

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING SECTION**

**Crowne Plaza Hotel  
Old Town, Alexandria, Virginia  
February 1, 2010**

Approved May 3, 2010

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1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of November 2, 2009** by Consent (Page 1).
3. **Move to send Draft Addendum II out for public comment** (Page 4). Motion by Terry Stockwell, second by Ritchie White. Motion carried (Page 5).
4. **Move to adopt Draft Addendum III to Amendment 2 to the Interstate Fishery Management Plan for Atlantic herring to public hearing** (Page 10). Motion by David Pierce; second by Pat Augustine. Motion carried (Page 16).
5. **Move to set the specifications for 2010-2012 as follows:**

**For 2010: Allowable biological catch equals 145,000 metric tons; optimal yield equals 91,200 metric tons with 26,546 metric tons allocated to Area 1A; 4,362 metric tons allocated to Area 1B; 22,146 metric tons allocated to Area 2; and 38,146 metric tons allocated to Area 3.**

**For 2011: Allowable biological catch equals 134,000 metric tons; optimal yield equals 91,200 metric tons; 26,546 metric tons allocated to Area 1A; 4,362 metric tons allocated to Area 1; 22,146 metric tons allocated to Area 2; and 38,146 metric tons allocated to Area 3.**

**For 2012: Allowable biological catch equals 127,000 metric tons; optimal yield equals 91,200 metric tons with 26,546 metric tons allocated to Area 1A; 4,362 metric tons allocated to Area 1B; 22,146 metric tons allocated to Area 2; and 38,146 metric tons allocated to Area 3.**

**In Area 1A for all three years, if less than 9,000 metric tons have been taken in the New Brunswick Weir Fishery by October 15<sup>th</sup>, then 3,000 metric tons will be added to the 1A fishery in November and December.**

**Joint vessel processing, internal waters processing, total allowable level of foreign fishing, U.S. at-sea processing, and the reserve will be set a zero metric tons for all three years; border transfer set at 4,000 metric tons for all three years; and, finally, the fixed gear set-aside set at 295 metric tons for all three years (Page 19).** Motion by Terry Stockwell; second by Doug Grout. Motion carried (Page 20).
6. **Move to allocate the 2010 Area 1A TAC seasonally with 72.8 percent available from June through September and 27.2 percent allocated from October through December. The fishery will close when 95 percent of a seasonal period's quota has been harvested, and underages from the June through September time period may be rolled into the October through December time period** (Page 23). Motion by Terry Stockwell; second by David Pierce. Motion carried (Page 23).
7. **Move to accept Captain Patrick Paquette on to the advisory panel** (Page 23). Motion by Bill Adler; second by Sen. Damon. Motion carried (Page 23).
8. **Motion to adjourn by Consent** (Page 23).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, Proxy for G. Lapointe (ME)	Dave Simpson, CT (AA)
Pat White, ME (GA)	Lance Stewart, CT (GA)
Sen. Dennis Damon, ME (LA)	Rep. Craig Miner, CT (LA)
Doug Grout, NH (AA)	Pat Augustine, NY (GA)
G. Ritchie White, NH (GA)	James Gilmore, NY (AA)
Rep. Dennis Abbott, NH (LA)	Brian Culhane, NJ, proxy for Sen. Johnson (LA)
David Pierce, MA, proxy for P. Diodati (AA)	Peter Himchak, NJ, proxy for D. Chanda (AA)
William Adler, MA (GA)	Tom Fote, NJ (GA)
Rep. Sarah Peake, MA (LA)	Gil Ewing, NJ, proxy for Asm. Albano, (LA)
Mark Gibson, RI (AA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Kelly Mahoney, RI, proxy for Sen. Sosnowski (LA)	

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

### Ex-Officio Members

#### Staff

Vince O'Shea	Chris Vonderweidt
Robert Beal	Brad Spear

#### Guests

Jeffrey Marston, NH F&G	Mary Beth Tooley, Small Pelagic Group
Jeff Kaelin, Winterport, ME	Peter Moore, New Bedford, CT
Lori Steele, NEFMC	Matt Cieri, ME DMR
David Ellenton, Cape Seafoods	

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, February 1, 2010, and was called to order at 3:50 o'clock p.m. by Chairman Dennis Abbott.

### **CALL TO ORDER**

CHAIRMAN DENNIS ABBOTT: I would like to call the meeting to order. The time is 3:50. I welcome everyone to the Atlantic Herring Section Meeting.

### **APPROVAL OF AGENDA**

CHAIRMAN DENNIS ABBOTT: At this time I would like approval of the agenda. Are there any items that anyone needs to add to the agenda? We probably do need a longer agenda today if anybody has got anything. Seeing no additions to the agenda, we will approve the agenda as prepared.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DENNIS ABBOTT Approval of the proceedings from the November 2, 2009, meeting; are there any comments about the meeting minutes? Seeing none, the meeting minutes are approved. Item Number 3, public comment; is there anyone who would like to comment on something that isn't on the agenda related to Atlantic herring? Mary Beth.

### **PUBLIC COMMENT**

MS. MARY BETH TOOLEY: My name is Mary Beth Tooley with the Small Pelagic Group, and I've come up to be somewhat repetitive of past comments. The industry has struggled with spawning regulations that were changed in recent years, and we continue to struggle. It continues to be of high importance to fishermen that the Section and the Commission address that.

You don't have anything before you today on that topic, and there isn't any action that is pending at the moment, but just so people are aware the past two years in particular the impacts have been very significant in September. Really, there is no place to go in the Gulf of Maine to fish, so I just raise that issue again that it is important to the fishermen and they would like to see the commission address it. Thank you.

CHAIRMAN ABBOTT: Thank you, Mary Beth. Jeff Kaelin.

MR. JEFF KAELIN: Jeff Kaelin from Winterport, Maine, with Lund Fisheries. At the risk of sounding like a complainer, I'm going to complain about the schedule this week. We're here for herring today and river herring Thursday. Everybody in the herring fishery is going back except for me. We can't afford to not be at river herring Thursday, so I'm looking forward to going to museums tomorrow and Wednesday if anybody wants to join me while I wait around for river herring.

If we could have them back to back, that would be a big help because we know that the bycatch issues in river herring are of a concern to the board and it directly affects our fishery. I look forward to spending all four days with you this week. Thank you.

CHAIRMAN ABBOTT: I've always known you to be around most of the week, anyway, Jeff, so we look forward to seeing you. The next item of business is an update of the timeline for Addendum II for public comment, and I'll recognize Chris Vonderweidt to give us a report.

### **UPDATE OF THE TIMELINE FOR ADDENDUM II FOR PUBLIC COMMENT**

MR. CHRISTOPHER VONDERWEIDT: Just as a refresher, the Section dealt with this at the last meeting. I'm going to go into the details of addendum. The addendum is largely identical to the other one. It has been updated with some Amendment 4 Accountability Measures. The language mirroring the federal process is identical to Amendment 4 now, as well. That changed a little bit.

The general idea here today was that we are going to look at what this addendum is about and then decide whether or not we want to consider moving forward for public comment. I think before when we set up the agenda about a month ago it didn't look like it would make sense to move forward depending on changes within the federal system or the federal Amendment 4, so Lori is going to talk about that, but it might make sense to move forward

I'm prepared to go into the details of the addendum if it pleases the Section. For the introduction, the Magnuson-Stevens Reauthorization Act of 2006 requires that the councils and the National Marine Fisheries Service establish annual catch limits and accountability measures. The New England Council's Amendment 4 will comply with these requirements.

What is in the amendment are new definitions and the process to set these specifications as well as possible paybacks, which fulfill the accountability measures' requirement. Accountability measures can be in-season measures to prevent an overage, so you could consider closing at 95 percent as an accountability measure that is already in the plan.

This will not change the general management scheme of how herring are managed. It is just definitions and a process. At the end of the day there is going to be a hard quota allocated to three areas, one, two and three, including two subareas which is 1A and 1B. For a statement of the problem, soon the ASMFC definitions will be different from the New England Council definitions.

As you know, this is largely a federal fishery. This includes there will be an ABC in the Atlantic States Plan, which is different than the council, and also the process to set the specifications, which were taken verbatim from the New England Council, which they will no longer follow, will also change so these will be in conflict with each other. Also, Amendment 4 may include an annual area payback. I would like to take it over to Lori who was at the council meeting last week and she is going to give us a schedule.

#### NEFMC AMENDMENT 4

MS. LORI STEELE: Actually, quite a few of you were at the council meeting last week, so most of you know how things went. The council did select its final recommendations for Amendment 4. Just so that you're aware, the council voted to implement the alternative to establish the ACL and AM process.

In Amendment 4, chose the option for the fishery specifications that would get rid of or eliminate JVP, IWP, TALFF and the reserve from the specifications' process; and chose both of the accountability measures that are proposed in the document to be implemented in Amendment 4. That includes an overage payback as well as a haddock catch cap accountability measure that I don't think is in the Section's addendum.

MR. VONDERWEIDT: It's not.

MS. STEELE: It's not, okay, but the overage payback was also selected by the council. Now we are just working to finalize the document. There was some discussion at the council meeting about clarifying some of the language in the Amendment 4 document; nothing that changes any of the measures that are proposed or the process that's laid out or any of the new specifications or definitions, but there are

just some sections of the document that need to clarify how discards are going to be accounted for during the specifications' process; how the allocations are going to be made.

We discussed that with the committee, discussed it with the council, the council approved the document, and we will be submitting the final document to the National Marine Fisheries Service hopefully no later than April 1<sup>st</sup>. We are just going to work on the final document between now and then, submit on April 1<sup>st</sup>, and we anticipate that Amendment 4 will be implemented for the start of the 2011 fishing year, which would be January 1, 2011, which is our legal deadline or legal requirement to have that amendment become effective.

For your May meeting, if you come back to this issue or revisit it, you will have a final document from the council. As I said, we're submitted April 1<sup>st</sup>, but the measures have been chosen, so I think we all have a pretty good idea of what is going to be in this amendment. It's just a matter of making some minor clarifications to the language and then finishing up the required sections that we have to complete for submission.

#### REVIEW OF DRAFT ADDENDUM II

MR. VONDERWEIDT: If it's okay with the Section, I'd like to go ahead and go over the addendum for consideration for public comment. The addendum should have been handed out to everybody, so I'm going to pretty much just follow the same as the amendment chronologically. You might want to look at some of the actual language in there because it's a lot more in depth and it kind of gives a better idea of what might need to be fixed.

ASMFC herring management is under Amendment 2. The TAC is distributed to the three management areas and two subareas, as I mentioned before, and it's largely identical in state and federal waters; the main differences being days out and also the spawning closures. The current specifications – and I would ask for everybody to look closer on Page 5 of their addendum. Hopefully, that's big enough for everybody to see, but I broke it into two tables. It was kind of the best that could be done.

Allowable biological catch, that's our current ABC, which is target fishing mortality rate times the estimated biomass. There is optimal yield, which is the amount of fish that provide the greatest overall benefit to the nation. That number of optimal yield is the number that has been distributed amongst the management areas in the past.

I'll go over this again, but that will become the new annual catch limit. There is domestic annual harvesting, domestic annual processing. Then there are the measures or the specifications that are specific to the foreign fleet, and those have been proposed to be removed from Amendment 4. I don't think we have ever set that because the domestic fishery takes care of the amount of herring that has been allocated, so that includes JVP, total joint venture processing; and if you'll go to the next slide, the total allowable level of foreign fishing.

The rest of the specifications are listed on that table. Then at the bottom is the reserve and the total allowable catches, so I would ask that you look at that closer in the addendum rather than spending time going over it. The process to set the specifications was also established in Amendment 2.

The language was literally taken verbatim from the New England Fishery Management Council Amendment 1. It has never been followed by the Section. It is a suggestion and it's not hard wired into the plan or anything. It's just the recommended process, but it is kind of wordy and unnecessarily long. It includes a series of five meetings, and those are listed out in the addendum.

Number one is the plan development team and the technical committee meet to do the SAFE report. The technical committee doesn't really conduct SAFE reports. There are many TC members on the PDT, but the PDT does the SAFE report. The Herring Committee and the AP and the Section then meet for Section review.

The Herring Section has never met with the New England Council Advisory Panel. It just goes on and on from there, so you can look at how lengthy it is, but it is kind of unnecessary. It is nothing we've followed and it is just taken from the federal plan that doesn't necessarily line up with the ASMFC process or what we're bound by.

Moving on to the new Magnuson-Stevens Reauthorization requirements, number one is the overfishing level. I'm sure everybody has seen these a lot, which is the MSY kinds of stock size, and you might notice that is allowable biological catch in our current specifications as laid out in Amendment 1.

Then if you take scientific uncertainty away from the overfishing limit, you get the acceptable biological catch, so that would be the new ABC. These are on Page 20 and 21 if you want to look at them in your addendum. The annual catch limit is the ABC minus

management uncertainty, which for herring is generally the Canadian catch.

Then the accountability measures ensure that the annual catch limit isn't exceeded, and that can be in season, so something like closing at 95 percent, which is what we currently have in plan, or it can also be paybacks within another fishing season. The proposed changes in Amendment 4, to highlight the main ones, allowable biological catch, which was what the previous 194,000 metric tons would become the overfishing limit.

There is nothing that would equate exactly to acceptable biological catch, but acceptable biological catch would be added. The U.S. optimal yield would continue to be called the U.S. optimum yield, but kind of in parentheses the stock-wide ACL, which is how it is done in the federal plan, so this is basically the ACL requirement.

There are also annual paybacks for overages in an area or a sub-ACL. Then there is at least a haddock payback, which doesn't relate to the ASMFC management, so there is nothing in this addendum that would address that. Moving forward to the specification definitions – and this is on Page 24 of Addendum II, and it's Table 5 – and this gives you kind of left to right what option one is, what option two is and what option three is.

The first one would be status quo. That would be to continue with the allowable biological catch as the ABC, which would be in direct conflict. There would be two different ABCs for a jointly managed plan. Number two would be consistent with the Magnuson-Stevens Reauthorization Act, which means keeping every single specification definition that is currently in the plan and then changing the overfishing limit, acceptable biological catch, adding that one, and setting a stock-wide ACL, including that with the definition for optimal yield.

This is different than what the council recommended last week. The council recommended to remove all the foreign stuff, so JVP total, JVP, IWP, total allowable level of foreign fishing and also the reserve, so there would be five specifications that would be removed from that, which would become option three.

Moving forward for the specification process – and this starts on Page 25, if you want to look at what the Amendment 4 administrative specification process. Option one is status quo. Option two is identical to Amendment 4 bound by the SSC, and this was

included not really as a viable option, but to kind of demonstrate how it might not be in the best interest to include all the things as far as like the risk assessment definitions that Lori was talking about, which we aren't explicitly required to include, but to do a more general, which you'll see on Page 29, process, which is kind of shorter, more straightforward, and it is three parts.

Basically, number one is the technical committee reviews the best available science. ASMFC staff will try to facilitate technical committee involvement during the SAFE report and stock assessment. There is considerable overlap so they should be represented at this time or it should make including them practical.

Step one is the technical committee reviews the best available science. Step two is that the technical committee makes recommendations on the specifications like OFL, ABC, ACL and an evaluation on if they have been exceeded, which these are kind of the barebones minimum requirements of Amendment 4.

Then number three is that the Section reviews the technical committee's recommendations and sets their specifications; and if possible prior to the Section setting the specifications, the Section would get together with the Herring Committee or the entire New England Fishery Management Council, if that could be arranged, and try and decide jointly what they want to do.

Moving forward to the accountability measures, these are pretty straightforward. Number one is status quo. We just continue to close at 95 percent, which is something under the definition of what an accountability measure is. Then option two, this would coincide with an Amendment 4 preferred option, which is overage deductions. If there is an overage, let's say, in Area 1A of 5 percent, 5 percent would be removed the following year from the same area. Questions.

CHAIRMAN ABBOTT: Are there any questions? Mr. Grout.

MR. DOUGLAS GROUT: I guess, Chris, the bottom-line question I have would be what would the effect of some of these measures have? Clearly, the specification-setting process in there is describing a process that ASMFC would go through. In one case it would be complementing the council process. For example, in the AM options we have here, if we were to implement – let's say we went with status quo;

would that mean that the quota we would be working under – and say there has been an overage the year before; would that mean that ASMFC would be setting the quota at a different level than the National Marine Fisheries Service?

MR. VONDERWEIDT: Potentially, yes, absolutely.

MR. GROUT: Do you see any specific rules that the states would have to implement to come into compliance with any of the options that we put in here that would be different from the status quo?

MR. VONDERWEIDT: No, I don't think so.

CHAIRMAN ABBOTT: Further questions? Seeing none, where do we go from here, Chris? Chris' suggestion is we move to send it out for public comment. Terry.

MR. TERRY STOCKWELL: Mr. Chair, that is going to be my motion. I assume we're going to be moving Addendum II out for public comment in some form, and it makes sense to do them together. **I would make a motion to move Addendum II for public comment.**

CHAIRMAN ABBOTT: Mr. Stockwell moves that we send Draft Addendum II out for public comment; do I have a second. Seconded by Mr. Ritchie White. Is there any discussion on the motion? Dave Pierce.

DR. DAVID PIERCE: Ordinarily I might not favor moving this forward, but I guess we have to go to public hearing with it. I'm just a little jaded regarding public hearings on this issue because I chaired one of the council public hearings recently regarding the specification process. It was poorly attended because most people knew that it wouldn't result in much. It was just bringing these into compliance with the Magnuson-Stevens Act.

I suspect that might happen again when we bring this to public hearing; very few people would attend. However, because of Option 3 being in this document, that might generate some more interest, and we actually might have a few more people come to provide some substantive comments relative to the complementary specification-setting process and the fact that under this option the Section would have the flexibility to set the OFL and the ABC higher than the recommendations of the SSC.

For that reason alone it does warrant bringing it out to public hearing to see what we'll get back as a response. I like that in there for no other reason than

it will generate some discussion regarding how the Canadian catch is treated. To me that's one of the burning issues that relates to how we manage the Gulf of Maine Sea Herring Fishery and how we do so not at the expense of the U.S. fishing industry to benefit the Canadians. I'll support this motion. I just wanted to make my feelings clear on the issue.

CHAIRMAN ABBOTT: Thank you, David. On the one hand you support it and on the other hand you don't. Further comments? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Actually, the question in front of you is to the issue of sending the draft addendum out for public comment. Since it is an addendum, it's up to the individual states to decide whether or not they want to hold a hearing on the addendum.

CHAIRMAN ABBOTT: Thank you; and to that, Vince, we also don't have control over who attends the public hearings either. Sometimes we have good attendance and sometimes we don't.

EXECUTIVE DIRECTOR O'SHEA: Yes, I'm sorry, the person who raised the issue doesn't seem to be engaged at the moment.

CHAIRMAN ABBOTT: Dr. Pierce, did you hear the comments?

DR. PIERCE: I was talking herring with my esteemed colleague, Mr. Chairman, so it was business, but I did not hear the question.

CHAIRMAN ABBOTT: Mr. O'Shea, would you care to repeat your comments.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, the issue before the Section is whether or not to take the addendum out for public comment. Since it is an addendum, it is up to the individual states to decide whether or not they want to hold a public hearing. Thank you.

CHAIRMAN ABBOTT: **Do we have any objections to sending this out to public comment? Without objection, we'll send it out to public comment.** Lori.

MS. STEELE: Just for clarification on Option 2 in the document, if you do take it out to public comment, just be aware that the section on Page 28, Section 2.3.5, which describes the timing, has been eliminated from the council's amendment document. There are going to be other clarifications to the

language in Amendment 4, but this section is being totally eliminated.

CHAIRMAN ABBOTT: Would you repeat that, 2.3.5.

MS. STEELE: Yes, 2.3.5 on Page 28 is being eliminated from the Amendment 4 document.

MR. VONDERWEIDT: I'll make sure to eliminate that and also run it by Lori one more time just to make sure that it is identical.

CHAIRMAN ABBOTT: Okay, so that finishes the discussion on Addendum II. Moving the agenda right along, we'll now go to Agenda Item 5, which is considering Draft Addendum III for public comment, and I will recognize Chris Vonderweidt again.

### SUMMARY OF DRAFT ADDENDUM III FOR PUBLIC COMMENT

MR. VONDERWEIDT: Draft Addendum III for Section review, just as a quick recap, was brought forth to the Section at the last meeting. There were a lot of Section members that were uncomfortable with the level of information in the document before wanting to bring it out for public comment.

I've gone back and there have been some New England Council documents that contain more information. I've been able to talk to some of the fishermen that this is kind of aimed at and include a lot more information. A lot of what was in the discussion about issues that were making Section members uncomfortable have been added. I went through the proceedings and pulled that stuff out.

With that being said, I'll go to the introduction. Basically, these are modifications to Amendment 2. This is only for Area 1A. It would be allow small-mesh bottom trawl vessels to land herring on days out. There are a bunch of exemptions on how that might be able to be done in the management options, which I'll go into.

Statement of the problem; days-out reductions may have disproportionately reduced landings for small-mesh bottom trawl vessels compared to landings from purse seine and trawl vessels. It is a historical fishery to provide bait and it's important to local communities. The midwater trawls and purse seines have large holds and most of these vessels have refrigeration, which means that they can fish for two

to three days per landing event. They are very efficient.

They can sell at a low price and still make a profit or a lower price than these less efficient small-mesh bottom trawl vessels. I'll just kind of say that this is from just verbal accounts, just personal communications with fishermen, so there is no economic analysis on this. The small-mesh bottom trawl vessels have small holds, no refrigeration.

For these vessels the number of landing days equals the number of fishing days. They're less efficient and they need to pull a higher price for their herring to make a profit. The days out is the effort control measure, the primary effort control measure from all federal and state management designed to prolong the total allowable catch and shift fishing pressure to other areas.

It restricts landing and not fishing or catching, so the only thing – the number of landing days is how many days you can bring the herring on shore and sell it. You cannot land more than 2,000 pounds on a day out. Kind of compounding these issues is that there was a 25 percent reduction or a 15 metric ton reduction from '06 to '08, so a pretty significantly less amount of herring were available, and it seems like we're going to have less than before coming up in future years.

Days out has basically allowed about two landing days per week in 2008 and 2009. There is a table on Page 3, I believe, and it shows what the exact restrictions were from week to week, but there were a lot of different days-out meetings and calls that kind of updated that. What the effect of this is on the market is that it concentrates the supply of herring to the landing days.

You've got the midwater trawlers, you've got the purse seiners and it is all being funneled into a couple of days, so there is a high supply of herring, which is going to drive down the price. For the small-mesh bottom trawl vessels, it is felt that this is making it hard for them to compete and stay in business because they have to take the smaller price.

One fisherman that I talked to, he was saying that he is getting twelve cents a pound versus eighteen cents a pound which he used to get, so it's pretty significant amounts. What they need to do or one of the things that would help the small-mesh bottom trawl vessels is to spread the landing days out over the course of the week, so not restrict them to the same landing days as the purse seine and the

midwater trawl boats. The boats that can land using small-mesh bottom trawl – and actually about ten minutes before this meeting started I talked to Lori about this.

She believes that there is an area like northeast of Area 2, which is possible to land in Maine. Nobody has actually landed during this time because it is so restrictive, but that will have to be included in this addendum. Basically, because of the federal groundfish FMP, you can only land using a small-mesh trawl from July 15<sup>th</sup> through November 15<sup>th</sup> in these areas.

This coincides with the accounts of members of the advisory panel from a conference call that was held before the last meeting, and it also coincides with the verbal accounts from fishermen that I've talked to. What they said is we've only got eight weeks – it's actually ten weeks, if you look at it, because of this whiting fishing exempted area, so this might be a way to set a seasonal restriction on these people or these fishermen.

That's kind of the start date of when these vessels can fish, and the end date comes around September 21<sup>st</sup>, which is when the spawning closures begin in the Massachusetts/New Hampshire area, which it seems like the majority of these fishermen are operating, and so that kind of just leaves about a ten-week maximum, and the spawning closure date can change depending on the amount spawned herring and all that, but it's roughly a ten-week period.

The people that I've talked to, that's when they're executing this fishery. The permit categories for vessels that can land herring in Area 1A is Permit Category A, which is a limited access, all areas, no possession limit. These are the main permits or the permits that are taking the majority of the catch. I believe you had to land 500 metric tons between 1993 and 2003 to be able to get one of these permits.

Then there is C, which is also limited access, incidental catch, which has a 25 metric ton possession limit, 55,000 pounds. Then there is D, which is open access, anybody can get these permits, with a three metric ton limit. These permit holders are required to report weekly through IVR if they land more than 2,000 pounds, which is what an exemption would give them would be the ability to land more than 2,000 pounds. They also have to report monthly through the vessel trip reports.

These permit categories were implemented for the first time in the spring of 2007. Now I'm going to go

through some figures that were from the draft specifications' document. This here is just the number of bottom trawls by permit category. It is not the area; it's not the landings; it's just the number of permits that could potentially catch herring right now that have used bottom trawls.

You will see that there is no permit; there was 14 in 2007 and 6 in 2008. I talked to Lori about this, and we think that it's boats that didn't realize they were catching herring illegally, so they're cutting back on those and making everybody aware of what the regulations are. Moving forward, the number of 1A bottom trawl vessels that have landed herring in 2005 through 2008 constituted less than 2 percent; the highest being 2007 when it was 1.6 percent and the lowest being 0.18 percent in 2005.

Then the 2001 landings by permit category; A was 93 metric tons; C was 58 metric tons; and D was 72 metric tons; and then there was one person who didn't have a permit. That was for a total of 223 metric tons and little less than half of that was an A category boat. Then this next slide – and I actually didn't realize this until I was going through and putting the presentation together, but with the Section's approval I would like to replace this or actually it would just be more information than is given on Table 5. The one that is given on Table 5 is just bottom trawl, but I would like include purse seine and midwater trawl and pair trawl as well.

If you look at the next slide, which is what is important from this and easier to read, you look at the average trip length – and this is one of the issues for the small-mesh bottom trawl vessels is that they have the same number of landing days. If you look at the bottom trawl trip lengths for the C and D permit holders, it's one day; and then you look at the other gear types, it is 2-1/2, 4.3, and then 3-1/2, so they're getting more of a chance to fish. I don't know if that is broken down by catch, but I think that speaks to that issue.

Moving forward to the actual management measures – and if you want to look for more information, starting on Table 7 there are landings by port and permit category. It is not broken down by management area, but there were Section members that wanted some of the landings by port, so this was the best that could be provided. Then also on Table 7 there is the metric tons by port and permit category.

One of the questions about this whole thing is what about the river herring bycatch. The best information at the time – and that could possible change

depending on what Matt says on Thursday – is six observed bottom trawl trips of Category C and D permit holders on Page 9. I didn't want to cut out any data from here, but it includes all three river herring species on there if you want more information on that.

The management measures; one or more of the following could be included, and I'm going to go through these one by one. 2.3.1, small-mesh bottom trawl possession limits, Option 1 is status quo, which is that a vessel can only land 2,000 pounds on a day out. This would be for the small-mesh bottom trawl boats as well as everybody else.

Option 2 is that small-mesh bottom trawl and C and D can land 6,667 pounds on a day out. That's three metric tons, and that's what the lower of those two permit categories can land, so a D permit can only land three metric tons at any time that the fishery is open. Then Option 3 is that C category permit holders can land 10,000 pounds and D can land 6,667 pounds or three metric tons.

Moving forward to the days out, Option 1 is status quo. These options were designed to potentially speak to the price of herring being lower because they're landing on the same days as the larger vessels, and then also that they can't fish as many days because they don't have refrigeration and large holds, so that is just the idea behind it.

Option 2 is that they can land on different days of the week, and this would be set during days out, so when the three states adjacent to Area 1A get together and they say they're going to take two days out or five days out, you can land on Monday and Tuesday, you could set days out specifically for a small-mesh bottom trawl vessel, so you could say small mesh can land on Wednesday and Friday and then everybody else can land on Monday and Tuesday, so they have less competition for bait on those days.

Option 3 is exactly the same as Option 2 except it would be the same number of landing days plus one. Option 4 and 5 are identical as well, but it would be they can land on different days plus two and then plus three. So just as an exercise, let's say the states adjacent to 1A set five days out, you can land on Monday and Tuesday, they could say, well, two landing days, we will go plus one, and so there would be three landing days, and they could say you can land on Tuesday, Thursday and Saturday or whatever would be convenient, but that would just be the way that would work.

Then Option 6 ties in with options that I'm going over in a minute, and that they're exempt from days out until the small-mesh bottom trawl quota has been harvested. The next one is 2.3.3, seasonal exemption for small-mesh bottom trawls. The idea behind this is that there have been concerns that other people might enter this fishery, so this would be one kind of way to constrain it, not that people couldn't enter the fishery during this time period, but just kind of one way to say definitely July 15<sup>th</sup> through September 21<sup>st</sup>.

Option A is status quo. Option B is July 15<sup>th</sup> through September 21<sup>st</sup>, and that coincides with the beginning of the small-mesh exemption and then the beginning of the spawning closure. Moving forward to 2.3.4, which is the last of the management options – and one says may select one or more of the following, and I'm not really sure why it was included like that, so we might want to change that, but I'll just put it out there for discussion.

Option 1 is status quo. Option 2 is an amount decided during the specifications process that would be allocated to small-mesh bottom trawl vessels. Option 3, 4 and 5 are based on percent harvest for various years, so 0.68 would be '05 through '08, which is the entire data that was available from the SAFE report or draft specifications' document; and also the SAFE report, the average of that, which is 0.68. Option 4 is '06 through '08 landings, which is a little bit higher, 0.85; and then Option 5 is the largest number in the time series of only four years, which is 1.6 percent, and that is the 2007 number.

CHAIRMAN ABBOTT: Thank you, Chris. Do we have any questions? Doug Grout.

### **SECTION DISCUSSION OF DRAFT ADDENDUM III**

MR. GROUT: It's not a question, but I just wanted to try and make a clarification. If we could put up the map that shows the areas that are allowed under the Groundfish Plan for these small-mesh bottom trawls to fish in and also if people want to refer to Page 13 of the document, just a clarification of the Area 2 that is listed up there I believe is only open from small-mesh bottom trawls with raised footrope from January through June 30<sup>th</sup>. That is not an area that they would typically be fishing in for herring.

I think within Area 1 the only areas where they will be allowed to fish would be that box close to the New Hampshire border that is labeled number one and then a small sliver of the shaded area that wraps

around Cape Cod there that is the RTF, but just a small sliver, and you can sort of compare that to the table of Area 1 and you can see that it's only a small – so there is only two really small sections of the entire Area 1 that they could fish other than the one I didn't realize that was just mentioned here by Lori.

MR. STOCKWELL: Mr. Chair, a question and then some comments. Chris, could you go back to your slide preceding the management measures, which was 2.3. Okay, I need some clarification here. Are you saying for every one day of a landing day that a purse seine fisher effort is 2.4 days?

MR. VONDERWEIDT: I can better resolution actually on the slide before there, but I didn't think that you would be able to make it out, but what it is it's total days absent divided by the number of trips is the equation.

MR. STOCKWELL: Well, I'm trying to figure it out by the week. We've given them two landing days per week, so should I be adding it together or – I mean, it is not jiving and likewise with the rest of them.

MR. VONDERWEIDT: I mean that is all that it is. It's just the total days absent divided by the number of trips.

MR. STOCKWELL: Okay, I realize you're working hard to pull something together for us, and I don't mean to be critical. I'm just curious. I remain supportive of this concept, but I'm really struggling over processing time and constraints, and I'm not quite sure how to pull it together. Reading in the document here in the beginning "will result in higher revenues for these fishermen"; well, all herring fishermen are under a world of hurt right now no matter what fishery they're in.

That was divisive for me to start with, but some of the issues that I have are process issues. We have no technical committee review before we have a public hearing. I have got a huge concern about river herring bycatch. We're moving with trying to develop a state sustainable plan at a time when we might be encouraging fishing in areas with a bycatch. We might not be.

I'm concerned about the potential for increased effort, and we jabber back and forth about be careful what you ask for, you might get it. Particularly the unknown, we might have sector vessels or other people trying to capitalize on bait fishing. Monitoring, right now the IVR system doesn't

separate on gear types, and I'm not sure how we're going to monitor it if we're going to move this ahead.

I'm not sure how if we move ahead with a TAC or other restrictions how it will impact other landings in the other fisheries on the C and D permits. It is really complicated and I want to make this work, but to me the show stopper is a TAC. I think we're going to have to – if we're going to move this ahead, I'm going to want to see a hard TAC on this, and then it is up to the industry to decide how and when they want to fish within that, but I want to help protect them from themselves so that we don't – the very people that we're trying to help out here don't get hammered in the end.

DR. PIERCE: In preparation for today's meeting I went back over the minutes of our last meeting to remind myself what I said, the questions that I asked and in particular some of the points that were made by Matt as he attempted to represent the technical end of this discussion relative to this particular addendum.

Terry has repeated many of the same questions that he asked at the last meeting, and I'm not going to make my same points because it wouldn't make much sense, but I will ask for a couple of clarifications. Table 8 is a very important table and it relates to that issue that Terry has noted, and I noted it the last time around on this issue, and that is potential bycatch in the small-mesh fishing in the areas where that fishing would occur; for example, in the Ipswich Bay area, if indeed we were to allow this to happen.

Again, I can understand the benefits of doing it. Chris, you did a great job putting together the rationale as to why we should even entertain this as a possible strategy. But in that Table 8 I noticed over the course of three years, seven, eight and nine, we had six observed bottom trawl trips with discard information for those trips.

My question is, yes, you got this from the draft 2010-2012 herring specifications' package, but is there any additional information that could be brought forward and made available, assuming we do a public hearing on this issue, that would help us better understand the prospects for discards of some of these key species in the area such as codfish in October-November, certainly in November, and river herring as well?

With that question asked, I'll also – well, I guess at the time, the last time we discussed this we asked Matt if indeed he might be able to get into the data

base to assist Chris on this issue, but Matt obviously was involved with many other important issues. I guess my question is relative to Table 8 and also if Matt has been able, representing the technical committee, to offer up some additional information that would help us judge whether this document is adequate enough from the technical end?

CHAIRMAN ABBOTT: It is my understanding that, Doug, you provided someone to work with Matt on these issues; do you have any comment?

MR. GROUT: In response to some of the concerns both Terry and David had presented, I floated some e-mails to them saying what is the information that you need to make this document more complete? We did get some response. I heard from you, Dave, verbally that you were okay with the list that we had come up with.

The problem we had was, one, the two members of the plan development team from Massachusetts and Maine were still swamped with other tasks that they had been given to do. I had offered my staff to do this. The problem we had was we didn't have access to the data, so I asked the National Marine Fisheries Service why we hadn't been granted access to the data.

A long story short, despite them assuring us that they were going to provide us access, we actually didn't get it until the middle of January. For some reason the person who had been assigned to give us the access, both Chris and my staff member, didn't do it. Then as it turned out they changed over their computer system, their data base, to a different system, and so now everybody is locked out of it from what Matt recently told me.

Matt was gracious enough to give us some information that you had collected from previous queries to do some of the analysis, specifically the ones that have been done so far, and we just got this on Friday from my staff member, Renee, the small-mesh bottom trawl landings in Area 1 going back all the way to 2002; the number of vessels using small-mesh bottom trawl to catch herring in Area 1A; and, three, the number of trips where herring is landed by vessels using small-mesh bottom trawl and the number of trips with catches and landings greater than 2,000 pounds; again, going back to 2000.

So we've got three of the things done and Friday afternoon we e-mailed that to Chris, but obviously it wasn't time to get into this. I'm hoping that if we can get access to the data base that we can complete the

other two tasks, which Terry and David requested for information here; one of which is the bycatch information.

CHAIRMAN ABBOTT: Matt, do you have any comment?

DR. MATT CIERI: Just for many of the areas that have been laid out, as you all know from remembering some of the graphs, there is some interaction with some other small-mesh fisheries that work that area in river herring. I have a presentation on an updated river herring bycatch for Thursday, but that is also something that can be incorporated in. The number of observed trips within the Gulf of Maine is extremely low, but they do show significant bycatch.

MR. GROUT: Although I'm sure Matt's analysis will show a much more refined number, I did some back-of-the-envelope where you apply these alewife bycatches via the sea sampling data in Table 8 and multiplied it times the number of metric tons, and in 2008 it would have resulted in about 28,000 pounds of alewives and 13,000 pounds of blueback herring.

If you figure in two fish per pound, which is what we use in our landings' data, you would be talking roughly about 55,000 alewives and about 26,000 blueback herring. That's a small fraction of just New Hampshire's annual return, let alone all the rivers up and down the coast of Maine and in the Gulf of Maine and Massachusetts, but you may have some more refined data that is going to give us a little bit better data.

MR. THOMAS FOTE: I have a lot of concerns; I really do. I mean, we're sitting here worrying about river herring and worrying about bycatch. I don't know how much observer coverage we have on these small boats. I would presume very little. They're basically done on the big boats, if I'm not mistaken, most of the observer coverage.

I mean, before I was supporting because, you know, there is no reason for me to have public hearings except find the objections in New Jersey, which is because of bycatch of river herring, and we already have those objections. I need a lot more information before I could support this going out to public hearing. I'm just not comfortable; I'm not comfortable until I have bycatch data and the observer coverage and how much observer coverage we have. Also, I'm not sure whether I want to set up another precedent to exempt somebody. It's very troubling to me at this time.

CHAIRMAN ABBOTT: Further comments? The only comment that I would make is I think that we should read 2.1 carefully. 2.1 says that these folks were fishing and had been fishing for many years, but when we went to the days-out system we created an unintended consequence. I think the result of that is a classic example of when someone is advantaged and someone else is disadvantaged. I just ask everybody to read 2.1. Go ahead, Tom.

MR. FOTE: It still doesn't address my question of bycatch. There has been bycatch and river herring has been going down for 20 or 30 years, so that's really where my concern is and not whether they're getting disadvantaged but what the effects are on the bycatch fishery and basically affecting other stocks. That's where I'm concerned.

CHAIRMAN ABBOTT: Yes, Tom, I wasn't really addressing your comments. It was just back to an overall statement of why we're here talking about this today. Any further discussion?

DR. PIERCE: I think the rationale for this action has been well described. Granted, there are some data gaps that I'm still concerned about, but in the interest of moving this forward to acquire some further public comment on this issue, and, of course, to give some additional opportunity for other analyses or data to be brought forward, if indeed it can be brought forward, **I would move that we adopt Draft Addendum III to Amendment 2 to the Interstate Fishery Management Plan for Atlantic herring to public hearing.**

CHAIRMAN ABBOTT: Thank you, Dr. Pierce; do I have a second? Pat Augustine.

MR. PATRICK AUGUSTINE: I second that.

CHAIRMAN ABBOTT: Do we have discussion on the motion? Terry Stockwell.

MR. STOCKWELL: I support taking it out to public hearing. My concern is just how to make it a document that we can take out that isn't quite so cumbersome as this. There are an awful lot of options in here. Without technical analysis, I'm just concerned at this point what we're going to be getting out of the public.

I'm just cavating in my own thought process what we're going to get out, what we're going to get back, and then how we're going to get back together and come up with something that actually works. I'm looking for your guidance on how you would like to

proceed. I'm thinking we're going to have a days-out meeting here by and by, and maybe it would be a chance at that point to have additional technical support to help us focus our thoughts.

CHAIRMAN ABBOTT: Are you scheduling us a days-out meeting?

MR. STOCKWELL: Before we leave, yes.

CHAIRMAN ABBOTT: Okay. I don't know how complicated it is. I think that with your participation, both you and Dr. Pierce in particular who have been dealing with this issue, that I'm sure you would work in the next few weeks with Chris to refine this as necessary. I heard you mention earlier about hard TACs. Is that something that you thought you should be seeing in the document that's not there?

MR. STOCKWELL: No, it's there, but Option 5 is picking a single year. That to me ought to be an option that is deleted. I wouldn't support a single year's landings as a hard TAC. Just going through it, I think we could probably minimize – I mean, some of them have five and six different options.

We're going to have a soup-to-nuts response here that just might make it – well, I know it's going to make it more difficult to come up with some sort of recommendation on the other end I think if Doug intends to have this in place for this fishing year.

CHAIRMAN ABBOTT: Thank you, Terry. I would think that with your wisdom and the wisdom of the others around the table that we would be able to sort out the wheat from the chaff as we go through the public hearing process and come up with hopefully something that would be acceptable to all parties. Doug.

MR. GROUT: To Terry's point, I see this as having a number of options for the Section to consider and for the public to provide input on. Now, clearly, there may be some options that you're not comfortable with, but if we don't have it in there, there may be some public that is comfortable and would like to have those options, and we need to have the bounding of the options from status quo up to a higher level option.

I also think that we need to make some of the edits if we're going to send this out to public hearing that Chris was talking about. For example, under 2.3.4 where it says the Section may select one or more of the following options; well, that is clearly not appropriate for this; and if we can agree on

eliminating that, that we would choose only one of those options, I think that would be worth – I mean, there are some options here that I think are irrelevant, too, but I'd like to send it out for public comment.

MR. ROBERT E. BEAL: Just a comment or a question on process; I think the comments Terry is making about taking out options that may be unrealistic is always a good thing to do for the public. In Doug's earlier comments he mentioned that some of the analysis of the VTR data had just been done last Friday and he e-mailed it to Chris.

It sounds like Chris and Doug's staff and the other states have just got access to the VTR data, and there is probably some good information that can be pulled out of that data describing the impacts and the number of trips and a number other things, so I think the Section may want to consider what latitude to give to the staff and the plan development team and the states' technical folks to include that information in the document to describe to the public what are the impacts of some of these options.

It probably moves in the opposite direction that Terry is talking about in simplifying the document. It doesn't shorten the document, it adds to it, but I think it adds some valuable information. If the Section wants to add some VTR information, you probably should set a finite timeline of some sort and give a couple of weeks, three weeks, four weeks, whatever it takes to analyze that data. That will still provide sufficient time to have public hearings and the public comment period and bring it back in May. I just think it is probably good information that should be included.

MR. STOCKWELL: Thank you for your indulgence, Mr. Chairman. I'm fine. If you feel comfortable about this, Doug, we'll take it out and thrash it through and see what we have on the other end.

CHAIRMAN ABBOTT: Well, I know we have taken out a lot of amendments and addendums that have had options that we clearly would not expect to be adopting, but we do that to the best of our ability so that the public has that opportunity. Back to the earlier question about do we need to make any – we have a motion before us and we can vote that up or down. Do we need to talk about any changes that we want made? Can we do that before we vote?

MR. G. RITCHIE WHITE: Would the maker of the motion allow for this additional information to be brought in at the discretion of staff?

DR. PIERCE: Yes, absolutely, anything that will help make this document more understandable, more defensible, more informative, that should be done. I agree with you, Mr. Chairman, the PDT, the technical committee and the staff should be given the latitude to provide additional information if, indeed, it does exist, as well as to the extent that it can be done an even better description of one of the points that was made by Matt a while ago relative to the IVR data base and our ability to monitor and to accurately track the landings of these vessels. There is reference in the document now to that particular issue, but if it can be expanded upon and made even better that would be of great importance to us when we come back and decide what our position will be on this addendum..

CHAIRMAN ABBOTT: I'm getting a lot of positive nods to my right, so I'll go with that. Seeing a couple of hands in the back, I'll recognize Mary Beth.

MS. TOOLEY: Mary Beth Tooley, Small Pelagic Group. I do have a number of issues with the document. We haven't really been all that supportive given the current situation with the reduction in herring TACs particularly in Area 1A and the impact to the fleet. But if you move forward and go out to public hearing, I think that the table that was on the screen – you were going to replace Table 5 – I would not suggest that you include that in the document because it includes offshore trips, trips in other areas that are not comparable to day boat fishermen in New Hampshire, and it really skews the information.

I think, also, when you look at a lot of these tables that are present in the document, they're taken from an analysis that was done by the PDT that were used for other things and again are not comparable. You have total number of landings by gear type for bottom trawl vessels that are 200 and some odd metric tons, and then for this particular group you have a total of 80 metric tons so we have no idea who those other bottom trawl vessels are, where they're operating, what area they're operating in.

We know that in Maine we have some small purse seine vessels that are operating, so this would appear to carve out something for one gear type, and we don't know what the impact is on that other small boat gear type, so it raises a lot of questions. I don't know to what extent our technical committee can get at the information since it hasn't necessarily been collected by these groups so that you actually get anything, but it raises all these questions.

If you're going to be looking for additional information, I would hope that you would keep that in mind. Also, as somebody who has worked in the bait industry in the state of Maine without refrigeration for many, many years delivering to both the islands and shoreside, it is quite possible to go out and fish before the day you deliver to your market.

We salted fish for years and we put ice on fish. We're not talking about food-quality fish. That particular statement in the document is not correct. On Page 3, the second paragraph, that entire paragraph is a personal communication with a fisherman who feels impacted by these measures, but it is not balanced by any other fishermen and any other group, and we actually think that is opinion, that it is not factual.

To say that their operating costs are higher than the vessels I work with is incorrect. We have vessels that have had no net profit in some recent years, these vessels in our sector, so you need to have an analysis that supports this kind of information to put in a public hearing document. The paragraph leaves the impression that you're trying to – that the compressed landings that we're forced to work under is driving the price down.

I can tell you that our prices remain constant. It has not driven the price down for our sector. I really don't understand why in some other port it would drive the price down. Again, I would ask you to look for some verification of the information; and if you can't, then I would take the personal – you know, to a reader of the document, one would think this is factual, and our interpretation at this point is that it is opinion; and if you couldn't support it, then we would prefer that you take it out.

I probably could go on for a little while longer, but other people had their hands up, and I probably should let them have an opportunity to speak. We have numerous questions about the analysis and how comparable it is among the different sectors and about making exceptions in general. Thank you, Mr. Chairman.

CHAIRMAN ABBOTT: Thank you for your opinion. Peter Moore.

MR. PETER MOORE: I'm Peter Moore. I work with Norpel in New Bedford. We're a herring and mackerel fishing operation. I know many of you know that we have been active in the whole days-out process, which has been very difficult and very well managed I think by the ASMFC commissioners.

I guess I have one question right off the bat, which I can't quite figure out the overlap in these maps or charts showing the Area 1 Herring Management Area and the small-mesh bottom trawl areas. How much of the small-mesh bottom trawl areas are in Area 1A?

CHAIRMAN ABBOTT: I think the answer to that is all of it. Before you go on, is that a correct answer that I gave?

MR. MOORE: I don't think all of them, but is number one and number two and that part of RFT; is that the areas that we're talking about that are in Area 1A?

CHAIRMAN ABBOTT: I'll ask Doug to respond to that for you.

MR. GROUT: Well, what you can do is you can compare it to the Figure 2 on the other side and you can see that Area 1, Area 2 and the westerly portion of RFT are in Area 1. Keep in mind that Area 2, you're only allowed to be in there from January through June 30<sup>th</sup>.

MR. MOORE: Well, I just want to go on the record as saying I'm not a person who is opposed to giving the opportunity to other fishermen by any means, by any stretch of the imagination, but I do have problems with going out to public hearing with this document as it is written. To me right off the bat it is an advocacy document, and I think that's wrong for ASMFC to do that.

I think that they need to do what Mary Beth just described and go back and look at the assumptions that you're making about cost, about who is advantaged, who is not advantaged, about a whole bunch of other issues in here because you're setting a tone for the public to say, "Oh, yes, okay, these poor guys have been disadvantaged and nobody else has."

We're not allowed to fish in Area 1A from June 1<sup>st</sup> until September 30<sup>th</sup>, and then after that until the middle of October when the spawning closures are lifted as midwater trawl operators. We have about two weeks of fishing, sometimes three weeks, sometimes four weeks all year in that area. I think it is something that needs to be included in the document about what management changes have taken place as well as what has happened with the quotas. You're reflecting quotas that are – I hate to say it, but they're ancient history now.

We're not going to be seeing 45,000 tons in Area 1A for a long time. We're lucky if we're going to see

20,000 tons. I think there is a lot of information in here that is not accurate, that the staff needs to go back, get the answers, and present a document that is in fact straightforward and factual for the public.

The second question I have is it is a little bit difficult for us to realize – and I didn't realize this – and I think this is correct, that this gear type can actually drag a bottom trawl in a herring spawning closure area. I think that I'm correct in that, and I find that unbelievable given what we're trying to do with the spawning closure regulations and the impact of gear on the bottom when herring are aggregating and spawning.

That one I think this committee really needs to think about; do you want to not only allow that – I guess you don't have a choice of allowing it since it's a federal issue, but do you want to potentially expand that activity. I think that is contrary to the entire management plan for both the council and the ASMFC.

I think the other issue that needs to be addressed in this document, which is not even mentioned, is as we go into groundfish sectors – and these vessels presumably have some groundfish history – if they're going into sectors, is there going to be some latent capacity that is underestimating in here the level of effort that especially Category C permits can ramp up to 25 tons per trip or more – I don't know; I haven't been able to really understand how these various options work, but I think those are just some examples of what I think are – you know, it shouldn't be up to the public to try and comment on a document that – no offense – is not ready for primetime.

I guess that's what I'm urging is that the staff take more time, work with – you know, you have an AP. You could talk to the AP about these questions instead of talking to one fisherman who happens to be a small-mesh bottom trawl fisherman from New Hampshire who is the source of the personal communication. That's my comments. Thank you.

MR. PATRICK PAQUETTE: Patrick Paquette, Massachusetts Striped Bass Association, Massachusetts Chapter of the Recreational Fishing Alliance. Just a question on Table 8 so that I know that I understand what I'm reading; pounds kept, alewife, 4,158; and herring blueback, 2,048 pounds. I just want to make sure that I understand. That is kept; that means landed and sold, correct?

CHAIRMAN ABBOTT: I think the answer is yes.

MR. DAVID ELLENTON: Dave Ellenton from Cape Seafoods and Western Sea Fishing Company in Gloucester, Massachusetts. I'm really just going to very briefly support what other folks have said. I have no problem with a document going out for public comment, but it has to be a factual document, and this is a long way from being a factual document and paints a picture in a very distorted way. The paragraph on Page 3 with regard to prices of herring is absolutely ridiculous. If you go in to talk to fishermen, talk to a number of fishermen and not just one of them.

Of even more concern is back on Page 2 where it states the statement of the problem, and to try and create the facts just doesn't exist – this paragraph actually says because these vessels have small holds and can only fish for one day at a time while purse seine and midwater trawl vessels with large holds and refrigeration can fish for several days prior to a landing day.

Midwater trawlers do not fish for several days prior to a landing day in Area 1A until October 19<sup>th</sup>. We do not have access to 1A until October 19<sup>th</sup> when the spawning closure comes off. And to put that in there to create a false impression is absolutely not acceptable. Thank you.

CHAIRMAN ABBOTT: Excuse me, Dave, what statement particularly are you referring to about where you can or can't fish or can fish more than one day?

MR. ELLENTON: On Page 2, the statement of the problem. These documents have to have a statement of the problem, I guess, and the statement of the problem was what I just read out to you. It says that these vessels have small holds and can only fish for one day at a time while purse seine and midwater trawl vessels with large holds and refrigeration can fish for several days prior to a landing day.

All I'm telling you is that midwater trawlers do not do that in Area 1A from the January 1<sup>st</sup> to about October 19<sup>th</sup>, whenever the Massachusetts/New Hampshire spawning closure comes off. We're excluded from that area until the end of September, anyway, with the restriction on the gear type. Because of the spawning closure in place, it's usually around the 15<sup>th</sup> to the 19<sup>th</sup> of October before we ever go into that area.

Many of these options are recommending that the vessels fish from the 15<sup>th</sup> of July to the middle of September. They're not fishing at the same time as

midwater trawlers. To say that they're not going to be able to get the price for the fish because the midwater trawlers have swamped the market is just not sense. It shows a lack of understanding of what is happening in the fishery. I don't mind the public hearing document going out, but let's have some facts on the table.

CHAIRMAN ABBOTT: I guess one of the things I found in the legislature is don't ask a question if you don't know the answer to it, but I think that we could look at that different ways that when you do fish, when you are fishing, you are fishing more than one day. I think that was probably the intent. Jeff Kaelin. I'm going to finish the last public comment.

MR. FOTE: I had a question of the other person.

CHAIRMAN ABBOTT: Would you take a question, Dave? Go ahead, Tom.

MR. FOTE: Dave, are the small boats fishing in that area when you're closed to that area or is it closed to everybody right now?

MR. ELLENTON: Right now?

MR. FOTE: Right now; if we don't change the rules, is everybody excluded to that area until the spawning closure takes –

MR. ELLENTON: Well, right now we're in the beginning of the season. The season starts on the first of January and we do not have access to Area 1A until the end of May; nobody does.

MR. FOTE: Nobody does.

MR. ELLENTON: I don't know whether these guys do. I don't know too much about that fishery.

MR. FOTE: Okay, that's the question; I thought maybe you knew the answer.

MR. ELLENTON: No, I don't know whether they have access to it.

CHAIRMAN ABBOTT: Matt will answer that question.

DR. CIERI: Yes, bottom trawls do have access to Atlantic herring and can fish in those areas when midwater trawlers cannot. The purse seine only area also grants access to small-mesh bottom trawls up until after October 1<sup>st</sup>. After October 1<sup>st</sup> is when the midwater trawlers can move into Area 1A. Bottom

trawlers can start fishing, depending on their licenses, whenever the whiting areas are open, which I believe is July 15<sup>th</sup>. So, yes, bottom trawlers can fish in those areas when midwater trawlers cannot.

CHAIRMAN ABBOTT: Thank you, Matt. Ritchie White before we go to a vote.

MR. R. WHITE: I think the public made a lot of good comments, and I think the staff can incorporate some of the suggestions because I think there were some good ones and to make sure that the document is factual. I think the staff has the ability to do that, and I don't think we have to delay going out. I think that these ideas can be incorporated.

I'd also like to see added into the document – so the public has some sense of comparison, I'd like to see the bycatch from the rest of the fleet so that they can see that when they look at the amount of bycatch that this gear type is prosecuting, that it is in relation to what the other gear types are doing, so we can see as a percentage what we're talking about. I would like to see that added as well.

CHAIRMAN ABBOTT: I'm going to go back to the public because I forgot about Jeff.

MR. KAELIN: Thank you, Mr. Chairman, I won't take that personally and I appreciate the opportunity. I'm not going to reiterate much of what was said earlier. I'm speaking on behalf of Lund's Fisheries. We've had real concerns with this from the beginning. Another statement in the document that really jumped out at me when I took a look at this was the argument that these few participants have fished this way for decades.

Well, that may be true, but for at least a decade or damned close to it we've had a restriction on the harvest of herring as an incidental take to 2,000 pounds a day, and it was done very judiciously early on to eliminate the potential for a directed fishery to take place when everybody else was shut down specifically. Depending on how large the effort in the Category D permits may be – and it hasn't been analyzed. This has already been pointed out – that is going to have a significant effect on the accountability measure that we use potentially to close the fishery at 95 percent.

It is pretty clear from the projections of harvest here that we're well within the 5 percent. This came up at the council just last week about accountability measures and whether we're really protecting over extending the quotas. There is a relationship there

that I think that the Section needs to understand and also understand the rationale for this 2,000 pounds a day limit.

We have asked for flexibility in the days out to eliminate this market impact that Chris had outlined about everything landed on one day. We were talking about having certain vessels fish Mondays, Wednesdays and Fridays and others Tuesdays and Thursdays to be able to stretch fish out in the marketplace, and we told as an industry generally, no, you can't do that.

You're either in or out; it's too hard to manage this situation if you've got some guys in and some guys out, so I don't really understand how this would work at all. Then, finally, without beating the dead horse here, I was also going to raise the issue about these boats dragging in the spawning area closures, particularly when there is directing on herring a couple thousand pounds a day. It could be six, it could be 10,000 pounds a day, depending on what this addendum does.

I wanted to raise an issue for the Section, and that is that at the council again there is a priority for considering protecting spawning areas in the herring fishery. Assumingly, that is in the offshore areas because we've already dealt with it in the Gulf of Maine. But as we approach that issue, it is one I think where we need to consider the impact of bottom trawling in areas closed to herring spawning.

That's a real problem; and, frankly, until I read this document, I kind of forgot about that issue. I used to talk about it; we all did, but it's a real problem. The seiners or the trawlers, whoever, depending on the time of year that you're in there, you can't fish for any herring. Remember we threw the tolerance out the window, but yet these guys can go in and tow through the herring spawn. That doesn't make any sense to us, so we'd like to have that issue analyzed if any of the document ever is analyzed. Thank you.

MR. WILLIAM A. ADLER: If you're going to move this to public hearing, I don't have a problem with that, but I'm very concerned about this factual stuff. I don't know when they say, well, if you're going to move it to public hearing, but just fix the facts or whatever; how do you do that? How does the staff figure they are going to correct anything or add anything; how are they going to do that before it goes to public hearing? I just don't know how they're going to fix it.

CHAIRMAN ABBOTT: Well, I can't speak for staff, but what appears here now is there is some question about it. I had a sidebar with Chris talking about that particular paragraph on Page 3 and maybe there should be some alterations to that. We heard one side and we've heard another. Everybody has a position or could make a determination of what they think, but we will have to rework that paragraph before we go out to public hearing.

MR. ADLER: Okay, I heard several factual inconsistencies – I'm going to put it that way – and not just one, so I'm sure it is on the minutes or whatever it is, but I'd like you to investigate that and fix the facts; so that when you go out, you've got the facts.

CHAIRMAN ABBOTT: Thank you, Bill. As you know, we always work with the pure facts here; nothing but the facts. That's just an aside. I'm to recognize Vince.

EXECUTIVE DIRECTOR O'SHEA: I think an important issue here is sort of the issue of adjudication of who is going to adjudicate what a fact was. This document was looked at by the advisory panel and it was developed by the plan development team, who also looked at comments that were made from the meeting transcripts from the Section. While being respectful of the comments that we've heard today, this got here by a group of people that collectively thought it did contain the facts. A key element here of trying to straighten that out is going to be who is going to decide what a fact is? Thank you.

CHAIRMAN ABBOTT: My thoughts exactly. Doug.

MR. GROUT: I guess the only thing that I wanted to try and clarify concerning the spawning closures is, one, in that small area in Ipswich Bay where they are fishing, they are fishing prior – they primarily fish prior to the spawning closure. You're allowed a 2,000 pound bycatch if you happen to catch some herring when you're fishing in the spawning closure, but if you look at the landings' data 99 percent of the landings are occurring in July, August and September. I think you can get that information out of one of the previous specifications' documents that had been put together by the council. The impact is minor.

MR. STOCKWELL: This discussion has alleviated any concerns I have about minimizing the document. I support it going out as proposed, but it also

addresses Dr. Pierce's concern about public participation at the next herring public hearing. I think we'll have a room full.

CHAIRMAN ABBOTT: Dave Simpson, briefly, I hope.

MR. DAVID SIMPSON: I guess this just brings for me the question – I know the Herring Section is well supported in the Gulf of Maine, the states of Massachusetts, New Hampshire and Maine that use it. They seem to have good reason for wanting it and want to keep it, but it is things like this that conflict with the New England Council Plan, the federal plan, get right to the heart of allocation issues.

We're causing our own problems and then trying to solve them. A few boats got – you know, the perception is they were disadvantaged by a commission element in a plan. My understanding is these fisheries are predominantly in federal waters. I've been back and forth whether to make these comments or not, and the last one I guess – what was said a minute ago – prompted me to say that again. I just question the wisdom of attempting to have parallel plans knowing that they're not going to run in parallel and they're going to conflict, and we only cause ourselves problems by doing that.

CHAIRMAN ABBOTT: Okay, we've had enough discussion. I would like to bring this to a vote at this time. I'll give you a minute to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN ABBOTT: Are we ready for the vote? All those in favor of moving Draft Addendum III to public comment raise your right hand; all those opposed; null votes; abstentions. **The motion passes six to one.** The next item of business is set 2010-2012 Atlantic Herring Plan Specifications. Tom.

## 2010-2012 ATLANTIC HERRING PLAN SPECIFICATIONS

MR. FOTE: What I was going to ask, and you didn't recognize my hand before you voted, was that if this document does go out – and Ritchie talked about bycatch – I want to make sure in the document it clearly states – because I looked at this and it only shows six observers in the two years or three years of observed trips. If I remember right, in the midtrawlers there is a lot more observer data, so I want to make sure that is specified in the document, also, on the number of observer trips in both of those

fisheries, so we have an idea of how we can compare one to the other.

If I've only got six trips, I always looked at the NMFS data for MRFSS, and looked that they only had six intercepts and try to decide what the whole state is doing while another state has a thousand intercepts and it is not comparing apples and oranges, so I want to make sure that is in the document.

CHAIRMAN ABBOTT: Thank you, Tom. I think there was discussion earlier that they would be doing that sort of analysis; is that not true? Matt.

DR. CIERI: You can go through and do that. It is pretty easy. You'll see exactly what I got on Thursday with river herring. There is a breakdown of different types of observer data.

CHAIRMAN ABBOTT: Okay, I'm going to recognize Lori Steele to make the presentation.

MS. STEELE: I'll be very brief as most of you who participate on the Herring Section were at the joint Committee and Section meetings in both October and November. Some of this is stuff you've seen before, but I'm just going to go over the recommendations that the council made for the 2010-2012 specifications.

The first slide is just your acronym reference slide for all of the acronyms that are in the herring specifications. They are quite confusing. The next slide is just another reference slide for you. This is the formulas that apply to the fishery specifications, how ABC is determined, how OY is determined and things like that.

We'll go right into the SSC; the history of the SSC recommendation for the acceptable biological catch for 2010-2012. Now, the last time I came down here was in August, prior to the specification-setting process, and just kind of went over the process for you and how it was going to work. Then, of course, we went through the process. Most of you participated in that through the joint meetings with the Section and the Committee.

As you know, the new process requires the council to receive a recommendation for acceptable biological catch from the Scientific and Statistical Committee. The Scientific and Statistical Committee met in September and originally recommended that ABC be set at 90,000 metric tons for 2010-2012, and 90,000 was the value of the 2008 U.S. and Canadian

combined catch. ABC is also a stock-wide value so that includes the Canadian catch.

The September recommendation was 90,000 metric tons. We took that to the New England Council for review in September, and the council requested that the SSC revisit this issue and reconsider their recommendations. There was essentially a 40 percent buffer provided by the SSC for scientific uncertainty, and the council requested that buffer be revisited. In a somewhat unusual turn of events the SSC did revisit this issue in November and did change the recommendation.

The SSC met right before the November council meeting. The timing was not good for what had to be done to decide on the fishery specifications, but I guess it was good that they revisited the issue and were able to provide a little more flexibility. What the SSC basically recommended in November is that ABC be set based on recent catch. The SSC originally had defined recent catch as 2008 catch; one year, 90,000 tons.

What the SSC said is that the council could determine what recent catch really represents and what time period represents recent catch. The SSC put forward a recommendation for either a one-year or a three-year average or a five-year average to represent recent catch, and that would be the ABC for 2010-2012.

The SSC, of course, also recommended that a benchmark assessment be conducted as soon as possible for the Atlantic Herring Stock Complex, as did the council. What the council did with these recommendations in November, when the council selected its final recommendations for the specifications, the council determined that ABC will be set based on a three-year average of catch, and that would 2006-2008, so ABC would then be 106,000 metric tons instead of 90,000 metric tons.

Now, when we worked through the members of the Section and the Committee to determine the area quotas, we were working with 90,000 metric tons because that is what the recommendation was at the time. Recognizing that we have concerns about the inshore Gulf of Maine stock, the council determined that the additional catch from increasing ABC from 90,000 to 106,000 would be allocated to Area 3, which is the offshore area, Georges Bank.

The TAC for Area 3 that was recommended by the committee in November was low relative to the size and the ability of the offshore stock to sustain

additional fishing effort, so the council felt that putting that additional 16,000 tons of catch in Area 3 was probably the best approach at that time. The council didn't pick the five-year average.

To be a little bit more precautionary, the three-year average is slightly lower, and that was in light of the uncertainty about future recruitment and the strength of year classes that may be coming into the fishery in the next few years. The next slide on your handout is blank. It includes the overfishing limits and the ABC levels, so you can just go ahead and fill in the blanks.

The overfishing limit for 2010-2012 is based on Fmsy times the biomass. The ABC will stay the same for 2010-2012 and is proposed to be 106,000 metric tons for all three years. This, again, is Canadian and U.S. catch combined. If you recall, for those of you who attended the joint Committee and Section meeting, there were several options that were under consideration for how to take the catch and divide it among the management areas.

What the Herring Committee ultimately recommended is a modified version of Option 2A. I'm assuming that you all have either reviewed or have the draft specifications' documents somewhere in your paperwork. The committee adjusted the numbers based on the revised ABC and, as I mentioned, allocated the additional 16,000 tons of fish to Area 3 and carried the same TACs through all of the fishing years to keep things a little bit simpler.

The council also approved all of these recommendations. There was a measure added to the specifications and allocation of sorts that was approved by both the committee and the council that says – essentially, what we recommended for the Canadian catch, which I skipped right over in a previous slide, was 14,800 metric tons, so 14,800 metric tons would come off that 106,000 before it gets distributed to the management areas. That 14,800 is to account for Canadian catch.

There is a measure that the council approved that says that if by considering landings through October 15<sup>th</sup>, if less than 9,000 has been taken in the New Brunswick Weir Fishery, then 3,000 will be reallocated to the 1A fishery, so essentially we're providing a buffer of 14,800 for Canadian catch over the course of the fishing year. If by October 15<sup>th</sup> the Canadians have caught less than 9,000, then we're going to take part of that buffer.

Because most of the fishery is done by the end of October, we're going to take part of that buffer and

give that catch back to the inshore Gulf of Maine Area 1A fishery, so this does allow for an additional 3,000 metric tons to be reallocated to 1A above the quotas. It would come out of the buffer that accounts for Canadian catch.

All the specifications for JVP, IWP, TALFF, U.S. at-sea processing and the reserve were set at zero. As Chris mentioned, those are being eliminated in the future through Amendment 4. Border transfer was set at 4,000 metric tons, as it always has been. Because of the lower TACs, no research set-asides were allocated for 2010-2012.

The fixed gear set-aside for the Downeast Maine Fixed Gear Fishery is going to be reduced proportionately to the reduction in the Area 1A TAC; and based on the reductions that are being proposed, that would be reduced from 500 metric tons to 295 metric tons. Then my last slide, which is also totally blank, includes the specifications.

I'll just quickly read these out in case you have a hard time seeing the screen; The OFL, the overfishing levels were on the previous slide, and those are going to be 145,000, 134,000 and 127,000 for 2010, '11, and '12 respectively. The ABC for all three years is 106,000. The stock-wide ACL or the value of optimal yield is 91,200.

That is 106,000 minus 14,800 for Canadian catch, so what is available to the U.S. fishery is 91,200. That is also the level of domestic annual harvesting. Domestic annual processing is 87,200, which is just subtracting off the 4,000 for border transfer. Then you've got a whole bunch of zeroes. Then you've got border transfer set at 4,000, as it always has been; no TALFF, no reserve.

Then here are the important numbers, and this is how the 91,200 essentially breaks down into the management areas. The proposed TAC for Area 1A, the inshore Gulf of Maine, is 26,546; Area 1B, 4,362; Area 2, 22,146; and Area 3, 38,146. The additional 16,000 was added to Area 3. Then keep in mind that on top of the 26,546 that is available in Area 1A, an additional 3,000 may be allocated to Area 1A if it is not caught in the Canadian fishery or if 9,000 isn't caught in the Canadian fishery; no research set-asides and 295 ton fixed gear set-aside.

These are the specifications that the council has submitted to the National Marine Fisheries Service. This is agreed upon by the full council. The specifications have been submitted to the Service, and we're kind of going through the review process

at this point. I do not have any indication from the Service at this time whether or not these specifications are going to be approved or changed or anything like that, but this is what we put forward. The council won't be revisiting this issue in the foreseeable future, anyway. Thank you.

CHAIRMAN ABBOTT: That's all there is to that. I think maybe at this time we'd probably entertain a motion, and for that I'm going to recognize Mr. Stockwell.

**MR. STOCKWELL: I have a long-winded motion that I hope Brad will put up on the screen. I am going to move to set the specifications for 2010-2012 as follows:**

For 2010: Allowable biological catch equals 145,000 metric tons; optimal yield equals 91,200 metric tons with 26 – and, Chris, we have a disparity between Lori's report and this. We have 26,456 and 26,546.

MR. PATTEN E. WHITE: Somebody transposed.

MR. STOCKWELL: So is there transposing; who transposed what?

MR. VONDERWEIDT: I'd go with Lori's number.

MR. STOCKWELL: Okay, I'll go for that. Okay, for the record we have a transposed number here. **Okay, 26,546 metric tons allocated to Area 1A; 4,362 metric tons allocated to Area 1B; 22,146 metric tons allocated to Area 2; and 38,146 metric tons allocated to Area 3.**

**For 2011: Allowable biological catch equals 134,000 metric tons; optimal yield equals 91,200 metric tons; 26,546 metric tons allocated to Area 1A; 4,362 metric tons allocated to Area 1B; 22,146 metric tons allocated to Area 2; and 38,146 metric tons allocated to Area 3.**

**For 2012: Allowable biological catch equals 127,000 metric tons; optimal yield equals 91,200 metric tons with 26,546 metric tons allocated to Area 1A; 4,362 metric tons allocated to Area 1B; 22,146 metric tons allocated to Area 2; and 38,146 metric tons allocated to Area 3.**

**In Area 1A for all three years, if less than 9,000 metric tons have been taken in the New Brunswick Weir Fishery by October 15<sup>th</sup>, then 3,000 metric tons will be added to the 1A fishery in November and December.**

**Joint vessel processing, internal waters processing, total allowable level of foreign fishing, U.S. at-sea processing, and the reserve will be set a zero metric tons for all three years; border transfer set at 4,000 metric tons for all three years; and, finally, the fixed gear set-aside set at 295 metric tons for all three years.**

CHAIRMAN ABBOTT: Thank you, Mr. Stockwell; seconded by Mr. Doug Grout. Questions.

MR. ADLER: So, in other words, whatever the council wanted, whatever the NMFS wanted, that's what they got. I'm glad Terry – well, actually Terry took longer than he needed to. All he had to say is "ditto" to whatever they want they get. We don't have a choice. So as my usual thing goes, Terry you didn't have to actually go that far. You could have had a one-liner and it would have been all over just like it always. Thank you.

CHAIRMAN ABBOTT: Thank you, Bill; I've heard those comments before, too. Doug Grout.

MR. GROUT: One of the concerns at our November meeting that I had with the order of things going – one of the things that I was asking to have Addendum III move forward before we set the specifications was we wouldn't know if we were going to need to have a set-aside for the small-mesh bottom trawl. I guess I would ask the guidance of ASMFC staff how we could – if Addendum III passes and if we choose to have a quota or set-aside for the small-mesh bottom trawl, how would we incorporate this into the specifications' process? Could we add a line in here that says if the addendum passes we would add the specification in that is approved in Addendum III?

CHAIRMAN ABBOTT: Well, I don't know if that would be putting the cart before the horse, but I'll ask Chris if he wants to comment on that.

MR. VONDERWEIDT: I don't think it is very feasible, to be perfectly honest, because the council would have to go back and then they would have to change their specifications, and then they would have to resubmit that to NMFS and then NMFS would have – and there is nothing in the mechanism right now that actually allows them to do that, so I think that would have to be something that we're going to have to do on our own through a different mechanism, be it Amendment 3 or maybe not give an allocation of the quota, but there are definitely issues with doing that.

CHAIRMAN ABBOTT: Thank you, Chris. Anyone else have comments to the motion? Dr. Pierce.

DR. PIERCE: Well, to the motion, these are the numbers. A great deal of time and a great deal of effort has gone into the development of these numbers. The SSC has provided us with the numbers. Fortunately, the SSC was responsive to a council desire for the SSC to revisit the issue somewhat, and they did and they came up with a very satisfactory outcome as far as I'm concerned.

In addition we have the council and now potentially, if this is voted through, an ASMFC strategy that makes a great deal of sense regarding how we handle the Canadian catch; that is in Area 1A November and December can be bumped up by 3,000 tons if indeed the Canadians don't take more than 9,000, so it makes a great deal of sense.

However, I'd be remiss if I didn't make the point that these numbers do mean – once we adopt them, it does mean that for Area 1A, certainly the three states, the Gulf of Maine states, Massachusetts, New Hampshire and Maine are going to have to try to figure out how to do what we've had such a difficult time doing up to this point in time, and that is spreading out let's say 26,546 metric tons.

We had 45,000 metric tons to use last year and it was a chore. It was very, very difficult and the industry had to suffer the pain of all of our deliberations, and, of course, the industry was extremely helpful in getting us to where we were. I call your attention to Page 3 in Draft Addendum III where it shows what we did, what the three states did in 2009, last year, prolonged periods of closure and no fishing.

Now we're going to have to get together sometime soon to figure how to do the impossible, frankly. It is going to be incredibly difficult, but that is the way it is. It kind of overshadows what, of course, we're going to bring out to public hearing through Addendum II since there is not that much to allocate.

CHAIRMAN ABBOTT: Thank you, Dr. Pierce. I think we should comment that the SSC did go back and revisit, and I think that this Section is appreciative of the fact that they considered the thoughts that you folks made back in the meetings in late 2009. I'm sure that setting the days out is something that you'll be able to guide us through. Further comments or are we ready to take a vote? Dave Simpson.

MR. SIMPSON: Just for clarity down at the bottom, I think everyone is clear on this, but sometimes it is not the case, so the last three bullets, just to be clear – well, going from the bottom, fixed gear 295 metric tons in each of these three years; border transfer 4,000 metric tons in each year, right, not for all three years combined. Then the JV is – well, zero metric tons, either way it comes out to the same thing; just for clarity.

CHAIRMAN ABBOTT: Thank you for the clarification. Quickly, Doug.

MR. GROUT: Yes, very quickly; I'm sorry I wasn't clear in the question that I asked. What I was asking was what is the management process for ASMFC if we were to – is Addendum III sufficient to have a set-aside of a quota for the small-mesh bottom trawl; do we have to revisit this?

MR. BEAL: My opinion is that you would not have to revisit these specifications. In other words, these specifications obviously set a quota for Area 1A. What Addendum III would do would be set aside a portion of that 1A quota for a specific gear type, if that's the course of action the Section chose to take. All it really does is take these specifications that are included in this motion and subdivide them into a finite – or I mean a more detailed description of what gear type would get what poundage.

CHAIRMAN ABBOTT: Thank you, Bob. Does the public have any quick comments on this/

MR. ELLENTON: Just very quickly; a couple of take-home points from these specifications is it is extremely disappointing to the industry that the specifications are so low that we can't afford to do anymore research in 1A. We did do two years of research with the 3 percent set-aside that was available through 1A, but now that that quota is as low as it is there is not enough fish there to even pay for any research. If ever an area needed more research, it's Area 1A in the herring fishery. The second thing is that I think we're 32 days into the fishing season and we're just talking about specifications for this current year. We need to get the timing better in the future.

CHAIRMAN ABBOTT: Before you step away, David, just to let you know that when we prepare Addendum III we will be sending you as chair of the advisors copies for your review as quickly as we can. The comments you made about the reduction, it reminds those of us that are lawmakers that it sounds almost like us doing state budgets. Are we ready for

a vote? Any need to caucus? Seeing no need to caucus, all those in favor of the specifications for years 2010-2012 please raise your hand; anyone in opposition; any abstentions; any null votes. **The motion passes, 7, 0, 0, 0.** Thank you very much. Okay, go ahead, Matt.

## UPDATE ON CATCH AND LANDINGS FOR THE 2008-2009 FISHERY

DR. CIERI: Matt Cieri from Maine DMR, and I'm going to give you a presentation on the update on catch and landings for the 2009 fishery. Basically, we have many different types of reporting in the herring fishery. As you have heard about, there is the IVR which is a cumulative weekly catch by vessel per area. It is not a trip level reporting system. It doesn't include state-only permits in some cases and it also does not include gear type, whether fished with bottom trawl or purse seine or those types of things.

The next is a dealer report system called SAFIS, and that is a weekly trip level transaction, the buying of fish from harvester to primary dealer. It will give you some economic information. It can or sometimes it does or it doesn't include state-only permit holders, depending on those states' regulations. It doesn't deal with bycatch or discards. It also does not do a good job with gear, and it also does not do a good job of area fished. You can't get those types of information from the dealer reports.

Finally, there are the VTR reports, the vessel trip reports. These come in monthly, but they're trip level resolved catch and effort by harvester with exact locations. It doesn't include state-only permit holders, and it doesn't have any economic information; but because it is spatially and temporally resolved, this is what we use in the assessments and for developing the catch-at-age matrix.

However, because of its timeliness – in other words, we don't normally get it until a few months after the fishing has actually occurred – it cannot be used for quota monitoring. I will point out, given some of our other discussions, while it might give you gear type, it doesn't give you, for example, mesh size. It will say "bottom trawl", but it will not say "small-mesh bottom trawl".

A combination of all of these types of reporting systems is what is used by the National Marine Fisheries Service to determine where we are relative to the overall quota. Comparing 2008 and 2009,

using the IVR only system, for Area 1A in 2008 to 2009 we had a gain of almost 2,000 metric tons according to the IVRs; for 1B, a net drop of over 6,000 metric tons, so there was 6,000 metric tons few fish caught in 2009 versus 2008.

And in Area 2, almost a 9,000 metric ton increase; in Area 3, a 17,000-plus increase in the removals; and then for the total U.S., between 2008 and 2009 was a gain of 21,000; actually, almost 22,000. The New Brunswick Weir Fishery, on the other hand, lost some fish. Apparently in 2008 they caught roughly 6,500; in 2009 they caught 2,500; so for a net loss of almost 4,000. So, overall, complex-wide, 2008 to 2009 there was a total gain of about 18,000 metric tons.

When we actually go back and we take a look at the comparison between the IVR reports – that's what the fishermen phone in – and what the National Marine Fisheries Service, how they monitor the quota, you can see that it is fairly comparable. The National Marine Fisheries Service, when they do the quota monitoring system, remember, uses also dealer reports as a check and will add in some of that information, and they will also use VTRs if those data are available.

So for Area 1A, NMFS had added in about 500 metric tons; for Area 1B, the different is about three; and then you can see the rest there, about 30 in Area 2; the IVRs were higher. Then for Area 3, about 578; for a total of about a thousand metric tons. That's the difference between what the fishermen reported and the analysis that NMFS in monitoring the quota.

Okay, here is the IVR catch – and I know it says 2006 through 2009; it's actually 2005 through 2009. You can see a number of different things right off the bat. The first is that 2005 looks surprisingly similar to 2007, except the quota is a little bit lower. The next is that 2006 seemed to be a very banner year. There was a high increase in the catch and subsequently the fishery ended fairly quickly.

Then two other years actually stand out, and those are 2008 and 2009, and they look extremely similar. In fact, when you look at the days-out systems that were under for both of these particular areas, they're fairly comparable. There were five days out, September 1<sup>st</sup> in 2008, and there were five days out from June 1<sup>st</sup> to September 2<sup>nd</sup>. So you get an idea that they're roughly comparable. They also have very comparable TACs.

But what you can tell over on the right hand panel is that in 2008, both 2008 and 2009 catches increased fairly rapidly and then hit that sort of plateau point, and that plateau point coincides with about August 22<sup>nd</sup>, and that is the effect of the spawning closures right there. Then usually there is a marked increase in catch after those spawning closures are off about mid-October. That gives you an idea of the effect of the spawning closures on the catch rate in this particular fishery.

So for 2009, you look at the IVR catch stream, the Period 2 quota – now remember Period 1 runs between January 1<sup>st</sup> and June 1<sup>st</sup>, and this Section voted to have a zero landings during those times. Period 2 runs from June 1<sup>st</sup> to October 1<sup>st</sup>, and the quota during that period was 29,843. By October 3<sup>rd</sup> the fishery had only landed 22,251, and so the bulk of that, 7,500 and a little bit, was rolled into Period 3; that time period after October 1<sup>st</sup>.

So, some of the take-home messages, there is a slight increase in 2008 versus 2009 as far as full utilization of Area 1A. There is a large increase in the U.S. fishery overall in most areas with the minor exception being Area 1B. The largest catch from Area 3 since the foreign fleet prosecuted that particular area happened this year.

That Area 2 quota for the first time ever was reached by about mid-April. The National Marine Fisheries Service closed it down. They reopened it briefly at the end of the year to use up about another thousand metric tons or maybe a little bit more, but the fishery itself closed extremely early.

Overall there has been a decrease in the New Brunswick Weir catch. In 2008 it was 6,000 and a little bit, which is well below the 16,000 metrics that they have caught on average. Then it further decreased to 2,500, one of the lowest on record. That is about it, I believe.

CHAIRMAN ABBOTT: Do we have any comments or any questions for Matt? Dr. Pierce.

DR. PIERCE: Matt, have you heard of there being any unreported landings that recently were captured in the data base – well, landings not being reported by fishermen?

DR. CIERI: No.

DR. PIERCE: Okay, I think we should check into that because at the New England Council Meeting I was given a heads-up that, indeed, a very significant amount of tonnage was not accounted for because of

fishermen not reporting. I need to have that verified, so we need to explore that to see if, indeed, there is a large amount that has not been accounted for in 2009.

DR. CIERI: Well, for 2009 the VTRs are not in. Those VTRs are not complete yet, and so they will not be completed until May. The IVRs are completed, and that is the quota monitoring system. The VTRs, they're never done until usually May of any given year, so those are still reports from the fishermen that are lagging behind, but they have a little bit of time yet, I believe.

CHAIRMAN ABBOTT: And where did you get this information from, Dr. Pierce? Was it outside the room or was it a secret meeting?

DR. PIERCE: Actually, it was of those "have you seen this", an e-mail that was sent to someone regarding a law enforcement report so that's why I'm looking forward some official pronouncement from the National Marine Fisheries Service regarding what might have appeared suddenly because of non-reporting by fishermen who were caught non-reporting.

MR. FOTE: Can we get a copy of this completed report, because it would be very interesting to have for my records.

CHAIRMAN ABBOTT: They were available.

DR. CIERI: Yes, sure, e-mail me.

MR. FOTE: I mean not everything that is in there now; just some of it was missing.

CHAIRMAN ABBOTT: You're probably referring to the 2008-2009? Yes, I didn't have it either.

DR. CIERI: Yes, sorry, I was working on it on the plane ride down.

CHAIRMAN ABBOTT: Go ahead, Chris.

## **DISCUSSION OF SETTING QUOTA PERIODS**

MR. VONDERWEIDT: If you remember, we did Addendum I to Amendment 2 last year, and there was a lot of talk about tools in the toolbox. As part of that we annually specify what these things are. Staff passed out a copy of Addendum I to everybody during Matt's presentation. If you want to look on Page 2 of that, it has all the management measures being that this is the first year that we're actually

setting the specifications outside of the initial pushing the addendum forward or approval of the addendum.

The first issue is quota periods, which is 4.1 and starts on Page 2. This table is on Page 3. I'll just remind the Section that they voted at the last meeting to prohibit landings prior to June 1, which is part of the quota scheme or the quota periods. At this point we have bimonthly quotas as an option; and as part of this, since there is an odd number, you can use June as one month or you can use December as a one-month period; or, seasonally, which is what we did last year, and that Season 1 is June through September, 72.8 percent; Season 2, October through December, 27.2 percent.

The break there is when midwater trawl vessels can fish under the NMFS plan. The next tool in the toolbox is measures to prevent overharvest in a quota period, so the one option would be to close at 95 percent; close when 95 percent of a seasonal period or bimonthly period is projected to have been harvested; or close at 90 percent. Last year we did 95 percent.

The last issue is whether or not to allow rollover of quota underages if harvest is less than a quota allocation. Last year there was about 7-1/2 thousand metric tons that got rolled over. The choices here are to allow rollovers or to not allow rollovers. That's it.

CHAIRMAN ABBOTT: Thank you. Mr. Stockwell.

MR. STOCKWELL: When you're ready for a motion, Mr. Chairman.

CHAIRMAN ABBOTT: I would like a motion.

MR. STOCKWELL: Mr. Chair, **I move to allocate the 2010 Area 1A TAC seasonally with 72.8 percent available from June through September and 27.2 percent allocated from October through December. The fishery will close when 95 percent of a seasonal period's quota has been harvested, and underages from the June through September time period may be rolled into the October through December time period.**

CHAIRMAN ABBOTT: Thank you, Mr. Stockwell; do I have a second? Seconded by Dr. Pierce. Discussion on the motion? Public comments on the motion? David Ellenton.

MR. ELLENTON: Dave Ellenton from Cape Seafoods and Western Sea Fishing Company. Is this process the way this is going to go year on year? Is

the advisory panel going to be involved in any discussions on the percentage splits?

MR. VONDERWEIDT: Addendum I doesn't specify anything other than the states will agree. It doesn't specify that an advisory panel or a technical committee input would be mandatory. For example, the Spiny Dogfish Plan, the technical committee is supposed to weigh in, but that is not part of Addendum I.

MR. ELLENTON: So is that just a no?

CHAIRMAN ABBOTT: That is a no. Again, we would be subject to – if someone had a mind to introduce a new addendum to change that, then that would be the case, but that is the rule that we're living by under Addendum I. Are we ready for a vote? Any need to caucus? All those in favor of setting the Area 1A TAC seasonally raise your right hand; all those opposed; null votes; abstentions. **The motion carries 7, 0, 0, 0.** Thank you. The next item of business, I will recognize Chris for an **advisory panel nomination.**

#### **NOMINATION OF ADVISORY PANEL MEMBERSHIP**

MR. VONDERWEIDT: The Commonwealth of Massachusetts has nominated Captain Patrick Paquette to the advisory panel for their at-large seat, which is vacant right now.

MR. ADLER: **I make a motion to accept Captain Patrick Paquette on to the advisory panel.**

CHAIRMAN ABBOTT: Thank you, Bill; do I have a second. Seconded by Senator Damon. Are we ready for a vote? Without objection, we'll select Captain Paquette as a new advisory panel member. Is there any other business to come before the meeting?

#### **OTHER BUSINESS**

CHAIRMAN ABBOTT: My last comment is I didn't introduce Representative Craig Miner from Connecticut, who is our new commissioner.

#### **ADJOURNMENT**

CHAIRMAN ABBOTT: The meeting is adjourned. Thank you.

(Whereupon, the meeting was adjourned at 6:10 o'clock p.m., February 1, 2010.)