discharges into Merrymeeting Bay.

For the Piscataqua River, it is the entire Piscataqua River main stem, including the Salmon Falls River and the Cocheco Rivers downstream of their lowermost dams to the confluence of the Piscataqua River, and the Merrimack River is from the Essex Dam, also known as the Lawrence Dam, to where the main stem water discharges at its mouth into the Atlantic Ocean.

These maps may be hard for some people to see. We do have these on our website, if you want to look at them in more detail. For the New York Bight we proposed four areas, the Connecticut, Housatonic, Hudson and Delaware; and again it is full bank width. This is the Connecticut River; it is in the main stem from the Holyoke Dam downstream to where the main stem river discharges at its mouth into Long Island Sound. The Housatonic River from the Derby Dam downstream to where the main stem discharges into Long Island Sound, and the Hudson from Troy Lock and Dam, also known as the Federal Dam, to where the main stem river discharges at its mouth into New York City Harbor. This is just another map shot of the upper part of the watershed.

The Delaware River is from the crossing of the Trenton-Morrisville Route 1 Toll Bridge to where the main stem river discharges at its mouth into Delaware Bay. There is a specific line of demarcation that was identified in 1905 for the mouth of the Delaware River, and that is at Liston Point, Delaware to Hope Creek New Jersey.

This is just another shot of the lower part of the Delaware River Critical Habitat Unit. For Chesapeake Bay we proposed five areas in the Susquehanna, Potomac, Rappahannock and York River System,

which includes the Pamunkey and Mattaponi. The Susquehanna is from the Conowingo Dam to where the main stem river discharges at its mouth into the Chesapeake Bay.

The Potomac is from Little Falls Dam downstream to where the main stem river discharges into Chesapeake Bay. The Rappahannock is from the U.S. Highway 1 Bridge to Chesapeake Bay. Then York River is from the confluence of the Mattaponi and Pamunkey Rivers downstream to where they discharge into the Bay, and then the Mattaponi at its confluence with the York up to the Route 360 Bridge and the same with the Pamunkey, it goes up to the Route 360 Bridge.

The James River is from Boshers Dam to the Chesapeake Bay, and then we're switching gears to the southeast. They have one single map as opposed to the individual maps that we had for GARFO. This is the map that shows the critical habitat designation areas for the South Atlantic and Carolina DPSs, and they have this on their website, as well.

Their proposed critical habitat units in North Carolina are the Roanoke, the Tar-Pamlico, Noose, and Cape Fear and Northeast Cape Fear Rivers. For South Carolina it is the Waccamaw, PD, Black, Santee, Cooper, Wateree, Congaree and Broad River; as well as the Edisto, the Combahee and the Savannah Rivers, and additional water bodies include Bull Creek between the PD and the Waccamaw.

In Georgia it is the Savannah, Ogeechee, Altamaha, Ocmulgee, Oconee, Satilla and St. Mary's, which is at the Georgia/Florida border. In the southeast they ended up designating, or proposing to designate unoccupied habitat; and that is because they identified areas above impassable barriers that are essential to the conservation of the species.

For North Carolina they identified in the Cape Fear River from Husky Lock and Dam, which is Lock and Dam Number 3, downstream to Lock

and Dam Number 2, as unoccupied habitat. They identified several areas in South Carolina in the Wateree River, from the Wateree Dam downstream to the confluence with the Congaree River.

The Broad River from the Parr Shoals downstream to the confluence with the Saluda River; the Congaree River from the confluence of the Saluda River and the Broad River downstream to the Santee River; Lake Marion from the Santee River downstream to the Diversion Canal; the Diversion Canal from Lake Marion downstream to Lake Moultrie; Lake Moultrie from the Diversion Canal downstream to the Pinopolis Dam and the Rediversion Canal; the Rediversion Canal from Lake Moultrie downstream to the St. Steven Powerhouse and the Santee River from the confluence of the Congaree and Wateree downstream to Lake Marion. Then in Georgia they identified in the Savannah River, the main stem from Augusta Diversion Dam downstream to the New Savannah Bluff Lock and Dam.

As I mentioned earlier, the public comment period is open until September 1st. Electronic submissions can be sent to [Regs.gov](https://www.regulations.gov) at the address listed there. They can also be mailed to me at the Greater Atlantic Regional Fisheries Office in Gloucester. We did have a public hearing, and we did accept oral and written comments there, as well.

We do need your help in collecting information. The physical and biological features that we identified as essential to the conservation of the species, if you have more information or different information, it would be very helpful if you were to submit that during the public comment period.

We would love to have more information on the rivers that are included in our

proposal. They were based on the availability of spawning habitat, so if there is more information out there on that, that would be very helpful as well. Bathymetric data for many of the sturgeon rivers is lacking and would be helpful to sturgeon recovery. If that is out there, and we couldn't find it, if you could send that to us, that would be great.

We also welcome any comments on the overall accuracy, quality, completeness and relevance of the scientific information and data that were considered; and any additional data that were not considered that you have, we would be happy to accept during the public comment period. That is for the GARFO rule. For the SERO rule, you can submit comments electronically; again, the address is in the presentation.

They can be mailed or hand delivered to Andrew Herndon in the Southeast Regional Office. Their list of request for help are very similar, so the physical and biological features, any information you have on those, the rivers that have been included or excluded in their proposal, based on the availability of spawning habitat.

Their proposal to include unoccupied areas that are essential to the conservation of the species, they are welcoming feedback on that; again, the overall accuracy, quality, completeness and relevance of the scientific information and data considered and any additional data that were not considered.

For more information on the Southeast Rules, they've provided links to their website in the presentation. Ours is if you go into the Greater Atlantic Regional Fisheries Office website, and go to the protected resources program and Atlantic sturgeon, you'll find all the information there as well; and that's it.

CHAIRMAN BEAL: Great, thanks Kim, and very impressive job of pronouncing some pretty tough rivers in there; so good job. First of all, I

would like to thank NOAA Fisheries. One of the things this board asked NOAA Fisheries to do is to straddle one of our meetings with a public comment period so that we could get this board together and contemplate commenting on this as a board face-to-face rather than via e-mail or through some remote correspondence. On behalf of the board, thank you for doing that. Are there questions for Kim? I don't know if we want to get into specific rivers right now; but I think general questions are probably a good place to start, yes, Bill Adler.

MR. WILLIAM ADLER: Let me just go over a couple of things that you said. First of all, this is not going to put new rules on fishermen, and it is not going to establish sanctuary closed areas; and that I want to make sure you said. Then next thing is well, what does it do? I know you said protect the habitat of all these rivers and places. My question is what is behind this? I mean, I know what's behind this, but I want to know, what are the plans to protect the habitat in these rivers? Can you give me an example, and I'll stop there?

MS. DAMON-RANDALL: Yes, to your first question, and to the second question, what this does is it ensures that federal agencies when they're authorizing funding or permitting a project, have to come in and consult with us and they have to determine working with us, whether or not that project is going to adversely modify or destroy critical habitat.

It puts into place enhanced protections for the critical habitat. An example would be a dredging project. Normally, we would consult on that whether or not that is going to jeopardize the species. That's how we do it right now. But with the Critical Habitat Designation in place, we would be looking at whether or not it is going to adversely modify or destroy critical habitat. It is an

enhanced protection for the habitat as well as the species.

CHAIRMAN BEAL: Follow up, Bill? Oh, you're all set; Tom Fote.

MR. THOMAS P. FOTE: I found it interesting that the South Atlantic actually put in places that were unoccupied and GARFO did not, because we could have put the Susquehanna River in there to be one of those unoccupied so if the dam ever was corrected, we would basically have that; and why didn't GARFO look at (?) Cappelke. That is my first question.

The second question, when you look at projects, I think of the Delaware River that widening that went on ten years ago that we tried to stop. Would this help us in that kind of battle to stop? Because there is going to be a whole bunch of projects to deepen channels to basically take care of these super boats that are coming in. I'm just wondering how that will be available, because a lot of that is sturgeon habitat in some of the rivers.

MS. DAMON-RANDALL: We did look at unoccupied habitat, and for your example, the Susquehanna, the best available information that we have, suggests that they didn't make it above Conowingo; that there was a natural falls there. In looking at that and then looking at the habitat above the Conowingo, where there are lots of other dams, there is not a lot of good quality habitat.

Right now, it is considered unoccupied. That would be something we would really want to get sturgeon to. There is habitat below that they can use for spawning, so we determined that that was what they really need for conservation and for recovery. That is why we didn't, and there wasn't any other case anywhere else where there is unoccupied habitat in the GARFO area that was essential to the conservation of the species.

Your second question, yes, this does help out. When we do a Section 7 consultation on a

species and look at jeopardy, we do look at impacts to habitat. But it is generally, they are going to be long lasting impacts or when a species is there. This gives us the ability to really hone in on the things that Atlantic sturgeon need from that habitat that are essential to their recovery. If an action is going to take place that is going to cause those to no longer function to serve for the species recovery, then that is going to result in adverse modification or destruction; so it does give an added layer of protection.

CHAIRMAN BEAL: I've got Pat Keliher, Rob O'Reilly, Marty and then a number of other people on this side. We'll go Pat and then Rob.

MR. PATRICK C. KELIHER: Kim thanks that was a great presentation. I'm just looking for a little clarity. Looking at these maps, and especially at the mouths of the river where this is going to stop. I haven't gone into the details of the critical habitat in the draft. Is it very specific where this is going to end?

I'm looking at, for instance, the map for the Penobscot River; it kind of goes out into the Bay and stops, where others look like it really does stop at the mouth of the river. Is there some inclusion of the estuarine in marine habitat within this?

MS. DAMON-RANDALL: There is some in some rivers, so you're right, the Penobscot goes down a little bit into the Bay, but not fully through the Bay; because all of the features were not present in that lower part. The Kennebec goes all the way to the mouth of the river. You have to look very carefully at the maps. In the proposed rule, the areas are very clearly demarcated so that enforcement will know where the critical habitat is and where it is not.

MR. ROB O'REILLY: I guess my question is about timing, so you indicated September 1 is when the comments are due. Have you

already incorporated what Section 6 exemption permits have for research? In other words, is NMFS already in touch with those folks in any one given region? In Virginia, VIMS, VCU, U.S. Fish and Wildlife is part of that permit, and there are others participating as well. Is that already taken into account here?

MS. DAMON-RANDALL: I think you mean Section 10, right; Section 10 Research Permits?

MR. O'REILLY: Okay.

MS. DAMON-RANDALL: Section 6 is the agreements that we have with states where the funding mechanism generally exists. Section 10 is the research permit provision of the Act. Those research permits were issued in 2012, and they're five year permits. Because they all kind of happened together because of the listing, those are all up for renewal and are in process.

CHAIRMAN BEAL: A follow up, Rob?

MR. O'REILLY: Yes, so I guess my question, Kim, is the improvement of the understanding of the river systems would definitely be on those folks who have those Section 10 Research Permits. Is there already a connection to them with National Marine Fisheries Service that is already determined here, or is that something that this information should be sent to them and say, you've got until September 1, if you want to make those improvements?

MS. DAMON-RANDALL: I am not sure if I am fully following your question, but they don't have to make any changes to their permits now. They are fine until their permits need to be redone in 2017. If they are collecting information, they know that they have annual reports that they have to submit.

If they are collecting information that is relevant to this, we have asked everybody to provide us with information. The Sturgeon Technical Committee for ASMFC actually peer

reviewed the documents that we have that were the basis for this. They were able to provide us with information there, and I think most of the sturgeon researchers, if not all, know about this and will submit information if they have it. I'm not sure if I covered your question.

CHAIRMAN BEAL: One more follow up, Rob.

MR. O'REILLY: At the very end, yes. That is what I'm concerned about that the information about spawning areas and other critical areas; that that is already known to NMFS, based on those who are doing this research, and I think the answer is yes. Thank you.

CHAIRMAN BEAL: Next on the list was Marty Gary.

MR. MARTIN GARY: Thank you, Kim for your presentation. Kim, I think you know that I've exchanged correspondence with yourself and Julie on some Potomac issues. The entirety of the Potomac up to Little Falls and all of our jurisdiction falls within the listing or the ruling. We've documented Atlantic sturgeon at various life stages throughout that area and shortnose and possibly spawning shortnose.

My question is, as this rulemaking goes forward I think you're aware of this coal ash issue that we have on the Potomac. It has been highly controversial, and potentially concerning in terms of harmful impacts; physical or biologically to the sturgeon species. They may or may not be. But once this rule making is adopted, within a year of May I think you said, so by next May of '17.

I guess I'm wondering, it's not going to be retroactive is it? The process for the coal ash containment is ongoing. I don't know when it's going to end. But at some point, that is what our concern was. Should there

be a consultation with NOAA? It appears it doesn't need to be done now, I think; and I'm wondering how this might affect it, if that makes sense.

MS. DAMON-RANDALL: To answer your question and not go into specifics about the coal ash, maybe we can talk offline about that. Once the proposed rule is out, there is a provision in the Act that requires that federal agencies conference with us on actions that they're going to take during that proposed rule phase.

In conferencing, they have to determine whether or not they think that the action is going to adversely modify or destroy critical habitat. If it does, then we do a conference opinion, so that is a step that we have to take with all the action agencies; with projects that are happening right now.

CHAIRMAN BEAL: Next is John Clark.

MR. JOHN CLARK: Thanks for all those explanations, Kim. You've already explained about why some of the rivers were designated all the way down to the ocean, some just to the Bay. Just following a little further on that in the ocean, not that I wanted critical habitat to be designated there; but for example, off of Delaware I know there is a relic shoal out there that seems to attract a lot of sturgeon. That was not considered a feature, yet the lower Delaware River is fairly featureless. I was just wondering how you made those determinations.

MS. DAMON-RANDALL: It was very difficult, because we know that there are areas in the ocean besides Delaware. There is an area off Long Island, there's an area off North Carolina, and there are several aggregation areas that we know they go to year after year. We just don't know why they go there, what is the habitat feature that attracts them to those specific areas. We dug through all of the literature and

information that is out there, and we just could not identify what those features are.

Even if you could say something like depth or something like that; it is hard to say if that feature is going to require special management, so how do you change depth in the ocean? What is going to affect that feature? That was the hardship. If there is information that comes out afterwards that helps us to really identify what those features are, we can always go back and designate habitat in the marine environment and in the estuaries.

CHAIRMAN BEAL: Last on my list was Doug Grout.

MR. DOUGLAS E. GROUT: Just a brief question. You had identified in your presentation some of the habitat that is critical for spawning and for rearing. For example, varying salinity levels, also substrate type that varies between spawning and rearing. In the Proposed Rule, do you identify the studies that show that those habitat types do occur in the rivers that you've identified?

MS. DAMON-RANDALL: Yes, and that's how we base the areas that we designated, they had all of those features.

CHAIRMAN GROUT: Okay, but you've identified the specific studies that you drew from, correct?

MS. DAMON-RANDALL: Yes.

CHAIRMAN BEAL: That exhausts the list that I had of questions for Kim.

Now the board needs to decide what comment do they want to provide back to NOAA Fisheries? Max has a few slides to kind of frame the issue, so I'll ask him to go through those and then at the end, he has got some options spelled out on potential

ways to move forward. Max, if you could do that.

MR. MAX APPELMAN: Just a quick overview of some comments on the proposed rules that are floating around the scientific and management communities. Staff solicited feedback from the Sturgeon TC, and also the commission's Habitat Committee on the proposed rules. As I go through some of these comments though, please keep in mind that states are developing comments individually. A lot of those are still preliminary, so this is by no means a comprehensive list. Having said that; overall, there is general support for the proposed critical habitat units and their boundaries. Most of the coastwide comments, as I'm calling them, were the comments that apply to both rules; in regards to the process and outcomes of Section 7 consultations. Those comments were more or less centered around timing and efficiency of the process; mainly noting that some projects in the proposed areas may be funded by time limited grants.

There were also concerns about additional administrative cost that may be associated with the processes. Also, that some federally funded sampling programs and research initiatives that use bottom tending gear may be impacted as a result of these consultations, so that, in turn, could impact several different species management and conservation programs.

Some other general comments were in regards to updating supporting information in the proposed rules; and I have one example up on the screen. That juvenile sturgeon captured in Connecticut River are genetically unique; whereas this was only suggested at the time of the proposed rule, and so obviously new information has become available since that rule was put together, so comments of that nature.

A few DPS specific comments that were received, as well. There were two general themes to these comments, one being in

regards to the proposed habitat boundaries potentially being inappropriate based on the best available information. Again, another example on the board is that proposed upstream boundaries for the Ogeechee and Satilla Rivers are far upstream from known sturgeon populations.

Then another theme is in regards to areas that were not included in the proposed rules and perhaps should have been. Again, this is based on new information becoming available since the rules were formulated. Again, another example was evidence to support designating portions of the Marshy Hope and Nanticoke Rivers as critical habitat.

As Bob pointed out, there are a couple different routes that the board can go with this. I think the most obvious is that the board can submit comment directly. We could collect comments right here and now, or we could all go home and digest all this information you've heard today and submit comments via e-mail. But inevitably a draft letter would kind of be circulated via e-mail for comment and review.

The second option is for states to submit comment individually as some seem to be doing already. These would be kind of more specific to the proposed areas within their jurisdictions, or the third option would be to do both of these. Just a reminder of what the timeline is for submitting comment up on the board; so with that, that is all I have.

CHAIRMAN BEAL: Any questions for Max? Seeing none; look both ways, Dennis. What is the pleasure of the board? It sounds like a number of states are individually working on comments, and that's great. The board can supplement those and reiterate some of those if you choose to do that; draft a letter that's more sort of coastwide, large

scale conceptual issues, rather than river specific concerns. The commission doesn't have to comment at all if the states want to do it individually. It is up to the group. What is the pleasure of the board? Rob.

MR. O'REILLY: Well, I think I would favor a letter, and whether or not states submit their comments directly or not, I think that the letter can include some of that if the states wish; as you're suggesting, and also get some input from the TC and others. I think it's important to submit that letter.

CHAIRMAN BEAL: One suggestion for a letter from the commission, and it probably makes sense since we asked NOAA to provide us this opportunity to get the board together to comment; that some comment should be provided from this board. We've got 29 days from now to pull this together. Is everyone comfortable with the process of Max continuing to work with the states, pulling together any additional comments that may come from the TC or the Habitat Committee and compiling the state specific comments.

We at staff can weave that into a letter and circulate that back to the board with maybe a week or so turnaround time before September 1st, then we can submit that to NOAA. Does that seem to work for everyone? We'll send out frequent and multiple reminders to provide some input to staff as we move forward. I've got Pat Keliher, then Doug Grout.

MR. KELIHER: I'm not sure that we need a letter from the commission, frankly. Many of these issues are very state specific. I'm just trying to think of what this letter would say, how we're going to construct it, and the timeframe that it will take to actually get it done if we can do it within the prescribed timeframe with a due date of September 1.

MR. GROUT: Well, my comment I just saw some suggestions from the Habitat Committee and the Technical Committee that are more

broad in nature that I think could frame the board's comments. Clearly, each of the states is going to have some very specific things that they may want to comment on. Obviously, the states are going to do that no matter what, but there may be a few things that our Habitat Committee and Technical Committee come up with that Max already provided to us here that could form the framework for the board's comments.

CHAIRMAN BEAL: We've got a difference of opinion to some degree. What do other folks think? Dr. Armstrong.

DR. MICHAEL ARMSTRONG: I agree with Pat on this one. I think NOAA is looking for very specific information. I think that's the most useful. This board can give some very general stuff, summarizing with the Habitat Committee, but even the TCs are feeding information that is specific to individual runs. I don't think it's necessary to comment. All the states I've talked to will be providing comments, and I think that is more useful for NOAA at this point.

CHAIRMAN BEAL: Another hand, Tom did you have your hand up?

MR. FOTE: I think about all the difficulty that we gave them when they basically listed sturgeon. But something good came out of protecting habitat, so I have no problem with a board-based letter going out on this. I think if they do something that we asked them to do, then just to say even a thank you letter for basically putting this together.

That's a simple letter; include a few things on it. There is no problem there. It doesn't have to be a long, drawn out letter, but thank them for going through the process and putting this together; and the states will be sending their individual comments in; a simple letter.

CHAIRMAN BEAL: Good suggestion. Other thoughts? Dr. Duval.

DR. DUVAL: I agree with Tom Fote. I know. I think a general short letter that can capture some of the more broadly based comments that Chairman Grout referenced would be good. Certainly, as states continue to pour through the specifics of the designations, any very specific comments states can go ahead and submit that. But I would be supportive of a general letter from the commission, as well.

DR. MALCOLM RHODES: Well, I'll weigh in a little bit. As a commission, I mean, we can recognize what they've done, although it wasn't in any detail. I think South Carolina has been hit with more designated rivers than any state; we have eight or nine, and most of them extend 100 miles inland, because we have no falls and we have no dams on most of them.

It is an incredible amount of the state. The lower half of the state is essentially in the watershed that has been designated critical habitat. Our response to it will probably be very different than most other states; not that it's negative, but to be a commission that is representing the views of all the members, we don't have four rivers that go in 30 miles and that's it. We have nine rivers that go in 100 miles, and it extends from the North Carolina border to the Georgia border.

It would be hard for me to see any letter coming from the commission that's we could support in that way. I mean, there is a lot of information that will be coming in, and a lot of fish have been tracked in these rivers. In a lot of ways we think that the designation is probably not representative, and we have commented in the past on that. It will probably be along that line. We've got a lot of sturgeon everywhere. I'll take you on the rivers anytime.

CHAIRMAN BEAL: A lot of sturgeon is good news, so we're happy to hear that. Other

thoughts? Seeing none; the board seems to be a little bit split. Does anyone object to the approach of staff drafting a letter, a very general letter, focusing on; thank you for the opportunity to comment? Given the specific nature of a lot of these habitat areas and river specific issues, many of the states will be commenting on their own.

I think it probably is worth highlighting the importance of some of the research that goes on in these rivers, and the commission would like to ensure that, with the least impediments possible, these research efforts that take place in these rivers can continue to happen; something along those lines.

Does anyone object to that type of letter being drafted and circulated to the board, I guess is the first step; and then once folks see that, if there is major heartburn with that, then we can regroup and figure out what to do? Any objections to that? Seeing none; we'll go that route. We'll work on a letter over the next ten days or so, and we'll send it around to the board and make sure we get it to National Marine Fisheries by 4:59 on September 1st, or one minute before the cutoff whenever it is, Kim.

Is there anything else on the critical habitat designations? Seeing none; Kim, thank you for coming down. I hope we didn't pinch you too tight on your flight schedule here. You can scramble for a cab if you need to and thanks again. The next agenda item in our re-ordered agenda is the update on the 2017 benchmark stock assessment; Dr. Drew.

UPDATE ON THE 2017 BENCHMARK STOCK ASSESSMENT

DR. KATIE DREW: Thank you, Mr. Temporary Chair. The Stock Assessment Subcommittee met in July to have an assessment workshop where we reviewed

the progress on model development that we've been working on for this assessment, so we don't have any results yet. We didn't have any results to review.

But we focused on sort of questions about model development, model progress; to make sure that the best base data are going into these models to help answer some questions about assumptions that we should make, and to make sure kind of we're all on the same page about what the inputs are going to be.

This included models like the acoustic tagging model, a couple of data-poor models, egg-per-recruit and spawner-per-recruit type reference point models, as well as trend analysis and reviewing additional data that was not available to us at the data workshop and some analyses related to that. I think we made some good progress.

After this, we'll continue to work on developing these models and have another workshop in January or February of next year, where we will review the final model results, come to some conclusions about stock status and then be ready for a peer review in the early part of the summer of next year; so that we can present then the results to you in the middle of next year at some point.

I think we're pretty much on track for that. I should specify, we're looking at these at both the DPS and the coastwide level for a lot of these analyses, wherever possible. If anybody has any questions about the model development or the data, I would be happy to answer them now.

CHAIRMAN BEAL: Any questions? I think everything Dr. Drew said is good news. I would like to highlight, there is a lot of work being done on sturgeon; federal scientists, state scientists, Katie, Max, the whole group is pulling pretty hard on this one, and it sounds like they're still on track.

These river specific assessments are tough and time consuming, so I appreciate all their effort. Hopefully you'll have a very useable product in a year or so from now, maybe a little bit more. Any other things on the stock assessment? Seeing none; we get to election of Chair and Vice-chair. I think Dr. Duval indicated she had a motion.

ELECTION OF ATLANTIC STURGEON BOARD CHAIR AND VICE-CHAIR

DR. DUVAL: Thank you, Mr. Temporary Chairman, and I apologize for having jumped ahead on the agenda earlier. Maybe I just wanted to get to the adjournment. **But with that; I nominate Adam Nowalsky as Chair and Ross Self as Vice-Chair.**

CHAIRMAN BEAL: Thank you, Dr. Duval. Is there a second to that; Russ Allen, thank you. The motion is to have Adam Nowalsky serve as the Chair, Ross Self serve as the Vice-Chair; and that would effective at the next meeting, whenever that may be. Actually, it would be effective immediately and you would Chair the next meeting. Given that there is no Chair right now, any objection to the motion before the board? **Seeing none; congratulations, and Adam you are now the Sturgeon Board Chair,** as well as your other responsibilities, so thank you.

ADJOURNMENT

CHAIRMAN BEAL: With that; is there any other business before the Sturgeon Board? Seeing none; the Sturgeon Board is adjourned.

(Whereupon the meeting was adjourned at 6:05 o'clock p.m. on August 2, 2016.)