

PROCEEDINGS
of the
ATLANTIC STATES MARINE FISHERIES COMMISSION
AMERICAN LOBSTER MANAGEMENT BOARD

Radisson Hotel
Alexandria, Virginia
February 8, 2005

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FISHERIES COMMISSION**

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BOARD**

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Alexandria, Virginia
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The American Lobster Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Radisson Hotel, Old Towne, Alexandria, Virginia, Tuesday, February 8, 2005, and was called to order at 3:00 o'clock p.m. by Chairman Patten D. White.

Call to Order

CHAIRMAN PATTEN D. WHITE: All right, I guess we're all set to start. I'd like to welcome everybody to the Lobster Board meeting.

We have enumerable agenda changes. After the approval of the proceedings and public comment, we're going to go right into the lobster plan review report under the stock assessment, lobster health steering committee, discussions on draft Addendum VI, Area 2 management, and then into other business, so it's considerably different than what you may have picked up on the back counter.

Are there any other agenda items to be added, noting yours, Eric? Any other agenda items to be added? Okay, I would look for approval of the proceedings from the November 2004 meeting. Bill.

MR. WILLIAM A. ADLER: Make a motion to approve as written.

MR. GEORGE LAPOINTE: Second.

CHAIRMAN WHITE: Seconded by George Lapointe. Anyone opposing the motion? Approval of the minutes. Public comment. Because we're starting early, there will be public comment with each item.

For a lot of the people that have come for Area 2 and the Connecticut proposal, I will have public hearing later on with that so that we don't lose anybody by having started early. But is there anybody that would like to make public comment to any specific issues now? Eric.

MR. ERIC SMITH: Just to avoid confusion over the hour or two before we get to the other business, I wanted to make clear the point you alluded to. I had asked for time under other business to talk about what Connecticut had been doing in a state regulatory mode and how it might fit into the process. This is all information purposes only, so to be clear we're not proposing anything for board action today. Thank you.

CHAIRMAN WHITE: Thank you for that, Eric. Lobster Plan Review Team report. Toni.

Lobster Plan Review Team Report

MS. TONI KERNS: Thank you, Mr. Chairman. The Lobster Plan Review Team has heard concerns that the vent sizes in the state of New Jersey have not been increased with the increase in their minimum gauge to 3-3/8.

Their circular vent size should now be 2-5/8. And where there are concerns that it hasn't been implemented, the plan review team will be looking into this and reporting back to the board at the May meeting. This is just an update.

CHAIRMAN WHITE: Bruce.

MR. BRUCE FREEMAN: Thank you, Mr. Chairman. As Toni indicated, indeed, we have not been able to implement the size increase in the escape vent. We anticipate that taking effect March of this year. There has been a slight delay.

We should have had it in place, but there has been an administrative problem and we hope to correct that and be back on schedule. So, by the next board meeting, we'll be able to report to you that's no longer a problem.

CHAIRMAN WHITE: Thank you, that's what I was going to ask. The lobster stock assessment update. We're going to start off with a report on the model review from Patrick.

Stock Assessment Update

MR. PATRICK KILDUFF: I'm Patrick Kilduff; I'm with the ASMFC. I work in the research and statistics program. Last year we formed a peer review panel to look at the various models that were developed by the model review subcommittee of the Lobster Technical Committee.

The purpose of this review is to aid the Lobster Technical Committee in deciding which model or models to use to conduct the lobster stock assessment this year. We had a panel of five members, all well-respected stock assessment scientists.

I also want to thank Mike Murphy, who was the panel member who prepared this presentation and which we gave to the Lobster Technical Committee in December last year.

I also would like to thank Bob Glenn and

Kim McKown for their work as chairs on the various lobster technical committees and Yong Chen, Vic Crecco, Penny Howell, Larry Jacobson, Josef Idoine for their work in developing the models and the lobster simulator which were used to conduct this evaluation.

I would also like to thank Carrie Selberg, the former Lobster FMP coordinator, for all her assistance in helping plan and coordinate the review. The panel was assembled last October in Boston.

They were asked to review the models that were developed according to the following four terms of reference. The first term of reference was basically to look how the model was formulated and how it works and potentially look at the performance of the model using simulated data that was developed by the committee.

The second term of reference was once they had seen the models and reviewed the models, they were to recommend short-term and long-term recommendations to improve the models. The third term of reference was to evaluate pros and cons of each modeling approach.

The fourth term of reference, the main point was to make their recommendation based on the information they had on what models would be best used to conduct the lobster stock assessment.

There are a few different classes of models. The first model that was developed was a lobster fishery simulator, and that was used to produce simulated data sets that could be used in the stock assessment models that were developed by the subcommittee.

That way they have a basis to judge performance based on various simulated

datasets. The four assessment models which were proposed and produced and tested were the Collie-Sissenwine Model, a Tuned-up Collie-Sissenwine Model, a Fishery-independent Z Model, and a Size-structured Stock Assessment Model.

There is a benchmark calculator model that was produced, which is a lobster life history model. That model is different and it was not tested with simulated data because it uses outputs from one of the four assessment models to actually calculate egg per recruit for a reference point.

So, one of the questions that the panel had, when they were going through this review, was they wanted to understand what the model output was used for. They noted that the model is traditionally used to calculate an F 10 percent benchmark, and that was an absolute reference point.

The panel did not feel that any of the assessment models presented were very -- they didn't feel that they produced robust absolute estimates, so they have some other ideas for reference points. The one that they emphasized in the report was the use of relative reference points, which would be F or N ratios.

One of the strongest recommendations that the panel made regarding the lobster stock assessment was the quality of the data. This is straight from their report, "Our strongest recommendation pertaining to the lobster stock assessment is that the quality of the data needs need to be upgraded significantly."

They made recommendations on the various data programs that were needed, including better spatial effort, catch-and=length frequency data. They wanted better validation of survey catchability, some

tagging studies to get at the question of growth in lobsters, and also recommended standardizing the trawl surveys, using general linear models and other techniques that are listed in the report.

Another big take-home message of the report was there is a spatial mismatch between the spatial scale of the stock assessment and the management areas. There were some concerns when the assessment models are used over the assessment areas, which are different than the management areas, the outputs of those are concerned with different biases, so they emphasized the need for unified data management regulations and the spatial scale of the assessment should all be on the same plane.

The model development subcommittee of the Lobster Technical Committee went through a great amount of effort to produce a series of simulated data sets that could be used to test the assessment models.

However, the Lobster Review Panel had several issues with the simulations, and they felt more comfortable judging the models based on their experience with the models and the formulation as presented.

One of the issues with the test was that the analysts, using the simulated data in the models, actually knew the scenario of the data, so if they had a data set that had an increase in natural mortality, they had an idea -- they knew that was the case going in, which isn't the case, per se, when you're actually conducting a lobster stock assessment. I could run through all these but more thorough descriptions are available in the panel report.

I'm going to run through the various models based on the terms of reference one through

three and just give you a quick description of what the panel found for each of these models. I won't get into the details.

The Collie-Sissenwine model is the current model assessment model that's used in combination with the lobster life history model to conduct the assessment. The Collie-Sissenwine model is applied to each sex in each region separately.

One of the points with this model that the panel found is that the fishing effort and abundance accuracy is very sensitive to the input parameters of natural mortality and the parameter called the Q-ratio.

The panel recommended that relative reference points, based on ratios of those fishing mortality and abundance, they felt ratios would be better used in the long run. They're stable and more robust.

With the pros and cons of the Collie-Sissenwine model, it's easy to use. It runs quickly and it requires a limited amount of size-structured information. The con of the model is that it doesn't use the detailed length-frequency data.

There is not much to say about the tuned-up Collie-Sissenwine model as the analyst who developed it pretty much withdrew it. The review was more for him. He had some serious difficulties in trying to analyze the results.

He had some "bugs" in the model, essentially, so that was withdrawn from consideration for the 2005 stock assessment. The fishing independent or Z model or FIZ is a time-series model that had an interesting idea of trying to look at time varying natural mortality.

One thing that was identified at the panel is

it was very similar in nature to the Collie-Sissenwine model, and the panel felt that it was better to look at ways to incorporate time-varying natural mortality in the Collie-Sissenwine model. So at this point they felt the effort of the technical committee would be better spent on ways to incorporate time-varying M into the Collie-Sissenwine model.

The biggest pro to the model is that it was simple and it was easy to understand. The cons for the model were that it was somewhat data intensive. It was somewhat of an ad hoc determination of periods for the constant Z and it was not stochastically based.

The size-structured stock assessment model is in the class of the forward-projected statistical catch at age or catch at length model. This is similar to the type of models that are being used for like menhaden and Atlantic croaker that have been assessed for the Commission.

This was the model that was the long-term recommendation at this point. There's still some bugs. They want to make sure everything is ironed out with the formulation of the model, and also it's very data intensive so there is some data gaps that need to be filled before I think the panel felt it would be the best model to use for the assessment.

There's a number of recommended changes to the model. The pros of the model, this model is actually different than the other models that have been presented, because it can estimate -- it can put out estimates of F and natural mortality and also can produce benchmarks such as egg per recruit.

I guess again the problem with it is it is data intensive and it has a lot of various parameters, and it's a matter of becoming

confident in your parameter estimates when this model will be better to use. I think I've discussed some of the general ideas of the cons of this model.

The lobster life history model is a population simulator and it uses estimates of fishing mortality and natural mortality and some other information, such as the Collie-Sissenwine model or the FIZ, the fishing-independent Z model, to get egg per recruit. So it is able to evaluate the benchmarks based on the various inputs, and it has also been used in the past. The technical committee is familiar with the formulation of that model. There are some recommended changes to the model.

Again, if you look at the bottom one there, the panel did not recommend using the model where regulations are not uniform across the stock; so when you have management regulations that vary within a stock area, it makes it difficult to get the best information.

So, the pros of this model is that it captures the life history. It can be used to calculate the biological reference points. The cons are that it needs an input from another model; so, if the lobster life history model is used, it needs an assessment model to produce the population or for the inputs into the model.

So, the term of reference 4 was to recommend those models or combination of models most appropriate for assessing American lobster stocks. This is pretty much the panel's recommendations on what models they recommended to use in the 2005 lobster stock assessment.

And for the 2005 stock assessment, they recommended using the Collie-Sissenwine model, but to include the FIZ-inspired time varying natural mortality. They also

recommended the use of the lobster life history model for benchmark calculation.

They felt that the useful outputs for this procedure is the trend in fishing mortality and abundance as well as the eggs per recruit calculations. For the long-term stock assessment picture, they recommended developing the full size-structured model, but at the time trying to figure out a way to compare it to a reduced bon model, so the full size-structured model has several bins that pretty much advances lobsters through the life history in 5 millimeter increments.

They recommended trying to cut down the number of bins to reduce the complexity of the model. The success of the size-structured model depends on getting more full coverage of length data in the lobster fishery.

As far as reference points were concerned, the panel recommends that absolute F for eggs per recruit were not estimated well, and they were more into the trends using relative reference points based on ratios between F or N versus a series of years in the past that could be used as a base point.

And, again, to reiterate the recommendations regarding data, they felt that better spatial effort, catch-and-length frequency data was very important, and also the experimental validation of survey catchability data was important and some tagging studies to estimate growth.

So, once again, to summarize the main points of the talk are that the Lobster Model Review Panel felt that better data was needed. They were concerned with the mismatch of scale of data, assessment models and management areas.

In the short term they recommended

proceeding with the Collie-Sissenwine model and the life history model with suggested improvements. And then for the long term, they recommend looking at the size-structured model, and they also discussed the benefits of using relative reference points. Thank you.

CHAIRMAN WHITE: Thank you, Patrick. I'll start off with the Commission. Any questions of Patrick? Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chair. Your long-term recommendation, if you went to the new model long term, would you still be doing the models that we're presently doing, running them side by side?

MR. ROBERT GLENN: Initially, yes, that's probably likely that in future assessments, if we can get to the point where we have the size-structured model ready to go for all three stock units, we probably would do some comparative analysis with other methods that we've used in the past.

MR. WHITE: Follow up. If we go in that direction, I would certainly have a concern that we don't end up like we are in striped bass where we get two different results from the two different models and then we make no decision.

I would certainly have a concern if we go in this direction, that we decide that one of the models will take preference until we're comfortable making a change.

CHAIRMAN WHITE: I think, if I could, Bob, that's addressed quite a fair amount, Ritchie, in this in that they were very unhappy with the model that we're using. The problem is that we don't have the data to go to this more advanced model and thus comes out the recommendations for it. I think you're going to, one, you're not even

going to have a transition period until all states can start to begin to get that data for it. Is that right?

MR. GLENN: Yes, I mean, essentially it's correct. It wasn't so much that the panel was unhappy with the model that we're currently using. It was the manner in which we are using it relative to our reference points was incorrect.

They felt that the trends generated by the traditional model were fine and that they would be appropriate if applied to a relative reference point, but in fact it was incorrect to apply them to absolute reference points, which is how we currently manage.

But relative to giving one answer, yes, the technical committee is very sensitive to not trying to provide multiple answers. I think by and large we would, in the future, continue to rely on one model to provide advice relative to the reference points, but continue to look at other models as well as other empirical trends in data in the fishery to give an overall description of health of the resource.

CHAIRMAN WHITE: Bill, you had a question?

MR. ADLER: Thank you, Mr. Chairman. I saw listed a number of recommendations of things that could improve the data. I mean, I saw tagging; I saw other things. Is the ventless trap concept part of that, or was that just not even in the schematics of the things, which I think is a good tool if we can get something like that. Is that included in some of those recommendations or is it not there?

MR. GLENN: No, that is not included in those recommendations. That's not really specifically what the review panel was speaking to. The largest concern that the

review panel had is a much larger scale than the advantages that a ventless trap program gives us.

The very basic issues that we have with our data is the very inaccurate reporting of landings and also very large areas with no biological information coming from them, no length-structure information coming from very large portions of the offshore area for years at a time. It's those limitations that make it most difficult for the technical committee.

MR. ADLER: So, that's still something that will be done to make the data better that could be used later, whatever, right?

MR. GLENN: Absolutely.

CHAIRMAN WHITE: Other questions for Patrick or Bob. We will get into the technical review, too. Yes.

MR. MARK GIBSON: I don't have a question, but I found the report remarkable in terms of its implications for lobster management, and I hope all the board members have looked at it closely and conferred with their technical people at home.

I think this and the impending working assessment will probably require a plan amendment in order to address some of these issues, the major issues being the mismatch between the assessed areas and the management areas, such that this review panel indicated that when management measures are inconsistent within an assessed area, you can't evaluate the efficacy of your management programs, so there is clearly some rethinking that needs to be done on that.

The modeling approaches are such that all of

them have been rendered not useful in terms of the way we've been doing it. All we're left with is an approach to get relative estimates of fishing mortality and relative abundance; that is, how abundance compares to what it was ten years ago or how F compares to what it was a few years before.

We no longer have a reliable means to calculate F 10 to compare those two, so I think we're very limited in what we have left on the table in terms of assessment methodology.

I look forward to long-term development of the size-structured model but that, again, as was said before, depends heavily on a major improvement in the data base in order to power that. There is an awful lot in this report that's of great consequence. I hope everybody looks into it and thinks about it between now and the time that the working results come forward.

CHAIRMAN WHITE: Thank you, Mark. Other questions or comments? Yes, Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I'm not sure if you covered this at the beginning of the report, but maybe for the chair of the technical committee, we've got a pretty comprehensive report here. What are the qualifications of the people that gave us this report?

MR. GLENN: The panel that was assembled was extremely impressive in their credentials. I know, for example, two of the members that sat on the panel have both published very extensively used textbooks on stock assessment and population dynamics modeling.

In addition to that, all the review panel members have very extensive lists of publications and peer-reviewed journals on

the matter of stock assessment modeling, population dynamics, et cetera, extremely high-powered, high-qualified individuals.

MR. DAN McKIERNAN: Bob, I have a question for you. Could you explain to the board what this will mean in terms of using new models, new overfishing definitions and new reference points and the time table that those would go down.

MR. GLENN: Yes, but I think what would be great for us is if I have the opportunity to go through a quick presentation that's essentially the technical committee's response to the technical review. I think that will answer some of those questions, and then I can tie up any other ones after that, if that would be okay.

CHAIRMAN WHITE: Okay, to the report, are there any other questions on that? Otherwise, Bob will go on to his presentation. Go ahead, Bob.

Technical Committee Report

MR. GLENN: Thank you, Mr. Chair. This past December the technical committee met to review the results of the model review report. Our primary goal at this meeting was to, in the process of going over this report, use it to help us decide which models we are going to use for this coming assessment.

There were three things that we really -- in the process of trying to filter out the advice from the review panel, there were three considerations we really gave that helped us to decide what model should be used.

The first was that given the level of expertise, we gave substantial weight to the model review panel's advice. We thought their advice was very insightful and that

their level of expertise warranted that we give a lot of consideration to their advice.

We also gave substantial consideration to the data limitations relative to their potential impact on model performance. These issues were also pointed out by the review panel, and it's issues that the TC has discussed in the past. Also, the TC itself gave the model review panel a presentation on data limitations.

Especially, some of the landings reporting issues are of great concern to the technical committee in providing management advice. And, finally, we gave consideration for the need to provide management advice based on consistent units for all three stocks.

This may speak to one of the earlier questions. We do recognize the fact that in the development of new models one of the necessary criteria is to be able to configure these models in such a fashion that we can provide advice for all three stock units.

Otherwise, it puts the board in the difficult situation of getting model results for one stock area that may not be directly comparable to the other stock areas because they were not calculated in the same fashion, thus potentially holding stakeholders to different levels of scrutiny.

As Patrick just reviewed, the four primary models that we've considered for this assessment were the Collie-Sissenwine model, the FIZ model, the size-structured model, and the TUCS model.

After reviewing the models ourselves and reviewing the review panel's recommendations, there was consensus among the TC to use the Collie-Sissenwine model to provide management advice for this assessment provided time-varying

natural mortality was incorporated into the model via the suggested model changes for the review panel.

I should also mention, in addition to incorporating time-varying natural mortality to the traditional Collie-Sissenwine model, there were a number of other technical recommendations, changes or tune-ups, if you will, to the Collie-Sissenwine model that the panel recommended.

The technical committee has already made most of those changes and is in the process of completing all of them, so we are taking all of the suggested tune ups to that model to heart.

For the size-structured model, there was a consensus of the TC that the size-structured model will be included in this assessment with data only through the late 1990s and not for the purposes of management advice for this assessment.

The TC endorses this model as the preferred approach for future assessments. We thought that it would be important to include this model in the assessment to bridge the gap between this assessment and the next assessment when we plan to use that model primarily for management advice.

The TC does not want to use this model to provide management advice at this time until all suggested changes are made to the model and until it has been modified to be applied to all three stock units.

The FIZ model, there was consensus among the TC not to use the FIZ model to provide management advice relative to reference points for this assessment. The TC decided instead to take the review panel's advice and incorporate the FIZ model inspired concept of time-varying M into the Collie-

Sissenwine model, which allows us to do so in a statistical framework and involve process error that were not inherent to the FIZ model.

The TC noted that the FIZ estimates could be used as a range finder to help us set the appropriate boundaries on the range and trend of natural mortality in the CSM. It will provide us helpful advice essentially in how to turn the dials to let the Collie-Sissenwine model with that new improvement, help it converge.

And briefly as Patrick indicated, the TUCS model, the tuned-up Collie-Sissenwine was withdrawn by the author at a late date, and there was also sufficient technical issues with it that needed to be fixed, so at this time the consensus of the TC is to discontinue development of the TUCS model.

The technical committee also took the advice of the review panel very seriously relative to the data concerns. We would like to reiterate and emphasize the panel's concern relative to the data quality.

And although Patrick also put this quote up before, I think it's important that the board hears this again because, as Mark Gibson put it, the profound nature of this which could affect future assessments.

The panel found that the data available are woefully inadequate for the management needs of this fishery and that the primary limitation on the ability to manage is limited data rather than choice of models. The TC concurs with this conclusion and strongly recommends that steps be taken to improve data quality and the spatial resolution.

The other large concern that was put forward by the model review panel was the

spatial scale of the assessment. The TC again would like to reiterate and emphasize the panel's concern relative to the spatial scale of the assessment.

They put in their report that the scale of the assessment and the scale of the management actions are seriously mismatched. A kaleidoscope of management regulations takes place on a different scale from the assessment.

The panel is quite concerned that reference points are being calculated from assessments that combine manage areas with different size limits or v-notch regulations. The TC concurs with this concern and notes that it has raised this issue previously in reports to the board. Thank you.

CHAIRMAN WHITE: Thank you, Bob. Yes, Harry.

MR. HARRY MEARS: Thank you, Mr. Chairman, a comment and a question. First a comment on the mismatch between the stock units and the ability to match up data relative to the identification of the management units amongst the seven management areas.

It's true, this has been a concern that has been brought up several times in the past. In fact, when Amendment 3 was approved in December of '97, I can very clearly remember the technical committee making this very important distinction, and it was considered at that time. An agreement was made to go forward, nonetheless.

Some of us might remember in Amendment 3 there was a table that matched the various management areas with the stock units. I remember Management Area 1 matched one of the three stock units that has been used in stock assessments.

Management Areas 2, Outer Cape and 6 matched another stock; and, finally, Areas 3, 4, and 5, I believe, matched the third one, the point being this is not a new issue. We've kind of known this all along, and now I think we're finally at a point where we have to decide on how best to move forward and decide how to essentially tolerate this disconnect and acknowledge.

Remember, we put that table back in Amendment 3, and what does that mean relative to our ability to now listen to the results of the next stock assessment and in turn translate that into management advice?

I think we're at a very crucial crossroad here where I think we have to clearly understand how that impacts us now and into the future, which leads to my question. A very key conclusion of what we just heard during the last half-hour has been limitations due to inadequate data.

I guess my question is this, in terms of going from north-south and inshore-offshore, is the limited data pertinent to all three stock areas or is it primarily associated with one or two of the three? I guess that's a question for Bob.

MR. GLENN: The data limitations are in fact pertinent to all three stock units, and I can give a couple of examples. If you look, say, in the offshore area in Georges Bank stock unit, which corresponds largely to Area 3, but other areas including portions of Area 2, et cetera, that area suffers largely from a couple of things.

It has landings reporting issues because we do not have coast-wide mandatory reporting. For many years we have a lot of landings that come through into the federal data base that are unassigned to any particular stat

area.

If they don't have that statistical area tagged to it, it's very difficult. The TC has to use techniques to try to tease out and assign those landings to one of the particular stat areas, which in turn ultimately determines which stock unit it would be applied to.

In this situation what can happen is you can end up assigning landings to the wrong stock unit which can affect your mortality estimates. The same issue applies in the Gulf of Maine. It's largely an inshore stock area. That's where the majority of the landings come from.

Unlike the offshore area, the Gulf of Maine has very decent characterization of the size structure from the state-run sea-sampling programs. However, with the exception of Massachusetts and recently I believe New Hampshire, 80 percent of the landings in the U.S. that come from the state of Maine do not come from a landings report. We rely on dealer reporting to NMFS.

In this past assessment, as we've started to work up the landings data, if you look at the appendix that's actually in the back of the model review panel report, you'll see a characterization of the level of data resolution for each stock unit.

In some cases upwards of 70 to 80 percent of the landings reported from the state of Maine into the NMFS data base do not come associated with any statistical area information to it, so it's completely unassigned, which makes the resolution of it very difficult for us to determine what kind of processes are going on in that stock. I could go on quite a bit for other issues in Southern New England, but to answer your question, yes, it applies to all areas.

CHAIRMAN WHITE: Follow up, Harry?

MR. MEARS: One follow up. If I interpret what you're saying correctly, it's not a matter of looking at past data because those past data for the degree of resolution that you just referred to probably don't exist.

It pertains to an expanded data base that would primarily be associated with a change in a sampling regime from this day forward. I guess my question is, is there any value to go back on data already collected and can some of the data inadequacies be corrected, or does it pertain to what needs to be done from today into the future?

MR. GLENN: It largely pertains from what needs to be done from here on out. Data that we have already in our data bases have already been reconciled to the degree possible from the technical committee.

That's part of our whole landings gap-filling process that we've been going through for the last several months trying to iron out these issues in the data and make the most sense that we can.

Again, those are still largely based on decisions from data trends that we've seen, but there is large-scale room for improvement. The best way to improve that is by collecting the data on a sufficient resolution so that we're getting it correct initially.

CHAIRMAN WHITE: Okay, George.

MR. LAPOINTE: The mismatch of data and the kaleidoscope of management measures we have is something we've been talking about for a long time. I mean, what it means is do we stick with area management or don't we as we currently have it?

I mean, you can cut away all that. That's not a stock assessment issue, so I don't want to get into it today, but that's what it means is do we stick with the seven management areas or can we match assessment areas to the seven management areas?

I already know the answer to that is no. And so that's something we should all bring back and think really hard about because we all know the implications of that, but that's a valid question for us to ask in the long term.

CHAIRMAN WHITE: Eric.

MR. SMITH: Composing notes and thinking about this, I didn't get a sense -- Bob, in the slide you had on data concerns, the issue from the panel's point of view is improve the data quality and the spatial resolution, and I wondered if the technical committee, at a subsequent meeting longer term, is going to sit down and identify what those needs actually are so that we have a suite of, okay, here is what the states have to do, some states do this and others have to do that. Are we going to get that?

MR. GLENN: Yes, the technical committee is actually planning to put those data needs in a specific fashion in the upcoming assessment.

CHAIRMAN WHITE: Any other comments, questions? All right, Lobster Health Steering Committee, Gordon. Thank you, Bob.

MR. GORDON C. COLVIN: Thank you, Mr. Chairman. You will recall at the annual meeting in November we presented a status report and a report on the workshop that was held last fall in Stonybrook on reporting on the conclusions of the many research projects that have been funded and managed

by the steering committee.

At the recommendation of the steering committee, the board approved the steering committee's recommendation to expand its membership geographically to include representatives of the entire northeast region who had an interest in lobster health issues and to maintain it with a specific charge that was incorporated into the minutes of the meeting.

You will also recall that there was some discussion and some lobstermen spoke to the board about concerns that continue to exist in their mind and questions with respect to the role of pesticides. Those issues are still under exploration by the steering committee, but we hope to come to resolution to the degree that we can in the fairly near future.

Subsequent to the board meeting, a meeting of the steering committee's pesticide working group was held with all of the persons that were involved, all of the researchers that were involved in the various modeling exercises on the pesticides, and the industry members of the steering committee to review pretty thoroughly what was done and how the modeling approaches were undertaken and to air out questions and I think most helpfully to exchange information. I think that proved quite fruitful.

Later this month we, the steering committee, will receive a report from our pesticide working group that constitutes their conclusions with respect to this ongoing review of the applicability of the model results.

We expect that recommendation will include recommendations to do some additional modeling work, to expand some of the modeling work to address some of the

concerns that members of the industry had and that came up in the technical discussion among the modelers, as well as also some future research needs.

At that time we expect to convene a meeting of the full steering committee to address several agenda items; first and foremost, to take action on those recommendations of our pesticide working group.

Secondly, to address the process by which we will finalize, wrap up and report to the board, and importantly, to Congress on the results of the research and monitoring undertaken to date and our recommendations for further work.

Thirdly, to also develop the process and roll out a process for expanding the membership to include folks in the region. Now I should say that to some degree that's already beginning insofar as the Sea Grant directors of all the northeastern states have been talking and have agreed among themselves that they would all like to be participants in the expanded steering committee.

I suspect that we will also be reaching out to the members of this board to identify which board members want to be a part of the process or to designate either experts or staff members to be a part of that process.

I think, lastly, we will also need to identify a new chairman of the steering committee as both of our two preceding chairs have retired, and we need to come up with another party. So the quick and dirty, Mr. Chairman, that's the status and we'd be happy to answer any questions. Eric, add anything if you think I missed anything.

CHAIRMAN WHITE: Thank you, Gordon. A question, if I might, talking about expanding the steering committee, and is it

then your intention to have another maybe not quite so elaborate workshop to start to fold in some of this? And how does that coordinate with what the aquarium is talking about doing in March or April, whatever it is?

MR. COLVIN: I think what's going on at the aquarium is quite independent, but I think many of the principals that have an interest in these issues will be there. As I understand it that workshop is focusing primarily on shell disease and our focus is and will always be broader than that.

I think it needs to be, but, certainly inclusive. And it will, I think, quite possibly -- I've also heard some talk about another shell disease workshop possibly being organized in Rhode Island as well.

I'm not quite sure what the status of that one is, but any of these kinds of workshops, events, discussions and what have you will likely produce recommendations that I think will be useful to the expanded steering committee as they develop recommendations to the board on where we ought to go from here on health issues.

CHAIRMAN WHITE: Do you need any help from us now at this point in recommending commissioners or do you want to look for volunteers that I can pick?

MR. COLVIN: I think after we have this next meeting we'll definitely be coming back.

CHAIRMAN WHITE: All right, you keep us posted.

MR. COLVIN: And hopefully the chairperson of the committee will be reporting to you at that point.

CHAIRMAN WHITE: Questions of either Gordon or Eric on this issue? Harry.

MR. MEARS: Thank you, Mr. Chairman. As Gordon just alluded to in previous meetings, the focus on Long Island Sound began back with declining catches in the late 1990s, primarily, as I remember, the decline between 1998 and 1999.

This led to a request from the governors from New York and Connecticut to the Secretary of Commerce to declare a resource disaster for the western part of Long Island Sound. That in turn set into motion the necessary steps for Congress to then seek a supplemental appropriation of funds that are normally not appropriated year to year for purposes such as this.

Those funds subsequently were appropriated in fiscal year 2000 under the Military Construction Appropriations Act, which I think occurred about mid-year, between April and June.

What happened most recently is that the National Marine Fisheries Service, Dr. Hogarth has received a letter from Senator Reid in Rhode Island who would like to see similar or equivalent or continued attention as the type that was given to Long Island Sound back in fiscal year 2000 to waters off Rhode Island, as well as Southern New England.

In that letter, as I remember, he does refer to the northward spread of shell disease and declining catches in essentially Area 2. Unlike Long Island Sound, of course, there was no request similar to the late '90s for a declaration of a resource disaster.

The bottom line to the letter was to request, however it can be considered, additional attention, additional funding, to continue a

focus, particularly in this case on the spread of shell disease. I just wanted to bring that to the board's attention.

As of yet a reply has not yet been submitted back to Senator Reid that I'm aware of, but one of the key differences, as I said here, is in the former there was a distinct congressional appropriation for the funds to be made available.

Essentially it was \$13.9 million, if I remember correctly, \$6 million of which was associated with biological research and \$7.3 million for economic assistance to the associated fishing communities. So, certainly, there continues to be additional congressional attention being given to lobster health along the Atlantic Coast. Thank you.

CHAIRMAN WHITE: Thank you, Harry. Gordon.

MR. COLVIN: I think maybe just one news note I could mention that folks might be interested in. I alluded to this earlier. The initial chairman of the steering committee was Tony Calabrese from the NMFS Milford Lab; and when Tony retired, he was succeeded by Emery Anderson of NMFS and National Sea Grant, who also has retired on us.

Recently the National Sea Grant director announced that Terry Smith will in fact succeed Emery on the steering committee as he has succeeded Emery in his post at Sea Grant as the NMFS liaison. John Borman has advised us that Andy Draxler will be taking over for the Northeast Fisheries Science Center on the steering committee.

CHAIRMAN WHITE: Thank you, Gordon. Anything else on lobster health? Okay, Toni, Draft Addendum VI.

Draft Addendum VI

MS. KERNS: Thank you, Mr. Chairman. We've got a presentation up there, and I'll review the public comment from Draft Addendum VI public hearings. Public comment closed on January 7th.

Draft Addendum VI proposes withdrawing the Addendum IV effort control plan except for two points: first, the prohibition on issuance of any new permits for Area 2; and, second, the eligibility period for the participation in the fishery.

It also directs all jurisdictions within Area 2 permit holders and the Area 2 LCMT to develop a new effort control plan which caps effort at or near current levels with the potential to address levels based on the outcome of the upcoming stock assessment.

Public hearings were held and there were 18 attendees. Seven comments were submitted at the public hearings. Of those, six people were against the gauge increases, which are not included in the addendum.

One person would like to see v-notching replace the gauge increase. One person would not like to see the effort control plan replaced, just to defer the date of its implementation. Some people wanted to see no gauge increases until there was a uniformity of gauge splits within all the states. One person felt the addendum did not follow the recommendations of the LCMT.

Then two written comments were submitted. One was by the Rhode Island Lobstermen's Association. Under the qualification criteria, minimum poundage, the gear code 800 was left out, they felt, and they also felt that the "renew it or lose it" clause was left out of

the addendum.

The "renew it or lose it" clause was intended to keep vessels fishing in other areas that had dropped the Area 2 due to the most restrictive rule, therefore, reactivating their Area 2 rights at will would be possible.

They felt how could they expect to draw up a management plans that account for all future variables in the face of a changing stock assessment formula, boundaries and goals. At this time the lobstermen's association cannot support Addendum VI as it would have fatal flaws, and they would recommend that we move forward with an Addendum VII to clarify these and other points.

The other written comment had concerns that capping effort at or near current levels would equal to a quota, and he would not like to see a quota installed. That is a summary of the comments that you have.

CHAIRMAN WHITE: Bill.

MR. ADLER: Did you get the one from the Massachusetts' hearing?

CHAIRMAN WHITE: I didn't see one.

MS. KERNS: These are the comments that I received.

MR. ADLER: We did have a public hearing in Massachusetts on Addendum VI.

CHAIRMAN WHITE: Dan, do you want to address that?

MR. McKIERNAN: I believe I did submit the document to Carrie when she was in her position, but it obviously hasn't made it into the record. The comments were similar in Massachusetts. We had about a dozen

people attend the hearing.

There was a lot of concern specifically about the gauge increase, which was not part of the addendum, but it keeps coming up with the fishermen in that area. We had some discussions about the 800/100 trap allocation and the problems about that. But most of the comments that we did receive had to do with general opposition to the effort control plan and the gauge increases.

CHAIRMAN WHITE: Bill.

MR. ADLER: If I could add to Dan, however, I was at the hearing also, and that in general looking at what they had to have a public hearing on, which was Addendum VI, they basically knew what it was about and they were in favor of the addendum.

CHAIRMAN WHITE: Any other comments? If there are no objections, I need a motion to approve Addendum VI as written.

MR. McKIERNAN: Motion to approve Addendum VI as written.

CHAIRMAN WHITE: Second, George Lapointe. Comments from the Commission? Comments from the audience? No comments? Yes, sir, would you come forward and give your name, please.

MR. MARK McSALLY: Thank you, Mark McSally. I'm actually here on behalf of the Rhode Island Lobstermen's Association. This may not be the appropriate time to comment. I know there has been a memo that has been submitted relative to gauges, but it does overlap with Addendum VI as well.

I can either comment on that now or wait

until you take that up at a later point. I'm not sure when you will be dealing with Mr. Gibson and Mr. Diodati's memo to the board.

CHAIRMAN WHITE: We will be dealing with that under other business. I don't think the gauge increase is really appropriate to Addendum VI at this point.

MR. McSALLY: All right, then I will defer comment until you bring that item up at that point.

CHAIRMAN WHITE: Thank you, sir. Does the board want time to caucus? Take a minute.

(Whereupon, a caucus was held.)

CHAIRMAN WHITE: Are you all set? All those in favor, raise their right hand; all those opposed; any null votes; abstain, one abstention. The motion passes. The next item is an update on Area 2 management, Dan McKiernan.

Area 2 Management Discussion

MR. McKIERNAN: Yes, let me start off by saying that what we just voted on, Addendum VI, really reflects the problems with Addendum IV. Going back to December 2003, Addendum IV was I would describe as a dysfunctional addendum because the goals weren't clear.

You know, in the addendum was talk about a TAL, which the board really blinked on. They did not enact a TAL. There was an ineffective effort control plan, which we've just repealed. And as a part of that as well there were four gauge increases, which were opposed by the industry, by the two states involved.

So, I look back on that December '03 vote as a really problematic one, and I hope that in the future we can make things that are of a more sound stuff that can pass the test of time, stuff that we'll get compliance with.

As far as an update on Area 2, we have been meeting with some of the folks down there specifically to I guess now work on Addendum VII, which would be to come up with a new effort control plan, one that would be meaningful in terms of controls on traps.

I'll remind the board that the previous plan was somewhat incomplete in that it was a very generous allocation scheme which, when you add it up, all of the eligible fishermen and the traps they would receive, the total almost tripled effort over current levels.

We felt that just wasn't worth all the administrative burden while at the same time not accomplishing the kind of reductions we want any sooner than about 20 years. So, there has been some meetings down in Rhode Island. Specifically there were two LCMT meetings.

There was a meeting recently where I showed them what I would describe as a strawman, which was really the Outer Cape Cod plan where we've allocated traps based on history, with the requirement that one had to have poundage to support that number of traps. The reaction to that was mixed.

After that meeting, there was a follow-up meeting organized by Sea Grant of the Rhode Island Lobstermen's Association and I believe some Massachusetts fishermen as well. Right now I'd say they're in negotiations, and I can tell you that the reports that I've heard is it's a very contentious issue down there.

You know, essentially what's happening in that addendum is the attrition that the industry has been suggesting represents a conservation measure, that attrition is trying to be more or less institutionalized, which translates into some fishermen who used to fish a while back, haven't in a while, would be ineligible to continue fishing while those who were still active in the fishery would get some kind of a trap allocation. It is a very, very contentious process down there.

As you heard, a lot of the comments on Addendum VI focused on the gauge increase, which is not part of Addendum VI. Today Mark and Director Diodati, who I am here today for, have written a memo to talk about that.

CHAIRMAN WHITE: Dan, excuse me on that, but can I just ask a show of hands that have not seen that memo so that you can reference what Dan is talking about, a memo from Paul and Mark to the board. Has everybody got one? Bruce Freeman.

MS. KERNS: If you don't have one, keep your hand up.

MR. McKIERNAN: Do you want to take a couple minutes to read it for those who haven't? Mark, do you want to pick up before we get into the specifics of the request, any other comments you want to make on the meetings themselves?

MR. GIBSON: I think you've characterized it pretty well. I mean, the concept of attrition was brought forward to this board by members of industry. It has been brought forward to the respective agencies.

We recognize it has happened and we have a board motion that asks us to cap effort at or near current levels, so we're going to try to do that. But as Dan pointed out, it means

that some portion of fishermen who are still active but in a down-sized mode may be kept at that down-sized mode.

Some fishermen who have moved on to other fisheries or what have you or other activities may not be able to resume fishing activities in order to capture that attrition for purposes of reducing fishing mortality and providing for a more sustainable fishery in the future.

That translates into very difficult negotiations both within the industry itself and between Dan and I, so that's going to be a difficult process. But, we're intending on complying with the board's directive relative to effort levels. We're hopeful to have more meetings.

I think the strawman that Dan brought forward, which emulates the Outer Cape program, is a very strong candidate to continue moving forward because it captures the attrition. It deals with allocation based on a performance-based, data-based system relying on the logbooks that fishermen have supplied characterizing their catch and trap deployments.

It's also scaleable in the sense that pending the outcome of a stock assessment, that relationship that we may develop for the purposes of this addendum, if there is a need to scale it down or in the event of stock improvements, there is an ability to scale it up so it will be flexible.

So I'm very hopeful that -- I view that as a very strong candidate to move forward as the program of choice, and I guess we'll wait. I have more to say about the v-notching issue relative to gauges, but that's what I have to say about effort control. Thank you.

CHAIRMAN WHITE: Dan, you want to just walk through it?

MR. McKIERNAN: Yes, let me go through the gauge increase issue. As I mentioned, the industry is vehemently opposed to the measure and has asked in a motion -- the Area 2 LCMT, they made a motion for us to come here -- or for the two states not to enact a gauge increase and to seek board approval for either delay or some kind of a conservation equivalency.

So this memo captures that, but also some other reasons that we think it would be prudent to delay the gauge which is scheduled to go up on July 1st for four more gauge increases, resulting in a 3-1/2 inch minimum size for Area 2.

Those two reasons are new overfishing definitions that are coming up after the next stock assessment, but also the need for more uniform measures throughout the stock unit. That was the take-home point that we just got from Bob and Patrick. I think that's an important one.

It's obvious to me -- and maybe Toni could put up the regulatory cheat sheet, that we call it, of the matrix of regulations by LMA. If we go to a 3-1/2 inch minimum size in Area 2, we would be far beyond any other jurisdiction within the Southern New England stock unit, and that's obvious.

We recently got a proposal from the state of Connecticut just through a routine rulemaking notice where the state of Connecticut, for Long Island Sound, was considering a different minimum size and a maximum size.

When I got that notice, it just struck me that we really need to sit down, all the jurisdictions within Southern New England,

and try to make these things more uniform. This stock assessment review committee is telling us that.

Our law enforcement officers are telling us that. The fishermen are telling us that. I just think that where practical we should really be striving to do that. So, my agency, my Marine Fisheries Advisory Commission would like to see this gauge delayed beyond July 1st until a time when some of these issues could be addressed.

The state of Rhode Island, Mark Gibson has put together a graph, which is the third page of this memo, which shows the recent v-notching benefits that are coming from the North Cape Oil Spill Mitigation Program.

If it's necessary to have a conservation equivalency, then this is what we'd like to submit in order to postpone that gauge on July 1. If it's not necessary for a conservation equivalency, if we could simply delay pending the next stock assessment, that would be even better.

But just to remind the board, the Oil Spill Mitigation Program is one where lobsters that are non-egg bearing and legal size are being notched and returned to the water where fishermen are being paid. This is having a substantial impact not only in egg production but on the number of lobsters that are coming to shore.

So that's our request. I guess the bottom line is we'd like to avoid an August non-compliance finding on Area 2 gauge increases, and we'd like the board to work with us on this.

CHAIRMAN WHITE: I think one other point, Dan, didn't you explain that Cape v-notching program had been expanded over the initial conception, too?

MR. McKIERNAN: Yes, thanks for reminding me, Pat. In the last two years what was primarily a Rhode Island program has now come over toward Massachusetts. I see Ted is in the audience, if he wants to speak to that, but I know they're very aggressive in their desire is to fulfill the mandates.

I would make the claim that it's probably covering Area 2 almost in its entirety given the aggressive treatment of the program by the participants.

CHAIRMAN WHITE: Comments from the board? Harry, go ahead.

MR. MEARS: Just a question. I might have missed it in Dan's presentation, in terms of the v-notching initiative and the implication that it may serve as a proxy or a conservation equivalent proposal, if this board were to at some point in the future consider, either through an amendment or an addendum or whatever would need to be done, my question is this, has the results or the impacts of the v-notching initiative been peer reviewed by the technical committee?

MR. GIBSON: I'll deal with that. No, all I've done at this point is to hopefully intrigue the board with the information that's coming to the fore and the efficacy of v-notching. Our thought was today if we could get an endorsement from the board that pursuing conservation equivalency, if that's the needed approach, the board would be comfortable with Massachusetts and Rhode Island doing that.

What we would do, were that to be the case, if there were board support for that today, we would jointly take on the responsibility of preparing a technical demonstration that goes beyond this simple graph to show how

we believe the egg production by v-notched females, who would ordinarily not be there any more — and that's the differential in these two lines, within and without were there not a v-notch program, the red line with the v-notch program, so there is a substantial body of eggs being carried by female lobsters right now that wouldn't be there were that not this program.

I'm pretty confident it's quite a bit in excess of what any 1/32 gauge increase would deliver us. But we would prepare a technical demonstration of that, submit it to the technical committee and hopefully have a review by them and a recommendation to the board at its May meeting on the adequacy of this demonstration and the usefulness of the v-notch program in terms of achieving the conservation benefits.

So, all you have right now is just something to pique your interest, but that would be forthcoming were the board to endorse this approach that we've suggested.

CHAIRMAN WHITE: Mark or Dan, this is still with a quarter-inch v-notch?

MR. McKIERNAN: Yes, the v-notch definitions haven't been changed.

CHAIRMAN WHITE: Okay, and I think the other thing the board needs to understand is at least I hope that these two states are not asking for a technical review of this prior to the completion of our stock assessment, and I hopefully know the answer to that, so the board needs to understand.

The timeline would be fairly tight in that if we see the stock assessment or the technical committee is done with it by the end of March or first part of April, we only have until our May meeting, which is the 20th or something, to reach these conclusions so I

think it's — 14th so it's even a week earlier than that. So, it would be up to the two states to really do a lot of homework towards this. Do you want to further comment on that, Mark?

MR. GIBSON: Yes, we understand the tight timeline. We're fully prepared to do all the legwork and carry the water on the technical demonstration, and we've already started some work on that in terms of what the gauge will deliver versus what this program is delivering, so we fully recognize that.

I don't envision that this is an elaborate evaluation by the TC. A distribution to them sometime late in April would let them a week to read it and have a conference call is probably -- that's all I'm viewing this as. This is not a very difficult one, in my mind, or a lengthy one.

CHAIRMAN WHITE: Oh, you dreamer. John, you were next.

MR. JOHN I. NELSON: Thank you, Mr. Chairman. I think you covered some of the points, but as far as us endorsing any conservation equivalency measures right now, I don't think we're able to do that.

But, the process is already in place. If the two states want to come before us with a conservation equivalency plan, they have every right to do that. Obviously, we've already addressed whether or not they should have it really fleshed out and whatever review possibly done to it prior to the May meeting.

I think that's on the burden of those states just as the burden of helping them with putting in Addendum IV was put upon the Commission to deal with those issues that were on the plate at that time.

CHAIRMAN WHITE: This is, as I understand it, just an informational piece, John, to make us aware of what they're trying to do, and I just wanted to make them aware that we just can't take people off the technical committee at this point in time. Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. Mark, on this diagram that was attached to the letter, your letter and Paul's letter, just curious, the egg production tracks for three years, 1999-2000-2001, with v-notch or without v-notch, it makes no difference. Then starting in 2002, the v-notch makes a substantial increase, and I'm just curious why it tracks the first several years and then deviates?

MR. GIBSON: Yes, that's a good point. I glossed over it a bit, but in '99 the program wasn't in place so those numbers are essentially identical. There are blue dots and red dots all the way back through.

In 2000 was the first year that substantial numbers of v-notched females were released; however, there were quality control problems with the program. It has been documented now through enforcement investigations that lobsters were procured from outside the stock area, probably from offshore and probably from the state of Maine, and they had different reproductive schedules; that is, they don't mature at the same sizes, not nearly the same sizes.

They also had different behavioral properties relative to being very hungry at the time they were released and interacting with the other lobsters in the area. So there was essentially no performance from the large number that was released in 2000 and, therefore, no notable v-notches carrying egg production later.

They weren't maturing in order to bear eggs in the observable and sea sampling. They also probably undertook substantial migratory movements that local lobsters might not have.

When the current contractor took over the project, 2001 was the first year they were involved in it, and they only procured a relatively small number of females for v-notching since it was their inaugural year. It was actually I think 2002 when they really geared up and started marking several hundred thousand female lobsters per year.

And not surprisingly, as soon as we started marking large numbers of v-notching of local animals procured directly off fishing vessels as opposed to buying through dealers and so on, that we had a large burst of those egg out and produce ovigerous females in our sea sampling.

CHAIRMAN WHITE: Gordon.

MR. COLVIN: A comment and then in order to help me react to this, I need a little bit of help from the staff in reconstructing history, I think. Just a comment.

Where we are with the gauge increases generally, as I understand it or recall it, there is an issue with respect to the most restrictive rule that could call on states other than those most directly affected to also have incorporated the gauge increase if they have some fishermen who have declared Area 2 as one of their areas.

And, rulemaking being the very demanding and time-consuming and lengthy job that it is, rather not get into it too much and be going back and forth. That's just an observation as a general rule.

But now I come to the part about help me

reconstruct history. I seem to recall the initial issues that were compliance issues for all of us, for all areas, arose in Addendum III, and that subsequently Massachusetts and Rhode Island asked the board to add additional issues via Addendum IV because of stock conditions as they were perceived at that time in Area 2.

In other words, there was a voluntary initiative, if you will, on the part of those two states to propose more conservative requirements than what were already in place under Addendum III; and that when asked the obvious question which is, well, gee whiz, states can be more conservative any time they wish at their own discretion, part of the response was that a large part of Area 2 is EEZ and we'd like to bring federally regulated fishermen into this as well so that we have consistent management across the area.

I don't think we've gotten to that point. I don't think the rulemaking has even been initiated yet under the federal system. So, if my thinking about the history here is correct, and I see more heads nodding than not, my own reaction then is whatever you want.

Addendum III is still the standard as far as I know that was an across-the-board commitment for all of us. And if the states have a preference to take themselves back to that as the compliance standard, I have a hard time feeling that they ought not to be allowed to do that.

And, while I think there is a great deal of interest in what has been suggested as a conservation equivalency of the v-notching to the gauge, and I look forward to seeing that technical analyses -- it might help us in other areas, including Area 6 -- I for one would not want to take the position that the states must substitute that as a conservation

equivalency for the gauge.

I would support a rollback of the gauge provisions of Addendum IV for the reasons I said, particularly since the federal regulatory process is not really moving along.

CHAIRMAN WHITE: That's interesting. Yes, Vince.

EXECUTIVE DIRECTOR O'SHEA: You're still taking question on the memo from Rhode Island and Massachusetts or are you past that?

CHAIRMAN WHITE: Yes, go ahead.

EXECUTIVE DIRECTOR O'SHEA: I guess my question is -- and I'm not exactly sure of this, but I'm on Page 2, and it seems like it's suggesting that we look at perhaps getting a conservation credit for the North Cape v-notching program.

I might have this wrong, but I was thinking that the North Cape program was intended or agreed to by the spiller as a mitigation for the lobsters supposedly killed in the oil spill. I guess my question is why would the spiller continue to sort of pay back lobsters that they didn't kill?

CHAIRMAN WHITE: Mark and I talked about that. Do you want to address that, Mark, as far as you can?

MR. GIBSON: Sure, this program is exactly that. It's designed to replace largely juvenile lobsters that were killed in the 1996 spill event. We computed how many were lost and what their expected lifetime reproductive output would be and then entered into a consent decree with the responsible party to put that egg production back, albeit at a later set of out years.

But, in those calculations were imbedded a number of assumptions about the longevity of the v-notch compliance by fishermen. They were fairly conservative ones that were built into it. I think we now have some evidence, through the performance of the new contractor and so on, that we were perhaps pessimistic about the protection afforded by the v-notch and the cooperation by the lobster fishermen, which are getting paid a premium for all these females that they throw back over the side.

I think there is some additional benefit above and beyond what the oil spill losses were that could be attributed to resource conservation benefits, certainly more than a 1/32 gauge increase which is due July 1st.

CHAIRMAN WHITE: Yes, Vince, a follow up.

EXECUTIVE DIRECTOR O'SHEA: Yes, thank you, Mr. Chairman. So in effect, the North Cape guys would be paying for more lobsters than they killed?

MR. GIBSON: I don't think I'm going to characterize it that way. I don't want to go back to court. I'm going to advance an argument about the value of the conservation benefits of this program to rebuilding egg production today.

Regardless of what the ultimate reason is for the lobsters going back in there, it's egg production that we didn't have four years ago. It's a substantial component of it. I think we're going to try to advance that sort of argument.

However, if Gordon sees a process by which we don't have to do that, we would still gladly show the information we have on v-notching to the states that may be interested in it. But if we don't have to do this sort of

demonstration, then we wouldn't.

CHAIRMAN WHITE: Harry.

MR. MEARS: Thank you, Mr. Chairman. To answer Mr. Colvin's question, federal rulemaking is moving. Admittedly, it's very, very slow, but it is moving. Hopefully, we will see a proposed rule responding to those recommendations that stem from Addendum II in the near future.

My second comment is I guess it was Addendum II that called for the gauge increase, and I guess thinking ahead, I guess several things come to mind. I believe it was also Addendum II that extended the egg rebuilding or stock rebuilding timeframe for the various management areas to reach F-10.

I think it added another two years over what was initially approved in Amendment III in 1997. If I also remember correctly, a review of the technical committee of each management area by area was requested by this board as it related to meeting this rebuilding timeframe that was also a part of Addendum II.

So if in fact a delay is given to implementation of a management measure that was deemed by the technical committee crucial to meeting that timeframe, it would also seem that we would have to relook at Addendum II and delay the entire stock rebuilding milestones that were approved.

I guess rather than making that statement, I'm asking that, because I'm getting a little cloudy now with the various addenda and which measures were under each. I do think that the egg or stock rebuilding timeframe was part of Addendum II as much as the scheduled gauge increases, and I guess I'm asking is that correct.

CHAIRMAN WHITE: Well, let me get back to your first statement, Harry. Can you define “near future”?

MR. MEARS: Well, the major milestone we’ve made is we’ve been able to finally hire another person to hopefully expedite the bottleneck that we’ve faced from Day 1 in lobster rulemaking. That has been the socio-economic analysis, so we have recruited someone with that background.

And other than saying soon, no, I can’t say within two weeks, within four weeks, but certainly four weeks is my hope that we’d have something on the street. Can I commit to it? No, but that is certainly my intent.

CHAIRMAN WHITE: Vince or Bob, can you comment because I don’t want to put Toni on the spot, unless she wants to be, as to Amendment 4 and Addendum II and how that plays in.

MR. BEAL: Toni looks like she has the answer to that.

CHAIRMAN WHITE: Give it a try.

MS. KERNS: Thank you, Mr. Chairman. Addendum II I have here before me, and it has the rebuilding schedule for the egg production, the gauge sizes, and the trap reduction schedule as well as the escape vent sizes. But then the escape vent sizes are modified in Addendum IV, and I’m not sure what else Addendum IV modified off the top of my head, but I think Bob knows.

MR. BEAL: Addendum IV also set the gauge size increases for Area 2, which are the ones that Mark and Dan have been commenting on, the 1/32 of an inch by July, I believe it’s by July 1st of this year.

CHAIRMAN WHITE: So is then what

Harry’s saying, this isn’t something that was done to be more restrictive; it was something done to comply with the timeline?

MR. BEAL: Addendum IV? The gauge size increases included in Addendum IV were designed to work in concert with the effort control program to reduce the landings in Area 2.

As Gordon mentioned, the states of Massachusetts and Rhode Island requested that the management board initiate the addendum process to effect change for Area 2 and asked the National Marine Fisheries Service to implement complementary measures in the EEZ portion of Area 2.

Well, as part of the request that came from Rhode Island and Massachusetts a couple of years ago that initiated this whole issue, Step 1 was a technical committee review of what the status of lobsters or what signals do we have coming out of Area 2, and part of that report was that the fishing mortality needed to be reduced immediately in Area 2 is I think the wording of it. So in response to that, Addendum IV was initiated and approved by the board.

CHAIRMAN WHITE: Bill, you wanted to comment on that?

MR. ADLER: Yes. First of all, I believe that by going to 3-3/8 in that area, that accomplished what Addendum, I think it was II or III had in it.

The emergency that was mentioned at the time resulted in an action of accelerating up to 3-3/8 faster than the addendum had said they had to, along with a target allowable landing or whatever it was that was set, and it was kept to by the fishermen.

So they went up on the gauge faster than they were supposed to, and they also kept to their TAL or their TAC or whatever it was we set for them. That addressed the “emergency”. You don’t keep addressing the emergency.

It’s like you send an ambulance to a house, you don’t keep sending it every day. So we did that. Now Addendum IV comes along, and that’s where this new set of increases that we’re talking about here came to be. So, actually I believe that we did Addendum III and kept to it, as a matter of fact, faster than we had to. But we did it. I think that’s the way it unfolded.

MR. BEAL: Just one more comment to follow up on some of Gordon’s comments a moment ago, not to comment on the philosophical issues that Gordon mentioned, Rhode Island and Massachusetts came forward and essentially asked for some help from the management board effecting change in the EEZ. But, as far as the process goes, Addendum IV and the gauge sizes included in Addendum IV are still on the books.

They’re compliance criteria and the board has two options. One is to -- I hate to say this -- initiate Addendum VII to get rid of those gauge size increases or implement some sort of conservation equivalency alternative to remove the requirement or to substitute for the requirement of the gauge size increases. I guess the third alternative is states go ahead and implement that gauge size increase.

But, the board doesn’t have the ability just to kind of not follow through on the requirements of Addendum IV just because it’s no longer requested by the states.

CHAIRMAN WHITE: Well, I guess that

was my question, Gordon, to the comment that you were making is that wheel is already turning and the deadline is for July 1st so I think that’s where I get -- I don’t know what other alternative we have. George.

MR. LAPOINTE: To get to Bob’s question, I think what Rhode Island and Massachusetts have said is that they intend to come up with a conservation equivalency analysis and we can’t judge that until we see it.

I mean, the EEZ issue strikes me as a valid one regardless of where we are. I mean, it’s a burr under our saddle that we know we have to live with. I hope it comes out in four weeks, too. We can’t count on that.

And so it’s something we should pay attention to as we go forward in putting schedules together, because that’s just the way it has been. Hopefully, it will get quicker. And so it strikes me there are two issues going on at once.

One is the issue -- and I don’t think we need a lot more discussion on it from my perspective -- that, yes, the two states, or the state and the commonwealth should come forward with a proposal for conservation equivalency. I think we need to continue to push and struggle with the federal issue because it affects all of us.

CHAIRMAN WHITE: Dan.

MR. McKIERNAN: If the board would like, since Mark and I need to present Addendum VII, which is the effort control plan, we can make part of that a freeze on the gauge increases consistent with the management advice we’re getting, which is to have uniform measures when possible in a stock unit.

CHAIRMAN WHITE: But to move forward with that, in the interim you'd have to have a conservation equivalency for the July 1st proposal, correct?

MR. McKIERNAN: Yes, the board in August could find us out of compliance, but by then we would already be enacting, I assume, Addendum VII at the same meeting. The board is not going to meet until August to determine our being out of compliance. It's at that point you could approve a new addendum.

CHAIRMAN WHITE: Okay, well, I guess at this point the ball is in your court, Dan and Mark. I think we've run this through enough. You had another comment, Harry.

MR. MEARS: Just one more clarification. I remember Amendment 4 that did not pass that sought to make the 100/500 a provision that could be replaced by conservation equivalency.

I guess my question is this, under the plan as it exists, can gauge increases be replaced by conservation equivalency as the plan is written, on that part of the list of those measures that can be considered for proxies?

CHAIRMAN WHITE: Toni.

MS. KERNS: Yes, it is.

CHAIRMAN WHITE: Excuse me, this is your chance.

MR. McSALLY: Thank you, Mr. Chairman. Again for the record my name is Mark McSally. I'm here actually on behalf of Rhode Island Lobstermen's Association and the Ocean State Fishermen's Association.

Their officers would have been here today, but it's one of the few good days for fishing so they opted to send me. They did have to go out and try to make a living. But they did authorize me to make a few comments on the gauge and just generally on the new effort control plan that Dan and Mark described a moment ago.

First of all, I think the record would show that there was some general dissatisfaction by RILA with respect to the abandoning of Addendum IV. The feeling was that they were making them go back to Square 1 and revisit all the issues that they worked over 18 months on to try to come up with.

Be that as it may, the concern was that if in fact a new control plan had to be adopted, the gauges had to be part of the issue that would be reviewed, because RILA and the industry felt that they ran together. They had to be considered together.

To that end, for the last three or four months, since at least your November meeting, the industry has been meeting with state representatives, Mark, Dan and the acting director from Rhode Island, to come up with options relative to how to delay or forestall the July 1 gauge increase.

And what has come out today in the memo or the memo we saw earlier this week is generally in line with the discussions that we had, and RILA is pleased that this is at least a step towards delaying or deferring the gauge increase.

We had suggested to the director that he had a number of options, one of which would be to actually go into non-compliance. We're not looking to do that, but that's one of the things that we had suggested could happen in order to give time for the new stock assessment to come out and the new effort

control plan to be considered.

But in any event, as it stands now, if in fact the board is inclined to at least encourage the states to develop the conservation equivalency argument, consider the deferment of the gauge, July 1, RILA would support that and would also try to the best of its ability to participate in the working of a new effort control plan for Addendum VII. As Dan indicated, the meetings have been contentious. It's not an easy discussion that has been going on between industry. I've attended some of them. They are making steps to try and come up with some solutions.

Facilitators have been hired. Dave Borden and Peg Parker from Sea Grant were at their last meeting last week. We'll be at a board meeting tomorrow evening to try and at least bring some focus to what the industry would like to see as its new plan that's going to be proposed before you in the spring or the summer.

In any event, it's just to report to you that while there have been some trying issues, they are attempting to come up with a resolution that would be satisfactory. And the gauge, if it's deferred, goes a long way towards making it easier to deal with.

Two quick comments on some of the questions that came up. First of all -- and Mark knows this well -- I was involved in North Cape in terms of representing a number of fishermen and also dealers and actually had to bring suit in federal court against the responsible party for the dealers.

Mark spent hours at depositions, as did many of the other scientists. So while the numbers were calculated the, science got better as time went on. I mean, '96 was the spill; '99 was Mark's primary calculations

as to the loss of egg production, the loss of adult equivalence.

It wasn't until 2001-2002 that the v-notch program really got going. By then, there was a lot more information relative to the true natural mortality factors that were now playing into how to calculate the actual loss.

By the time the last claims were settled, although they're not binding, there was a general consensus among the scientists that the numbers initially predicted relative to lost egg production were conservative, that there is a benefit above and beyond what potentially was lost from the oil spill.

So to that end, I think Mark's argument is correct, that there probably is a cushion above and beyond strict replacement that would be calculateable or at least can be put down so they can be reviewed by the technical committee.

The one other issue that I think that's no secret, on behalf of RILA and others, I've made an issue of the fact that there is a disparity between the state and the federal regulations. It's an issue we still hold out as something that we may act upon if there isn't consistency brought about.

There are some inconsistent court decisions already in Rhode Island relative to the ability of the state to regulate in the EEZ. That's an option that's still in the Supreme Court in Rhode Island and is being considered right now.

So that will go forward, but it does at least heighten the issue that has been brought up today about the inconsistency and how you have to deal with it, so you have some regulatory matters or regulatory measures that are enforceable. I'd be happy to answer any questions, but that's pretty much the

sum of what I had to say.

CHAIRMAN WHITE: Any comments?
David.

MR. DAVID SPENCER: Thank you, Mr. Chairman. David Spencer, chairman of the Area 3 LCMT. This isn't relative necessary to Area 2, but it is relative to the gauge increase schedule. Area 3 has four additional gauge increases to go to meet F-10.

We have our next one scheduled July 1st at 1/32 of an inch. We need to stay on that schedule regardless of what Area 2 or any of the others do. This is not elective. This is a necessary component of Area 3 meeting F-10.

We have four more to go. One of the ways we got buy-in for this process was to do it a little bit at a time. We just went through a year where we had three of them in one year, and it was very unpleasant.

So, I would just like to ask the board's indulgence that the states continue to let the Area 3 gauge go up on a yearly basis for the next four years to reach our 3-1/2 so we can meet the overfishing definition. Thank you.

CHAIRMAN WHITE: Thank you, David. Any other public comment? Coming back to the board, you've all got the paper that they gave out, and we'll wait for further information from the two states. Eric.

MR. SMITH: Other business?

CHAIRMAN WHITE: You're on stage.

Other Business

MR. SMITH: Okay, thank you. I had asked for some time, as I said earlier, purely as an

informational session, but then some of the fishermen from Connecticut had approached with a point of view on the impending plan provisions in the summer, and I agreed to imbed that whole issue that I'll raise in a minute in this presentation.

You will find, as you hear it, that it sounds very similar. There are some differences, but it's very similar to the argument and the point that you just heard on Area 2 management. Again, informational purposes only and just briefly a few slides on the status of the stock as we see it in Connecticut.

This is landings trend over a 25-year period, and the only take-home message is the last two years have been the worst on the record. The next slide is the trawl survey indices, the spring and the fall.

Again, the scale and so forth is kind of irrelevant. It's a 20-year time series. Both spring and fall trawl surveys are identical to or a little bit lower than the worst ones in the time series.

The third index is our larval lobster production. This is also a 20-year time series. You can see it's a highly variable survey. The ominous signal you get out of this, though, is the worst three years on record happen to be the last three years.

Now, I will hasten to add, before I go on, we in Connecticut in DEP view this as very bad news from a stock condition point of view. We hasten to add that we do not think that this is a matter caused by excessive fishing mortality.

This is a natural mortality event of epic proportion that has been very well documented. Be that as it may, the stock has collapsed, and at this point there is not

much point in trying to figure out why as much as there is in our view of trying to enhance the prospects of recovery with a minimum impact on fishermen.

So, our view of current management needs are essentially protect your spawners, rebuild the spawning stock and get back to conditions that provide for a sustainable fishery. The proposed strategies that we took out to public hearing, we just concluded the two hearings last week, and we're still in the comment period for written comments through next Monday.

We proposed a v-notch program or a maximum length. The proposed value is 3-5/8 inches, in other words, 3-5/8 with the current 3-1/4 inch minimum; or, increase the minimum length from the current 3-1/4; or, release female culls or do some combination of the measures.

We were very clear in the notice of rulemaking, and the comments made at the hearing that we were looking for ways to fold measures together with the purpose, again, of enhancing prospects for recovery with a minimum impact on the fishing public.

So then very briefly, at these hearings we provided a little bit of an evaluation of management alternatives; and for the guys in the audience that sat through it, I won't be doing as much of this as I did at the hearing. I'll just show a couple of comparisons and get to the one then we think we really ought to pursue.

This one is just a relative comparison and the numbers are meaningless. They're real numbers out of the current old stock assessment model, but what the numbers are is relatively meaningless.

What I had staff do is calculate what would the measure be if you increased the gauge to get a 50 percent increase in eggs per recruit versus what would the measure be to get a 50 percent gain in eggs per recruit if you used a maximum.

So that's why moving from the current minimum at 3-1/4 up to 3 7/16 gives you a 50 percent increase in EPR. Going from 3-1/4 to effectively what becomes a slot limit or a maximum of 3-5/8 gives you the same 50 percent.

You look at the landings lost, it begins to look like the maximum length is a clear winner, that it has about a third of the impact on the fishermen for the same conservation gain.

The problem is it's not that good news because the way the eggs per recruit are calculated it's across the lifetime of the lobster, and you don't get the gain out of the maximum length until about six years out.

So even though it's a 14 percent landings lost instead of 46 percent -- and I'll hasten to add nobody even likes 14 percent, that's understandable.

People aren't making any money now, so it's almost impossible to contemplate giving anything up, but for the purposes of the calculation, the gain you get out of the gauge increase or the maximum versus the loss really comes out about the same because that upper middle bar, yellow bar, presumes that you would go to 3-7/16 all in one year.

That's how you maximize your conservation gain. You get it right away by going to it in a year, but it loses you 46 percent of your landings, which is just impossible to contemplate. All things said, this is kind of

a wash, you know, if you were to do one or the other, pick your poison.

The one that was very well supported at the hearings, and we have agreed at least we have been talking with the industry leaders to try and pursue it in a way that would be meaningful, is to develop a v-notch program along the lines of this North Cape Oil Spill Program that you had heard about previously.

Our views, our needs in such a program is that it has to be verifiable, in other words, not an "honor system." It has to be quantifiable. You have to know what kind of conservation you're getting out of it.

It must be funded by someone other than the department because we don't make money; legislatures make money. It must be conducted by a contractor because at least in the model used in Rhode Island, they had a couple of dozen people to go out on the boats and mark the lobsters, and that would be about the size of our whole division. So the way our budget climate is, the state government is not going to get 10 or 20 new people, so we said it had to be a contractor-operated type of thing.

Now, to bring this all back to why am I saying this here now for the board and where it sounds very similar to the Area 2 approach, through the LCMT process, if we're going to make this work in a way that is equivalent from a conservation point of view to the gauge increases that are scheduled to start this summer and go next summer as well, the LCTM and the states would have to develop a program for submission to the board in May 2005.

I would point out, before I turn and forget it, there has been
-- it's hats off to the Connecticut industry

leaders. They heard this message. They've gone to the legislature.

They got a bill introduced in the legislature to fund such a program. It was very favorably received in the public hearing process by our environment committee. Our session goes through June.

Who knows what happens in the whole budget cycle, but they picked up the ball and ran with it in a way only they could. I couldn't go to the legislature and say give money to a program but citizens, non-government employee citizens can, and they did so it's an A-plus for them on that.

And, frankly, if it comes to pass and we work out these conditions for an effective program, in our view that would become much more of a clear winner than anything else that carries a huge economic impact.

So, my last slide is sort of a schedule, and then I want to basically explain quickly to the board why we're doing what we're doing as a state agency as opposed to just a member of the Commission.

The schedule for this, in my view if we do such a thing, is we need the LCMT and the state staffs to develop a program that meets those kind of approvability conditions for conservation equivalency over the next couple of months.

Then a technical committee evaluation for conservation equivalency, which, as John Nelson pointed out, is a provision of the plan that is allowed to areas, so under that circumstance we would want to use that process, and then management board approval at May.

At the outside, if more time was needed, as Dan McKiernan pointed out, you could slide

to August, hopeful that you'd be approved at that time; and at that same meeting, if you didn't have an approved proposal, you'd either have to commit to what the plan says now or be out of compliance.

So we're in the May-August horizon for approvability, which is still very ambitious. We're behind the Area 2 area. They've done a lot of the heavy lifting in terms of the meaningful contribution of v-notching to producing eggs in the population.

But, they've done the heavy lifting in the methodology, and perhaps we can capitalize on that in the development of an Area 6 program. Now beyond that, I will only say very briefly why Connecticut and me in particular have stuck our neck out to try and do something more than even the plan might require.

Those three slides are the reason, at the beginning of the presentation. Those stock conditions are as bad as anybody has ever seen. Opinions vary about whether it's, you know, irreconcilable or whether it can come back on our own or what the reasons for it are.

But, our bottom line is the stock, by all indices of science available to us, has collapsed and we have an obligation to work with the Commission on fishery management strategies, but we have an obligation in Connecticut to restore fish stocks that have gone down to such low levels that if they go much lower, theoretically or arguably I guess would take a long time to recover on their own.

They've just got in such a bad state that it would take unusual environmental favorable events to get them back on the road to recovery. So, our obligation, we think in the department, is do what we can to try and help get the stock back to sustainability, and

our obligation also is to try and do it in a way that minimizes impact to the public.

So, after our rulemaking comment period ends, after we review the record, after we see how the science looks and so forth, we want to work within the Commission process to end up with something that is compliant with the Commission plan.

And this is where the hard news comes to members of the lobster industry, we may very well decide to do something in addition to the plan if we think as an agency that an additional action is required to recover the stock.

We have not made that decision. We don't know exactly what that measure would be yet even if we did do it, but it's a source of consternation, but every time I get this opportunity and there are lobstermen in the audience, I make the point so that we won't later on say, gee, why weren't we told.

If we decide that the plan provisions alone are sufficient, great. If we decide we need to do something else, we'll justify it to the best of our ability and see how it goes through our review and approval process.

I know that's not things people want to hear, but we wanted to take the opportunity to let the board know where we've been over the last five months, because we started this process, frankly, in October. Thank you.

CHAIRMAN WHITE: That's great, Eric, and I applaud you for the effort. Could we get a copy of that presentation available through staff out to the board?

MR. SMITH: They have the slide presentation. They were hitting the slides as I was --

CHAIRMAN WHITE: But I'm asking is it all right if that is given to the board?

MR. SMITH: Sure.

CHAIRMAN WHITE: Okay. Comments on Eric? Yes, Bruce.

MR. FREEMAN: Thank you, Mr. Chairman. Eric, in the first graph you had which showed the historical catches, I noticed there has been very dramatic swings between very low catches and almost a year or two later extremely high catches. Is there any information you have as to how that occurs or why that occurs?

MR. SMITH: Actually that slide, the one you're talking about is larval lobsters.

MR. FREEMAN: Oh, is that what that was?

MR. SMITH: Yes, the third slide is larvae and larvae are very patchy. Sometimes you get them and sometimes you don't. And what I've said to fishermen's groups in the past -- we've had a long series of public information meetings on this, a big meeting in September of '03, another one in June of '04, one with our Connecticut LCMT guys in October of last year.

And what I've tried to convey, if it was the larval survey alone, it would give us one sense of confidence in the poor condition of the stock because larval surveys are notoriously patchy; and if they bounce up and they bounce down and they do that for 20 years, well, okay, that gives you a certain message and you decide how much you want to depend on it.

In concert with the landings and the trawl survey all being at all-time lows, the larval survey having the last three years the lowest on record -- and that has never happened in

the last 20 years where you get three bad years all in a row -- coming on top of low landings, lots of natural mortality, low trawl surveys, the combination is what makes us apprehensive.

So, the lobster survey, as I've said and I've been quoted, it's not perfect, but it is a part of the puzzle, that the way it shows out on that slide, the total message makes you apprehensive, makes me apprehensive.

MR. FREEMAN: If I may, Mr. Chairman, just another question or two. Relative to the fact at the present time you have dramatically decreased the number of participants in that fishery due to the problem with the resource, does your thinking include at some time increasing back up to the level you started with initially or to retain the few people you have if a certain resource level is reached?

MR. SMITH: I guess I'm not sure what you mean.

MR. FREEMAN: Well, the amount of effort that is occurring now is substantially reduced because of the problems that have been encountered. How are you dealing with that, or are you addressing that at all?

MR. SMITH: Yes, we have. We had a couple of programs, and I even have notes on that, if I find them. We had a trap tag buy-back program, and the legislature passed a bill in the year 2000 to allow transferable lobster pots.

The conditions we put on it were we can calculate the difference between someone who has actively fished, current, active pots and their total allocation. If you transfer a license, all the latent pots go away. That's how it had been managed from 2000 to 2004.

Combined, we have reduced the pots allocated in 2000. Under the first allocation of the plan, combined, we've reduced the pots allocated by 30 percent of which about a third or a little more of those are actively fished pots. So, we haven't in effect taken away pots from people.

What we've done is reduced them when the license is transferred or buy them back as part of the direct aid program that Harry talked about earlier that came through Congress. There were two purposes of the buy-back program.

It was aid for fishermen and it was eventual enhancement of the conservation program by reducing pots. What we have not done -- and it was imbedded in your question -- is take steps now that a lot of people have stopped fishing for a while, to say now we're freezing effort at that low level.

That would be a legislative issue. I had been asked many times, when we had our regulations on the pot control system, whether people were going to lose the right to fish.

I said I can't predict what the future is but we're not anticipating approaching it that way because in the unusual circumstances of a natural die-off, I think a legislator would be very hard pressed to say you lost your shirt because the lobsters died, but now I'm not going to let you get back in there as the stock recovers.

That would be a very hard legislative thing I think to happen. So, if we need to control effort or lobster mortality or protect spawners in some other way, I think my guess is it would be done in the context of who the license holders are.

We have a limited access system. We've controlled it to the point that if you didn't have a license from '95 to 2003 and if you didn't have a pot allocation from '95 to '98, you can't go out and get a license and go lobstering. So in that sense, under the context of the lobster plan, we had already limited entry into the fishery, and then we capped effort with a history-based pot system.

MR. FREEMAN: If I may, Mr. Chairman, you share the Sound with another state, and obviously I'm sure you've spoken to Gordon about this. Is this something that both states would deem viable?

MR. SMITH: I won't speak for Gordon because I know he's capable of speaking for himself, and you all do, too. We have communicated so that he would be aware of what we're doing.

We felt it was an important initiative to go out to public hearing, get comments, and one of the factors that's going to enter into our decisions, I'm sure, is if you don't have uniform enforceability of any particular measures in a water body like Long Island Sound, you diminish the effectiveness of that measure.

You also potentially treat your own fishermen very unfairly if a lobster thrown back by them crosses a boundary and the next state's fisherman can take it. We're well aware of that. We're well aware of the dealer shore-side issues of potentially having a mismatch of size limit or maximum size that doesn't exist elsewhere and dealing with that.

We know those things. We got them through the public comment process. Those are things we have to wrestle with so we aren't going to come to any quick decisions.

The other point, Dan McKiernan made a point and Mark both did in their memo, it is desirable to, as much as possible, have joint measures throughout an area or at least across boundaries.

And that means if you do it across boundaries, somewhere there is always going to be a disconnect. It would be nice to minimize those. It's not essential. It would make management so much more effective, but for every argument in favor of, say, going from Chatham to New York City and outside of Long Island Sound have all the same management measures there, you have different people in different states that have a decidedly different view on that, and you may have population differences, which we felt we had back in years past, that suggest ending up where we got to in this plan.

Now, I heard the comments earlier -- and perhaps that's going to all get reconsidered in time, but it would have to be through a plan amendment and kind of a deliberate review. I'm sensitive to the need to try and have compatibility as much as possible for effectiveness and enforceability.

That's why we're so willing to talk on the v-notch program, because one of the two very attractive features of a v-notch program is that those lobsters are all prohibited in all states, regardless. So even if Connecticut were to do a v-notch program and New York couldn't do anything, New York fishermen couldn't take those lobsters.

That's a huge plus and that's why we devoted a whole lot of attention to trying to see how we can make that one work, because it has got a built-in enforcement positive that anything else doesn't have.

CHAIRMAN WHITE: Is that it on that, Eric?

MR. SMITH: Yes, it is. That was information. Thank you.

CHAIRMAN WHITE: Okay, thank you very much for the time and the presentation. Anything else under other business? Yes, public comment.

MR. GEORGE DAHL: My name is George Dahl. I'm a lobsterman in Long Island Sound and the chairman of the Lobster Conservation Management Team there. I'm one of New York's members to the Lobster Advisory Panel.

I kind of object to the way Eric said "we" do this and "we" see this and "we" see that, because we are sitting in the audience here, and the fishermen here do not share his view that the fishery is going down the tubes.

We have seen an increase, and I don't know why this is not projected in the catch reports that Connecticut collects, an increase in our catch in both numbers and size. We see what we feel is adequate egg production in our area.

We do not detect larvae and settlement and all that stuff, but even the graphs we get from our own state on sea sampling show that there are lobsters in the water. We do some of our own testing.

It's probably illegal, but we have small mesh traps so we, ourselves, can see what are down there. It appears to us as though there are ample lobsters in the water. So, I kind of object to the statement that "we" because that sort of indicates that all of us in the room here from that area are in agreement, which we are not.

You've just seen Rhode Island went from a state of emergency that someone declared

for some reason go through all kinds of measures, and now they're trying to take those measures away because they see an improvement.

I don't understand where that improvement came from because it came too fast for any measures that they had taken to cause that improvement, so I'm just saying that the industry -- and if you check, I'm sure you would agree with me, Eric, that the public comment at those meetings, I don't know of anyone who shared your concern or was in favor of any of those measures except the idea of the v-notch program, similar to the one that was done in Rhode Island. Thank you.

CHAIRMAN WHITE: Thank you, George. You guys will have plenty of time to work that out, or not much, but I'm sure you'll take care of it.

As I started to say, I have an apology to make. We have a new staff person here, Toni Kerns, that has just taken on lobster. I think she got the short straw, but, anyway, we're really lucky to have her. She's only been on four weeks, I think it is now, and I'm just really pleased with what she has done, and she is going to be a great asset to the Lobster Board.

EXECUTIVE DIRECTOR O'SHEA: Well, just to make it clear, Toni volunteered for this job. She was not selected. She came to us and said she wanted it, so we're delighted she did.

CHAIRMAN WHITE: Even more reason to question her sanity, but God bless her for doing it. Unless there is any other comment, I'd look for a motion to adjourn. One more comment in the audience.

MR. MIKE TYLER: Thank you. My name

is Mike Tyler. I'm a LCMT member from Connecticut in Area 6. I had a few comments on Eric's presentation. I thought you did a good job with that, Eric.

You've actually listened to our concerns. Going back to springtime, we've had a series of informational meetings among the fishermen in Connecticut. We do endorse that v-notch program that's similar to what Area 2 has done for all the reasons that Eric mentioned, enforceability.

And just to add a little bit to it, we've got three different sources of funding that we're pursuing at this time. We've been in coordination with the contractor that has been doing the work in Area 2 and trying to get a program started.

Whether or not it's in regulation, we feel that it would be a good thing if we can secure the funding. We would hope that it would be used as some sort of conservation equivalency towards rebuilding in Area 6.

Just to address an Area 2 issue as well, the Connecticut tagging program has showed that most of the lobsters -- and correct me if I'm wrong, Eric, but pretty much most of the lobsters that were tagged in the Connecticut tagging program stayed within a mile -- they were recaptured within a mile of the tagging.

So, we do have a certain resident population that does not necessarily move over the boundaries, so to speak. I just wanted to make you guys aware of that. But we do applaud the efforts in Area 2 with regard to their v-notching.

I've been in constant contact with Mike Marchetti at the Rhode Island Lobstermen's Association, and it's really impressive the amount of egg production that has been increased through that program and through

the efforts of OTF. Thank you.

CHAIRMAN WHITE: Thank you. Bill, you had your hand up.

MR. ADLER: I was going to make a motion to adjourn.

CHAIRMAN WHITE: That sounds like a good motion to me. Without any objection, the meeting is adjourned.

Adjourn

(Whereupon, the meeting was adjourned at 5:15 o'clock p.m., February 8, 2005.)